

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: July 10, 2007 Consent Regular
 Workshop Public Hearing

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

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve:

A. A Reimbursement Agreement in the amount of \$16,000 with the Avalon Estates Homeowners Association to reimburse the Association for costs incurred removing paver bricks and re-asphalting.

B. A Budget Transfer of \$16,000 in the Transportation Improvement Fund from Reserve for District 5 to paver bricks removal from Avalon Estates at Hagen Ranch Road – District 5.

Summary: This Agreement will reimburse the Association for costs incurred as a result of removing paver bricks from their entrance road. The paver bricks will be replaced with asphalt resurfacing so the County can install signal detection loops in the egress lanes to accommodate the signal installation.

District: 5 (ME)

Background and Justification: As part of the signal construction, the Traffic Division requests, Avalon Estates Homeowners Association to remove approximately 60 feet of paver bricks from the proposed stop bar location. This is necessary to allow for the installation of two signal detection loops. Any damage which may occur during detection loop installation or subsequent maintenance will be the responsibility of Palm Beach County.

Attachments:

1. Location Map
2. Agreements (3)
3. Budget Transfer
4. Commissioner Authorization

Recommended by: _____

Division Director **Date**

Approved by: _____

Sy J. Wald *6/20/07*

County Engineer **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Grant Expenditures	\$16,000	-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	\$16,000	-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 5
Paver Brick Removal/Avalon Estates @ Hagen Ranch Rd-Dist 5

C. Departmental Fiscal Review: _____ *[Signature]*

III. REVIEW COMMENTS

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

_____ *[Signature]* 6-22-07
OFMB
6-22-07
6/22/07
6/20/07

_____ *[Signature]* 6/26/07
Contract Dev. and Control
6/26/07

This Contract complies with our contract review requirements.

B. Approved as to Form and Legal Sufficiency:

_____ *[Signature]* 6/29/07
Assistant County Attorney

At the time of CDC's review, the contract was not executed.

C. Other Department Review:

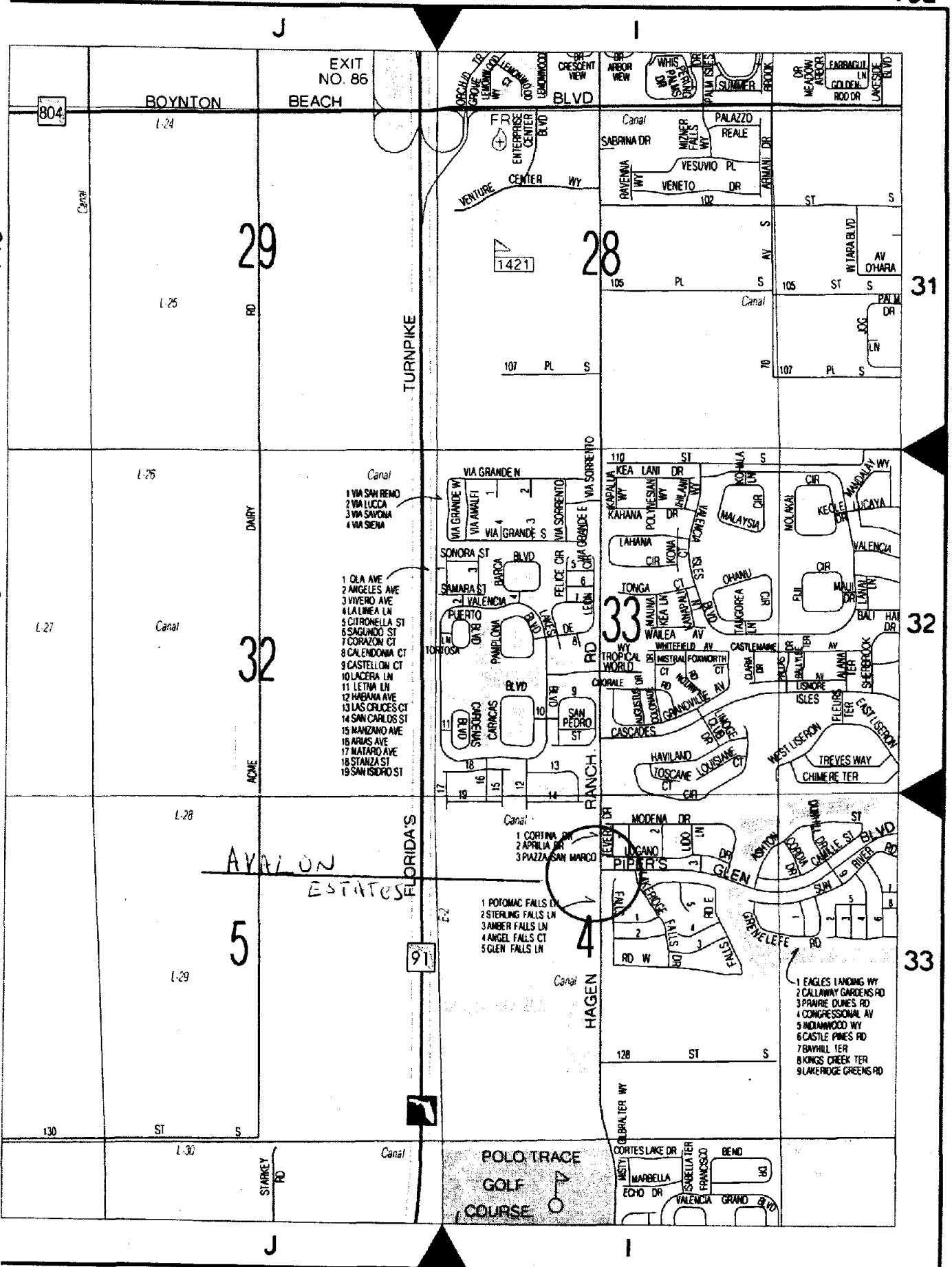
Department Director

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

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EXIT NO. 86

804

BOYNTON BEACH

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107 PL S

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From: Vivian Leiva
To: Owen Miley
Date: 4/26/2007 4:26:34 PM
Subject: Avalon Estates

Please transfer \$16,000 from District Five Gas Tax Fund to cover the estimated costs for removal of paver bricks and replacement with asphalt at the entrance to Avalon Estates.

Vivian E. Leiva
Senior Administrative Assistant to Commissioner Burt Aaronson

**REIMBURSEMENT AGREEMENT
BETWEEN PALM BEACH COUNTY AND
THE AVALON ESTATES HOMEOWNERS ASSOCIATION
FOR THE COST OF REMOVAL OF PAVER BRICKS AND RE-ASPHALTING**

THIS REIMBURSEMENT 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 the **AVALON ESTATES HOMEOWNERS ASSOCIATION**, hereinafter referred to as "**ASSOCIATION**"

WITNESSETH:

WHEREAS, the **ASSOCIATION** will remove approximately 60 feet of paver bricks from the egress lanes and replace them with asphalt hereinafter referred to as "**PROJECT**"; and

WHEREAS, the **ASSOCIATION** agrees to hire a contractor to remove existing brick pavers and construct an asphalt roadway in its place, to allow for signal detection devices to be installed within the roadway bed; and

WHEREAS, the **COUNTY** believes that these efforts by the **ASSOCIATION** serve a public purpose in allowing the County to install signal detection devices in the roadway inside the **ASSOCIATION's** property and wishes to support the **PROJECT** by providing reimbursement funding for the documented costs in an amount not to exceed **SIXTEEN THOUSAND DOLLARS (\$16,000.00)**; and

WHEREAS, the **COUNTY** will provide this one time reimbursement and be responsible for future maintenance of the signal detection devices only. Maintenance of the surface asphalt shall be the responsibility of the **ASSOCIATION**.

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 **ASSOCIATION** reimbursement funding for documented costs of the **PROJECT** in an amount not to exceed **SIXTEEN THOUSAND DOLLARS (\$16,000.00)**.
3. The **COUNTY** agrees to reimburse the **ASSOCIATION** the amount established in paragraph 2 for costs associated with the **PROJECT**, upon the **ASSOCIATION'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 **ASSOCIATION** on a reimbursement basis within forty-five (45) days of receipt of all information required in paragraph 6, below.

4. The **COUNTY's** obligation is limited to its payment obligation as stated in paragraph 3 and shall have no obligation to any other person or entity.

5. The **ASSOCIATION** 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.

6. The **ASSOCIATION** agrees to be responsible for the perpetual maintenance of the improvements following its installation and shall be solely responsible for obtaining and complying with all necessary permits, approvals, and authorizations from any federal, state, regional, or county agency which are required for the subsequent maintenance of the improvements. Notwithstanding the above the **COUNTY** agrees to be responsible for maintaining the detective devices and to repair any damage to the asphalt in the area of the detection devices that maybe damaged as a result of the repairing of detection devices.

7. The **ASSOCIATION** will obtain or provide all labor and materials necessary for the **PROJECT**. The **ASSOCIATION** 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 **ASSOCIATION**. Said information shall list each invoice payable by the **ASSOCIATION** and shall include the vendor invoice number, invoice date, and the amount payable by the **COUNTY**. The **ASSOCIATION** shall attach a copy of each vendor invoice paid by the **ASSOCIATION** 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 **ASSOCIATION's** Financial Officer shall also certify that each invoice listed on the Contractual Services Purchases Schedule Form was paid by the **ASSOCIATION** as indicated.

8. As it relates to this Agreement, the **COUNTY** may initiate a financial systems analysis and/or an internal fiscal control evaluation of the **ASSOCIATION** by

an independent auditing firm employed by the **COUNTY** or by the County Internal Audit Department at any time the **COUNTY** deems necessary.

9. The **ASSOCIATION** 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**.

10. The **PROJECT** has been completed all final invoices shall be submitted to the **COUNTY** no later than October 31, 2008, and the **COUNTY** shall have no obligation to the **ASSOCIATION** or any other entity or person for any cost incurred thereafter, unless the time for completion is extended by modification of this Agreement.

11. The **ASSOCIATION** recognizes that it is an independent contractor, and not an agent or servant of **COUNTY** or its Board of County Commissioners. In the event a claim or lawsuit is brought against **COUNTY**, its officers, employees, servants or agents, relating to the improvements or any item which is the responsibility of the **ASSOCIATION**, the **ASSOCIATION** hereby agrees to indemnify, save and hold harmless the **COUNTY**, its officers, employees servants or agents, and to defend said persons from any such claims, liabilities, causes of action and judgments of any type whatsoever arising out of or relating to the existence of the improvements or the performance by the **ASSOCIATION** as may relate to this Agreement. The **ASSOCIATION** agrees to pay all costs, attorney's fees and expenses incurred by **COUNTY**. Furthermore, **ASSOCIATION** agrees that the extent of **COUNTY**'s liability pursuant to this Agreement shall be limited solely to the aforementioned payment obligation.

12. As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the **ASSOCIATION** 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).

13. The **ASSOCIATION** shall require each contractor engaged by the **ASSOCIATION** 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 **PROJECT** in accordance with Florida Statute 255.05.

14. In the event of termination, the **ASSOCIATION** 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 **ASSOCIATION**; and the **COUNTY** may withhold any payment to the **ASSOCIATION** for the purpose of set-off until such time as the exact amount of damages due the **COUNTY** is determined.

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

16. The **COUNTY** and **ASSOCIATION** 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.

17. 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.

18. 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 CITY

Avalon Estates Homeowners Association
12207 Oak Vista Drive
Boynton Beach, Florida 33437

19. 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.

20. 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.

21. 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.

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

23. 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.

24. Each party shall promptly notify the other of any lawsuit, 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.

25. 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.

26. 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.

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

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

29. This Agreement shall be effective upon execution by both parties and shall

continue in effect and be binding on the parties until the **PROJECT** is completed as evidenced by the written acceptance of the **COUNTY** or October 31, 2008, whichever occurs first, or terminated in accordance with Paragraphs 14 and 15.

REMAINDER OF PAGE LEFT BLANK

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

**AVALON ESTATES
HOMEOWNERS ASSOCIATION**

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

By: _____
President

By: _____
Addie L. Greene, Chair

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: _____
Association Attorney

By: _____
Assistant County Attorney

Date: _____

Date: _____

**APPROVED AS TO TERMS
AND CONDITIONS**

By: _____

Date: _____

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
BUDGET Transfer

BGEX050107-1612

FUND Transportation Improvement

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 05/01/07	REMAINING BALANCE
<u>PAVER BRCK REMOVAL/AVALON @ HAGEN-DIST 5</u>								
3500-368-1245-8201	Contributions-Non-Govtl Agency	0	0	16,000	0	16,000	0	16,000
<u>RESERVE FOR DISTRICT 5</u>								
3500-368-9115-9907	Res-Future Construction	4,613,160	2,353,419	<u>0</u>	<u>16,000</u>	2,337,419		
				16,000	16,000			

SIGNATURE

DATE

By Board of County Commissioners
At Meeting of 06/19/07

Engineering & Public Works

R. D. Ward

5/2/07

Administration / Budget Approval

OFMB Department – Posted

Deputy Clerk to the
Board of County Commissioners