AGREEMENT FOR SUNPASS AND TOLL-BY-PLATE
ELECTRONIC TOLL COLLECTION
AT THE CARD SOUND ROAD TOLL FACILITY
BY AND BETWEEN
MONROE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA
AND
FLORIDA DEPARTMENT OF TRANSPORTATION

THIS AGREEMENT FOR ALL ELECTRONIC TOLL COLLECTION ("Agreement"), is made and entered into this ___ day of ________, 2017, by and between MONROE COUNTY, a political subdivision of the State of Florida, whose business address is located in Monroe County at 1100 Simonton Street, Key West, Florida 33040 ("County"), and the FLORIDA DEPARTMENT OF TRANSPORTATION, an executive agency of the State of Florida having a business address located at Florida’s Turnpike Headquarters, Turkey Lake Service Plaza, Milepost 263, Florida’s Turnpike, Building 5315, P.O. Box 613069, Ocoee, Florida 34761 ("Department").

WITNESSETH:

WHEREAS, the County desires to implement All Electronic Tolling ("AET") at its Card Sound Road Toll Facility ("Toll Facility") in order to allow customers to pay tolls electronically;

WHEREAS, the Department has implemented AET on portions of Florida’s Turnpike with its SunPass® and TOLL-BY-PLATE® Systems;

WHEREAS, the County and the Department desire to utilize SunPass® and TOLL-BY-PLATE® technology in order to implement AET at the Toll Facility ("Program");

WHEREAS, section 338.161(5), Florida Statutes (2016), authorizes the Department to enter into agreements with other entities for use of the Department’s electronic toll collection and video billing systems to collect the entity’s tolls imposed in connection with use of the entity’s transportation facilities that become interoperable with the Department’s systems;

WHEREAS, the Department has determined that implementation of the AET services to be provided under this Agreement will add convenience and other value to the Department’s customers;

WHEREAS, the County will cause its Toll Facility to be interoperable with the Department’s SunPass® and TOLL-BY-PLATE® technologies and systems;
WHEREAS, the County desires to utilize the Department to provide AET transaction processing, image review, invoicing, payment processing, account management, and customer support services, and to authorize the Department to engage in certain toll enforcement on behalf of the County;

WHEREAS, the County desires to administer on its own an annual pass discount program ("Annual Pass") and a frequent user rebate program ("Rebate Program");

WHEREAS, the County desires to assign and delegate to the Department the County’s authority to collect and enforce Toll Facility tolls; and

WHEREAS, the purpose of this Agreement is to provide detailed roles, responsibilities, business rules, specifications, and other terms and provisions as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:

1. **Recitals.** The above recitals are true and correct and form a material part of this Agreement.

2. **Effective Date: Go-Live Date.**
   a. The "Effective Date" shall be the date this Agreement is entered into by and between the County and the Department as set forth in the first paragraph of this Agreement.
   b. The "Go-Live Date" is the date subsequent to the Effective Date mutually agreed upon in writing by the parties when processing of "AET transactions" (which term shall include SunPass® transponder-based transactions and TOLL-BY-PLATE® license plate image-based transactions) shall begin at the Toll Facility, but in any event, no later than the date the first AET transaction for the Toll Facility is processed by the Department.

3. **Roles and Responsibilities of the County.**
   a. The County will be responsible for submitting and receiving tolling and toll transaction data in real time with the Department as specified in the Department’s Florida’s Turnpike Enterprise ("FTE") Infinity Integration Interface Control Document (the "System Interface"), and by this reference made a part of this Agreement, including any amendments or subsequent versions the Department may make to the System Interface from time to time.
b. It is the responsibility of the County to separately contract, at its sole expense, for all design, purchase, installation, operation, tuning, elimination of frequency interference, maintenance, and replacement as needed for Department-compatible roadside, lane and / or plaza tolling equipment, software, and communications having sufficient bandwidth to properly operate the System Interface at the Toll Facility and to transmit to the Department toll transaction data as uniform financial messages ("UFM") as specified by the Department. The County's responsibilities under this subparagraph shall continue for as long as this Agreement remains in effect.

c. The County shall be solely responsible for the accuracy of all data transmitted to the Department, including but not limited to: vehicle license plate information and images, transponder information, vehicle axle counts, equipment status, and toll rate information.

d. The County shall be solely responsible for all costs associated with upgrades or replacement of its communications infrastructure and sufficient bandwidth required to transmit toll transaction data to the Department at all times.

e. The County shall receive payment for toll transaction data received by the Department only after payment is received by the Department for same; unpaid tolls are not the liability of the Department. Any adjustments made to toll transaction data to resolve customer disputes shall be solely within the discretion of the Department. Any adjustments resulting in the reversal or decrease of previously charged or paid tolls will be reflected in the net payments made to the County.

f. The County shall not receive any payment or credit for any administrative or collection fees or civil fines assessed or received by the Department in its efforts to collect Toll Facility toll revenue.

g. The County shall be solely responsible for providing and paying for any legal services the County desires to use in connection with any matter that may arise during the Term, including, but not limited to, legal representation during traffic court proceedings. The Department will not be required to provide any legal support or representation regarding the toll collection or enforcement services Department provides to or on behalf of the County pursuant to the terms of this Agreement.

h. The County shall be solely responsible for all costs associated with modifying or adding County signage for the Program.

i. The County shall be responsible for paying "Credit Card Fees" calculated as described in Paragraph 5.a. of this Agreement.
j. The County shall be responsible for payment of all “Department Transaction Fees” for Toll Facility transactions as described in Paragraph 5.b. of this Agreement.

k. The County shall, at its sole expense, properly train or cause to be trained its personnel in the proper administration and education of the Program procedures and timely reporting of any and all problems therewith.

l. Prior to the Go-Live Date, and as required by the Department thereafter, the County shall allow Department representatives to test the County’s revenue collection system and System Interface to confirm the systems are properly operating and conform to the Department’s standards as set forth in the Department’s System Interface. At a minimum, testing may confirm the County’s systems’ ability to:

   i. Properly read and transmit data to and from transponders;
   
   ii. Provide accurate vehicle axle and toll rate information;
   
   iii. Create, store, and transmit vehicle license plate information and associated images; and
   
   iv. Create and transmit toll transaction data in a correct Department-compatible format.

The Department’s testing of the County’s systems is merely to evaluate such systems’ readiness for the Go-Live Date, and shall not transfer to the Department any of the County’s responsibilities identified in subparagraph 3.b. above.

m. The County will be responsible for determining the toll amount to be charged to customers using its Toll Facility. The County will inform the Department of any changes in the toll amounts to be charged and the date the rates are to become effective no less than thirty (30) days before the new toll amounts are to be in effect.

n. Annual Pass – The Card Sound Bridge annual pass provides for unlimited usage of the toll facility for an annual fee and registration.

   i. The County will be solely responsible for administering the Annual Pass program.
   
   ii. Pass holders will utilize SunPass® transponders and will be required to be registered with a prepaid balance and maintain their SunPass® account in good standing. The County will be responsible for communicating these requirements to its Pass holders.
   
   iii. The customer shall properly mount the SunPass® in customer’s vehicle in order to be eligible for the Annual Pass discount.
iv. One Annual Pass is allowed per vehicle - One transponder per vehicle license plate number.

v. Card Sound Bridge annual pass requires enrollment and pre-purchase by the customer.

vi. The Annual Pass is available to two-axle vehicles only (no trailers).

vii. Monroe County shall administer the Annual Pass program ensuring that the transponder is valid and SunPass® account is in good standing.

viii. SunPass® accounts not in good standing shall not be able to be registered for an Annual Pass.

ix. The County Annual Pass administration system shall capture both transponder ID and license plate information. The County will provide the Department the license plate and transponder information for valid Toll Facility Annual Pass holders.

x. The County will provide this information through an electronic interface as defined in the Department’s Pass Interface Control Document (“ICD”). The interface shall be the sole means of transferring the Card Sound Bridge Annual Pass list. Updates shall be near-real-time.

xi. The cost of the Annual Pass shall be determined by Monroe County.

xii. The Annual Pass will expire on December 31 of each year unless renewed prior to its expiration regardless of when the pass was purchased. The County is responsible for placing customers on the Annual Pass list as well as removing them.

xiii. The County shall not send FTE transactions of pass holders based on transponder ID or Optical Character Recognition (“OCR”) of the license plate result.

xiv. For transactions that require image review, FTE shall check the license plate result against the pass list information and not charge customers who are on the list.

xv. Transaction processing charges shall apply for all transactions sent to FTE.

Two pass types will be issued as defined below:

i. Customer Combination Pass – The pass will only be valid for use on the Toll Facility. On other facilities which allow SunPass®, the pass will be recognized as a SunPass® transponder and will be processed based on the SunPass® business rules. Failure to renew the pass will result in the customer reverting to a tolled customer for this facility.

ii. Agency Combination Pass – Each agency vehicle that the County desires to be exempt from payment of the toll on the Toll Facility will be required to have a SunPass® transponder. The County will establish a SunPass® fleet account and include each of the agency vehicles the County desires to be eligible for use of the pass. County will maintain a minimum balance on the account as established by the Department. The County will have access to
transaction information through the SunPass® web page. This pass will only be valid for use on the Toll Facility. On other facilities which allow SunPass®, this pass will be recognized as a SunPass® transponder and will be processed based on the SunPass® Business Rules. County is responsible for maintaining the list of exempt vehicles and for maintaining funds in the SunPass® prepaid account.

SunPass® account holders that utilize the County’s Annual Pass program shall be governed by the rules of the SunPass® program. In addition the account shall be governed by the following:

i. A SunPass® prepaid account balance shall be maintained at all times. Should the account become delinquent, the Department reserves the right to terminate the account in accordance with the Department’s existing Business Rules.

ii. Upon termination of a SunPass® prepaid account, the registered owner of vehicle may be subject to toll charges and applicable fees consistent with the Business Rules of the Department’s Toll-by-Plate program. Termination will invalidate any pass entitlements.

iii. When a previously delinquent SunPass® prepaid account is brought back to good standing, the Department may, at its discretion, post any unpaid Toll-by-Plate activity to the SunPass® account for payment and may honor any pass entitlements that would have been honored had the account not been terminated.

o. Rebate Program - The Card Sound Bridge Monthly Rebate Program is designed for the commuter or frequent user of the facility. It provides a rebate to customers who meet a specified usage requirement.

i. FTE shall be solely responsible for administering the monthly Rebate Program.

ii. The monthly Rebate Program shall utilize SunPass® transponders with a prepaid balance and customers must maintain their SunPass® account in good standing. The County will be responsible for communicating these requirements to its customers.

iii. Requires SunPass® to be properly mounted in customer’s vehicle.

iv. SunPass® accounts not in good standing shall not be eligible for a rebate.

v. Only if the transponder is read and the account is in good standing when the rebate is calculated will the transaction count towards the rebate.

vi. No enrollment is required by the patron.

vii. The rebate is available to two-axle vehicles only (no trailers).

viii. Patrons with total transactions equal to or greater 40 in a calendar month will be issued a 40% rebate credit to their SunPass® account the following month.
ix. County will be provided with a report on the number of customers who met the rebate requirement

x. Monthly rebate customers may not be part of another Card Sound Bridge discount program.

4. **Roles and Responsibilities of the Department.**

   a. The Department will utilize its business rules, technical processes, and administrative procedures ("Business Rules") to process toll transaction data received from the County. The Department’s Business Rules may be modified, deleted, or new rules adopted by the Department from time to time. New Business Rules and changes to existing Business Rules and deletion of Business Rules will be effective immediately upon adoption by the Department. Tolls will be processed in the order received by the Department’s account management systems.

   b. The Department will determine customer affiliation for the Toll Facility transaction data received in the following order:

      i. If the transaction is identified and associated with a valid Department SunPass® account having a valid pass status, as reflected in the most recent pass list provided to the Department in accordance with the FTE Pass Interface Control Document, Department will record the transaction and not charge the customer’s account.

      ii. If the transaction is identified and associated with a valid Department SunPass® account having a sufficient balance to satisfy the transaction amount, the Department will deduct the appropriate toll amount from the customer’s account and remit this amount to the County.

      iii. If the transaction is identified and associated with a SunPass® Interoperable Agency customer account, the Department will submit the transaction to the SunPass® Interoperable Agency for payment. The Department will remit the toll amount to the County only after payment is received from the SunPass® Interoperable Agency.

      iv. If the transaction is identified and associated with a Rental Agency having an Agreement with the Department, the Department will submit the transaction to the Rental Agency Service Provider in accordance with the Department’s agreement with same. The Department will remit the toll amount to the County only after payment is received from the Rental Agency Service Provider.
v. If the Department is unsuccessful in obtaining payment pursuant to i, ii, iii, or iv above, the Department will attempt to collect payment through its TOLL-BY-PLATE® program. The Department will remit the toll amount to the County only after payment is received from the customer.

vi. If the Department believes that a Toll Facility transaction cannot be invoiced or otherwise collected using the vehicle license plate information or image received from the County, the Department will notify the County as to the reason the transaction cannot be invoiced or otherwise collected, and the County shall not receive any payment for the transaction. The Department will provide the County with the proposed frequency by which notifications of this type will be provided.

The Department will remit payments to the County pursuant to the provisions of paragraph 5 below.

vii. If a TOLL-BY-PLATE® invoice remains unpaid, the Department may, at its sole discretion, initiate a registration hold, issue a Uniform Traffic Citation ("UTC"), refer the unpaid balance to a collection agency under contract with the Department, or initiate other collection activities in accordance with Department Business Rules. The Department will remit to the County only the toll amount collected. The Department will retain all fines and any fees paid by the customer. The Department shall have no obligation to issue a UTC with respect to any toll violation, and the County acknowledges that the Department may limit the total number of UTCs filed with a court during any given month. The Department will utilize the same toll enforcement procedures for collecting unpaid Toll Facility toll revenues as the Department utilizes to collect unpaid toll transactions on the Department's toll facilities. The issuance of UTCs most likely will not be the primary means of enforcing the payment of Toll Facility toll revenues.

viii. The Department will occasionally receive UTC toll and fine amounts paid by customers directly to the Department, and will remit to the County the toll portion of such Department-collected transactions occurring on the County's Toll Facility. Additionally, from time to time the Department may receive payments from the Department of Revenue (DOR) for tolls and UTC fines collected by the Monroe County Court for toll transactions occurring on the County's Toll Facility. The Department will retain all such UTC fines received from DOR. However, the Department will distribute to the County a portion of the toll amounts received from DOR based on a pro rata allocation. Such toll amount will be derived by comparing the Department-collected UTCs for the County's Toll Facility to the Department-collected UTCs for all Department-operated toll facilities in Monroe County. The resulting pro rata percentage for
the County will be applied to the estimated toll portion of the DOR UTC payments to determine the amount payable to the County. Such amounts will be periodically remitted by the Department to the County, but these toll amounts are expected to be de minimis.

c. The Department and County will jointly promote the Program in accordance with a marketing plan developed and agreed to by the parties. These promotional activities may include, without limitation, direct mail to all SunPass® and TOLL-BY-PLATE® customers in the County’s marketing area, newspaper advertising, billboard signage, or promotional literature and announcements on the Department’s SunPass® and TOLL-BY-PLATE® websites. Neither party shall be responsible for any promotional costs not agreed upon in writing prior to incurrence of said cost. Signage erected by the County shall not be considered as promotional or marketing expenses associated with the Program for purposes of this Agreement, and the Department will not participate in such costs.

d. This Agreement does not confer any exclusive rights to the County with respect to the services Department is to provide in connection with the Program, and does not restrict in any way the Department’s right in its sole discretion to enter into agreements with other entities, both public and private, to offer the same or similar rights and services.

e. The County authorizes the Department and its employees, contractors, and representatives, on behalf of the County, to utilize all means available under applicable laws to collect Toll Facility toll revenue, including, without limitation, issuing UTCs and filing UTCs with the court, providing to the Department of Highway Safety and Motor Vehicles the names of persons with one or more unpaid tolls for use of the Toll Facility for the purpose of initiating registration holds, issuing notices and invoices, and authorizing collection by third party debt collectors. To the extent necessary to implement the authorization set forth in this subparagraph, and for no other purpose, the County’s authorization includes a delegation of authority to the Department from the County’s Board of County Commissioners with respect to the County’s police powers to enforce the provisions of the State Uniform Traffic Control Statutes that relate to toll enforcement. Pursuant to § 316.1001(2)(a), Florida Statutes, the County’s Board of County Commissioners also shall by duly adopted ordinance designate as toll enforcement officers for the County one or more persons who are serving as a toll enforcement officer for the Department, and by such ordinance authorize such persons to issue uniform traffic citations for toll violations incurred on the Toll Facility. The Department’s obligations under this Agreement to utilize enforcement procedures authorized under Chapter 316, Florida Statutes, for the collection of Toll Facility tolls shall be conditioned on and subject to the Board of County Commissioners of Monroe County’s final adoption of an ordinance as described above in this subparagraph e.
f. The Department shall be responsible only for exercising reasonable efforts to process the County's toll transaction data in accordance with the provisions of this Agreement. Under no circumstance shall the Department be liable to the County for any loss of revenue, profits, transaction data, or any claims, suits, judgments, expenses, or any loss of goodwill or customers that may be incurred by the County resulting from or in connection with this Agreement or the actions or inactions of the Department in performance of its responsibilities pursuant to this Agreement. The County will hold harmless the Department and will be responsible for paying any judgment or settlement resulting from any claim against the Department based on one or more erroneous or unlawful toll amounts transmitted by the County to the Department for processing.

5. Financial Provisions. On a weekly basis, the Department will wire transfer to the County net funds collected for Toll Facility AET transactions, as more particularly described in the Department's System Interface. Funds wire transferred will be the amount collected by the Department for Toll Facility transactions, net of "Credit Card Fees," "Department Transaction Fees," and adjustments made to resolve customer disputes (as such terms are defined in this paragraph 5. below).

a. Credit Card Fees. An estimated credit card fee of two and one-quarter percent (2.25%) will be deducted from the weekly wire transfers to the County. A reconciliation of the estimated credit card fees to the actual credit card fees will be performed during the following month. This reconciliation will be calculated based on the actual credit card fees incurred by the Department during the month, multiplied by the "Toll Facility Factor" (as defined herein below). The difference between the estimated credit card fees deducted from the weekly wire transfer and the actual credit card fees calculated in the monthly reconciliation will be adjusted in the next subsequent weekly wire transfer to the County. The "Toll Facility Factor" is the pro rata portion of the total Toll Facility revenue collected by the Department to the total SunPass® and TOLL-BY-PLATE® revenue collected by the Department for the month from all sources. The Department will notify the County following the Department's receipt of notice from the State of Florida Department of Financial Services ("FDFS") of changes in the credit card fees charged the Department through the agreement administered and contracted by FDFS with an FDFS-selected financial institution.

b. Department Transaction Fee. Department will deduct a fee of eight (8) cents per Toll Facility toll transaction processed, including, without limitation, all Annual Pass, and Rebate Program transactions processed, irrespective of whether the toll amount is collected from the customer. For purposes of this subparagraph, a toll transaction is "processed" if the transaction is transmitted from the Toll Facility to the Department. The Transaction Fee will be deducted during the entire term
of the Agreement. The Department will deduct the Department Transaction Fees from the toll revenues collected for the County prior to making the weekly wire transfers to the County.

c. The County acknowledges that the Department Transaction Fees are based on an estimated annual count of one (1) million Toll Facility transactions, a minimum standard for vehicle license plate image quality, accuracy of toll transaction data received in the UFM format specified by the Department and full conformance with the System Interface. Should the actual number of transactions be materially less than one (1) million annual transactions, or the accuracy of the toll transaction data submitted to the Department, including the image quality, result in additional processing costs for the Department, the Department Transaction Fees may be increased above the amount set forth in subparagraph (b) above, subject to mutual agreement by both parties.

d. The County agrees that the Department may, at the Department’s sole discretion, make adjustments to previously invoiced or collected amounts as a result of customer disputes, or transactions which are likely to result in customer disputes, in accordance with the Department’s internal business rules. Any adjustments made for Toll Facility transactions will be adjusted in the next weekly wire transfer and documented as part of the reconciliation process between the Department and County.

6. **Department Customer Statements, Receipts, Issues and Inquiries.**

a. Customer statements provided by the Department will include Toll Facility transactions paid from Department customer accounts.

b. The County will be the point of contact for the Annual Pass Program and Annual Pass Payment Program as set forth in more detail in subparagraph 3. n. Department will act as the point of contact for all Department related customer service issues and inquiries for non-County facilities. The Department’s published toll-free telephone number will be available to County customers for service issues and inquiries.

c. Pursuant to Section 338.155 (6), Florida Statutes, certain personal identifying customer information in the possession of the Department is exempt from public disclosure under Section 119.07 (1), Florida Statutes, and Article I, Section 24 (a), of the Florida Constitution. Additionally, § 316.0777, Florida Statutes, provides that images and data containing or providing personal identifying information obtained through the use of an automated license plate recognition system is confidential and exempt from public disclosure under § 119.07(1), Florida Statutes, and Article I, Section 24(a), of the Florida Constitution. The parties
agree to implement any additional customer information safeguards identified by the Department as necessary to maintain the Department's standing and certification with Payment Card Industry standards.

7. System Interface Equipment and Software Changes.

a. The County, at its sole expense, shall be responsible for making all necessary changes to its Toll Facility revenue collection system, including equipment, software, applicable processing mechanisms, and communications (collectively "Toll Facility Revenue Collection System") to meet and support the Department's System interface as described on the attached Exhibit "B", which by this reference is made a part of this Agreement. The County's satisfactory completion of the scope of services identified in Exhibit "B" shall be conditions precedent to the Department's obligation to collect toll revenue at the Toll Facility. Subject to reimbursement of its costs and expenses in the manner described above in Paragraph 5.b., the Department shall be responsible for performing the scope of services identified in Exhibit "A", which services include software programming for system interfacing to support the Go-Live Date. The County, at its sole expense, shall be responsible for making any necessary hardware, software, or communications system replacements, repairs, or alterations after the initial Go-Live launch.

b. To the extent practicable, the Department will consult with and provide notice to the County at least one hundred and eighty (180) calendar days prior to making any changes requiring the County to make changes to meet or support the Department's System Interface; provided, however, this advance notice and consultation requirement shall not apply to any software, firmware, or equipment repairs, fixes, patches, releases, replacements, or processes the Department determines must be implemented within a shorter period of time in order to protect the integrity of the system or to address an identified problem that could cause errors or loss of revenue if not properly remedied. In such circumstances the Department shall provide to the County as much notice as is reasonably possible under the circumstances, but the parties agree that the timely prevention or correction of problems that could result in deterioration of the system integrity, creation of errors, or the loss of revenue are more important than notice or consultation.

8. Assignment. This Agreement or any interest herein shall not be assigned, transferred, or otherwise encumbered by the County under any circumstances without the prior written consent of the Department. The Department may assign and transfer this Agreement or any of the Department's obligations or rights under this Agreement to the Department's Centralized Customer Service System ("CCSS") vendor. The provisions of this Agreement shall bind the Department and the County and their respective successors and any
permitted assigns. In the event of any such approved assignment, the assignee shall expressly assume, perform, and be bound by the duties, covenants, and obligations of the assignor contained in this Agreement.

9. Term. The initial term of this Agreement shall commence upon the Effective Date and shall continue for a period of two (2) years (the "Term"). Any renewal of this Agreement following the expiration of the Term shall be subject to mutual agreement of the parties with respect to the transaction fees to be paid by the County after considering any changes in the transaction fees that may be appropriate, after considering the Department’s costs of processing the County’s toll transaction data during the Term, after considering the change in the Consumer Price Index since the Effective Date, and after considering any other relevant matter.

10. Termination.

a. This Agreement may be terminated for cause at any time by the County or by the Department if the other party breaches any material provision of this Agreement, and the party in breach has not corrected the breach within twenty (20) calendar days following written notice from the aggrieved party identifying the breach and asking for correction of the breach. If, however, the breach is of such a nature that it cannot reasonably be cured within such a time period, the breaching party shall be entitled to a reasonable period of time within which to cure such breach, provided the cure is commenced immediately and is continuously implemented without interruption until the breach is fully cured. This Agreement may also be terminated at any time by the Monroe County Board of County Commissioners or the Executive Director of the Florida Turnpike Enterprise (FTE) upon such notice as the County’s Board of County Commissioners or the FTE Executive Director deems appropriate in the event the County’s Board of County Commissioners or the Department’s FTE Executive Director determines that termination is necessary to protect the public health, safety, or welfare. In addition, this Agreement may be terminated for the convenience of either the County’s Board of County Commissioners or the Department’s FTE Executive Director following notice of at least ninety (90) days to the other party.

b. Termination of this Agreement for cause shall include, but is not limited to, negligent, intentional, or repeated submission of false or incorrect transactions, data, bills, or invoices; failure to suitably perform required obligations under this Agreement; or multiple breaches of this Agreement which have material adverse effect on the efficient administration of the Agreement, notwithstanding whether any such breach was previously waived or cured.

c. Notice of termination shall be provided in accordance with Paragraph 11 herein below.
d. In the event this Agreement is terminated for any reason, the Department shall be paid for any services performed up to the date the Agreement is terminated. Upon being notified of the County’s election to terminate, the Department will refrain from performing further services or incurring additional expense under the terms of this Agreement, unless otherwise requested in writing by the County. Under no circumstances will the County be required to make payment for services that have not been performed.

e. In the event the Agreement is terminated for any reason, the Department shall deliver all net revenues payable to the County pursuant to the terms of this Agreement within thirty (30) calendar days following receipt of the written notice of termination.

f. In the event this Agreement is terminated for any reason, the Department shall deliver to the County an invoice for the unreimbursed balance of the Department’s total costs and expenses incurred in connection with performing the scope of services identified in Exhibit "A," and the County shall pay to the Department the full amount of the departments invoice within thirty (30) days following the date of the Department’s invoice.

11. Notices. Whenever either party desires to provide notice to the other, such notice must be in writing, sent by certified United States mail, postage prepaid, or by overnight courier with delivery confirmation, or by hand-delivery with a request for a written receipt or acknowledgement of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

COUNTY:

Monroe County Manager
Monroe County

1100 Simonton Street
Key West, Florida 33040

With Copy to:
Robert B. Shillinger
Monroe County Attorney
Monroe County
1111 12th Street, Suite 408
Key West, Florida 33040
DEPARTMENT:

Director of Toll Systems
Florida's Turnpike Enterprise
Turnpike Headquarters
Turkey Lake Service Plaza
Mile Post 263, Building 5315
Post Office Box 613069
Ocoee, Florida 34761

With Copy to:

Chief Counsel
Florida's Turnpike Enterprise
Turnpike Headquarters
Turkey Lake Service Plaza
Mile Post 263, Building 5315
Post Office Box 613069
Ocoee, Florida 34761

12. Records. All documents associated with this Agreement shall be maintained in accordance with the State of Florida Records Retention Schedule. Except for records that are exempt from public disclosure under the provisions of Section 338.155 (6), Florida Statutes, or any other applicable statutory exemption as may now or in the future exist, copies of these documents and records shall be furnished by either party upon request.

13. Section 339.135 (6) (a), Florida Statutes. 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. Accordingly, the Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

14. Amendment. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless set forth in a written document prepared with the same or similar formality as this Agreement and executed and delivered by the parties hereto.
15. **Governing Law and Venue.** The laws of the State of Florida shall solely govern the validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the Parties to this Agreement. The venue for any action in connection with this Agreement shall be any court of competent jurisdiction in Leon County, Florida.

16. **Employees.** The County warrants that it has not employed or obtained any company or person, other than bona fide employees of the County to solicit or secure this Agreement and it has not paid or agreed to pay any company, corporation, independent contractor, consultant, individual or firm, other than a bona fide employee employed by the County. The Department warrants that it has not employed or obtained any company or person, other than bona fide employees of the State of Florida Department of Transportation to solicit or secure this Agreement and it has not paid or agreed to pay any company, corporation, independent contractor, consultant, individual or firm, other than a bona fide employee employed by the Department.

17. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months from the date of being place on the convicted vendor list.

18. **Americans with Disabilities.** Both parties agree to comply with Titles I and II of the Americans with Disabilities Act of 1990, as well as state and federal civil rights laws, and each party agrees to comply with its own rules and ordinances for implementation thereof.

19. **Liability.** Except as otherwise provided in this Agreement, and subject to any claim of sovereign immunity, each party to this Agreement shall be fully liable for the acts and omissions of its respective employees and agents in the performance of this Agreement to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third-parties in any matter arising out of this Agreement or any other contract.

20. **Third-Party Beneficiaries.** Neither the Department nor the County intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries or this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.
21. **Remaining Provisions.** In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective to the maximum extent under the laws of the State of Florida.

22. **Attachments.** If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference, and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in this Agreement shall prevail and be given effect.

23. **Truth and Accuracy.** The truth and accuracy of each recital clause set forth above is acknowledged by the parties.

24. **Authority to Execute.** The individuals executing this Agreement on behalf of each party have full authority to execute this Agreement on behalf of the party for whom they are acting herein.

25. **Complete Agreement.** This Agreement incorporates and includes all prior and contemporaneous negotiations, correspondence, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understanding concerning the subject matter of this Agreement that are not contained herein. No deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by the parties hereto.

26. **Original Copies.** Multiple copies of this Agreement may be fully executed by all parties, each of which shall be deemed to be an original.

27. **Trademarks and Service Marks.** This Agreement shall constitute a limited, non-exclusive, and revocable license from Department to the County for the County’s display and use of the Department’s SunPass® and TOLL-BY-PLATE® marks and logos (collectively, the “Department’s Marks”). This limited license is conditional on the County seeking and receiving from the Department specific written approval in advance of each use of the Department’s Marks. The County shall under no circumstances display, reproduce, or otherwise use any of the Department’s Marks without the Department’s prior written approval. The Department retains the right to cancel this limited license at any time upon ten (10) days’ prior written notice to the County in the event the County has breached any term of this Agreement, or the Department reasonably believes that any action or inaction of the County may damage any of the Department’s Marks. The County agrees not to challenge or contest the Department’s ownership of or rights to the Department’s Marks, and agrees to promptly notify the Department of any observed or suspected infringement of the Department’s Marks. In any event, this limited
license shall automatically terminate and be of no further effect immediately upon expiration or termination of this Agreement for any reason.

28. **Execution.** This Agreement shall be effective following the execution by the Department and the County.

**IN WITNESS WHEREOF,** the parties hereto have made and executed this Agreement on the respective dates under each signature: MONROE COUNTY signing by and through the Monroe County Council, signing by and through its Mayor, authorized to execute the same by County Council action on the \( \frac{12}{2} \) day of \( \text{April} \), 2017, and the FLORIDA DEPARTMENT OF TRANSPORTATION, signing by and through its Executive Director & Chief Executive Officer, Florida’s Turnpike Enterprise, duly authorized to execute same.

**COUNTY OF MONROE, a political subdivision of the State of Florida**

**ATTEST:**

**BY:** Monroe County Board of County Commissioners

**George Neugent, Mayor**

Printed Name

**ITS:**

Approved as to form by:

**MONROE COUNTY ATTORNEY**

**APPROVED AS TO FORM:**

**Monroe County Attorney**

**SEAL**

Date 3/21/17

*(Signatures continued on the following page)*
FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST:
Sandra Wilde
(Name and Position)
Sandra Wilde, Executive Secretary

BY:
Diane Gutierrez-Scaccetti
Executive Director & Chief Executive Officer
Florida's Turnpike Enterprise

Legal Review:
By: James Hetz, Assistant General Counsel
EXHIBIT A

FTE SCOPE OF SERVICES

1. Purpose & Objective
The purpose of this document is to describe the scope of work necessary for the Florida Turnpike Enterprise (FTE) to process transponder-based (hereafter known as SunPass) and Toll-By-Plate All-Electronic-Toll (AET) Collection and toll violations for the County of Monroe (the County). This Scope of Work (SOW) document defines the level of effort, work activities, cost and timeframe associated with FTE’s SOW on the project known as the Card Sound Road Toll Facility.

2. Project Scope of Work
The following tasks shall be completed by FTE:

1. Project Management:
   This task includes:
   - Project schedule development support for FTE project activities and ongoing schedule management
   - FTE Internal Project schedule development and management
   - Development and management of the FTE filing system for project documentation
   - Coordination and implementation with the County of Monroe of project management meetings and technical meetings
   - Coordination and management of requirements, design, application development, testing and implementation strategy activities
   - Coordination with the County on agreements for scope, schedule and budgetary revisions
   - Status Reporting

Deliverables:
- FTE updates to the Project Schedule
- Change order documentation as needed
- Project meeting minutes, or for those meetings agreed to be documented by the County of Monroe, meeting minute comments
- Project Status Reports

2. Requirements and System Design:
This task includes creation of the Project Charter document and Use Cases (i.e. the list of steps to achieve a function of the system) as well as review of System Requirements Definition, Interface Control Documents, Construction Plans reviews, and Signage Plan reviews with the County of Monroe:
- Project Scope
- Uniform Financial Message (UFM) Toll Transaction Requirements
- Amendment Requirements
- Financial Event Requirements
  - Web Requirements(SunPass.com and TollByPlate.com)
  - Interface Requirements (Card Sound Road Toll Facility pass holder list)
  - Customer Service Support Requirements
  - Reporting Requirements
  - Construction drawings reviews
  - Signage plans reviews

Deliverables:

- Project Charter
- Use Case and Requirements documentation
- Reports requirements documentation
- Review comments

3. Application & Reports Development:

This task includes the development of the applications based on the requirements defined in the prior task. Application development to facilitate transaction processing for the County of Monroe includes:

- Card Sound Road Toll Facility Holder List processing
- UFM/Amendment processing modifications
- Video Toll/Violation Processing modifications
- FTE Customer Service Representative screen modifications
- Website screen modifications
- Exception Handling modifications
- Financial Event handling
- Report creation / modifications

Deliverables:

- The primary product of this task is the application development or existing applications enhancements to accommodate the requirements identified in the prior task. Sample reports will be provided to the County of Monroe for review and mutual agreement of content and format.

4. System Communications and Network Testing:

This task involves the coordination with the County of Monroe staff on the communications methods and media for the transmittal of the County's transactions and images for the County's processes, and the reciprocal transmission of FTE transaction processing information to the County of Monroe. The task includes the following activities:
5. System Testing

This task includes the testing of applications and reports, designed and developed in prior tasks, and includes coordination with the County of Monroe for the testing. The task includes the following activities:

- Development of Test Plan
- Development of Test Cases
- Setup of the FTE Test Environment
- Conducting of tests

The following tests will be conducted:
- Reports Testing
- Integration Testing
- Regression Testing
- Performance Testing

Deliverables:
- Test Plan
- Test reports will be provided to the County of Monroe as per the Test Plan
- Fully tested back-office system capable of processing Monroe County transactions through their entire life-cycle

6. Training

This task is associated with FTE training of Customer Service Representatives to support the new processes associated with the County of Monroe Toll Processing.

Deliverables:
- Training documentation developed for training of new system functionality

7. Implementation/Marketing Coordination
This task includes the coordination activities with the County of Monroe required for the transitioning of Card Sound Road Toll Facility's toll processing to FTE. These activities include:

- Overall Implementation Plan review
- Development of back office implementation plan component
- Public information coordination:
  - Public messaging strategy review
  - Public messaging reviews
  - Public messaging release strategy
- Marketing coordination:
  - Marketing strategy review
  - Marketing resource planning
  - Special event participation
  - SunPass sales support

The Implementation Plan deliverable is a detailed cut-over schedule for the go-live touch points between FTE and The County.

Deliverables:
- Implementation Plan
- Review comments

8. Post-implementation Monitoring

This task includes a post-implementation monitoring of the County of Monroe Toll Processing to ensure that there are no issues with the processing of the Card Sound Road Toll Facility. This task includes daily reviews of transaction processing and reporting following the go-live for four weeks, and coordination with the County on the resolution of any issues or anomalies identified in the daily reviews.

Deliverables:
- A weekly summary of issues shall be provided to the County of Monroe during the post-implementation monitoring. (Any issues or anomalies with transaction processing will be brought to the County's attention as soon as they are identified and assessed).
- The County of Monroe shall provide a weekly list of issues or anomalies associated with transaction processing during the Post-Implementation Assessment Period.
EXHIBIT B

MONROE COUNTY SCOPE OF SERVICES

The purpose of this document is to describe the scope of work necessary for Monroe County to establish a roadside electronic toll collection system, integrate it with the Florida Turnpike Enterprise (FTE), and test the system prior to revenue service.

Monroe County shall perform the following tasks:

• Secure FCC license for the Toll Facility
• Install and configure toll lane equipment at the Card Sound Road Toll Facility
• Install a tolling Central Processing Center (CPC)
• Develop system to manage and administer annual passes
• Establish communications link to FTE for transmitting and receiving data. This includes toll transactions, images, positive list, pass lost, etc. Any additional hardware or network configuration work required to establish the communications link will be the sole responsibility of the County
• Deploy FTE approved signage for SunPass and AET
• Perform system testing of the lane toll equipment
• Support end-to-end testing in coordination with FTE