

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: February 27, 2007

Consent
 Workshop

Regular
 Public Hearing

Department:

Submitted By: Engineering & Public Works
Submitted For: Roadway Production Division

Project No. 2005503

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A. Approve a County Incentive Grant Program (CIGP) Agreement with the State of Florida Department of Transportation (FDOT), in the amount of \$2,850,000 (\$350,000 for design, and \$2,500,000 for right-of-way acquisition), for the new construction of Lyons Road from north of SR-806/Atlantic Avenue to south of SR-804/Boynton Beach Boulevard.
- B. Adopt a Resolution concerning this Agreement.
- C. Approve a Budget Amendment of \$2,850,000 in the Road Impact Fee Fund – Zone 5 to recognize a County Incentive Grant Agreement with the Florida Department of Transportation and appropriate it to Lyons Road from north of Atlantic Avenue to south of Boynton Beach Boulevard.

Summary:

Through this Agreement, the County will receive a grant of \$2,850,000 (\$350,000 for design, and \$2,500,000 for right-of-way acquisition) from the CIGP to design and acquire right-of-way for the new construction of Lyons Road from north of SR-806/Atlantic Avenue to south of SR-804/Boynton Beach Boulevard. The County will be responsible for all costs above this grant.

District: 5 (MRE)

Background and Justification:

The CIGP is intended to provide grants to counties to improve transportation facilities on the State Highway System or facilities that relieve congestion on the State Highway System. The segment of Lyons Road from north of SR-806/Atlantic Avenue to south of SR-804/Boynton Beach Boulevard is the last link required for Lyons Road to become a continuous north/south corridor from Broward County to SR-802/Lake Worth Road. This project will construct two lanes from north of SR-806/Atlantic Avenue to south of SR-804/Boynton Beach Boulevard. The County's funding for this project is in the currently adopted Five-Year Road Program for fiscal year 2007/2008.

Attachments:

- 1. Location Sketch
- 2. Agreement (7 copies)
- 3. Resolution (7 copies)
- 4. Budget Amendment

Recommended by: _____

Division Director

Date

Approved By: _____

County Engineer

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	\$2,850,000	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	<\$2,850,000>	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-

ADDITIONAL FTE

POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes _____ No X

Budget Acct No.: Fund _____ Dept. _____ Unit _____ Object _____
Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

Road Impact Fee Fund - Zone 5
Lyons Rd/N of Atlantic Ave to S of Boynton Bch Blvd
State Grant Other Trans/Right of Way/Design.Engineering.Mgt-CIP

C. Departmental Fiscal Review: R. D Ward 1/25/07

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

The estimated project costs are \$5,700,000.

[Signature] 2-5-07
OFMB
2/2/07
2-5-07
[Initials]

[Signature] 2/7/07
Contract Dev. and Control
6/2/07 2/7/07

B. Approved as to Form and Legal Sufficiency:

[Signature] 2/13/07
Assistant County Attorney

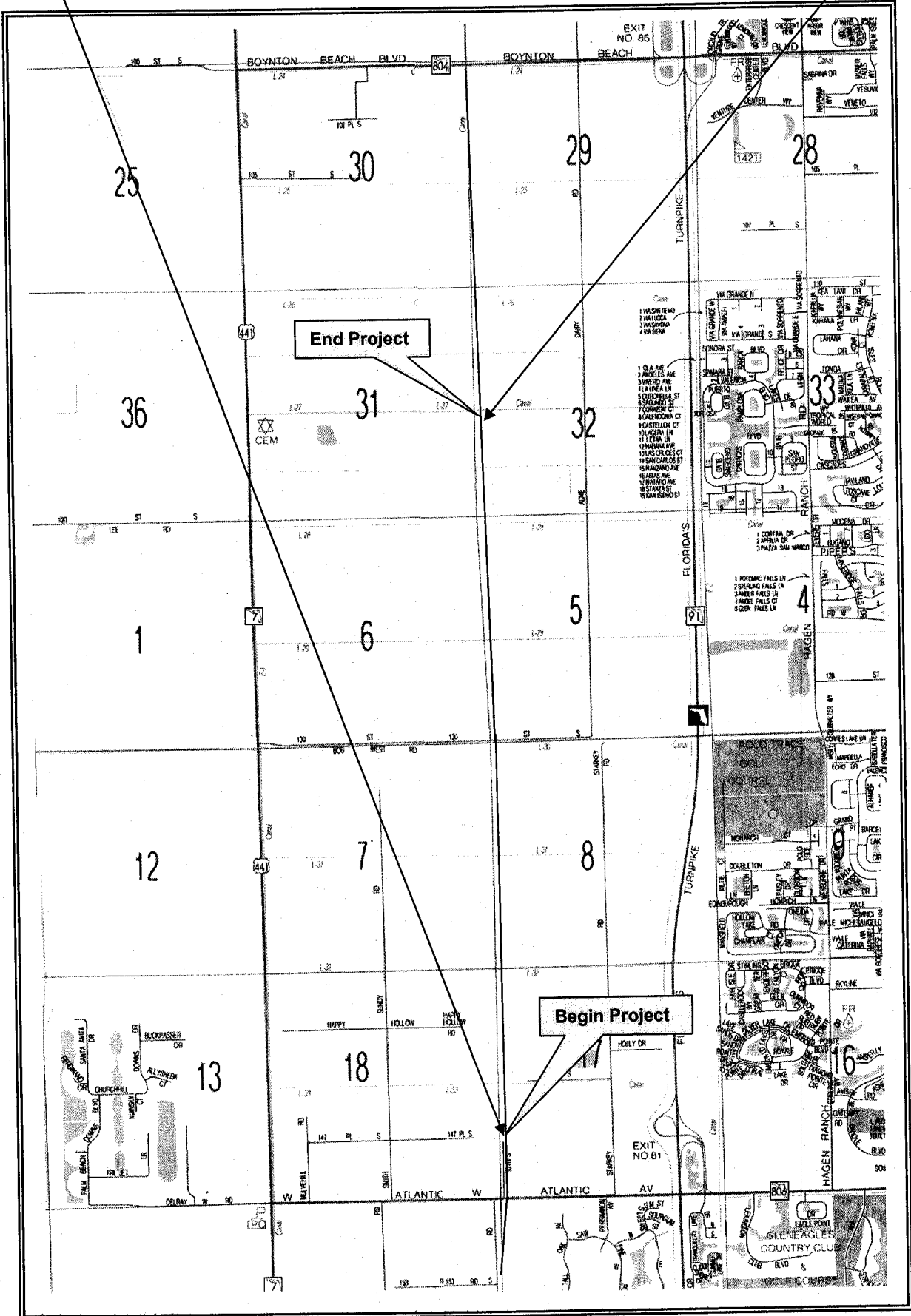
This Contract complies with our contract review requirements.

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

PROJECT LOCATION
LYONS ROAD
N. OF SR-806/ATLANTIC AVE TO S. OF SR-804/BOYNTON BEACH BLVD
PALM BEACH COUNTY PROJECT #2005503



LOCATION MAP

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

**COUNTY INCENTIVE GRANT PROGRAM AGREEMENT
(County Letting)**

This is an Agreement by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT," and PALM BEACH COUNTY, hereinafter referred to as the "COUNTY."

WITNESSETH

WHEREAS, the DEPARTMENT has the authority, under Section 334.044, Florida Statutes, to enter into this Agreement; and

WHEREAS, the County Incentive Grant Program has been created by Section 339.2817, Florida Statutes, to provide grants to counties to improve a transportation facility which is located on the State Highway System or which relieves traffic congestion on the State Highway System; and

WHEREAS, the COUNTY has certified to the DEPARTMENT that it has met the eligibility requirements of said Section 339.2817, Florida Statutes; and

WHEREAS, the DEPARTMENT is willing to provide the COUNTY with financial assistance under Financial Project No. 421786-1-38-01 & 421786-1-48-01 for DESIGN AND RIGHT OF WAY ACQUISITION FOR LYONS ROAD FROM SOUTH OF SR804/BOYNTON BEACH BOULEVARD TO SR-806/ ATLANTIC AVENUE, hereinafter referred to as the "PROJECT," in accordance with Section 339.2817, Florida Statutes; and

WHEREAS, the COUNTY by Resolution No. _____ dated the _____ day of _____, _____, a copy of which is attached hereto and made a part hereof, has authorized the Chairman of its Board of Commissioners to enter into this Agreement.

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

1-SERVICES AND PERFORMANCE

A. The COUNTY shall furnish the services with which to design and acquire right of way for the PROJECT. Said PROJECT consists of: DESIGN SERVICES AND RIGHT OF WAY ACQUISITION FOR LYONS ROAD, as further described in Exhibit "A" (Scope of Services) attached hereto and made a part hereof.

B. The COUNTY agrees to undertake the design and right of way acquisition of the PROJECT in accordance with all applicable federal, state and local statutes, rules and regulations, and standards. The COUNTY shall be responsible for obtaining clearances/permits required for the design and right of way acquisition of the PROJECT from the appropriate permitting authorities. Upon completion of the PROJECT, the COUNTY shall certify to the DEPARTMENT that the PROJECT has been completed in accordance with the applicable standards, statutes, rules and regulations in writing.

C. The DEPARTMENT will be entitled at all times to be advised, at its request, as to the status of work being done by the COUNTY and of the details thereof. Coordination shall be maintained by the COUNTY with representatives of the DEPARTMENT. COUNTY shall provide the DEPARTMENT with quarterly progress reports.

D. For projects located on the State Highway System, the DEPARTMENT must approve any consultant and/or contractor scope of services including project budget. COUNTY shall obtain DEPARTMENT approval of plans and specifications prior to bidding the project. This provision applies only to projects located on the State Highway System.

E. The COUNTY must certify that the consultant has been selected in accordance with the Consultants Competitive Negotiation Act (Section 287.055, Florida Statutes). Contractor must be prequalified by the DEPARTMENT as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2000), as amended.

F. The COUNTY shall not sublet, assign, or transfer any work under this Agreement without prior written consent of the DEPARTMENT.

G. All notices under this Agreement shall be directed to the following addresses:

TO DEPARTMENT:	TO COUNTY:
Leos A. Kennedy, Jr.	Mr. George Webb, P.E.
Florida Department of Transportation	Palm Beach County- County Engineer
3400 W. Commercial Blvd.	2300 North Jog Road
Fort Lauderdale, FL 33309	West Palm Beach, FL 33411

2-TERM

A. Except as otherwise set forth herein, this AGREEMENT shall continue in effect and be binding to both the COUNTY and the DEPARTMENT until the Project is completed as evidenced by the written acceptance of the DEPARTMENT or June 30, 2009, whichever occurs first.

B. This Agreement shall not be renewed. Any extension shall be in writing and executed by both parties, and shall be subject to the same terms and conditions set forth in this Agreement.

3-COMPENSATION AND PAYMENT

A. The parties agree that the estimated Project costs are FIVE MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$5,700,000.00). The parties further agree that the DEPARTMENT'S maximum participation is TWO MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$2,850,000.00) and all remaining costs of the project will be borne by the COUNTY.

The funding breakdown is as follows:

FUNDING ALLOTMENT	
Financial Mgmt. No. (FM#)	Amount
421786-1-38-01	\$350,000.00
421786-1-48-01	\$2,500,000.00
TOTAL	\$2,850,000.00

i) The **COUNTY** shall submit one invoice (4 copies) plus supporting documentation required by the **DEPARTMENT** to the Project Manager for approval and processing on a quarterly basis.

ii) In the event the **COUNTY** proceeds with the design and right of way acquisition of the **PROJECT** with its own forces, the **COUNTY** will only be reimbursed for direct costs (this excludes general and administrative overhead).

iii) All costs charged to the **PROJECT** shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges.

B. The **PARTICIPANT** must submit the final invoice to the **DEPARTMENT** within 180 days after the final acceptance of the Project. Invoices submitted after the 180 days time period will not be paid.

C. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the **DEPARTMENT'S** Comptroller under Section 334.044 (29), Florida Statutes.

D. If this Agreement involves units of deliverables, then such units must be received and accepted in writing by the Contract Manager prior to payments.

E. The **DEPARTMENT'S** obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

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

G. Travel costs will not be reimbursed.

H. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payments(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Department of Financial Services' Hotline at 1-800-848-3792.

I. Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the **DEPARTMENT** at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the **DEPARTMENT** upon request. Records of costs incurred includes the **COUNTY'S** general accounting records and the project records, together with supporting documents and records of the **COUNTY** and all subcontractors performing work on the project, and all other records of the **COUNTY** and subcontractors considered necessary by the **DEPARTMENT** for a proper audit of costs.

J 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 one 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 State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

K. It is unlawful for the board of county commissioners to expend or contract for the expenditure in any fiscal year more than the amount budgeted in each fund's budget, except as provided herein, and in no case shall the total appropriations of any budget be exceeded, except as provided in s. 129.06, and any indebtedness contracted for any purpose against either of the funds enumerated in this chapter or for any purpose, the expenditure for which is chargeable to either of said funds, shall be null and void, and no suit or suits shall be prosecuted in any court in this state for the collection of same, and the members of the board of county commissioners voting for and contracting for such amounts and the bonds of such members of said boards also shall be liable for the excess indebtedness so contracted for Section 129.07, Florida Statutes.

L. 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 36 months from the date of being placed on the convicted vendor list.

4-INDEMNITY AND INSURANCE

A. To the extent allowed by the Laws of Florida, the **COUNTY** hereby agrees to indemnify, defend, save, and hold harmless the **DEPARTMENT** from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission, or commission of the **COUNTY**, and its employees, arising out of this contract or the work which is the subject hereof. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the **DEPARTMENT** for its own negligence.

B. When either party receives notice of claim for damages that may have been caused by the other party in the performance of services required under this Agreement, that party will immediately forward the claim to the other party. Each party will evaluate the claim, and report its findings to each other within fourteen (14) working days and jointly discuss options in defending the claim. A party's failure to promptly notify the other of a claim will not act as a waiver or any right herein.

C. The **COUNTY** agrees to include the following indemnification in all contracts with contractors/subcontractors, consultants/subconsultants, who perform work in connection with this Agreement:

"The contractors, subcontractors, consultants, and/or subconsultants shall indemnify, defend, save, and hold harmless the DEPARTMENT and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the consultant, contractor, or subcontractor, its officers, agents, or employees. Neither the consultant, contractor, and/or subcontractor, nor any its officers, agents, or employees will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the DEPARTMENT or any of its officers, agents, or employees."

D. LIABILITY INSURANCE. In accordance with 768.28 (5) Florida Statutes, the COUNTY shall carry or cause its contractor/consultant to carry and keep in force during the period of this Agreement a general liability policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$100,000 per person and \$200,000 each occurrence, and property damage insurance of at least \$50,000 each occurrence, for the services to be rendered in accordance with this Agreement. However, in the event the COUNTY maintains a self-insurance fund to cover such liability, the COUNTY agrees to maintain sufficient reserves in the fund to pay the above-described liability limits. In addition to any other forms of insurance or bonds required under the terms of this Agreement, the COUNTY must comply or cause its contractor to comply with Section 7-13 of the DEPARTMENT'S Standard Specifications for Road and Bridge Construction (2000), as amended.

E. WORKERS' COMPENSATION. The COUNTY shall also carry or cause its contractor/consultant to carry and keep in force Workers' Compensation insurance as required for the State of Florida under the Workers' Compensation Law.

5-COMPLIANCE WITH LAWS

A. The COUNTY shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the COUNTY in conjunction with this Agreement. Failure by the COUNTY to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the DEPARTMENT.

B. The COUNTY shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.

C. No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch, or a state agency.

D. The COUNTY and the DEPARTMENT agree that the COUNTY, its employees, and subcontractors are not agents of the DEPARTMENT as a result of this Agreement for purposes other than those set out in Section 337.274, Florida Statutes.

6-AUDIT

A. The administration of resources awarded by the DEPARTMENT to the COUNTY may be subject to audits and/or monitoring by the DEPARTMENT, as described in this section.

B. MONITORING

i) 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 fully with any monitoring procedures/processes deemed appropriate by the DEPARTMENT. In the event the DEPARTMENT determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the DEPARTMENT staff to the COUNTY regarding such audit. The COUNTY further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the DEPARTMENT'S Office of the Inspector General, the Chief Financial Officer (CFO) or Auditor General.

C. FEDERAL AUDITS

i) Recipients of federal funds (i.e. state, local government, or non-profit organizations as defined in OMB Circular A-133, as revised) are to have audits done annually using the following criteria:

ii) 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 "B" to this Agreement indicates Federal resources awarded through the Department by this agreement, if applicable. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the DEPARTMENT. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.

iii) In connection with the audit requirements addressed in Subparagraph i), the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

iv) If the recipient expends less than \$500,000 or more 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 \$500,000 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).

v) Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

D. STATE AUDITS

i) Recipients of state funds (i.e. a nonstate entity as defined by Section 215.97(2) (1), Florida Statutes) are to have audits done annually using the following criteria:

ii) In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services and the CFO; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "B"** to this Agreement indicates state financial assistance awarded through the **DEPARTMENT**, to the **PARTICIPANT**, by this Agreement, if applicable. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the **DEPARTMENT**, other state agencies, and other 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.

iii) In connection with the audit requirements addressed in sub-paragraph i) 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.

iv) If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 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 nonstate 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).

v) State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

E. OTHER AUDIT REQUIREMENTS

i) The recipient shall follow up and take corrective action on audit findings. Preparation of a summary schedule of prior year audit findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

ii) Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the FDOT, the Comptroller, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

F. REPORT SUBMISSION

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

a) The DEPARTMENT at each of the following addresses:

**Florida Department of Transportation
3400 W. Commercial Blvd.
Ft. Lauderdale, FL 33309
Antonette P. Adams, Professional Services Administrator
Barbara Handrahan, Project Manager**

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.

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

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

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

**Florida Department of Transportation
3400 W. Commercial Blvd.
Ft. Lauderdale, FL 33309
Antonette P. Adams, Professional Services Administrator
Barbara Handrahan, Project Manager**

iii) Copies of financial reporting packages required by Paragraph D (STATE AUDITS) of this agreement shall be submitted by or on behalf of the recipient directly to the following:

a) The DEPARTMENT at each of the following addresses:

**Florida Department of Transportation
3400 W. Commercial Blvd.
Ft. Lauderdale, FL 33309
Antonette P. Adams, Professional Services Administrator
Barbara Handrahan, Project Manager**

b) The Auditor General's Office at the following address:

Auditor General's Office
Room 401, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

iv) Copies of reports or the management letter required by Paragraph E (OTHER AUDIT REQUIREMENTS) of this agreement shall be submitted by or on behalf of the recipient directly to the Department at the following address:

a) The **DEPARTMENT** at each of the following addresses:

Florida Department of Transportation
3400 W. Commercial Blvd.
Ft. Lauderdale, FL 33309
Antonette P. Adams, Professional Services Administrator
Barbara Handrahan, Project Manager

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

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

G. RECORD RETENTION

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

7-TERMINATION AND DEFAULT

A. This Agreement may be canceled by either the **COUNTY** or the **DEPARTMENT** upon sixty (60) days written notice.

B. If the **DEPARTMENT** determines that the performance of the **COUNTY** is not satisfactory, the **DEPARTMENT** shall have the option of (a) immediately terminating the Agreement, or (b) notifying the **COUNTY** of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (c) taking whatever action is deemed appropriate by the **DEPARTMENT**.

C. If the **DEPARTMENT** requires termination of the Agreement for reasons other than unsatisfactory performance of the **COUNTY**, the **DEPARTMENT** shall notify the **COUNTY** of such termination, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

D. If the Agreement is terminated before performance is completed, the **COUNTY** shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress will become the property of the **DEPARTMENT** and will be turned over promptly by the **COUNTY**.

8-MISCELLANEOUS

A. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

B. The **DEPARTMENT** shall not be obligated or liable hereunder to any party other than the **COUNTY**.

C. In no event shall the making by the **DEPARTMENT** of any payment to the **COUNTY** constitute or be construed as a waiver by the **DEPARTMENT** of any breach of covenant or any default which may then exist, on the part of the **COUNTY**, and the making of such payment by the **DEPARTMENT** while any such breach or default exists shall in no way impair or prejudice any right or remedy available to the **DEPARTMENT** with respect to such breach or default.

D. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

E. If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.

F. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue of any judicial proceedings arising out of this Agreement shall be in Broward County, Florida.

G. This Agreement shall be effective upon execution by both parties and shall continue in effect and be binding on the parties until the **PROJECT** is completed as evidenced by the written acceptance of the **DEPARTMENT** or **June 30, 2009**, whichever occurs first or terminated in accordance with Paragraph 7.

H. An entity or affiliate which has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

IN WITNESS WHEREOF, the COUNTY has caused this Agreement to be executed in its behalf this _____ day of _____, _____, by the Chairman of the Board of Commissioners, authorized to enter into and execute same by Resolution Number _____ of the Board on the _____ day of _____, _____, and the DEPARTMENT has executed this Agreement through its District Secretary for District _____, Florida Department of Transportation, this _____ day of _____, _____.

PALM BEACH COUNTY, FLORIDA

ATTEST: _____ (SEAL)
CLERK

BY: _____
CHAIRMAN, BOARD OF
COUNTY COMMISSIONERS

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Donal A. Fernandez
APPROVED AS TO TERMS
AND CONDITIONS

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST: _____ (SEAL)
EXECUTIVE SECRETARY

BY: _____
DIRECTOR OF TRANSPORTATION
DEVELOPMENT

NAME: _____

DISTRICT _____

DOT Legal Review:

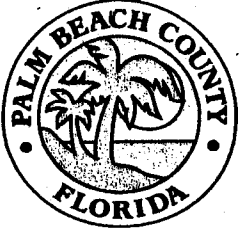
Availability of Funds Approval:

(Date)

Exhibit A
SCOPE OF SERVICES

FM 421786-1-38/48-01

Professional Services for Design and Right of Way Acquisition for new road construction on Lyons Road from SR804 (Boynton Beach Blvd.) to SR 806 (Atlantic Avenue) as a 2 lane rural parkway.



R2006-1052

ATTACHMENT 2

STANDARD FORM OF AGREEMENT
BETWEEN
PALM BEACH COUNTY AND CONSULTANT
FOR
PROFESSIONAL SERVICES

This is an Agreement made as of JUN 20 2006, 2006 between Palm Beach County, Florida (COUNTY) and AMERICAN CONSULTING ENGINEERS, INC. (CONSULTANT), an engineering firm having an office and a place of business at 4111 Land O'Lakes Blvd., Suite 210, Land O'Lakes, Florida 34639, and having Federal Tax I.D. #043682340. The COUNTY intends to construct a two lane roadway on Lyons Road, North of Atlantic Avenue to South of Boynton Beach Blvd., Project No. 2005503 (hereinafter called the PROJECT).

The COUNTY and CONSULTANT in consideration of their mutual covenants herein agree in respect of the performance of professional engineering services by CONSULTANT and the payment for those services by COUNTY as set forth below.

SECTION 1 - BASIC SERVICES OF CONSULTANT

1.1 General

1.1.1 The CONSULTANT shall perform professional design services in connection with the PROJECT as hereinafter stated which shall include normal civil engineering services, more particularly described in Exhibit "A" (Scope of Services).

1.1.2 The CONSULTANT shall prepare all plans in accordance with Palm Beach County Thoroughfare Design Procedures, current standards adopted by AASHTO, and the Florida Department of Transportation Manual of Uniform Minimum Standards, and all other applicable professional and technical standards. They shall be accurate, legible, complete in design, drawn to scale, and shall be suitable for bidding purposes, unless otherwise stated in Exhibit "A".

1.1.3 The CONSULTANT has, during the selection and negotiation process which has preceded this agreement, represented to the COUNTY that the CONSULTANT is possessed of that level of skill, knowledge, experience and expertise that is commensurate with engineering firms of national repute in the areas of practice required for this project. The CONSULTANT acknowledges that the COUNTY has relied on the CONSULTANT'S representations of skill, knowledge, experience and expertise. By executing this contract, the CONSULTANT agrees that the CONSULTANT will exercise that degree of care, knowledge, skill and ability as other engineering firms possessing the degree of skill, knowledge, experience and expertise which the CONSULTANT has claimed. The CONSULTANT shall perform such duties as may be assigned without neglect. The CONSULTANT accepts the relationship of trust and confidence established by this Agreement, and covenants with the COUNTY to cooperate with the COUNTY and to utilize the CONSULTANT'S skill, efforts and judgment commensurate with engineering firms of national repute in the areas of practice required for this project. The CONSULTANT agrees to perform each assignment in an efficient and economical manner consistent with the COUNTY'S interests and consistent with the COUNTY'S stated objectives and recognized professional engineering standards.

The CONSULTANT further contracts with the COUNTY to furnish its professional skill and judgment with due care in accordance with applicable Federal, State and local laws, codes and regulations as amended and supplemented which are in effect on the date of this Agreement first written. It is specifically understood that the Accessibility provisions of the Americans With Disabilities Act (ADA) shall be complied with and incorporated into the project.

1.1.4 Prior to commencement of design, the **CONSULTANT** shall become familiar with the needs of **COUNTY** Microstation standards, obtain any seed or Microstation files, CADD standards, and standard sheets so that Microstation deliverables can be utilized by the **COUNTY**. **CONSULTANT** shall submit electronic files (in Microstation compatible format) of the design, survey, and any related data used for the project, with the final document(s) submittal, or when otherwise directed by **COUNTY**.

1.15 The **CONSULTANT** shall provide to the **COUNTY** all cost summaries/estimates and "Summary of Pay Items" on disk and/or electronic file (as requested). The **CONSULTANT** shall apply descriptions to the pay items as called out in the **COUNTY'S** "Standard Nomenclature" listing, which is available from Roadway Production.

SECTION 2 - ADDITIONAL SERVICES OF CONSULTANT

2.1 Services Requiring Authorization in Advance

If authorized in writing by the **COUNTY'S** authorized representative, the **CONSULTANT** shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1 through 2.1.9 inclusive. These services are not included as part of Basic Services except to the extent provided otherwise in the Fee Summary, Exhibit "B". These will be paid for by the **COUNTY**, only when specifically authorized and in accordance with Section 5.

2.1.1. Preparation of applications and supporting documents for governmental grants, loans or advances in connection with the **PROJECT**.

2.1.2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by the **COUNTY**.

2.1.3. Services resulting from significant changes in the general scope, extent or character of the **PROJECT** or its design including, but not limited to, changes in size, complexity, the **COUNTY'S** schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or contract documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond the **CONSULTANT'S** control.

2.1.4. Preparing documents for alternate bids requested by the **COUNTY** for contractor(s) work which is not executed or documents for out-of-sequence work.

2.1.5. Furnishing the services of special consultants for other than the services included in Exhibit "A".

2.1.6. Services during out-of-town travel required of the **CONSULTANT** other than visits to the site or the **COUNTY'S** office as required by Section 1.

2.1.7. Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment or services.

2.1.8. Preparing to serve or serving as a consultant or witness for the **COUNTY** in any litigation or other legal proceeding involving the **PROJECT**.

2.1.9. Additional services in connection with the **PROJECT**, including services which are to be furnished by the **COUNTY** in accordance with Article 3, and services not otherwise provided for in this Agreement.

SECTION 3 - COUNTY'S RESPONSIBILITY

The **COUNTY** shall do the following in a timely manner so as not to delay the services of the **CONSULTANT**.

- 3.1. Designate in writing a person to act as the **COUNTY'S** representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define the **COUNTY** policies and decisions with respect to the **CONSULTANT'S** services for the **PROJECT**.
- 3.2. Provide all criteria and full information as to the **COUNTY'S** requirements for the **PROJECT**, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations; and furnish copies of all design and construction standards which the **COUNTY** will require to be included in the drawings and specifications.
- 3.3. Assist the **CONSULTANT** by placing at the **CONSULTANT'S** disposal all available information pertinent to the **PROJECT** including previous reports and any other data relative to design or construction of the **PROJECT**.
- 3.4. Furnish to the **CONSULTANT** the items listed in Exhibit "A".
- 3.5. Arrange for access to and make all provisions for the **CONSULTANT** to enter upon public and private property as reasonably required for the **CONSULTANT** to perform services under this Agreement.
- 3.6. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by the **CONSULTANT**, obtain advice of an attorney, insurance counselor and other consultants as the **COUNTY** deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the **CONSULTANT**.
- 3.7. Furnish approvals and permits from all governmental authorities having jurisdiction over the **PROJECT** and such approvals and consents from others as may be necessary for completion of the **PROJECT**.
- 3.8. Providing such legal, accounting, independent cost estimating and insurance counseling services as may be required for the **PROJECT**, and such auditing service as **COUNTY** may require to ascertain how or for what purpose any contractor has used the monies paid to him.
- 3.9. Attend the pre-bid conference, bid opening, preconstruction conferences, construction progress and other job related meetings and substantial completion inspections and final payment inspections.
- 3.10. Give prompt written notice to the **CONSULTANT** whenever the **COUNTY** observes or otherwise becomes aware of any development that affects the scope or timing of the **CONSULTANT'S** services, or any defect or non-conformance in the work of any contractor.
- 3.11. Furnish, or direct the **CONSULTANT** to provide, Additional Services as stipulated in paragraph 2.1 of this Agreement or other services as required.
- 3.12. Bear all costs incident to compliance with the requirements of this Section 3.

SECTION 4 - PERIODS OF SERVICE

4.1. The COUNTY will issue a written "NOTICE TO PROCEED" to the CONSULTANT within sixty (60) days of contract execution by the COUNTY. The CONSULTANT will immediately commence work on the PROJECT and all schedule dates shall be determined from the date of the "NOTICE TO PROCEED". Final completion of all work under this Agreement shall be in accordance with the schedule, or as otherwise approved in writing by the COUNTY.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1. **Methods of Payment for Services and Expenses of the CONSULTANT.**

5.1.1. **Basic Services:** The COUNTY will pay the CONSULTANT the lump sum of \$651,927.73 for completion of the Basic Services set forth in Exhibits "A" and "B".

5.1.2. **Additional Services:** To the extent that additional services under Section 2 hereof are specifically authorized in writing by the COUNTY'S representative, the COUNTY will pay for such additional services in accordance with the following:

5.1.2.1. **Actual Salary costs** times a factor of 3.0 for services rendered by principals and employees assigned to the PROJECT plus all reimbursable expenses.

5.1.2.2. **DELETED.**

5.1.2.3. For services rendered by the CONSULTANT'S principals and employees as consultants or witnesses in any litigation, arbitration or other legal or administrative proceeding in accordance with Paragraph 2.1.8. at the rate of **\$800.00** per day or any portion thereof (but compensation for time spent in preparing to appear in any such litigation, arbitration or proceeding will be on the basis provided in Paragraph 5.1.2.1).

5.1.3. **Reimbursable Expenses:** The COUNTY will pay the CONSULTANT the actual costs of all reimbursable expenses incurred in the provision of these services when authorized in writing by the COUNTY. These expenses will not exceed **\$61,847.36** without additional authorization from the COUNTY.

5.1.4. The terms "Salary Costs" and "Reimbursable Expenses" have the meanings assigned to them in Paragraph 5.4.

5.1.5. Additional services and reimbursable expenses authorizations shall be issued in accordance with Board policy per Resolution Number R-89-633 adopted April 4, 1989.

5.2. **Payments**

5.2.1. Progress payments to the CONSULTANT shall be due and payable monthly in proportion to the percentage of engineering services approved and accepted by the COUNTY based on said lump sum fee until 90% of the project is completed. There will be no additional payments for Basic Services until all services are completed and accepted by the COUNTY (including permits).

5.2.2. Final payment shall be due and payable to the CONSULTANT upon satisfactory completion of the services described in this Agreement and approval and acceptance of the plans by the COUNTY.

5.3. **Other Provisions Concerning Payments**

5.3.1. If this Agreement is terminated prior to its completion other than due to default on the part of the CONSULTANT, the CONSULTANT shall be paid for Basic Services called for under Section 1 an amount equal to the percentage complete at the time of termination, times the lump sum fee stated in Section 5. Further, the CONSULTANT shall be paid for the completed portion of additional services authorized under Section 2, in accordance with Paragraph 5.1.2.

5.3.2. Records of the CONSULTANT'S Salary Costs pertinent to the CONSULTANT'S compensation under this Agreement will be kept in accordance with generally accepted accounting practices. Copies will be made available to the COUNTY on request prior to final payment for the CONSULTANT'S services.

5.4. **Definitions**

5.4.1. The Salary Costs used as a basis for payment shall mean the actual salaries and wages paid to principals and employees engaged on the PROJECT. Time spent on this PROJECT by stenographers, typists and clerk skills shall not be charged to the PROJECT nor shall any fringe benefits such as social security contributions, unemployment, excise and payroll taxes, workman's compensation, etc., be included in the Salary Costs.

5.4.2. Reimbursable Expenses shall mean the actual expenses of soils testing, printing and similar PROJECT related items when authorized by the COUNTY.

SECTION 6 - CONSTRUCTION COST AND OPINIONS OF COST

6.1. **Opinions of Cost**

Since CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, the CONSULTANT'S opinions of probable construction cost provided for herein are to be made on the basis of the CONSULTANT'S experience and qualifications and represent the CONSULTANT'S best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but the CONSULTANT cannot and does not guarantee that proposals, bids or actual construction costs will not vary from opinions of probable cost prepared by the CONSULTANT. If prior to the Bidding or Negotiating Phase, the COUNTY wishes greater assurance as to construction costs, the COUNTY shall employ an independent cost estimator.

SECTION 7 - GENERAL CONSIDERATION

7.1. **Termination**

This Agreement may be canceled by the CONSULTANT upon thirty (30) days prior written notice to the COUNTY if, through no fault of the CONSULTANT, the COUNTY fails to cure any material default by the COUNTY in its performance of the terms of this Agreement. This Agreement may also be terminated, in whole or in part, by the COUNTY, with or without cause, immediately upon written notice to the CONSULTANT. Unless the CONSULTANT is in breach of this Agreement, the CONSULTANT shall be paid for services rendered to the COUNTY'S satisfaction through the date of cancellation or termination. In the event of cancellation by the CONSULTANT or termination by the COUNTY, CONSULTANT agrees to waive and make no claim for lost profits or other consequential damages. After receipt of a Termination Notice and except as otherwise directed by the COUNTY, the CONSULTANT shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.

- C. Transfer all work in process, completed work, and other materials related to the terminated work to the COUNTY.
- D. Continue and complete all parts of the work that have not been terminated.

Should a termination for breach later be declared wrongful, said termination shall be considered and treated as a termination without cause.

7.2. DISCLOSURE AND OWNERSHIP OF DOCUMENTS

7.2.1. Upon completion and acceptance of the final work, the CONSULTANT shall furnish to the COUNTY the original drawings, field notes and all documents and materials prepared by and for the COUNTY under this Agreement. The CONSULTANT may keep a reproducible set of the original drawings and shall keep all other data collected during the provision of the services. The COUNTY may, at its expense, obtain copies of any data which the CONSULTANT has accumulated in the process of providing the services on this project tasks. Any reuse without written verification or adaptation by the CONSULTANT for the specific purpose intended will be at the COUNTY'S sole risk and without liability or legal exposure to the CONSULTANT.

7.2.2. All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the COUNTY or at its expense will be kept confidential by the CONSULTANT and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed or purchased under this Agreement at the COUNTY'S expense shall be, and remain, the COUNTY'S property, and may be reproduced and reused at the discretion of the COUNTY.

7.2.3. The COUNTY and the CONSULTANT shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

7.2.4. All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

7.3 Reuse of Documents

Notwithstanding any breach of this Agreement by either party nor the status of payment to the CONSULTANT, nor the COUNTY'S exercise of its rights of termination, it is hereby agreed between the parties that copies of any and all property, work product, documentation, reports, computer systems and software, schedules, graphs, outlines, books, manuals, logs, files, deliverables, photographs, videos, tape recordings or data relating to this Project which have been created as a part of the CONSULTANT'S services, or authorized by the COUNTY as a reimbursable expense, whether generated directly by the CONSULTANT, or by or in conjunction or consultation with any other party whether or not a party to this Agreement, whether or not in privity of contract with the COUNTY or CONSULTANT, and wherever located shall be the property of the COUNTY.

7.4 Insurance

CONSULTANT shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverages and limits (including endorsements), as described herein. CONSULTANT shall agree to provide the COUNTY with at least ten (10) day prior notice of any cancellation, non-renewal or material change to the insurance coverages. The requirements contained herein, as well as COUNTY'S review or acceptance of insurance maintained by CONSULTANT are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONSULTANT under the contract.

7.4.1 **Commercial General Liability**

CONSULTANT shall maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. CONSULTANT shall provide this coverage on a primary basis.

7.4.2. **Business Automobile Liability**

CONSULTANT shall maintain Business Automobile Liability at a limit of liability not less than **\$1,000,000** Each Accident for all owned, non-owned and hired automobiles. In the event CONSULTANT doesn't own any automobiles, the Business Auto Liability requirement shall be amended allowing CONSULTANT to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. CONSULTANT shall provide this coverage on a primary basis.

7.4.3. **Worker's Compensation Insurance & Employers Liability**

CONSULTANT shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. CONSULTANT shall provide this coverage on a primary basis.

7.4.4. **Professional Liability**

CONSULTANT shall maintain Professional Liability, or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$40,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONSULTANT'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONSULTANT shall maintain a Retroactive Date prior to or equal to the effective date of this Contract. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims - made" form. If coverage is provided on a "claims - made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Contract, CONSULTANT shall purchase a SERP with a minimum reporting period not less than 3 years. CONSULTANT shall provide this coverage on a primary basis.

7.4.5. **Additional Insured**

CONSULTANT shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." CONSULTANT shall provide the Additional Insured endorsements coverage on a primary basis.

7.4.6. **Waiver of Subrogation**

CONSULTANT hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONSULTANT shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should CONSULTANT enter into such an agreement on a pre-loss basis.

7.4.7. **Certificate(s) of Insurance**

Prior to execution of this Contract, CONSULTANT shall deliver to the COUNTY a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Contract have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation or non-renewal of coverage. The certificate of insurance shall be issued to

Palm Beach County
c/o Department of Engineering & Public Works
P.O. Box 21229
West Palm Beach, FL 33416-1229

7.4.8 **Umbrella or Excess Liability**

If necessary, CONSULTANT may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

7.4.9 **Right to Review**

COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Contract. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

7.5. **Indemnification**

CONSULTANT shall indemnify and hold harmless the COUNTY, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the contract.

7.6. **Controlling Law and Venue**

This Agreement is to be governed by the laws of the State of Florida. The parties agree that venue for any action which in any way arises out of this Agreement shall only be in a state court of competent jurisdiction located in Palm Beach County, Florida.

7.7. **Successors and Assigns**

7.7.1. The COUNTY and the CONSULTANT each binds itself and the partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the COUNTY nor the CONSULTANT shall assign, sublet, convey or transfer its interest in this Agreement without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONSULTANT.

7.7.2. Neither the COUNTY nor the CONSULTANT shall assign, sublet or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent the CONSULTANT from employing such independent professional associates and consultants as the CONSULTANT may deem appropriate to assist in the performance of services hereunder.

7.7.3. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the COUNTY and the CONSULTANT, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the COUNTY and the CONSULTANT and not for the benefit of any other party.

7.8 Subcontracting

The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Agreement. The CONSULTANT is encouraged to seek small business enterprises for participation in subcontracting opportunities. If a subcontractor fails to perform or make progress, as required by this Agreement, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONSULTANT shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY.

In accordance with Palm Beach County Small Business Enterprise (SBE) Ordinance #2002-064, as amended from time to time, the annual goal for SBE participation for Professional Services is 15.0%. The CONSULTANT has committed to 20% for this Project.

The CONSULTANT agrees to abide by all provisions of the SBE Ordinance and understands that failure to comply with any of the requirements will be considered a breach of contract.

The CONSULTANT has provided Exhibit "D" (Participation for SBE Consultants) and Exhibit "E" (Letter's of Intent) attached hereto indicating the specific participation.

The CONSULTANT understands that each SBE firm utilized on this Agreement must be certified by Palm Beach County in order to be counted toward the contract goal.

The CONSULTANT understands that it is the responsibility of the County Department letting the Agreement and the SBE Office to monitor compliance with the SBE Ordinance requirements. In that regard, the CONSULTANT agrees to furnish progress payment reports, with each billing, to both parties on the progress of the SBE participation for this Agreement.

The CONSULTANT further agrees to provide the SBE Office with a copy of the CONSULTANT'S agreement with the SBE subcontractor or any other related documentation upon request.

The CONSULTANT understands the requirements to comply with the tasks and proportionate dollar amounts throughout the term of the Agreement as it relates to the use of SBE firms. Any SBE's which, for any reason, no longer remain associated with the Project shall be replaced by the CONSULTANT with other certified SBE's, unless approval to the contrary is granted by the COUNTY.

The CONSULTANT understands that he/she is prohibited from making any agreements with the SBE in which the SBE promises not to provide subconsultant quotations to other bidders or potential bidders.

The **CONSULTANT** agrees to maintain all relevant records and information necessary to document compliance with the SBE Ordinances, and will allow the **COUNTY** to inspect such records.

The **CONSULTANT** shall certify in writing that all subcontractors, subconsultants and suppliers have been paid for work and materials from previous progress payments received, less any retainage, by the **CONSULTANT** prior to receipt of any further progress payments. During the term of the Agreement and upon completion of the Agreement, the **COUNTY** may request documentation to certify payment to subcontractors, subconsultants or suppliers. This provision in no way creates any contractual relationship between any subcontractor, subconsultant, or supplier and the **COUNTY** or any liability on the **COUNTY** for the **CONSULTANT'S** failure to make timely payment to the subcontractor, subconsultant or supplier.

7.9. **Personnel**

The **CONSULTANT** represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement.

Such personnel shall not be employees of or have any contractual relationship with the **COUNTY**. All of the services required herein shall be performed by the **CONSULTANT** or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

The **CONSULTANT** warrants that all services shall be performed by competent personnel in accordance with all applicable national, federal, state, and local professional and technical standards.

7.10. **Availability of Funds**

The **COUNTY'S** performance and obligation to pay under this Agreement is contingent upon an annual appropriation for its purpose by the Board of County Commissioners.

7.11. **Conflict of Interest**

The **CONSULTANT** represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes. The **CONSULTANT** further represents that no person having any interest shall be employed for said performance.

The **CONSULTANT** shall promptly notify the **COUNTY'S** representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the **CONSULTANT'S** judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the **CONSULTANT** may undertake and request an opinion of the **COUNTY** as to whether the association, interest or circumstance would, in the opinion of the **COUNTY**, constitute a conflict of interest if entered into by the **CONSULTANT**.

The **COUNTY** agrees to notify the **CONSULTANT** of its opinion by certified mail within thirty (30) days of receipt of notification by the **CONSULTANT**. If, in the opinion of the **COUNTY**, the prospective business association, interest or circumstance would not constitute a conflict of interest by the **CONSULTANT**, the **COUNTY** shall so state in the notification and the **CONSULTANT** shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the **COUNTY** by the **CONSULTANT** under the terms of this Agreement.

7.12. **Independent Contractor Relationship**

The CONSULTANT and subconsultants are, and shall be, in the performance of all work services and activities under this Agreement, Independent Contractors, and not employees, agents, or servants of the COUNTY. The CONSULTANT does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than specifically provided for in this Agreement. The CONSULTANT shall be responsible to the COUNTY for all the work or services performed by the CONSULTANT or any person or firm engaged as a subcontractor to perform work in fulfillment of this Agreement.

7.13. **Access and Audits**

The CONSULTANT shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONSULTANT'S place of business.

7.14 **Severability**

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

7.15 **Entirety of Contractual Agreement**

The COUNTY and the CONSULTANT agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

During the term of this Contract, the COUNTY may require professional services that are the same or similar to those described in this agreement. The COUNTY may, at its sole discretion, obtain said services in accordance with the State of Florida Consultants Competitive Negotiation Act. If the COUNTY so elects, it is mutually understood that the relationship between the CONSULTANT and the COUNTY under this Contract shall be considered as neither barring the CONSULTANT from, nor granting special consideration to the CONSULTANT, in participating in the selection process for a consultant to provide such additional services.

SECTION 8 - SPECIAL PROVISIONS, EXHIBITS AND SCHEDULES

8.1 Federal & State Tax

The CONSULTANT shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

8.2. The following Exhibits are attached to and made a part of this Agreement.

8.2.1. Exhibit A: Scope of Services

8.2.2. Exhibit B: Fee Summary

8.2.3. Exhibit C: Statements - Truth in Negotiation, Prohibition Against Contingent Fees & Public Entity Crimes

8.2.4. Exhibit D: Participation for SBE Consultants

8.2.5. Exhibit E: Letters of Intent to Perform as an SBE and/or M/WBE (if applicable).

8.3. This Agreement (consisting of pages 1 to 13, inclusive), together with the Exhibits and Schedules identified above constitute the entire Agreement between the COUNTY and the CONSULTANT and supersedes all prior written or oral understandings. This Agreement and said Exhibits may only be amended, supplemented, modified or canceled by a duly executed written instrument.

SECTION 9 - CRIMINAL HISTORY RECORDS CHECK

The CONSULTANT shall comply with the provisions of Ordinance 2003-030, the Criminal History Records Check Ordinance ("Ordinance"), if CONSULTANT'S employees or subcontractors are required under this contract to enter a "critical facility" as identified in Resolution R-2003-1274. The CONSULTANT acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the CONSULTANT shall be solely responsible for the financial, schedule, and staffing implications associated in complying with Ordinance 2003-030.

SECTION 10 - REGULATIONS; LICENSING REQUIREMENTS

The CONSULTANT shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONSULTANT is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

IN WITNESS WHEREOF, the parties have made and executed this Agreement as of the day and year first above written.

OWNER: **R200821052**
Palm Beach County, Florida JUN 20 2006
BY ITS BOARD OF COMMISSIONERS:

BY: *[Signature]*
Karen T. Marcus
for Tony Masilotti, Chairman

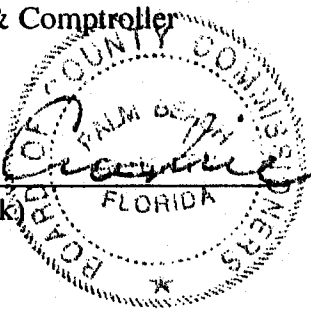
CONSULTANT:
American Consulting Engineers of Florida, LLC

BY: *[Signature]*
Brian Mirson, P.E.

SEAL

CORPORATE SEAL

ATTEST:
Sharon R. Bock, Clerk & Comptroller
Circuit Court

BY: *[Signature]*
(Deputy Clerk) 

ATTEST WITNESS:

BY: *Chris O'Leary*
(Print Name)

[Signature]
(Signature)

APPROVED AS TO TERMS
AND CONDITIONS:

BY: *[Signature]*

BY: *Jeffrey C. Chase*
(Print Name)

[Signature]
(Signature)

APPROVED AS TO FORM &
LEGAL SUFFICIENCY:

BY: *Paul F. [Signature]*
Assistant County Attorney

SCOPE OF SERVICES

Scope of Services
Professional Services Agreement
Lyons Road From North of West Atlantic Ave to South of Boynton Beach Blvd
Palm Beach County Project No. 2005503
Palm Beach County

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Accepted.
DZM
3-30-06*

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SCOPE OF SERVICES

2005503

Scope of Services
Professional Services Agreement
Lyons Road From North of West Atlantic Ave to South of Boynton Beach Blvd
Palm Beach County

1.00 PROJECT OBJECTIVE AND DESCRIPTION

1.01 Services required of the CONSULTANT involve furnishing, providing, and performing engineering analysis, design and final plan preparation. Planned improvements to the corridor will include the following:

1.01.1 Construction a new two (2) lane rural roadway section from north of West Atlantic Ave to south of Boynton Beach Blvd.

1.02 This Project shall be designed by the CONSULTANT upon receipt of a written Notice to Proceed (NTP) with services to be provided as more particularly described herein.

2.00 PROJECT DESIGN LIMITS

CONSULTANT shall provide professional consulting services to the COUNTY, consisting of design and permitting for approximately 3 miles of Lyons Road from north of West Atlantic Ave to south of Boynton Beach Blvd hereinafter known as the "Project".

3.00 QUALIFICATIONS DURING TERM OF SERVICES

The CONSULTANT shall provide all engineering services for the Project, in accord with and of a quality, meeting the minimum design standards established by Palm Beach County.

4.00 BASIC SERVICES - SCOPE AND RESPONSIBILITY REQUIREMENTS

The CONSULTANT will provide the following customary basic services for the PROJECT;

4.01 Project Schedule:

The CONSULTANT shall prepare, furnish and maintain a bar chart schedule, for the Project design services. In preparing the bar chart schedule, the scheduling of all design activities shall be the responsibility of the CONSULTANT. The schedule shall be submitted to the COUNTY within ten (10) working days of receiving NTP for review.

4.02 Design, Construction Plans and Bidding Documents:

DESIGN ANALYSIS- The CONSULTANT will provide the following services and perform the following tasks:

4.02.01 Subject plans shall include design and construction requirements for roadway improvements; sidewalk improvements; drainage; and other incidental design items within the PROJECT limits. Maintenance of traffic plans/sequences of construction plans shall NOT be provided. The above designs and plans shall be prepared in accordance with current standards adopted by the American Association of State Highway and Transportation Officials, the Florida Department of Transportation, the Palm Beach County Engineering Department, as

SCOPE OF SERVICES

listed hereinafter or as will be made known to the CONSULTANT during performance of all services for the Project.

- 4.02.02 Typical Sections- Consultant will prepare a two (2) lane typical section for Lyons Road.
- 4.02.03 Pavement Design - Will be provided by PBC.
- 4.02.04 Horizontal/Vertical Master Design Files – The CONSULTANT will use the approved alignment for the PROJECT corridor. The CONSULTANT will develop a vertical alignment for the PROJECT corridor.
- 4.02.05 Cross Section Design - Consultant will prepare design cross sections at 100 ft intervals for the 65%, 96%, 100% AND Final submittals.
- 4.02.06 Access Management – Consultant will coordinate with adjacent properties for locations of tractor crossings along corridor.
- 4.02.07 Design Report – N/A
- 4.02.08 Computation Book & Quantities - Consultant will prepare final quantities for the project.
- 4.02.09 Summary of Pay Items - Included with the 65%, 96%, 100% and Final Phase submittals.
- 4.02.10 Technical / Special Provisions - Included in as needed.
- 4.02.11 Field Reviews – Two (2) people two (2) reviews.
- 4.02.12 Technical Progress Meetings – Three (3) meetings two (2) people each.
- 4.02.13 Public Involvement – No public information meetings will be included with this project.
- 4.02.14 Specific design and construction references, aids and standards shall include, but will not necessarily be limited to the materials listed below. These design reference materials shall be the latest edition materials in effect at the time of performance of the Services Agreement for the project. The controlling roadway design standards will be those presented in the Florida Green Book.
- (a) Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways, latest edition (Florida Green Book)
 - (b) FDOT Drainage Manual
 - (c) FDOT Basis of Estimates and Computations Manual
 - (d) FDOT Standard Specifications for Road and Bridge Construction
 - (e) Manual on Uniform Traffic Control Devices
 - (f) Current FDOT Roadway Design Standards Indexes
 - (g) Utility Manual (Volume I-Utilities); and, AWWA Standards
 - (h) AASHTO Policy on Design of Urban Highways and Arterial Streets
 - (i) Soils and Foundations (procedures)
 - (j) Palm Beach County Standards

Lyons Road

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December 9, 2005
Revised (March 28, 2006)
PBC Project No. 2005503

American Consulting Engineers of Florida, LLC

SCOPE OF SERVICES

(k) SFWMD Standards

4.02.15 Tractor Crossings- Design will include addressing tractor crossings along corridor.

4.02.16 Design will include an expanded and plateaued intersection at Flavor Pict Road.

4.03 Plans and Design Submittals:

4.03.1 Review Plans:

All plans submitted to the COUNTY for the purpose of review will be 11" x 17" in size with raster image background. During the design stage the CONSULTANT shall submit the following:

- (a) A minimum of three (3) sets of progress plans for review by the COUNTY at Typical Section, Master Plan, 65%, 96%, 100% and Final Phase submittals.
- (b) Two (2) sets of plans for each utility company along the corridor at Master Plan and one (1) set for each utility at the Pre-65%, Pre-96% & Pre-100% submittals. Utilities that might be affected include but are not limited to: Adelphia Cable, FP&L and BellSouth.

4.03.2 Design Computation Documents:

All of the following record documents shall be submitted to the COUNTY by CONSULTANT, or Sub-Consultant as applicable, at the time of final acceptance or otherwise as noted elsewhere in this scope of services document, neatly bound in an 8 ½" x 11" format or as to the satisfaction of the COUNTY. All review comments made on design documents or reports submitted as listed below shall be responded to and incorporated into the documents as applicable and such documents or reports shall be resubmitted to COUNTY at the following design interval submittal date as requested. All plans, specifications, and/or reports prepared or obtained under this Agreement shall be considered works made for hire and shall become the property of the COUNTY and shall be made available, upon request, to the COUNTY at any time. Submittals of design computations shall include, but not necessarily be limited to the following:

- (a) Two (2) copies of Technical Memorandum that should list all design criteria that CONSULTANT will be utilizing during plans development of the Project two weeks after NTP date.
- (b) Two (2) copies, signed and sealed, of survey field notes at the completion of the PROJECT.
- (c) Two (2) copies of design computations that shall include, but not necessarily be limited to, horizontal and vertical alignment design at the completion of the 65% Phase Submittal.
- (d) Project correspondence required to document design decisions reached during development of the plans at each design review interval as applicable.

SCOPE OF SERVICES

4.4 Structural Design:

Bridge over L-30 Canal

- 4.04.1 The CONSULTANT will design a single bridge consisting of one (1) 12' lane in each direction with a 6' sidewalk on each structure as well as barrier walls and shoulders in accordance with the FDOT Plans Preparation Manual. The bridge shall be designed to accommodate both a water and sewer lines and a path for separate equestrian traffic.
- 4.04.2 All design shall be in accordance with the AASHTO LRFD Bridge Design Specifications, Third Edition, 2004, FDOT Structures Design Guidelines, FDOT Structures Detailing Manual, and FDOT Florida Greenbook Chapter 17. A Bridge Load Rating will be prepared as part of the 90% plan submittal and the bridge will be load rated in accordance with the AASHTO LRFR provisions.
- 4.04.3 Two new 10' x 6' concrete box culverts will be required to allow for the proposed roadway over the L-28 and L-29 canals. The design shall allow for new headwalls or wingwalls to be constructed outside the clear zone of the roadway. CONSULTANT will evaluate cost savings difference between extending the box culverts out and sloping the embankment vs higher endwalls.
- 4.04.4 Design of the box culvert shall be completed using the FDOT LRFD Mathcad design program.

4.5 Drainage Design

Drainage Component of Roadway Analysis & Plans

- 4.05.1 Drainage maps - The CONSULTANT will produce drainage maps at a scale of 1"=200' for 11x17 size sheets.
- 4.05.2 Box Culvert Data Sheets - The CONSULTANT will produce box culvert data sheets for the box culverts at the L-28 and L 29 canals.
- 4.05.3 Canal cross sections shall be developed for the 6 canal crossings per LWDD requirements.
- 4.05.4 Drainage Detail Sheets - The CONSULTANT will detail control structures and miscellaneous drainage features requiring additional detail.
- 4.05.5 Base Clearance and Design Groundwater Elevations - The CONSULTANT will determine the base clearance and groundwater elevations to be utilized in evaluating roadway and detention area construction considerations.
- 4.05.6 Outfalls - The CONSULTANT will analyze the outfalls for variable tailwater conditions in the design of the drainage for the roadway project.
- 4.05.7 Stormwater Management System Facilities - The CONSULTANT will design the stormwater management system to meet applicable state, local, and federal requirements for water quality, discharge attenuation, and flooding considerations. The analysis of the Stormwater

SCOPE OF SERVICES

Management facility will be performed utilizing state of the art drainage design software (ADICPR modeling).

4.05.8 Storm Drains – The CONSULTANT will design the storm drain systems utilizing state of the art software (ASAD). Standard criteria for design of roadway drainage systems shall be applied.

4.05.9 Cross Drains - The CONSULTANT will design cross drains, pipe culverts, for the L-31, L-32, and L-33 Canals in accordance with Lake Worth Drainage District requirements based on design flows, culvert sizing, and modeling of the canal system performed by the Lake Worth Drainage District.

4.05.10 Drainage Report – The CONSULTANT will provide detailed documentation of the drainage design both for permitting purposes and for the project record.

4.05.11 Permits- The CONSULTANT shall coordinate permitting requirements during preliminary roadway design tasks with SFWMD, LWDD and ERM. The CONSULTANT shall hold coordination meetings with the COUNTY and SFWMD for this task. A maximum of three (3) agency meetings are included in this task.

4.05.12 Field Reviews – The CONSULTANT has included two (2) field reviews two (2) people.

4.06 Design Survey:

The Design Survey for the Project as described in article 2.00 is being preformed by Betsy Lindsay Inc.

4.06.1 See attached scope of work from Betsy Lindsay Inc.

4.07 Subsurface Investigation

The Subsurface Investigation for the Project as described in article 2.00 is being preformed by Tierra Inc.

4.07.1 See attached scope of work from Tierra Inc.

4.08 Utility Coordination:

4.08.1 The CONSULTANT shall provide the COUNTY two (2) copies of proposed improvements for each utility provider with services in the area. The COUNTY shall send the information for each identified utility owner to identify their existing facilities. The CONSULTANT will coordinate all Project designs with those utility owners that may have a direct or indirect interest in this Project. These coordination efforts by the CONSULTANT shall consist of attending meetings, exchange/submission of proposed construction plans to respective utility, design coordination to effectuate cost-effective Project improvements resulting from resolution of conflicts with existing and planned utility facilities.

4.9 Environmental Services:

SCOPE OF SERVICES

4.09.1 The CONSULTANT will conduct an environmental survey of the right-of-way corridor and determine, delineate and evaluate any visual environmental issues.

4.10 Coordination of Design Within Project Limits:

4.010.1 Design services specified herein shall include transitions to match existing sidewalk, curb, pavement and driveways as required.

4.010.2 Coordination of designs with adjacent land developers and contractors that may be performing work or improvements within or adjacent to the project limits will be the CONSULTANT's responsibility. COUNTY will be copied on all meeting and/or correspondence between CONSULTANT and such developers or contractors.

4.010.3 To the extent necessary for CONSULTANT'S performance of services and upon request from CONSULTANT, the COUNTY will provide all available record data, information, plans, right-of-way permits, etc. relating to adjacent land developments (existing and proposed).

4.11 Signing and Pavement Markings:

The Project design services shall include the design and plan preparation for customary ground-mounted signing and pavement markings for the PROJECT as described in article 2.00. The sub consultant Progressive Design & Engineering, Inc. will assist in preparing the 65% signing and marking plans.

4.12 Construction Cost Estimates:

CONSULTANT will prepare and submit a construction cost estimate for the PROJECT with the 65%, 96%, 100% and Final Phase submittals.

4.13 Specifications:

The CONSULTANT shall prepare any technical specifications needed for the project using the COUNTY's standard technical specifications. The COUNTY will provide an electronic file (Microsoft Word TM Format) of all the COUNTY's standard technical specifications. Any deviations required by the design from the COUNTY's standard technical specifications will be prepared by the CONSULTANT.

5.00 PLANS PREPARATION, ENDORSEMENT AND OWNERSHIP

5.01 All sheets of the construction drawings shall have a title block across the entire bottom or side of the sheet. The standard Project title block and standard sheets shall be furnished by the COUNTY.

5.02 All final plans, documents, reports, studies and other data prepared by the CONSULTANT and/or its subconsultants will bear the signature and seal of the CONSULTANT's record engineer or the applicable design engineer who shall be duly registered in the appropriate professional category.

6.00 COST PROPOSAL:

6.01 The CONSULTANT's cost proposal herein does include costs for permit application fees to respective environmental or COUNTY agencies. The cost for

SCOPE OF SERVICES

permitting, paid by CONSULTANT, shall be reimbursable by the COUNTY in full upon submittal of fees justification.

7.00 SERVICES TO BE PROVIDED BY THE COUNTY:

The following tasks, activities and or items will be provided by the COUNTY

- 7.01 Copies of proposed development plans adjacent to the project limits.
- 7.02 Provide raster images for the design and Alignment Study.

8.00 PLANS REVIEW CHECK LIST:

The following represents the minimum amount of information that shall be shown for each design interval.

Minimum submittal requirements herein listed for the Master Plan design status intervals are not all-inclusive; see Article 4.03 for additional service requirements.

SCOPE OF SERVICES

CONSULTING ENGINEERING SERVICES AGREEMENT SCOPE OF BASIC PROFESSIONAL SERVICES

Lyons Road From North of West Atlantic Ave to South of Boynton Beach Blvd

Master Plan Review (Preliminary Plans)

Purpose/Description: To review the CONSULTANT's geometric layout, survey data, basic geometrics, right-of-way recommendations and other preliminary design materials. Provides the technical basis for further plan development.

Submission of review plans and other data: A minimum of three (3) half size sets (11"x 17") of bound preliminary plans and all design data will be submitted to the COUNTY.

Minimum submittal requirements (shown thus) (Typical, including the following).

- | | | |
|-------------------------------------|-------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> | 1. Update of Project Schedule | 6. Cross-Sections |
| <input checked="" type="checkbox"/> | 2. Cover Sheet | 7. Existing Utilities Located |
| <input checked="" type="checkbox"/> | 3. Drainage Map | 8. Design Survey Complete |
| <input checked="" type="checkbox"/> | 4. Typical Sections | 9. Right-of-Way Maps |
| <input checked="" type="checkbox"/> | 5. Roadway Plan/Profiles | 10. SWFWMD Permit Requirements |
-

65% Plan Submittal

Purpose/Description: To review the CONSULTANT's grades, drainage mapping, typical sections, intersection design, drainage structures, soil survey, and similar design elements. Designs at this stage are subject to minor revisions. Substantive changes to the type, size, and location of major features will be considered extra work.

Submission of review plans and other data: A minimum of three (3) half size sets (11"x 17") of bound preliminary plans. Two (2) copies of reports and design data will be submitted to the COUNTY.

Minimum submittal requirements (shown thus) (Typical, including the following).

- | | | | |
|-------------------------------------|---|-------------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> | 1. Update of Project Schedule | <input checked="" type="checkbox"/> | 9. Roadway Intersection Design |
| <input checked="" type="checkbox"/> | 2. Cover Sheet | | 10. Drainage Structure Sheets |
| <input checked="" type="checkbox"/> | 3. Summary of Pay Items | | 11. Ditch P/P & Cross Sections |
| <input checked="" type="checkbox"/> | 4. Drainage Map | <input checked="" type="checkbox"/> | 12. Roadway Soil Survey |
| <input checked="" type="checkbox"/> | 5. Typical Section Sheet(s) (Complete) | <input checked="" type="checkbox"/> | 13. Roadway Cross Sections |
| <input checked="" type="checkbox"/> | 6. Summary of Quantities | <input checked="" type="checkbox"/> | 14. TSP's (Outline) |
| <input checked="" type="checkbox"/> | 7. Summary of Drainage Structure Sheets | <input checked="" type="checkbox"/> | 15. Signing & Marking Plans |
| <input checked="" type="checkbox"/> | 8. Roadway Plan/Profiles | | |

SCOPE OF SERVICES

The items listed above are not all-inclusive service responsibilities, but rather are primary categories. See preceding pages for all contract services by consultant.

CONSULTING ENGINEERING SERVICES AGREEMENT SCOPE OF BASIC PROFESSIONAL SERVICES

Lyons Road From North of West Atlantic Ave to South of Boynton Beach Blvd.

96% Plan Final Submittal

Purpose/Description: To review the CONSULTANT's final grades, drainage mapping, typical sections, intersection design, drainage structures, soil survey, and similar design elements. Final designs at this stage are subject to minor revisions. Substantive changes to the type, size, and location of major features will be considered extra work. Initial review of the specifications and quantities.

Submission of review plans and other data: Three(3) half size sets (11"x 17") of bound construction drawings to COUNTY. Two (2) copies of reports and design data to COUNTY.

Minimum submittal requirements (shown thus) (Typical, including the following).

<input checked="" type="checkbox"/>	1.	Update of Project Schedule	<input checked="" type="checkbox"/>	9.	Roadway Intersection Design
<input checked="" type="checkbox"/>	2.	Cover Sheet	<input checked="" type="checkbox"/>	10.	Drainage Structure Sheets
<input checked="" type="checkbox"/>	3.	Summary of Pay Items (Preliminary)	<input checked="" type="checkbox"/>	11.	Ditch P/P & Cross Sections
<input checked="" type="checkbox"/>	4.	Drainage Map	<input checked="" type="checkbox"/>	12.	Roadway Soil Survey
<input checked="" type="checkbox"/>	5.	Typical Section Sheet(s) (Complete)	<input checked="" type="checkbox"/>	13.	Roadway Cross Sections (Complete)
<input checked="" type="checkbox"/>	6.	Summary of Quantities (Preliminary)	<input checked="" type="checkbox"/>	14.	TSP's
<input checked="" type="checkbox"/>	7.	Summary of Drainage Structure Sheets	<input checked="" type="checkbox"/>	15.	Signing & Marking Plans(Complete)
<input checked="" type="checkbox"/>	8.	Roadway Plan/Profiles (Complete)			

100% Plan Final Submittal

Purpose/Description: To review the CONSULTANT's final plans, evaluations, recommendations, quantities, contract documents, and the like, for content, completeness, and form and sufficiency for bidding purposes. Purpose of review is to correct typographic errors. To determine outstanding contract obligations by CONSULTANT and timetable for contract closeout.

Submission of review plans and other data: Three(3) half size sets (11"x 17") of bound construction drawings to COUNTY. Two (2) copies of reports and design data to COUNTY.

Minimum submittal requirements (shown thus) (Typical, including the following):

<input checked="" type="checkbox"/>	1.	Update of Project Schedule	<input checked="" type="checkbox"/>	9.	Roadway Intersection Design
<input checked="" type="checkbox"/>	2.	Cover Sheet	<input checked="" type="checkbox"/>	10.	Drainage Structure Sheets
<input checked="" type="checkbox"/>	3.	Summary of Pay Items (Complete)	<input checked="" type="checkbox"/>	11.	Ditch P/P & Cross Sections
<input checked="" type="checkbox"/>	4.	Drainage Map	<input checked="" type="checkbox"/>	12.	Roadway Soil Survey

SCOPE OF SERVICES

X	5.	Typical Section Sheet(s) (Complete)	X	13.	Roadway Cross Sections (Complete)
X	6.	Summary of Quantities (Complete)	X	14.	TSP's
X	7.	Summary of Drainage Structure Sheets	X	15.	Signing & Marking Plans(Complete)
X	8.	Roadway Plan/Profiles (Complete)			

CONSULTING ENGINEERING SERVICES AGREEMENT

Responsibility Chart-Construction Plans Preparation

Lyons Road From North of West Atlantic Ave to South of Boynton Beach Blvd

ITEM	DESCRIPTION	BY CONSULTANT	BY COUNTY	REMARKS
1	Aerial Survey	N/A	N/A	Not in Contract
2	Aerial Photography	No	Yes	
3	Cost Estimates--Roadway	Yes	N/A	Basic Services
4	Engineering Field Survey (Design Survey)	Yes	N/A	Basic Services
5	Soils Investigations (Soils Testing and Analysis)	Yes	N/A	Reimbursable
6	Lighting Plans	No	N/A	Not in Contract
7	Maintenance of Traffic Plans	No	N/A	County Contractor
8	Subsurface Investigation	Yes	N/A	Reimbursable
9	Permit Sketches--Environmental (Roadway)	N/A	N/A	Not in Contract
10	Permit Applications--ERP/Drainage	Yes	N/A	Basic Services
11	Quantity Computation Booklet	Yes	N/A	Basic Services
12	Right-of-Way Field Survey	Yes	N/A	Basic Services
13	Right-of-Way and/or Drainage Easements--Legal Descriptions; Certified Sketches	Yes	N/A	Optional Services
14	Right-of-Way Documents (Easement and Right-of-Way Agreements)	Yes	N/A	Optional Services
15	Parcel Acquisition Maps	Yes	N/A	Basic Services
16	Title Search/Abstract	No	Yes	
17	Signalization Plans	No	N/A	Not in Contract
18	Signing/Striping Plans	Yes	N/A	Basic Services
19	Landscaping Designs and Plans	No	N/A	Not in Contract
20	Roadway Plans	Yes	N/A	Basic Services
21	Drainage Design	Yes	N/A	Basic Services
22	Utility Design and Adjustment Plans	No	N/A	Not in Contract
23	Utility Coordination	Yes	N/A	Basic Services
24	Structural Design	Yes	N/A	Basic Services
25	Services During Construction	Yes	N/A	Optional Services

The items listed above are not all-inclusive service responsibilities, but rather are primary categories. See preceding pages for all contract services by consultant.

EXHIBIT "B"
FEDERAL AND/OR STATE FUNDED CONTRACTS

STATE RESOURCES:

<u>State Agency</u>	<u>Catalog of State Financial Assistance (Number & Title)</u>	<u>Amount</u>
DOT (Department of Transportation)	55.008 County Incentive Grant Program	\$2,850,000.00

Compliance Requirements

The project must...

1. Be a facility. CIGP funds cannot be used for operational expenses.
2. Be located on the State Highway System or relieve traffic congestion on the State Highway System.
3. Be consistent to the maximum extent feasible with the Florida Transportation Plan (FTP).
4. Be consistent to the maximum extent feasible, where appropriate, with the local Metropolitan Planning Organization (MPO) Long Range Transportation Plan (LRTP).*
5. Be consistent with, to the maximum extent feasible, with any local comprehensive plans.*

*If the project is not in these plans, it must be amended into them within six months of application.

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

RESOLUTION NO. R-2007-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA; AUTHORIZING THE CHAIRMAN TO EXECUTE A COUNTY INCENTIVE GRANT PROGRAM AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION CONCERNING LYONS ROAD

WHEREAS, the Florida Department of Transportation (FDOT) has awarded a County Incentive Grant to help finance improvements to Lyons Road; and

WHEREAS, the FDOT has requested that the County enter into a Joint Participation Agreement outlining the responsibilities of each party with respect to the County Incentive Grant Program for the Lyons Road project; and

WHEREAS, through this agreement, the County will accomplish the project including construction and construction engineering inspection; and

WHEREAS, the Board of County Commissioners has determined execution of the County Incentive Grant Program Agreement to be in the best interest of the citizens and residents of Palm Beach County.

(Intentionally Left Blank)

NOW, THEREFORE be it resolved by the Board of County Commissioners of Palm Beach County, Florida, that the Chairman is hereby authorized to execute the County Incentive Grant Program Agreement.

1. The recitations set forth herein above are true, accurate and correct and are incorporated herein.
2. This Resolution will take effect upon its adoption.

The foregoing resolution was offered by Commissioner _____ who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	-
John F. Koons, Vice Chair	-
Karen T. Marcus	-
Warren H. Newell	-
Mary McCarty	-
Burt Aaronson	-
Jess R. Santamaria	-

The Chair thereupon declared the Resolution duly passed and adopted this _____ day of _____ 2007.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
COMMISSIONERS

PALM BEACH COUNTY, FLORIDA BY
ITS BOARD OF COUNTY

SHARON BOCK, CLERK AND
COMPTROLLER

By: _____
Assistant County Attorney

By: _____
Deputy Clerk

**BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
BUDGET Amendment**

FUND Road Impact Fee - Zone 5

BGRV012507-263
BGEX012507-875

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 01/25/07	REMAINING BALANCE
REVENUES								
LYONS/W ATLANTIC-S OF BOYNTON BCH BLVD								
3505-361-1153-3449	State Grnt Oth Transportation	0	0	2,850,000	0	2,850,000		
TOTAL RECEIPTS & BALANCES		41,809,443	40,195,215	2,850,000	0	43,045,215		
EXPENDITURES								
LYONS/W ATLANTIC-S OF BOYNTON BCH BLVD								
3505-361-1153-6120	Right of Way	0	0	2,500,000		2,500,000	0	2,500,000
3505-361-1153-6505	Design/Eng/Mgmt-CIP Admin	1,068,554	775,454	350,000	0	1,125,454	745,686	379,768
TOTAL APPROPRIATIONS & EXPENDITURES		41,809,443	40,195,215	2,850,000	0	43,045,215		

	SIGNATURE	DATE	By Board of County Commissioners
Engineering & Public Works	<u>R. Ward</u>	<u>1/25/07</u>	At Meeting of <u>02/27/07</u>
Administration / Budget Approval	_____	_____	_____
OFMB Department - Posted	_____	_____	Deputy Clerk to the Board of County Commissioners