

STATE INFRASTRUCTURE BANK LOAN AGREEMENT

CFDA Number: 20.205

DUNS: 80-939-7102

THIS STATE INFRASTRUCTURE BANK LOAN AGREEMENT, is entered into between the **STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION**, an agency of the State of Florida (the "Department"), and the [_____] of the State of Florida (the "Agency").

RECITALS

- A. The Department has established a federally-funded infrastructure bank ("SIB") in accordance with the provisions of 23 U.S.C. Section 610 and a State Infrastructure Bank Cooperative Agreement between the Department, the Federal Highway Administration, the Federal Transit Administration, and the Federal Railroad Administration, effective July 28, 1999 (the "Cooperative Agreement").
- B. Under 23 U.S.C. Section 610, the Cooperative Agreement, and Sections 339.08(1)(d),(g), and (h), Florida Statutes, the Department may make loans or provide other forms of credit assistance to a public or private entity to carry out transportation projects eligible for assistance under 23 U.S.C. Section 610.
- C. The Agency has applied for a SIB loan for a capital improvement project.
- D. The Department has determined that the project meets the requirements for a SIB loan.

AGREEMENT

In consideration of the Department making the loan to the Agency, in the principal amount and pursuant to the covenants expressed in this Agreement, and intending to be legally bound by this Agreement, the Department and the Agency agree as follows:

ARTICLE I – DEFINITIONS

1.01 WORDS AND TERMS.

In addition to the words and terms elsewhere defined in this Agreement, the following words and terms shall have the meanings set forth below:

- (1) "Agreement" or "Loan Agreement" shall mean this loan agreement and all exhibits and schedules attached hereto.
- (2) "Agreement Date" means the date on which this agreement is executed by the last party to sign.

(3) "Authorized Representative" means the official or officials of the Agency authorized by ordinance or resolution to sign documents associated with the Loan.

(4) "Disbursement" means the amounts of the Loan disbursed by the Department to the Agency.

(5) "Financing Rate" means the charges, expressed as a percent per annum, imposed on the unpaid principal of the Loan.

(6) "Fiscal Year" means the State fiscal year period commencing on July 1 of each year and ending on June 30 of the succeeding year.

(7) "Loan" means the loan made to the Agency pursuant to this Agreement in the initial principal amount of [_____] and 00/100 Dollars [(\$_____)].

(8) "Loan Application" means the completed form which provides all information required to support obtaining the Loan.

(9) "Loan Payment" means the periodic loan payment due from the Agency.

(10) "Pledged Revenues" means the specific revenues pledged as security for repayment of the Loan. The Pledged Revenues for repayment of the principal amount of the Loan shall be [_____] allocated for the Project.

(11) "Project" means the state capital outlay project financed by this Loan, consisting of [_____], as more fully described in the Loan Application, in accordance with applicable law and the summary included in Exhibit A.

(12) "State" means the State of Florida.

(13) "State Infrastructure Bank" or "SIB" means the federally-funded State Infrastructure Bank created pursuant to the Cooperative Agreement.

1.02 CORRELATIVE WORDS.

Words of the masculine gender include correlative words of the feminine and neuter genders. Unless the context otherwise indicates, the singular includes the plural and the word "person" includes departments and associations, including public bodies, as well as natural persons.

ARTICLE II - WARRANTIES, REPRESENTATIONS AND COVENANTS

2.01 GENERAL WARRANTIES, REPRESENTATIONS AND COVENANTS.

The Agency warrants, represents, and covenants that:

(1) The Agency has full power and authority to enter into and comply with the provisions of this Agreement and shall initiate and prosecute to completion all proceedings necessary to enable the Agency to provide the necessary funds for repayment of the Loan.

- (2) The Agency has the authority to pledge the Pledged Revenues as security for repayment of the Loan and no election or referendum is required to make the pledge of the Pledge Revenues valid and legally enforceable.
- (3) The Agency currently is not the subject of bankruptcy, insolvency, or reorganization proceedings and is not in default of, or otherwise subject to, any agreement or any law, administrative regulation, judgment, decree, note, resolution, charter or ordinance which would currently restrain or enjoin it from entering into, or complying with, this Agreement.
- (4) There is no material action, suit, proceeding, inquiry, or investigation, at law or in equity, before any court or public body, pending or, to the best of the Agency's knowledge, threatened, which seeks to restrain or enjoin the Agency from entering into or complying with this Agreement.
- (5) All Agency representations to the Department, pursuant to the Loan Application and this Agreement, were and are true and accurate as of the date the Loan Application and this Agreement were each executed by the Agency. The financial information delivered by the Agency to the Department was current and correct as of its date. Since the date of such financial information, there has not been any material adverse change in the financial condition or revenues and expenditures of the Agency, or in the collection of the Pledged Revenues. The Agency shall comply with all applicable State and Federal laws, rules, and regulations. To the extent that any assurance, representation, or covenant requires a future action, the Agency shall take such action as is necessary for compliance.
- (6) The Agency shall adhere to accepted governmental accounting principles established by the Governmental Accounting Standards Board.
- (7) In the event the anticipated Pledged Revenues are at any time projected to be insufficient to make the Loan Payments for such Fiscal Year when due, the Agency shall immediately notify the Department and shall include in its regular annual governmental budget other legally available funds which will be sufficient, together with the Pledged Revenues, to make the Loan Payments. Nothing in this covenant shall be construed as creating a pledge, lien, or charge upon any such other legally available funds; requiring the Agency to levy or appropriate ad valorem tax revenues; or preventing the Agency from pledging to the payment of any bonds or other obligations all or any part of such other legally available funds.
- (8) Pursuant to Section 216.347 of the Florida Statutes, the Agency shall not use the Loan proceeds for the purpose of lobbying the Florida Legislature, the Judicial Branch, or a State agency.
- (9) The Agency shall submit to the Department such data, reports, records, contracts and other documents as the Department may request in order to ascertain the performance by the Agency of its obligations under this Agreement.
- (10) All permits, real property interests, and approvals required as of the date of this Agreement have been obtained for construction and use of the Project. The Agency knows of no reason why any future required permits or approvals are not obtainable.
- (11) The Agency covenants that this Agreement is entered into for the purpose of constructing, acquiring, refunding, or refinancing the Project which will in all events serve a

public purpose. The Agency covenants that it will, under all conditions, complete and operate the Project to fulfill the public need.

ARTICLE III - LOAN DISBURSEMENTS AND REPAYMENT

3.01 PRINCIPAL AMOUNT OF LOAN.

The Department agrees to lend to the Agency, and the Agency agrees to repay the Department the Loan at the times, in the amounts, and in the manner specified in this Agreement. The principal amount of the Loan as of any date shall consist of the aggregate Disbursements, plus interest that has accrued and been added to the principal amount of the Loan, less the aggregate principal component of all Loan Payments made, all as of such date.

3.02 FINANCING RATE.

Beginning on the date of the first Disbursement, interest shall accrue on the principal amount of the Loan at the Financing Rate. The Financing Rate is [_____] % per annum, compounded annually, using an actual-days-elapsed/365 day counting convention, as indicated by the schedule of Loan Payments attached hereto as Exhibit B.

3.03 LOAN DISBURSEMENTS.

The Department shall disburse the Loan to the Agency in the amounts and at the times specified in the Disbursement/Repayment Schedule attached as Exhibit B. Prior to each Disbursement, the Agency shall provide a completed Disbursement Request Form substantially in the form attached as Exhibit C, and such other certificates or documents as the Department may reasonably request from time to time. Upon written request by the Agency, or upon its own initiative, the Department may, in its sole and absolute discretion, amend the Disbursement/Repayment Schedule to take into account unexpected events or reasonable adjustments to the financing of the Project, including, but not limited to, increases or decreases in the disbursement amounts and times, and acceleration or delays in the construction of the Project. Under no circumstances shall the sum of the disbursements to the Agency exceed \$[_____]. The Department's obligation to fund any Disbursement is subject to funds being made available by an appropriation made pursuant to Florida law.

The Agency shall utilize the Disbursements solely for eligible costs of the Project. Costs in excess of the latest approved budget or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs. The Department will have no obligation to honor any request for disbursement made by the Agency or otherwise make any disbursement under this Agreement in the event that the Department has notified the Agency that an event of default has occurred under this or any other agreement between the Agency and the Department, or if the Department, in its sole discretion, determines that events have occurred which substantially diminish the likelihood that the Agency will timely and fully honor its obligations under this Agreement or any other agreement between the Department and the Agency. Any waiver of this provision by disbursement following an event of default by the Agency under the terms of this Agreement, or any other agreement between the Agency and the Department, will not constitute a continuing waiver of this provision and the Department may refuse to make further disbursements without any liability to the Agency whatsoever.

3.04 LOAN PAYMENTS.

Loan Payments shall be made at the time and in the amounts stated in the Loan Disbursement/Payment Schedule attached as Exhibit B. Loan Payments shall be credited first to interest accruing on the principal amount of the Loan, if any, then to principal. If at any time the Agency has advance notice that it will not be able to pay any loan payment when due, the Agency shall immediately notify the Department of such inability to make the required payment. The Agency may repay the Loan earlier than as schedule in Exhibit B without penalty. The Department may, in its sole and absolute discretion, adjust the scheduled repayment of the Loan provided in the Disbursement/Payment Schedule to take into account the adjustments permitted by Section 3.03.

ARTICLE IV – PLEDGED REVENUES

4.01 PLEDGE TO THE DEPARTMENT.

The Agency pledges and assigns [_____] to secure payment of the principal amount of the Loan. The Agency shall not take any action with respect to the Pledged Revenues that would be inconsistent with this pledge. Additionally, in the event of a material default by the Agency, the Agency hereby assigns to the Department the right to receive the Pledged Revenues to the extent necessary to pay the full amount owing under this Agreement. The pledge of the Pledged Revenues shall be valid and binding as of the Agreement Date. The lien of the Department on the Pledged Revenues will be prior and superior to any other pledge, lien, charge, or encumbrance.

4.02 ADDITIONAL DEBT OBLIGATIONS.

The Agency may not issue additional debt obligations on a parity with, or senior to, the lien of the Department on the Pledged Revenues, without the Department's prior written consent.

4.03 COLLECTION OF PLEDGED REVENUES.

The Agency shall use its best efforts to collect all Pledged Revenues and shall take no action to impair the collection of the Pledged Revenues.

ARTICLE V – THE PROJECT

5.01 PROJECT.

The Agency shall commence and 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 of this Agreement and all applicable laws. The Agency shall submit to the Department all data, reports, records, contracts, and other documents relating to the Project as the Department may require.

5.02 PROJECT CHANGES.

The Agency covenants and agrees that it will not change the scope of the Project or alter the nature of the Project in any material fashion, or substitute any other project for the Project, without the prior written approval of the Department.

5.03 ENVIRONMENTAL POLLUTION.

The Agency will carry out the Project 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.

5.04 PROJECT ACCOUNTING RECORDS

The Agency shall establish separate accounts for the Project, in conformity with requirements established by the Department's program guidelines/procedures and "Principles for State and Local Governments." Documentation regarding the Project accounts shall be made available to the Department upon request any time during the period of the Agreement and for five years after final payment is made. 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 proper detail, the nature and propriety of the charges.

5.04 PROJECT COMPLETION, AGENCY CERTIFICATION.

Upon completion of the Project, the Agency will certify in writing that the Project (or expending of the Loan) was completed in accordance with applicable plans and specifications and that the Project is accepted by the Agency as suitable for the intended purpose.

5.05 NO FREE SERVICE.

To the extent the Pledged Revenues are derived from revenues that may be adjusted by the Agency, the Agency shall not, except to the extent otherwise required by law, permit access to property or furnish any service that generates such revenues without making such charge therefore based on the Agency's uniform schedule of rates, fees, and charges.

5.06 USE AND MAINTENANCE OF PROJECT.

The Agency shall use the Project facilities and equipment to provide or support public transportation for the period of the useful life of such facilities and equipment as determined in accordance with general accounting principles and approved by the Department. The Agency will maintain the project facilities and equipment in good working order for the useful life of the facilities or equipment.

5.07 PROPERTY RECORDS

The Agency will maintain property records, conduct physical inventories, and develop control systems as required by 49 C.F.R. Part 18, when applicable.

ARTICLE VI - DEFAULTS AND REMEDIES

6.01 EVENTS OF DEFAULT.

The occurrence of any of the following events will be an event of default by the Agency:

(1) Any failure to make a Loan Payment when it is due that continues for a period of 5 days after the due date.

(2) The making of any warranty, representation or other statement by, or on behalf of, the Agency contained in this Agreement or in any document, certificate or information furnished in compliance with, or in reference to, this Agreement, that is determined to be false or misleading.

(3) Entry of an order or decree, with the acquiescence of the Agency, appointing a receiver for any part of the Project or the Pledged Revenues; or the failure by the Agency to obtain an order or decree vacating, discharging, or staying any order or decree appointing a receiver for any part of the Project or the Pledged Revenues that was entered without the consent or acquiescence of the Agency, within 60 days after the entry thereof.

(4) The initiation of any proceeding, with the acquiescence of the Agency, for the purpose of effecting a composition between the Agency and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are payable from Pledged Revenues.

(5) The initiation of any bankruptcy, insolvency, or other similar proceeding by the Agency under federal or state bankruptcy or insolvency law now or hereafter in effect; or the initiation of any bankruptcy, insolvency, or other similar proceeding against the Agency under federal or state bankruptcy or insolvency law now or hereafter in effect, if the Agency does not obtain an order dismissing the proceeding within 60 days after filing.

(6) Except as provided in Subsection 6.01(1), any failure to comply with the provisions of this Agreement or failure in the performance or observance of any of the covenants or actions required by this Agreement (a "General Non-compliance Default"), provided, however, that if the Agency provides the Department with written notice of a General Non-compliance Default within 30 days of the date of such General Non-compliance Default, then the Agency shall have 60 days from the date of such General Non-compliance Default to cure such General Non-compliance Default to the satisfaction of the Department in the Department's sole and absolute discretion. If the Agency fails, within the time periods provided in the previous sentence, to (i) provide written notice of a General Non-compliance Default, or (ii) cure the General Non-compliance Default to the satisfaction of the Department in the Department's sole and absolute discretion, then the Agency shall be deemed to be in default of this Agreement as of the date of the General Non-compliance Default.

6.02 REMEDIES.

Upon any event of default, the Department may pursue any available remedy at law or in equity, including:

(1) By mandamus or other proceeding at law or in equity, cause the Agency to remit to the Department Pledged Revenues sufficient to enable the Agency to satisfy its obligations under this Agreement.

(2) By action or suit in equity, require the Agency to account for all moneys received pursuant to this Agreement and to account for the receipt, use, application, or disposition of the Pledged Revenues.

(3) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the Department.

(4) By applying to a court of competent jurisdiction, cause the appointment of a receiver to manage the Project, establish and collect fees and charges, and apply the revenues to the reduction of the obligations under this Agreement.

(5) By certifying to the Auditor General and the Chief Financial Officer delinquency on Loan repayments, the Department may provide for the payment to the Department of the delinquent amount plus a penalty from any unobligated funds due to the Agency under any revenue or tax sharing fund established by the State, except as otherwise provided by the State Constitution. A penalty may be imposed in an amount not to exceed an interest rate of 18 percent per annum on the amount due in addition to charging the cost to handle and process the debt.

(6) By notifying financial market credit rating agencies and potential creditors of the event of default.

(7) By suing for payment of amounts due, or becoming due, with interest on overdue payments together with all costs of collection, including attorneys' fees.

In addition to pursuing one or more of the above remedies, upon an event of default, the Department may, by providing 60 days advance written notice to the Agency, elect to terminate this Agreement, and the Department shall have no further obligation or commitment under this Agreement to the Agency. Any partial Loan Payments by the Agency shall be allocated first to interest and second to principal.

6.03 REMEDIES NOT EXCLUSIVE; DELAY AND WAIVER.

No remedy conferred upon or reserved to the Department by this Article is exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy. No delay or omission by the Department to exercise any right or power accruing as a result of an event of default shall impair any such right or power or shall be construed to be a waiver of any such default, and every such right and power may be exercised as often as may be deemed expedient. No waiver of any default under this Agreement shall extend to or affect any subsequent event of default, whether of the same or different provision of this Agreement, or shall impair consequent rights or remedies.

ARTICLE VIII - GENERAL PROVISIONS

7.01 DISCHARGE OF OBLIGATIONS.

All payments required to be made under this Agreement shall be cumulative and any deficiencies in any Fiscal Year shall be added to the payments due in the succeeding Fiscal Year and all Fiscal Years thereafter until fully paid. Loan Payments shall continue to be secured by this Agreement until all of the payments required are fully paid to the Department. Notwithstanding any provision of this Agreement to the contrary, the Agency may prepay this Loan only upon the express written consent of the Department, which consent shall not be withheld if such prepayment, in the judgment of the Department and the State of Florida Division of Bond Finance, will not adversely impact the Department's ability to comply with covenants relating to obligations secured by such Loan.

7.02 ASSIGNMENT OF RIGHTS UNDER AGREEMENT.

The Agency acknowledges that the Loan and all payments of principal and interest may be pledged and assigned by the Department as security for the payment of principal of, premium, if any, and interest on bonds that may be issued by the Department to fund the SIB and the Agency consents to such pledge and assignment. The Department and the State of Florida Division of Bond Finance may further pledge or assign all or any part of this Agreement without the prior consent of the Agency after written notification to the Agency. The Agency shall not assign its rights and obligations under this Agreement without the prior written consent of the Department.

7.03 AMENDMENT OF AGREEMENT.

This Agreement may be amended in writing, except that no amendment shall be permitted which is inconsistent with any applicable State or Federal law. This Agreement may be amended after all construction contracts are executed to re-establish the Project cost, Project schedule, and Loan amount.

7.04 ANNULMENT OF AGREEMENT.

The Department may unilaterally annul this Agreement if the Agency has not drawn any of the Loan proceeds within six months of the first scheduled Disbursement date. If the Department unilaterally annuls this Agreement, the Department will provide written notification to the Agency.

7.05 SUSPENSION AND TERMINATION.

If the commencement, prosecution, or timely completion of the Project is rendered improbable, infeasible, impossible, or illegal, or if any federal agency providing federal financial assistance to the Project suspends or terminates federal financial assistance to the Project, by written notice to the Agency, the Department may 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 at its option, the Department may terminate any or all of its remaining obligations under this Agreement.

Upon receipt of any termination or suspension notice, the Agency shall repay the SIB according to the provisions of the Agreement, or as otherwise agreed upon, in writing, by the Department and the Agency. The closing out of federal financial participation in the Project or the reduction or elimination of local support for this Project shall not constitute a waiver of the Agency's obligation to repay the Loan.

The Department reserves the right to unilaterally cancel this Agreement for refusal by the Agency to allow public access to all documents, papers, letters or other materials subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement.

7.06 SEVERABILITY CLAUSE.

If any provision of this Agreement shall be held invalid or unenforceable, the remaining provisions shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.07 APPROPRIATION.

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

The provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated verbatim: "(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."

7.08 MONITORING PROCEDURES, AUDIT REPORTS, AND RECORD RETENTION.

The administration of resources awarded by the Department may be subject to audits and/or monitoring by the Department, as described in this section. In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised, and Section 215.97, Florida Statutes, 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 Agency 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 Agency is appropriate, the Agency agrees to comply with any additional instructions provided by the Department staff regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

In the event that the Agency expends \$500,000 or more in Federal awards in its fiscal year, the Agency must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. In determining the Federal awards expended in its fiscal year, the Agency 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 Agency conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part. The Agency shall also fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

If the Agency 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. If the Agency 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 Agency resources obtained from other than Federal entities).

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.

The Agency 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.

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

- (i) The Department at the following address:

Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, FL 32399-0450
E-Mail: FDOTSingleAudit@dot.state.fl.us

(ii) 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

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

In the event that a copy of the reporting package for an audit required by 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 Agency shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the Agency's audited schedule of expenditures of Federal awards directly to the Department at the following address. Pursuant to Section .320 (f), OMB Circular A-133, as revised, the Agency 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 the following address:

Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, FL 32399-0450
E-Mail: FDOTSingleAudit@dot.state.fl.us

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.

The Agency, 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 Agency in correspondence accompanying the reporting package.

The Agency 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 Agency 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.

7.09 PROGRESS REPORTS.

The Agency shall provide the Department's SIB Program Manager, semi-annual progress reports on "program and financial activities" that occur each year. The report will be signed or submitted electronically in accordance with Chapter 668, Florida Statutes, by an Authorized Representative. The following program information shall be included: program accomplishments (specific action taken to implement approved objectives/activities) and percent of accomplishments for each in terms of percentage completed; problems delaying implementation; and revised Project schedules if activities are not conforming to approved Project schedules as contained in the application. The following financial information shall be included: beginning fund balance; amount of expenditures; ending fund balance; interest earned to date; and the amount and percent of funds being contributed to the Project from other sources. The semi-annual progress report is available on the SIB website at <http://www.dot.state.fl.us/officeofcomptroller/PFO/sib.shtm>.

7.10 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 for the procurement of consultant services, construction, or purchase of commodities contracts or amendments thereto, with any third party with respect to the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. 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. The Loan does not constitute a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contributions of Federal funds into the Florida SIB.

7.11 COMPLIANCE WITH CONSULTANTS' COMPETITIVE NEGOTIATION ACT.

It is understood and agreed by the parties that participation by the Department in a project with an Agency, where said project involves a consultant contract for engineering, architecture or surveying services by the Agency, is contingent on the Agency complying in full with provisions of Chapter 287, Florida Statutes, Consultants Competitive Negotiation Act. The Agency's attorney shall certify to the Department that selection has been accomplished in compliance with the Consultant's Competitive Negotiation Act.

7.12 DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY AND OBLIGATION.

It is the policy of the Department that disadvantaged business enterprises as defined in 49 CFR Part 23, as amended, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with funds disbursed by the Department under this Agreement.

The Agency and its contractors agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, as amended, have the maximum opportunity to participate in the performance of contracts and this Agreement. In this regard, all recipients, and contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to

ensure that the Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Grantees, recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department assisted contracts.

7.13 DISCRIMINATORY VENDOR.

Pursuant to Section 287.134(3)(a), Florida Statutes, the following is included in this Agreement. Section 287.134(2)(a), Florida Statutes: "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, proposals, or replies 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."

7.14 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.

7.15 PROHIBITED INTERESTS.

Neither the Agency nor any of its contractors, subcontractors, consultants, or subconsultants shall enter into any contract with one another, or arrangement in connection with the Project or any property included or planned to be included in the Project, which violates any provision of Chapter 112, Florida Statutes, relating to conflicts of interest and prohibited transactions. The Agency shall further diligently abide by all provisions of Florida law regulating the Agency with respect to procurement, contracting, and ethics. The Agency shall insert in all contracts entered into in connection with the Project subsequent to the date hereof, and shall hereafter require its contractors and consultants to insert in each of their contracts the following provision:

"The Agency is governed in its contracts and transactions by provisions of Florida law relating to conflicts of interest, prohibited transactions, and ethics in government. All parties to contracts with the Agency relating to this project shall familiarize themselves with Chapter 112, Florida Statutes, and with general Florida law regulating the Agency's ethical requirements, prohibitions, and limitations with respect to procurement and contracts."

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.

7.16 NO OBLIGATION TO THIRD PARTIES.

Except to the extent otherwise provided in this Agreement, neither the Department nor the Agency shall be obligated or liable hereunder to any person or entity not a party to this Agreement.

7.17 BONUS OR COMMISSION.

By execution of the Agreement the Agency represents that it has not paid, is not obligated to pay, and agrees not to pay, any bonus or commission for the purpose of obtaining the Department's approval of its application for the Loan.

7.18 ENTIRE AGREEMENT.

The Loan Application executed by the Agency, all exhibits, attachments and schedules attached to the Loan Application, and this Agreement ("the Agreement Documents") contain the entire agreement between the parties and incorporate and supercede all prior negotiations, correspondence, conversations, agreements or understandings relating to the Loan, and the parties hereto agree that there are no commitments, agreements or understandings concerning the Loan that are not contained in the Agreement Documents. No deviation from the terms of the Agreement Documents shall be predicated upon any prior representation or agreements whether oral or written. No modification, amendment or alteration in the terms and conditions contained in the Agreement Documents shall be effective unless contained in a written document executed by the parties.

In the event of conflict between the terms and conditions of the Agreement Documents: (i) the terms and conditions contained in the body of this Agreement prevail over conflicting terms and conditions contained in any exhibits, schedules and attachments attached to this Agreement; (ii) the terms and conditions contained in the body of the Loan Application prevail over any conflicting terms and conditions contained in any exhibits, schedules and attachments attached to the Loan Application; and (iii) the terms and conditions of the Agreement, including all exhibits, schedules and attachments hereto, prevail over conflicting terms and conditions contained in the Loan Application and any exhibits, schedules and attachments to the Loan Application.

7.20 NOTICES.

Any notice, demand, request or other instrument which is required to be given under this Agreement in writing shall be delivered to the following addresses:

If to the Department: SIB Program Manager
Florida Department of Transportation
Office of Comptroller – Project Finance
605 Suwannee Street, MS #10
Tallahassee, Florida 32399-0450

If to Agency: _____

7.21 SOVEREIGN IMMUNITY

Nothing in this Agreement shall constitute a waiver by either party of its sovereign immunity for any damages claimed by third parties.

7.22 E-VERIFY.

The Agency:

1. Shall utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of all new employees hired by the Vendor/Contractor during the term of the contract; and

2. Shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

7.23 EXECUTION OF AGREEMENT.

This Agreement may be executed in counterparts, which together shall constitute one agreement.

The parties have executed this Agreement on the date(s) below.

STATE OF FLORIDA,
DEPARTMENT OF TRANSPORTATION

STATE OF FLORIDA,
DEPARTMENT OF TRANSPORTATION
DISTRICT III

By: _____
Ananth Prasad, P.E., Secretary

By: _____

Date: _____

Date: _____

Legal Review

Legal Review

EXHIBIT "A"
PROJECT DESCRIPTION AND RESPONSIBILITIES

PROJECT NAME:

PROJECT LOCATION:

PROJECT DESCRIPTION:

EXHIBIT "B"
LOAN DISBURSEMENT/REPAYMENT SCHEDULE

		???							
		???							
Fiscal Year	Date	Beginning Balance	Estimated/Actual Disbursement	Interest Accrued at ??%	Balance Including Interest	Repayment to Principal	Repayment to Interest	Total Repayment	Ending Balance
			\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	
<p>Interest begins accruing with the first disbursement and will accrue and compound annually each October 1 thereafter, until loan is completely repaid.</p> <p>These calculations assume the following disbursement dates:</p> <p>FY 2015 \$0.00 FY 2016 \$0.00 FY 2017 \$0.00</p> <p>If disbursements are made on dates other than those above, the interest calculations will be modified and this schedule updated according.</p> <p>Total Loan Amount \$0.00 Total Interest \$0.00 Total Repayments \$0.00</p>									

Remit Payment to:

Mailing Address:
 Florida Department of Transportation
 Office of the Comptroller
 605 Suwannee Street, MS #42
 Tallahassee, FL 32399-0450

Note on Payment for "FDOT SIB Loan - ???

Mailing Address:
 State Board of Administration of Florida
 Post Office Box 13300
 Tallahassee, FL 32317-3300

Street Address:
 State Board of Administration of Florida
 1801 Hermitage Boulevard, Suite 100
 Tallahassee, FL 32308

Wiring Instructions:
 Bank of America
 ABA #0260-0959-3
 Credit: State Board of Administration
 Account #: 003660048119

Note on Payment for "FDOT SIB Loan - ???

EXHIBIT "C"
DISBURSEMENT REQUEST FORM

VENDOR NAME: _____

TOTAL SIB LOAN AMOUNT: _____

DATE OF THIS DISBURSEMENT REQUEST: _____

DISBURSEMENT/INVOICE NUMBER: _____

AMOUNT REQUESTED FOR THIS DISBURSEMENT: \$ _____

BALANCE OF LOAN TO BE DISBURSED: \$ _____

FINANCIAL PROJECT NUMBER: _____

VENDOR IDENTIFICATION NUMBER: _____

CONTRACT NUMBER: _____

DRAW PERIOD RELATED TO THIS REQUEST: _____

Warrant should be disbursed to:

Vendor Name: _____

Address: _____

Contact Person: _____

Contact Title: _____

Contact Telephone Number: _____

Contact E-Mail Address: _____

Per Section 3.03 Loan Disbursements of the State Infrastructure Bank Loan Agreement, I certify, to the best of my knowledge, \$_____ in expenses is needed on the _____ project and these costs are eligible for advancement/reimbursement and use of the SIB funds.

Signature

Printed Name and Title