

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: December 15, 2009

Consent
 Workshop

Regular
 Public Hearing

Department:

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

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: A Resolution approving Amendment Number Two to the County Incentive Grant Program (CIGP) Agreement R2007-0255 with the State of Florida Department of Transportation, in the amount of \$2,850,000 for Lyons Road from north of Atlantic Avenue to south of Boynton Beach Boulevard project.

SUMMARY: Approval of Amendment Number Two to the CIGP Agreement will grant Palm Beach County an extension to the contract. The original agreement expired on June 30, 2009. Approval of Amendment Number One extended the expiration date to December 31, 2009. Approval of Amendment Number Two will extend the expiration date to June 30, 2010.

District 5 (MRE)

Background and Justification: The CIGP is intended to provide grants to counties to improve transportation facilities which are either on the State Highway System or divert traffic from the State Highway System. The segment of Lyons Road from north of Atlantic Avenue to south of Boynton Beach Boulevard is the last link required for Lyons Road to become a continuous north/south corridor from Broward County to Lake Worth Road. This project will construct two lanes from north of Atlantic Avenue to south of Boynton Beach Boulevard. The extension is necessary to allow the County to finalize right-of-way acquisition before the reimbursement agreement expires.

Attachments:

1. Location Sketch
2. Amendment Two (7 originals)
3. Amendment One
4. CIGP Agreement
5. Resolution (7 originals)

Recommended by: *SK*

for [Signature]
Division Director

11/10/09 [Signature]
Date

Approved By:

[Signature]
County Engineer

11/17/09
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-

ADDITIONAL FTE POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes _____ No ____
 Budget Acct No.: Fund ___ Dept. ___ Unit ___ Object _____
 Program _____

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

This item has no fiscal impact. Grant time extension only.

C. Departmental Fiscal Review: A. White

III. REVIEW COMMENTS

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

The County will continue to be responsible for all cost above this grant.

 Jan. Ort 12/8/09
 12/11/09 OFMB 12/07/09
 12/1/09 CN 11/19/09

 Dr. J. Jacobson 12/19/09
 Contract Dev. and Control
 E. Jensen 12/9/09

This amendment complies with our review requirements.

B. Approved as to Form and Legal Sufficiency:

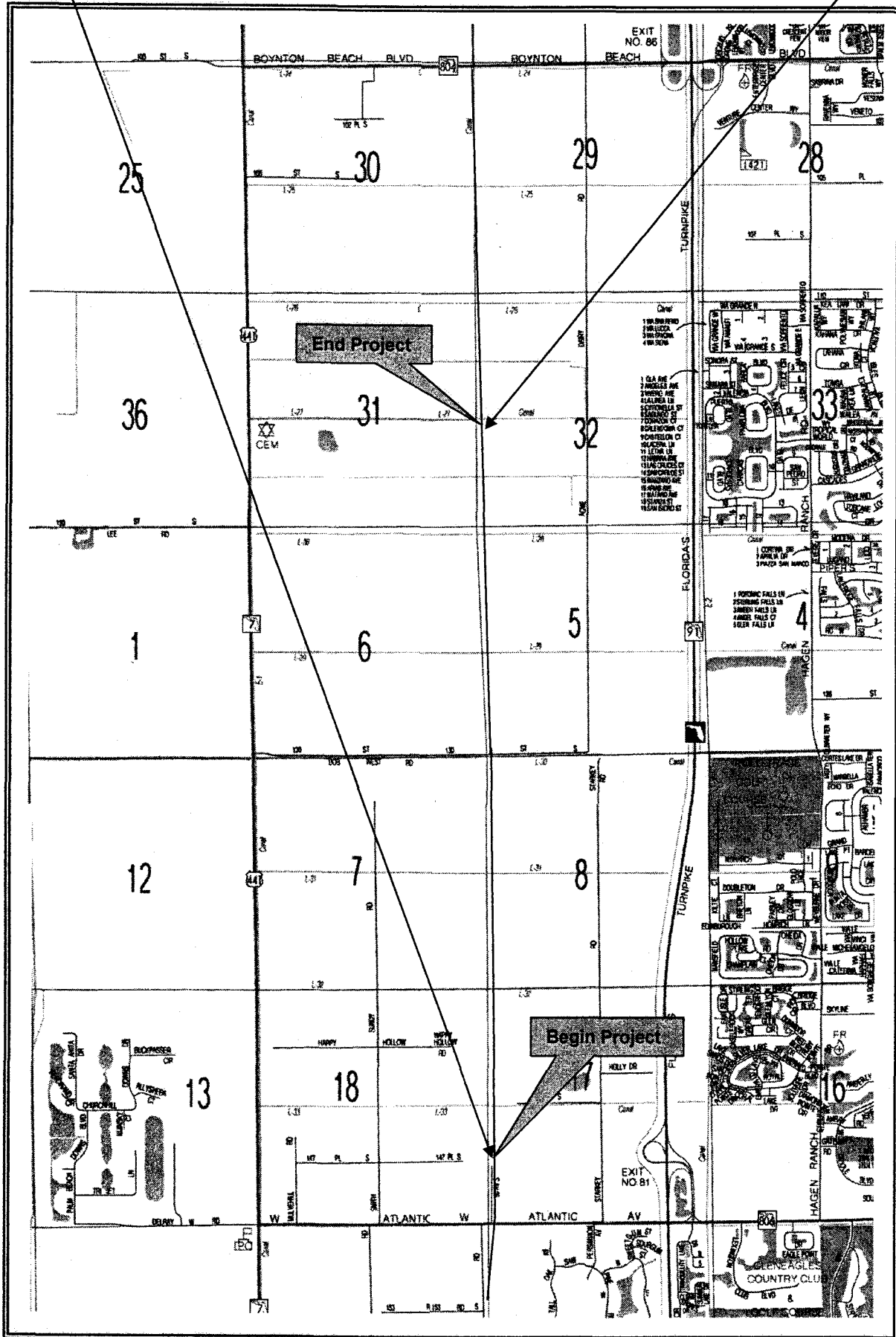
 Marianne R. White 12/10/09
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

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



LOCATION MAP

Contract No.: AOQ-41
FM No: 421786-1-38/48-01
Vendor No: VF 596-000-758

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
PALM BEACH COUNTY
COUNTY INCENTIVE GRANT PROGRAM AGREEMENT
AMENDMENT NUMBER TWO

THIS AMENDMENT, made and entered into this _____ day of _____, 2009, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the DEPARTMENT, and PALM BEACH COUNTY, located at 2300 North Jog Road, West Palm Beach, Florida 33411, hereinafter called the COUNTY.

WITNESSETH

WHEREAS, on March 20, 2007, the parties entered into a County Incentive Grant Program Agreement, hereinafter referred to as the AGREEMENT, wherein the COUNTY agreed to provide certain improvements in connection with Financial Management (FM) No. 421786-1-38/48-01 for the Design and Right of Way Acquisition of Lyons Road from South of SR804/Boynton Beach Blvd. to SR806/Atlantic Avenue in Palm Beach County, Florida, hereinafter referred to as the PROJECT; and

WHEREAS, the parties amended the AGREEMENT on June 4, 2009 (AMENDMENT NUMBER ONE); and

WHEREAS, the parties desire to further amend the Agreement; and

WHEREAS, the parties hereto mutually agree that this Amendment is in their best interest;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree to amend the County Incentive Grant Program Agreement dated March 20, 2007, and Amendment Number One dated June 4, 2009 as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.

2. Paragraph 2 of Amendment Number One is amended as follows:

Except as otherwise set forth herein, this AGREEMENT shall continue in effect and be binding to both the PARTICIPANT and the DEPARTMENT until the Project is completed as evidenced by the written acceptance of the DEPARTMENT or June 30, 2010, whichever occurs first.

All provisions, covenants, terms and conditions of the AGREEMENT between the parties theretofore entered into on March 20, 2007 and amended on June 4, 2009, as originally set forth therein, which are not hereby expressly amended or modified and not in conflict with the terms hereof, are hereby ratified and confirmed and shall remain the same and be unaffected by these presents.

IN WITNESS WHEREOF, this AMENDMENT to be executed by the parties below for the purposes specified herein. Authorization has been give to enter into and execute this Amendment by Resolution No. _____, hereto attached.

PALM BEACH COUNTY, Florida, A
Political Subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____
NAME: _____
TITLE: _____
_____ day of _____, 20__

BY: _____
GERRY O'REILLY, P.E.
DIRECTOR OF TRANSPORTATION DEVELOPMENT

ATTEST:
SHARON R. BOCK

LEGAL REVIEW:

CLERK & COMPTROLLER (SEAL)
CIRCUIT COURT

BY: _____
OFFICE OF THE GENERAL COUNSEL

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED:

BY: _____
COUNTY ATTORNEY

BY: _____
PROFESSIONAL SERVICES ADMINISTRATOR

APPROVED AS TO TERMS AND CONDITIONS:

MR
BY: *HBK* *Sharon R. Bock*

Contract No.: AOQ-41
FM No: 421786-1-38/48/01
Vendor No: VF 596-000-758

R 2009 0821 MAY 19 2009

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
PALM BEACH COUNTY
COUNTY INCENTIVE GRANT PROGRAM AGREEMENT
AMENDMENT NUMBER ONE

THIS AMENDMENT, made and entered into this 4th day of June, 2009, 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, 2300 North Jog Road, West Palm Beach, Florida 33411, hereinafter called the COUNTY.

WITNESSETH

WHEREAS, on March 20, 2007, the parties entered into a County Incentive Grant Program Agreement, hereinafter referred to as the AGREEMENT, wherein the COUNTY agreed to provide certain improvements in connection with the Design and Right of Way Acquisition of Lyons Road from South of SR-804/Boynton Beach Blvd. to SR-806/Atlantic Avenue in Palm Beach County, Florida for FM# 421786-1-38/48-01 hereinafter referred to as the Project; and

WHEREAS, the parties desire to amend the Agreement; and

WHEREAS, the parties hereto mutually agree that this Amendment is in their best interest;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree to amend the County Incentive Grant Program Agreement dated March 20, 2007, as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. Paragraph 2A, page 2 of 11 of the Agreement is amended as follows:
 - A. Except as otherwise set forth herein, this AGREEMENT shall continue in effect and be binding to both the PARTICIPANT and the DEPARTMENT until the Project is completed as evidenced by the written acceptance of the DEPARTMENT or December 31, 2009, whichever occurs first.

All provisions, covenants, terms and conditions of the AGREEMENT between the parties theretofore entered into of March 20, 2007, as originally set forth therein, which are not hereby expressly amended or modified and not in conflict with the terms hereof, are hereby ratified and confirmed and shall remain the same and be unaffected by these presents.

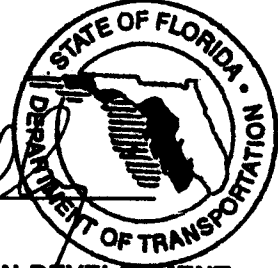
IN WITNESS WHEREOF, this AMENDMENT to be executed by the parties below for the purposes specified herein. Authorization has been give to enter into and execute this Amendment by Resolution No. _____, hereto attached.

**PALM BEACH COUNTY, Florida, A
Political Subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS**

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

BY: *John F. Koon*
NAME: John F. Koon, Chairman
TITLE: _____
_____ day of MAY 19 2009, 20

BY: *Gerry O'Reilly*
GERRY O'REILLY, P.E.
DIRECTOR OF TRANSPORTATION DEVELOPMENT



R 2009 0821

**ATTEST:
SHARON R. BOCK**

APPROVED: (AS TO FORM)

Sharon R. Bock
CLERK & COMPTROLLER (SEAL)
CIRCUIT COURT Deputy Clerk

BY: *[Signature]*
DISTRICT GENERAL COUNSEL

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

APPROVED:

BY: *Marlene Platt*
COUNTY ATTORNEY
ADMINISTRATOR

BY: *[Signature]*
PROFESSIONAL SERVICES

APPROVED AS TO TERMS AND CONDITIONS:

BY: *[Signature]*
Ornela A. Fernandez

R2007 0255

FEB 27 2007

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

COUNTY INCENTIVE GRANT PROGRAM AGREEMENT
(County Letting)

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

WITNESSETH

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

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

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

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

WHEREAS, the COUNTY by Resolution No. Board Meeting Minutes dated the 27th day of FEBRUARY, 2007, a copy of which is attached hereto and made a part hereof, has authorized the Chairman of its Board of Commissioners to enter into this Agreement.

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

1-SERVICES AND PERFORMANCE

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

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

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

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

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

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

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

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

2-TERM

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

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

3-COMPENSATION AND PAYMENT

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

The funding breakdown is as follows:

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

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

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

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

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

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

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

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

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

G. Travel costs will not be reimbursed.

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

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

J The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or

written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

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

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

4-INDEMNITY AND INSURANCE

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

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

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

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

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

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

5-COMPLIANCE WITH LAWS

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

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

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

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

6-AUDIT

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

B. MONITORING

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

C. FEDERAL AUDITS

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

ii) In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Exhibit "B" to this Agreement indicates Federal resources awarded through the Department by this agreement; if applicable. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the DEPARTMENT. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.

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

iv) If the recipient expends less than \$500,000 or more in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than \$500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).

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

D. STATE AUDITS

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

ii) In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services and the CFO; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "B" to this Agreement indicates state financial assistance awarded through the DEPARTMENT, to the PARTICIPANT, by this Agreement, if applicable. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the DEPARTMENT, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

iii) In connection with the audit requirements addressed in sub-paragraph i) the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

iv) If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

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

E. OTHER AUDIT REQUIREMENTS

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

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

F. REPORT SUBMISSION

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

a) The DEPARTMENT at each of the following addresses:

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

b) The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

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

c) Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

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

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

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

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

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

a) The DEPARTMENT at each of the following addresses:

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

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

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

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

a) The DEPARTMENT at each of the following addresses:

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

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

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

G. RECORD RETENTION

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

7-TERMINATION AND DEFAULT

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

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

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

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

8-MISCELLANEOUS

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

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

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

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

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

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

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

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

IN WITNESS WHEREOF, the COUNTY has caused this Agreement to be executed in its behalf this 27th day of FEBRUARY, 2007, by the Chairman of the Board of Commissioners, authorized to enter into and execute same by Resolution Number R2007-0255 of the Board on the 27th day of FEBRUARY 2007, and the DEPARTMENT has executed this Agreement through its District Secretary for District 4, Florida Department of Transportation, this 20th day of MARCH, 2007.

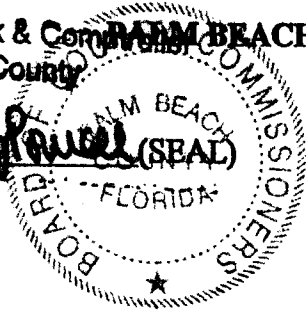
Sharon R. Bock, Clerk & Comptroller
Palm Beach County

PALM BEACH COUNTY, FLORIDA

R2007 0255

FEB 27 2007

ATTEST: [Signature]
Deputy CLERK



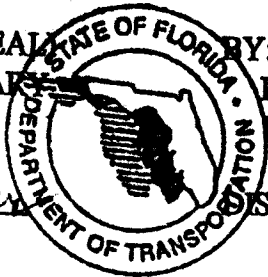
BY: [Signature]
CHAIRMAN, BOARD OF
COUNTY COMMISSIONERS
Addie L. Greene, Chairperson

[Signature]
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

[Signature]
APPROVED AS TO TERMS
AND CONDITIONS

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST: [Signature] (SEAL) EXECUTIVE SECRETARY
[Signature] DIRECTOR OF TRANSPORTATION
DEVELOPMENT



NAME: Maria Gutierrez DISTRICT Four

DOT Legal Review: As To Form

[Signature]

Availability of Funds Approval:

3-15-2007

Exhibit A
SCOPE OF SERVICES

FM 421786-1-38/48-01

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



The job F1989NDR; user I.D.
 F1989ND <MVS@DOT>
 03/15/2007 02:39 PM

To PF415LK@dot.state.fl.us
 cc
 bcc
 Subject FUNDS APPROVAL/REVIEWED FOR CONTRACT AOQ41

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
 FUNDS APPROVAL

Contract #AOQ41 Contract Type: AK Method of Procurement: G
 Vendor Name: PALM BEACH COUNT
 Vendor ID: VF596000785149
 Beginning date of this Agmt: 03/19/07
 Ending date of this Agmt: 06/30/09
 Contract Total/Budgetary Ceiling: ct = \$2,850,000.00

 Description:
 Design and Right of Way Acquisition for Lyons Road from South of SR-804/Boynton Beach Blvd to SR-806/Atlantic Ave

 ORG-CODE *EO *OBJECT *AMOUNT *FIN PROJECT *FCT *CFDA
 (FISCAL YEAR) *BUDGET ENTITY *CATEGORY/CAT YEAR
 AMENDMENT ID *SEQ. *USER ASSIGNED ID *ENC LINE(6S)/STATUS

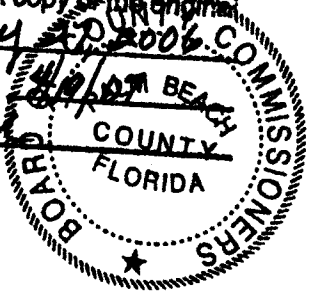
Action: ORIGINAL Funds have been: APPROVED
 55 043010404 *HC *750008 * 350000.00 *42178613801 *215 *
 2007 *55150200 *088572/07
 0001 *00 * *0001/04

Action: ORIGINAL Funds have been: APPROVED
 55 043010404 *HC *750008 * 2500000.00 *42178614801 *215 *
 2007 *55150200 *088572/07
 0001 *01 * *0002/04

TOTAL AMOUNT: *\$ 2,850,000.00 *

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER
 DATE: 03/15/2007

STATE OF FLORIDA, COUNTY OF PALM BEACH
 I, SHARON R. BOCK, Clerk and Comptroller
 certify this to be a true and correct copy of the original
 filed in my office on February 27, 2006
 dated at West Palm Beach, FL on 2/27/06
 By: Sharon Bock
 Deputy Clerk



RESOLUTION NO. R-2009-

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

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

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

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

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

(Intentionally Left Blank)

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

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

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

Karen T. Marcus	-
John F. Koons	-
Shelley Vana	-
Steven L. Abrams	-
Burt Aaronson	-
Jess R. Santamaria	-
Priscilla A. Taylor	-

The Chair 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

SHARON BOCK, CLERK AND
COMPTROLLER

By: _____

By: _____

Assistant County Attorney

Deputy Clerk

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Steven L. Abrams	-
Burt Aaronson	-
Jess R. Santamaria	-
Priscilla A. Taylor	-

The Chair 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

SHARON BOCK, CLERK AND
COMPTROLLER

By: _____

By: _____

Assistant County Attorney

Deputy Clerk