







NORTH

Discovery Key Elementary School

3 Future PUDs

High School 03-000  
Opening 2012/13

Woodlands Middle School

LAKE WORTH RD.

802

7

30

Lyons Road  
From Melody Rd. to Brandy Ln.  
West Side  
FM #423194-1-58-01

31

LANTANA RD

LYONS RD

••• Existing pathway



SAFE ROUTES TO SCHOOL

Lyons Road Pathway  
Location Map

FIGURE  
1

6-9-09

**RESOLUTION NO. R-2009-\_\_\_\_\_**

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING EXECUTION OF A LOCAL AGENCY PROGRAM AGREEMENT (FPN 423194-1-58-01) WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**

**WHEREAS**, funds are available through the State of Florida Department of Transportation (FDOT) for the Safe Routes to School (SRTS) program; and

**WHEREAS**, the proposed sidewalk will enhance the safety of walking and bicycling school children; and

**WHEREAS**, the proposed sidewalk will be constructed on the west side of Lyons Road, a county road, between Melody Road and Brandy Lane; and

**WHEREAS**, the FDOT and Palm Beach County desire to enter into a Local Agency Program (LAP) agreement; and

**WHEREAS**, the agreement will provide up to \$586,571 to Palm Beach County for construction of the said sidewalk.

**NOW THEREFORE**, BE IT RESOLVED BY THE Board of County Commissioners of Palm Beach County, Florida that:

1. The recitations set forth herein above are true, accurate and correct and are incorporated herein.
2. The Budget Amendment of \$586,571 in the Transportation Improvement Fund be approved to recognize the funding provided through this LAP agreement.
3. The County agrees to the proposed LAP agreement.
4. The Chairman is hereby authorized to execute, and deliver to the FDOT, the aforementioned LAP.

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:

Commissioner John F. Koons, Chairman -  
 Commissioner Burt Aaronson, Vice Chair -  
 Commissioner Karen T. Marcus -  
 Commissioner Shelley Vana -  
 Commissioner Steven L. Abrams -  
 Commissioner Jess R. Santamaria -  
 District 7 -

The Chairman thereupon declared the Resolution duly passed and adopted  
 this \_\_\_\_ day of \_\_\_\_\_, 2009.

APPROVED AS TO FORM  
 AND LEGAL SUFFICIENCY

PALM BEACH COUNTY,  
 FLORIDA, BY ITS BOARD OF  
 COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
 Assistant County Attorney

BY: \_\_\_\_\_  
 John F. Koons, Chairman

SHARON R. BOCK,  
 CLERK & COMPTROLLER  
 CIRCUIT COURT

BY: \_\_\_\_\_  
 Deputy Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LOCAL AGENCY PROGRAM AGREEMENT**

525-010-40  
PRODUCTION SUPPORT  
02/09  
Page 1

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FPN: <u>423194-1-58-01</u>	Fund: <u>SR2E</u>	FLAIR Approp: _____
Federal No: <u>SRTS 063 A</u>	Org Code: <u>55043010404</u>	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
County No: _____	Contract No: _____	Vendor No: <u>VF596000785043</u>

Data Universal Number System (DUNS) No: 80-939-7102  
Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction

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THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the Department, and Palm Beach County hereinafter called the Agency.

WITNESSETH:

WHEREAS, the Agency has the authority to enter into this Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under Section 339.12, Florida Statutes, to enter into this Agreement;

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

**1.00 Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in sidewalk construction on Lyons Road from Melody Road to Brandy Lane and as further described in Exhibit "A" attached hereto and by this reference made a part hereof, hereinafter called the "project," and to provide Department financial assistance to the Agency and state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the project will be undertaken and completed.

**1.01 Attachments:** Exhibit(s) A+B+1 are attached and made a part hereof.

**2.01 General Requirements:** The Agency shall complete the project as described in Exhibit "A" with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Agency Program Manual, which by this reference is made a part hereof as if fully set forth herein. Time is of the essence as to each and every obligation under this Agreement.

A full time employee of the Agency, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in charge of each project.

**Removal of Any Unbilled Funds**

If Agency fails to timely perform its obligations in submitting invoices and documents necessary for the close out of the project, and said failure results in a loss of the remaining unbilled funding either by Federal withdrawal of funds or loss of State appropriation authority (which may include both federal funds and state funds, if any state funds are on the project), Agency will be responsible for the remaining unbilled funds on the project. No other funds will be provided by the Department. Agency waives the right to contest such removal of funds by the Department, if said removal is directly related to Federal (FHWA) withdrawal of funds or loss of State appropriation authority due to Local Agency's failure or nonperformance. In addition to loss of funding, the Department will consider de-certification of said Agency for future LAP projects.

### **Removal of All Funds**

If all funds are removed from the project, including amounts previously billed to the Department and reimbursed to the Agency, and the project is off the state highway system, then the department will have to request repayment for the previously billed amounts from the Local Agency. No state funds can be used on off-system projects.

**2.02 Expiration of Agreement:** The Agency agrees to complete the project on or before December 31, 2010. If the Agency does not complete the project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the project. The cost of any work performed after the expiration date of this Agreement will not be reimbursed by the Department.

**2.03 Pursuant to Federal, State, and Local Laws:** In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

**2.04 Agency Funds:** The Agency shall initiate and prosecute to completion all proceedings necessary, including federal-aid requirements, to enable the Agency to provide the necessary funds for completion of the project.

**2.05 Submission of Proceedings, Contracts, and Other Documents:** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the project as the Department and the Federal Highway Administration (FHWA) may require.

### **3.00 Project Cost:**

**3.01 Total Cost:** The total cost of the project is \$ 586,571.00. This amount is based upon the schedule of funding in Exhibit "B." The Agency agrees to bear all expenses in excess of the total cost of the project and any deficits involved. The schedule of funding may be modified by mutual agreement as provided for in paragraph 4.00.

**3.02 Department Participation:** The Department agrees to participate, including contingencies, in the project cost to the extent provided in Exhibit "B." This amount includes federal-aid funds which are limited to the actual amount of federal-aid participation.

**3.03 Limits on Department Funds:** Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible project costs is subject to:

- a) Legislative approval of the Department's appropriation request in the work program year that the project is scheduled to be committed;
- b) Availability of funds as stated in paragraphs 3.04 and 3.05 of this Agreement;
- c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
- d) Department approval of the project scope and budget at the time appropriation authority becomes available.

**3.04 Appropriation of Funds:** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See Exhibit "B" for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

**3.05 Multi-Year Commitment:** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"(a) The department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

**3.06 Notice-to-Proceed:** No cost may be incurred under this Agreement until the Agency has received a written Notice-to-Proceed from the Department.

**3.07 Limits on Federal Participation:** Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, Federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or project costs in part or in total.

For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Agency shall promptly reimburse the Department for all such amounts within 90 days of written notice.

**4.00 Project Estimate and Disbursement Schedule:** Prior to the execution of this Agreement, a project schedule of funding shall be prepared by the Agency and approved by the Department. The Agency shall maintain said schedule of funding, carry out the project, and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved schedule of funding for the project. The schedule of funding may be revised by mutual written agreement between the Department and the Agency. If revised, a copy of the revision should be forwarded to the Department's Comptroller and to the Department's Federal-aid Program Office. No increase or decrease shall be effective unless it complies with fund participation requirements of this Agreement and is approved by the Department's Comptroller.

#### **5.00 Records:**

**5.01 Establishment and Maintenance of Accounting Records:** Records of costs incurred under the 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 5 years after the final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the project records, together with supporting documents and records of the Agency and all subcontractors performing work on the project and all other records of the Agency and subcontractors considered necessary by the Department for a proper audit of costs. If any litigation, claim or audit is started before the expiration of the 5-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

**5.02 Costs Incurred for Project:** The Agency shall charge to the project account all eligible costs of the project except costs agreed to be borne by the Agency or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

**5.03 Documentation of Project Costs:** All costs charged to the project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.

**5.04 Audit Reports:** Recipients of federal and state funds are to have audits done annually using the following criteria:



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

**Monitoring:** In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, 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 Agency regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the FDOT's Office of Inspector General (OIG), and the Chief Financial Officer (CFO) or Auditor General.

#### **Audits**

**Part I - Federally Funded:** 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:

1. In the event that the recipient expends \$500,000 or more in federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Exhibit "1" of this Agreement indicates federal resources awarded through the Department by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department. 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.
2. In connection with the audit requirements addressed in Part I, paragraph 1 the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than federal entities).
4. 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.

**Part II - State Funded:** Recipients of state funds (i.e., a non-state entity as defined by Section 215.97(2) (l), Florida Statutes) are to have audits done annually using the following criteria:

1. 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 Executive Office of the Governor and the CFO, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "1" to this Agreement indicates state financial assistance awarded through the Department by this Agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other non-state entities. State financial assistance does not include federal direct or pass-through awards and resources received by a non-state entity for federal program matching requirements.
  2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2) (d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
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3. 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. However, if the recipient elects to have audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. 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.

**Part III - Other Audit Requirements:** 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.

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

**Part IV - Report Submission:**

1. Copies of financial reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I 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 address(es):

Karen Maxon, Work Program Coordinator, Work Program Office, 3400 West Commercial Blvd., Ft. Lauderdale 33309-3421
  - 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), at the following address:

Federal Audit Clearinghouse  
Bureau of the Census  
1201 East 10<sup>th</sup> Street  
Jeffersonville, IN 47132
  - c) Other federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.
2. In the event that a copy of the financial reporting package required by Part I 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 each of the following:

Karen Maxon, Work Program Coordinator, Work Program Office, 3400 West Commercial Blvd., Ft. Lauderdale 33309-3421

In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the financial 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 each of the following addresses:

Karen Maxon, Work Program Coordinator, Work Program Office, 3400 West Commercial Blvd., Ft. Lauderdale 33309-3421

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LOCAL AGENCY PROGRAM AGREEMENT**

3. Copies of the financial reporting package required by Part II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:
  - a) The Department at each of the following address(es):

Karen Maxon, Work Program Coordinator, Work Program Office, 3400 West Commercial Blvd., Ft. Lauderdale 33309-3421
  - 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
4. Copies of reports or the Management Letter required by Part III of this Agreement shall be submitted by or on behalf of the recipient directly to:
  - a) The Department at each of the following address(es):

Karen Maxon, Work Program Coordinator, Work Program Office, 3400 West Commercial Blvd., Ft. Lauderdale 33309-3421
5. Any reports, Management Letters, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted in a timely manner in accordance with OMB Circular A-133, as revised, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133, as revised, 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 financial reporting package was delivered to the recipient in correspondence accompanying the financial reporting package.

**Part V - Record Retention:** The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least 5 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 documentation is made available to the Department, or its designee, the state CFO or Auditor General upon request for a period of at least 5 years from the date the audit report is issued, unless extended in writing by the Department.

**5.05 Inspection:** The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives and authorized agents of FHWA to inspect all work, workmanship, materials, payrolls, and records and to audit the books, records, and accounts pertaining to the financing and development of the project.

The Department reserves the right to unilaterally cancel this Agreement for refusal by the Agency or any contractor, subcontractor or materials vendor to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement (Section 287.058(1)(c), Florida Statutes).

**5.06 Uniform Relocation Assistance and Real Property Statistical Report:** For any project requiring additional right-of-way, the Agency must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

**6.00 Requisitions and Payments:** Requests for reimbursement for fees or other compensation for services or expenses incurred shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof (Section 287.058(1)(a), Florida Statutes).

All recipients of funds from this Agreement, including those contracted by the Agency, must submit bills for any travel expenses, when authorized by the terms of this Agreement, in accordance with Section 112.061, Florida Statutes, and Chapter 3-"Travel" of the Department's Disbursement Operations Manual, Topic 350-030-400 (Section 287.058(1)(b), Florida Statutes).

If, after project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

**7.00 Department Obligations:** Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper to ensure the carrying out of the project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment if:

**7.01 Misrepresentation:** The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof or in or with respect to any document of data furnished therewith or pursuant hereto;

**7.02 Litigation:** There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement or payments to the project;

**7.03 Approval by Department:** The Agency shall have taken any action pertaining to the project which, under this Agreement, requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

**7.04 Conflict of Interests:** There has been any violation of the conflict of interest provisions contained here in paragraph 12.06 or 12.07.

**7.05 Default:** The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

**7.06 Federal Participation:** The Department may suspend or terminate payment for that portion of the project which the FHWA, or the Department acting in lieu of FHWA, may designate as ineligible for federal-aid.

**7.07 Disallowed Costs:** In determining the amount of the payment, the Department will exclude all projects costs incurred by the Agency prior to the effective date of this Agreement or the date of authorization, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in Exhibit "B" for the project, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

**7.08 Final Invoices:** The Agency must submit the final invoice on the project to the Department within 120 days after the completion of the project. Invoices submitted after the 120-day time period may not be paid.

**8.00 Termination or Suspension of Project:**

**8.01 Termination or Suspension Generally:** The Department may, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected or the Department may terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.

(a) If the Department determines that the performance of the Agency is not satisfactory, the Department shall notify the Agency of the deficiency in writing with a requirement that the deficiency be corrected within thirty (30) days of such notice. Such notice shall provide reasonable specificity to the Agency of the deficiency that requires correction. If the deficiency is not corrected within such time period, the Department may either (1) immediately terminate the Agreement

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as set forth in paragraph 8.(b) below, or (2) take whatever action is deemed appropriate by the Department to correct the deficiency. In the event the Department chooses to take action and not terminate the Agreement, the Agency shall, upon demand, promptly reimburse the Department for any and all costs and expenses incurred by the Department in correcting the deficiency.

(b) If the Department terminates the Agreement, the Department shall notify the Agency of such termination in writing, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

(c) If the Agreement is terminated before the project is completed, the Agency shall be paid only for the percentage of the project satisfactorily performed for which costs can be substantiated. Such payment, however, shall not exceed the equivalent percentage of the contract price. All work in progress will become the property of the Department and will be turned over promptly by the Agency.

**8.02 Action Subsequent to Notice-of-Termination or Suspension:** Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (a) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to a minimum the costs upon the basis of which the financing is to be computed; (b) furnish a statement of the project activities and contracts and other undertakings the cost of which are otherwise includable as project costs. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and cost as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and estimate within a reasonable time. The closing out of federal financial participation in the project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

#### **9.00 Contracts of Agency:**

**9.01 Third Party Agreements:** Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.

**9.02 Compliance with Consultants' Competitive Negotiation Act:** It is understood and agreed by the parties hereto that participation by the Department in a project with the Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the consultant selection process for all projects. In all cases, the Agency's attorney shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

**10.00 Disadvantaged Business Enterprise (DBE) Policy and Obligation:** It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Agency and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement. Furthermore, the Agency agrees that:

(a) Each financial assistance agreement signed with a US-DOT operating administration (or a primary recipient) must include the following assurance:

"The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. Part 26. The recipient shall take all necessary and reasonable steps under 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 C.F.R. Part 26 and as approved by Department, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.)."

(b) Each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

"The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate."

**11.00 Compliance with Conditions and Laws:** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this project. Execution of this Agreement constitutes a certification that the Agency is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," in 49 C.F.R. Part 29, when applicable.

**12.00 Restrictions, Prohibitions, Controls, and Labor Provisions:**

**12.01 Equal Employment Opportunity:** In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Agency shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development of operation of the project, except contracts for the standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

**12.02 Title VI - Civil Rights Act of 1964:** The Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

The Agency shall include provisions in all contracts with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

**12.03 Americans with Disabilities Act of 1990 (ADA):** The Agency will comply with all the requirements as imposed by the ADA, the regulations of the Federal government issued thereunder, and assurance by the Agency pursuant thereto.

**12.04 Public Entity Crime:** 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.

**12.05 Discrimination:** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not 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.

**12.06 Suspension, Revocation, Denial of Qualification or Determination of Contractor Non-Responsibility:** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

**12.07 Prohibited Interests:** Neither the Agency nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the project or any property included or planned to be included in the project in which any member, officer or employee of the Agency or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Agency, the Agency, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Agency or the locality relating to such contract, subcontract or arrangement.

The Agency shall insert in all contracts entered into in connection with the project or any property included or planned to be included in any project, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer or employee of the Agency or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Agency and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

**12.08 Interest of Members of, or Delegates to, Congress:** No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

**13.00 Miscellaneous Provisions:**

**13.01 Environmental Regulations:** The Agency will be solely responsible for compliance with all the applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Agency will be responsible for securing any applicable permits.

**13.02 Department Not Obligated to Third Parties:** The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.

**13.03 When Rights and Remedies Not Waived:** In no event shall the making by the Department of any payment to the Agency 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 Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

**13.04 How Agreement Is Affected by Provisions Being Held Invalid:** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

**13.05 Bonus or Commission:** By execution of the Agreement, the Agency represents that it has not paid and, also

agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

**13.06 State Law:** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the project.

**13.07 Plans and Specifications:** In the event that this Agreement involves constructing and equipping of facilities on the State Highway System, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Agency a written approval with any approved portions of the project and comments or recommendations covering any remainder of the project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency a written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department. The Agency will physically include Form FHWA-1273 in all its contracts and subcontracts.

**13.08 Right-of-Way Certification:** Upon completion of right-of-way activities on the project, the Agency must certify compliance with all applicable federal and state requirements. Certification is required prior to advertisement for or solicitation of bids for construction of the project, including those projects for which no right-of-way is required.

**13.09 Agency Certification:** The Agency will certify in writing, prior to project closeout that the project was completed in accordance with applicable plans and specifications, is in place on the Agency's facility, adequate title is in the Agency's name, and the project is accepted by the Agency as suitable for the intended purpose.

**13.10 Agreement Format:** 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.

**13.11 Execution of Agreement:** This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one in the same instrument.

**13.12 Restrictions on Lobbying:**

**Federal:** The Agency agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Agency, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federally-appropriated funds have been paid by the Agency to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

**State:** No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.

**13.13 Maintenance:** The Agency agrees to maintain any project not on the State Highway System constructed under this Agreement. If the Agency constructs any improvement on Department right-of-way, the Agency  will  will not maintain the improvements made for their useful life.



**13.14 Vendors Rights:** Vendors (in this document identified as the Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has 5 working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days after receipt of the invoice and the receipt, inspection, and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3)(b), Florida Statutes, will be due and payable in addition to the invoice amount to the Agency. Interest penalties of less than one \$1 will not be enforced unless the Agency requests payment. Invoices which have to be returned to the Agency because of Agency preparation errors 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.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from the Department. The Vendor Ombudsman may be contacted at 850-413-5516 or by calling the State Comptroller's Hotline, 877-693-5236.

**13.15 Reimbursement of Federal Funds:**

The Agency shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Agency and FHWA requires reimbursement of the funds, the Agency will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement. Federal Economic Stimulus awards do not exempt the Agency from adherence to federal guidelines, procedures, and regulations.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LOCAL AGENCY PROGRAM AGREEMENT**

IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

AGENCY Palm Beach County

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name: Gerry O'Reilly  
Title: Director of Transportation Development

Attest: \_\_\_\_\_  
Title:

Attest: \_\_\_\_\_  
Title:

As to form:

As to form:

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
District Attorney

See attached Encumbrance Form for date of funding approval by Comptroller.

APPROVED AS TO TERMS & CONDITIONS

By:     *Jan Masby*      
Engineering Department

**EXHIBIT "A"**

**PROJECT DESCRIPTION AND RESPONSIBILITIES**

FPN: 423194-1-58-01

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and  
Palm Beach County

Dated \_\_\_\_\_

**PROJECT LOCATION:**

The project \_\_\_ is  is not on the National Highway System.

The project \_\_\_ is  is not on the State Highway System.

**PROJECT DESCRIPTION:**

Sidewalk construction on Lyons Road from Melody Road to Brandy Lane

**SPECIAL CONSIDERATIONS BY AGENCY:**

The audit report(s) required in the Agreement shall include a Schedule of Project Assistance that will reflect the Department's contract number, the Financial Project Number (FPN), the Federal Authorization Number (FAN), where applicable, the amount of state funding action (receipt and disbursement of funds), any federal or local funding action, and the funding action from any other source with respect to the project.

The Agency is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

The Agency shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

- a) Study to be completed by N/A. (Phase 18 and 28 LAP Agreements)
- b) Design to be completed by N/A. (Phase 38 LAP Agreements)
- c) Right-of-Way requirements identified and provided to the Department by N/A. (All LAPS requiring R/W) (District will handle all Right of Way activities on LAPS, the date would be set by the necessary timeframe to complete R/W activities.)
- d) Right-of-Way to be certified prior to advertising for Construction. (All Phase 58 LAPS).
- e) Construction contract to be let by 12/31/2009. (For Phase 58 LAPS). (This date would be prior to the end of the fiscal year that the Phase 58 is programmed in FM)
- f) Construction to be completed by 12/31/2010. (Phase 58 LAP Agreements)

If this schedule cannot be met, the Agency will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of federal funding.

This project is for reimbursement of **Construction Only** in the year 2008/2009 in the amount of \$586,571.00. Upon execution of this agreement by all parties the Department will provide the Agency **ONE EXECUTED AGREEMENT** and a **NOTICE TO PROCEED**. The Agency should not start any construction prior to the **EXECUTED AGREEMENT** and a **NOTICE TO PROCEED**. The Agency will only be reimbursed for costs incurred after the executed agreement date and prior to the agreement or time extension (if required by a request for a time extension from the Agency) date. Any unused funds will be deleted by the Department and the Federal-Aid Office upon completion and final billing.

Upon completion of the Project, the Agency is required to notify the Department of the date of the completion and final invoicing. The Department may require an onsite inspection with the Agency

**SPECIAL CONSIDERATIONS BY DEPARTMENT:**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LOCAL AGENCY PROGRAM AGREEMENT**

**EXHIBIT "B"**

**SCHEDULE OF FUNDING**

AGENCY NAME & BILLING ADDRESS Palm Beach County 2300 North Jog Road West Palm Beach, FL 33411-2745	FPN: 423194-1-58-01
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**PROJECT DESCRIPTION**

Name: Sidewalk construction on Lyons Road Length: 0.374 miles

Termini: From Melody Rd. to Brandy Lane

TYPE OF WORK By Fiscal Year	FUNDING		
	(1) TOTAL PROJECT FUNDS	(2) AGENCY FUNDS	(3) STATE & FEDERAL FUNDS
<b>Planning</b>			
2006-2007			
2007-2008			
2008-2009			
Total Planning Cost			
<b>Project Development &amp; Environment (PD&amp;E)</b>			
2006-2007			
2007-2008			
2008-2009			
Total PD&E Cost			
<b>Design</b>			
2006-2007			
2007-2008			
2008-2009			
Total Design Cost			
<b>Right-of-Way</b>			
2006-2007			
2007-2008			
2008-2009			
Total Right-of-Way Cost			
<b>Construction</b>			
2006-2007			
2007-2008			
2008-2009 (SR2E)	\$586,571.00		\$586,571.00
2009-2010			
Total Construction Cost	\$586,571.00		\$586,571.00
<b>Construction Engineering and Inspection (CEI)</b>			
2006-2007			
2007-2008			
2008-2009			
Total CEI Cost			
Total Construction and CEI Costs	\$586,571.00		\$586,571.00
<b>TOTAL COST OF THE PROJECT</b>	\$586,571.00		\$586,571.00

The Department's fiscal year begins on July 1. For this project, funds are not projected to be available until after the 1st of July of each fiscal year. The Department will notify the Agency, in writing, when funds are available.

**EXHIBIT "1"**

**SINGLE AUDIT ACT**

**Federal Resources Awarded to the Recipient Pursuant to This Agreement Consist of the Following:**

**Federal Agency:** Federal Highway Administration

**CFDA #:** 20.205 Highway Planning and Construction

**Amount:** \$ 586,571.00

**Compliance Requirement:**

**Allowable Activities:** To be eligible, most projects must be located on public roads that are not functionally classified as local. The major exceptions are the Highway Bridge Replacement and Rehabilitation Program, which provides assistance for bridges on and off the federal-aid highways, highway safety activities, bicycle and pedestrian projects, transportation enhancement activities, the recreational trails program, and planning, research, development, and technology transfer. Proposed projects meeting these and other planning, design, environmental, safety, etc., requirements can be approved on the basis of state and local priorities within the limit of the funds apportioned or allocated to each state.

**Allowable Costs:** Eligible activities and allowable costs will be determined in accordance with Title 23 and Title 49 C.F.R. and the OMB cost principles applicable to the recipient/sub-recipient.

**Eligibility:** By law, the federal-aid highway program is a federally assisted state program that requires each state to have a suitably equipped and organized transportation department. Therefore, most projects are administered by or through State Departments of Transportation (State DOTs). Projects to be funded under the federal-aid highway program are generally selected by state DOTs or Metropolitan Planning Organizations (MPOs), in cooperation with appropriate local officials, as specified in 23 U.S.C. and implementing regulations. Territorial highway projects are funded in the same manner as other federal-aid highway projects, with the territorial transportation agency functioning in a manner similar to a state DOT. Most Florida Land Highway Program (FLHP) projects are administered by the Federal Highway Administration (FHWA) Office of Federal Lands Highway and its Divisions or by the various Florida Land Management Agencies (FLMAs). Under the FLHP, projects in the Indian Reservation Road (IRR) Program are selected by Tribal Governments and are approved by the Bureau of Indian Affairs (BIA) and the FHWA. Due to recent legislation, Tribal Governments meeting certain requirements may now administer various IRR projects on behalf of the BIA and FHWA. The Fish and Wildlife Service (FWS) and the National Park Service (NPS) select projects in the Refuge Road and Park Roads and Parkways Programs, respectively. For the Forest Highway Program, the Forest Service, the States and the FHWA jointly select projects.

**Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to This Agreement Are As Follows:** The recipient of Local Agency Program (LAP) funding must comply with the statutory requirements in Sections 112.061, 215.422, 339.12, and 339.135, Florida Statutes, and Title 23 and Title 49, C.F.R.

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**FEDERAL-AID PROJECT FUNDING REQUEST**

525-010-30  
 CONSTRUCTION  
 08/00  
 Page 1 of 2

AGENCY Palm Beach County FEDERAL-AID PROJECT NUMBER SRTS 063 A DATE 8/25/08  
 FIN NUMBER 423194-1-58-01 STATE JOB NUMBER \_\_\_\_\_ TIP PAGE NUMBER \_\_\_\_\_

PROJECT TITLE: Sidewalk construction on Lyons Road

PROJECT TERMINI FROM: From Melody Rd. to Brandy Lane

WORK PHASE:  PLANNING  ENVIRONMENTAL  DESIGN  CONSTRUCTION  RIGHT OF WAY  
 AWARD TYPE:  LOCAL  LOCAL FORCES

ENVIRONMENTAL DOCUMENT: Mark the type of environmental document prepared, indicate the approval date, and the most recent reevaluation date.  
 EIS approved on: \_\_\_\_\_, and reevaluated on: \_\_\_\_\_  
 EA / FONSI approved on: \_\_\_\_\_, and reevaluated on: \_\_\_\_\_  
 Categorical Exclusion:  
 Programmatic Categorical Exclusion determination on: \_\_\_\_\_  
 Type I Categorical Exclusion determination on: 12/16/08  
 Type II Categorical Exclusion determination on: \_\_\_\_\_  
 Categorical Exclusion Reevaluation on: \_\_\_\_\_

PHASE	TOTAL ESTIMATED COST (nearest Dollar)	LOCAL AGENCY FUNDS (nearest Dollar)	STATE FUNDING (nearest Dollar)	FEDERAL FUNDS (nearest Dollar)	PERCENT FEDERAL FUNDS	OBLIGATION DATE Month / Year
PLANNING						
PD&E						
DESIGN						
R/W						
CONST.	\$586,571.00			\$586,571.00	100	
TOTAL	\$586,571.00			\$586,571.00	100	

DESCRIPTION OF EXISTING FACILITY (Existing Design and Present Condition)  
 Roadway Width: 25 feet Number of Lanes 2  
 Bridge Number(s) on Project N/A  
 Lyons Rd. is a two-lane undivided with rural cross section and swale / open ditch drainage. Currently there is no sidewalk on either side of the road.

DESCRIPTION OF PROPOSED WORK  New Construction  3-R  Enhancement  Congestion Mitigation  
 Roadway Width 25 feet Number of Lanes 2  
 Bridge Number(s) on Project N/A  
 Construction of a 6'-0" sidewalk to fill the gap between 2 existing sidewalks

LOCAL AGENCY CONTACT PERSON Motasem Al-Turk	TITLE: Assistant Director Traffic Engineering
MAILING ADDRESS: 2300 N. Jog Road	PHONE: 561-684-4030
AGENCY Palm Beach County	ZIP CODE: 33411-2745

LOCATION AND DESIGN APPROVAL:  
 BY: Motasem Al-Turk  
 Approving Authority  
 TITLE: Asst Director - Traffic DATE: 6/11/08

AGENCY: Palm Beach County	PROJECT TITLE: Sidewalk construction on Lyons Road	DATE: 8/25/08
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ENVIRONMENTAL COMMITMENTS AND CONSIDERATIONS:

This project is a Type I Categorical Exclusion under (23 CFR 771.117 (c))

RIGHT OF WAY AND RELOCATION:

There was no right-of-way acquisition associated with this project.

THIS PROJECT HAS BEEN REVIEWED BY THE LEGISLATIVE BODY OF THE ADMINISTRATION AGENCY OR AGENCIES, OR IT'S DESIGNEE, AND IS NOT INCONSISTANT WITH THE AGENCY'S COMPREHENSIVE PLAN FOR COMMUNITY DEVELOPMENT.

AGENCY: \_\_\_\_\_

DATE: \_\_\_\_\_

By: \_\_\_\_\_  
(Mayor / Chairman)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LAP CERTIFICATION**

578-095-02  
RIGHT OF WAY  
08/07

R/W ITEM/SEGMENT NO: \_\_\_\_\_ MANAGING DISTRICT 4  
CONSTRUCTION ITEM/SEGMENT NO: \_\_\_\_\_ STATE ROAD NA  
F.A.P. NO (Construction) PM No. 423194-1-58-01 DESCRIPTION Lyons Road Sidewalk  
COUNTY Palm Beach From Melody Road to Brandy Lane  
LETTING DATE: \_\_\_\_\_ West Side

The undersigned hereby certifies as follows.

Title to all property and easements needed for the above construction project is vested in the Florida Department of Transportation (Department) or a state or local government. Sufficient authority has been obtained to construct and maintain the proposed improvements on property and easements owned by state or local governments. Further.

**Acquisition**

- Right of way was not acquired for this project.  
 Right of way was acquired for this project in compliance with applicable state and federal law.

**Relocation**

- No persons or businesses were required to move or move personal property from the project right of way.  
 All persons and businesses that were required to move or move personal property from the project right of way have been provided relocation assistance in compliance with applicable state and federal law.

**Demolition**

- No structures or improvements, including encroachments, required removal from the project right of way.  
 All structures and/or improvements, including encroachments, have been removed from the project right of way in compliance with applicable state and federal law, or will be included in the construction contract.

**Asbestos Abatement**

- No structures or improvements requiring asbestos abatement were located on the project right of way.  
 Asbestos abatement of buildings and/or structures, including those to be removed by the construction contractor, has been completed in compliance with applicable state and federal law, or will be included in the construction contract.

Submitted by Local Agency

Motasa Al-Turk  
Motasa Al-Turk, Ph.D., P.E.

10-9-08

Title Asst. Director - Traffic Date  
Palm Beach County Engineering and Public Works

Certified by

[Signature]  
True District Right of Way Manager

11/7/08  
Date

11-6-08 VIV



ADDITIONAL STATEMENT – Local Agency Program

No Additional Right of Way Required

R/W ITEM/SEGMENT NO \_\_\_\_\_ STATE ROAD N/A

CONST ITEM SEGMENT NO \_\_\_\_\_ DESCRIPTION Lyons Road Pathway

F.A.P. NO FM # 423194-1-58-01 From Melody Road to Brandy Lane – West Side

FM # 423195-1-58-01 From Rosemount Drive to L-14 Canal – East Side

PREFERRED LETTING DATE \_\_\_\_\_ LOCAL AGENCY Palm Beach County

The following interests in land (Right of Way) will NOT be required for the construction of this project.

- Fee Title – land on which a permanent improvement is to be placed and maintained.
- Perpetual Easement – maybe used when permanent improvement is to be constructed and maintained on a parcel for which acquisition of fee title is impractical.
- Temporary Easement – used when it is necessary to temporarily occupy a parcel. No improvement which is a permanent part of the transportation facility or which requires maintenance beyond the term of the easement will be constructed on the temporary easement.

The right of way maps/sketches have been compared to the construction plans and the right of way, as shown, and will accommodate the planned construction. The construction activities will be performed in the existing right of way. The contractor will not be required to temporarily enter upon property not owned by PALM BEACH COUNTY for the purpose of restoration and harmonization.

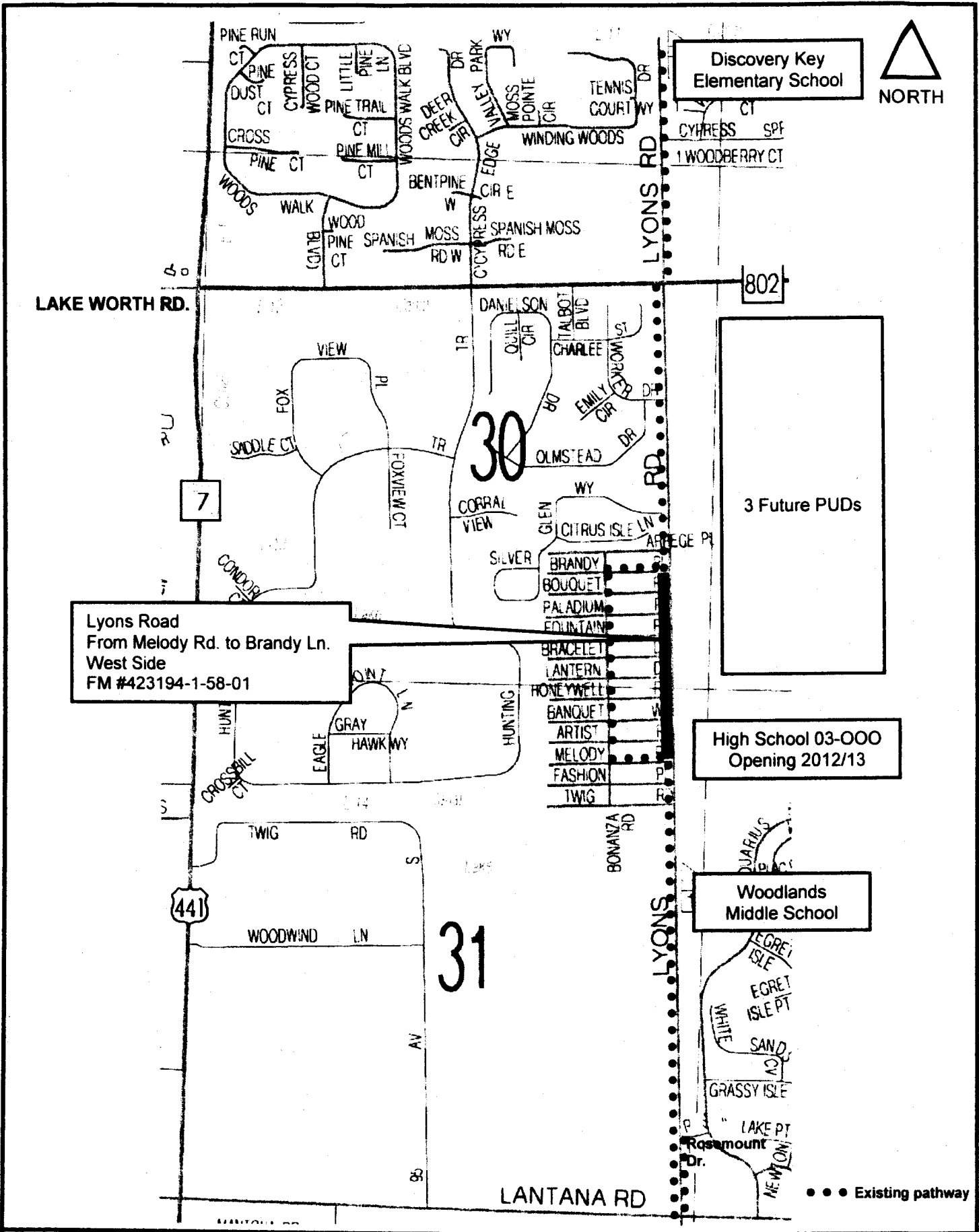
Motasem Al-Turk  
SIGNATURE

2/22/08  
DATE

Motasem Al-Turk, Ph.D., P.E.  
NAME (Printed)

Title: Assistant Director – Traffic Division

Agency: Palm Beach County



**SAFE ROUTES TO SCHOOL**

**Lyons Road Pathway  
Location Map**

**FIGURE  
1**

9-3-08

**MEMORANDUM**

DATE: December 9, 2008

TO: Ann Broadwell, DEMO

FROM: Barbara Handrahan, LAP *BH*

COPIES TO: File

SUBJECT: TYPE I AND PROGRAMMATIC CATEGORICAL EXCLUSION REVIEW

FPID: 423194-1, 423195-1

Description: Lyons Road 6' Concrete Pathway

- From Melody Road to Brandy Lane – West Side
- From Rosemount Drive to the L - 14 Canal – East Side

County: Palm Beach

Attached please find a request for PCE Checklist final approval (2<sup>nd</sup> submittal).  
Please provide approval and or comments by December 23, 2008.

Enclosure:

PCE Checklist

Back Up Memorandum

Location Map

Plans

Back Up Documentation

/bh

**LOCAL AGENCY PROGRAM (LAP)  
TYPE I OR PROGRAMMATIC CATEGORICAL EXCLUSION CHECKLIST**

Financial Project ID: 423194-1-58-01 & 423195-1-58-01

State Road #: Lyons Road

Federal Project ID:

County: Palm Beach County

Project Description: Lyons Road 6' Concrete Pathway

- From Melody Road to Brandy Lane - West Side
- From Rosemount Drive to the L-14 Canal - East Side

**IMPORTANT** If the answer to any of these questions is No, then a Type I or Programmatic Categorical Exclusion does not apply and further coordination with FDOT is required to determine the necessary level of environmental documentation.

YES NO

- |          |     |  |
|----------|-----|--|
| <u>X</u> | ___ | Are the impacts to local traffic patterns, property access, community cohesiveness, planned community growth of land use patterns not adverse?   |
| <u>X</u> | ___ | Are all air, noise, and water quality impacts negligible or non-existent?  |
| <u>X</u> | ___ | If there is wetland involvement, does it qualify for either Nationwide or General Permit?  |
| <u>X</u> | ___ | Can the project proceed without a U.S. Coast Guard Permit?   |
| <u>X</u> | ___ | Are any or all flood plain encroachments not significant in accordance with Part 2, Chapter 24?  |
| <u>X</u> | ___ | Will endangered and threatened species and their critical habitats remain unaffected?  |
| <u>X</u> | ___ | Is there no right-of-way or an insignificant amount of right-of-way required for the project?  |
| <u>X</u> | ___ | Are the residential or business relocations for the project not significant?   |
| <u>X</u> | ___ | Is Section 4(f) not applicable to the project?   |
| <u>X</u> | ___ | Have properties protected under Section 106 which are taken, used or in close proximity to the project been identified and if applicable reviewed by SHPO, and has a determination of "No Effect" or "No Adverse Effect" been given? |
| <u>X</u> | ___ | Is the Contamination involvement not significant?  |
| <u>X</u> | ___ | The project does not require a public hearing or an opportunity for a public hearing?  |

**FINDING:**

This project has been evaluated, and has been determined to meet the conditions as set forth in the PD&E Manual, Part 1, Chapter 3; therefore:

This project is a Programmatic Categorical Exclusion per FHWA, FTA, and FDOT Agency Operating Agreement executed on January 15, 2003.

This project is a Type I Categorical Exclusion under (23 CFR 771.117(c)) effective November 27, 1987.

Package prepared by: Motasem Al-Turk, Ph.D., Assistant Director - Traffic Division

Agency Concurrence: Motasem Al-Turk

Date: 11/19/08

Name: Motasem Al-Turk

Rev. 4/15/08

Company: Palm Beach County Traffic Division

Address: 2300 North Jog Road, West Palm Beach, FL 33411

FDOT Concurrence: Barbara Handshaker  
District 4 LAP Administrator

Date: 12-10-08

FDOT Approval: Ann Broadwell  
District 4 Environmental Administrator

Date: 12-16-08



MEMORANDUM

Date: September 13, 2007

To: Project File

From: Motasem Al-Turk, Ph.D., P.E. *Motasem*  
Assistant Director - Traffic Division  
Palm Beach County

Copies: Central File/Reading File

Subject: LYONS ROAD 6' CONCRETE PATHWAY  
▪ From Melody Road to Brandy Lane – West Side  
From Rosemount Drive to the L-14 Canal – East Side  
Financial Management Number: 4231941, 4231951  
Federal Aid Project Number:  
County/Section: Palm Beach  
Limits: Palm Beach County

Department of Engineering  
and Public Works  
P.O. Box 21229  
West Palm Beach, FL 33416-1229  
(561) 684-4000  
www.pbcgov.com

■  
Palm Beach County  
Board of County  
Commissioners

Addie L. Greene, Chairperson

Jeff Koons, Vice Chair

Karen T. Marcus

Mary McCarty

Burt Aaronson

Jess R. Santamaria

County Administrator

Robert Weisman

The Class of Action for this project is a Programmatic Categorical Exclusion under 23 CFR 771.117 (c), Section 2-2.2.1, in Part 1, Chapter 2 of the PD&E Manual.

This project involves construction of:

A 2,000 LF, 6' concrete sidewalk on the west side of Lyons Road from Melody Road to Brandy Lane.

The pathway will give students on the west side of Lyons Road a direct route to Woodlands Middle School and/or Discovery Key Elementary School. Currently students have to follow the existing pathway into and out of the adjacent neighborhood to get to school due to this link missing.

- A 3,560 LF, 6' concrete sidewalk on the east side of Lyons Road from Rosemount Drive to the L-14 Canal.

This pathway will fill the gap on the east side of Lyons Road between Rosemount Drive and Woodlands Middle School and serve students who live in the adjacent neighborhood.

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LYONS ROAD 6' CONCRETE PATHWAY  
Financial Management Number: 4231941, 4231951  
September 13, 2007 – Page 2 of 5

**Local Traffic Patterns**

Temporary lane closures might take place on occasions depending on the need. However, a Motorist Awareness System will be used during these lane closures to minimize short-term impacts to local traffic patterns. There is no need for long-term improvements anticipated at any of the roadway sections

**Property Access and Right-Of-Way Acquisition**

No adverse effects to property access are expected as a result of the project. No right-of-way will be purchased for the proposed project.

**Planned Community Growth/Land Use Patterns**

This project is not expected to have any adverse impacts to planned community growth or planned land use patterns.

**Community Cohesiveness**

The project limits are wholly within Palm Beach County. This project is expected to have a neutral effect on traffic. All adverse affects, if any, will be temporary.

**Air Quality and Noise**

The project is located in an area which is designated attainment for all of the National Ambient Air Quality Standards under the criteria provided in the Clean Air Act. Therefore, the Clean Air Act conformity requirements do not apply to the project

No long-term noise impacts are expected as a result of the project, since it is not a capacity improvement. The scope of work does not involve construction of additional travel lanes, and no noise impacts are expected as per 23 CFR 772, a noise study is not required.

**Waterways**

There are no waterways within the project limits that would be affected due to the project. There will be no staging of materials and equipment near the waterways.

**Wetlands**

There are no wetlands within the project limits and there will not be any construction activity near those areas that shall require staging of materials and equipment.

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LYONS ROAD 6' CONCRETE PATHWAY  
Financial Management Number: 4231941, 4231951  
September 13, 2007 – Page 3 of 5

**Water Quality**

All activities associated with construction activities will be in compliance with the current NPDES requirements. Therefore, no impacts to water quality are anticipated from the proposed project activities.

**Floodplain Encroachment**

Floodplain encroachment is considered equivalent to a Category 5 or less involvement as defined in Chapter Three of the FDOT Drainage Manual and Chapter 24, Part II of the FDOT PD&E Manual.

**Endangered and Threatened Species, Other Wildlife, and their Critical Habitat**

The project area does not pass through any designated critical habitat. Therefore, no adverse impacts are likely to affect any endangered or threatened animal species, other wildlife, or their critical habitat.

**Essential Fish Habitat**

Due to the scope of work, no adverse impacts to any endangered or threatened animal species or the essential fish habitat are anticipated.

**Community Services**

No businesses or community services are located within the project areas. The affected area is collector street adjacent to a residential neighborhood and a middle school.

**Section 4(f) of the Department of Transportation Act**

There would be no adverse impacts to any of the parks from the proposed project activities.

**Section 106 of the National Historic Preservation Act**

There would be no adverse impact to any National or Local Historic Places due to this fiber-optic cable restoration project. There will not be any staging of material and equipment near any cultural historic or archeological resources in the area. There will be coordination with SHPO if needed.

**Excavation**

The scope of the project involves building pathway along an existing roadway. This activity will require limited excavation and grading work. However, there are no contamination sites within the project limits, based on the Florida Department of Environmental Protection's website information. Therefore, there shall be no potential for excavating contaminated sites.

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LYONS ROAD 6' CONCRETE PATHWAY  
Financial Management Number: 4231941, 4231951  
September 13, 2007 – Page 4 of 5

#### **Nesting Birds Habitat**

These projects involve construction of sidewalk along the side of an existing road. There is no mature vegetation on this site where birds could nest. However, there will be adequate care taken to watch for any nesting birds in the area and proper action will be taken.

There will be a note added to the Contract Documents under Special Provisions that, "the Contractor in coordination with Palm Beach County and ERM Project Manager, shall also be responsible for developing and carrying out any management plan(s)/agreement(s) with appropriate regulatory agencies due to the occurrence of unexpected species. Such species are any state or federally protected species identified during the pre-construction survey and to include those identified during the construction of the project that were not identified during the pre-construction survey. The management plan(s)/agreement(s) would allow for construction to occur that does not "adversely affect or jeopardize" the species. The contractor, in coordination with the Palm Beach County construction project and ERM Manager, shall also be responsible for making any modifications to the proposed management plan(s)/agreement(s) to assure listed species remain unaffected".

#### **State Historic Highway**

This project does not involve a State Historic Highway, as designated in the Laws of Florida. The scope of the project only involves surface scraping and regrading to install a sidewalk. There will be no staging of material or equipment near any cultural historic or archeological resources during the execution of this project.

#### **Contamination**

No contamination impacts are anticipated as a result of this project. In the event that construction operations encounter or expose any abnormal condition that may indicate the presence of a hazardous materials or toxic waste, the contractor is required to follow the 2004 edition of the FDOT Standard Specifications for Road and Bridge Construction (Section 8-4.9).

#### **Public Hearing**

No public hearing or opportunity for public hearing is required, in accordance with Part 1, Chapter 8 of the FDOT PD&E Manual.

#### **Controversy**

No controversial environmental issues exist regarding this project.

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LYONS ROAD 6' CONCRETE PATHWAY  
Financial Management Number: 4231941, 4231951  
September 13, 2007 – Page 5 of 5

**Trees**

No tree impacts are expected from this project. However, some tree branch trimming might be required at some locations.

**Right-Of-Way Acquisition**

All work to be performed in the construction of the pathway will be within the Palm Beach County road right-of-way. No additional right-of-way will be required.

**Permits**

A Lake Worth Drainage District (LWDD) permit will be obtained for drainage modifications. The scope of the work is to construct sidewalk in the Palm Beach County road right-of-way, which may involve piping some open drainage ditches that will drain into a LWDD canal.

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

FUND Transportation Improvement

BGRV 061009-690  
BGEX 061009-1848

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 06/10/09	REMAINING BALANCE
<b>REVENUES</b>								
<b>SIDEWALK - LYONS RD/MELODY RD-BRANDY LN</b>								
3500-361-1316-3149	Fed Grnt Other Transportation	0	0	586,571	0	586,571		
<b>TOTAL RECEIPTS &amp; BALANCES</b>		277,171,871	261,396,777	586,571	0	261,983,348		
<b>EXPENDITURES</b>								
<b>SIDEWALK - LYONS RD/MELODY RD-BRANDY LN</b>								
3500-361-1316-6551	Road & Street Improvements	0	0	586,571	0	586,571	0	586,571
<b>TOTAL APPROPRIATIONS &amp; EXPENDITURES</b>		277,171,871	261,396,777	586,571	0	261,983,348		

	<b>SIGNATURE</b>	<b>DATE</b>	<b>By Board of County Commissioners</b>
Engineering & Public Works	<u><i>atwillhite</i></u>	<u>06/10/09</u>	At Meeting of <u>06/16/09</u>
Administration / Budget Approval	_____	_____	_____
OFMB Department - Posted	_____	_____	Deputy Clerk to the Board of County Commissioners