

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2009 | 2010 | 2011 | 2012 | 2013 |
|--------------------------|-----------------|------------|------------|------------|------------|
| Capital Expenditures | \$43,568 | -0- | -0- | -0- | -0- |
| Operating Costs | -0- | -0- | -0- | -0- | -0- |
| External Revenues | <\$21,784> | -0- | -0- | -0- | -0- |
| Program Income (County) | -0- | -0- | -0- | -0- | -0- |
| In-Kind Match (County) | -0- | -0- | -0- | -0- | -0- |
| NET FISCAL IMPACT | \$21,784 | -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:

Transportation Improvement Fund
Municipal Participation
Okeechobee Blvd/RP Bch High School to E of Turnpike

Total Design Cost \$43,568.00
X 50%
Reimbursement \$21,784.00

C. Departmental Fiscal Review: _____ *Puff*

III. REVIEW COMMENTS

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

Abnallwhite 11.7.08
OFMB
MD 11/7/08 SN 11/6/08 CN 11/5/08

Don J. Frost 11/7/08
Contract Dev. and Control
11/7/08

This Contract complies with our contract review requirements.

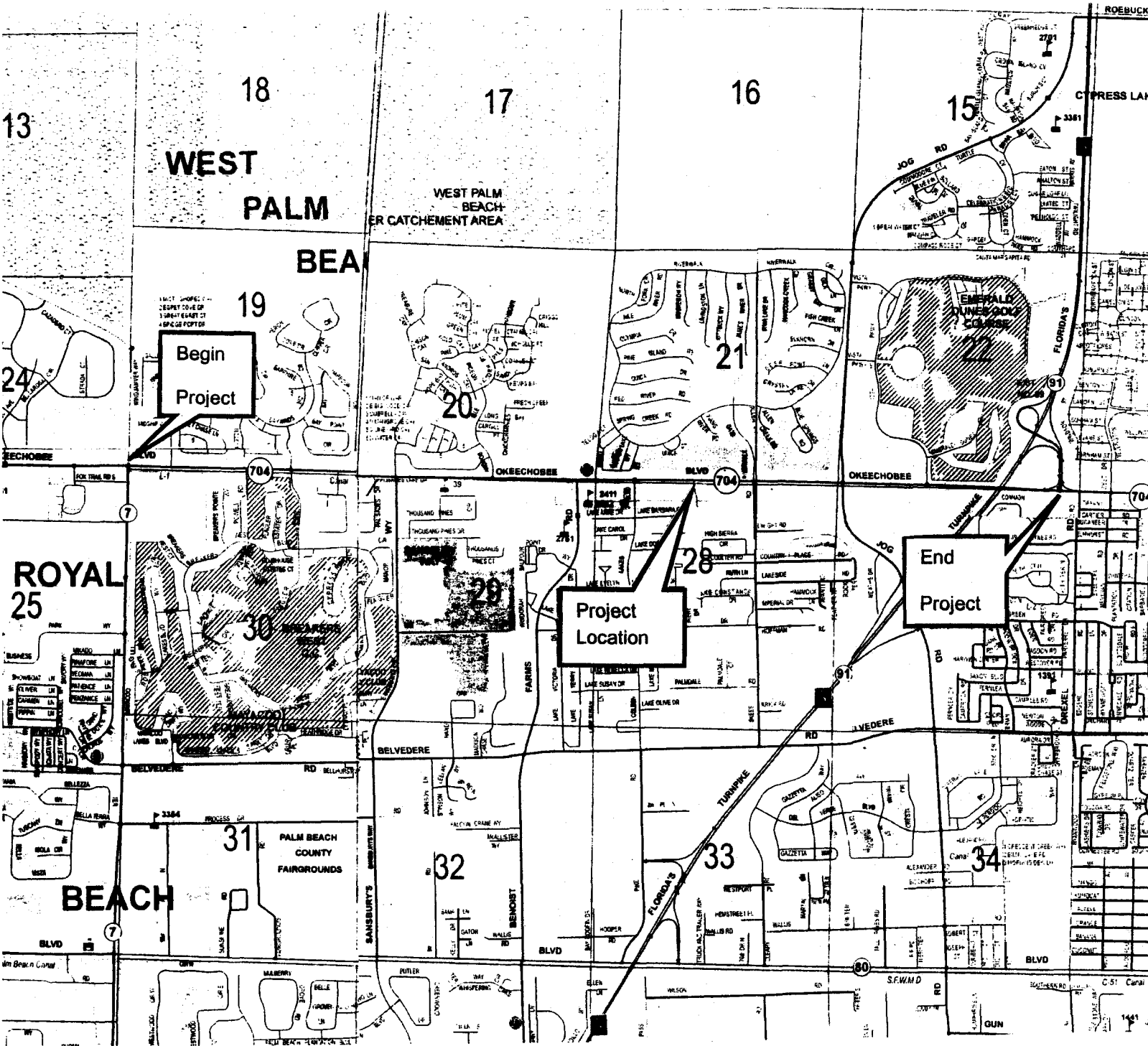
B. Approved as to Form and Legal Sufficiency:

M. Malone R. [Signature] 11/7/08
Assistant County Attorney

C. Other Department Review:

Department Director

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



**OKEECHOBEE BOULEVARD
STATE ROAD 7 TO FLORIDA'S TURNPIKE
PROPOSED STREET LIGHTING SYSTEM**

Location Map

Res 315-08

**AGREEMENT BETWEEN PALM BEACH COUNTY, FLORIDA
AND
THE CITY OF WEST PALM BEACH
FOR JOINT PARTICIPATION AND PROJECT FUNDING AGREEMENT IN
DESIGN OF LIGHTING SYSTEM
OKEECHOBEE BLVD. (SR 704) FROM STATE ROAD 7 TO THE FLORIDA'S
TURNPIKE
PALM BEACH COUNTY, FLORIDA**

PALM BEACH COUNTY PROJECT NO. 2000503/2000504

THIS AGREEMENT, is made and entered into this _____ day of _____, 2008, by and between Palm Beach County, a political subdivision in the State of Florida, (the "COUNTY") and the City of West Palm Beach, a municipal corporation of the State of Florida (the "CITY").

WITNESSETH:

WHEREAS, the COUNTY intends to make roadway improvements to Okeechobee Boulevard (State Road 704) from State Road 7 to the Florida's Turnpike (the "IMPROVEMENT"), and design a new overhead street light circuit, hereinafter the LIGHTING SYSTEM, along both sides of Okeechobee Boulevard, within the same segment (the "PROJECT"); and

WHEREAS, the CITY and COUNTY (collectively known as "PARTIES) agree to share the costs associated with the PROJECT; and

WHEREAS, both the COUNTY and the CITY declare that the PROJECT is in the best interest of the public; and

WHEREAS, the CITY will contribute 50% of the cost of the PROJECT by reimbursement to the COUNTY; and

WHEREAS, after completion, Florida, Power and Light Company (FPL) will install the LIGHTING SYSTEM; and

WHEREAS, the CITY will fund the operation and maintenance of the LIGHTING SYSTEM along the north side of Okeechobee Boulevard, while the COUNTY will fund the operation and maintenance of the LIGHTING SYSTEM along the south side of Okeechobee Boulevard, until such time that all or any portion of the

land adjacent to the south side of the PROJECT is annexed into the CITY; and

WHEREAS, the CITY will pay "make-ready" costs to FPL in preparation to install the LIGHTING SYSTEM along the north side, within the PROJECT, while the COUNTY will pay "make-ready" costs to FPL in preparation to install the LIGHTING SYSTEM along the south side; and

WHEREAS, the COUNTY and the CITY will, under separate agreements each with FPL, pay for monthly operation and maintenance charges on their respective sides of the road; and

WHEREAS, Section 163.01 of the Florida Statutes allows governmental units 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 provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the PARTIES agree as follows:

1. The above recitals are true and correct and are incorporated herein.
2. The purpose of this Agreement is to clarify the PARTIES' respective roles and obligations regarding the PROJECT.
3. The CITY agrees to fund and pay directly to the COUNTY 50% of those costs attributable to the PROJECT, as described.
4. The total cost of the PROJECT is forty-three thousand five hundred sixty-eight dollars (\$43,568.00). The CITY's cost shall be 50% of the total cost of the PROJECT, which is twenty-one thousand seven hundred eight-four dollars (\$21,784.00).
5. The CITY agrees to remit payment as set forth in Paragraphs 3 and 4 above within thirty (30) days of receiving written notice from the COUNTY that payment is required.
6. Costs assessed under this Agreement have been adjusted based upon

actual contract costs at completion of the PROJECT.

7. The COUNTY shall be responsible for administering funds in accordance with this Agreement for the PROJECT.

8. The CITY will be responsible for any "make-ready" costs and all future operation and maintenance of the LIGHTING SYSTEM along the north side of Okeechobee Boulevard, within the PROJECT limits by entering into an agreement with FPL.

9. The COUNTY will be responsible for any "make-ready" costs and all future operation and maintenance of the LIGHTING SYSTEM along the south side of Okeechobee Boulevard, within the PROJECT limits by entering into an agreement with FPL.

10. Notwithstanding the provisions set forth in Paragraphs 8 and 9, any property annexed by the CITY will be transferred to the CITY in accordance with the annexation procedures and thereafter the operation and maintenance of the portion of the PROJECT adjacent to the annexed property will be the responsibility of the CITY.

11. Neither Party shall be deemed to assume any liability for the negligent or wrongful acts or omissions of the other Party. Nothing contained herein shall be construed as a waiver by either Party of the liability limits established in Section 768.28 of the Florida Statutes. Liability for injury to personnel and the loss or damage of equipment shall be borne by the Party employing such personnel or owning such equipment.

12. The CITY shall indemnify, defend and hold harmless the COUNTY against any actions, claims or damages arising out of CITY's negligence in connection with this Agreement to the extent permitted by law. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor shall the same be construed to constitute agreement to indemnify the COUNTY for the COUNTY's negligent act or omission.

13. The COUNTY shall indemnify, defend and hold harmless the CITY

against any actions, claims or damages arising out of COUNTY's negligence in connection with this Agreement to the extent permitted by law. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor shall the same be construed to constitute agreement to indemnify the CITY for the CITY's negligent act or omission.

14. All provisions of this Agreement calling for the expenditure of ad valorem tax money by either the COUNTY or the CITY, are subject to annual budgetary funding and should either Party involuntarily fail to fund any of their respective obligations pursuant to this Agreement, this Agreement may be terminated.

15. Any and all notices required or permitted hereunder shall be by Certified Mail, return receipt requested.

To the CITY:

City of West Palm Beach
Attn: City Administrator
Post Office Box 3366
200 2nd Street
West Palm Beach, FL 33402-3366

Also copy the City Attorney

To the COUNTY:

George T. Webb, P.E., County Engineer
Attn: Dan Weisberg, P.E., Traffic Director
Engineering and Public Works Department
2300 North Jog Road
West Palm Beach, FL 33411-2745

16. The PARTIES shall bear their own costs or expenses, including reasonable attorney's fees, associated with the enforcement of the terms and conditions of this Agreement.

17. Except as expressly permitted herein to the contrary, no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless agreed to in writing and executed in the same manner as was this Agreement.

18. This Agreement shall be construed and governed by the laws of the State of Florida. Venue for any and all legal action necessary to enforce this Agreement shall be in Palm Beach County. No remedy conferred upon either Party by this Agreement is intended to be exclusive of any other remedy existing at law, in equity or otherwise. No

single or partial exercise by either Party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

19. Preparation of this Agreement was a joint effort of the PARTIES and should not be construed more severely against one Party than the other.

20. The PARTIES agree no person shall on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status or sexual orientation be excluded from the benefits of or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.

21. In the event any provision hereof is held invalid by a court of competent jurisdiction, the remaining portions of the Agreement shall remain in full force and effect.

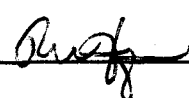
22. This Agreement represents the entire understanding of the PARTIES and supersedes all other negotiations, representations or agreements, written or oral, relating to this Agreement.

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

FUND Transportation Improvement

**BGRV 102908-122
BGEX 102908-381**

| ACCOUNT NUMBER | ACCOUNT NAME | ORIGINAL BUDGET | CURRENT BUDGET | INCREASE | DECREASE | ADJUSTED BUDGET | EXPENDED/ ENCUMBERED AS OF 10/29/08 | REMAINING BALANCE |
|--|------------------------------|--------------------|--------------------|---------------|----------|--------------------|-------------------------------------|-------------------|
| REVENUES | | | | | | | | |
| <u>OKEECHOBEE/W OF SR 7-E OF JOG</u> | | | | | | | | |
| 3500-361-0730-6994 | Municipal Participation Prot | <u>0</u> | <u>0</u> | <u>21,784</u> | <u>0</u> | <u>21,784</u> | | |
| TOTAL RECEIPTS & BALANCES | | 277,171,871 | 268,963,382 | 21,784 | 0 | 268,985,166 | | |
| EXPENDITURES | | | | | | | | |
| <u>OKEECHOBEE/W OF SR 7-E OF JOG</u> | | | | | | | | |
| 3500-361-0730-6505 | Design/Eng/Mgmt-Cip-Admin | <u>61,048</u> | <u>61,048</u> | <u>21,784</u> | <u>0</u> | <u>82,832</u> | 40,512 | 42,320 |
| TOTAL APPROPRIATIONS & EXPENDITURES | | 277,171,871 | 268,963,382 | 21,784 | 0 | 268,985,166 | | |

| | | | |
|---|---|-----------------|---|
| | SIGNATURE | DATE | By Board of County Commissioners At Meeting of <u>12/02/08</u> |
| Engineering & Public Works |  | <u>10/29/08</u> | |
| Administration / Budget Approval | _____ | _____ | _____ |
| OFMB Department - Posted | _____ | _____ | Deputy Clerk to the Board of County Commissioners |