

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

Meeting Date:	August 20, 2019	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing

Department:	Engineering & Public Works
Submitted By:	Engineering & Public Works
Submitted For:	Traffic Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) adopt a Resolution to approve a highway maintenance memorandum of agreement (HMMOA) with the Florida Department of Transportation (FDOT) for the design and construction of fiber optic cables planned for sections of Seminole Pratt Whitney Road, Lyons Road, Lawrence Road, and Military Trail (Project); and

B) approve the HMMOA with the FDOT for the Project.

SUMMARY: Adoption of this Resolution and approval of the HMMOA will allow the FDOT to design, furnish, and install fiber optic cables along Seminole Pratt Whitney Road (Southern Boulevard to Northlake Boulevard), Lyons Road (Boynton Beach Boulevard to Lantana Road), Lawrence Road (Boynton Beach Boulevard to Hypoluxo Road), and Military Trail (Butts Road to Champion Boulevard). The HMMOA is required since the Project impacts Palm Beach County (County) road rights-of-way (ROW) and will provide authority for the FDOT to construct the Project within the County's ROW. The Project will enable the County to add more traffic signals to the fiber optic cable communication network and improve the network's redundancy. Construction will be funded by FDOT at an estimated cost of \$2,901,918. Upon completion of the Project, FDOT will transfer maintenance and operation to the County. Districts 3, 4, 5 & 6 (YBH)

Background and Justification: The County will benefit from Local Initiative Program funding through the Palm Beach Transportation Planning Agency for FDOT's installation of fiber optic cables along certain County roads. The Project will be designed, furnished, and installed by FDOT and will connect to the existing fiber optic cable communication network within the County's current and future traffic control jurisdiction. The Project will be constructed in County ROW. FDOT requires execution of the HMMOA to provide authority for FDOT to construct improvements in the County's ROW.

Attachments:

1. Location Sketch
2. Resolution (5)
3. HMMOA with Exhibit A (5)

Recommended By:	<i>ma David Z Rob</i>	<i>2/18/19</i>
	County Engineer	Date
Approved By:	<i>Fee</i>	<i>7/26/19</i>
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
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 X No
 Does this item include the use of federal funds? Yes No X

Budget Account No:

Fund 1201 Dept 360 Unit 3220 Object Various

Recommended Sources of Funds/Summary of Fiscal Impact:

County Transportation Trust Fund
 Traffic Operations

This item has no immediate fiscal impact. The County will be responsible for maintaining and operating the Project improvements after completion of the Project. Subsequent year amounts are subject to BCC approval of future budgets.

C. Departmental Fiscal Review: *Alicia Kovalainen*

III. REVIEW COMMENTS

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

Lucas R. Flesher
 7/18/18
 OFMB

David J. Johnson
 7/23/19
 Contract Dev. and Control

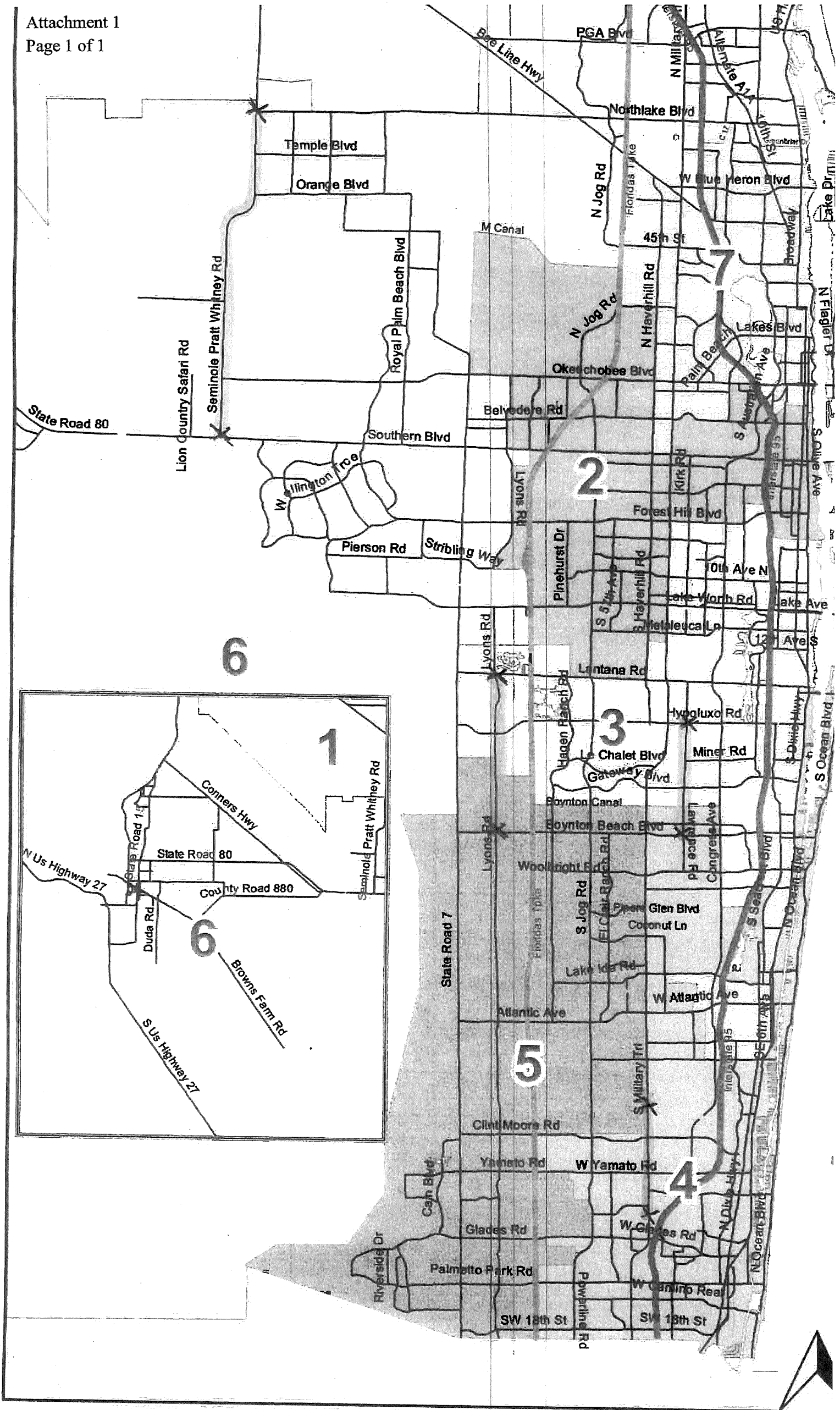
B. Approved as to Form and Legal Sufficiency:

M. J. Herman
 7/25/19
 Assistant County Attorney

C. Other Department Review:

 Department Director

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



Location Sketch

RESOLUTION NO. 2019-_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, APPROVING THE HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION, FOR THE DESIGN AND CONSTRUCTION OF FIBER OPTIC CABLES PLANNED FOR SECTIONS OF SEMINOLE PRATT WHITNEY ROAD, LYONS ROAD, LAWRENCE ROAD, AND MILITARY TRAIL BY THE FLORIDA DEPARTMENT OF TRANSPORTATION.

WHEREAS, Palm Beach County (County) will benefit from Local Initiative Program funding through the Palm Beach Transportation Planning Agency to install fiber optic cables along certain County roads; and

WHEREAS, the Florida Department of Transportation (FDOT) will design, furnish and install fiber optic cables along Seminole Pratt Whitney Road (Southern Boulevard to Northlake Boulevard), Lyons Road (Boynton Beach Boulevard to Lantana Road), Lawrence Road (Boynton Beach Boulevard to Hypoluxo Road), and Military Trail (Butts Road to Champion Boulevard) (Project) under Financial Project ID 436897-1-52-01; and

WHEREAS, the roads within the Project limits are County maintained rights-of-way; and

WHEREAS, the Project will add fiber optic cables to the existing fiber optic cable communication network used to interconnect traffic signals within the County's current and future traffic control jurisdiction; and

WHEREAS, the Project will enable the County to add more traffic signals to the fiber optic cable communication network and improve the network's redundancy; and

WHEREAS, the traffic signals connected to the fiber optic cable communication network are monitored by the County daily for operation and maintenance issues from the County's Traffic Management Center; and

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

WHEREAS, the FDOT will be responsible for funding and construction of the Project; and

WHEREAS, the Project is funded for construction in the FDOT's Fiscal Year 2020; and

WHEREAS, the County will be responsible for maintaining and operating the Project's improvements after its completion in perpetuity; and

WHEREAS, the Board of County Commissioners has determined the execution of the HMMOA is in the best interest of the citizens and residents of the County.

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 foregoing recitals are true and correct and are incorporated herein.
2. The County hereby supports the FDOT's design and construction of the Project.
3. The County shall operate and maintain the improvements provided by the Project after construction in perpetuity.
4. This Resolution shall take effect upon its adoption.

(Intentionally Left Blank)

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

- District 7: Mack Bernard, Mayor -
- District 3: Dave Kerner, Vice Mayor -
- District 1: Hal R. Valeche -
- District 2: Gregg K. Weiss -
- District 4: Robert S. Weinroth -
- District 5: Mary Lou Berger -
- District 6: Melissa McKinlay -

The Mayor thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2019.

PALM BEACH COUNTY, FLORIDA
BY AND THROUGH ITS BOARD OF COUNTY
COMMISSIONERS

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

SHARON R. BOCK, CLERK & COMPTROLLER

BY: ybh
Yelizaveta B. Herman
Assistant County Attorney

BY: _____
Deputy Clerk

SECTION No.: 93070000, 93546000,
93591000, 93842000
FM No.: 436897-1-52-01
AGENCY: Palm Beach County
C.R. No.: Various Locations

**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 collectively referred to as Parties.

WITNESSETH:

WHEREAS, the AGENCY has jurisdiction over Seminole Pratt Whitney Rd, as part of the County Roadway System from Southern Blvd to Northlake Blvd; and

WHEREAS, the AGENCY has jurisdiction over Lyons Rd, as part of the County Roadway System from Boynton Beach Blvd to Lantana Rd; and

WHEREAS, the AGENCY has jurisdiction over Lawrence Rd, as part of the County Roadway System from Boynton Beach Blvd to Hypoluxo Rd; and

WHEREAS, the AGENCY has jurisdiction over Military Trail, as part of the County Roadway System from Butts Rd to Champion 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, 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 436897-1-52-01, which involves installation of fiber optic cables in existing conduits; hereinafter referred to as the "Project", as more particularly described in **Exhibit A**; and

WHEREAS, the DEPARTMENT may not spend state funds for Off-system projects; and

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**. The AGENCY is responsible for additional Project costs determined to be Federal Aid Non-Participating.
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 2016, 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 Design Manual (FDM), current edition, (b) Florida Green Book dated 2013, as amended (c) Governing standards and specifications: FDOT FY 2018-19 Standard Plans for Road and Bridge Construction, as amended (d) Standard Specifications for Roadway and Bridge Construction dated 2019, 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, the fiber optic cables and related associated equipment. 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. No additional right of way is required for the PROJECT. The PROJECT can be completed within the AGENCY's public right of way.
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.
 - a. AGENCY'S UTILITIES: The AGENCY shall be responsible for relocating and adjusting its own utilities including connection with utility customers.
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. 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.
12. 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.
13. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.
14. 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:
Sharon R. Bock
Clerk & Comptroller

PALM BEACH COUNTY, A POLITICAL SUBDIVISION OF
THE STATE OF FLORIDA, by and through its BOARD OF
COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Mack Bernard, Mayor

_____ day of _____, 20_____

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

By: ybh _____
Yelizaveta B. Herman
Assistant County Attorney

By: _____
Motasem A. Al-Turk, Ph.D., P.E.
Traffic Division Director

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.: 93070000, 93546000,
93591000, 93842000
FM No.: 436897-1-52-01
AGENCY: Palm Beach County
C.R. No.: Various Locations

EXHIBIT A

PROJECT SCOPE

All of the improvements are to be completed by DEPARTMENT within the AGENCY's existing right-of-way.

ITS

Installation of fiber optic cables most of which will be pulled through existing conduits mostly at four (4) geographically distinct off-system locations 1) Seminole Pratt Whitney Rd from Southern Blvd to Northlake Blvd 2) Lyons Rd from Boynton Beach Blvd to Lantana Rd 3) Lawrence Rd from Boynton Beach Blvd to Hypoluxo Rd 4) Military Trail from Butts Rd to Champion Blvd. The fiber optic cables will connect Palm Beach County signals along the aforementioned roadways. Also, three local hub sites and six closed circuit televisions (CCTVs) will be installed.