

Agenda Item #: 3-C-1

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: February 24, 2009 Consent Regular
 Workshop Public Hearing

Department:
Submitted By: Engineering & Public Works
Submitted For: Roadway Production Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: An Interlocal Agreement (Agreement) with the Indian Trail Improvement District (ITID) regarding the acceptance of all ITID imposed conditions associated with the Special Permit (Permit), including a one time payment of \$490,000 to ITID to offset the impacts of the project on ITID maintained roadways, for the construction of the roadway connections and traffic calming devices for the Reliever Road from Okeechobee Boulevard to Persimmon Boulevard (Project).

SUMMARY: Approval of this Agreement will accept the Permit conditions, allow dismissal of the lawsuit filed against ITID due to failure to render a decision to issue a permit for the Project, and will authorize payment of \$490,000 to ITID to offset the impacts of construction of the Project on ITID maintained roadways and will enable Palm Beach County to construct six traffic calming devices on ITID maintained roadways. In order to receive the permit, the County will also have to pay for all permit review fees. This payment is addressed in the permit. District 6 (MRE)

Background and Justification: On February 3, 2009, the Board of County Commissioners conceptually agreed to accept a Permit from, and execute an Agreement with, ITID that contained the following major points: (a) Palm Beach County (County) will support (through the MPO) the prioritized construction of a new road between Persimmon Boulevard and Northlake Boulevard; (b) ITID will issue a Permit allowing connections to Persimmon and Orange Grove Boulevards; (c) County will contribute \$550,000 to offset impacts to the ITID infrastructure with the amount being reduced if the County constructs traffic calming devices; (d) County will drop the current lawsuit against ITID relating to the failure to issue a permit; and (e) ITID will continue to maintain the two connecting roads and to not obstruct the County's access to those roads. Since the February 3, 2009 meeting, the Permit and Agreement have been revised to include the County's construction of six traffic calming devices on ITID maintained roadways, resulting in a payment to ITID of \$490,000 for impacts to ITID maintained roadways and infrastructure. Approval of this motion will accept the Agreement, accept the Permit conditions, allow dismissal of the lawsuit filed against ITID due to failure to render a decision to issue a permit for the Project and authorize payment of \$490,000 to ITID to offset the impacts of construction of the Project on ITID maintained roadways and infrastructure.

Attachments:

- 1. Location Map
- 2. Interlocal Agreement
- 3. Draft ITID Permit

Recommended By: _____
Division Director Date
Approved By: Sy T. Welch 2/19/09
County Engineer Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	<u>\$490,000</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>\$490,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

ADDITIONAL FTE
POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes X No ____
Budget Acct No.: Fund 3503 Dept. 361 Unit 0639 Object 6551,
Program

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

Road Impact Fee Zone 3 Fund
Persimmon-S ext/110th Ave N to Okeechobee Blvd

C. Departmental Fiscal Review: *[Signature]*

III. REVIEW COMMENTS

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

[Signature] 2-20-09
OFMB
① 2/19/09
② 2/19/09
③ 2/18/09

[Signature] 2/20/09
Contract Dev. and Control

B. Approved as to Form and Legal Sufficiency:

[Signature] 2/23/09
Assistant County Attorney

This item complies with current County policies.

This Contract complies with our contract review requirements.

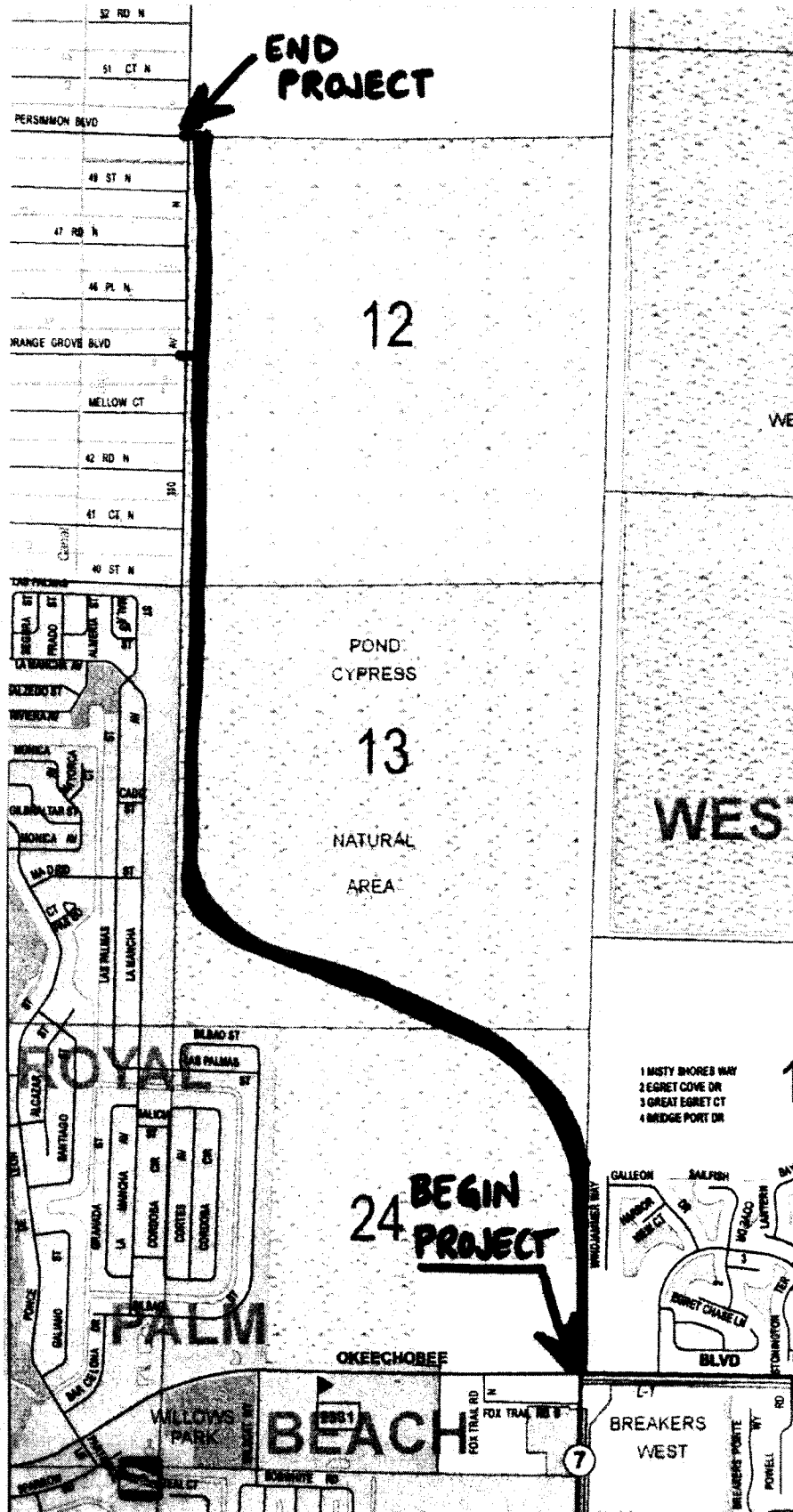
C. Other Department Review:

Department Director

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

LOCATION MAP

PERSIMMON EXTENSION/ACREAGE ACCESS ROAD from OKEECHOBEE BOULEVARD TO PERSIMMON BOULEVARD



DRAFT - executed Agreement
to follow

ATTACHMENT 2

INTERLOCAL AGREEMENT

THIS AGREEMENT is made this _____ day of _____
2009, between **PALM BEACH COUNTY**, a political subdivision in the State of Florida
(hereafter referred to as "COUNTY") and **INDIAN TRAIL IMPROVEMENT
DISTRICT**, an independent special district of the State of Florida (hereafter referred to
as "ITID").

WITNESSETH:

WHEREAS, COUNTY is nearing completion of construction of the Reliever
Road from Okeechobee Boulevard to Persimmon Boulevard (hereafter referred to as the
"PROJECT"); and

WHEREAS, COUNTY previously applied for a permit from ITID to connect the
PROJECT to ITID maintained roadways; and

WHEREAS, COUNTY filed a lawsuit against ITID in the Fifteenth Judicial
Circuit, case styled Palm Beach County v. Indian Trail Improvement District, Case No.
50-2006CA013222XXXXMB, alleging that ITID had failed to render a decision to issue
a permit for the PROJECT; and

WHEREAS, ITID has approved COUNTY'S permit application and will issue a
Special Permit to COUNTY including certain Traffic Calming Devices upon ITID
roadways (hereafter referred to as the "PERMIT"), subject to the conditions set forth in
the attached **Exhibit "A"**; and

WHEREAS, ITID has identified within the PERMIT specific conditions that require a one (1) time payment by COUNTY to offset the impacts of construction of the PROJECT on ITID-maintained roadways, facilities and infrastructure; and

WHEREAS, ITID will be solely responsible for the perpetual maintenance of any infrastructure improvements constructed within its jurisdiction resulting from the one (1) time COUNTY payment defined herein; and

WHEREAS, ITID will design and deliver to COUNTY plans for six (6) traffic calming devices at locations on ITID-maintained roadways leading to the PROJECT (hereafter the "Traffic Calming Devices"); and

WHEREAS, COUNTY will construct Traffic Calming Devices upon the two (2) ITID-maintained roadways, the perpetual maintenance of which will be the sole responsibility of ITID; and

WHEREAS, COUNTY and ITID desire to avoid the expense and time of litigation by entering into an Interlocal Agreement to resolve their differences regarding the PROJECT; and

WHEREAS, COUNTY and ITID are authorized to enter into this Interlocal Agreement (hereafter, the "AGREEMENT") pursuant to Section 163.01 of the Florida Statutes, as amended, which allows local governmental units to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage.

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

Section 1. Incorporation of Facts: The above recitals are true, correct and are incorporated herein.

Section 2. COUNTY's Obligations:

The COUNTY agrees to:

A. Complete construction of the PROJECT in accordance with the plans referenced by County Project #1998500, dated April 21, 2008, which construction shall be completed within ninety (90) days from the Effective Date of this AGREEMENT.

B. Pay ITID the sum of **FOUR HUNDRED NINETY THOUSAND AND 00/100 (\$490,000.00)**, to offset the impacts of construction of the PROJECT on ITID maintained roadways, facilities or infrastructure as required to comply with the conditions of the PERMIT. This payment shall be made upon the occurrence of the events provided in **Section 3.A**, below. The COUNTY'S obligation to offset the impacts of construction of the PROJECT on ITID-maintained roadways, facilities and infrastructure is limited to this payment, and, unless otherwise expressly provided herein, once payment is made, the COUNTY shall have no further obligation to compensate ITID or any other person or entity for the impacts of constructing the PROJECT, except as otherwise provided herein.

C. Construct the following identified Traffic Calming Devices upon ITID-maintained roads at the following locations:

(1) **West Approach to the PROJECT along Orange Grove Boulevard:**

- (a) At the Intersection of Orange Grove Boulevard and 110th Avenue North: A **"Speed Table"**.
- (b) At the Intersection of Orange Grove Boulevard and the "A" Canal: A **"Traffic Dot"**.

- (c) At the Intersection of Orange Grove Boulevard and Mango Boulevard: A **“Speed Table”**.
- (2) **West Approach to the PROJECT Along Persimmon Boulevard:**
 - (a) At the Intersection of Persimmon Boulevard and 110th Avenue North: A **“Speed Table”**.
 - (b) At the Intersection of Persimmon Boulevard and the “A” Canal: A **“Traffic Dot”**.
 - (c) At the Intersection of Persimmon Boulevard and Mango Boulevard: A **“Speed Table”**.
- (3) The design of **“Speed Tables:”** and **“Traffic Dots”** shall be determined by the mutual agreement of the COUNTY and ITID.
- (4) Construction of the Traffic Calming Devices will be completed prior to opening the PROJECT to public use.

D. File a Notice of Dismissal With Prejudice of its lawsuit styled **PALM BEACH COUNTY V. INDIAN TRAIL IMPROVEMENT DISTRICT**, Case No. 50-2006CA013222XXXXMB at the time of delivery of the PERMIT, as provided in Section 3.A, below. Each party will bear its own costs, fees, and expenses resulting from the lawsuit.

E. Continue diligently to support the prioritized construction of a new road linking the PROJECT from Persimmon Boulevard to Northlake Boulevard. This approximately 3.5 mile segment is similar in length to the segment of the PROJECT between Okeechobee Boulevard and Persimmon Boulevard. Such support shall be at the

Palm Beach County Metropolitan Planning Organization (MPO), the state legislature and the national (Congress and Federal Highway Administration) levels, as well as in other appropriate venues. The COUNTY will also support applying funds currently identified for 60th Street North and the intersection of 60th Street North and Royal Palm Beach Boulevard towards this new road if replacement monies can be guaranteed from (an)other funding source(s). Such replacement monies would have to be repaid to the COUNTY within five (5) years of the County's contribution to construction of the new road.

F. Install no infrastructure improvements between 110th Avenue North and the PROJECT that would obstruct ITID's right-of-way. Any such obstructions shall be removed and/or relocated at the COUNTY's expense immediately upon ITID's request.

G. Assume maintenance responsibility for the extension eastward of Orange Grove Boulevard from its connection at 110th Avenue North to the PROJECT

Section 3. ITID's Obligations:

ITID agrees to:

A. Issue and deliver to COUNTY the PERMIT for the PROJECT concurrently with the occurrence of the following two (2) events:

- (1) Delivery to ITID of the payment identified in Section 2.B, above; and
- (2) Delivery to ITID of proof of dismissal with prejudice of the COUNTY

lawsuit identified in Section 2.D, above.

B. Assume responsibility for the perpetual maintenance of the Traffic Calming Devices following their completion, and be solely responsible for obtaining and complying with all necessary permits, approvals, and authorizations from any federal, state, regional, or COUNTY agency that are required for their subsequent maintenance.

C. Install no facilities or infrastructure on Orange Grove Boulevard or Persimmon Boulevard between Royal Palm Beach Boulevard and the PROJECT that would obstruct traffic from or to the PROJECT. Any such obstructions shall be removed and/or relocated at ITID's expense immediately upon COUNTY's request.

D. Assume sole responsibility for design, bidding, contract preparation, and contract administration (including payment(s) to contractor[s]), for any improvements (excluding the Traffic Calming Devices) resulting from the County's payment to ITID identified in **Section 2.B**, above (hereafter referred to collectively as the "ITID Improvements"). ITID Improvements will be constructed in compliance with all applicable governmental laws and regulations (including applicable governmental landscaping codes and permitting requirements), and requirements for the selection of contractors.

E. Assume sole responsibility for perpetual maintenance of the ITID Improvements and Traffic Calming Devices following their completion, and for obtaining and complying with all necessary permits, approvals, and authorizations.

F. Abide by all laws, orders, rules and regulations and comply with all applicable governmental codes in the maintenance and replacement of the ITID Improvements.

G. Prepare and deliver to COUNTY the design plans for the Traffic Calming Devices.

Section 4. Effective Date and Term:

A. This AGREEMENT shall take effect upon execution by both parties (the "Effective Date").

B. This AGREEMENT shall remain effective for such time as the PERMIT remains in effect (the "Term").

C. The COUNTY shall have no obligation for any costs incurred by ITID after the occurrence of payment and completion and acceptance of the Traffic Calming Devices by ITID in accordance with their plans as provided in the PERMIT, unless the time for completion of the PROJECT is extended by modification of this AGREEMENT in the manner provided herein.

Section 5. Independent Contractor: ITID acknowledges that it is merely a recipient of COUNTY funding and, as such, is an independent contractor and not an agent or servant of COUNTY or its Board of County Commissioners. ITID further acknowledges that the COUNTY's duty under this AGREEMENT is limited to contributing the identified funds to ITID that ITID will use to construct the ITID Improvements. COUNTY shall exercise no control over or responsibility for the ITID Improvements. In the event a claim or lawsuit is brought against COUNTY, its officers, employees, servants or agents, arising from or relating to the ITID Improvements or any matter that is the responsibility of ITID under this AGREEMENT, ITID will indemnify and hold harmless the COUNTY in the manner and to the extent set forth in **Section 6**, below.

Section 6. Hold Harmless and Indemnification: The parties hereto agree, to the extent permitted by law to:

(A) indemnify, save and hold harmless the other, their 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 negligent or

wrongful acts or omissions of each relating to their obligations under this AGREEMENT;
and

(B) be responsible for their own costs, attorney's fees and expenses in connection with such claims, liabilities or suits except as may be incurred due to the negligent performance of this Agreement by the negligent party. The forgoing indemnity shall survive the termination or expiration of this AGREEMENT. A party 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 the parties of the liability limits established in Section 768.28, Florida Statutes.

Section 7. Convicted Vendors' List: As provided in Section 287.132-133, F.S., by entering into this AGREEMENT or performing any improvements in furtherance hereof, ITID 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 thirty-six (36) months immediately preceding the Effective Date hereof. This notice is required by Section 287.133(3)(a), F.S.

Section 8. Termination of AGREEMENT:

A. In the event either party fails to comply with any provision of this AGREEMENT, then the damaged party may exercise any and all rights available to it, including termination of the AGREEMENT following the notice to the other party provided in Section 16, below.

B. A party shall not be relieved of liability to the other party for damages sustained by virtue of any breach of the contract.

C. The COUNTY will be entitled to have ITID undertake the following actions:

- (1.) Repayment or return to the COUNTY of any sums of money equal to the funds received by it pursuant to this AGREEMENT; or
- (2.) Repayment or return to the COUNTY such lesser sum that the COUNTY has determined to be appropriate, in its sole discretion, plus all administrative costs and expenses incurred by the COUNTY, whether direct or indirect, related to the AGREEMENT.

D. In addition, the damaged party shall not be limited to the exercise of the foregoing actions, but shall have the right to exercise any other remedy available to it at law, in equity, or under this AGREEMENT.

Section 9. Prohibition of Discrimination: COUNTY and ITID agree that no person shall be discriminated against in performance of the AGREEMENT on the grounds of race, color, national origin, sexual orientation, gender identity and expression, religion or creed, sex, age, or handicap.

Section 10. Severability: 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.

Section 11. Notices: 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 the County: Tanya N. McConnell, P.E.
Deputy County Engineer
2300 North Jog Road; 3rd Floor East
West Palm Beach, FL 33411

As to the ITID: Chris King, District Administrator
Indian Trail Improvement District
13476 61st Street North
West Palm Beach, FL 33412

With copies to: Mary M. Viator, Esq.
Caldwell Pacetti Edwards Schoech & Viator LLP
One Clearlake Centre
250 South Australian Avenue, Suite 600
West Palm Beach, Florida 33401

Section 12. Governing Law: This AGREEMENT shall be construed and governed by the laws of the State of Florida. Any and all legal actions 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 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.

Section 13. Enforcement Costs: 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.

Section 14. Entirety of Contract and Modifications: The COUNTY and ITID agree that this AGREEMENT sets forth the entire agreement between them, and that there are no promises or understandings other than those stated herein. 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.

Section 15. Notices of Accidents, Injuries and Suits:

A. In the event of an accident or claim arising from or related to the ownership or use of the ITID Improvements, ITID agrees to immediately notify its insurer and the COUNTY of such accident or injury. Upon the request of the COUNTY, ITID will provide all information relative to the accident or injury.

B. ITID agrees to fully cooperate with the COUNTY, and their respective officers, employees, servants or contractors, in any investigation that may be conducted and the defense of any claim or suit in which the COUNTY may be named. ITID shall do nothing to impair or invalidate any applicable insurance coverage.

Section 16. Default: 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.

Section 17. Joint Preparation: 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 construction, be construed more severely against one of the parties than the other.

Section 18. Assignment: Neither this AGREEMENT nor any interest therein shall be assigned, transferred or otherwise encumbered, in whole or in part, without the

prior written consent of the other party, except that no prior written consent is necessary to transfer the PROJECT to the Florida Department of Transportation.

Section 19. No Waiver: No waiver of any provisions of the AGREEMENT shall be effective unless it is in writing, signed by the party against who it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed a continuing or future waiver.

Section 20. Captions: The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 21. Survivability: Any provision of this AGREEMENT which is of a continuing nature or imposes an obligation which extends beyond the term of this AGREEMENT, shall survive its expiration or earlier termination.

Section 22. Public Records: ITID shall maintain adequate records to justify all charges, expenses, and costs incurred in constructing the ITID Improvements for at least three (3) years after the completion of such PROJECT. COUNTY shall have access during normal business hours to all books, records and documents as required for the purpose of inspection or audit.

Section 23. Filing with Clerk: A copy of this AGREEMENT shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.

Section 24. Time of the Essence: Time is of the essence with respect to all provisions of this AGREEMENT that specify a time for performance; provided however that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace period allowed in this AGREEMENT.

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IN WITNESS WHEREOF, the parties have executed this AGREEMENT on the dates indicated below.

Executed by COUNTY this _____ day of _____,

2009.

ATTEST:

**SHARON R. BOCK
CLERK & COMPTROLLER**

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

By: _____
Deputy Clerk

By: _____
John F. Koons, Chairman

(COUNTY SEAL)

APPROVED AS TO FORM AND LEGAL

By: _____
Assistant County Attorney

APPROVED AS TO TERMS AND CONDITIONS

By: _____

Date: _____

Executed by ITID this _____ day of _____, 2009

**INDIAN TRAIL IMPROVEMENT
DISTRICT BY ITS BOARD OF
SUPERVISORS**

By: _____

Secretary

By: _____

President

(DISTRICT SEAL)

EXHIBIT "A"

THE ITID PERMIT

[ATTACH ITID PERMIT FORM]

EXHIBIT "A"**SPECIAL PERMIT**

THIS PERMIT, granted this _____ day of _____, 2008, by Indian Trail Improvement District, hereinafter referred to as the "District", 13476 61st Street North, West Palm Beach, Florida 33412, to Palm Beach County, hereafter referred to as the "Permittee", is a non-exclusive permit for: (1) roadway connections located at the intersections of the Reliever Road and Orange Grove Boulevard and the Reliever Road and Persimmon Boulevard; and (2) certain Traffic Calming Devices on Orange Grove Boulevard and Persimmon Boulevard, as shown on the plans and specifications attached hereto and made a part hereof.

WITNESSETH:

1. Permittee agrees to obtain any necessary consents from the owners of the subject property, in the event the District does not own said lands; to obtain any and all applicable federal, state and local permits required in connection with Permittee's use of the land; and at all times, to comply with all requirements of all federal, state and local laws, ordinances, rules and regulations applicable or pertaining to the use of the lands by Permittee pursuant to this Permit.
2. Permittee understands and agrees that the use of the property pursuant to this Permit is subordinate to the rights and interest of the District and to the extent applicable, that of the landowner. Further, Permittee does hereby stipulate that the Permittee is not relying upon any representations by the District whatsoever regarding the District's right, title or ownership as to the subject property for which this Permit is sought.
3. District specifically reserves the right to maintain its facilities located on the property; to make improvements; add additional facilities; maintain, construct or alter roads; maintain any facilities, devices or improvements on the property which aid in, or are necessary to, District operation; and the right to enter upon the lands at all times for such purposes. Permittee understands that in the exercise of such rights and interest, the District, from time to time, may require Permittee to relocate, alter or remove its facilities and equipment or other improvements made by Permittee pursuant to this Permit which interfere with or prevent the District, in its reasonable opinion, from properly and faithfully constructing, improving and maintaining its facilities. District retains the right to enter upon the lands and make said relocation, alterations or removal of Permittee's facilities, equipment and other improvements if Permittee fails to do so within a reasonable time; and Permittee hereby agrees to reimburse District for all its costs and expenses incurred in connection therewith upon demand.

4. Permittee agrees that it will not use the property in any manner which materially interferes with the District's use of lands or causes a hazardous condition to exist.
5. The District assumes no responsibility for the ownership, operation and/or maintenance of the Reliever Road connections permitted herein. Upon completion and acceptance, the District will assume responsibility for the ownership, operation and/or maintenance of the Traffic Calming Devices permitted herein.
6. Permittee shall adhere to the General and Special Conditions attached hereto and made a part hereof.
7. Permittee shall, at its own expense, promptly repair or replace any and all damage to the facilities, roads and rights-of-way of the District resulting from the installation, operation, maintenance, repair or removal of the above, and restore same to a condition substantially equal to that which existed immediately prior to infliction of the damage.
8. Permittee shall, at its own expense, promptly repair or replace any and all damage to the facilities of others resulting from the installation, operation, maintenance, repair or removal of the above and restore same to a condition substantially equal to that which existed immediately prior to infliction of the damage.
9. Permittee shall, at its own expense, upon ninety (90) days written notice to Permittee from the District, remove or relocate any facility of the Permittee that is found by the District to be interfering in any material way with the safe, convenient or continuous use, maintenance or repair of any District facility or road. Failure or neglect of the Permittee to remove or relocate such facility within the allocated time may result in District's removal or relocation of said facility, wherein the Permittee shall promptly pay the District for all District expenses incurred by such removal or relocation.
10. Permittee shall, at its own expense and within a reasonable time, adjust the positions and elevations of its facilities as may be required in connection with future improvements to, or construction of, works of the District.
11. To the extent permitted by law, Permittee does hereby indemnify and hold harmless the District, its Board of Supervisors, officers and personnel against any claims, losses, damages (including consequential), expenses, or legal fees that might arise out of, or result from the County's negligent performance and/or the implementation of the proposed project of the Permittee.
12. If Permittee shall violate any of the terms or conditions of this Permit, or shall not correct or remedy same within thirty (30) days of receiving written notice from the Board of Supervisors of the District or its duly authorized representative, then,

and in that event, said Board of Supervisors may, at its option, revoke, cancel and terminate this Permit.

13. This Permit may not be assigned without prior written approval of the Board of Supervisors of the District.
14. Permittee shall reimburse the District for its legal, engineering and other expenses incurred as a result of the implementation of the project.
15. If either Party hereto is required to bring a court action to enforce the provisions of this Permit, the non-prevailing party in such action shall be responsible for all reasonable expenses, including, but not limited to, attorney's fees and litigation expenses.
16. This permit for construction shall expire 2 years from the date of issuance. An extension of 1 year may be granted by the District Administrator upon receipt of a written request. Further extensions require Board approval.

INDIAN TRAIL IMPROVEMENT DISTRICT

WITNESSES:

By: _____ Date: _____

Name Typed: _____

Title: _____

President, Board of Supervisors

PERMITTEE: _____

WITNESSES:

By: _____ Date: _____

Name Typed: _____

Address: _____

Note: The District assumes no responsibility for the ownership, operation and/or maintenance of the facilities permitted herein.

PERMIT INFORMATION

OWNER

Name

Business Phone

Address

Other

Email Address

ATTORNEY

Name

Business Phone

Address

Other

Email Address

ENGINEER

Name

Business Phone

Address

Other

Email Address

OTHER REPRESENTATIVE/PROFESSIONAL

Name

Business Phone

Address

Other

Email Address

GENERAL CONDITIONS

A. GENERAL

1. This Permit does not constitute a waiver or approval of any other permit from other agencies which may be required for the total project.
2. Notification shall be given to the District Engineer forty-eight (48) hours prior to commencement of construction. The District Engineer shall establish points of construction that require inspection, if any. When the work is deemed completed, a final inspection shall be held by the District Engineer in the presence of a representative of the Permittee.
3. The installation shall be constructed in full accordance with the approved plans and specifications. Deviations from the plans shall be coordinated with the office of the District Engineer.
4. When working in District road rights-of-way, not more than one-half (1/2) of the road or street shall be closed and traffic shall be controlled so as to provide minimum hindrance. All traffic control operations shall conform to the most current issue of the Florida Department of Transportation publication, Manual on "Traffic Controls and Safe Practices for Street and Highway Construction, Maintenance and Utility Operations".
5. The Permittee shall protect the District against liability, public or private, resulting from their operation hereunder. The District Engineer is deemed the final authority as to the quality and quantity of work required to satisfy the terms and conditions of the Permit.
6. This Permit shall not be construed as a representation that the District has sole authority with respect to the pertinent property.
7. Upon completion of the installation and after the final inspection, THE PERMITTEE SHALL DELIVER TO THE DISTRICT OFFICE ONE COMPLETE SET OF "RECORD DRAWINGS" TO INCLUDE ONE COMPLETE PAPER AND AN ELECTRONIC VERSION IN A FORMAT ACCEPTABLE TO THE DISTRICT ENGINEER. FAILURE TO PROVIDE RECORD DRAWINGS MAY RESULT IN THE REVOCATION, CANCELLATION AND TERMINATION OF THIS PERMIT.
8. Roadway Pavement replacement shall be in accordance with the "Typical Roadway Pavement Replacement Detail".
9. If, within one (1) year after the date of District acceptance of the pavement

replacement, any work covered under this Permit is found to be defective by the District, Permittee shall promptly, without cost to the District and in accordance with the District's written instructions, either correct such defective work, or, if it has been rejected by the District, remove it from the site and replace it with non-defective work. If Permittee does not completely comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, District may have the defective work corrected, or rejected work removed and replaced, and all direct and indirect costs of such removal, replacement or correction, including compensation for additional professional services, shall be paid by the Permittee.

10. Permittee agrees not to cause or permit the Property to be used for the generation, handling, storage, transportation, disposal or release of any Hazardous Materials, except as exempted or permitted under applicable Environmental Laws, and Permittee shall not cause or permit the property, or any activities conducted thereon, to be in violation of any applicable Environmental Laws. Permittee agrees to indemnify the District and hold the District and its directors, officers, employees, successors and assigns harmless from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, interest, administrative or judicial proceedings and order, judgments, remedial action, requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith, directly or indirectly resulting in whole or in part from Permittee's violation of any Environmental Laws applicable to the Property, or any activity conducted thereon caused by Permittee or its employees, agents, licensees, invitees, guests or any other party under Permittee's control, or from any use, generation, handling, storage, transportation, disposal or release of Hazardous Materials or in connection with the Property caused by Permittee or its employees, agents, licensees, invitees, guests, or any other party under Permittee's control, or any contamination, detoxification, closure, cleanup or other remedial measure required under any Environmental Laws as a result thereof. All sums paid and costs incurred by the District with respect to the foregoing matters shall be payable by Permittee as additional permit fees hereunder.

11. All necessary provisions shall be taken to insure compliance with the water quality standards of the State of Florida. Attention is called to Chapter 17-3, Florida Administrative Code, and in particular, the requirements that turbidity shall not exceed 29 Nephelometric Turbidity Units above background level. Adequate silt containment procedures and equipment shall be used to control turbidity at all times. Water samples to be taken upstream and downstream prior to construction and during construction daily and made available to the District at their request.

B. UNDERGROUND UTILITIES

1. All underground utilities shall have a minimum cover of forty-two (42") inches below profile grade of District waterways and thirty (30") inches below profile grade of District roadways.
2. All utility installations shall maintain a minimum clearance of twelve (12") inches, either over or under culverts and shall be protected; however, other depths may be specified by the District Engineer.
3. The roadway right-of-way, in its entirety, shall be left in as good a condition as that which existed before construction. A mutual inspection shall be made of all existing facilities within the construction area no later than twenty-four (24) hours before the work begins.
4. All installations shall be constructed in a workmanlike manner:
 - a. Trenches shall be refilled in a thoroughly compacted manner so that no future settling will occur.
 - b. The Permittee shall, at the request of the District Engineer or his duly authorized representative, submit copies of density reports of density determinations by an independent testing laboratory when paved roadway surfaces have been cut. If density reports are requested, they shall be furnished prior to final inspection.
 - c. The finished surface of the excavated area shall be replaced with the same type materials as existed when the work began, such as sod for sod; shell for shell, etc.
5. Where fill, slopes, shoulders and/or ditches are disturbed, they shall be stabilized as directed by the District Engineer or his duly authorized representative, in a manner that will afford protection against erosion.
6. All pavement crossings, if made subsequent to final placement of base material and pavement surface, shall be made by jacking, boring or augering, and shall contain an adequate casing if required by the District Engineer.

SPECIAL CONDITIONS

1. Permittee shall prevent on-site erosion and sediment from leaving the site during construction. At completion of construction, all non-paved areas shall be sodded.
2. All drainage pipe and installation thereof shall conform to the requirements of Florida DOT specifications, latest applicable sections to date.
3. The requirements for pipe backfill shall be as defined in Florida DOT specifications (AASHTO T-99 or T-180). Permittee shall provide adequate equipment for the removal of storm or subsurface waters which may accumulate in the excavated areas, and provide protection against soil erosion.
4. Permittee shall forward all test results to the District Engineer.
5. Permittee shall comply with all conditions imposed by the District and/or other governing agencies, including but not limited to the following:
 - a. Permittee shall utilize best management practices at each storm inlet in accordance with the final approved plans.
 - b. Permittee shall construct stormwater treatment facilities in accordance with the existing South Florida Water Management District permit. A copy of such permit shall be provided to the District.
6. Permittee shall insure that quantity of stormwater discharged into the District's canal will not cause erosion of the canal bank. If such discharge does cause erosion, Permittee shall be responsible, at its sole cost and expense, to maintain and repair said canal bank.
7. If the works of the Permittee require the obtaining of an Environmental Protection Agency NPDES Permit, then the Permittee shall be required to obtain the appropriate NPDES Permit and provide a copy of the NPDES Permit and NPDES stormwater pollution prevention plan to both Palm Beach County and the District prior to commencement of the subject works.
8. The Permittee shall be required to: (a) implement a maintenance program for the permitted works, (b) carry out an annual inspection of the permitted works and (c) following inspection, have an inspection report prepared by a qualified professional. The Permittee shall be responsible for retaining a copy of said inspection report and providing a copy of same to the District by February 1st of each year.
9. If any of the works which are the subject of this Permit are conveyed, assigned, transferred, gifted to any third party or are operated by a third party, then the Permittee shall be obligated to provide a copy of this Permit and its conditions to said successor,

assign or operating entity. Further, such successor, assign or operating entity shall be obligated to comply with all of the conditions of this Permit including, without limitation, implementation of the above mentioned maintenance program and the provision of the annual inspection report to the District.

10. If any act of negligence, omission or commission by the Permittee or third party operator should adversely affect Palm Beach County's obligations under the County's NPDES Permit, then Permittee shall within forty-eight hours following receipt of written notice by the District of such act promptly cease and rectify same, otherwise this Permit shall be immediately suspended until such time as reinstated by the District in writing.
11. Permittee shall be solely responsible for ensuring that all stormwater discharge meets the applicable water quality standards. In the event that the discharge does not meet such standards, Permittee must disconnect the stormwater inlet and shall be prohibited from discharging into the District's canal.
12. If Permittee fails to abide by Palm Beach County's NPDES Permit, the applicable water quality standards, or any of the conditions set forth herein, and fails to remedy same within ten (10) business days from the date of receipt of such notice of violation by the District, then the District shall have the right but not the obligation to initiate such remedial activity as the District deems necessary and appropriate. Any and all costs so incurred by the District shall be paid by the Permittee to the District within ten business days following receipt of a District invoice for same and if not paid the District may thereafter revoke this Permit without further notice or hearing.
13. The applicant shall submit a traffic study for review and approval by the District or by an independent Traffic Engineering Firm hired by ITID and paid for by Palm Beach County that considers alternatives with potential connection scenarios. At a minimum, the alternatives must consider:
 - No-build;
 - An alternative with only connections to Persimmon and Orange Grove Boulevards;
 - An alternative with an additional connection south of 40th Street North,and
 - An additional connection at 60th Street North.

Such study satisfactory to the district shall meet all of the standard requirements and have all the information contained in a typical traffic study that addresses the requirements of the County's Traffic Performance Standards (TPS) Ordinance. The study shall use the same or similar methodology to that used in a TPS traffic study. The County's adopted Transportation Model shall be used as the methodology to determine traffic diversions.

The study shall identify traffic volume forecasts and levels of service at intersections within the Acreage that will be affected by the Reliever Road and Connection

Alternatives, including at a minimum, the following intersections:

Northlake/Coconut	Coconut/Orange Grove	Coconut/40 th
Coconut/Orange	Coconut/Persimmon	Royal Palm Beach (RPB)/40 th
RPB/Orange Grove	RPB/Persimmon	RPB/60 th
RPB/Orange		

14. Mitigation measures identified in the approved study for intersections projected to operate below Level of Service "D" shall be implemented and funded by the applicant in a manner acceptable to the District.
15. The intersection of the Reliever Road at Persimmon Boulevard must be redesigned to its ultimate configuration. That is, Persimmon is to be extended east to the Reliever Road and be a "T" intersection.
16. The Permittee shall provide, at its expense, illumination at intersections between the Reliever Road and Royal Palm Beach Boulevard for both Persimmon and Orange Grove Boulevards. These lights shall be similar to those at other locations funded by the County within the District.
17. The signage along the Reliever Road shall not reflect any designation as it being State Road 7 until such time as it is connected through to Northlake Boulevard.
18. Persimmon and Orange Grove Boulevards from 110th Avenue North to Royal Palm Beach Boulevard are to remain two lane roadways within Indian Trail Improvement District easements and shall remain under the jurisdiction of the District.
19. Palm Beach County agrees to pay \$490,000.00 to offset the impacts to Indian Trail Improvement District maintained infrastructure. Additionally, the County shall construct:
 - (1) **West Approach to the Reliever Road along Orange Grove Boulevard:**
 - (a) At the Intersection of Orange Grove Boulevard and 110th Avenue North: A "Speed Table".
 - (b) At the Intersection of Orange Grove Boulevard and the "A" Canal: A "Traffic Dot".
 - (c) At the Intersection of Orange Grove Boulevard and Mango Boulevard: A "Speed Table".
 - (2) **West Approach to the Reliever Road Along Persimmon Boulevard:**
 - (a) At the Intersection of Persimmon Boulevard and 110th Avenue North: A "Speed Table".
 - (b) At the Intersection of Persimmon Boulevard and the "A" Canal: A "Traffic Dot".
 - (c) At the Intersection of Persimmon Boulevard and Mango Boulevard: A "Speed Table".

This County work shall be completed prior to opening the new road. .

20. Permittee shall submit plans and apply for a permit for a connection of the Reliever Road to 60th Street North prior to the opening of these connections to the public.
21. At anytime in the future that the level of service for Persimmon and/or Orange Grove Boulevards, classified as a two lane two way roadways, with a level of service "D" at peak hour capacity-per Palm Beach County Standards are exceeded, then this permit shall be subject to revocation at the discretion of the District.
22. Palm Beach County will continue diligently to support the prioritized construction of a new road linking the PROJECT from Persimmon Boulevard to Northlake Boulevard. This approximately 3.5 mile segment is similar in length to the segment of the PROJECT between Okeechobee Boulevard and Persimmon Boulevard. Such support shall be at the Palm Beach County Metropolitan Planning Organization (MPO), the state legislature and the national (Congress and Federal Highway Administration) levels, as well as in other appropriate venues. The County will also support applying funds currently identified for 60th Street North and the intersection of 60th Street North and Royal Palm Beach Boulevard towards this new road if replacement monies can be guaranteed from (an)other funding source(s). Such replacement monies would have to be repaid to the County within five (5) years of the County's contribution to construction of the new road.