

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: April 1, 2008

☒ Consent
☐ Workshop

☐ Regular
☐ 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 Budget Transfer of \$10,000 in the Transportation Improvement Fund from Reserve for District 6 to Loxahatchee Groves Water Control District – Open Emulsion to pave south 'F' Road.
- B. An Amendment to the Inter-Local Agreement (R2007-1919) with Loxahatchee Groves Water Control District for the purchase of open grade emulsion to pave south 'F' Road.

Summary: Approval of this Budget Transfer and the Amendment will provide additional funds of \$10,000 to the approved November 6, 2007 Agreement in the amount of \$179,000 for a total of \$189,000. Additional cost incurred was due to the unforeseeable change of general contractor.

District: 3 (MRE)

Background and Justification: Loxahatchee Water Control District has requested an Amendment for an additional amount of \$10,000 to the approved Agreement dated November 6, 2007. This amendment is required due to the change in general contractor by the Loxahatchee Water Control District. The District 6 Commissioner has agreed to cover the cost. The District 6 Commissioner believes this will serve the public's interest.

Attachments:

- 1. Location Map
 - 2. Project Authorization
 - 3. Amended Agreement (2)
 - 4. Copy of Original Agreement (R2007-1919)
 - 5. Budget Transfer
-

Recommended by:  2/29/08
Division Director Date

Approved by:  3/11/08
County Engineer Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Grant Expenditures	<u>\$10,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<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>
NET FISCAL IMPACT	<u>\$10,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

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 6

LGWCD/Open Grade Emulsion Paving S "F" Rd

C. Departmental Fiscal Review: R. D Ward 2/27/08

III. REVIEW COMMENTS

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

atwillhite 3-17-08
OFMB
3/14/08 CN 3/12/08

Jim J. Jacobi 3/17/08
Contract Dev. and Control
3/17/08

B. Approved as to Form and Legal Sufficiency:

Marlene R. Lucas 3/18/08
Assistant County Attorney

This amendment complies with our review requirements.

C. Other Department Review:

Department Director

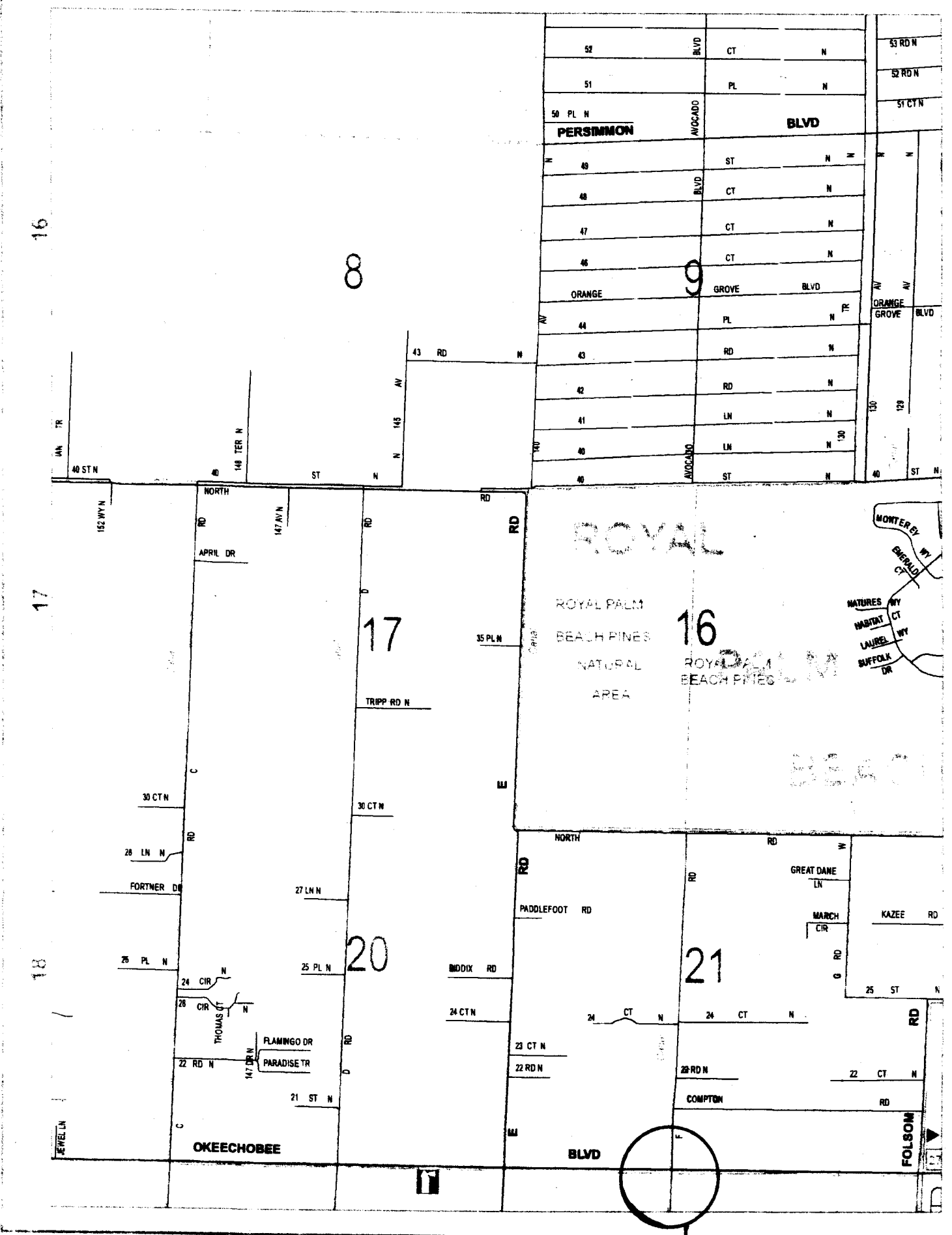
This summary is not to be used as a basis for payment.

53

R41
P

See pg 47

R41
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53

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See pg 53

O

F Road

From: Cyndy Verner
To: Miley, Owen
Date: 12/14/2007 10:57:48 AM
Subject: Re: Loxahatchee Groves Water Control District

Okay great. Would you, when you get a chance, go ahead and process the amendment and place it on the next available agenda in January. Thanks.

>>> Owen Miley 12/14/2007 10:49 AM >>>

You would need an amendment to the original agreement for an additional \$10,000 approved by the board.

Owen Miley
Special Projects Coordinator
Office of the County Engineer
561.684.4018
561.684.4167 (fax)

>>> Cyndy Verner 12/14/07 9:48 AM >>>

Good morning. As you will recall, Commissioner Santamaria allocated \$179,000 to Loxahatchee Groves Water Control District for the construction of open grade emulsion on "F" Road from Okeechobee Boulevard to Collecting Canal Road out of his discretionary gas tax funding. We have had a request from Loxahatchee Groves (due to a change in contractor and an increase in price of the project) for an additional \$10,000 to complete the project. Commissioner has approved the increase. Do we need to do an entirely new agreement for the \$10,00 (since the \$179,000 has already gone through the process) or can you do an amendment?

Appreciate your help. Let me know what you want me to do. Thanks.

**AMENDMENT TO THE INTER-LOCAL AGREEMENT
DATED NOVEMBER 6, 2007 WITH LOXAHATCHEE GROVES
WATER CONTROL DISTRICT FOR PURCHASE OF
OPEN GRADE EMULSION TO PAVE 'F' ROAD**

THIS AMENDMENT is made to the Inter-local Agreement (R2007-1919) dated November 6, 2007 with **LOXAHATCHEE GROVES WATER CONTROL DISTRICT**, an independent Special District of the State of Florida hereinafter referred to as "**DISTRICT**", and the **BOARD OF COUNTY COMMISSINERS OF PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "**COUNTY**".

WITNESSETH

WHEREAS, on November 6, 2007 the **DISTRICT** and the **COUNTY** entered into an Inter-local Agreement (R2007-1919) to provide funding to the **DISTRICT** for the purchase of open grade emulsion to pave 'F' Road in an amount not to exceed **ONE HUNDRED SEVENTY NINE THOUSAND DOLLARS (\$179,000.00)** and;

WHEREAS, the **DISTRICT** has requested an additional amount of **TEN THOUSAND DOLLARS (\$10,000.00)** to complete the project due to a change of the **DISTRICT's** contractor; and

WHEREAS, the **COUNTY** and **DISTRICT** desire to amend the November 6, 2007 Interlocal Agreement (R2007-1919) to increase the funding of the project by **TEN THOUSAND DOLLARS (\$10,000.00)** for a total amount of **ONE HUNDRED EIGHTY NINE THOUSAND DOLLARS (\$189,000.00)**; and

WHEREAS, the **COUNTY** and **DISTRICT** desire that this Amendment shall relate back to November 6, 2007 and the Contract continued without interruption nor lapse; and

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

1. The Inter-local Agreement dated November 6, 2007, by and between the **COUNTY** and **DISTRICT** is hereby amended to revise paragraph 2 as follows:
 2. The **COUNTY** agrees to provide to the **DISTRICT** reimbursement funding for documented costs of the **PROJECT** in an amount not exceed **ONE HUNDRED EIGHTY NINE THOUSAND DOLLARS (\$189,000.00)**

2. It is the intent of the parties hereto that this Amendment shall not become binding until the date executed by the Board of County Commissioners of Palm Beach County.
3. All other provisions of the Inter-local Agreement dated November 6, 2007 not specifically amended herein shall remain in full force and effect.

(REMAINDER OF PAGE LEFT BLANK)

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

LOXAHATCHEE GROVES
WATER CONTROL DISTRICT

By: 
Chair

ATTEST:

By: 
Secretary

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
District Attorney

Date: 2-11-2008

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

By: _____
Chairperson
Addie L. Greene

ATTEST:

SHARON R. BOCK, CLERK

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Assistant County Attorney

Date: _____

APPROVED AS TO TERMS
AND CONDITIONS

By: 

Date: 2/29/08

**INTERLOCAL AGREEMENT
BETWEEN PALM BEACH COUNTY AND
LOXAHATCHEE GROVES WATER CONTROL
DISTRICT FOR PURCHASE OF OPEN GRADE EMULSION
TO PAVE F ROAD
R2007 1919**

THIS INTERLOCAL AGREEMENT is made and entered into this _____ day of NOV 06 2007 by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "**COUNTY**" and **LOXAHATCHEE GROVES WATER CONTROL DISTRICT**, an independent Special District of the State of Florida hereinafter referred to as "**DISTRICT**"

WITNESSETH:

WHEREAS, the **DISTRICT** is purchasing open grade emulsion to pave F Road, hereinafter referred to as "**PROJECT**"; and

WHEREAS, the **PROJECT** consists of the purchase and application of open grade emulsion road paving material for South 'F' Road; and

WHEREAS, the **COUNTY** believes that the construction of the **PROJECT** serves a public purpose in the operation of **DISTRICT** Roads and wishes to support the **PROJECT** by providing supplemental reimbursement funding for the documented costs of the **PROJECT** in an amount not to exceed **ONE HUNDRED SEVENTY NINE THOUSAND DOLLARS (\$179,000.00)**; and

WHEREAS, after the construction of the **PROJECT**, the **COUNTY** will not be responsible for the subsequent maintenance of the **ROAD**.

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 **DISTRICT** reimbursement funding for documented costs of the **PROJECT** in an amount not to exceed **ONE HUNDRED SEVEN NINE THOUSAND DOLLARS (\$179,000.00)**.
3. The **COUNTY** agrees to reimburse the **DISTRICT** the amount established in paragraph 2 for costs associated with the **PROJECT**, including those costs incurred prior to the execution of this Agreement, upon the **DISTRICT'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

DISTRICT 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 and shall have no obligation to any other person or entity.

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

7. As it relates to this Agreement, the **COUNTY** may initiate a financial systems analysis and/or an internal fiscal control evaluation of the **DISTRICT** by an independent auditing firm employed by the **COUNTY** or by the County Internal Audit Department at any time the **COUNTY** deems necessary.

8. The **COUNTY** will not be responsible for the subsequent maintenance of the **ROAD** following construction. The **DISTRICT** 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**.

9. The **PROJECT** shall be completed and final invoices submitted to the **COUNTY** no later than **October 31, 2009**, and the **COUNTY** shall have no obligation to the **DISTRICT** or any other entity or person for any cost incurred thereafter unless the time for completion is extended by modification of this Agreement.

10. Each party shall be liable for its own actions and negligence and to the extent permitted by law, the **DISTRICT** shall indemnify, defend and hold harmless the **COUNTY** against any actions, claims or damages arising out of the **DISTRICT's** negligence in connection with this Agreement or the performance by the **DISTRICT** as it may relate to this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 786.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligence, willful or intentional acts or omissions.

11. The **DISTRICT** shall, at all times during the term of this Agreement, maintain appropriate insurance.

12. As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the **DISTRICT** 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 **DISTRICT** shall require each contractor engaged by the **DISTRICT** 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 **IMPROVEMENT** in accordance with Florida Statute 255.05.

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

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

16. The **COUNTY** and **DISTRICT** 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 DISTRICT

Loxahatchee Groves Water Control District
Mr. Clete Saunier
District Administrator
P.O. Box 407
Loxahatchee, Florida 33470

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 **DISTRICT** will comply with all applicable governmental codes during the **PROJECT**.

23. The parties to this agreement 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-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. This Agreement represents the entire understanding among the parties, and supercedes all other negotiations, or agreements, 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 take effect upon execution and the effective date shall be the date of execution.

REMAINDER OF PAGE LEFT BLANK

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

R2007 1919
NOV 06 2007

LOXAHATCHEE GROVES
WATER CONTROL DISTRICT

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

By: David R. Morais
Chair

By: Addie L. Greene
Addie L. Greene, Chair

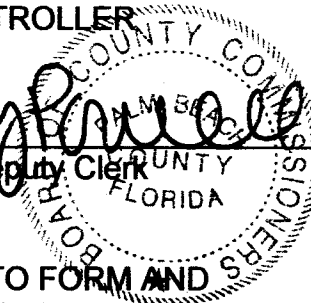
ATTEST:

ATTEST:

SHARON R. BOCK,
CLERK & COMPTROLLER

By: John Ryan
Secretary

By: Nancy R. Bock
Deputy Clerk



APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Wayne W. Vinton
District Attorney

By: Mark R. Platts
Assistant County Attorney

Date: 9/12/07

Date: 10/31/07

APPROVED AS TO TERMS
AND CONDITIONS

By: William J. McDonnell

Date: 10/19/07

**PALM BEACH COUNTY
ENGINEERING & PUBLIC WORKS DEPARTMENT
CONTRACT PAYMENT REQUEST**

Exhibit A

(PROJECT)

Grantee _____ **Request Date** _____

Billing # _____ **Billing Period** _____

PROJECT PAYMENT SUMMARY

Item	Project Costs this Billing	Cumulative Project Costs	Total Project Costs
Consulting Services	_____	_____	_____
Contractual Services	_____	_____	_____
Material, Supplies, Direct Purchases	_____	_____	_____
Grantee Stock	_____	_____	_____
Equipment, Furniture	_____	_____	_____
TOTAL PROJECT COSTS	=====	=====	=====

Certification: I hereby certify that the above
was incurred for the work identified as being
accomplished in the attached progress reports.

Certification: I hereby certify that the documentation
has been maintained as required to support the project
expenses reported above, and is available for audit upon
request.

Administrator/Date

Financial Officer/Date

PBC USE ONLY

County Funding Participation \$ _____

Total Project Costs \$ _____

Total Project Costs to Date \$ _____

County Obligation to Date \$ _____

County Retainage (___%) (\$ _____)

County Funds Previously Disbursed (\$ _____)

County Funds Due this Billing \$ _____

Reviewed and Approved by:

PBC Project Administrator/Date

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

(PROJECT)

Grantee _____

Billing Date _____

Billing # _____

Billing Period _____

Contractor Name	Contractor Invoice Number and Date	City Check or Voucher Number and Date	Project Amount Paid this Period	General Description
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
			TOTAL _____	

Certification: I hereby certify that the purchase noted above was used in accomplishing the project.

Certification: I hereby certify that bid tabulations, executed contract, cancelled checks, and other purchasing documentation have been maintained as required to support the costs reported above, and are available for audit upon request.

Administrator/Date

Financial Officer/Date

2008 _____

Page 1 of 1

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
BUDGET Transfer

FUND Transportation Improvement

BGEX 011708-2085

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 01/17/08	REMAINING BALANCE
<u>LGWCD/OPEN GRADE EMULSION PAVING S "F" RD</u>								
3500-368-1268-8101	Contributions Othr Govtl Agency	0	179,000	10,000	0	189,000	179,000	10,000
<u>RESERVE FOR DISTRICT 6</u>								
3500-368-9116-9907	Res-Future Construction	935,695	529,800	<u>0</u>	<u>10,000</u>	519,800		
				10,000	10,000			

SIGNATURE

DATE

By Board of County Commissioners
At Meeting of 04/01/08

Engineering & Public Works

R. J. Wang

2/26/08

Administration / Budget Approval

OFMB Department – Posted

Deputy Clerk to the
Board of County Commissioners