



**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	20 <u>07</u>	20 <u>08</u>	20 <u>09</u>	20 <u>10</u>	20 <u>11</u>
Capital Expenditures	\$400,000	---	---	---	---
Operating Costs	---	---	---	---	---
External Revenues	---	---	---	---	---
Program Income (County)	---	---	---	---	---
In-Kind Match (County)	---	---	---	---	---
<b>NET FISCAL IMPACT</b>	---	---	---	---	---
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	---	---	---	---	---

Is Item Included In Current Budget? Yes X No      
 Budget Account No.: Fund 3900 Department 366 Unit X113 Object 6551/8101  
 Reporting Category

**Recommended Sources of Funds/Summary of Fiscal Impact:** There will be no additional impact other than the budgeted amount.

C. Departmental Fiscal Review: Pat DiGirolamo

**III. REVIEW COMMENTS**

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

<p><u>Jim Bul</u> 6/11/07                  OFMB                  6/8/07</p>	<p><u>Jim J. J. J.</u> 6/12/07                  Contract Dev. and Control</p>
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B. Legal Sufficiency: This Contract complies with our contract review requirements.

Anne Helgert 6/12/07  
 Assistant County Attorney

C. Other Department Review:

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

**INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY  
AND THE CITY OF SOUTH BAY**

**THIS Interlocal Agreement**, (hereinafter "Agreement"), is made as of the \_\_\_\_ day of \_\_\_\_\_, 2007, by and between Palm Beach County, a political subdivision of the State of Florida, (hereinafter "COUNTY") and the City of South Bay, a municipal corporation existing under the laws of Florida, (hereinafter "SOUTH BAY"), each one constituting a public agency defined in Part I of Chapter 163, Florida Statutes.

**WHEREAS**, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969", authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage, thereby providing services and facilities that will harmonize geographic, economic, population, and other factors influencing the needs and development of local communities; and

**WHEREAS**, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into Interlocal Agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

**WHEREAS**, SOUTH BAY desires to conduct street improvements within the City of South Bay; and

**WHEREAS**, SOUTH BAY has requested the COUNTY fund an amount not to exceed Four Hundred Thousand Dollars (\$400,000.00) for street improvements within the City of South Bay; and

**WHEREAS**, both the COUNTY and SOUTH BAY support street improvements; and

**WHEREAS**, street improvements serve a public purpose.

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

Section 1. Recitals.

The above recitals are true and correct and are incorporated herein.

Section 2. Term.

The term of this Agreement shall be effective on the date of execution of this Agreement by both parties and shall continue in full force and effect until August 30, 2009, unless otherwise terminated as provided herein. The COUNTY reserves the right to extend this Agreement for good cause. Any extensions shall be in writing and executed by both parties.

City of SOUTH BAY Interlocal Agreement

Section 3. Project to be Completed by SOUTH BAY:

SOUTH BAY shall make repairs to SW 7<sup>th</sup> Avenue (From SW 1<sup>st</sup> Street to Martin Luther King, Jr. Blvd.) (hereinafter the "Project") as more specifically described in the Scope of Work which is attached hereto and incorporated herein as Exhibit "A".

Section 4. Responsibilities and Duties:

- A. COUNTY shall reimburse SOUTH BAY an amount not to exceed Four Hundred Thousand Dollars (\$400,000.00) for the Project, provided SOUTH BAY performs pursuant to the terms and conditions of this Agreement. SOUTH BAY agrees that the extent of COUNTY'S responsibility under this Agreement shall be limited solely to funding, as stated above.
- B. SOUTH BAY shall secure all necessary easements, permits, approvals and authorizations from any Federal, State, Regional, County or Agency which are required to perform the Project.
- C. SOUTH BAY shall perform the Project in accordance with Exhibit "A".
- D. SOUTH BAY shall use its own personnel and/or subcontractors to perform this Agreement.
- E. SOUTH BAY shall assume all responsibility for design, bidding, contract preparation and contract administration for the Project, including payment(s) to contractor(s) pursuant to all applicable government laws and regulations.
- F. Upon termination or expiration of this Agreement, SOUTH BAY shall be responsible for the perpetual repair and maintenance of SW 7<sup>th</sup> Street.

Section 5. Rates, Fees and Charges:

SOUTH BAY shall not assess any property owners for the street improvements. In the event the funding provided to SOUTH BAY by COUNTY does not cover all SOUTH BAY'S expenses to complete the Project, SOUTH BAY shall be solely responsible to fund any remaining costs.

Section 6. Payments/Invoicing and Reimbursement:

The County shall reimburse SOUTH BAY upon completion of each task as identified in Exhibit "A". SOUTH BAY shall submit all invoices to the COUNTY identifying the Project, including SOUTH BAY'S total expenditure for the Project, and identifying the amount due and payable to SOUTH BAY. Invoices shall be itemized in sufficient detail for prepayment audit and shall be

## City of SOUTH BAY Interlocal Agreement

supported by copies of the corresponding paid consultant, contractor, and/or vendor invoices which substantiate proof of payment and performance. SOUTH BAY shall supply any further documentation such as copies of paid receipts, canceled checks, invoices and other documents deemed necessary by the COUNTY within seven (7) calendar days of request by the COUNTY. Invoices received from SOUTH BAY will be reviewed and approved by the County's Office of Community Revitalization, indicating that expenditures have been made in conformity with this Agreement and will then be sent to the COUNTY'S Finance Department for final approval and payment. Invoices will normally be paid within thirty (30) days following approval. Failure to submit completed reports within the specified timeframe will result in a delay in payment. In no event shall COUNTY provide advance funding to SOUTH BAY.

The project will be initiated by SOUTH BAY on February 1, 2007. Only those costs incurred by SOUTH BAY subsequent to the date of said Project initiation and prior to the expiration date of this Agreement are eligible for reimbursement by County pursuant to the terms and conditions hereof. In the event SOUTH BAY 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 SOUTH BAY. The determination that SOUTH BAY has ceased or suspended the Project shall be made by COUNTY and SOUTH BAY agrees to be bound by COUNTY's determination.

### Section 7. Access and Audits:

SOUTH BAY shall maintain books, records, and documents to justify all charges, expenses and costs incurred under this Agreement and in performing the Project, in accordance with Generally Accepted Accounting Principles (GAAP), as promulgated by the Government Finance Officers Association from time to time. The COUNTY shall have access to all books, records, and documents as required in this Agreement, and for at least three (3) years after completion of the Project. In the event any work is subcontracted by SOUTH BAY, SOUTH BAY shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.

### Section 8. Independent Contractor:

SOUTH BAY is, and shall be, in the performance of all work, services and activities under this Agreement an Independent Contractor and not an employee, agent or servant of COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to SOUTH BAY's sole direction, supervision, and control. SOUTH BAY shall exercise control over the means and manner in which it and its employees perform the work, and in all respects SOUTH BAY's relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

City of SOUTH BAY Interlocal Agreement

SOUTH BAY does not have the power or authority to bind the COUNTY in any promise, Agreement or representation.

Section 9. Personnel:

SOUTH BAY represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required herein under shall be performed by SOUTH BAY or under its supervision, and personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

All of SOUTH BAY's personnel and all subcontractors while on County premises will conduct themselves in an acceptable manner and follow acceptable safety and security procedures.

Section 10. Indemnification:

Each party shall be liable for its own actions and negligence and, to the extent permitted by law, and SOUTH BAY shall indemnify, defend, and hold harmless COUNTY against any and all actions, claims, or damages arising out of SOUTH BAY's actions in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful, or intentional acts or omissions.

This Indemnification provision shall survive the expiration or termination of this Agreement.

Section 11. Annual Appropriation:

The obligations of the COUNTY under this Agreement are subject to the availability of funds lawfully appropriated for its purpose by the Board of County Commissioners of Palm Beach County.

Section 12. Insurance:

- A. Without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes, SOUTH BAY acknowledges it is either self-insured under State Sovereign Immunity statutes with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature, which the COUNTY shall recognize as acceptable coverage for General Liability and Automobile Liability insurance; or

City of SOUTH BAY Interlocal Agreement

- B. In the event that SOUTH BAY does not rely exclusively on sovereign immunity as provided by Section 768.28, Florida Statutes, SOUTH BAY shall maintain third-party Commercial General Liability and Automobile Liability at limits not less than \$1,000,000 Per Occurrence. With respect to Commercial General Liability, SOUTH BAY shall add the COUNTY as an "Additional Insured."
- C. SOUTH BAY agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statutes, Chapter 440.
- D. SOUTH BAY shall provide a statement or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which COUNTY agrees to recognize as acceptable for the above required coverages. The Certificate Holder will be: Palm Beach County.
- E. SOUTH BAY shall require each contractor engaged by SOUTH BAY for work associated with this Agreement to maintain:
  - a. Workers' Compensation coverage in accordance with Florida Statutes, and;
  - b. Commercial General Liability coverage, including vehicle coverage, in combined single limits of not less than One Million Dollars (\$1,000,000.00). COUNTY shall be included in the coverage as an additional insured; and
  - c. A payment and performance bond for the total amount of the Project/improvements in accordance with Florida Statute 255.05.

Section 13. Breach and Opportunity to Cure:

The parties expressly covenant and agree that in the event either party is in default of its obligations under this Agreement, each party shall have thirty (30) days written notice before exercising any of its rights.

Section 14. Enforcement Costs:

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.

Section 15. Notice:

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 prepaid, to the following:

City of SOUTH BAY Interlocal Agreement

As to the "COUNTY":

Houston L. Tate, Manager  
County Administration  
Office of Community Revitalization,  
2300 North Jog Road, 2<sup>nd</sup> Floor East  
West Palm Beach, Florida 33411

As to the "SOUTH BAY":

Clarence E. Anthony, Mayor  
City of South Bay  
335 SW 2<sup>nd</sup> Avenue  
South Bay, Florida 33493

Section 16. Modification and Amendment:

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.

Section 17. Remedies:

This Agreement shall be governed by and in accordance with 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 such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

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.

Section 18. Joint Preparation:

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.



City of SOUTH BAY Interlocal Agreement

Section 19. Equal Opportunity:

COUNTY and SOUTH BAY agree that no person shall on the grounds of race, color, creed, sex, national origin, disability, religion, ancestry, marital status, or sexual orientation be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement. SOUTH BAY will ensure that all contracts let for the project pursuant to the terms of this Agreement will contain a similar non-discrimination and equal opportunity clause.

Section 20. Arrears:

SOUTH BAY shall not pledge the COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. SOUTH BAY further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

Section 21. Execution:

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 22. Filing:

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

Section 23. Termination:

This Agreement may be terminated by either party to this Agreement upon sixty (60) days written notice to the other party. SOUTH BAY's termination of this Agreement shall result in all obligations of the COUNTY for funding contemplated herein to be cancelled.

Section 24. Compliance with Codes and Laws:

SOUTH BAY shall abide by all applicable federal, state and local laws, orders, rules and regulations when performing under this Agreement. SOUTH BAY further agrees to include this provision in all subcontracts issued as a result of this Agreement.

Section 25. Public Entity Crime Certification:

As provided in F.S. 287.132-133, as may be amended from time to time, by entering into this Agreement or performing any work in furtherance hereof, SOUTH BAY shall have its

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contractors certify that their 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 thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3)(a).

Section 26. Severability:

If any section, paragraph, sentence, clause or provision of this Agreement is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this Agreement.

Section 27. Entirety of Agreement:

County and SOUTH BAY agree that this Agreement sets forth the entire Agreement between the parties, and there are no promises or understandings other than those stated herein.

Section 28. Signage:

The COUNTY may, at its discretion and for the duration of construction and repairs, install signs within public property or easements, notifying the public that construction of the Project was funded with COUNTY dollars.

Remainder of this page intentionally left blank

City of SOUTH BAY Interlocal Agreement

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on the day and year first written above.

ATTEST:

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

SHARON R. BOCK,  
CLERK & COMPTROLLER

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

By: \_\_\_\_\_  
Addie L. Greene, Chairperson

Approved as to Form and  
Legal Sufficiency:

Approved as to Terms and Conditions:

By: Anne Delgant  
Assistant County Attorney

By: Houston L. Tate  
Houston L. Tate, Manager  
Office of Community Revitalization

ATTEST:

CITY OF SOUTH BAY, BY ITS CITY  
COUNCIL

By: Virginia K. Walker  
City Clerk

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

Approved as to Form and  
Legal Sufficiency:

By: \_\_\_\_\_  
City Attorney

**EXHIBIT "A"**  
**CITY OF SOUTH BAY-PALM BEACH COUNTY, FLORIDA**  
**ROADWAY IMPROVEMENT PROGRAM**

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SCOPE OF WORK FOR  
THE FULL RECONSTRUCTION OF SW 7<sup>TH</sup> AVENUE  
(FROM SW 1<sup>ST</sup> STREET TO MARTIN LUTHER KING BLVD.)

SW 7<sup>th</sup> Avenue (From SW 1<sup>st</sup> Street to Martin Luther King Blvd.) Costs Not to exceed \$400,000.00

Construction Costs  
Engineering Design Cost  
Construction Administration Services

- Excavation of roadway pavement, concrete curbing, concrete sidewalks, concrete and asphalt driveways, and grass planting strips; remove trees and other vegetation that fall within the proposed construction limits; and install pollution prevention items along the alignments.
- Complete removal of existing muck material from under the existing roadways and replacement with a stable backfill material.
- Retain all existing utility facilities-adjust frames, grates and covers to meet new grades. Rebuild several sanitary manholes to accommodate new curb alignments.
- Reconstruct all new 'reduced width' roads including: Type S-1 asphalt pavement, local rock base and sub base materials; new concrete curbing-Type F, Valley Gutter Curb, and Flush styles; new concrete sidewalks and driveways; new grass planting strips; and re-installing existing mail boxes.
- Roadway signing: Either reset existing or add new signs-street names, stop signs, no parking signs, dead end signs –all as required.
- New pavement markings: stop bars, cross walks, centerline striping –all as required.
- Repair/replace abutters' property impacted/disturbed by new construction including: driveways, walkways and lawns.

# CERTIFICATE OF COVERAGE

Certificate Holder

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONER  
OFFICE OF COMMUNITY REVITALIZATION  
2300 NORTH JOG ROAD  
WEST PALM BEACH FL 33411 2741

Administrator

Issue Date 05/22/07

Florida League of Cities, Inc.  
Public Risk Services  
P.O. Box 530065  
Orlando, Florida 32853-0065

**COVERAGES**

THIS IS TO CERTIFY THAT THE AGREEMENT BELOW HAS BEEN ISSUED TO THE DESIGNATED MEMBER FOR THE COVERAGE PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGE AFFORDED BY THE AGREEMENT DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH AGREEMENT.

COVERAGE PROVIDED BY:

**FLORIDA MUNICIPAL INSURANCE TRUST**

AGREEMENT NUMBER: FMIT 0553

COVERAGE PERIOD: FROM 10/1/06

COVERAGE PERIOD: TO 10/1/07 12:01 AM STANDARD TIME

**TYPE OF COVERAGE - LIABILITY**

**General Liability**

- Comprehensive General Liability, Bodily Injury, Property Damage and Personal Injury
- Errors and Omissions Liability
- Supplemental Employment Practice
- Employee Benefits Program Administration Liability
- Medical Attendants'/Medical Directors' Malpractice Liability
- Broad Form Property Damage
- Law Enforcement Liability
- Underground, Explosion & Collapse Hazard

**Limits of Liability**

\* Combined Single Limit

Deductible Stoploss \$2,500

**Automobile Liability**

- All owned Autos (Private Passenger)
- All owned Autos (Other than Private Passenger)
- Hired Autos
- Non-Owned Autos

**Limits of Liability**

\* Combined Single Limit

Deductible N/A

**TYPE OF COVERAGE - PROPERTY**

- Buildings
    - Basic Form
    - Special Form
  - Personal Property
    - Basic Form
    - Special Form
  - Agreed Amount
  - Deductible N/A
  - Coinsurance N/A
  - Blanket
  - Specific
  - Replacement Cost
  - Actual Cash Value
- Miscellaneous
    - Inland Marine
    - Electronic Data Processing
    - Bond

Limits of Liability on File with Administrator

**TYPE OF COVERAGE - WORKERS' COMPENSATION**

- Statutory Workers' Compensation
- Employers Liability
  - \$1,000,000 Each Accident
  - \$1,000,000 By Disease
  - \$1,000,000 Aggregate By Disease
- Deductible \$2,500
- 

**Automobile/Equipment - Deductible**

- Physical Damage N/A - Comprehensive - Auto N/A - Collision - Auto N/A - Miscellaneous Equipment

**Other**

The limit of liability is \$100,000 Bodily Injury and/or Property Damage per person or \$200,000 Bodily Injury and/or Property Damage per occurrence. These specific limits of liability are increased to \$1,500,000 (combined single limit) per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28 (5) Florida Statutes or liability imposed pursuant to Federal Law or actions outside the State of Florida.

**Description of Operations/Locations/Vehicles/Special Items**

RE: Interlocal Agreement.

The Certificate Holder is hereby added as an additional insured, except for Worker's Compensation and Employers Liability, as respects the member's liability for the above described item.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE AGREEMENT ABOVE.

**DESIGNATED MEMBER**

CITY OF SOUTH BAY  
335 SW 2<sup>ND</sup> AVENUE  
SOUTH BAY FL 33493

**CANCELLATIONS**

SHOULD ANY PART OF THE ABOVE DESCRIBED AGREEMENT BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF. THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 45 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED ABOVE. BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE PROGRAM, ITS AGENTS OR REPRESENTATIVES.



AUTHORIZED REPRESENTATIVE