

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	\$125,000	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	<\$125,000>	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-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:

Road Impact Fee Fund - Zone 3
 SR 7 & Forest Hill Blvd Intersection Imp,
 Developer Contributions
 Right of Way

C. Departmental Fiscal Review: R. S. Ward 4/30/08

III. REVIEW COMMENTS

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

A. White 5.14.08
 OFMB
 SN 5/15/08 CN 5/14/08

Jim J. Jacoby 5/15/08
 Contract Dev. and Control
 5/15/08

This Contract complies with our contract review requirements.

B. Approved as to Form and Legal Sufficiency:
Mark R. [Signature] 5/23/08
 Assistant County Attorney

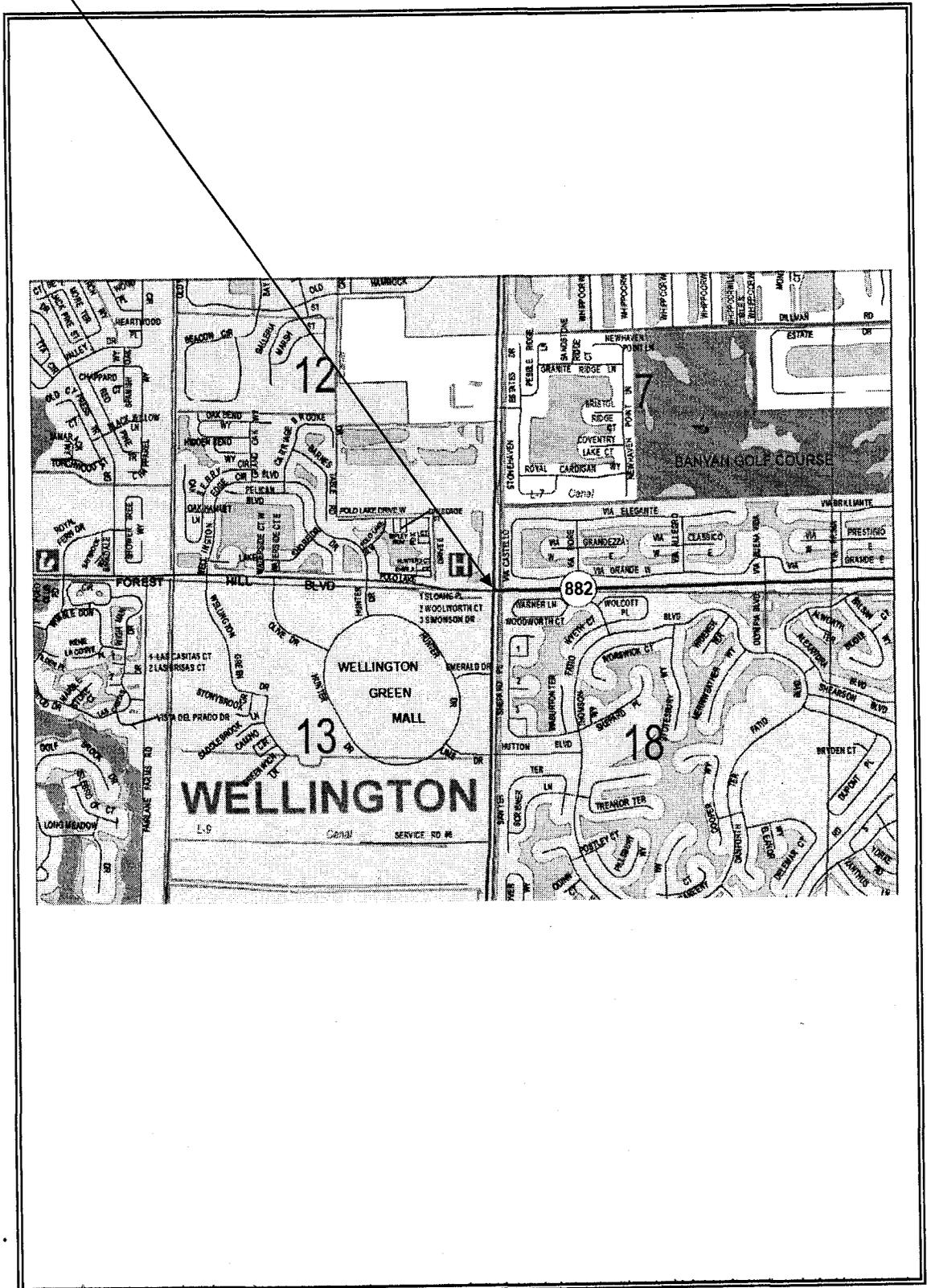
C. Other Department Review:

 Department Director

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

LOCATION MAP

SR 7 & FOREST HILL BOULEVARD INTERSECTION IMPROVEMENTS



**STATE ROAD 7 AND FOREST HILL BOULEVARD PUBLIC FACILITIES
AGREEMENT**

This Agreement made and entered into this _____ day of _____ 2008, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida, (the "County"), and CENTRE AT WELLINGTON GREEN, LLLP a Florida limited liability limited partnership, (the "Developer") whose address for the purposes hereof is 2515 SR 7, Suite 230, Wellington, Florida 33414. The County and Developer are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, County intends to construct improvements on the west approach of Forest Hill Boulevard at State Road 7 to provide three left turn lanes, three through lanes, and two right turn lanes (the "Project"); and

WHEREAS, Developer intends to construct a new driveway connection including an eastbound right turn lane and a modified median opening on Forest Hill Boulevard located at the west end of the Project (the "Improvement"); and

WHEREAS, County intends to obtain the additional right-of-way (the "R/W") required for the Project and Improvement from the Lake Worth Drainage District (the "LWDD"); and

WHEREAS, Developer acknowledges that the County's obtaining the additional R/W required for the Project and Improvement provides a benefit to the Developer; and

WHEREAS, County and Developer desire to jointly participate in constructing the Project and Improvement in order to make the best use of their resources and to minimize disruption to the traveling public such that County shall construct the Improvement upon such terms as set forth on this Agreement.

NOW, THEREFORE, in consideration of the premises, mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

T E R M S:

Section 1: Recitals

The above recitations are true and correct and are incorporated as if fully set forth herein by this reference.

Section 2: Purpose

The purpose of this Agreement is to identify the Parties' respective duties and obligations regarding the construction of the Improvement by the County.

Section 3: Developer Duties and Obligations

The Developer agrees to the following duties and obligations:

(a) The Developer shall be responsible for payment to COUNTY for all costs incurred by the County attributable to the construction of the Improvement including, but not limited to, actual construction costs including appropriate proportional share of "lump sum" items of work, utility relocation costs, an additional eight percent (8%) of the actual construction costs for support costs including construction engineering and inspection (CE&I) and testing, and a lump sum fee for County staff costs for bidding and contract preparation set at Five Thousand Dollars (\$5,000.00). Payment shall be due within thirty (30) days written notice by the County, and prior to award of the construction contract by the County.

(b) The Developer shall be responsible for payment for all services rendered for the Improvement by those professionals engaged by the County for the Project.

(c) The Developer shall be responsible for the design plans of the Improvement and for payment of all permit fees (except the County three percent (3%) Land Development permit fee associated with construction within County R/W) or charges attributable to the Improvement.

(d) The Developer shall be responsible for obtaining all local, state and federal approvals required for the Improvement, including County approval of the design plans for the Improvement. Developer shall provide written documentation evidencing all approvals have been obtained not limited to the Village of Wellington amendment of the DRI.

(e) The Developer shall be responsible to resolve any compensating storage issues for both the Project and the Improvement as required from the regulatory permitting agencies.

(f) The Developer shall be responsible for obtaining written acceptance of the Improvement from Wellington Regional Medical Center, specifically acknowledging the proposed modification to its Forest Hill Boulevard median opening.

(g) The Developer shall provide a one time payment of One Hundred and Twenty-Five Thousand Dollars (\$125,000.00) to the County as compensation for the benefit received by the Developer resulting from the County's obtaining the R/W required for the Improvement from the LWDD (the "One Time Payment"). Payment shall be due upon the latter of thirty (30) days after execution of this Agreement, or within thirty (30) days after the County notifies the Developer in writing that the County

has taken title to the R/W required for the Improvement. In the event County, for any reason whatsoever, does not construct the Improvement, then the County shall timely return the One Time Payment to the Developer.

(h) The Developer agrees that it will not directly communicate with County's contractors unless requested by the County, and that any requests of the Developer regarding construction of the Improvement shall be directed to the County for implementation.

(i) The Developer will be responsible for all additional work or Change Orders required for the Improvement. The County will diligently communicate with the Developer the nature and necessity for any Change Order in a timely manner. Any additional payments for Change Orders or quantity overruns in excess of the initial construction cost of the Improvement shall be due within thirty (30) days written notice by the County.

Section 4: County Duties and Obligations

The County agrees to the following duties and obligations:

(a) The County shall obtain all R/W required for the Project and Improvement through a Real Property Exchange Agreement with the LWDD.

(b) The County shall be responsible for the bidding, award and construction of the Improvement, including CE&I services and certification of completion upon final acceptance of the work.

(c) The County agrees to timely let the contract awarding the construction of the Improvement, and shall utilize its best efforts to award the construction contract within ninety (90) days of the receipt of all permits and final approval of the construction plans, subject to the availability of funds from the County's Five Year Road Program.

Section 5: Governing Law

The Agreement and the rights and obligations created hereunder shall be interpreted, construed and enforced in accordance with the laws of the United States and the State of Florida. This Agreement shall not be construed against the party who drafted it as all parties have consulted experts and attorneys of their choice. If any litigation should be brought in connection with this Agreement, venue shall lie in Palm Beach County, Florida.

Section 6: Attorney's Fees and Costs

The parties hereto agree that in the event it becomes necessary for either party to defend or institute legal proceedings as a result of the failure of either party to comply with the terms, covenants and provisions of this agreement, each party in such litigation shall bear

its own cost and expenses incurred and expended in connection therewith including, but not limited to, reasonable attorney's fees and court costs through all trial and appellate levels.

Section 7: Agreement

This Agreement contains the entire agreement between the parties. No right, duties or obligations of the parties shall be created unless specifically set forth in this Agreement and will not be binding and valid unless in writing and executed and approved by both parties or their successors or assigns.

Section 8: Amendment

No modification or amendment of this Agreement shall be of any legal force or effect unless in writing and executed by all parties.

Section 9: Binding Agreement

This Agreement shall inure to the benefit of and shall bind the parties, their successors and assigns.

Section 10: Assignment

This Agreement may not be assigned without the prior written consent of the other party (such consent not being unreasonably withheld) and all of the terms and conditions set for herein shall inure to the benefit of and shall bind all assignees.

Section 11: Waiver

Failure to enforce any provision of this Agreement by either party shall not be considered a waiver of the right to later enforce that or any provision of this Agreement.

Section 12: Notices

Any notice, request, demand, instruction or other communication to be given to either party hereunder shall be in writing and shall be hand-delivered, telecopied, sent by Federal Express or a comparable overnight mail service, or by U.S. registered or certified mail, return receipt requested, postage prepaid to COUNTY and to DEVELOPER as may be appropriate at their respective addresses below.

As to COUNTY: Steve Carrier, P.E.
Assistant County Engineer
Engineering & Public Works Department
2300 North Jog Road, 3rd Floor
West Palm Beach, FL 33411

As to COUNTY'S

Legal Representative: Marlene R. Everitte, Esquire
Palm Beach County Attorney's Office
301 N. Olive Avenue, Suite 601
West Palm Beach, FL 33401

As to DEVELOPER: Centre At Wellington Green, LLLP
2515 SR 7, Suite 230
Wellington, Florida 33414

As to DEVELOPER'S

Legal Representative: Jeffrey A. Rembaum, Esq.
c/o Ruden, McClosky, Smith, Schuster & Russell, P.A.
222 Lakeview Ave, Suite 800
West Palm Beach, FL 33401

Section 13: Effective Date

This Agreement shall be effective when executed by all parties and approved by the Board of County Commissioners of Palm Beach County, Florida.

Section 14: Term

This Agreement shall continue in full force and effect for a period of three years from its Effective Date, at which time the Agreement shall automatically terminate unless otherwise extended by written agreement between the parties (the "Termination Date"). In the event that funds from the County's Five Year Road Program are not available for the Project by the Termination Date and the parties do not enter into a written agreement to extend this Agreement, the Developer shall, at its sole expense and at its sole option, have right to permit and construct the Improvement.

Section 15: Counterparts

This Agreement may be executed by the parties in any number of counterparts, each of which shall be deemed to be an original, and all of which shall be deemed to be one and the same Agreement.

Section 16: No Third-Party Beneficiaries

This Agreement is entered into solely for the benefit of Developer and County. No other person or entity is intended to be a third-party beneficiary of this Agreement.

Section 17: Divisibility

If any article, section or exhibit of this Agreement is deemed illegal or unlawful, the same will be struck from this Agreement and all other articles, sections and exhibits will remain valid and in full force and effect.

Section 18: Remedies

If either of the Parties fail to perform under this Agreement, then the performing party shall have the right to seek specific performance of this Agreement against the non-performing party without waiving any other rights and remedies available.

Section 19: Gender

Wherever the context shall so require, all words herein in the masculine gender shall be deemed to include the feminine or neuter gender, all words herein in the feminine gender shall be deemed to include the masculine or neuter gender, all words herein in the neuter gender shall be deemed to include the masculine or feminine gender, all singular words shall include the plural, and all plural words shall include the singular.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

DEVELOPER

WITNESSES:

CENTRE AT WELLINGTON GREEN, LLLP
by Centre - W.G., Inc.,
Corporate General Partner

Richard Galt Gertz Jr.

Print Name: Richard Gertz Jr. By: _____

MARC STANLEY

Print Name: MARC STANLEY

R Gertz

Print: Richard GERTZ

Its: President

PALM BEACH COUNTY

PALM BEACH COUNTY, FLORIDA,
a Political Subdivision of the State of Florida

ATTEST:

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: _____
Assistant County Attorney

By:  _____

2008- _____

**BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
BUDGET Amendment**

FUND Road Impact Fee - Zone 3

BGRV 042808-564
BGEX 042808-2630

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 04/28/08	REMAINING BALANCE
<u>REVENUES</u>								
<u>SR 7/S OF LAKE WORTH RD-N OF SOUTHERN</u>								
3503-361-0784-6329	Developer Contribution	0	0	125,000	0	125,000		
TOTAL RECEIPTS & BALANCES		48,680,419	62,506,632	125,000	0	62,631,632		
<u>EXPENDITURES</u>								
<u>SR 7/S OF LAKE WORTH RD-N OF SOUTHERN</u>								
3503-361-0784-6120	Right of Way	287,900	287,900	125,000	0	412,900	287,900	125,000
TOTAL APPROPRIATIONS & EXPENDITURES		48,680,419	62,506,632	125,000	0	62,631,632		

SIGNATURE

DATE

By Board of County Commissioners
At Meeting of 06/03/08

Engineering & Public Works

R. D. Ward

4/28/08

Administration / Budget Approval

OFMB Department - Posted

Deputy Clerk to the
Board of County Commissioners