PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting D	Date:	November 6, 2007	[X]	Consent Workshop	[]	Regular Public Hearing
Departm Submitte Submitte	ed By:	Engineering & Pub Streetscape Section	lic Woi	rks	5	
			I. EXI	ECUTIVE BRI	<u>ef</u>	
Motion an	d Title	e: Staff recommend	s motio	on to approve:		
A. A rein	Financ mburse	cial Assistance Agreement funding not to	eement exceed	with Horsesho \$150,435.	e Acres	Club, Inc. (Club), to provide
Dis	strict 1	Transfer of \$150,4 to Northlake Boule lake Boulevard (Pro	vard fo	ne Transportation beautification	on Impro	ovement Fund from Reserve for along the County's right of way
install beau adjacent to	the Cl	on improvements in	and ale 25 fee	ong the County et of and visible	's right of from the	maximum \$150,435 of the cost to of way for Northlake Boulevard, eright of way). The Club will be
District: 1	1 (N	IRE)				
enhance th	e appe	l Justification: arance of a public to of District 1 Reserv	horoug	hfare roadway.	ed eligib lastly th	le for gas tax funding, and will ne District 1 Commissioner has
 Cor Inst Agr 	mmissi urance reemer	Sketch. ioner Authorization. Certificate. ats (2) with Exhibit cansfer.				
Recommer	ıded E	By: Division Di	4 irector			9/25/07 Date
Approved	Ву:	Sounty En	gineer	(/0/9/07 Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years Grant Expenditures Operating Costs External Revenues Program Income (County) In-Kind Match (County) NET FISCAL IMPACT	2008 \$150,435 -0- -0- -0- -0- \$150,435	2009 -0- -0- -0- -0- -0-	2010 -0- -0- -0- -0- -0- -0-	2011 -0- -0- -0- -0- -0- -0-	2012 -0- -0- -0- -0- -0- -0-
# ADDITIONAL FTE POSITIONS (Cumulative)					
Is Item Included in Current Budget Acct No.: Fund Progr	Dept U	Yes nit Ob	ject	No <u>X</u> .	

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

Transportation Improvement Fund Reserve for District 1 Northlake Blvd/500' W of Kelso Dr to 230' E of Kelso

C. Departmental Fiscal Review: _. R. D. Wand 9/20/07

III. REVIEW COMMENTS

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

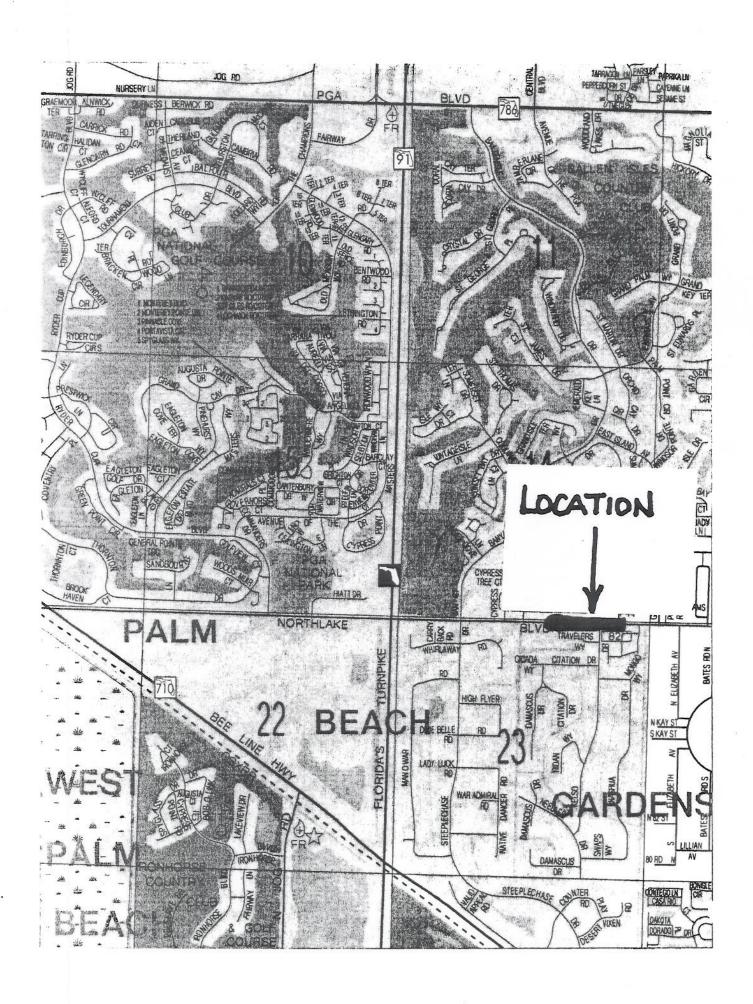
OFMB (10-22 07) OFMB (10)10101 10/12/07	Contract Dev and Control
B. Approved as to Form and Legal Sufficiency:	This Contract complies with our contract review requirements.

C. Other Department Review:

Department Director

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

I:\WP\AgendaPage2\Agnpgtwo2008\000426-08



LOCATION SKETCH

From:

Patricia Weaver

To:

Andrew Hertel

Date: Subject:

8/23/2007 1:10:08 PM Horseshoe Acres

Commissioner Marcus has authorized the expenditure of \$150,435 from the District One Gas Tax Reserves Account to reinstate the financial assistance agreement for beautification in and along Northlake Boulevard with the Horseshoe Acres Club, Inc. This replaces the prior commitment of \$149,823 which was previously approved.

Trish Weaver Administrative Assistant to Commissioner Karen T. Marcus

CC:

Owen Miley

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	Palm Beach FL 33404		INSURERS	AFFORDING CO	VERACE	N. N. O. #		
Horseshoe Acres Club Inc.				Scottsdale Insu	The state of the s	NAIC #		
	PO Box 33111		INSURER B:	Journal High	- atte			
	-		INSURER C:					
	Palm Beach Gardens FL	. 33420	INSURER D:	~~~				
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ANY	PROPRIETOR/PARTNER/EXECUTIVE CER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	9		
IF Yes	, describe under	3*	1		E.L. DISEASE - I'A EMPLOYEE	3		
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	and the second s			NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SH IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS				
West Palm Beach, FL 33411			S = S = S = S = S = S = S = S = S = S =	REPRESENTATIVES.				
			AUTHORIZED RE	PRESENTATIVE	7 5 7	<ad:< td=""></ad:<>		
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FINANCIAL ASSISTANCE AGREEMENT WITH HORSESHOE ACRES CLUB, INC., FOR BEAUTIFICATION IN AND ALONG THE COUNTY'S RIGHT OF WAY FOR NORTHLAKE BOULEVARD

THIS AGREEMENT is made and entered into this _____ day of _____, 2007, by and between HORSESHOE ACRES CLUB, INC., a not-for-profit corporation of the State of Florida, hereinafter "CLUB", and PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter "COUNTY".

WITNESSETH:

WHEREAS, CLUB (Federal ID Number 591936385) wishes to install beautification in and along (within 25 feet of, and entirely visible from) the COUNTY's right of way for Northlake Boulevard on and adjacent to CLUB's property from approximately 500 feet west of Kelso Drive to approximately 230 feet east of Kelso Drive, hereinafter "IMPROVEMENTS"; and

WHEREAS, COUNTY believes that these efforts by CLUB serve a public purpose in the enhancement of the appearance of the right of way; and

WHEREAS, Commission District 1 wishes to financially support these efforts by CLUB; and

WHEREAS, after implementation, CLUB will be responsible for the perpetual maintenance of the IMPROVEMENTS.

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 are incorporated herein.
- 2. COUNTY agrees to provide to CLUB reimbursement funding for the IMPROVEMENTS from Reserves for Commission District 1, in an amount not to exceed ONE HUNDRED FIFTY THOUSAND FOUR HUNDRED THIRTY FIVE AND 00/100 DOLLARS (\$150,435.00).
- 3. COUNTY agrees to reimburse CLUB the amount established in paragraph 2 for costs (materials and labor) associated with the installation of the IMPROVEMENTS, upon CLUB's submission of acceptable documentation needed to substantiate their costs for the IMPROVEMENTS. COUNTY will use its best efforts to provide said funds to CLUB on a reimbursement basis within forty-five (45) days of receipt of all information required in Paragraph 6, below.

- 4. COUNTY's obligation is limited to its payment obligation and COUNTY shall have no obligation to any other person or entity.
- 5. CLUB agrees to assume all responsibility for design, bidding, contract preparation, and contract administration for the installation of the IMPROVEMENTS, including payment(s) to contractor(s), pursuant to all applicable governmental laws and regulations and will comply with all applicable governmental landscaping codes and permitting requirements in the selection and installation of the IMPROVEMENTS. CLUB agrees to install the IMPROVEMENTS substantially in accordance with the plans, specifications and costs as approved and permitted by COUNTY. CLUB also agrees to assume financial responsibility for the completion of any portions of the IMPROVEMENTS that are not fully-funded by the amount set forth in Paragraph 2, above. Otherwise, the COUNTY will have the final determination of the eligibility for reimbursement of any changes. Substantial variations from the approved and permitted plans shall require prior written approval from COUNTY Engineer's Office. The final permit drawings must be signed and sealed by a Florida Registered Landscape Architect experienced in roadway planting and familiar with COUNTY's Streetscape Standards Manual.
- 6. CLUB will obtain or provide all labor and materials necessary for the design and installation of the IMPROVEMENTS. COUNTY shall have the final determination of eligibility for reimbursement. CLUB may seek initial reimbursement after the completion of, and payment for the planned berm and irrigation components of the IMPROVEMENTS. Club may seek final reimbursement after the completion of, and payment for the balance of the IMPROVEMENTS. CLUB shall furnish the Manager, Streetscape Section, of COUNTY's Department of Engineering and Public Works with a request for payment supported by the following:
 - a. A statement from a Florida Registered Landscape Architect that the IMPROVEMENTS have been inspected and were installed substantially in accordance with the approved and permitted plans for the IMPROVEMENTS, and;

b. A Contract Payment Request Form and a Contractual Services Purchases Schedule Form, attached hereto and incorporated herein as Exhibit "A" (pages 1 and 2) which are required for each and every reimbursement requested by CLUB. Said information shall list each invoice paid by CLUB and shall include the vendor invoice number, invoice date, and the amount paid by CLUB shall attach a copy of each vendor invoice paid by CLUB 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 Program Administrator and the President of the CLUB, or his designee shall also certify that each vendor invoice listed on the Contractual Services Purchases Schedule Form was paid by CLUB as indicated.

- 7. CLUB shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the IMPROVEMENTS for at least three (3) years after the completion of such IMPROVEMENTS. COUNTY shall have access to all books, records and documents as required in this Section for the purpose of inspection or audit during normal business hours.
- 8. CLUB agrees to be responsible for the perpetual maintenance of the IMPROVEMENTS following their 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.
- 9. All installation of these IMPROVEMENTS shall be completed and final invoices submitted to COUNTY no later than December 31, 2008, and COUNTY shall have no obligation to CLUB or any other entity or person for any cost incurred thereafter unless the time for completion is extended by modification of this Agreement as provided herein.
- 10. CLUB 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 CLUB, CLUB hereby agrees to

indemnify, save and hold harmless 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 CLUB as may relate to this Agreement. CLUB agrees to pay all costs, attorney's fees and expenses incurred by COUNTY, its officers, employees, servants or agents in connection with such claims, liabilities or suits except as may be incurred due to the negligence of COUNTY.

- 11. CLUB shall, at all times during the term of this Agreement (the installation and existence of the IMPROVEMENTS), maintain in force its status as an insured corporation, and shall provide evidence of this insurance prior to COUNTY's execution of this Agreement.
- 12. As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, CLUB certifies that its affiliates, suppliers, subcontractors, 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. CLUB shall require each contractor engaged by CLUB 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 AND 00/100 DOLLARS (\$1,000,000.00). COUNTY shall be included in the coverage as an additional insured.

- 14. In the event of termination, CLUB shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the contract by CLUB; and COUNTY may withhold any payment to CLUB for the purpose of set-off until such time as the exact amount of damages due COUNTY is determined. In the event CLUB elects to discontinue its maintenance obligation for the IMPROVEMENTS under this Agreement, it shall be the obligation of CLUB to restore, if necessary, the area of the IMPROVEMENTS on COUNTY's right-of-way to a condition acceptable to COUNTY Engineer, which shall be in accordance with Federal, State and COUNTY standards for road construction and/or maintenance. In the event CLUB fails to restore the area of the IMPROVEMENTS to a condition acceptable to COUNTY Engineer, COUNTY may undertake such restoration and CLUB shall be liable for the costs of such restoration.
- CLUB's termination of this AGREEMENT shall result all obligations of COUNTY for funding contemplated herein to be canceled.
- 16. COUNTY and CLUB 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 the Agreement.
- 17. COUNTY may, at COUNTY's discretion and for the duration of IMPROVEMENTS, install signs within the public property or easement, notifying the public that the IMPROVEMENTS were funded with COUNTY dollars.
- 18. 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.
- 19. 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:

AS TO COUNTY

Manager, Streetscape Section
Palm Beach County Department of
Engineering and Public Works
Post Office Box 21229
West Palm Beach, Florida 33416-1229

AS TO CLUB

President Horseshoe Acres Club, Inc. P.O. Box 33111 Palm Beach Gardens, FL 33420

- 20. This Agreement shall be construed and governed by the laws of the State of Florida. Any and all 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 or 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.
- 21. 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.
- 22. 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.
- 23. Each party agrees to abide by all laws, orders, rules and regulations and CLUB will comply with all applicable governmental landscaping codes in the maintenance and replacement of the IMPROVEMENTS.
- 24. CLUB shall promptly notify COUNTY 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.
- 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. CLUB has the authority to enter into this Agreement, and to perform the obligations contained herein.
- 28. This Agreement represents the entire understanding among the parties, and supersedes all other negotiations, representations, or agreements, either written or oral, relating to this Agreement.
- 29. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.
- 30. This Agreement shall take affect upon execution and the effective date shall be the date of execution.

INTENTIONALLY LEFT BLANK

HORSESHOE ACRES CLUB, INC. - BEAUTIFICATION

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

HORSESHOE ACRES CLUB, INC.

5		
6 7 8	(CLUB SEAL)	HORSESHOE ACRES CLUB, INC. BY ITS BOARD OF DIRECTORS
9 10	ATTEST:	
11 12 13		
14 15 16 17 18	By: Kathryn Ball fark CLUB SECRETARY	By: PRESIDENT
19 20 21 22	APPROVED AS TO FORM AND LEGA	L SUFFICIENCY
23 24 25	By: CLUB ATTORNEY	-
26 27 28 29	PALME	BEACH COUNTY
30 31 32 33	(COUNTY SEAL)	PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS
34 35	ATTEST:	
36 37 38 39	SHARON R. BOCK CLERK AND COMPTROLLER	
10 11 12 13	By:By:By:	DDIE L. GREENE, CHAIRPERSON
14 15 16	APPROVED AS TO FORM AND LEGA	L SUFFICIENCY
8 9 50	By:ASSISTANT COUNTY ATTORNEY	
3	APPROVED AS TO TERMS AND CON	DITIONS
54 55 56	BY: 184 Sho	

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Exhibit A

ENGINEERING & PUBLIC WORKS DEPARTMENT CONTRACT PAYMENT REQUEST

	(Project)						
rantee	Requ	Request Date					
illing #	Billing Period						
	PROJECT PAYMENT S	SUMMARY					
em	Project Costs This Billing	Cumulative Project Costs	Total Project Costs				
onsulting Services			V				
ontractual Services							
aterials, Supplies, Direct Purchases							
rantee Stock							
quipment, Furniture		.78					
OTAL PROJECT COSTS	=======================================		=======================================				
ertification: I hereby certify that the aboutere incurred for the work identified as becomplished in the attached progress rep	eing tation	Certification: I hereby cer has been maintained as requ oject expenses reported above able for audit upon reques	nired to support				
dministrator/Date		Financial Officer/Date					
PBC USE ONLY							
County Funding Participation		\$	_				
Total Project Cost		\$	<u>-</u> ,				
otal project costs to date		\$					
ounty obligation to date		\$	- -				
County retainage (%)		(\$					
County funds previously disbursed		(\$	_)				
County funds due this billing		\$					
Leviewed and Approved by:	BC Project Administrator/D	Pate	_				
Ā	Assistant County Engineer or	Fiscal Manager/Date					

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

		(Project)			
	Grantee	1	Billing Date		
	Billing #	E	Billing Period		
Contractor Name	Contractor Invoice Number and date	City Check or Voucher Number and date	Project Amount Paid this period	General Description	
					š
		TOTAL			
ertification: I hereby certify that the pur bove were used in accomplishing the pro		cl	ecks, and other purchasing docu	nt bid tabulations, executed contract cancelled umentation have been maintained as required re and are available for audit upon request.	
dministrator/Date		Fi	nancial Officer/Date		

2008						1	Page1 of1		
		ВО	OARD OF COUNTY PALM BEAC BUDGET		RS				
		FUND Transportation Improvement				BGEX			
ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 10/01/07	REMAINING BALANCE	
NLAKE BLVD/500' W OF KI 3500-368-1173-8201 Contri		0	0	150,435	0	150,435	0	150,4	
RESERVES FOR DISTRICT 3500-368-9111-9907 Res-Fu		973,569	1,095,892	0	<u> 150,435</u>	945,457			
				150,435	150,435				
		SIGNATURE		DATE			rd of County Comm		
Engineering & Public Works		R. D	. Wand	9)	12/07				
Administration / Budget Approval OFMB Department – Posted									
							Clerk to the of County Commiss	ioners	