

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 5, 2007

Consent
 Workshop

Regular
 Public Hearing

Department:

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

Project No. 2004602

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A. Approve a Transportation Regional Incentive Program (TRIP) Agreement with the State of Florida Department of Transportation (FDOT), in the amount of \$6,286,595, for the construction of the SR-806 / Atlantic Avenue from west of Lyons Road to Starkey Road improvements (Project).
- B. Adopt a Resolution concerning this Agreement.
- C. Approve a Budget Amendment of \$6,286,595 in the Road Impact Fee Fund – Zone 5 to recognize a TRIP Agreement with the FDOT and appropriate it to the Project.

Summary: Through this Agreement, the County will receive a grant of \$6,286,595 from the TRIP Agreement for construction of the Project.

District: 5 (MRE)

Background and Justification: The TRIP was created by Florida Statute §339.2819 to provide funds to improve regionally significant transportation facilities in regional transportation areas pursuant to Florida Statute §339.155(5). Per the Atlantic Avenue Agreement (Resolution R2006-0529), Palm Beach County was to pursue TRIP funding for the Project. The Project, referred to as the West Atlantic Project in the Atlantic Avenue Agreement, will reconstruct an existing two-lane roadway to a four-lane divided roadway.

Attachments:

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

Recommended by: *BU 224* *Ornelas A. Fernandez* *5/3/07* *AK*
Division Director Date

Approved By: *S. J. Walsh* *5/7/07*
County Engineer Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	\$12,573,190	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	<\$6,286,595>	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$6,286,595	-0-	-0-	-0-	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)	-0-	-0-	-0-	-0-	-0-

Is Item Included In Current Budget? Yes _____ No X

Budget Account No.:

Fund _____ Agency _____ Organization _____ Object _____

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

Transportation Improvement Fund
 W. Atlantic Ave/W. of Lyons Rd to E of Fla Turnpike
 State Grant Capital-Trans/Road & Street Improvements

Note: Grant amount is for 50% of the estimated Construction costs.

C. Departmental Fiscal Review: *[Signature]*

III. REVIEW COMMENTS

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

Matching funds are expected from developer contributions.

[Signature] 5-18-07
 OFMB 05/10/07
 ID 5/18/07

[Signature] 5/21/07
 Contract Dev. and Control
 E. Johns 5/21/07

B. Legal Sufficiency:

[Signature] 5/24/07
 Assistant County Attorney

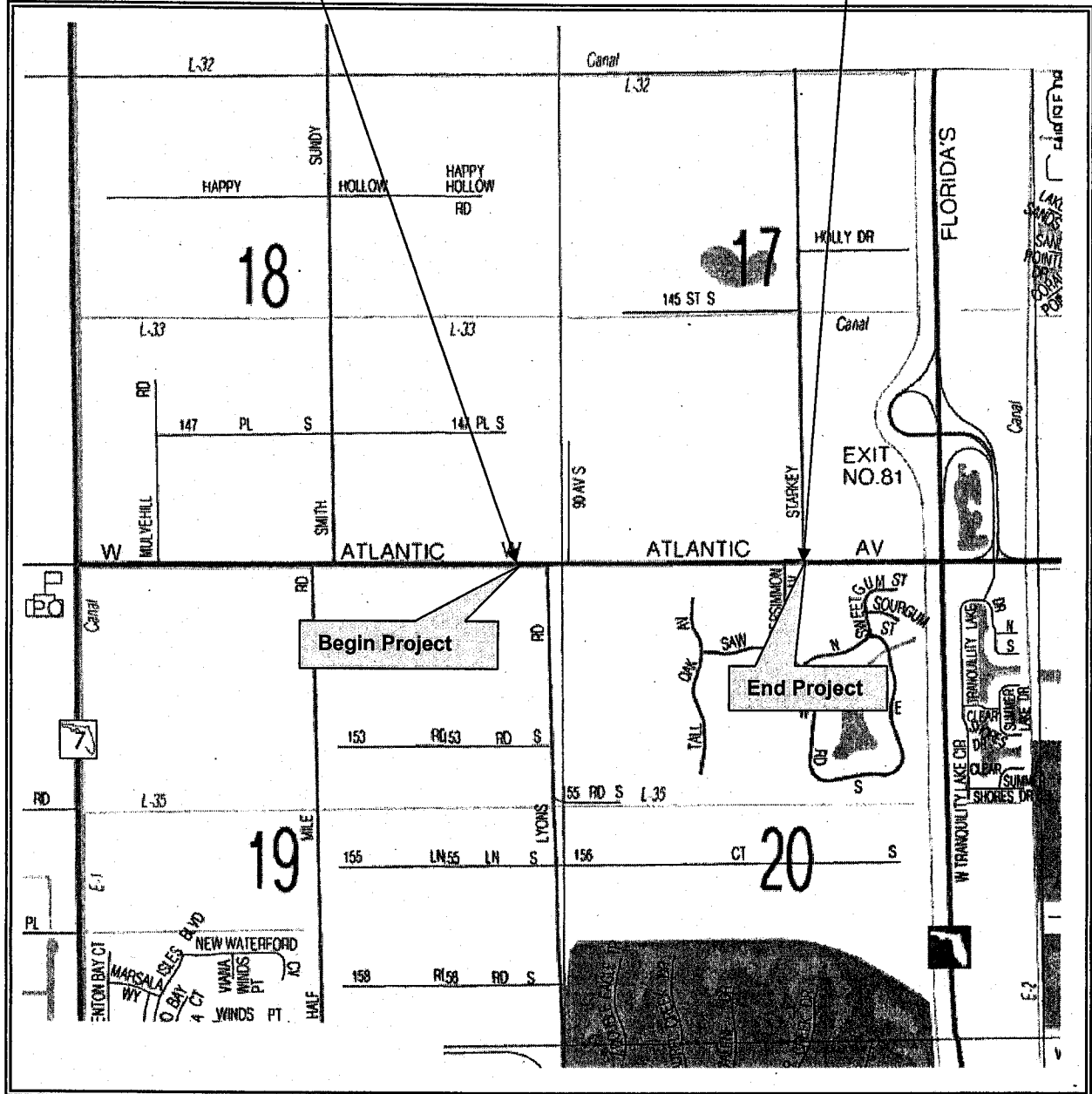
This Contract complies with our contract review requirements.

C. Other Department Review:

 Department Director

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

**PROJECT LOCATION
SR 806/ ATLANTIC AVENUE
W. OF LYONS ROAD TO STARKEY ROAD
PALM BEACH COUNTY PROJECT #2004602**



LOCATION MAP

Catalog of State Financial Assistance No. 55.026

Contract No.: _____
Financial Project No.: 229658-3-58-01
COUNTY: PALM BEACH COUNTY

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRANSPORTATION REGIONAL INCENTIVE PROGRAM AGREEMENT

THIS AGREEMENT, entered into this ____ day of _____, 200____, 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 **Fla. Stat. §334.044**, to enter into this Agreement; and

WHEREAS, the Transportation Regional Incentive Program was created by **Fla. Stat. §339.2819** to provide funds to improve regionally significant transportation facilities in "regional transportation areas" pursuant to **Fla. Stat. §339.155 (5)**; and

WHEREAS, the **COUNTY** has certified to the **DEPARTMENT** that it has met the eligibility requirements of **Fla. Stat. §339.2819**; and

WHEREAS, the Southeast Florida Transportation Council, acting as a designated regional partnership under **Fla. Stat §339.155 (5)(c)** and formed by an interlocal agreement, designated **SR-806/Atlantic Avenue** as a regional facility by resolution, a copy of which is attached hereto and made a part hereof as **Exhibit "B"**.

WHEREAS, the **DEPARTMENT** is willing to provide the **COUNTY** with financial assistance under Financial Management (FM) No. **229658-3-58-01** for **Construction and Construction Engineering Inspection (CEI) Services of the SR-806/Atlantic Avenue from West of Lyons Road to Starkey Road**, hereinafter referred to as the "PROJECT," in accordance with **Fla. Stat. §339.2819**; and

WHEREAS, the **COUNTY** by Resolution No. _____ dated the _____ day of _____, 200____, a copy of which is attached hereto and made a part hereof, has authorized the Chairman of its Board of Commissioners or designee 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 PROJECT consists of: **Construction and CEI Services of SR-806/Atlantic Avenue from west of Lyons Road to Starkey Road.**
- B) The **COUNTY** agrees to undertake the construction 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 construction of the PROJECT from the appropriate permitting authorities. Upon completion of the PROJECT, the **COUNTY** shall certify to the **DEPARTMENT** in writing that the PROJECT has been completed in accordance with the applicable standards, statutes, rules and regulations.

The COUNTY must apply for and be granted a permit, from the DEPARTMENT, before the COUNTY can proceed with construction.

- 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. The COUNTY shall provide the DEPARTMENT with quarterly progress reports.
- D) The COUNTY shall not sublet, assign or transfer any work under this Agreement without prior written consent of the DEPARTMENT.
- E) All notices under this Agreement shall be directed to the following addresses:

TO DEPARTMENT:	TO COUNTY:
Florida Department of Transportation	Palm Beach County- Dept of Engineering & Public Works
3400 West Commercial Blvd.	2300 North Jog Road
Fort Lauderdale, FL 33309-3421	West Palm Beach, FL 33411-2475
Attn: Leos A. Kennedy, Jr.	Attn: Tanya N. McConnell, P.E.
With a copy to: Barbara Handrahan	With a copy to: County Attorney

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 and contingent upon the DEPARTMENT'S Director of Transportation Development or Designee's Approval.

3. COMPENSATION AND PAYMENT

- A) The COUNTY and the DEPARTMENT agree to share the cost of this PROJECT FM# 229658-3-58-01. The COUNTY agrees to provide one-half (1/2) of the match for PROJECT expenditures and the DEPARTMENT agrees to provide the other one-half (1/2) pursuant to Fla. Stat. §339.2819.
- B) The estimated total cost as set forth in the DEPARTMENT'S adopted work program for this PROJECT is **TWELVE MILLION FIVE HUNDRED SEVENTY THREE THOUSAND ONE HUNDRED NINETY DOLLARS (\$12,573,190.00)**. The estimated COUNTY share for one-half (1/2) the PROJECT is **SIX MILLION TWO HUNDRED EIGHTY SIX THOUSAND FIVE HUNDRED NINETY FIVE DOLLARS (\$6,286,595.00)**. The estimated DEPARTMENT share for one-half (1/2) the PROJECT is **SIX MILLION TWO HUNDRED EIGHTY SIX THOUSAND FIVE HUNDRED NINETY FIVE DOLLARS (\$6,286,595.00)** which is the maximum participation by the DEPARTMENT, for actual costs incurred during the construction and CEI phase. The parties further agree all remaining costs of the PROJECT shall be the sole responsibility of the COUNTY.

- i) In the event the **COUNTY** proceeds with the construction/construction inspection of the **PROJECT** with its own forces, the **COUNTY** will only be reimbursed for direct costs (this excludes general and administrative overhead).
 - ii) 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.
- C) Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the **DEPARTMENT** 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.
 - F) The **COUNTY** acknowledges and agrees that the **DEPARTMENT'S** obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.
 - G) Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit.
 - H) Travel costs will not be reimbursed.
 - I) The **COUNTY** shall submit one invoice (3 copies), plus supporting documentation required by the **DEPARTMENT** to the Project Manager for approval and processing on a monthly basis.
 - J) The **COUNTY** must submit the final invoice to the **DEPARTMENT** within 180-days after the final acceptance of the **PROJECT**. Invoices submitted after the 180-day time period will not be paid.
 - K) The **COUNTY** providing goods and services to the **DEPARTMENT** should be aware of the following time frames. Upon receipt, the **DEPARTMENT** has five (5) working days to inspect and approve the goods and services. The **DEPARTMENT** has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.
 - L) If a payment is not available within forty (40) days, separate interest penalty at a rate as established pursuant to Section 55.03(1), F.S., will be due and payable, in addition to the invoice amount, to the **COUNTY**. Interest penalties of less than one (1) dollar will not be enforced unless the **COUNTY** requests payment. Invoices that have to be returned to a **COUNTY** because of **COUNTY** preparation error will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the **DEPARTMENT**.
 - M) 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, 1-800-848-3792.

- N) 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.
- O) 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.

4. ROADWAY LEVEL OF SERVICE

- A) **Fla. Stat. §163.3180** requires that facilities funded through the Transportation Regional Incentive Program adopt the level of service standards established by the **DEPARTMENT** for the PROJECT limits.
- B) The logical termini for level of service purposes are **Lyons Road to SR-93/ Florida Turnpike**.
- C) The **COUNTY** agrees that once the additional capacity from the PROJECT is available for purposes of concurrency under **Fla. Stat. §163.3180**, it will officially adopt the **DEPARTMENT'S** level of service for the segment of **SR-806/Atlantic Avenue** between the logical termini specified in (B), above. This will be accomplished through an update to the comprehensive plan within one year of the completion of the PROJECT.

5. INDEMNITY AND INSURANCE

A) INDEMNITY

- i) 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.