

Meeting Date: September 12, 2017      ☒ Consent      ☐ Regular  
    ☐ Workshop      ☐ Public Hearing


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

**Motion and Title:** Staff recommends motion to: adopt a Resolution approving a highway maintenance memorandum of agreement (HMMOA) with the Florida Department of Transportation (FDOT) for the construction of a shared use pathway along Palmetto Park Road from US 441 (SR 7) to NW 4<sup>th</sup> Avenue (Project).

**SUMMARY:** Adoption of this Resolution to approve the HMMOA will allow FDOT to construct the project, which will provide a predominantly 10-foot wide shared use pathway (8-foot wide at some locations). The HMMOA is required since the project is located within a Palm Beach County (County) road right-of-way. Construction will be entirely funded by FDOT at an estimated cost of \$3,900,000. Districts 4 and 5 (LBH)

**Background and Justification:** Construction of the project will impact County road right-of-way by the construction of an asphalt pathway and associated improvements such as gravity wall, ditch bottom inlets, pipe culvert, curb and gutter, and signing. The Engineering Department has determined that the modifications are acceptable. FDOT requires execution of the HMMOA to provide authority for FDOT to construct improvements in County road right-of-way and for the County to commit to maintain the improvements after completion of the project.

1. Location Map
2. Resolution (5)
3. Agreement with Exhibit "A" (5)

Recommended by:  Department Director 7/11/17 Date

Approved By:  8/21/17  
Assistant County Administrator Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2017	2018	2019	2020	2021
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-
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget?    Yes    No

Budget Acct No.: Fund\_\_ Dept.\_\_ Unit\_\_ Object  
Program

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

\*\* This item has no immediate fiscal impact. FDOT has obtained Federal funding for the project. Once the construction contract is awarded an estimate for project contingency will be made and funded from the Transportation Improvement Fund. Maintenance funding in future years will be subject to subsequent budget approval. This agreement does not have a required match.

C. Departmental Fiscal Review: *Alicia Kovalainen*

## III. REVIEW COMMENTS

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

*[Signature]* 8/15/17  
OFMB 8/15

*[Signature]* 8/17/17  
Contract Dev. and Control

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

*[Signature]*  
Assistant County Attorney

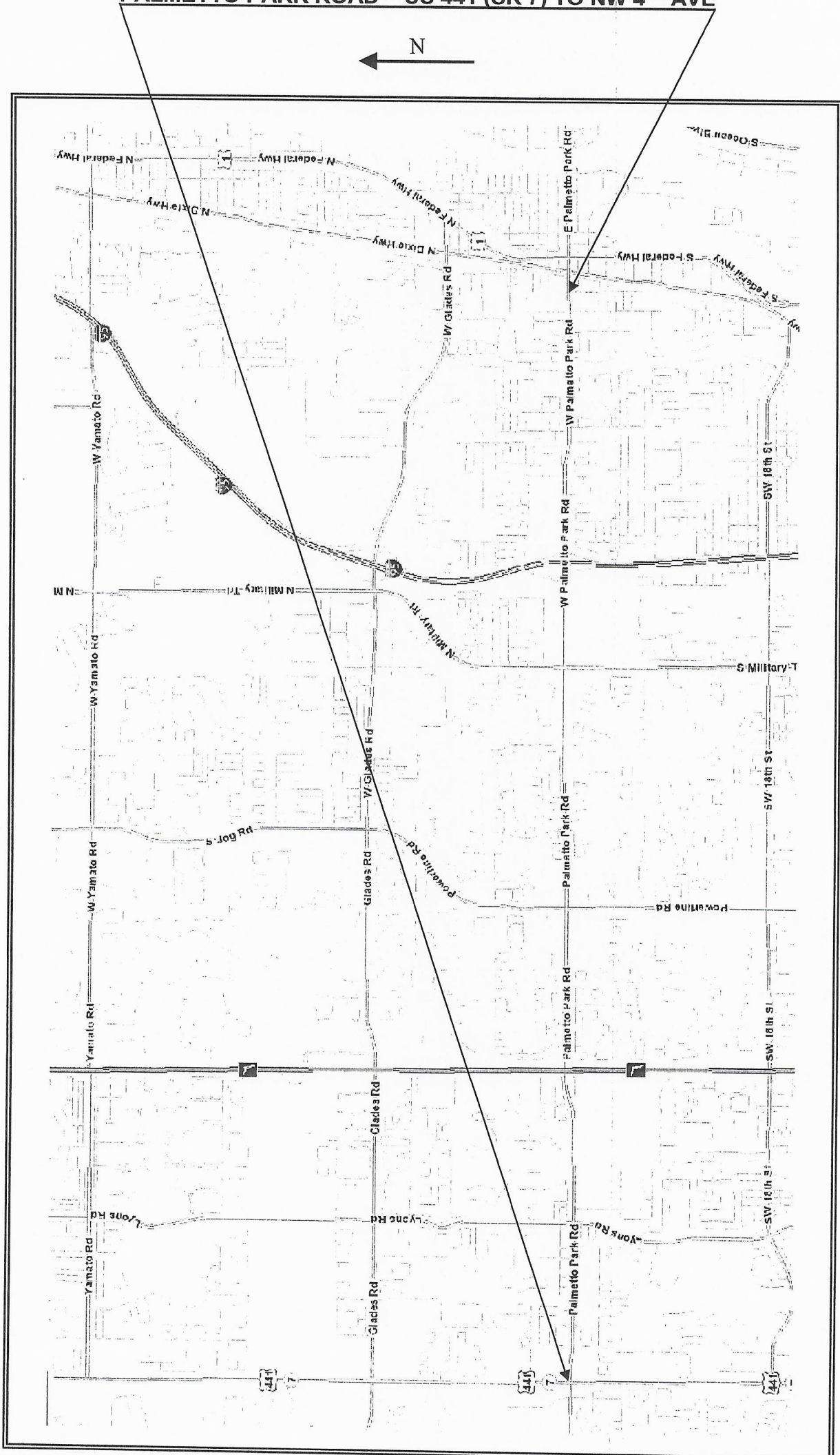
### C. Other Department Review:

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

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



**PALMETTO PARK ROAD – US 441 (SR 7) TO NW 4<sup>TH</sup> AVE**



### LOCATION MAP

**RESOLUTION NO. R-2017-**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, APPROVING A HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION OF A SHARED USE PATHWAY ALONG PALMETTO PARK ROAD FROM US 441 (SR 7) TO NW 4<sup>TH</sup> AVENUE.**

**WHEREAS**, the Florida Department of Transportation (FDOT) intends to construct a shared use pathway along Palmetto Park Road from US 441 (SR 7) to NW 4<sup>th</sup> Avenue (Project); and

**WHEREAS**, the FDOT has requested that Palm Beach County (County) enter into a Highway Maintenance Memorandum Of Agreement (HMMOA) outlining the responsibilities of each party with respect to the construction of the Project; and

**WHEREAS**, the Board of County Commissioners has determined execution of the HMMOA 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 HMMOA.

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 Paulette Burdick, Mayor	-
Commissioner, Melissa McKinlay, Vice Mayor	-
Commissioner Hal R. Valeche	-
Commissioner Dave Kerner	-
Commissioner Steven L. Abrams	-
Commissioner Mary Lou Berger	-
Commissioner Mack Bernard	-

The Mayor thereupon declared the Resolution duly passed and adopted this \_\_\_\_ day of \_\_\_\_\_ 2017.

PALM BEACH COUNTY, FLORIDA BY  
ITS BOARD OF COUNTY  
COMMISSIONERS

APPROVED AS TO FORM  
LEGAL SUFFICIENCY

SHARON R. BOCK, CLERK AND AND  
COMPTROLLER

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

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



SECTION No.: 93210000  
FM No.: 435160-1-52-01  
AGENCY: Palm Beach County  
C.R. No.: 798

**DISTRICT FOUR  
HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, 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, hereinafter called the AGENCY.

**WITNESSETH:**

**WHEREAS**, the AGENCY has jurisdiction over Palmetto Park Road, as part of the Palm Beach County Roadway System from US 441 (SR 7) to NW 4th Avenue (Boca Raton Blvd.); 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**, the DEPARTMENT may not spend state funds for Off-system projects; 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 435160-1, which involves constructing a shared use path; hereinafter referred to as the "Project", as more particularly described in **Exhibit A**.

**WHEREAS**, 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 \_\_\_\_\_, 2017, 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**. The AGENCY is responsible for additional Project costs determined to be Federal Aid Non-Participating. The AGENCY shall establish a contingency account for Federal Aid non-participating items, no later than the date construction activities are to commence. The DEPARTMENT shall notify the AGENCY as soon as the DEPARTMENT is made aware that an item will be Federal Aid Non-Participating. The AGENCY shall have the opportunity from the DEPARTMENT'S notice to review the Federal Aid Non-Participating scope and costs items before granting its approval. However, failure of the AGENCY to grant its approval shall not relieve the AGENCY from its obligation to pay for Federal Aid Non-Participating items. In the event the Project is delayed due to the Agency's delay in approving or not approving to pay for Federal Aid non-participating items, any and all delay costs shall be the responsibility of the Agency and shall be paid to the Department upon demand.
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. The AGENCY shall continue to be responsible for Mowing and Litter Removal during the duration 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 2017, 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 2016, as amended (c) Governing standards and specifications: FDOT Design Standards dated 2017, as amended (d) Standard Specifications for Roadway and Bridge Construction dated 2017, 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, vegetation management, repair of slopes/erosion, removal of graffiti, gravity walls, railings, guardrail, signing, pavement markings, pedestrian/bicycle signals, lighting, and all other features of the Multi-Use Trail Project. Pavement surfaces must be free from residue accumulation, algae, vegetation, and other slip or trip hazards. The AGENCY shall trim, mow, sweep edge and provide weed control along the Multi-Use Trail Project corridor from US 441 (SR 7) to NW 4<sup>th</sup> Avenue. Trash and debris shall be removed within the Multi-Use Trail Project corridor; trash and debris removal shall be conducted prior to the AGENCY's standard mowing cycle. The AGENCY shall ensure the safety of the Public by repairing slope erosion and maintaining signs, sign poles, striping, pavement symbols, traffic markings, detectable warning surfaces, crosswalks, delineators, walls, railings, barriers, guardrail, lighting, pedestrian/bicycle signals and any other



safety features within the Multi-Use Trail Project corridor in accordance with Department standards. The AGENCY shall maintain and repair the Multi-Use Trail Project at its sole cost and expense, in a good and workmanlike manner, and with a reasonable care. 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. Warranties: The DEPARTMENT shall transfer any applicable warranties to the AGENCY.
  6. 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. 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.
  7. 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 if there by permit, as necessary.
    - a. AGENCY'S UTILITIES: The AGENCY shall be responsible for relocating and adjusting its own utilities including connection with utility customers.
  8. Drainage: Storm water treatment facilities are to be constructed along the Project consisting of new storm water detention ponds. The agency shall be responsible for the maintenance of the storm water treatment facilities including all requirements stipulated in the permits.
  9. Signals: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to affect signal and interconnect connections for the Project.
  10. 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.
  11. General Liability: The contractor performing work on the project will be required to carry Commercial General Liability insurance with limits of coverage per the project documents. 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:

*"Cause the Department, Palm Beach County, and the City of Boca Raton to be made Additional Insureds as to such insurance."*

*"The coverage afforded to the parties listed as 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."*

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

15. LIST OF EXHIBITS

- **Exhibit A:** Project Scope

[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

\_\_\_\_\_

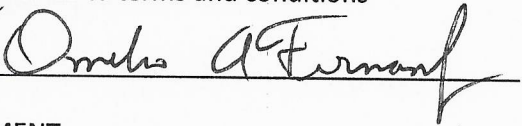
By: \_\_\_\_\_  
Paulette Burdick, Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Approved as to form by Office of County Attorney

By: \_\_\_\_\_

Approved as to terms and conditions

By: <sup>224</sup> 

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.: 93210000**  
**FM No.: 435160-1-52-01**  
**AGENCY: Palm Beach County**  
**C.R. No.: 798**

**EXHIBIT A**

**PROJECT SCOPE**

All of the improvements are to be completed by DEPARTMENT within the AGENCY's existing Palmetto Park Road right-of-way & the Lake worth Drainage Districts L-48 Canal right-of-way and or all acquired property interests to be acquired by the DEPARTMENT for AGENCY.

Typical Section: The typical section will consist of a paved 10-foot wide shared use path.

Signing and Pavement Markings: Signing and pavement markings will be provided where the shared use path intersects cross roads.

Signalization: There will be no signal involvement on the Project.

Drainage: Sheet flow drainage from the shared use path will be collected in swales or new detention systems.

Permits: The FDOT will acquire in the AGENCY's name.

Landscape: There will be no landscape involvement on the Project.