

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Grant Expenditures	<u>\$18,566</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>\$18,566</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

ADDITIONAL FTE
POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes _____ No X
Budget Acct No.: Fund _____ Dept. _____ Unit _____ Object _____
Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

Transportation Improvement Fund
Unincorporated Area O.T.I.S
Northlake/.6 Mi to Military & Military/Lillian to Northlake Rel
O.T.I.S. Grant \$18,566

C. Departmental Fiscal Review: R.D. Ward 6/1/06

III. REVIEW COMMENTS

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

Jan Durb 6-22-06
OFMB
6/22/06
CN 06/20/06
Jim J. Gwart 6/23/06
Contract Dev. and Control
6/23/06

B. Approved as to Form and Legal Sufficiency:

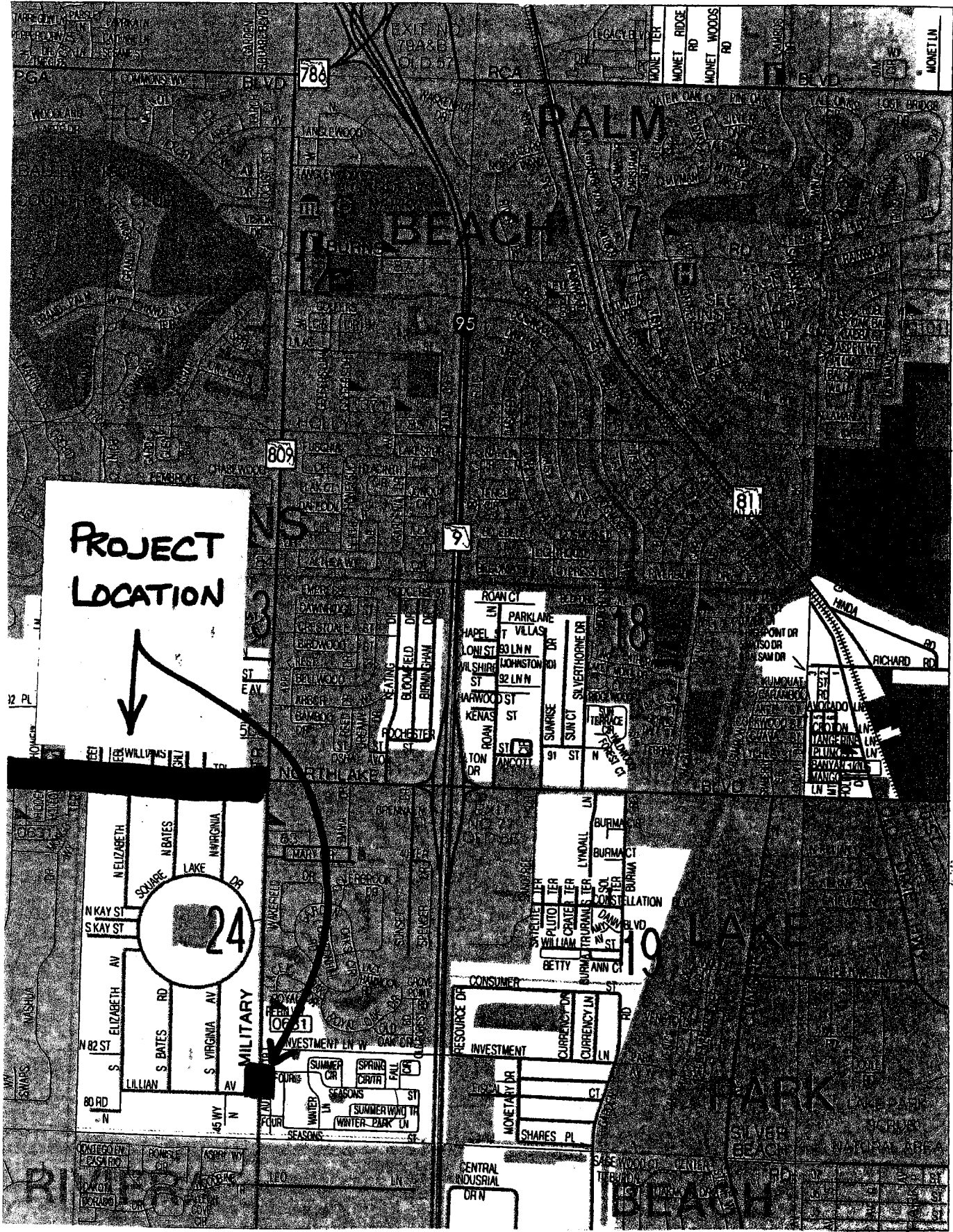
This amendment complies with our review requirements.

Markus R. ... 6/26/06
Assistant County Attorney

C. Other Department Review:

Department Director

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



LOCATION SKETCH

**1 AMENDMENT TO FINANCIAL ASSISTANCE AGREEMENT DATED AUGUST 17,
2 2004 FOR THE CITY OF PALM BEACH GARDENS NORHLAKE BOULEVARD AND
3 MILITARY TRAIL BEAUTIFICATION
4
5**

**6 THIS AMENDMENT is made to the Financial Assistance Agreement (R2004-
7 1688) dated August 17, 2004, by and between CITY OF PALM BEACH GARDENS, a
8 municipal corporation of the State of Florida, hereinafter "CITY", and BOARD OF
9 COUNTY COMMISSIONERS OF PALM BEACH COUNTY, a political subdivision of the
10 State of Florida, hereinafter "COUNTY".
11**

**12 WITNESSETH:
13
14**

**15 WHEREAS, on August 17, 2004, CITY and COUNTY entered into a financial
16 assistance agreement providing for reimbursement funding of the cost of CITY's
17 planned IMPROVEMENTS on COUNTY's Northlake Boulevard from .6 mile west of
18 Military trail to Military Trail, and unirrigated xeric landscaping in one grassy median
19 of the State's Military Trail from Lillian Avenue north to approximately 300 feet south
20 of Northlake Reliever, in an amount not to exceed NINETY FIVE THOUSAND AND
21 00/100 DOLLARS (\$95,000.00); and**

**22 WHEREAS, on August 17, 2004, COUNTY provided for funding of the cost of
23 the IMPROVEMENTS in an amount not to exceed \$95,000.00 with CITY that provided
24 for a completion date of June 30, 2005; and**

**25 WHEREAS, the completion of the improvements has been exceeded due to
26 unexpected delays during the procurement process; and**

**27 WHEREAS, due to cost increases for the IMPROVEMENTS that have been
28 experienced by CITY, CITY has requested additional funding in the amount of
29 EIGHTEEN THOUSAND FIVE HUNDRED SIXTY SIX AND 00/100 DOLLARS (\$18,
30 566.00), for a new total reimbursement funding amount not to exceed ONE
31 HUNDRED THIRHTEEN THOUSAND FIVE HUNDRED SIXTY SIX AND 00/100
32 DOLLARS (\$113,566.00); and**

**33 WHEREAS, COUNTY has experienced similar cost increases associated with
34 its roadway beautification efforts and therefore supports CITY's request for
35 additional funding; and**

1 **WHEREAS, COUNTY and CITY desire that this amendment shall relate back to**
2 **August 17, 2004, and the Contract continued without interruption nor lapse and its**
3 **term extended for an additional eighteen (18) month period until December 31, 2006;**
4 **and**

5 **NOW, THEREFORE, in consideration of the mutual covenants, promises, and**
6 **agreements herein contained, the parties agree as follows:**

- 7 **1. The Agreement is hereby amended to revise paragraph 2 as follows:**
- 8 **2. The COUNTY agrees to provide to CITY reimbursement funding**
9 **for documented costs from COUNTY's OTIS Program budget, in a**
10 **total amount not to exceed ONE HUNDRED THIRTEEN**
11 **THOUSAND FIVE HUNDRED FIFTY SIX AND 00/100 DOLLARS**
12 **(\$113,556.00) for CITY's IMPROVEMENTS, with a maximum**
13 **reimbursement of ONE HUNDRED TWO THOUSAND ONE**
14 **HUNDRED NINETY SIX AND 00/100 DOLLARS (\$102,196.00)**
15 **for IMPROVEMENTS on Northlake Boulevard and a**
16 **maximum reimbursement of ELEVEN THOUSAND THREE**
17 **HUNDRED SIXTY AND 00/100 DOLLARS (\$11,360.00) for**
18 **IMPROVEMENTS on Military Trail.**

19 **2. The Financial Assistance Agreement dated August 17, 2004, by and**
20 **between CITY and COUNTY shall be continued, without interruption nor lapse**
21 **in its term or effect, for an additional eighteen (18) month period commencing**
22 **on June 30, 2005, and expiring December 31, 2006. Accordingly, the**
23 **Agreement is hereby amended to revise paragraph 9 as follows:**

- 24 **9. All installation of these IMPROVEMENTS shall be completed and**
25 **final invoices submitted to the COUNTY no later than December**
26 **31, 2006, and COUNTY shall have no obligation to CITY or any**
27 **other entity or person for any cost incurred thereafter.**

28

AMENDMENT TO FINANCIAL ASSISTANCE AGREEMENT WITH CITY OF PALM BEACH GARDENS FOR
NORTHLAKE BOULEVARD AND MILITARY TRAIL BEAUTIFICATION

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**3. It is the intent of the parties hereto that this AMENDMENT shall not
become binding until the date executed by the Board of County
Commissioners of Palm Beach County.**

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**4. All other provisions of the Financial Assistance Agreement dated August
17, 2004, shall remain in full force and effect.**

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(INTENTIONALLY LEFT BLANK)

AMENDMENT TO FINANCIAL ASSISTANCE AGREEMENT WITH CITY OF PALM BEACH GARDENS FOR
NORTHLAKE BOULEVARD AND MILITARY TRAIL BEAUTIFICATION

1 IN WITNESS WHEREOF, the parties have executed this Agreement and it is
2 effective on the day first above written.

3 PALM BEACH COUNTY, FLORIDA, BY CITY OF PALM BEACH GARDENS,
4 ITS BOARD OF COUNTY COMMISSIONERS BY ITS CITY COMMISSION
5
6
7

8 By: _____
9 TONY MASILOTTI, CHAIRMAN

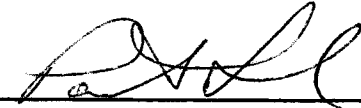
By:  _____
MAYOR

10
11 (COUNTY SEAL)

(CITY SEAL)

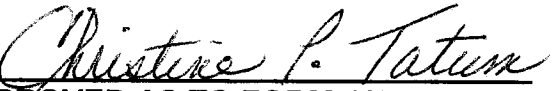
12 ATTEST:
13
14
15 SHARON R. BOCK, CLERK &
16 COMPTROLLER
17

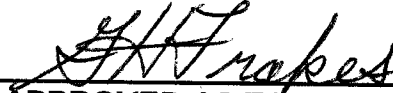
ATTEST:

By:  _____
CITY CLERK

18 By: _____
19 DEPUTY CLERK

20 By: _____
21 APPROVED AS TO FORM AND LEGAL
22 SUFFICIENCY
23 ASSISTANT COUNTY ATTORNEY

By:  _____
APPROVED AS TO FORM AND LEGAL
SUFFICIENCY
CITY ATTORNEY

24 By:  _____
25 APPROVED AS TO TERMS AND
26 CONDITIONS

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**FINANCIAL ASSISTANCE AGREEMENT FOR CITY OF PALM BEACH GARDENS
NORTHLAKE BOULEVARD AND MILITARY TRAIL - BEAUTIFICATION**

**THIS INTER-LOCAL AGREEMENT is made and entered into this _____ day of
AUG 17 2004, 2004, by and between the CITY OF PALM BEACH GARDENS, a
municipal corporation of the State of Florida, hereinafter "CITY ", and PALM BEACH
COUNTY, a political subdivision of the State of Florida, hereinafter "COUNTY".**

WITNESSETH:

**WHEREAS, the CITY wishes to install landscaping and irrigation in the
medians of COUNTY's Northlake Boulevard from .6 mile west of Military Trail to
Military Trail, and unirrigated xeric landscaping in one grassy median of the State's
Military Trail from Lillian Avenue north to approximately 300 feet south of Northlake
Reliever (hereinafter "IMPROVEMENTS") as elements of larger-area beautification
efforts by CITY; and**

**WHEREAS, COUNTY shows the foregoing roadway segments on its funded
OTIS (Only Trees, Irrigation, and Sod) Program Master Plan for implementation and
maintenance by COUNTY at a future time; and**

**WHEREAS, it would be mutually beneficial and more efficient for COUNTY to
contribute funding planned for COUNTY's OTIS projects to CITY for their inclusion
of the OTIS project areas (as IMPROVEMENTS) into CITY's larger-area beautification
efforts; and**

**WHEREAS, the COUNTY believes that these efforts by CITY serve a public
purpose in the enhancement of the appearance of these rights of way and wishes
to support CITY's efforts to install the IMPROVEMENTS by providing reimbursement
funding for a portion of the cost of the IMPROVEMENTS from COUNTY's OTIS
Program budget, in a total amount not to exceed NINETY-FIVE THOUSAND AND
00/100 DOLLARS (\$95,000.00), with a maximum reimbursement of NINETY
THOUSAND DOLLARS AND 00/100 DOLLARS (\$90,000) for IMPROVEMENTS on
Northlake Boulevard, and a maximum reimbursement of FIVE THOUSAND DOLLARS
AND 00/100 DOLLARS (\$5,000.00) for IMPROVEMENTS on Military Trail; and**

1 **WHEREAS, the above maximum funding amount is the estimated amount that**
2 **COUNTY would have spent to install OTIS on Northlake Boulevard, plus a reasonable**
3 **allowance for the CITY-proposed unirrigated xeric landscaping on Military Trail; and**

4 **WHEREAS, after installation, CITY will be responsible for the perpetual**
5 **maintenance of the IMPROVEMENTS; and**

6 **NOW, THEREFORE, in consideration of the mutual covenants, promises, and**
7 **agreements herein contained, the parties agree as follows:**

- 8 1. **The above recitals are true, correct and are incorporated herein.**
- 9 2. **The COUNTY agrees to provide to CITY reimbursement funding for**
10 **documented costs from COUNTY's OTIS Program budget, in a total amount not to**
11 **exceed NINETY-FIVE THOUSAND AND 00/100 DOLLARS (\$95,000.00) for CITY's**
12 **IMPROVEMENTS, with a maximum reimbursement of NINETY THOUSAND DOLLARS**
13 **AND 00/100 DOLLARS (\$90,000) for IMPROVEMENTS on Northlake Boulevard, and**
14 **a maximum reimbursement of FIVE THOUSAND DOLLARS AND 00/100 DOLLARS**
15 **(\$5,000.00) for IMPROVEMENTS on Military Trail.**
- 16 3. **The COUNTY agrees to reimburse CITY the amount established in**
17 **paragraph 2 for costs (materials and labor) associated with installation of the**
18 **IMPROVEMENTS, upon CITY 's submission of acceptable documentation needed**
19 **to substantiate their costs for the IMPROVEMENTS. The COUNTY will use its best**
20 **efforts to provide said funds to CITY on a reimbursement basis within forty-five (45)**
21 **days of receipt of all information required in Paragraph 6, below.**
- 22 4. **The COUNTY's obligation is limited to its payment obligation and shall**
23 **have no obligation to any other person or entity.**
- 24 5. **CITY agrees to assume all responsibility for design, bidding, contract**
25 **preparation, and contract administration for the installation of the IMPROVEMENTS,**
26 **including payment(s) to contractor(s), pursuant to all applicable governmental laws**
27 **and regulations and will comply with all applicable governmental landscaping codes**
28 **and permitting requirements in the selection and installation of the IMPROVEMENTS.**
29 **CITY agrees to install the IMPROVEMENTS substantially in accordance with the**

1 plans, specifications and costs as approved in the permitting process by the
2 COUNTY and/or State, as appropriate. Otherwise, the COUNTY will have the final
3 determination of the eligibility for reimbursement of any changes. Substantial
4 variations from the submitted plans shall require prior written approval from the
5 County Engineer's Office. The final permit drawings must be signed and sealed by
6 a Florida Registered Landscape Architect experienced in roadway planting and
7 familiar with the COUNTY's Streetscape Standards Manual.

8 6. CITY will obtain or provide all labor and materials necessary for the
9 installation of the IMPROVEMENTS. The COUNTY shall have the final determination
10 of eligibility for reimbursement. CITY shall furnish the Manager, Streetscape Section,
11 of the COUNTY's Department of Engineering and Public Works with a request for
12 payment supported by the following:

- 13 a. A statement from a Florida Registered Landscape Architect that the
14 IMPROVEMENTS have been inspected and were installed substantially
15 in accordance with the permitted plans for the IMPROVEMENTS, and;
16 b. A Contract Payment Request Form and a Contractual Services
17 Purchases Schedule Form, attached hereto and incorporated herein as
18 Exhibit "A" (pages 1 and 2) which are required for each and every
19 reimbursement requested by CITY. Said information shall list each
20 invoice payable by CITY and shall include the vendor invoice number,
21 invoice date, and the amount payable by CITY . CITY shall attach a
22 copy of each vendor invoice paid by CITY along with a copy of the
23 respective check and shall make reference thereof to the applicable
24 item listed on the Contractual Services Purchases Schedule Form.
25 Further, the Program Administrator and the Program Financial Officer
26 for CITY shall also certify that each vendor invoice listed on the
27 Contractual Services Purchases Schedule Form was paid by CITY as
28 indicated.

1 7. **CITY shall maintain adequate records to justify all charges, expenses,**
2 **and costs incurred in performing the IMPROVEMENTS for at least three (3) years**
3 **after the completion of such IMPROVEMENTS. COUNTY shall have access to all**
4 **books, records and documents as required in this Section for the purpose of**
5 **inspection or audit during normal business hours.**

6 8. **CITY agrees to be responsible for the perpetual maintenance of the**
7 **IMPROVEMENTS following the installation and shall be solely responsible for**
8 **obtaining and complying with all necessary permits, approvals, and authorizations**
9 **from any federal, state, regional, or COUNTY agency which are required for the**
10 **subsequent maintenance of the IMPROVEMENTS.**

11 9. **All installation of these IMPROVEMENTS shall be completed and final**
12 **invoices submitted to the COUNTY no later than June 30, 2005, and the COUNTY**
13 **shall have no obligation to CITY or any other entity or person for any cost incurred**
14 **thereafter unless the time for completion is extended by modification of this**
15 **Agreement as provided herein.**

16 10. **In the event a claim or lawsuit is brought against COUNTY, its officers,**
17 **employees, servants, or agents relating to the IMPROVEMENTS with regard to**
18 **responsibilities of the CITY, CITY agrees without waiver of the limitation as provided**
19 **for in Section 768.28, Florida Statutes, and to the extent permitted by law to**
20 **indemnify and hold harmless COUNTY, its officers, employees, servants, or agents**
21 **from and against any claims, resulting or emanating out of the terms and conditions**
22 **contained in this Agreement relating to any part of the IMPROVEMENTS that is the**
23 **responsibility of CITY.**

24 11. **CITY shall, at all times during the term of this Agreement (the**
25 **installation and existence of the IMPROVEMENTS), maintain in force its status as an**
26 **insured municipal corporation.**

1 **12. As provided in F.S. 287.132-133, by entering into this Agreement or**
2 **performing any work in furtherance hereof, CITY certifies that its affiliates, suppliers,**
3 **sub-contractors, and consultants who perform work hereunder, have not been**
4 **placed on the convicted vendor list maintained by the State of Florida Department**
5 **of Management Services within 36 months immediately preceding the date hereof.**
6 **This notice is required by F.S. 287.133(3)(a).**

7 **13. CITY shall require each contractor engaged by CITY for work associated**
8 **with this Agreement to maintain:**

9 **a. Workers' Compensation coverage in accordance with Florida**
10 **Statutes, and;**

11 **b. Commercial General Liability coverage, including vehicle coverage,**
12 **in combined single limits of not less than ONE MILLION AND 00/100**
13 **DOLLARS (\$1,000,000.00). The COUNTY shall be included in the**
14 **coverage as an additional insured.**

15 **c. A payment and performance bond for the total amount of the**
16 **improvements in accordance with Florida Statute 255.05.**

17 **14. In the event of termination, CITY shall not be relieved of liability to the**
18 **COUNTY for damages sustained by the COUNTY by virtue of any breach of the**
19 **contract by CITY; and the COUNTY may withhold any payment to CITY for the**
20 **purpose of set-off until such time as the exact amount of damages due the COUNTY**
21 **is determined. In the event CITY elects to discontinue its maintenance obligation for**
22 **the IMPROVEMENTS under this Agreement, it shall be the obligation of CITY to**
23 **restore, if necessary, the area of the IMPROVEMENTS on the COUNTY's rights-of-**
24 **way to a condition acceptable to the County Engineer, which shall be in accordance**
25 **with Federal, State and COUNTY standards for road construction and/or**
26 **maintenance. In the event CITY fails to restore the area of the IMPROVEMENTS to**
27 **a condition acceptable to the County Engineer, the COUNTY may undertake such**
28 **restoration and CITY shall be liable for the costs of such restoration.**

1 **15. CITY 's termination of this AGREEMENT shall result in all obligations of**
2 **the COUNTY for funding contemplated herein to be canceled.**

3 **16. The COUNTY and CITY agree that no person shall, on the grounds of**
4 **race, color, national origin, sexual orientation, religion or creed, sex, age, or**
5 **handicap be discriminated against in performance of the Agreement.**

6 **17. In the event that any section, paragraph, sentence, clause, or provision**
7 **hereof is held invalid by a court of competent jurisdiction, such holding shall not**
8 **affect the remaining portions of this Agreement and the same shall remain in full**
9 **force and effect.**

10 **18. All notices required to be given under this Agreement shall be in**
11 **writing, and deemed sufficient to each party when sent by United States Mail,**
12 **postage prepaid, to the following:**

13 **AS TO THE COUNTY**

14 **Manager, Streetscape Section**
15 **Palm Beach County Department of**
16 **Engineering and Public Works**
17 **Post Office Box 21229**
18 **West Palm Beach, Florida 33416-1229**

19 **AS TO CITY**

20 **City Manager**
21 **City OF PALM BEACH GARDENS**
22 **10500 North Military Trail**
23 **Palm Beach Gardens, Florida 33410**

24 **19. This Agreement shall be construed and governed by the laws of the**
25 **State of Florida. Any and all legal action necessary to enforce this Agreement shall**
26 **be held in Palm Beach County. No remedy herein conferred upon any party is**
27 **intended to be exclusive of any other remedy, and each and every other remedy shall**
28 **be cumulative and shall be in addition to every other remedy given hereunder or now**
29 **or hereafter existing at law or in equity or by statute or otherwise. No single or**
30 **partial exercise by any party of any right, power, or remedy shall preclude any other**
31 **or further exercise thereof.**

1 **20. Any costs or expenses (including reasonable attorney's fees)**
2 **associated with the enforcement of the terms and conditions of this Agreement**
3 **shall be borne by the respective parties; provided, however, that this clause pertains**
4 **only to the parties to the Agreement.**

5 **21. Except as expressly permitted herein to the contrary, no modification,**
6 **amendment, or alteration in the terms or conditions contained herein shall be**
7 **effective unless contained in a written document executed with the same formality**
8 **and equality of dignity herewith.**

9 **22. Each party agrees to abide by all laws, orders, rules and regulations and**
10 **CITY will comply with all applicable governmental landscaping codes in the**
11 **maintenance and replacement of the IMPROVEMENTS.**

12 **23. The parties to this Agreement shall not be deemed to assume any**
13 **liability for the negligent or wrongful acts, or omissions of the other party (or**
14 **parties). Nothing contained herein shall be construed as a waiver, by any of the**
15 **parties, of the liability limits established in Section 768.28, Florida Statutes.**

16 **24. CITY shall promptly notify the COUNTY of any lawsuit-related complaint,**
17 **or cause of action threatened or commenced against it which arises out of or**
18 **relates, in any manner, to the performance of this Agreement.**

19 **25. The parties expressly covenant and agree that in the event any of the**
20 **parties is in default of its obligations under this Agreement, the parties not in default**
21 **shall provide to the defaulting party thirty (30) days written notice before exercising**
22 **any of their rights.**

23 **26. The preparation of this Agreement has been a joint effort of the parties,**
24 **and the resulting document shall not, solely as a matter of judicial constraint, be**
25 **construed more severely against one of the parties than the other.**

26 **27. This Agreement represents the entire understanding among the parties,**
27 **and supersedes all other negotiations, representations, or agreements, either written**
28 **or oral, relating to this Agreement.**

1 IN WITNESS WHEREOF, the parties have executed this Agreement and it is effective
2 on the date first above written.

3 CITY OF PALM BEACH GARDENS

4 (CITY SEAL)

CITY OF PALM BEACH GARDENS,
BY ITS CITY COUNCIL

6 ATTEST:

7 By: [Signature]

8 CITY CLERK

By: [Signature]

MAYOR

9
10 APPROVED AS TO FORM AND LEGAL SUFFICIENCY

11 By: [Signature]

12 CITY ATTORNEY

14 PALM BEACH COUNTY

16 (COUNTY SEAL)

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

R2004 1688

18 ATTEST

19 DOROTHY H. WILKEN, CLERK

21 By: [Signature]

22 DEPUTY CLERK

By: [Signature]

KAREN T. MARCUS, CHAIR

AUG 17 2004

23 APPROVED AS TO FORM AND LEGAL SUFFICIENCY

24 By: [Signature]

25 ASSISTANT COUNTY ATTORNEY

26 APPROVED AS TO TERMS AND CONDITIONS

28 BY: [Signature]

**BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
BUDGET Transfer**

BGEX040506-1264

FUND Transportation Improvement

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 05/31/06	REMAINING BALANCE
<u>NORTHLAKE/.6 MI-MIL & MIL/LILLIAN-N LAKE REL</u>								
3500-361-1126-8101	Contributions Othr Govtl Agency	95,000	95,000	18,566	0	113,566	95,000	18,566
<u>UNINCORPORATED AREA O.T.I.S.</u>								
3500-361-1000-6510	Landscaping/Irrigation-Infra	4,963,804	4,908,804	<u>0</u>	<u>18,566</u>	4,890,238		
				18,566	18,566			

SIGNATURE

DATE

By Board of County Commissioners
At Meeting of 07/11/06

Engineering & Public Works

R. J. Ward

5/31/06

Administration / Budget Approval

OFMB Department – Posted

Deputy Clerk to the
Board of County Commissioners