

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: February 3, 2015	<input checked="" type="checkbox"/>	Consent	<input type="checkbox"/>	Regular
	<input type="checkbox"/>	Workshop	<input type="checkbox"/>	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 to approve a Highway Maintenance Memorandum of Agreement (Agreement) with the Florida Department of Transportation (FDOT) for construction of State Road No. 710 (Dr. Martin Luther King Jr. Blvd.) from west of Australian Avenue to Old Dixie Highway (Project).

SUMMARY: Approval of this Agreement will allow FDOT to construct the Project, which will reconstruct Dr. Martin Luther King Jr. Blvd. from a two lane roadway to a four lane divided roadway. Approval of this Agreement is required since the Project will modify two Palm Beach County roadways – Australian Avenue and Old Dixie Highway.

District 7 (MRE)

Background and Justification: Construction of the Project will modify two Palm Beach County (County) roadways intersecting the Project – Australian Avenue and Old Dixie Highway. The modifications have been determined to be acceptable. FDOT is utilizing Federal funding for the Project, which requires execution of this Agreement since the Project includes work within County road right-of-way.

Attachments:

1. Location Sketch
2. Agreement with Exhibits “A” and “B” (5)
3. Resolution (5)

Recommended by:

[Signature]
Division Director

1/21/15
Date

Approved By:

[Signature]
County Engineer

1/22/15
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
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	-0-	-0-	-0-	-0-	-0-
POSITIONS (CUMULATIVE)	-0-	-0-	-0-	-0-	-0-

Is Item Included in Current Budget? Yes No X

Budget Account No.:

Fund	Agency	Organization	Object	Amount
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B. Recommended Sources of Funds/Summary of Fiscal Impact:

*This item has no fiscal impact.
FDOT will utilize Federal funding for the project.

C. Departmental Fiscal Review: Approved


III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Administration Comments:


 Susan Neary 1/22/15
 OFMB ASD
 1/22


 Dr. J. Jacobson 1/26/15
 Contract Administration
 1-23-15 B Wheeler

B. Legal Sufficiency:

Legal Sufficiency:

1/22/15
Assistant County Attorney

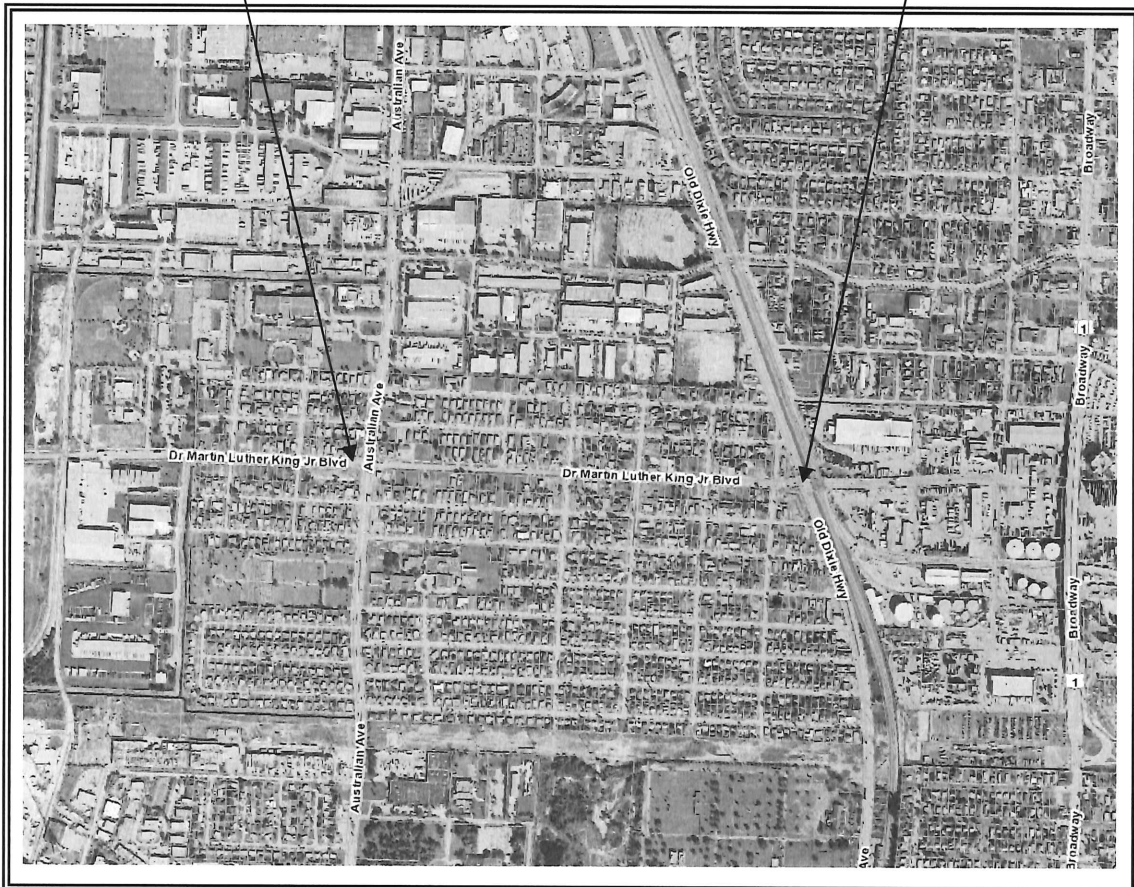
C. Other Department Review:

Department Director

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

LOCATION MAP

SR 710 – W OF AUSTRALIAN AVE. TO OLD DIXIE HWY.



SECTION No.: 93310
FM No.: 229896-1-52-01
AGENCY: Palm Beach County
C.R. No.: 811,
Australian Avenue

**DISTRICT FOUR
HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, 20__, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the **DEPARTMENT** and **PALM BEACH COUNTY**, a political subdivision of the State of Florida, or a municipal corporation existing under the Laws of Florida, hereinafter called the **AGENCY**.

WITNESSETH:

WHEREAS, the **AGENCY** has jurisdiction over **OLD DIXIE HIGHWAY**, as part of the Palm Beach County Roadway System from 4th Street to north of 10th Street and **AUSTRALIAN AVENUE**, as part of the Palm Beach County Roadway System from south of 7th Street to north of 9th Street

WHEREAS, pursuant to Sections 339.07, 339.08 and 339.12, Florida Statutes and Federal funding provisions the **DEPARTMENT** is authorized to undertake projects within the **AGENCY** geographical limits and the **AGENCY** is desirous of having this improvement constructed; and

WHEREAS, in accordance with Title 23, U.S. Code, Section 116 and Federal Highway Administration regulations issued pursuant thereto, there must be an agreement from the **AGENCY** to maintain the project; and

WHEREAS, pursuant to such authority, the **DEPARTMENT** is constructing certain improvements more particularly described as Financial Project ID 229896-1-52-01 on SR710 which involves widening from an existing 2-lane road to a 4-lane divided roadway. The **DEPARTMENT** and the **AGENCY** are desirous of having the **DEPARTMENT** construct certain additional improvements including the widening of Australian Avenue from 7th Street to 9th Street and widening of Old Dixie highway 5-lane road to 4-lane divided road. These additional improvements are hereinafter referred to as the "Project". The Project also includes: sidewalks on both sides of the road, Signing and Pavement Marking, Signalization, Lighting, utility relocation; as more particularly described in **Exhibit A**.

WHEREAS, upon acquisition of the necessary right-of-way, if needed, the **DEPARTMENT** will proceed to construct the Project; and

WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the **AGENCY** by Action/Resolution on the _____ day of _____, 20__, a copy of which is attached hereto and by this reference made a part hereof, desires to enter into this Agreement and authorizes its officers to do so;

NOW THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. The DEPARTMENT has undertaken and obtained the approval of Federal participation for the Project, as more particularly described in **Exhibit A**.
2. The AGENCY shall allow the DEPARTMENT and its contractors to enter onto the existing AGENCY property, including easements on property acquired by the DEPARTMENT, to construct this Project. No further permit or agreement shall be required to construct this project.
3. The AGENCY shall continue to maintain the existing roadway and any property owned by AGENCY until the DEPARTMENT begins construction of the Project.
4. It is understood and agreed by the parties that upon "final acceptance" by the DEPARTMENT of the Project, (as that term is described in the Standard Specifications for Roadway and Bridge Construction dated 2014, as amended by contract documents), and Notice thereof to the AGENCY, the AGENCY shall be responsible for maintenance of said Project, at its own cost, in accordance with the following Federally and State accepted standards and all costs related thereto: (a) FDOT Plans Preparation Manual (PPM), current edition, (b) Florida Green Book dated 2011, as amended (c) Governing standards and specifications: FDOT Design Standards dated 2014, as amended (d) Standard Specifications for Roadway and Bridge Construction dated 2014, as amended by contract documents, and (e) Manual on Uniform Traffic Control Devices (MUTCD), current edition, or as amended. Maintenance of said Project includes, but is not limited to, roadway pavement, concrete curb and gutter, concrete sidewalks, drainage structures and pipes, Signing and Pavement Marking, Traffic Signals and Roadway Lighting.. This provision, however, shall not preclude the AGENCY from entering into agreements with other entities for maintenance of Roadway Lighting installed with the Project. Additionally, upon final acceptance the DEPARTMENT shall convey all acquired property interests to the AGENCY along Old Dixie Highway and Australian Avenue provided that the DEPARTMENT may retain non-roadway areas as it deems necessary. Additionally where Old Dixie Highway intersects with State Road 710 and where Australian Avenue intersects with State Road 710, the DEPARTMENT shall retain the portion related to State Road 710 as deemed necessary by the DEPARTMENT. The Department shall give the AGENCY ten (10) days notice before final acceptance.
 - Said conveyance shall include, and the AGENCY fully accepts, a transfer and assignment of all rights and obligations pursuant to any maintenance, utility agreement, subordinations and/or other agreements, or matters of record relating to the property to be conveyed and the AGENCY shall assume all responsibilities and liabilities arising from any obligations thereunder which responsibilities, liabilities, obligations as set forth in the conveyance documents shall run with the land. This provision shall survive the termination of this Agreement. The Department's parcel acquisition files will be provided to the Agency for review upon request.

- Notwithstanding any other provision herein to the contrary, the Department shall not be responsible for any costs or attorney fees arising out of any liabilities or obligations incurred regarding the right of way after the transfer of property.
 - The AGENCY grants herein to the DEPARTMENT all rights necessary to enter and construct the Project.
5. The AGENCY shall execute "Local Government Right of Way Certification Statement", attached as **Exhibit B**, indicating that the PROJECT can be completed within the public right of way, and/or that no additional right of way is required.
 6. Warranties: The DEPARTMENT shall transfer any applicable warranties to the AGENCY.
 7. Environmental permitting: If requested by the DEPARTMENT, the AGENCY shall sign as a joint applicant and be responsible for the permits related to the Project. Further the AGENCY shall be in compliance with all permits after the construction is complete and the right of way is transferred to the AGENCY. To the extent permitted by law, the AGENCY shall indemnify the DEPARTMENT for any violations by the AGENCY of any permits issued to the Department or jointly to the AGENCY and the DEPARTMENT after construction is complete. The AGENCY shall execute all documentation required by the permitting agencies in a timely manner to accept transfer of the Project. For various occupancy permits the AGENCY shall be the applicant.
 8. Utilities: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to accomplish utility relocations for this Project. This shall include, but not be limited to, entering into utility subordination agreements with the affected utility owners, thereby assuming liability for future utility relocations within the AGENCY right of way and proposed right of way. This shall also include having the AGENCY require the Utility to relocate or adjust if the utility is there by permit, as necessary.
 9. Signals: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to affect signal and interconnect connections for the Project.
 10. Drainage: (see **Exhibit A**)
 11. Unforeseen issues: If unforeseen issues shall arise, the AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, in order to construct the Project including but not limited to executing documents, allowing the DEPARTMENT or its contractor to enter into any real property owned, possessed and controlled by the AGENCY or any other Occupancy right the AGENCY may have.
 12. E-verify requirements: The AGENCY:

- shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the AGENCY during the term of the contract; and
 - shall expressly require any contractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor during the contract term.
13. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings as represented in the Proposed Construction plans. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.
14. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.
15. Indemnification: The DEPARTMENT shall include the following paragraph as part of Section 7-12.1 of the Standard Specifications for Road and Bridge Construction (2015), as amended, applicable to the project:
- The Contractor shall indemnify, and hold harmless, the AGENCY, its officers and employees from liabilities, damages, losses and costs, including but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Contractor and persons employed or utilized by the Contractor in the performance of the construction Contract.
16. Additional Insured: The DEPARTMENT shall include the following paragraph as part of Section 7-13.2 of the Standard Specifications for Road and Bridge Construction (2015), as amended, applicable to the project:
- Cause the AGENCY to be an additional insured party on the Contractor's Commercial General Liability Insurance policies that insure the Contractor for the described work that it performs under the Contract.
17. LIST OF EXHIBITS
- **Exhibit A:** Project Improvements and Scope
 - **Exhibit B:** Local Government Right-Of-Way Certification Statement

[This space intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year provided below.

AGENCY

ATTEST:

PALM BEACH COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

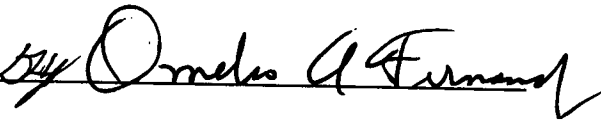
By: _____
Mayor

_____ day of _____, 20____

Approved as to form and legal sufficiency:

By: _____
County Attorney

Approved as to terms and conditions:

By:  _____

DEPARTMENT

ATTEST:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Executive Secretary
(SEAL)

By: _____
Transportation Development Director

_____ day of _____, 20____

Approval :

Office of the General Counsel (Date)

SECTION No.: 93310
FM No.: 229896-1-52-01
AGENCY: Palm Beach County
C.R. No.: 811,
Australian Avenue

EXHIBIT A

PROJECT SCOPE

All of the improvements are to be completed by DEPARTMENT within the AGENCY's existing OLD DIXIE HIGHWAY (from 4th Street to north of 10th Street) and AUSTRALIAN AVENUE (from south of 7th Street to north of 9th Street) right-of-way and/or all acquired property interests to be acquired by the DEPARTMENT for AGENCY.

Typical Section

This project includes widening and milling and resurfacing of Old Dixie Highway from South of 5th Street to North of 10th Street and Australian Avenue from south of 7th Street to 9th Street. Within the project limits, Old Dixie Highway is proposed to be four-12' lane divided urban roadway, 4' bike lanes, and concrete sidewalks on both side of the road. Within the project limits Australian Avenue is proposed to be a four-11' lane divided urban roadway with sidewalks on both sides of the road.

Signing and Pavement Markings

Upgraded pavement markings and new signs.

Signalization

Replacement of existing span wire signals at Australian Avenue and Old Dixie Highway with mast arms and a new signal at Ave J with mast arms. Interconnect included.

Drainage

Existing drainage system to be analyzed and new detention areas identified per required permits and additional impervious areas. Existing outfall to Intracoastal to be utilized.

Permits

The FDOT will acquire in the AGENCY's name.

Lighting

Standard aluminum lighting as per FDOT design standards will be provided. Along Old Dixie Highway, 50' mounting height poles on the west side of the road will be provided. To avoid conflicts with existing utilities, no light poles are being proposed on the east side of the road, with exception of one pole proposed on the NE corner of the intersection of SR 710 and Old Dixie Highway.

LOCAL GOVERNMENT RIGHT-OF-WAY CERTIFICATION STATEMENT

No Additional Right of Way Required

LOCAL AGENCY: Palm Beach County STATE ROAD: N/A
R/W ITEM/SEGMENT NO.: N/A DESCRIPTION: Old Dixie Highway from 4th Street to north of 10th Street
Australian Avenue from 7th Street to north of 9th Street
CONST. ITEM SEGMENT NO.: N/A
F.A.P. NO.: N/A LETTING DATE: 07/29/2014

I, the signature below certify and represent that 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 – may be 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 that is a permanent part of the transportation facility or that 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, 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 the local government executing this statement for the purpose of restoration and harmonization. There are no encroachments within existing right of way that impact the construction project.

Local Agency: Palm Beach County

* SIGNATURE

DATE

PRINTED NAME

TITLE

***NOTE:** (Must be authorized employee of the local agency)

RESOLUTION NO. R-2015-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA; AUTHORIZING THE MAYOR TO EXECUTE THE HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION CONCERNING THE STATE ROAD NO. 710 FROM WEST OF AUSTRALIAN AVENUE TO OLD DIXIE HIGHWAY PROJECT.

WHEREAS, the Florida Department of Transportation (FDOT) intends to construct improvements to State Road No. 710 (Dr. Martin Luther King Jr. Blvd.) from west of Australian Avenue to Old Dixie Highway; and

WHEREAS, the FDOT has requested that Palm Beach County (County) enter into a Highway Maintenance Memorandum Of Agreement (Agreement) outlining the responsibilities of each party with respect to the construction of State Road No. 710 (Dr. Martin Luther King Jr. Blvd.) from west of Australian Avenue to Old Dixie Highway; and

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

(Intentionally Left Blank)

NOW, THEREFORE be it resolved by the Board of County Commissioners of Palm Beach County, Florida, that the Mayor is hereby authorized to execute the 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:

Commissioner Shelley Vana, Mayor	-
Commissioner Mary Lou Berger, Vice Mayor	-
Commissioner Hal R. Valeche	-
Commissioner Paulette Burdick	-
Commissioner Steven L. Abrams	-
Commissioner Melissa McKinlay	-
Commissioner Priscilla A. Taylor	-

The Mayor thereupon declared the Resolution duly passed and adopted this _____ day of _____ 2015.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY
ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK, CLERK AND
COMPTROLLER

By: _____

Assistant County Attorney

By: _____

Deputy Clerk