

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

Meeting Date: June 3, 2008

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 Budget Transfer of \$49,605 in the Transportation Improvement Fund from Reserve for District 5 to Mission Bay Community Association Irrigation – District 5; and
- B) A Reimbursement Agreement with Mission Bay Community Association for irrigation at Cain Boulevard and Glades Road.

**SUMMARY:** Approval of the Budget Transfer and the Reimbursement Agreement will provide funds to help pay for the replacement of the irrigation system that was damaged during the construction of Cain Boulevard and Glades Road.

District 5 (MRE)

**Background and Justification:** The Mission Bay Community Association desires to replace irrigation in the area along Cain Boulevard and Glades Road that was damaged by Palm Beach County during the intersection improvement construction. The District 5 Commissioner has agreed to cover the cost. The District 5 Commissioner believes this will serve the public's interest.

**Attachments:**

- 1. Location Map
- 2. Project Authorization
- 3. Agreements (2) w/Exhibit "A"
- 4. Budget Transfer

Recommended by:  *McConnell*      5/2/08  
Division Director      Date

Approved by:  *T. Webb*      5/8/08  
County Engineer      Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2008	2009	2010	2011	2012
Grant Expenditures	\$49,605	-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-
<b>NET FISCAL IMPACT</b>	<b>\$49,605</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

# 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  
Mission Bay Community Association Irrigation-Dist 5

C. Departmental Fiscal Review: \_\_\_\_\_ *[Signature]*

## III. REVIEW COMMENTS

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

*A. White* 5.14.08  
OFMB  
*sd 5/13/08 v0 05/09*

*[Signature]* 5/15/08  
Contract Dev. and Control  
This Contract complies with our contract review requirements.

### B. Approved as to Form and Legal Sufficiency:

*[Signature]*  
Assistant County Attorney

### C. Other Department Review:

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

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

**From:** Vivian Leiva  
**To:** Owen Miley  
**Date:** Thu, Dec 20, 2007 4:09 PM  
**Subject:** Mission Bay

Owen,

Commissioner Aaronson has agreed to reimburse Mission Bay Community Association \$49,605.61 for costs associated with relocation of irrigation due to intersection improvements at Cain and Glades Roads.

Please prepare the necessary documents for their signature. We would like to have this on an Agenda asap.

I have sent to you via interoffice-mail the documentation that they sent to our office.

Thanks.

Vivian E. Leiva  
Senior Administrative Assistant to Commissioner Burt Aaronson

CANAL BLVD + GRADES 120  
MISSION BAY

R41

See pg 114

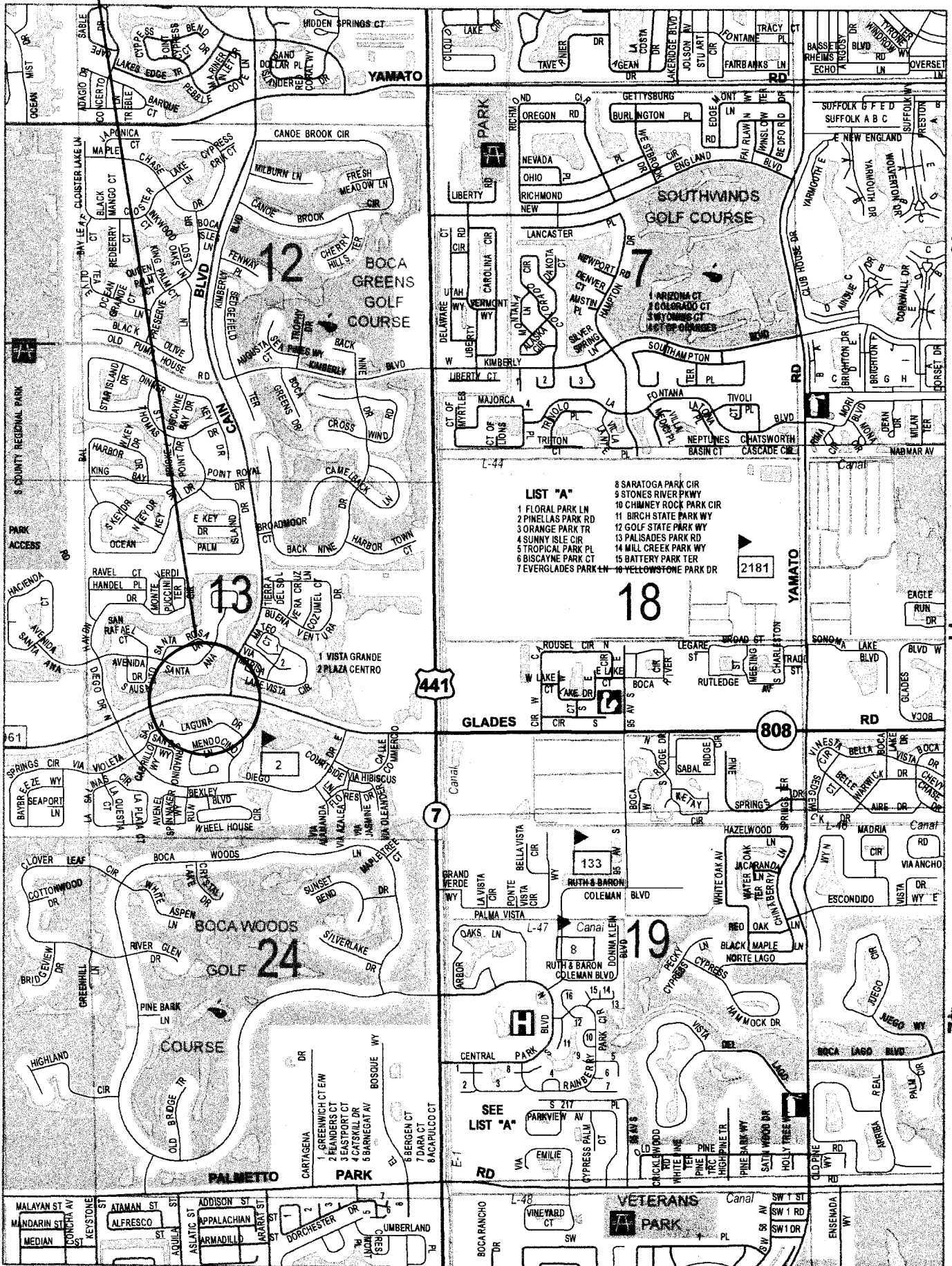
R42

120

T47

T47

T47



- LIST "A"**
- 1 FLORAL PARK LN
  - 2 PINELLAS PARK RD
  - 3 ORANGE PARK TR
  - 4 SUNNY ISLE CIR
  - 5 TROPICAL PARK PL
  - 6 BISCAYNE PARK CT
  - 7 EVERGLADES PARK LN
  - 8 SARATOGA PARK CIR
  - 9 STONES RIVER PKWY
  - 10 CHIMNEY ROCK PARK CIR
  - 11 BIRCH STATE PARK WY
  - 12 GOLF STATE PARK WY
  - 13 PALISADES PARK RD
  - 14 MILL CREEK PARK WY
  - 15 BATTERY PARK TER
  - 16 YELLOWSTONE PARK DR

441

808

7

SEE LIST "A"

See pg 128

K

120

**REIMBURSEMENT AGREEMENT  
MISSION BAY COMMUNITY ASSOCIATION  
IRRIGATION AT CAIN BOULEVARD AND GLADES ROAD**

**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 **MISSION BAY COMMUNITY ASSOCIATION FIE # 59-2604842**, hereinafter referred to as "**ASSOCIATION**"

**WITNESSETH:**

**WHEREAS**, the **ASSOCIATION** desires to replace irrigation in the area along Cain Boulevard and Glades Road that was destroyed by the **COUNTY** during the intersection improvement construction. The irrigation will be replaced on Cain Boulevard and Glades Road in the median and between the road and the property line of the **ASSOCIATION**, including the cut outs in the sidewalk, hereinafter referred to as "**PROJECT**"; and

**WHEREAS**, the **COUNTY** believes that these efforts by the **ASSOCIATION** serve a public purpose and wishes to support the **PROJECT** by providing reimbursement funding for the documented costs in an amount not to exceed **FORTY NINE THOUSAND SIX HUNDRED AND FIVE DOLLARS (\$49,605.00)**; and

**WHEREAS**, the **COUNTY** will provide this one time reimbursement and will not be responsible for any future maintenance of the **PROJECT**. The perpetual maintenance of the **PROJECT** 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 **FORTY NINE THOUSAND SIX HUNDRED AND FIVE DOLLARS (\$49,605.00)**.
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 7, 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, 2009, 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 ASSOCIATION

Mission Bay Community Association  
Julie Scholz, CMCA, AMS  
10555 Diego Dr. South  
Boca Raton, Florida 33428  
Phone 561-479-1900 Fax 561-488-3539

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, 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.

This Agreement shall be effective upon execution by both parties.

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

MISSION BAY COMMUNITY ASSOCIATION, INC.

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

By: [Signature], MBCA PRES. President

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

ATTEST:

ATTEST:

SHARON R. BOCK, CLERK & COMPTROLLER

By: [Signature] 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: [Signature]

Date: 5/2/08

**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	_____	_____	_____
<b>TOTAL PROJECT COSTS</b>	=====	=====	=====

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

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

BGEX 041708-2566

**FUND Transportation Improvement**

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 04/17/08	REMAINING BALANCE
<b><u>MISSION BAY COMM ASSN IRRIGATION- DIST 5</u></b>								
3500-368-1280-8201	Contributions-Non-Govtl Agency	0	0	49,605	0	49,605	0	49,605
<b><u>RESERVE FOR DISTRICT 5</u></b>								
3500-368-9115-9907	Res-Future Construction	2,867,919	2,311,321	<u>0</u>	<u>49,605</u>	2,261,716		
				49,605	49,605			

SIGNATURE

DATE

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

Engineering & Public Works

R. J. Ward

4/17/08

Administration / Budget Approval

\_\_\_\_\_

\_\_\_\_\_

OFMB Department – Posted

\_\_\_\_\_

\_\_\_\_\_

Deputy Clerk to the  
Board of County Commissioners