

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20050017

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize the Chairman to execute a Recreational Trails grant agreement between the Florida Department of Environmental Protection (DEP) and Lee County. This grant in the amount of \$100,000 with a \$100,000 match allows for the Caloosahatchee Creeks Preserve public facilities project for mixed-use non-motorized recreational trails. Approve Budget Amendment in the amount of \$100,000 match.

CA

WHY ACTION IS NECESSARY: To accept grant funds from the Florida Department of Environmental Protection (DEP) for the Caloosahatchee Creeks Preserve Trail public facilities project.

WHAT ACTION ACCOMPLISHES: The grant agreement establishes a mechanism for Lee County to receive funds on a reimbursement basis for the Caloosahatchee Creeks Preserve Trail public facilities project.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT # 04

C11B

3. MEETING DATE:

01-18-2005

4. AGENDA:

CONSENT ADMINISTRATIVE APPEALS

PUBLIC WALK ON TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

STATUTE

ORDINANCE

ADMIN. CODE

OTHER

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER

B. DEPARTMENT Parks and Recreation

C. DIVISION

BY: John Yarbrough

John Yarbrough

7. BACKGROUND:

Parks and Recreation applied for a Recreational Trails Program grant on 01/28/04. This grant along with another grant from the Land & Water Conservation Fund, and funds from Conservation 20/20 will provide funding for development of public use facilities at the 1,800-acre Caloosahatchee Creeks Preserve, located on the north shore of the River, and provide opportunities for hiking, paddling and picnicking. This grant is in the amount of \$100,000 with a \$100,000 match.

Funding will be made available in account: 11078530105.331720.9002 and 11078530105.503190

CA

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

COM

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services			G County Manager
<i>JY 1/5-05</i>				<i>KLF 1/6/05</i>	<i>QA 1/6/05</i>	<i>OM 1/6/05</i>	<i>Risk 1/6/05</i>	<i>GC 1/6/05</i>
								<i>1-6-05</i>

10. COMMISSION ACTION:

APPROVED

DENIED

DEFERRED

OTHER

Rec. by CoAtty
Date: 1/5/05
Time: 1:45
Forwarded To: *Co. Admin*
1/5/05

RECEIVED BY COUNTY ADMIN. *CA*
1/5/05
4:40 PM *SL*
COUNTY ADMIN. FORWARDED TO: *PL*
1/6/05
4:45 PM

RESOLUTION

Amending the Cap. Imp. - Environ. Sen. Land Mgt Budget, Fund 30105 to incorporate the unanticipated receipts into Estimated Revenues and Appropriations for the fiscal year 2004-2005.

WHEREAS, in compliance with the Florida Statutes 129.06(2), it is the desire of the Board of County Commissioners of Lee County, Florida, to amend the Cap. Imp. - Environ. Sen. Land Mgt. Budget, Fund 30105 for \$ 100,000 of the unanticipated revenue from Grant funding and an appropriation of a like amount for grant expenditures and;

WHEREAS, the Cap. Imp. - Environ. Sen. Land Mgt. Budget, Fund 30105 shall be amended to include the following amounts which were previously not included.

ESTIMATED REVENUES

Prior Total:		
Additions		\$16,035,651
11078530105.331720.9002	Caloosahatchee Creeks Trails	\$ 100,000
Amended Total Estimated Revenues		\$16,135,651

APPROPRIATIONS

Prior Total:		\$16,035,651
Additions		
11078530105.503190	Other Professional Services	\$ 100,000
Amended Total Appropriations		\$16,135,651

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, Florida, that the Cap. Imp. - Environ. Sen. Land Mgt. Budget, Fund 30105 is hereby amended to show the above additions to its Estimated Revenue and Appropriation Accounts.

Duly voted upon and adopted in Chambers at a regular Public Hearing by the Board of County Commissioners on this ____ day of _____, 2004.

ATTEST:
CHARLIE GREEN, EX-OFFICIO CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: _____
DEPUTY CLERK

CHAIRMAN

APPROVED AS TO FORM

OFFICE OF COUNTY ATTORNEY

DOC TYPE YA
LEDGER TYPE BA

FORWARD WITH AGREEMENT AND BLUE SHEET

ALL INFORMATION IS REQUIRED - DO NOT LEAVE ANY BLANKS - USE N/A WHEN NOT APPLICABLE

GRANT AT A GLANCE

GRANT AWARD INFORMATION

- 1. County Grant ID (project #): 110785
- 2. Title of Grant: Caloosahatchee Creeks Trails
- 3. Amount of Award: \$100,000
- 4. Amount of Match Required: \$100,000
- 5. Type of Match: cash and/or in-kind services
(cash, in-kind etc)

6. SOURCE OF GRANT FUNDS & CATALOG NUMBER:

FEDERAL <input checked="" type="checkbox"/> CFDA # 20,219	STATE <input checked="" type="checkbox"/> CSFA # 20,219
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7. Agency Contract Number: T24019

8. Contract Period:	Begin Date: TBA	End Date: TBA
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9. Name of Subrecipient(s): N/A

10. Business Unit(s): 11078530105.331720.9002
11078530105.503190

11. Scope of Grant: (describe project) The Caloosahatchee Creeks Trails project includes mixed-use non-motorized recreational trails.

12. Has this Grant been Funded Before? YES NO If YES When?

13. Is Grant Funding Anticipated in Subsequent Years? YES NO

14. If Grant Funding Ends Will This Program Be Continued at County Expense? YES NO
If YES What is the Lee County Budget Impact:

1st Year	2nd Year	3rd Year
4th Year	5th Year	

Check Box if Additional Information on Program and Budget Impact is provided in Comment Section on page 2

ADMINISTERING DEPARTMENT INFORMATION

- 1. Department: Lee County Parks and Recreation
- 2. Contacts:

Program Mgr. Anik Smith	Phone #: 239-461-7455
Fiscal Mgr. Cindy Mitar	Phone #: 239-461-7414

GRANTOR AGENCY INFORMATION

(The agency you signed this agreement with)

- 1. Grantor Agency: Florida Department of Environmental Protection (FDEP)
- 2. Program Title/Division: Office of Greenways and Trails
- 3. Agency Contact: Alexandra H. Weiss
- 4. Phone Number: (850) 245-2052
- 5. Mailing Address: 3900 Commonwealth Boulevard (MS 795)
Tallahassee, FL 32399-3000

SOURCE OF FUNDS

- 1. Original Funding Source: Federal Hwy Dept of Transportation
Florida Department of Environmental Protection
(name of agency where funding originated from)
- 2. Pass Through Agency: N/A
(middleman if any? Example: federal \$\$ from US DOT given to STATE of FL DOT---then from STATE DOT to Lec County DOT --- STATE of FL DOT is the pass-through agency).
- 3. Additional Information for Other Agencies Involved:

3a. Is the County a Grantee or Subrecipient in #3 above: N/A

REPORTING REQUIREMENTS

1. Does this grant require a separate subfund? YES NO

Please Explain:

2. Is funding received in advance? YES NO
(If YES, please indicate conditions for returning residual proceeds, or interest and the address to return it to, if different from the Grantor Agency Information)

COMMENTS--INSTRUCTIONS:

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
RECREATIONAL TRAILS PROGRAM GRANT AGREEMENT
FISCAL YEAR 2004 - 2005

This Project Agreement is entered into between the State of Florida Department of Environmental Protection, whose address is 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000 (hereinafter referred to as "Department"), and Lee County, Florida, whose address is 3410 Palm Beach Blvd., Fort Myers, Florida 33916 (hereinafter referred to as "Grantee" or "Recipient"), a Local Government, in furtherance of a recreational trail project, Caloosahatchee Creeks Trails to be described herein. The execution date of this Agreement is _____.

WHEREAS, the Department receives funds for the purpose of passing through the agency as grants to other entities in accordance with Section 260.016, Florida Statutes; and,

WHEREAS, the Department receives funds from the Federal Highway Administration to fund such grants; and,

WHEREAS, the Grantee has proposed and the Department has approved a recreational trail project.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Department and Grantee hereby agree as follows:

1. This Project Agreement shall be effective upon execution of this Project Agreement and end no later than _____, inclusive. The Project Agreement shall be performed pursuant to Chapter 62S-2, F.A.C.; the National Recreational Trails Fund Act of 1991, 23 U.S.C.A. 206, as amended (hereinafter referred to as "Program"); and in accordance with general provisions for such agreements prescribed by the United States Department of Transportation, Federal Highway Administration (hereinafter referred to as "FHWA") in the FHWA Interim Guidance (hereinafter referred to as "Guidance"); the Florida Department of Transportation's Project Development & Environment Manual, (hereinafter referred to as the "FDOT PD&E Manual"). The Grantee shall comply with all applicable state and federal laws and regulations, including the National Environmental Policy Act, the implementing regulations contained in the Code of Federal Regulations, specifically 23 CFR Part 771, and the Federal-Aid Policy Guide referred to in the Guidance. The Grantee agrees to become familiar with and comply with all provisions of Chapter 62S-2, F.A.C., the Guidance, which are utilized to comply with many of the aforementioned rules and regulations. Chapter 62S-2, F.A.C., the Guidance are incorporated into this Project Agreement by reference as if fully set forth herein. In the event a dispute arises between the parties concerning the intent of any language contained in this Project Agreement, the same shall be resolved by the adoption of that meaning which furthers the intent and purpose of the above referenced Acts of Congress and the general provisions governing this Project

Agreement. No such construction shall be contrary to the requirements of the Acts of Congress or of the regulations of the FHWA.

2. By acceptance of the Program grant, the Grantee agrees to comply with the requirements of Title VI of the Civil Rights Act of 1964; the Architectural Barriers Act of 1968; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Drug-Free Workplace Act of 1988; the Americans With Disabilities Act of 1990; 31 U.S.C. 1352, regarding limitations on use of appropriated funds to lobby or otherwise influence federal contracting and financial transactions; Executive Order 12549, regarding federal debarment and suspension of contractors; Section 8136 of the Department of Defense Appropriations Act, which requires inclusion of the federal funding amount and the percentage of the total project that amount represents in all public notices and documents describing the Project; and, Section 623 of the Treasury, Postal Service and General Government Appropriations Act of 1990, regarding public notice of federal funding in solicitations for goods and services for projects with an aggregate value of \$500,000.00 or more. It is the intention of the parties hereto that none of the provisions of Section 163.01, Florida Statutes, shall apply to this Project Agreement.
3. The Department has found that a mixed-use non-motorized recreational trail is the primary purpose of the Project known as Caloosahatchee Creeks Trails, RTP Project Number T24019, (hereinafter referred to as "Project"), and enters into this Project Agreement with the Grantee for development of recreational trail facilities and improvements on real property controlled by the Grantee through ownership or other interest. The legal description and approved method of site control of said real property are set forth in full in the Project Application. The Approved Project Application, which includes the Conceptual Site Development Plan (description of project, detailed budget, and anticipated deliverables), is incorporated into this Project Agreement by reference as if fully set forth herein. Any revisions to the Conceptual Site Development Plan as set forth in the Approved Project Application must be formally requested by the Grantee and if agreed upon by the Department, the modifications will be reduced to writing in an amendment to this Agreement.
4. Prior to commencement of the Project, the Grantee shall submit for Department approval the documentation described in the FDOT PD&E Manual, as provided in the PD&E Data Survey. The Project may not commence until completion of the Project Development & Environment Process, an environmental determination is made by FHWA, and the determination is accepted by the Department and approved by FHWA.
5. The Grantee shall construct, or cause the construction of, specified recreational trail facilities and improvements, (hereinafter referred to as "Project Elements"), upon the real property identified in Paragraph 3, above. The following shall be considered the Project Elements, which may be modified by the Department upon a showing of good cause and the spirit and intent of the project is maintained: paddling trail, trailhead and related support facilities.
6. The Project Elements identified in Paragraph 5 above shall be designed and constructed substantially in accordance with the conceptual site development plan contained in the Project Application. Project Elements shall be attractive for public use, and generally consistent and compatible with the environment. Plans and specifications for Project Elements shall be in accord with current and established engineering and

architectural practices. Emphasis should be given to the health and safety of users, accessibility to the general public, and the protection of the recreation and natural values of the area. Any and all utility lines installed within the Project shall be placed underground. The Grantee shall have the project site plan (site engineering and architectural) prepared by an architect or engineer licensed by the State of Florida.

7. The Grantee shall complete all Project construction by the construction completion date, _____.
8. Within sixty (60) days of completion of the Project and prior to release of the final payment, the Grantee shall submit for Department staff approval the documentation described in Chapter 62S-2, F.A.C.
9. Execution of this Project Agreement does not relieve the Grantee of the responsibility to comply with all applicable federal, state, county, or municipal laws, ordinances or rules; nor is the Grantee relieved of the responsibility to obtain any permits, management agreements, leases or other authorization required by the Department or any federal, state, county or municipal agency for acquisition or development of the Project site.
10. A. The Department shall pay the Grantee on a reimbursement basis the eligible grant amount not to exceed \$100,000, which will pay the federal Program's share of the cost of the Project. Program fund limits are based upon the following:

Total Grant Amount:	\$100,000	(paid by the Department)
Grantee Match	\$100,000	(paid by the Grantee)
Amount:		
Total Project Cost:	\$200,000	

Type of Match: Cash and/or In-Kind Services

- B. The Grantee must provide from its accounting system, a list of expenditures charged against this Project Agreement. The listing shall include, at a minimum, a description of the goods or services purchased, date of the transaction, voucher number, amount paid, and vendor name. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. The Grantee must also adhere to the Office of Greenways and Trails' Grant Accountability Procedures (reviewed and approved by the Federal Highway Administration), which are incorporated by reference, and were included in the commencement documentation. For purposes of this Project Agreement, the following Federal cost principles are incorporated by reference.

Organization Type	Applicable Cost Principles
State, local, or Indian tribal government.	OMB Circular A-87
Private non-profit organization other than an (1) institution of higher education, (2) hospital, or (3) organization named in OMB Circular A-122 as not subject to that circular.	OMB Circular A-122

Education Institutions	OMB Circular A-21
For-profit organization other than a hospital and an organization named in OMB A-122 as not subject to that circular.	48 CFR Part 31, Contract Cost Principles and Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the federal agency.

- C. No travel is authorized under this Project Agreement.
- D. Program funds shall be released by the Department, upon the request of the Grantee's duly authorized grant manager and upon compliance with this Project Agreement, as set forth herein. The Department will periodically request proof of a transaction (invoice, payroll register, etc.) to evaluate the appropriateness of costs to this Project Agreement pursuant to State and Federal guidelines (including cost allocation guidelines), as appropriate. This information when requested must be provided within 30 calendar days of such request. The Grantee may also be required to submit a cost allocation plan to the Department in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). All bills for amounts due under this Project Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. State guidelines for allowable costs can be found in the Department of Financial Services' Reference Guide for State Expenditures at www.dbf.state.fl.us/aadir/reference_guide and allowable costs for Federal Programs can be found under 48 CFR Part 31 at (<http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>) and OMB Circulars A-87, A-122, A-21, at (<http://www.whitehouse.gov/omb/circulars/index.html#numerical>.)
- E. The Department shall terminate this Project Agreement if the commencement documentation is not received and approved by the Department within twelve months of the Project Agreement's execution. This time period may be extended by the Department for good cause, such as natural disaster.
- F. The Department's grant manager shall, within sixty (60) days after receipt of a complete payment request, review the submitted documentation and Project work accomplished to date, and, if complete pursuant to requirements of this Project Agreement, approve the request for payment.
- G. The Department shall retain 10% of the total grant amount as the final payment until completion and approval of the Project.
11. The Department and the Grantee fully understand and agree that there shall be no reimbursement of funds by the Department for any obligation or expenditure made prior to the execution of this Project Agreement with the exception of \$0 for planning, permitting and design performed on or after June 21, 2004.
12. The Grantee shall adhere to the Office of Greenways and Trails' Grant Accountability Procedures (hereinafter referred to as "Accountability Procedures") and Guidance, incorporated into this Project Agreement by reference as if fully set forth herein. The Accountability Procedures establish uniform guidelines and procedures to be utilized by the Department and the Grantee in accounting for grant funds disbursed under the Program and sets forth principles for determining eligible costs, supporting

documentation and minimum reporting requirements. Expenses, representing the grant amount and the required match, shall be reported to the Department and summarized on certification forms referenced in Chapter 62S-2, F.A.C.. The Grantee shall maintain books, records, and documents directly pertinent to performance under this Project Agreement in accordance with generally accepted accounting principles consistently applied. The Federal Highway Administration, the Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Project Agreement and for five years following the termination of this Project Agreement. In the event any work is subcontracted, the Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.

13. In addition to the provisions contained in paragraph 12 above, the Grantee shall comply with the applicable provisions contained in Attachment A. A revised copy of Attachment A, Exhibit-1, must be provided to the Grantee with each amendment which authorizes a funding increase or decrease. The revised Exhibit-1 shall summarize the funding sources supporting the Project Agreement for purposes of assisting the Grantee in complying with the requirements of Attachment A. If the Grantee fails to receive a revised copy of Attachment A, Exhibit-1, the Grantee shall notify the Department's grant manager as designated in this Project Agreement to request a copy of the updated information.
14.
 - A. The Department may terminate this Project Agreement at any time in the event of the failure of the Grantee to fulfill any of its obligations under this Project Agreement. Prior to termination, the Department shall provide thirty (30) calendar days written notice of its intent to terminate and shall provide the Grantee an opportunity to consult with the Department regarding the reason(s) for termination.
 - B. The Department may terminate this Project Agreement for convenience by providing the Grantee with thirty (30) calendar days written notice.
 - C. The parties hereto may agree to terminate this Project Agreement for convenience as evidenced by written amendment of this Project Agreement. The amendment shall establish the effective date of the termination and the procedures for proper closeout of the Project Agreement.
 - D. This Project Agreement may be unilaterally canceled by the Department for refusal by the Grantee to allow public access to all documents, papers, letters, or other material made or received by the Grantee in conjunction with this Project Agreement, unless the records are exempt from Section 24(a) of Article I of the Florida Constitution and Section 119.07(1), Florida Statutes.
15.
 - A. The Grantee may subcontract work under this Project Agreement without the prior written consent of the Department's grant manager. The Grantee agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the Grantee that the Department shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.

B. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Project Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. The Department will be glad to furnish a list of minority owned businesses for consideration in subcontracting opportunities.

16. Competitive open bidding and purchasing for construction of said Project facilities or improvements shall comply with all applicable laws. Following completion of Project construction, the Grantee's grant manager shall provide the Department with a statement that all purchases or contracts for construction were competitively bid pursuant to applicable laws.
17. The Grantee certifies that no federal appropriated funds have been paid or will be paid, on or after December 22, 1989, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding, renewal, amending or modifying of any Federal contract, grant, or cooperative agreement. If any non-Federal funds are used for lobbying activities as described above, the Grantee shall submit Standard Form-LLL, "Disclosure of Lobbying Activities" (provided in Federal Documents Packet), and shall file quarterly updates of any material changes. The Grantee shall require the language of this certification to be included in all subcontracts, and all subcontractors shall certify and disclose accordingly. [49 CFR 20].
18.
 - A. In accordance with Executive Order 12549, Debarment and Suspension (49 CFR 29), the Grantee shall agree and certify that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency; and, that the Grantee shall not knowingly enter into any lower tier contract, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction, unless authorized in writing by the Federal Highway Administration to the Department.
 - B. Upon execution of this Project Agreement by the Grantee, the Grantee shall complete, sign and return a copy of the form entitled "Certification Regarding Debarments, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Federally Funded Transactions", received as part of the Project Development and Environment (PD&E) Materials.
 - C. As required by paragraphs A and B above, the Grantee shall include the language of this section in all subcontracts or lower tier agreements executed to support the Grantee's work under this Project Agreement. The Grantee shall also provide a copy of the most current Debarment and Suspension Form to any subcontractors for signature on Agreements that are entered into for \$100,000 or more.
19. The Department and FHWA shall have the right, through their agents, servants, and employees designated for that purpose, to inspect the site of the Project and the Project Elements thereon at any reasonable time.

20. Following receipt of an audit report identifying any refund due to the Department for noncompliance by the Grantee with the Project Agreement, the Grantee will be allowed sixty (60) days to submit additional pertinent documentation to offset any amount identified as being due to the Department. The Department, following a review of the documentation submitted by the Grantee, will inform the Grantee of the total refund due to the Department.
21. The Department shall have the right to demand a refund, either in whole or in part, of the funds provided to the Grantee for noncompliance with the terms of this Project Agreement.
22. If the United States acting within the scope of its lawful authority, through the FHWA, the Secretary of the FHWA, or any other branch of the government of the United States, should for any reason demand a refund from the Department, in whole or in part, of the funds provided to the Grantee under the terms of this Project Agreement, the Grantee, upon notification from the Department, agrees to refund and will forthwith repay directly to the Department the amount of money demanded.
23. Alexandra H. Weiss, Community Assistance Consultant, or her successor, is hereby designated as the Department's grant manager for the purpose of this Project Agreement. The telephone number at which the Department's grant manager can be reached is (850) 245-2052. The grant manager shall be responsible for ensuring performance of the terms and conditions of the Project Agreement and shall approve all reimbursement requests prior to payment. The Grantee's grant manager, Mindy Collier 239-461-7418, or his/her successor, shall act on behalf of the Grantee relative to provisions of this Project Agreement and shall submit to the Department signed quarterly Project status reports, on a calendar quarter basis, summarizing work accomplished, problems encountered, percentage of completion and other pertinent information. Photographs shall be submitted with status reports to reflect construction work accomplished.
24. By acceptance of the provisions of this Project Agreement, the Grantee agrees to dedicate the Project site and all land within the Project boundaries, identified in Paragraph 3 above, to the public as a recreational trail in accordance with section 62S-2.076, F.A.C. The parties further agree that the execution of this Project Agreement by the Department shall constitute an acceptance of said dedication on behalf of the general public of the State of Florida.
25. The Grantee agrees to operate and maintain the Project Site in accordance with section 62S-2.076, F.A.C. The Project Site and Project Elements shall be open to the general public for recreational trail use, maintained in accordance with applicable health and safety standards, and kept in good repair to prevent undue deterioration and provide for safe public use. The Grantee covenants that it has full legal authority and financial ability to develop, operate, and maintain the Project Elements as specified within the terms of this Project Agreement. The Grantee shall obtain Department approval prior to any and all current or future development of facilities on the Project site, if said development is not described in Paragraph 5 herein.
26. The Grantee shall not, for any reason, convert all or any portion of the Project boundary area for any purpose other than a recreational trail without prior approval of the Department and FHWA pursuant to the Chapter 62S-2, F.A.C..

27. A. No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Project Agreement.
- i. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and intends to post the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at 850/487-0915.
28. To the extent required by law, the Grantee will be self-insured against, or will secure and maintain during the life of this Project Agreement, Workers' Compensation Insurance for all of his employees connected with the work of this Project and, in case any work is subcontracted, the Grantee shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Grantee. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Project Agreement is not protected under Workers' Compensation statutes, the Grantee shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of his employees not otherwise protected.
29. Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.
30. The Grantee warrants and represents that it is self-funded for liability insurance, appropriate and allowable under Florida law, and that such self-insurance offers protection applicable to the Grantee's officers, employees, servants and agents while acting within the scope of their employment with the Grantee.
31. Asphalt paving for the Project shall conform to the FDOT's specifications for road and bridge construction. Bid specifications, contracts and/or purchase orders of the Grantee must specify thickness of asphalt and square yards to be paved.
32. The purchase of non-expendable equipment is not authorized under the terms of this Project Agreement.
33. The Grantee agrees to adhere to all state and federal special terms and conditions incorporated by reference as part of this Project Agreement as if fully set forth herein.

34. This Project Agreement has been delivered in the State of Florida and shall be construed in accordance with the laws of the State of Florida. Wherever possible, each provision of this Project Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Project Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Project Agreement. Any action hereon or in connection herewith shall be brought in Leon County, Florida, unless otherwise required by state law.

35. All notices related to this Project Agreement will be satisfied by sending notice by certified U.S. mail to the following addresses of the parties:

Department Grant Manager:

Alexandra H. Weiss, Greenways & Trails Coordinator
Florida Department of Environmental Protection
Office of Greenways and Trails (MS 795)
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000
Telephone: (850) 245-2052

Grantee's Grant Manager:

Mindy Collier, Grants and Contract Coordinator
Lee County.
Parks and Recreation Department
3410 Palm Beach Blvd.
Fort Myers, Florida 33916
Telephone: 239-461-7418

36. The Grantee acknowledges prior receipt of the following documents. It is understood that paragraphs A, B, C and D include documents that must be filled out by the Grantee and returned to the Department.

- A. Federal Award Letter approving project application as submitted by the Grantee or amended by the Department.
- B. Project Development and Environment (PD&E) Materials – includes PD&E Data Sheet and Federal documents (survey, boundary map, Federal Form 424 - Budget Information, Drug-Free Workplace Certification, Civil Rights Assurance of Compliance, Certification Regarding Lobbying, Debarment and Suspension Form, Federal Congressional District of Applicant and Project Site, FHWA Guidance, PD&E Data Survey, Advance Notification Process, Cultural Resources Assessment, Environmental Determination, Class of Action Determination).
- C. Commencement Packet – includes Boundary Map with legal description, Site Plan (signed and sealed), List of Facilities to be Constructed (signed and dated), Pre-Construction Certification (signed and dated), Grant Project PD&E Data Sheet (with back-up documentation).
- D. Program Completion Packet – includes Project Completion Certification, As-Built Site Plan (1 copy), List of Constructed Facilities and Improvements, Color Photographs or Slides of the Project and Identification Sign, Certification of Filing

of Notice of Limitation of Use, Final Payment Request, Certification of FHWA Guidance.

- E. Recreational Trails Program Project Status Report (to be completed quarterly).
- F. Office of Greenways and Trails' Grant Accountability Procedures.

37. This Project Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications, or waivers of provisions of this Project Agreement shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Project Agreement, unless otherwise provided herein.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year last written below.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

LEE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Director, Office of Greenways and
Trails, or designee

By: _____
Type/Print Name:

Title: _____

Date: _____

Date: _____



DEP Grant Manager

Address:
3410 Palm Beach Blvd.
Fort Myers, Florida 33916

Approved as to form and legality:

Approved as to form and legality:



DEP Program Attorney

Grantee Attorney (if required)

List of attachments/exhibits included as part of this Agreement:
Attachment A Special Audit Requirements (5 Pages)

ATTACHMENT A
SPECIAL AUDIT REQUIREMENTS

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the contract/agreement*) to the recipient (*which may be referred to as the "Contractor", Grantee" or other name in the contract/agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Agreement indicates Federal funds awarded through the Department of Environmental Protection 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 of Environmental Protection. 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 of 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. In the event that the recipient expends less than \$300,000 (\$500,000 for fiscal years ending after 12/31/03) in Federal awards in its fiscal year and 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. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <http://12.46.245.173/cfda/cfda.html>.

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2)(1), Florida Statutes.

1. In the event that the recipient expends a total amount of State financial assistance equal to or in excess of \$300,000 in any fiscal year of such recipient (\$500,000 for fiscal years ending on or after September 30, 2004), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Executive Office of the Governor and the Chief Financial Officer; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this Agreement indicates State financial assistance awarded through the Department of Environmental Protection 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 of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate 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 \$300,000 in State financial assistance in its fiscal year (\$500,000 for fiscal years ending on or after September 30, 2004), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$300,000 in State financial assistance in its fiscal year and 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. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <http://state.fl.us/fsaa/catalog> or the Governor's Office of Policy and Budget website located at <http://www.myflorida.com/myflorida/government/contacts/opbOffice.html> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website <http://www.leg.state.fl.us/>, Governor's Website <http://www.myflorida.com/>, Department of Financial Services' Website <http://www.dbf.state.fl.us/> and the Auditor General's Website <http://www.state.fl.us/audgen>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(7)(m), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

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 Attachment 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:

DEP 55-215 (09/04)

- A. The Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

- 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. 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 of Environmental Protection the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

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

- A. The Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

- B. The Auditor General's Office at the following address:

State of Florida Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

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4. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

5. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, or 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 of Environmental Protection 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

The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of **5** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **3** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

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EXHIBIT - 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program Number	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
Original Agreement	Federal Highway Administration	20.219	Recreational Trails Program	100,000	140185

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program Number	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program Number	Funding Source	State Fiscal Year	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category

Total Award				100,000	
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For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<http://12.46.245.173/cfda/cfda.html>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<http://state.fl.us/fsaa/catalog>]. The services/purposes for which the funds are to be used are included in the Contract scope of services/work. Any match required by the recipient is clearly indicated in the Contract.