

Financial Project No.: 420284 1 48 01 Agency: Pasco County Contract No.: _____	Fund: _____ Activity: _____ Contract Amount: \$5,716,650	FLAIR Approp: FLAIR Obj.: Org. Code: Vendor No.:
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COUNTY AND SCHOOL DISTRICT INFRASTRUCTURE PILOT PROGRAM
JOINT PARTICIPATION AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
PASCO COUNTY

This Joint Participation Agreement (hereinafter the “Agreement”), made and entered into this _____ day of _____, 2009, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as the DEPARTMENT) and PASCO COUNTY, a political subdivision of the State of Florida (hereinafter referred to as the COUNTY),

WITNESSETH:

WHEREAS, the Parties have been granted specific legislative authority to enter into this Agreement pursuant to Sections 334.044 and 339.12, Florida Statutes; and

WHEREAS, the County and School District Infrastructure Pilot Program has been created under the Fiscal Year 2008-2009 General Appropriations Act (GAA), to assist counties and school districts with infrastructure projects consistent with use of moneys in the State Transportation Trust Fund as provided in section 339.08, Florida Statutes; and

WHEREAS, Pasco County has met the eligibility requirements of the GAA and submitted an application for funding to the DEPARTMENT; and

WHEREAS, the DEPARTMENT is prepared to provide the COUNTY with financial assistance for Right of Way Acquisition under Financial PROJECT Number (FPN) 420284 1 48 01, also known as SR/CR 54 Roadway Reconstruction PROJECT from west of SR 581 to east of

CR 577, and further described in the Scope of Services attached hereto and incorporated herein as Exhibit "A" and hereinafter referred to as the "PROJECT"; and

WHEREAS, the PROJECT is not revenue producing and is contained in the DEPARTMENT's Adopted Five Year Work Program; and

WHEREAS, the implementation of the PROJECT is in the best interests of both the DEPARTMENT and the COUNTY; and

WHEREAS, it would be most practical, expeditious, and economical for the COUNTY to perform the services to complete the PROJECT; and

WHEREAS, the COUNTY, by Resolution, a copy of which is attached hereto as Exhibit "B" and made a part hereof, has authorized its officers to execute this Agreement on its behalf; and

WHEREAS, the funds for the PROJECT cannot be used before this Agreement is executed by both the COUNTY and the DEPARTMENT. Any work performed before the execution of this Agreement will not be reimbursed by the DEPARTMENT.

NOW, THEREFORE, in consideration of the mutual benefits to be derived from the joint participation of this Agreement, the parties agree as follows:

1. The term of this Agreement shall begin upon the date the last party executes this agreement. The COUNTY agrees to complete the PROJECT by December 31, 2012. If the COUNTY does not complete the PROJECT within the time period allotted, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the COUNTY and granted in writing by the DEPARTMENT prior to the expiration of the Agreement. Expiration of this Agreement will be considered termination of the PROJECT.

2. The COUNTY shall perform all necessary right of way acquisition and otherwise perform all other necessary work to complete the PROJECT, as specified in Exhibit "A" attached hereto and by this reference made a part hereof. Nothing herein shall be construed as requiring the COUNTY to perform any activity, which is outside of the scope of services of the PROJECT.

(A) Upon request, the COUNTY agrees to provide progress reports to the DEPARTMENT in the standard format used by the COUNTY and at intervals established by the DEPARTMENT. The DEPARTMENT will be entitled at all times to be advised, at its request, as to the status of work being done by the COUNTY and of details thereof. Either party to the Agreement may request and shall, within a reasonable time thereafter be granted a conference with the other party.

(B) Projects on the State Highway System which use federal funding in any phase of the project or state funding in right of way must comply with either federal law or procedure or state law or rule relating to right of way acquisition procedures. These laws are intended to protect or provide benefits to property owners and relocates on federal or state funded projects on the National and State Highway Systems. The laws and rules are intended to ensure consistency of fair treatment under the law to these citizens on these projects. The Department must ensure that local governments or private parties involved in acquisition processes, acting on the Department's or local government's behalf, comply with these requirements.

3. Project Cost: The total cost of the PROJECT is estimated to be \$5,716,650, *(five million, seven hundred sixteen thousand, six hundred fifty dollars).*

(A) The DEPARTMENT agrees to reimburse the COUNTY its actual direct costs, excluding COUNTY overhead, in an amount not to exceed \$4,200,000.00 *(four million, two hundred thousand dollars).* Reimbursement will be in accordance with Section 339.12, Florida Statutes, and subject to Legislative approval and appropriation. The COUNTY understands that it is responsible for all costs of the PROJECT over and above \$4,200,000.00 *(four million, two hundred thousand dollars).*

(B) The COUNTY will provide funds towards the total PROJECT cost. The COUNTY's estimated participation is \$1,516,650.00 (*one million, five hundred thousand, six hundred fifty dollars*).

4. Reimbursement herein is conditioned on the following:

(A) Bills for fees or other compensation for services or expenses shall be submitted to the DEPARTMENT in detail sufficient for a proper pre-audit and post-audit. Such submissions must include an Invoice Summary Sheet, supporting documentation to justify the charges and for the final payment, the Notice of Completion; and

(B) All payments from the DEPARTMENT to the COUNTY are conditioned upon the completion of the PROJECT in a manner consistent with Item #2, Paragraph B above.

(C) The COUNTY may receive progress payments for services that have been completed and accepted to the satisfaction of the DEPARTMENT when properly supported by invoices or other acceptable evidence of payment. The remaining balance will be due upon the completion and approval of all PROJECT services.

(D) Within 30 days after completion of the work authorized by this Agreement, the COUNTY shall notify the DEPARTMENT in writing of the completion in the form and manner set forth in Exhibit "C". The certification shall state that work has been completed in compliance with the PROJECT construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

(E) The COUNTY shall provide the DEPARTMENT with documentation supporting its final costs of the PROJECT. This documentation must show the

total amount the COUNTY has incurred for the services performed under this Agreement.

8. The COUNTY, which is providing goods and services to the DEPARTMENT, should be aware of the following time frames. Upon receipt of an invoice, the DEPARTMENT has thirty (30) working days to inspect and approve the goods and services. The DEPARTMENT has thirty (30) days to deliver a request for payment (voucher) to the Department of Financial Services. The thirty (30) 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 sixty (60) days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable to the COUNTY, in addition to the invoice amount. Interest penalties of less than one dollar (\$1.00) will not be enforced unless the COUNTY requests payment. Invoices which have to be returned to the COUNTY because of COUNTY 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 contractors/vendors who may be experiencing problems in obtaining timely payments from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Department of Financial Services Hotline at 1-800-848-3792.
9. The COUNTY agrees to keep complete records and accounts in order to record complete and correct entries as to all costs, expenditures and other items incidental to the work for this PROJECT. All cost records and accounts shall be subject to audit by a representative of the DEPARTMENT at all times during the period of this Agreement and for a period of five (5) years after final payment is made, which audit may include, but shall not necessarily be limited to, such verifications as to the amount and validity of all costs of the PROJECT. Copies of these documents and records shall be furnished to the Department upon

request. Records of costs incurred include the COUNTY'S general accounting records and the PROJECT records, together with supporting documents and records, of the contractor and all subcontractors performing work on the PROJECT, and all other records of the Contractor and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs. Any discrepancies revealed by any such audit shall be resolved by a corrected final billing from the COUNTY to the DEPARTMENT.

10. In the event this Agreement is for services in excess of \$25,000.00 (TWENTY FIVE THOUSAND DOLLARS) and a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

“The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 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 contacts of the department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than 1 year.”

11. The DEPARTMENT'S performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the legislature. The parties agree that in the event funds are not appropriated to the DEPARTMENT for the PROJECT, this Agreement may be terminated, which shall be effective upon the DEPARTMENT giving written notice to the other to that effect.
12. Audits: The administration of funds awarded by the DEPARTMENT to the COUNTY 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 COUNTY 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 COUNTY is appropriate, the COUNTY agrees to comply with any additional instructions provided by the DEPARTMENT staff to the COUNTY regarding such audit. The COUNTY further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the FDOT'S Office of Inspector General (OIG) and Florida's Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

Recipients of federal funds (i.e. state, county, 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. If applicable, EXHIBIT 1 to 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)(I), Florida Statutes) are to have audits done annually using the following criteria:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year, the recipient must have a State single or project specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services and the CFO; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. If applicable, 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.

3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the 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 FDOT, the Department of Financial Services, and the Auditor General. This section does not limit the authority of the DEPARTMENT to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

PART IV: REPORT SUBMISSION

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

A. The DEPARTMENT at each of the following addresses:

Florida Department of Transportation
Lawrence Taylor, District Special Projects/LAP Administrator
11201 North McKinley Drive, Mail Station 7-500
Tampa, Florida 33612

B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

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

C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. In the event that a copy of the reporting package for an audit required by PART I of this Agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the DEPARTMENT for reasons pursuant to section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited schedule of expenditures of Federal awards directly to each of the following:

Florida Department of Transportation
Lawrence Taylor, District Special Projects/LAP Administrator
11201 North McKinley Drive, Mail Station 7-500
Tampa, Florida 33612

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

Florida Department of Transportation
Lawrence Taylor, District Special Projects/LAP Administrator
11201 North McKinley Drive, Mail Station 7-500
Tampa, Florida 33612

3. Copies of financial reporting packages required by PART II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:

A. The DEPARTMENT at each of the following addresses:

Florida Department of Transportation
Lawrence Taylor, District Special Projects/LAP Administrator
11201 North McKinley Drive, Mail Station 7-500
Tampa, Florida 33612

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 addresses:

Florida Department of Transportation
Lawrence Taylor, District Special Projects/LAP Administrator
11201 North McKinley Drive, Mail Station 7-500
Tampa, Florida 33612

5. Any reports, management letter, or other information required to be submitted to the DEPARTMENT pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to the DEPARTMENT for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION

1. The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least five years from the date the audit report is issued, and shall allow the DEPARTMENT, or its designee, CFO, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the DEPARTMENT, or its designee, CFO, or Auditor General upon request for a period of at least five years from the date the audit report is issued, unless extended in writing by the DEPARTMENT.

13. The DEPARTMENT may unilaterally cancel this Agreement for refusal by the other party 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 by such party in conjunction with this Agreement.

14. This Agreement shall continue in effect and be binding on the parties until the project is completed, any subsequent litigation is complete and terminated, final costs are known, and legislatively appropriated reimbursements, if approved, are made by the DEPARTMENT.

15. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof, and incorporates and includes all prior negotiations, correspondence, conversation, agreements, or understanding applicable to the matters contained herein. The parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.

16. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. Any provision herein determined by a court of competent jurisdiction, or any other legally constituted body having jurisdiction, to be invalid or unenforceable shall be severable and the remainder of this Agreement shall remain in full force and effect, provided that the invalidated or unenforceable provision is not material to the intended operation of this Agreement.

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

DEPARTMENT

Florida Department of Transportation
Lawrence Taylor, District Special Projects/LAP Administrator
11201 North McKinley Drive, Mail Station 7-500
Tampa, Florida 33612

PASCO COUNTY

Mr. Bipin Parikh

Assistant County Administrator for Development Services

West Pasco County Government Center, Suite 320

7530 Little Road

New Port Richey, FL 34654

18. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT: 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, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

IN WITNESS WHEREOF, the COUNTY has caused this Agreement to be executed in its behalf, by the Chairperson of the Board of County Commissioners, as authorized by **Resolution Number** _____, and the FLORIDA DEPARTMENT OF TRANSPORTATION has caused this Agreement to be executed in its behalf through its District Director of Transportation Development for District Seven, Florida Department of Transportation:

PASCO COUNTY, FLORIDA

ATTEST

<hr/>		<u>Chairman, Board of County Commissioners</u>
CLERK	(Seal)	Title
<hr/>	Date	<hr/>
		Jack Mariano
		Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST

<hr/>		By:
EXECUTIVE SECRETARY	(Seal)	<hr/>
		Director of Transportation Development
		District Seven
<hr/>	Date	<hr/>
Print Name		Scott W. Collister, P.E., CPCM
		<hr/>
		Print Name
		Date
		Fla. Dept. of Trans. Legal Review:
		By:
		<hr/>
		Date
		Availability of Funds Approval:
		<hr/>
		Date

EXHIBIT “A”

SCOPE OF SERVICES

Financial Project Number: 420284 1 48 01

PROJECT Name:

SR/CR 54 Roadway Reconstruction from west of SR 581 to east of CR 577

Project Scope: Right of Way Acquisition Phase

The project is in the final stage of right of way acquisition. The good faith estimate of value for the remaining parcels required for the project is \$5,716,615. The completion of the project corresponds to the deposit of the good faith estimate of value by the COUNTY with the Clerk of the Court.

EXHIBIT “B”

RESOLUTION

Financial Project Number: 420284 1 48 01

EXHIBIT “C”
NOTICE OF COMPLETION

COUNTY AND SCHOOL DISTRICT INFRASTRUCTURE PILOT PROGRAM
JOINT PARTICIPATION AGREEMENT

Between
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
and
PASCO COUNTY

PROJECT DESCRIPTION: Right of Way Acquisition for Financial Project Number (FPN) 420284 1 48 01, also known as SR/CR 54 Roadway Reconstruction PROJECT from west of SR 581 to east of CR 577

FINANCIAL PROJECT NUMBER (FPN): 420284 1 48 01

In accordance with the Terms and Conditions of the JOINT PARTICIPATION AGREEMENT, the undersigned hereby provides notification that the work authorized by this Agreement is complete as of _____, 2009.

PASCO COUNTY

By: _____

Name: Bipin Parikh

Title: Assistant County Administrator for Development Services

CERTIFICATION OF COMPLIANCE

In accordance with the Terms and Conditions of the JOINT PARTICIPATION AGREEMENT, the undersigned hereby certifies that all work has been completed in compliance with the project construction plans. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification.

By: _____

Name: Bipin Parikh, Assistant County Administrator
for Development Services

Date: _____

EXHIBIT 1

STATE RESOURCES

Agency: Florida Department of Transportation

Catalog of State Financial Assistance: (_____) School Infrastructure Pilot Program

Amount: \$4,200,000

Compliance Requirements

1. The project must be on the state highway system.
2. The project must be connected to an school infrastructure improvement.
3. The project must meet the minimum eligibility criteria listed in Fiscal Year 2008-2009 General Appropriations Act (GAA) to assist counties and school districts with infrastructure project as provided in Section 339.08, Florida Statutes.

NOTE: Section .400(d) of OMB Circular A-133, as revised, and Section 215.97(5)(a), Florida Statutes, require that the information about Federal Programs and State Projects included in Exhibit 1 be provided to the recipient.

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