

REVISED

Agenda Item #: 3-C-11

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: January 26, 2016 [x] **Consent** [] **Regular**

 [] **Workshop** [] **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 to approve a highway maintenance memorandum of agreement (Agreement) with the Florida Department of Transportation (FDOT) for the reconstruction of Lyons Road from Norte Lago to Pine Springs Drive (Project); and
- B) approve the memorandum of agreement for the reconstruction of Lyons Road from Norte Lago to Pine Springs Drive.

SUMMARY: Approval of this Agreement will allow FDOT to construct the Project, which will reconstruct Lyons Road to provide safety improvements via the provision of adequate superelevation on the roadway curves and drainage improvements. Approval of this Agreement is required since the Project will modify a Palm Beach County roadway. Construction will be entirely funded by FDOT and the estimated cost is \$3,500,000.

District 5 (MRE)

Background and Justification: Construction of the Project will modify a Palm Beach County (County) roadway. The modifications have been determined to be acceptable. FDOT requires execution of this Agreement to provide authority for FDOT to construct improvements in County road right-of-way and for the County to commit to maintain the roadway after completion of the Project.

Attachments:

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

Recommended by: By [Signature] Division Director Date: _____

Approved By:

S. T. Webb
County Engineer

Date _____

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
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 ☐

Budget Account No.:

Fund Agency Organization Object Amount

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:

[Signature] 11/2/16 [Signature] 11/15/16
OFMB Contract Administration
Booth 11-14-16

B. Legal Sufficiency:

[Signature] 1/24
Assistant County Attorney

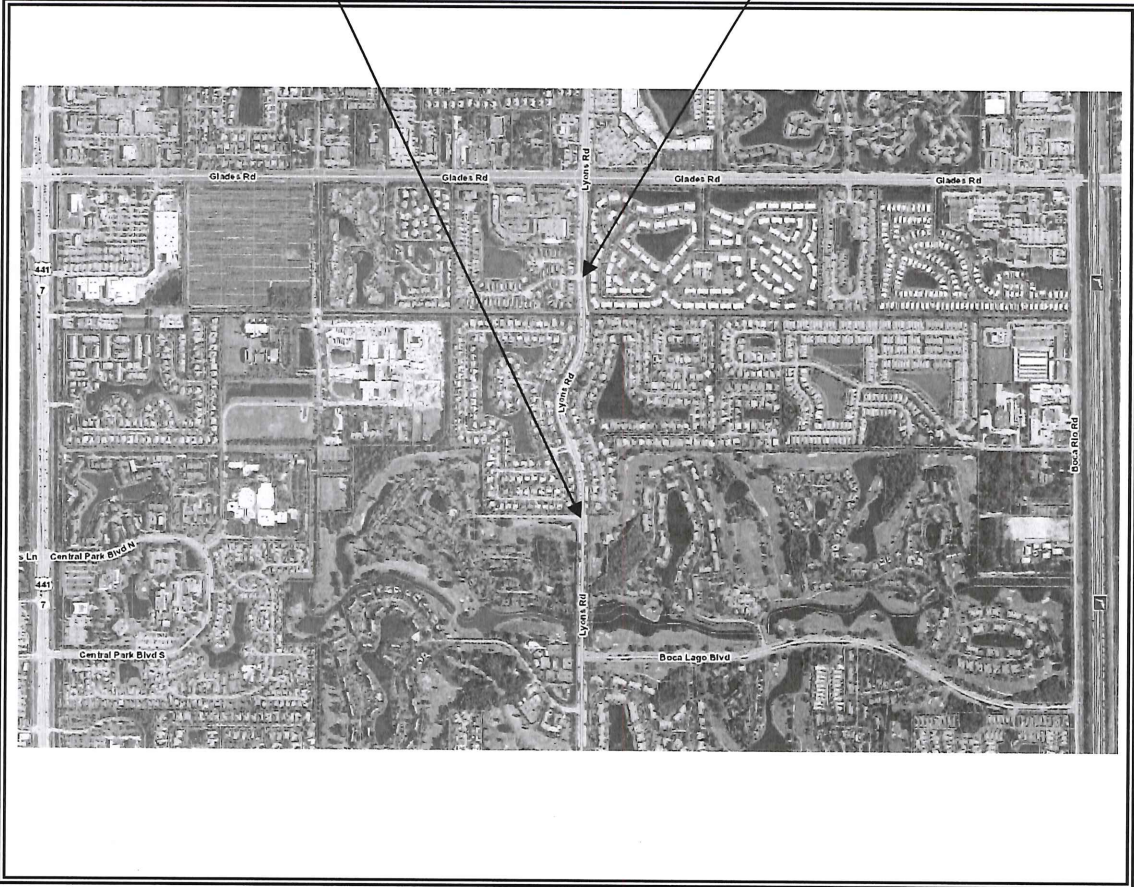
C. Other Department Review:

Department Director

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

LOCATION MAP

LYONS ROAD – NORTE LAGO TO PINE SPRINGS DRIVE



SECTION No.: 93832-000
FM No.: 435101-1-52-01
AGENCY: Palm Beach County
C.R. No.: N/A

**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 Lyons Road, as part of the Palm Beach County Roadway System from Norte Lago to Pine Springs Drive; and

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** and the **AGENCY** are desirous of having the **DEPARTMENT** construct certain improvements more particularly described as Financial Project ID 435101-1-52-01, which involves roadway reconstruction; hereinafter referred to as the "Project", 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 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 2015, 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 2015, as amended (d) Standard Specifications for Roadway and Bridge Construction dated 2015, 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 widening, sidewalk, and drainage. The Department shall give the AGENCY ten (10) days notice before final acceptance.
 - 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: The proposed roadway drainage system will seek to maintain existing drainage patterns.
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 Final 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. Indemnification: The DEPARTMENT shall include the following paragraph as part of Section 7-12.1 of the Standard Specifications for Road and Bridge Construction, Division 1, General Requirements and Covenants, (January 2017), as amended, applicable to this Project:
 - The Contractor shall indemnify and hold harmless the Department and Palm Beach County, their 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 misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the construction Contract.
 - It is specifically agreed between the parties executing this Contract that it is not intended by any of the provisions of any part of the Contract to create in the public or any member thereof, a third party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract..

15. 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, Division 1, General Requirements and Covenants (January 2017), as amended, applicable to this Project:

- Carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Contract. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. Cause the Department and Palm Beach County to be made Additional Insureds as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department and Palm Beach County as an Additional Insureds shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Contract, and may not be shared with or diminished by claims unrelated to the contract. The policy/ies and coverage described herein may be subject to a deductible. Pay all deductibles as required by the policy. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention. Prior to the execution of the Contract, and at all renewal periods which occur prior to final acceptance of the work, the Department and Palm Beach County shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department and Palm Beach County shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

16. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

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: _____
Mary Lou Berger, 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.: 93832-000
FM No.: 435101-1-52-01
AGENCY: Palm Beach County
C.R. No.: N/A

EXHIBIT A

PROJECT SCOPE

A safety project to reconstruct the roadway to provide adequate superelevation to the curves, add paved shoulders, add 6-foot sidewalk on the west side, and improve the drainage deficiency in the project corridor. All of the improvements are to be completed by DEPARTMENT within the AGENCY's existing 108-foot right-of-way.

Typical Section

- Reconstruct a four-lane divided urban arterial section with 11-foot travel lanes, a 15.5' wide raised median, a 6-foot shoulder with Type F curb and gutter on the outside, and a 6-foot sidewalk on the west side within the existing 108-foot R/W.

Signing and Pavement Markings

- Existing signs to be replaced and upgraded to conform to the current Design Standards. Pavement markings to be replaced due to reconstruction of the roadway. The speed feedback signs installed for temporary safety improvements will be removed.

Drainage

Maintain existing drainage patterns and improve localize drainage features. Inlets will be placed at low points and connected to existing storm sewer systems. The existing L-46 Canal is proposed to be impacted with the extension of the existing 48-inch culvert.

Permits

- The FDOT will acquire in the AGENCY's name.

Other

- Add crosswalks and curb ramps as needed for compliance with ADA standards.

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: Lyons Road from Norte Lago to Pine Springs Drive
CONST. ITEM SEGMENT NO.: 93832-000
F.A.P. NO.: 9048-150-C LETTING DATE: 3/29/2017

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-2016-

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 LYONS ROAD FROM NORTE LAGO TO PINE SPRINGS DRIVE PROJECT.

WHEREAS, the Florida Department of Transportation (FDOT) intends to construct improvements to Lyons Road from Norte Lago to Pine Springs Drive; 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 Lyons Road from Norte Lago to Pine Springs Drive; 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 Mary Lou Berger, Mayor	-
Commissioner, Hal R. Valeche, Vice Mayor	-
Commissioner Paulette Burdick	-
Commissioner Shelley Vana	-
Commissioner Steven L. Abrams	-
Commissioner Melissa McKinlay	-
Commissioner Priscilla A. Taylor	-

The Mayor thereupon declared the Resolution duly passed and adopted this _____ day of _____ 2016.

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