

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

Meeting Date: October 17, 2006    ☐ Consent    ☒ Regular  
                                                 ☐ Workshop    ☐ Public Hearing

Submitted By:    Engineering and Public Works  
Submitted For:    County Engineer

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**I. EXECUTIVE BRIEF**

**Motion and Title: Staff requests Board direction regarding:**

A.    An Interlocal Agreement in the amount of \$100,000 with Loxahatchee Groves Water Control District (LGWCD) for application of open grade emulsion to Compton Road, a road within the LGWCD.

B.    A Budget Transfer of \$100,000 in the Transportation Improvement Fund from Reserve for District 6 to LGWCD Compton Road – District 6.

**Summary:** Commissioner Masilotti has allocated \$150,000 of the 2007 \$1,000,000 gas tax funds to LGWCD for use on "F" Road. This was done as item 3-C-13 on today's consent agenda. This \$100,000 request would further lower the amount available to the new/incoming District 6 Commissioner and staff requests Board direction. Staff calculates that Commissioner Masilotti will be in office approximately 15% of the days in the 2007 Budget Year. Applying this percentage to the annual gas tax allocation results in \$150,000 – which was the amount allocated to item 3-C-13. However, approval of this board item (5-A-1) would use another 10% of the annual allocation, leaving 75% for the incoming Commissioner.

**District: 6 (MRE)**

**Background and Justification:** The LGWCD wishes to undertake the application of open grade emulsion to Compton Road. The LGWCD requested assistance with funding of the project through the District 6 Commissioner. The District 6 Commissioner wishes to fund the project for the LGWCD in the best interest of public health, safety and welfare. Maintenance of Compton Road, after the application of the open grade emulsion, is the responsibility of the LGWCD. The attached agreement is similar to the Marcella Road agreement previously executed by the Board. It will require LGWCD demonstrate that Compton Road has been established and declared a public road.

**Attachments:**

1. Location Map
2. Project Authorization
3. Agreements
4. Budget Transfer

**Recommended by:** \_\_\_\_\_

Division Director

Date

**Approved by:** \_\_\_\_\_

County Engineer

Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2007	2008	2009	2010	2011
Grant Expenditures	<u>\$100,000</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>\$100,000</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

Reserve for District 6

LGWCD/Compton Rd Open Grade Emulsion Project-Dist 6

C. Departmental Fiscal Review: R.D. Ward 9/20/06

### III. REVIEW COMMENTS

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

James B. Smith 9-28-06

**OFMB**

Form

**Contract Dev. and Control**

9129106

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

Marlene R. Pitts 10/05/06  
Assistant County Attorney

*[Signature]*  
Contract Dev. and Control  
9/29/06

9/29/06 If the Board approves  
this contract, it complies  
with our review  
requirements. It was not  
excluded at the time  
of our review.

**C. Other Department Review:**

**Department Director**

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



## LOCATION MAP

**From:** Cyndy Verner  
**To:** Phillips, Harvey  
**Date:** 9/7/2006 5:53:05 PM  
**Subject:** Gas Tax Allocation - 2007

Harvey,

Please prepare an interlocal agreement with Loxahatchee Groves Water Control District for \$250,000 for the placement of OGEM material on "F" Road and the paving of Compton Road out of the 2007 Gas Tax Allocation funding. If possible, Commissioner would like this agenda item placed on the October 17, 2006, BCC agenda. Thank you as always for your help.

The contact is Clete Saunier, District Administrator, P. O. Box 407, Loxahatchee, FL 33470-0407 (561) 793-0884.

Cyndy Verner  
Senior Administrative Assistant to  
Chairman Tony Masilotti  
(561) 355-6300

*PROJECT AUTHORIZATION*

**INTERLOCAL AGREEMENT  
BETWEEN PALM BEACH COUNTY AND  
LOXAHATCHEE GROVES WATER CONTROL  
DISTRICT FOR PURCHASE OF OPEN GRADE EMULSION  
TO PAVE COMPTON ROAD**

**THIS INTERLOCAL AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "**COUNTY**" and **LOXAHATCHEE GROVES WATER CONTROL DISTRICT**, an independent Special District of the State of Florida hereinafter referred to as "**DISTRICT**"

**WITNESSETH:**

**WHEREAS**, at the urging of most of the property owners on Compton Road, hereinafter referred to as "**ROAD**", the **DISTRICT** has requested financial assistance from the **COUNTY** to improve the **ROAD**; and

**WHEREAS**, the **ROAD** is located within the **DISTRICT** boundaries and is and has been open to the public for ingress and egress for more than twenty (20) years; and

**WHEREAS**, the **DISTRICT** intends to undertake formal action to classify the **ROAD** as a public road prior to undertaking the paving of the **ROAD**; and

**WHEREAS**, the **DISTRICT** intends to purchase and apply open grade emulsion road paving material to Compton Road, hereinafter referred to as "**PROJECT**" and

**WHEREAS**, the **COUNTY** believes that the construction of the **PROJECT** will serve a public purpose in the operation of roads within the **DISTRICT** and wishes to support the project by providing supplemental reimbursement funding for the documented costs of the **PROJECT** in an amount not to exceed **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)**; and

**WHEREAS**, after construction of the **PROJECT** the **COUNTY** will not be responsible for the subsequent maintenance of the **ROAD**.

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

1. The above recitals are true, correct and incorporated herein.
2. The **COUNTY** agrees to provide to the **DISTRICT** reimbursement funding for documented costs of the **PROJECT** excluding costs associated with the formal action required to declare the **ROAD** a public road, in an amount not to exceed **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)**.

3. As a condition precedent to the **COUNTY** reimbursing the **DISTRICT** for the documented costs of the **PROJECT** in the amount stated in paragraph 2, the **DISTRICT** will 1. Undertake any action necessary to establish the **ROAD** as a public road. Confirm in writing and provide evidence acceptable to the **COUNTY** that the **ROAD** has been declared a public road. 3. Pay any costs associated with the actions required in this paragraph.

4 Upon the **DISTRICT's** submission of acceptable documentation needed to substantiate its cost of the **PROJECT** the **COUNTY** agrees to reimburse the **DISTRICT** the amount established in paragraph 2 for costs associated with the **PROJECT**, excluding those costs incurred prior to the execution of this Agreement, upon the **DISTRICT's** submission of acceptable documentation needed to substantiate its cost for the **PROJECT**. The **COUNTY** will use its best efforts to provide said funds to the **DISTRICT** on a reimbursement basis within forty-five (45) days of receipt of all information required in paragraph 6, below.

5. The **COUNTY's** obligation is limited to its payment obligation and shall have no obligation to any other person or entity.

6. The **DISTRICT** agrees to obtain a legal determination of the road's status as a **PUBLIC ROAD** prior to construction of the **PROJECT**.

7. The **DISTRICT** agrees to assume all responsibility for design, bidding, contract preparation, and contract administration necessary for the **PROJECT**, including payment(s) to contractor(s) pursuant to all applicable governmental laws and regulations.

8. The **DISTRICT** will obtain or provide all labor and materials necessary for the **PROJECT**. The **DISTRICT** shall furnish to the **COUNTY's** representative a request for payment supported by the following:

A Contract Payment Request Form and a Contractual Services Purchases Schedule Form, attached hereto and incorporated herein as Exhibit "A" (pages 1 & 2), which are required for each and every reimbursement to the **DISTRICT**. Said information shall list each invoice payable by the **DISTRICT** and shall include the vendor invoice number, invoice date, and the amount payable by the **COUNTY**. The **DISTRICT** shall attach a copy of each vendor invoice paid by the **DISTRICT** along with a copy of the respective check and shall make reference thereof to the applicable item listed on the Contractual Services Purchases Schedule Form. Further, the **DISTRICT's**

Financial Officer shall also certify that each invoice listed on the Contractual Services Purchases Schedule Form was paid by the **DISTRICT** as indicated.

9. As it relates to this Agreement, the **COUNTY** may initiate a financial systems analysis and/or an internal fiscal control evaluation of the **DISTRICT** by an independent auditing firm employed by the **COUNTY** or by the County Internal Audit Department at any time the **COUNTY** deems necessary.

10. The **COUNTY** will not be responsible for the subsequent maintenance of the **ROAD** following construction. The **DISTRICT** shall be solely responsible for obtaining and complying with all necessary permits, approvals and authorizations from any federal, state, regional, **COUNTY** or agency which are required for the **PROJECT**.

11. The **PROJECT** shall be completed and final invoices submitted to the **COUNTY** no later than **September 30, 2009**, and the **COUNTY** shall have no obligation to the **DISTRICT** or any other entity or person for any cost incurred thereafter unless the time for completion is extended by modification of this Agreement.

12. Each party shall be liable for its own actions and negligence and to the extent permitted by law, the **DISTRICT** shall indemnify, defend and hold harmless the **COUNTY** against any actions, claims or damages arising out of the **DISTRICT's** negligence in connection with this Agreement or the performance by the **DISTRICT** as it may relate to this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 786.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligence, willful or intentional acts or omissions.

13. The **DISTRICT** shall, at all times during the term of this Agreement, maintain appropriate insurance.

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

15. The **DISTRICT** shall require each contractor engaged by the **DISTRICT** for work associated with this Agreement to maintain:

Workers' Compensation coverage in accordance with Florida Statutes, and;

- a. Commercial General Liability coverage, including vehicle coverage, in combined single limits of not less than ONE MILLION DOLLARS (\$1,000,000.00). The **COUNTY** shall be included in the coverage as an additional insured.
- b. A payment and performance bond for the total amount of the **IMPROVEMENT** in accordance with Florida Statute 255.05.

16. In the event of termination, the **DISTRICT** shall not be relieved of liability to the **COUNTY** for damages sustained by the **COUNTY** by virtue of any breach of the Agreement by the **DISTRICT**; and the **COUNTY** may withhold any payment to the **DISTRICT** for the purpose of set-off until such time as the exact amount of damages due the **COUNTY** is determined.

17. The **DISTRICT's** termination of this Agreement shall result in all obligations of the **COUNTY** for funding contemplated herein to be cancelled.

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

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

20. All notices required to be given under this Agreement shall be in writing, and deemed sufficient to each party when sent by United States Mail, postage paid, to the following:

**AS TO THE COUNTY**

Engineering and Public Works Department  
Tanya N. McConnell, P.E.  
Deputy County Engineer  
P.O. Box 21229  
West Palm Beach, Florida 33416-1229

**AS TO THE DISTRICT**

Loxahatchee Groves Water Control District  
Mr. Clete Saunier  
District Administrator  
P.O. Box 407  
Loxahatchee, Florida 33470



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

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

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

24. Each party agrees to abide by all laws , orders, rules and regulations and the **DISTRICT** will comply with all applicable governmental codes during the **PROJECT**.

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

26. Each party shall promptly notify the other of any lawsuit-related complaint, or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement.

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

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

29. This Agreement represents the entire understanding among the parties, and supercedes all other negotiations, or agreements, either written or oral, relating to this Agreement.

30. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.

31. This Agreement shall take effect upon execution and the effective date shall be the date of execution.

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

LOXAHATCHEE GROVES  
WATER CONTROL DISTRICT

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

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

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

ATTEST:

ATTEST:

SHARON R. BOCK,  
CLERK & COMPTROLLER

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

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

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
District Attorney

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO TERMS  
AND CONDITIONS

By: Shirley Conner

Date: 9/25/06

**PALM BEACH COUNTY  
ENGINEERING & PUBLIC WORKS DEPARTMENT  
CONTRACT PAYMENT REQUEST**

**Exhibit A**

\_\_\_\_\_  
(Project)

Grantee \_\_\_\_\_

Request Date \_\_\_\_\_

Billing # \_\_\_\_\_

Billing Period \_\_\_\_\_

**PROJECT PAYMENT SUMMARY**

Item	Project Costs This Billing	Cumulative Project Costs	Total Project Costs
Consulting Services	_____	_____	_____
Contractual Services	_____	_____	_____
Materials, Supplies, Direct Purchases	_____	_____	_____
Grantee Stock	_____	_____	_____
Equipment, Furniture	_____	_____	_____
<b>TOTAL PROJECT COSTS</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>

Certification: I hereby certify that the above  
were incurred for the work identified as being  
accomplished in the attached progress reports.

Certification: I hereby certify that the documen-  
tation has been maintained as required to support  
the project expenses reported above and is avail-  
able for audit upon request.

\_\_\_\_\_  
Administrator/Date

\_\_\_\_\_  
Financial Officer/Date

**PBC USE ONLY**

County Funding Participation	\$ _____
Total Project Cost	\$ _____
Total project costs to date	\$ _____
County obligation to date	\$ _____
County retainage (___%)	(\$ _____)
County funds previously disbursed	(\$ _____)
County funds due this billing	\$ _____

Reviewed and Approved by:

\_\_\_\_\_  
PBC Project Administrator/Date

\_\_\_\_\_  
Assistant County Engineer or Fiscal Manager/Date

**PALM BEACH COUNTY  
ENGINEERING & PUBLIC WORKS DEPARTMENT  
CONTRACTUAL SERVICES PURCHASE SCHEDULE**

\_\_\_\_\_  
(Project)

Grantee \_\_\_\_\_

Billing Date \_\_\_\_\_

Billing # \_\_\_\_\_

Billing Period \_\_\_\_\_

Contractor Name	Contractor Invoice Number and date	City Check or Voucher Number and date	Project Amount Paid this period	General Description
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTAL			_____	

Certification: I hereby certify that the purchase(s) noted above were used in accomplishing the project.

Certification: I hereby certify that bid tabulations, executed contract cancelled checks, and other purchasing documentation have been maintained as required to support the costs reported above and are available for audit upon request.

\_\_\_\_\_  
Administrator/Date

\_\_\_\_\_  
Financial Officer/Date

2007- \_\_\_\_\_

Page 1 of 1

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

FUND Transportation Improvement

BGEX

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 10/01/06	REMAINING BALANCE
<b><u>LGWCD/COMPTON RD OPEN GRD EMULSION-DIST 6</u></b>								
3500-368-1223-8101	Contributions Othr Govtl Agency	0	0	100,000	0	100,000	0	100,000
<b><u>RESERVE FOR DISTRICT 6</u></b>								
3500-368-9116-9907	Res-Future Construction	3,531,179	3,381,179	<u>0</u>	<u>100,000</u>	3,281,179		
				100,000	100,000			

SIGNATURE

DATE

By Board of County Commissioners  
At Meeting of 10/17/06

Engineering &amp; Public Works

R. D. Ward9/20/06

Administration / Budget Approval

\_\_\_\_\_

\_\_\_\_\_

OFMB Department – Posted

\_\_\_\_\_

\_\_\_\_\_

Deputy Clerk to the  
Board of County Commissioners