

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

Meeting Date: June 8, 2010

☒ 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:

- A) Adopt a Resolution approving a County Incentive Grant Program (CIGP) Agreement with the State of Florida Department of Transportation (FDOT), in the amount of \$7,295,000, for the new construction of Lyons Road from 900 feet north of SR-806/Atlantic Avenue to 1.5 miles south of SR-804/Boynton Beach Boulevard (Project); and
- B) Approve a Budget Amendment of \$7,295,000 in the Road Impact Fee Fund – Zone 5 to recognize a CIGP Agreement with FDOT and appropriate it to the Project.

**SUMMARY:** Approval of this CIGP Agreement will allow Palm Beach County (County) to receive a grant of up to \$7,295,000 (50/50 matching funds) for the Project whose current estimated construction cost is \$13,633,000. The County will be responsible for all costs above this grant amount+.

District 5 (MRE)

**Background and Justification:** The County Incentive Grant Program (CIGP) Agreement is intended to provide grants to counties to improve transportation facilities on the State Highway System or to relieve traffic on the State Highway System. The Project will construct two lanes within the project limits.

**Attachments:**

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

**Recommended by:** \_\_\_\_\_

Division Director

Date

**Approved By:** \_\_\_\_\_

County Engineer

Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	0	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	<\$7,295,000>	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	(7,295,000)>	-0-	-0-	-0-	-0-

### # ADDITIONAL FTE

POSITIONS (Cumulative) \_\_\_\_\_

Is Item Included in Current Budget? Yes \_\_\_\_\_

No x

Budget Account No:

Fund      Dept      Unit      Object  
Program/Period

### Recommended Sources of Funds/Summary of Fiscal Impact:

Road Impact Fee Fund - Zone 5

Lyons Rd/N of Atlantic Ave to S of Boynton Bch Blvd

State Grant Other Trans

Road and Street Improvements

C. Departmental Fiscal Review: Abdul White

## III. REVIEW COMMENTS

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

X Receiving grant funds for capital expenditures. Contract for work will be awarded at a later time.

Shirley S/25/10  
5/25/10 OFMB NYC 5-24-10 5/24/10  
JB

Mr. J. J. Jones 5/26/10  
Contract Dev. and Control  
E. Jones 5/26/10

### B. Approved as to Form and Legal Sufficiency:

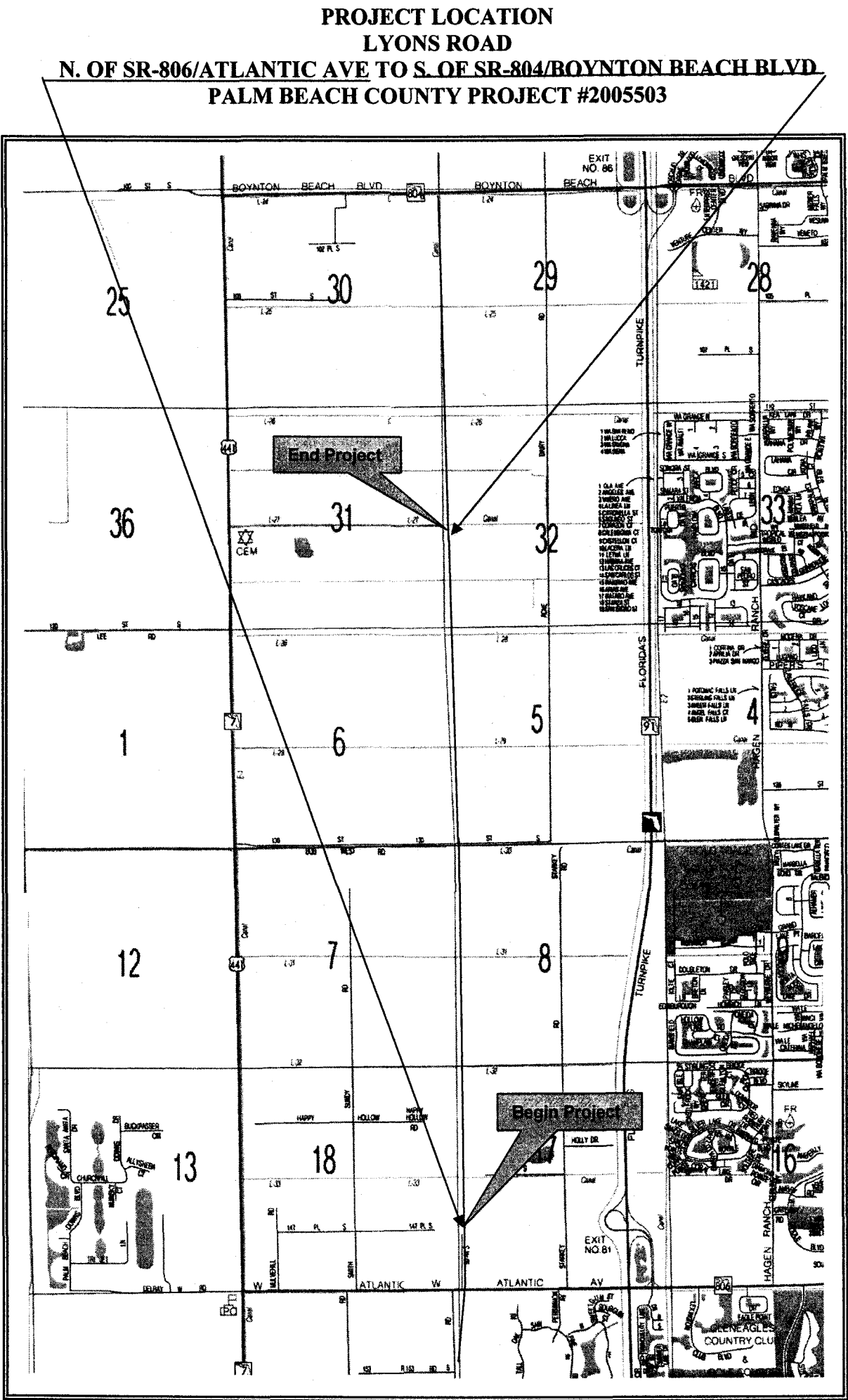
This Contract complies with our contract review requirements.

Veronica R. Pitt  
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

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



LOCATION MAP

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
COUNTY INCENTIVE GRANT PROGRAM AGREEMENT**

THIS County Incentive Grant Program Agreement (hereinafter referred to as "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. 421786-1-58-01 for Construction and Construction Engineering Inspection (CEI) Services along Lyons Road from SR-804/Boynton Beach Boulevard to SR-806/Atlantic Avenue, hereinafter referred to as the "Project," in accordance with Section 339.2817, Florida Statutes; and

WHEREAS, the COUNTY by Resolution No. \_\_\_\_\_ dated the \_\_\_\_\_ day of \_\_\_\_\_, 2010, 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. The recitals set forth above are true and correct and are deemed to be restated herein.

**2-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: Construction & CEI Services, as further described in Exhibit "A", Scope of Services, attached hereto and made a part hereof.

B. The COUNTY agrees to undertake the construction and CEI services of the PROJECT in accordance with all applicable federal, state and local statutes, rules, regulations and standards. The COUNTY shall be responsible for obtaining clearances/permits required for the construction and CEI services 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 written quarterly progress reports.

D. The DEPARTMENT must approve any consultant and/or contractor scope of services including Project budget in writing. The COUNTY shall obtain DEPARTMENT approval of plans specifications prior to bidding the Project.

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 (2010), as amended.

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

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

TO DEPARTMENT:	TO COUNTY:
Florida Department of Transportation	Palm Beach County- Dept. of Engineering & Public Works
3400 West Commercial Blvd.	Roadway Production Division
Fort Lauderdale, FL 33309-3421	2300 North Jog Road, 3 <sup>rd</sup> Floor West
Attn: Leos A. Kennedy, Jr.	West Palm Beach, FL 33411
With a copy to: Arleen Dano	Attn: Ms. Holly Knight, P.E.
With a second copy to: General Counsel	With a copy to: County Attorney

### 3-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, 2012, 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.

### 4-COMPENSATION AND PAYMENT

A. The parties agree that the estimated Project cost is FOURTEEN MILLION FIVE HUNDRED NINETY THOUSAND DOLLARS (\$14,590,000.00). The parties further agree that the DEPARTMENT'S maximum participation is SEVEN MILLION TWO HUNDRED NINETY FIVE THOUSAND DOLLARS (\$7,295,000.00) and all remaining costs of the Project will be borne by the COUNTY.

i) The COUNTY shall submit one invoice (3 copies) plus supporting documentation required by the DEPARTMENT to the Project Manager for approval and processing on a quarterly basis.

ii) In the event the COUNTY proceeds with the construction and CEI services 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 COUNTY must submit the final invoice to the DEPARTMENT within 180 days after the final acceptance of the Project. Invoices submitted after the 180 day time period will not be paid.

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. The COUNTY providing goods and services to the DEPARTMENT should be aware of the following time frames. Upon receipt, the DEPARTMENT has ten (10) working days to inspect and approve the goods and services. The DEPARTMENT has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

I. If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to *Section 55.03(1), F.S.*, will be due and payable, in addition to the invoice amount, to the COUNTY. Interest penalties of less than one (1) dollar will not be enforced unless the COUNTY requests payment. Invoices that have to be returned to the COUNTY because of COUNTY 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.

J. 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) 413-5516 or by calling the Department of Financial Services' Hotline at 1-877-693-5236.

K. 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.

L. 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.

M. 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 pursuant to Section 129.07, Florida Statutes.

N. 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.

## 5-INDEMNITY AND INSURANCE

A. With respect to any of the COUNTY'S agents, consultants, subconsultants, contractors, and/or sub-contractors, such party in any contract for this Project shall agree 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 such agents, consultants, subconsultants, contractors and/or subcontractors. The COUNTY shall provide to the DEPARTMENT written evidence of the foregoing upon the request of the DEPARTMENT. 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. 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. The COUNTY shall have the DEPARTMENT endorsed as additionally insured with regards to the general liability requirements. 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 (2010), as amended.

D. 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.

#### 6-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, agents, consultants, subconsultants, and/or 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.

#### 7-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) (I), 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 the following address:

Florida Department of Transportation  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

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 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.

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 10<sup>th</sup> 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  
Karen Maxon, District Single Audit Liaison

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 the following address:

Florida Department of Transportation  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

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 the following address:  
Florida Department of Transportation  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

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.

#### 8-TERMINATION AND DEFAULT

This Agreement may be canceled by either the COUNTY or the DEPARTMENT upon sixty (60) days written notice. In addition, the DEPARTMENT may terminate this Agreement in the event of the following:

A. 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.

B. 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 as 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 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.

#### 9-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 with respect to any judicial proceedings arising out of this Agreement shall be in Broward County, Florida.

G. 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.

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

work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

IN WITNESS WHEREOF, the COUNTY has caused this Agreement to be executed in its behalf this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the Chairman of the Board of Commissioners, authorized to enter into and execute same by Resolution Number \_\_\_\_\_ of the Board on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, and the DEPARTMENT has executed this Agreement through its District Secretary for District \_\_\_\_\_, Florida Department of Transportation, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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 \_\_\_\_\_, 2010

ATTEST: \_\_\_\_\_ (SEAL)  
EXECUTIVE SECRETARY  
  
NAME: \_\_\_\_\_

ATTEST:  
SHARON R. BOCK

BY: \_\_\_\_\_  
DIRECTOR OF TRANSPORTATION  
DEVELOPMENT  
  
DISTRICT \_\_\_\_\_

CLERK & COMPTROLLER (SEAL)  
CIRCUIT COURT

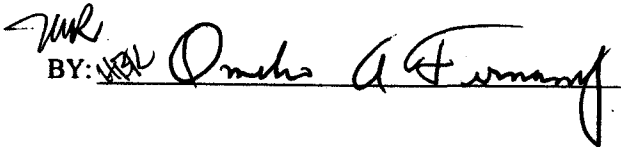
Availability of Funds Approval:  
  
\_\_\_\_\_  
(Date)

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

BY: \_\_\_\_\_  
COUNTY ATTORNEY

Legal Review:  
  
\_\_\_\_\_

APPROVED AS TO TERMS AND CONDITIONS:

BY:  \_\_\_\_\_

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

This Project under FM# 421786-1-58-01 consists of the COUNTY performing the Construction and Construction Engineering and Inspection (CEI) services for Lyons Road as a new two-lane undivided rural roadway from SR804/Boynton Beach Boulevard to SR-806/Atlantic Avenue.

The County shall perform services including, but not limited to the following:

1. Construction of a bridge at the L-30 Canal
2. Installation of culvert at the L-31 Canal
3. Installation of box culvert at all canal crossings
4. Drainage
5. Pavement Markings and Signings
6. Construction of swales and paths on either side of the roadway

**EXHIBIT "B"**  
**SINGLE AUDIT COMPLIANCE REQUIREMENTS**

**STATE RESOURCES:**

<u>State Agency</u>	<u>Catalog of State Financial Assistance (Number &amp; Title)</u>	<u>Amount</u>
DOT (Department of Transportation)	55.008    County Incentive Grant Program	\$7,295,000.00

**Compliance Requirements**

**Activities Allowed:**    The grants are to be used for improvements to transportation facilities which are located on the State Highway System or which relieve traffic congestion on the State Highway System, as provided by section 339.2817(1), Florida Statutes.

**Allowable Costs:**    See above

**Eligibility:**    To be considered eligible for funding, the Project must satisfy the following minimum requirements. It must:

- (A) Be a facility. CIGP funds cannot be used for operational expenses.
- (B) Be either located on the State Highway System or relieve traffic congestion on the State Highway System.
- (C) Be consistent to the maximum extent feasible with the Florida Transportation Plan (FTP).
- (D) Be consistent to the maximum extent feasible, where appropriate, with the local Metropolitan Planning Organization (MPO) Long Range Transportation Plan (LRTP).\*
- (E) Be consistent with, to the maximum extent feasible, with any local comprehensive plans.\*

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

**Matching:**    The Department shall provide 50 percent of the Project costs for eligible Projects.

In-kind services or right of way that comprise integral parts of the Project and contribute to its ultimate completion may be used as all or part of the local matching funds. The value for land donated is the current market value, as properly supported.

For in-kind services, a detailed report of the costs incurred as recorded in the cost accounting system must be provided to the District to substantiate the amount of in-kind services costs to be used as the county's share of participation.



**RESOLUTION NO. R-2010-**

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

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

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

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

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

(Intentionally Left Blank)

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

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

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

District 5	Burt Aaronson, Chair	-
District 1	Karen T. Marcus, Vice Chair	-
District 2	Jeff Koons	-
District 3	Shelley Vana	-
District 4	Steven L. Abrams	-
District 6	Jess R. Santamaria	-
District 7	Priscilla A. Taylor	-

The Chair thereupon declared the Resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

APPROVED AS TO FORM  
AND LEAGAL SUFFICIENCY  
COMMISSIONERS

PALM BEACH COUNTY, FLORIDA BY  
ITS BOARD OF COUNTY

SHARON BOCK, CLERK AND  
COMPTROLLER

By: \_\_\_\_\_  
Assistant County Attorney

By: \_\_\_\_\_  
Deputy Clerk

2010-\_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
PALM BEACH COUNTY  
BUDGET Amendment

FUND Road Impact Fee – Zone 5

BGRV 050310-343  
BGEX 050310-1277

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 05/03/10	REMAINING BALANCE
<b><u>REVENUES</u></b>								
<b><u>LYONS/W ATLANTIC-S OF BOYNTON BEACH</u></b>								
3505-361-1153-3449	State Grant Oth Transportation	<u>2,500,000</u>	<u>2,500,000</u>	<u>7,295,000</u>	<u>0</u>	<u>9,795,000</u>		
TOTAL RECEIPTS & BALANCES		37,874,065	36,560,561	7,295,000	0	43,855,561		
<b><u>EXPENDITURES</u></b>								
<b><u>LYONS/W ATLANTIC-S OF BOYNTON BEACH</u></b>								
3505-361-1153-6551	Road & Street Improvements	<u>0</u>	<u>0</u>	<u>7,295,000</u>	<u>0</u>	<u>7,295,000</u>	0	7,295,000
TOTAL APPROPRIATIONS & EXPENDITURES		37,874,065	36,560,561	7,295,000	0	43,855,561		

	SIGNATURE	DATE	By Board of County Commissioners At Meeting of <u>06/08/10</u>
Engineering & Public Works	<u><i>Amilhit</i></u>	<u>5/4/10</u>	
Administration / Budget Approval	_____	_____	_____
OFMB Department – Posted	_____	_____	Deputy Clerk to the Board of County Commissioners