

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Grant Expenditures	\$150,000	-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	\$150,000	-0-	-0-	-0-	-0-

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 4
 Palmetto Park Rd Bascule Bridge

Capital Outlay Fund
 Palmetto Park Rd Bascule Bridge
 Grant-Centre for the Arts at Mizner Park

C. Departmental Fiscal Review: R.D. Ward 11/8/06

III. REVIEW COMMENTS

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

Elizabeth Claeser 11/14/06
 OFMB
 11-14-06
 11-9-06

Ann J. Jucant 11/15/06
 Contract Dev. and Control
 11/15/06

B. Approved as to Form and Legal Sufficiency:

Marlene R. Altus 11/17/06
 Assistant County Attorney

This Contract complies with our contract review requirements.

At the time of OAC review, the contract was not executed and the required proof of insurance was not available.

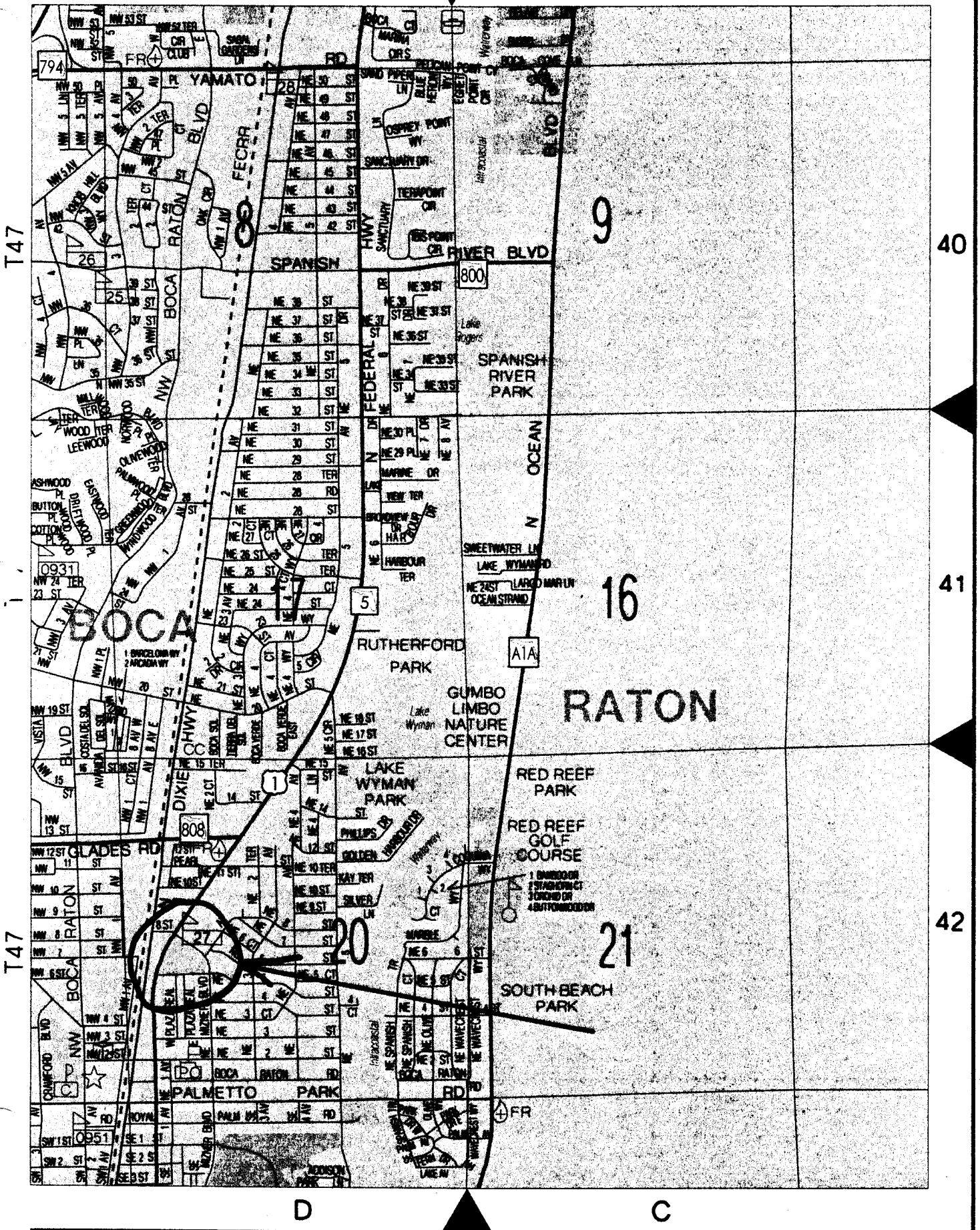
C. Other Department Review:

 Department Director

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

D

C



D

C

LOCATION MAP

From: "Mary McCarty" <marymccarty@mycingular.blackberry.net>
To: "Kate Scott" <KFScott@co.palm-beach.fl.us>
Date: 10/31/2006 8:42:19 AM
Subject: Re: Fwd: Centre for the Arts at Mizner Park

Ok. Tell him. Ok.

-----Original Message-----

From: "Kate Scott" <KFScott@co.palm-beach.fl.us>
Date: Tue, 31 Oct 2006 08:13:15
To: <marymccarty@adelphia.net>
Subject: Fwd: Centre for the Arts at Mizner Park

Good morning Mary,

As per the attached email from Harvey Phillips, requesting confirmation on the allocation for the Centre of the Arts, from your Gas Tax Discretionary Fund.

kfs

PROJECT AUTHORIZATION

**AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CENTRE FOR THE
ARTS AT MIZNER PARK FOR RENTAL OF AN EVENTS TENT**

THIS AGREEMENT is made and entered into on _____, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County", and the Centre for the Arts at Mizner Park, Inc., a Florida not-for-profit corporation authorized to do business in the State of Florida, hereinafter referred to as "Centre".

WITNESSETH:

WHEREAS, the **CENTRE** is a 501(C)(3) not-for-profit organization; and

WHEREAS, the **CENTRE** unites the community through culture; and

WHEREAS, the **CENTRE** has requested that County provide an amount not to exceed \$150,000 to assist with the cost of renting an events tent, hereinafter **PROJECT**, to assist with the **CENTRE's** Festival for the Arts, Boca, programs and activities; and

WHEREAS, County desires to provide funding for rental for said **PROJECT**; and

WHEREAS, the **CENTRE's** activities serve a public benefit by uniting the community through culture; and

WHEREAS, both parties desire to enter into this Agreement.

NOW THEREFORE, in consideration of the covenants and promises contained herein, the parties hereby agree to the following terms and conditions:

1. County agrees to fund an amount not to exceed \$150,000 to the **CENTRE** for the rental, for the **PROJECT**, incorporated herein, hereinafter referred to as the "**PROJECT**".

2. County will use its best efforts to provide said funds to the **CENTRE** on a reimbursement basis within forty-five (45) days of receipt of the following information:

a. A copy of the rental invoice and cancelled check.

b. A Contract Payment Request Form and a Contractual Services Purchases Schedule Form attached hereto and made a part hereof as Exhibit "A", which are required for each reimbursement requested by the **CENTRE**. Said information shall list each invoice paid by the **CENTRE** and shall include the vendor invoice number; invoice date; and the amount paid by the **CENTRE** along with the number and date of the respective

check and/or proof of payment for said payment. The **CENTRE** shall attach a copy of each vendor invoice paid by the **CENTRE** along with a copy of the respective check and/or proof of payment, and shall make reference thereof to the applicable item listed on the Contractual Services Purchases Schedule. Further, the **CENTRE's** Financial Officer shall certify the total funds spent by the **CENTRE** on the **PROJECT** and shall also certify that each vendor invoice, as listed on the Contractual Services Purchases Schedule was paid and approved by the **CENTRE** as indicated.

3. **CENTRE** incurred expenses for the **PROJECT** beginning on October 1, 2006. Those costs incurred by the **CENTRE** for the **PROJECT** approved and submitted accordingly by the **CENTRE** subsequent to October 1, 2006, are eligible for reimbursement by County pursuant to the terms and conditions hereof.

4. These funds may be used as a match for other local, state, or federal grant programs, but the **CENTRE** may not submit reimbursement requests for the same expenses to the County as other fund sources to receive duplicate reimbursement for the same expenses.

5. The **CENTRE** warrants that it is an active not-for-profit corporation, duly chartered and registered with the Florida Department of State, Division of Corporations.

6. The **CENTRE** agrees, warrants, and represents that all of the employees and participants in the **PROJECT** will be treated equally during employment, and for the provision of services without regard to residency, race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

7. The **CENTRE** shall be responsible for all costs of operation and maintenance of the **PROJECT**.

8. The term of this Agreement shall be for one (1) year, commencing upon the date of execution by the parties hereto.

9. The parties agree that, in the event the **CENTRE** is in default of its obligations under this Agreement, the County shall provide the **CENTRE** thirty (30) days written notice to cure the default. In the event the **CENTRE** fails to cure the default within the thirty (30) day cure period, the County shall have no further obligation to honor reimbursement requests submitted by the **CENTRE** for the **PROJECT** deemed to be in default and

CENTRE shall return any funds already collected by the **CENTRE** for that **PROJECT**.

10. Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated by the County, without cause, upon thirty (30) days prior written notice to the other party. This Agreement may be terminated by the County with cause, upon expiration of the thirty (30) day cure period provided for in Section 9 above.

11. The **CENTRE** shall complete the **PROJECT** and shall provide its final reimbursement request(s) and final accounting data to County for the completed **PROJECT** on or before one (1) year, commencing upon the date of execution by the parties hereto. Upon written notification to County at least ninety (90) days prior to that date, the **CENTRE** may request an extension beyond this period for the purpose of completing the **PROJECT**. County shall not unreasonably deny the **CENTRE's** request for said extension.

12. In the event the **CENTRE** ceases to exist, or ceases or suspends the **PROJECT** for any reason, any remaining unpaid portion of this Agreement shall be retained by County, and County shall have no further obligation to honor reimbursement requests submitted by the **CENTRE**. The determination that the **CENTRE** has ceased or suspended the **PROJECT** shall be made by County and the **CENTRE** agrees to be bound by County's determination.

13. The **CENTRE** agrees to abide by, and be governed by, all applicable federal, state, county, and municipal laws, including but not limited to, Palm Beach County's ordinances, as said laws and ordinances exist and are amended from time to time. In entering into this Agreement, Palm Beach County does not waive the requirements of any County or local ordinance or the requirements of obtaining any permits or licenses normally required to conduct business or activity conducted by the **CENTRE**. Failure to comply may result in County's refusal to honor reimbursement requests for the **PROJECT**.

14. County reserves the right to withhold reimbursement if the **PROJECT** is not completed as specified.

15. It is understood and agreed that the **CENTRE** is merely a recipient of County funding and is an independent contractor and is not an agent, servant or employee of County or its Board of County Commissioners. It is further acknowledged that the County

only contributes funding under this Agreement and operates no control over the **PROJECT**. In the event a claim or lawsuit is brought against County or any of its officers, agents or employees, the **CENTRE** shall indemnify, save and hold harmless and defend the County, its officers, agents, and/or employees from and against any and all claims, liabilities, losses, judgments, and/or causes of action of any type arising out of or relating to any act or omission of the **CENTRE**, its agents, servants and/or employees in the performance of this Agreement. The foregoing indemnification shall survive termination of this Agreement.

In consideration for reimbursement of costs incurred prior to the term of this Agreement, the foregoing indemnification shall apply not only during the term of this Agreement but also for the period prior to the Agreement for which the **CENTRE** is eligible to receive reimbursement from the County.

16. the **CENTRE** shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Agreement, insurance coverages and limits (including endorsements), as described herein. The requirements contained herein, as well as County's review of acceptance of insurance maintained by the **CENTRE** are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the **CENTRE** under this Agreement.

Commercial General Liability. The **CENTRE** shall maintain Commercial General Liability at a limit of liability not less than \$500,000 Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. The **CENTRE** shall provide this coverage on a primary basis.

Worker's Compensation Insurance & Employer's Liability. The **CENTRE** shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. The **CENTRE** shall provide this coverage on a primary basis.

Additional Insured. The **CENTRE** shall endorse the County as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." The **CENTRE**

shall provide the Additional Insured endorsements coverage on a primary basis.

Waiver of Subrogation. The **CENTRE** hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then the **CENTRE** shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, when a condition to the policy specifically prohibits such an endorsement, or voids coverage should the **CENTRE** enter into such an agreement on a pre-loss basis.

Certificate(s) of Insurance. Prior to execution of this Agreement by the County, the **CENTRE** shall deliver to the County a Certificate(s) of coverage evidencing that all types and amounts of insurance coverages required by this Agreement have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. Certificate holder's address shall read Palm Beach County, Board of County Commissioners, 301 N. Olive Ave., West Palm Beach Florida 33401.

Right to Review. County, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Agreement. County reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

17. Upon request by County, the **CENTRE** shall demonstrate financial accountability through the submission of acceptable financial audits performed by an independent auditor.

18. The **CENTRE** shall maintain books, records, documents and other evidence that sufficiently and properly reflect all costs of any nature expended in the performance of this Agreement for a period of not less than five (5) years. Upon advance notice to the **CENTRE**, County shall have the right to inspect and audit said books, records, documents

and other evidence during normal business hours.

19. The County and **CENTRE** may pursue any and all actions available under law to enforce this Agreement including, but not limited to, actions arising from the breach of any provision set forth herein.

20. This Agreement shall be governed by the laws of the State of Florida and any and all legal action necessary to enforce this Agreement shall be held in Palm Beach County.

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

22. This Agreement represents the entire agreement between the parties and supersedes all other negotiations, representations, or agreement, either written or oral, relating to this Agreement. This Agreement may be modified and amended only by written instrument executed by the parties hereto.

23. Any notice given pursuant to the terms of this Agreement shall be in writing and hand delivered or sent by U.S. mail. All notices shall be addressed to the following:

As to the County:

Engineering and Public Works
Tanya N. McConnell, P.E.
Deputy County Engineer
2300 North Jog Road
West Palm Beach, FL 33411

As to Centre:

Chair of the Board
Centre for the Arts at Mizner Park
433 Plaza Real, Suite339
Boca Raton, FL 33432

24. This Agreement is made solely and specifically among and for the benefit of the parties hereto, and no other person shall have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party

beneficiary or otherwise.

IN WITNESS WHEREOF, the undersigned parties have signed this Agreement on the date first above written.

**CENTRE FOR THE ARTS
AT MIZNER PARK, INC.**

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

By: _____
Chair of the Board

By: _____
Chairperson

ATTEST:

ATTEST:

**SHARON R. BOCK,
CLERK & COMPTROLLER**

By: _____
Witness

By: _____
Deputy Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
Centre Attorney

By: _____
Assistant County Attorney

Date: _____

Date: _____

**APPROVED AS TO TERMS
AND CONDITIONS**

By: _____

Date: _____

2007

0249

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
BUDGET Transfer

BGEX103006-291

FUND Transportation Improvement

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 10/30/06	REMAINING BALANCE
<u>PALMETTO PK RD BASCULE BRIDGE</u>								
3500-364-M097-6572	Bridge Rehab & Renewal	0	0	150,000	0	150,000	0	150,000
<u>RESERVE FOR DISTRICT 4</u>								
3500-368-9114-9907	Res-Future Construction	2,625,107	2,619,994	0	150,000	2,469,994		
				150,000	150,000			

SIGNATURE

DATE

By Board of County Commissioners
At Meeting of 11/21/06

Engineering & Public Works

Administration / Budget Approval

OFMB Department - Posted

R. Dawson

Elizabeth Blawie

11/13/06

11/14/06

Deputy Clerk to the
Board of County Commissioners

MS
11/14/06
atw

2007

0250

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
BUDGET Transfer

BGEX103006-292

FUND Capital Outlay

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 10/30/06	REMAINING BALANCE
<u>GRANT-CENTRE FOR THE ARTS AT MIZNER PARK</u>								
3900-368-1228-8201	Contributions-Non-Govtl Agency	0	0	150,000	0	150,000	0	150,000
<u>PALMETTO PK RD BASCULE BRIDGE</u>								
3900-364-M097-6572	Bridge Rehab & Renewal	366,477	366,477	<u>0</u>	<u>150,000</u>	216,477		
				150,000	150,000			

SIGNATURE

DATE

By Board of County Commissioners
At Meeting of 11/21/06

Engineering & Public Works

R. D. Ward

11/8/06

Administration / Budget Approval

Elizabeth Closer

11/14/06

OFMB Department - Posted

Deputy Clerk to the
Board of County Commissioners

11/14/06 atn