

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date:	August 21, 2007	Consent [X]	Regular [ ]
Submitted By:	Water Utilities Department	Public Hearing [ ]	
Submitted For:	Water Utilities Department		

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I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to: (A) approve an Interlocal Agreement between Palm Beach County and the Village of Royal Palm Beach Relating to Coordination of Road and Utility Construction; and (B) authorize the County Administrator or designee to execute a reimbursement memorandum, which is attached to the Interlocal Agreement as Exhibit "A", for future road improvement projects subject to the Interlocal Agreement.

**Summary:** Palm Beach County Water Utilities Department (PBCWUD) owns and operates the public water and wastewater facilities within the limits of the Village of Royal Palm Beach (Village). Certain road improvement projects within the limits of the Village may impact existing or proposed PBCWUD facilities. This Interlocal Agreement provides for coordination between PBCWUD and the Village in the planning and construction of Village road improvement projects, so that construction, relocation or adjustment of PBCWUD facilities by the road contractor is included within said road improvement projects.

District 6 (MJ)

**Background and justification:** On February 28, 2006, the Board approved the purchase of the Village of Royal Palm Beach's utility system (2006-0410). In accordance with the Utility Acquisition Agreement, the County began operating water and wastewater infrastructure throughout the Village in June 2006. The Village remains the governmental entity responsible for roadway improvements throughout the Village limits. Since most underground utilities are located within road rights-of-way, the Village and County recognize the benefit of working together to protect the integrity of the utility system. Coordination between PBCWUD and the Village will provide monetary savings, as well as reduce interruption of vehicular and pedestrian traffic, thereby providing benefits to both the Village and the County.

**Attachments:**

- 1. Location Map
- 2. Three (3) Original Interlocal Agreements

Recommended By: *Lisha L. Pica* 07/20/07  
 Department Director Date

Approved By: *Sharon O. Lopez* 7/23/07  
 Assistant County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

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

<b>Fiscal Years</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Capital Expenditures	<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>
<b>NET FISCAL IMPACT</b>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

**Budget Account No.:** Fund \_\_\_\_\_ Agency \_\_\_\_\_ Org. \_\_\_\_\_ Object \_\_\_\_\_

Is Item Included in Current Budget? Yes \_\_\_ No

Reporting Category N/A

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

This item has no fiscal impact. Future costs will be addressed via individual Reimbursement Memorandum.

**C. Department Fiscal Review:** Debra M West

**III. REVIEW COMMENTS**

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

Jim Omb 7-18-07  
OFMB  
7/16/07

John J. Jase 7/19/07  
Contract Development and Control  
7/19/07

**B. Legal Sufficiency:**

W. J. [Signature] 7/18/07  
Assistant County Attorney

**This Contract complies with our contract review requirements.**

**C. Other Department Review:**

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

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

INTER-LOCAL AGREEMENT  
 PALM BEACH COUNTY AND VILLAGE OF ROYAL PALM BEACH  
 COORDINATION OF ROAD PROJECTS AND UTILITY CONSTRUCTION



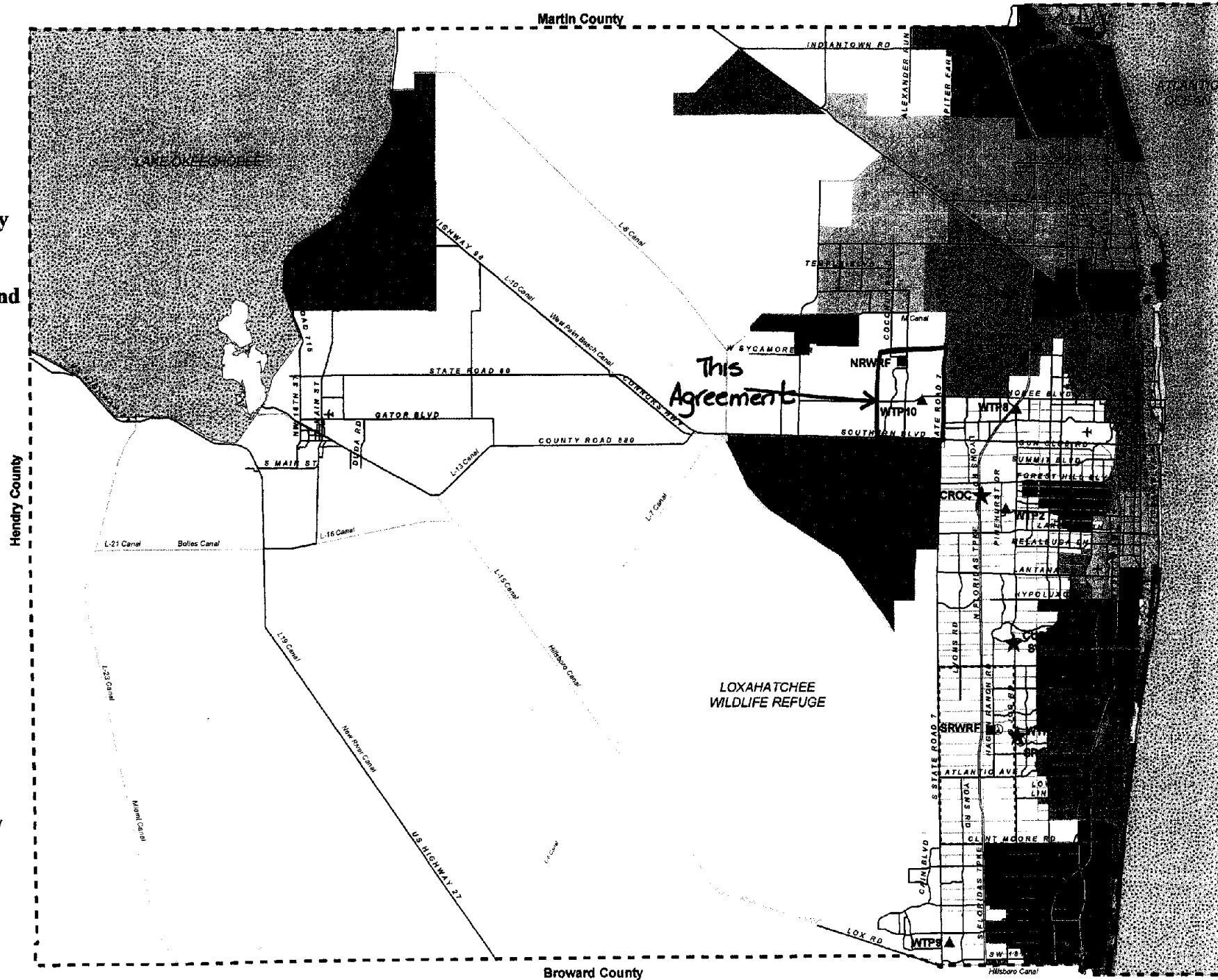
Palm Beach County  
 Water Utilities  
 Department  
 Service Area (SA) and  
 Major Facilities

Attachment 1

- Legend
- P.B.C.W.U.D. SA
- Mandatory Reclaimed SA
- Palm Beach County Limits
- Administration
- Water Reclamation Facility
- Water Treatment Facility
- Wetlands



NOT TO SCALE



**INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND THE  
VILLAGE OF ROYAL PALM BEACH RELATING TO COORDINATION OF  
ROAD AND UTILITY CONSTRUCTION**

**THIS AGREEMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida (hereinafter "County"), and the **VILLAGE OF ROYAL PALM BEACH, FLORIDA**, a municipality organized under the laws of the State of Florida (hereinafter "Village").

**WITNESSETH**

**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 and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, from time to time, the Village undertakes certain road improvement projects (hereinafter "Projects"); and

**WHEREAS**, County owns and operates the public water and wastewater system located within the Village, pursuant to that Purchase and Sale Agreement dated 02/28/06 (County Resolution No 06-0410); and

**WHEREAS**, certain Projects may impact existing County water and wastewater pipelines and related appurtenances (hereinafter "Facilities") or may impact roadways in which the County may intend to relocate and/or install new Facilities; and

**WHEREAS**, coordination of the Village's Projects with the County's construction, relocation and/or adjustment of Facilities will provide monetary savings, as well as reduce interruption to vehicular and pedestrian traffic, thereby providing benefits to both the Village and the County; and

**WHEREAS**, County and Village wish to cooperate in the construction, relocation, and/or adjustment of County Facilities in conjunction with future road projects undertaken by the Village.

**NOW, THEREFORE**, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, County and Village hereby covenant and agree as follows:

1. The foregoing statements are true and correct.
2. Term/Effective Date. This Agreement shall become effective upon approval by both parties and continue for a period of twenty-five (25) years. The Effective Date of this Agreement shall be the date the Agreement is ratified by the Palm Beach County Board of

County Commissioners (the "Effective Date").

3. Procedure. The parties agree to comply with the following procedure related to the coordination of road/utility construction: Village shall notify County of any upcoming Projects prior to bidding said Project. Should County wish to incorporate the construction, relocation, or adjustment of any County Facilities within the Project, County shall provide to Village all terms and conditions related to construction, relocation, or adjustment of County Facilities that the County wishes to be included in the Project bidding/contract documents. Following the selection of a contractor and award of the contract by Village, Village shall notify the County of the total costs related to the construction, relocation, or adjustment of County Facilities. The County Administrator or designee shall then execute a memorandum, a copy of which is attached hereto and incorporated herein as Exhibit "A", in order to confirm that the County agrees to provide the funds for the utility work.

4. Payment. During construction of the Project, Village shall invoice the County based on approved pay applications submitted to the Village. County will, within (7) days after receipt of each invoice, either by non response indicate agreement to pay Village or return the invoice to Village indicating in writing County's reasons for refusing to make payment. Where accepted, said payment shall be made by County within (45) days of receipt of invoice from the Village. Following completion of the Project, and after "As-built" quantities are established, the Village and County shall agree as to the final cost of the utility portion of the Project. Village shall provide County with a final invoice. County will, within (25) days after receipt of final invoice, either indicate in writing agreement to pay Village or return the invoice to Village indicating in writing County's reasons for refusing to make payment. Where accepted, said payment shall be made by County within (45) days of receipt of invoice from the Village. If it is determined that the County overpaid for the utility portion of the Project, a refund request shall be submitted in writing to Village within (25) days of final invoice.

5. Completion of Work by Palm Beach County. Notwithstanding the foregoing, the County shall be permitted to complete any work on its Facilities by using its own personnel or contractors. In any such case, the work must be completed in a timely manner that will not result in any delays to the contractor selected by Village to complete the Project.

6. Termination: The parties hereto expressly covenant and agree that in the event either party is in default of its obligations herein, the party not in default shall provide to the party in default ninety (90) days written notice to cure said default before exercising any of its rights as provided for in this Agreement. Failure to cure said default within ninety (90) days following notice may be grounds for termination of this Agreement. Termination of this Agreement by either party shall require thirty (30) days prior written notice to the other party prior to the termination date. The parties may mutually agree to extend the time for cure and/or termination.

7. No Transfer of Powers. Nothing contained in this Agreement shall be construed to constitute a transfer of powers in any way whatsoever. This Agreement is solely an Agreement to provide services as authorized in Florida Statutes, Chapter 163. The governing bodies for County and Village shall each maintain all legislative authority with

regard to their respective political subdivision. All of the privileges and immunities from liability; exemption from laws, ordinances, and rules; and pensions and relief, disability, workers compensation and other benefits which apply to the activity of officers, agents, or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extra-territorially under the provisions of this Agreement.

8. Indemnification County and Village acknowledge the waiver of sovereign immunity for liability in tort contained in Florida Statutes 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. County and Village agree to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of their respective employees. The parties acknowledge that the foregoing shall not constitute an agreement by either party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense the parties may have under such statute, nor as consent to be sued by third parties.

9. Force Majeure In the event that the performance of this Agreement by either party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of either party, including, but not limited to, Acts of God or of the public enemy, war, national emergency, allocation of or other governmental restrictions upon the use or availability of labor or materials, rationing, civil insurrection, riot, disorder or demonstration, terrorism, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, earthquake, or other casualty or disaster or catastrophe or water plan failures and water main breaks, neither party shall be liable for such non-performance.

10. Remedies. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred 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 now or hereafter.

11. Successors and Assigns County and Village each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither County nor Village shall assign, sublet, convey or transfer its interest in this Agreement without prior written consent of the other.

12. Waiver. The failure of either party to insist on the strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that said party may have to any subsequent breach, default, or non-

performance, and said party's right to insist on strict performance of this Agreement shall not be affected by any previous waiver of course or dealing.

13. Severability If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable by any court of competent jurisdiction, then the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

14. Notice. All notices provided for herein shall be in writing and transmitted by mail or by courier, and, if to Village, shall be mailed or delivered to Village at:

1050 Royal Palm Beach Blvd

Village Hall

Royal Palm Beach, Fl 33411

Attn: Ray Liggins, P.E.

Assistant Village Manager / Village Engineer

And if to County, shall be mailed or delivered to:

Palm Beach County Water Utilities

8100 Forest Hill Boulevard

P.O. Box 16097

West Palm Beach, FL 33416-6097

Attn: Department Director

15. Filing. This Agreement shall be filed with the Clerk of the Circuit Court for Palm Beach County.

16. Amendment and Modification. This Agreement may only be amended, modified, changed, supplemented, or discharged by an instrument in writing signed by the parties hereto.

17. Entirety of Agreement. County and Village agree that this Agreement and any Exhibits hereto set forth the entire agreement between the parties, and that there are not promises or understandings other than those stated herein. None of the provisions, terms

and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties.

**(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)**



IN WITNESS WHEREOF, County and Village have executed or have caused this Agreement to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

**ATTEST:**

**Sharon R. Bock, Clerk and Comptroller**

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

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

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

(SEAL)

**APPROVED AS TO FORM AND TO  
LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS AND  
CONDITIONS**

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

By: *Kashia L. Dier*  
Director of Water Utilities

**ATTEST:**

**VILLAGE OF ROYAL PALM  
BEACH, FLORIDA**

By: *Diane DeSanto*  
Clerk

By: *[Signature]*

**APPROVED AS TO FORM AND TO  
LEGAL SUFFICIENCY**

By: *Ireba J. White*  
Village Attorney

**EXHIBIT A - MEMORANDUM**

In accordance with the Interlocal Agreement between Palm Beach County and the Village of Royal Palm Beach Relating to Coordination of Road and Utility Construction (County Resolution No. R2007-\_\_\_\_\_) (hereinafter "Interlocal Agreement"), this memorandum shall confirm that Palm Beach County agrees to reimburse the Village of Royal Palm Beach the amount of \_\_\_\_\_ for utility construction, relocation, and/or adjustment in conjunction with Village Project No. \_\_\_\_\_. Payment terms shall be as set forth in the Interlocal Agreement.

**WITNESSES:**

**PALM BEACH COUNTY**

\_\_\_\_\_

By: \_\_\_\_\_  
County Administrator or Designee

\_\_\_\_\_

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

**WATER UTILITIES DEPARTMENT APPROVAL**

By: \_\_\_\_\_  
Director of Finance and Administration

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

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