

66-1

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: April 21, 2009

Consent []

Regular [X]

Public Hearing []

Submitted By: Water Utilities Department

Submitted For: Water Utilities Department

I. EXECUTIVE BRIEF

Staff recommends motion to approve: A) a Termination of existing Interlocal Agreement with the City of Pahokee; B) an Interlocal Agreement with City of Pahokee for Construction Management Services; C) a delegation of the authority to execute an Authorization Form to the County Administrator or his designee; and D) transfer lead department from Engineering and Public Works to Water Utilities for use of Countywide Community Revitalization Team existing budgeted funds.

Summary: The County has an existing Interlocal Agreement with Pahokee (R2007-0367, as amended by R2008-0933) (Existing Interlocal) in which the County is to reimburse Pahokee, through Countywide Community Revitalization Team funds, for various sanitary sewer improvement projects within Pahokee's service area. Under the terms of the Existing Interlocal, Pahokee is to bid, administer, construct, inspect the project, and be reimbursed for these services. The Palm Beach County Water Utilities Department (WUD) is assisting Pahokee on the sanitary sewer improvements projects, and Pahokee wishes for the County, through WUD, to take over construction management services for the projects, as well as other required potable water or wastewater projects that may arise. The new interlocal agreement authorizes the County to manage the pre-design, design, bid, construction, and close-out services of authorized potable water and wastewater projects within Pahokee's service area. (The City of Pahokee will authorize the County to perform construction management services, and provide an Authorization Form to the County Administrator or his designee for execution. In addition, as the County, and not Pahokee, will be performing the construction management services, the existing interlocal agreement is no longer necessary and should be terminated. Management of the Canal Point low pressure sewer and associated Pahokee wastewater treatment plant headworks project has been transferred from Engineering and Public Works to Water Utilities. Palm Beach County Water Utilities Department is to be compensated from funding sources dedicated to the City of Pahokee. There is no financial liability to Palm Beach County or to Water Utilities Department by this agreement. District 6 (MJ)

Background and Justification: Under the terms of the Interlocal Agreement, the City of Pahokee will permit the County to complete all identified tasks associated with identified water and wastewater projects within and by collaboration with the City of Pahokee.

Attachments:

1. Location Map
2. Two (2) Original Termination of Interlocal Agreements
3. Two (2) Original Interlocal Agreements
4. Budget Availability Statement

Recommended By:

Bea Beumle
Department Director

4/9/09
Date

Approved By:

Sharon [Signature]
Assistant County Administrator

4-20-09
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2009	2011	2012
Capital Expenditures	<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 (Additional Revenues)	<u>0</u> * See below	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No: Fund _____ Agency _____ Org. _____ Object _____

Is Item Included in Current Budget? Yes ☒ No ☐
Fund 3900 Department 366 Unit X058 Object 6506
Reporting Category N/A

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

CCRT Grant funds dedicated to the City of Pahokee will cover payments for all work completed within the scope of this agreement. There is no fiscal impact to Palm Beach County or to the Water Utilities Department resulting from this Agenda Item.

C. Department Fiscal Review: Debra M. West

III. REVIEW COMMENTS

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

* CCRT funding of \$1,240,000 for this item was approved in a prior Board item (December 18, 2007).
There is no additional fiscal impact associated with this item.

[Signature] 4/15/09
OFMB DM 4/15/09 4/19/09

[Signature] 4/15/09
Contract and Development Control

B. Legal Sufficiency:

[Signature] 4/20/09 *
Assistant County Attorney

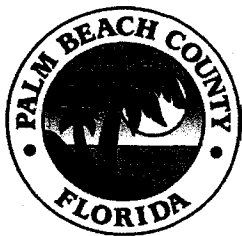
The Termination Agreement
and new interlocal
Agreement comply with
our review requirements

C. Other Department Review:

Department Director

* awaiting city attorney
signature.

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



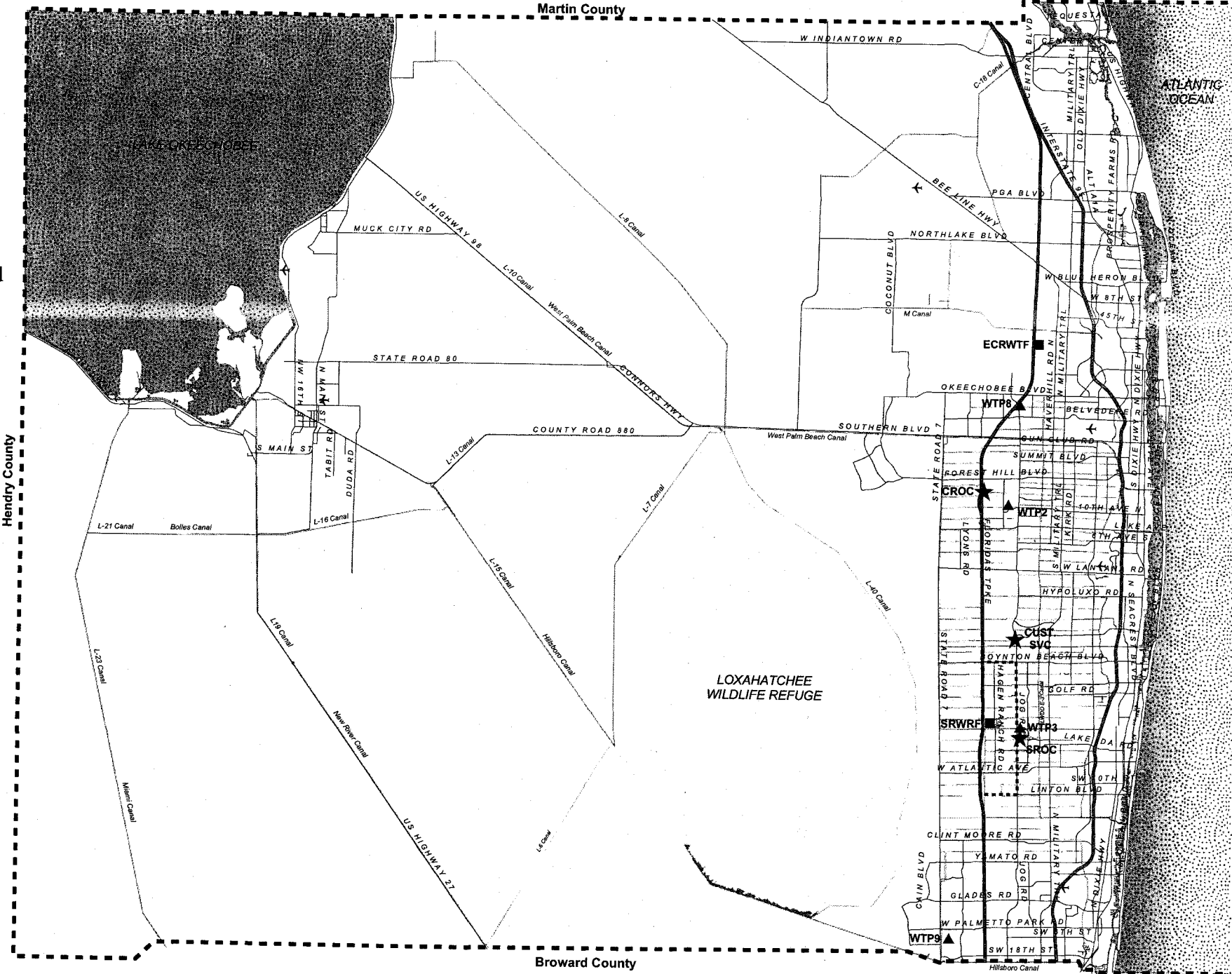
Palm Beach County
Water Utilities
Department
Service Area (SA) and
Major Facilities

Attachment 1

- Legend
- P.B.C.W.U.D. SA
 - MANDATORY RECLAIMED SA
 - - - - - COUNTY LIMITS
 - ★ Administration
 - Water Reclamation Plant
 - ▲ Water Treatment Plant
 - ① Wetlands



NOT TO SCALE



TERMINATION OF INTERLOCAL AGREEMENT

THIS TERMINATION OF LOCAL AGREEMENT is made and entered into this _____ day of _____, 2009, by and between the CITY OF PAHOKEE, a municipal corporation of the State of Florida, hereinafter "PAHOKEE," and PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter "COUNTY."

WITNESSETH:

WHEREAS, on March 13, 2007, the COUNTY and PAHOKEE entered into an Interlocal Agreement (COUNTY Resolution No. R2007-0367)(hereinafter "AGREEMENT") relating to the construction of certain sanitary sewer improvements by PAHOKEE and the funding thereof by COUNTY; and

WHEREAS, the AGREEMENT was amended on June 3, 2008 (COUNTY Resolution No. R2008-0933) to include additional funding for the sanitary sewer improvements; and

WHEREAS, through a separate interlocal agreement to be entered into by the parties, the construction management services for the sanitary sewer improvements will no longer be performed by PAHOKEE, thereby precluding the necessity of the AGREEMENT; and

WHEREAS, the parties desire to terminate the AGREEMENT.

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 are incorporated herein.
2. The AGREEMENT is hereby terminated. With the exception of those terms of specifically intended to survive termination, all other terms of the AGREEMENT are terminated, and the parties have no further rights, obligations, or liabilities under the AGREEMENT. Those terms which shall survive the termination of the AGREEMENT, include, but are not necessarily limited to, Section 6 - "Repayment", Section 7 - "Access and Audits" and Section 10 - "Indemnification."
3. A copy of this Termination of Interlocal Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.
4. This Termination of Interlocal Agreement shall take effect upon execution by both parties and the effective date shall be the date of execution of the last party to execute this Termination of Interlocal Agreement.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Termination of Interlocal Agreement.

CITY OF PAHOKEE

(CITY SEAL)

CITY OF PAHOKEE
BY ITS CITY COUNCIL

ATTEST:

By: [Signature]
CITY SECRETARY

By: [Signature]
MAYOR

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
CITY ATTORNEY

PALM BEACH COUNTY

(COUNTY SEAL)

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

ATTEST:

SHARON R. BOCK, CLERK
AND COMPTROLLER

By: _____
JOHN F. KOONS, CHAIRMAN

By: _____
DEPUTY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: [Signature]
ASSISTANT COUNTY ATTORNEY

By: [Signature]
DIRECTOR OF WATER UTILITIES

**INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF
PAHOKEE FOR CONSTRUCTION MANAGEMENT SERVICES**

THIS AGREEMENT is made and entered into this _____ day of _____, 2009, by and between the CITY OF PAHOKEE, a municipal corporation of the State of Florida, hereinafter "CITY," and PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter "COUNTY."

WITNESSETH:

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Corporation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage, thereby providing services and facilities that will harmonize geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, the COUNTY has expertise in the management of construction of potable water and wastewater improvements; and

WHEREAS, the CITY desires to allow the COUNTY to manage the pre-design, design, bidding, construction, and close-out services of certain potable water and wastewater improvements to the CITY's existing potable water and wastewater treatment, distribution, and collection systems; and

WHEREAS, following completion of individual improvement projects, any potable water or wastewater improvements shall become a part of the CITY's potable water or wastewater treatment, distribution, or collection systems and shall be maintained by the CITY; and

WHEREAS, the COUNTY and CITY find that these efforts serve a public purpose.

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 are incorporated herein.
2. Where requested by the CITY, and accepted by the COUNTY, COUNTY shall be responsible for the management of the pre-design, design, bidding, construction, and close-out services of certain improvements ("Improvements") to the CITY's existing potable water and wastewater treatment, distribution, and collection systems (hereinafter individually referred to as a "Project.") CITY, through its _____ shall make the request to COUNTY to manage the pre-design, design, bidding, construction, and close-out services of a Project, in writing, utilizing the form attached hereto as **Exhibit "A"** ("Authorization Form.") CITY shall provide two original copies of the Authorization Form to COUNTY. If COUNTY wishes to

perform the services, COUNTY, through its County Administrator, or their designee, shall execute the Authorization Form and return one original to CITY.

3. COUNTY may utilize contractors hired in accordance with the COUNTY's bidding process for any duties associated with a Project. Following completion of a Project, the COUNTY shall transfer, or cause its contractor to transfer, ownership of any Improvements to CITY by bill of sale or other document. Following such transfer, CITY shall be responsible for ownership, operation and maintenance of the Improvements in perpetuity.

4. CITY agrees to provide COUNTY, and any contractors or subcontractors of the COUNTY, with access to the work site and, where available, with a construction staging area on CITY-owned land. CITY also shall make available any CITY-owned rights-of-way for use by COUNTY, and any contractors or subcontractors of the COUNTY, for use during the Project.

5. COUNTY shall have the right to acquire for itself or its contractors temporary and permanent easements or other property rights as the Project requires. In addition, the CITY hereby designates the COUNTY as its agent for the purpose of acquiring any property rights, including but not limited to permanent utility easements, that will be required for the CITY to own, operate and maintain the Improvements in perpetuity.

6. In the event a claim or lawsuit is brought against COUNTY, its officers, employees, servants or agents relating to a Project or any Improvements or any item which is the responsibility of CITY, CITY hereby agrees to indemnify, save and hold harmless 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 Project, Improvements, or the performance by CITY as may relate to this Agreement. CITY agrees to pay all costs, attorney's fees and expenses incurred by COUNTY, its officers, employees, servants or agents in connection with such claims, liabilities or suits except as may be incurred due to the negligence of COUNTY. In addition, CITY agrees that the COUNTY is performing the services required under this Agreement as an accommodation to the CITY and therefore, the CITY agrees to waive any and all claims, of any nature, which the CITY may, in the future, have or acquire against the COUNTY for damages sustained by the CITY, as a result of any act, error, or omission of the COUNTY, or any of its officers, employees, agents, or independent contractors in the performance of the requirements of this Agreement. As set forth in Paragraph 16 below, nothing contained herein shall be construed as a waiver by COUNTY, by CITY or by any of the parties, of the liability limits established in Section 768.28, Florida Statutes.

7. COUNTY shall require any Contractor engaged by COUNTY for work associated with a Project to maintain Commercial General Liability coverage, including vehicle coverage, in combined single limits of not less than ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00). CITY shall be included in the coverage as an additional insured.

8. COUNTY and CITY 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 the Agreement.

9. 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.

10. 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 COUNTY

Bevin Beaudet, Director
Palm Beach County Water Utilities Department
8100 Forest Hill Blvd.
West Palm Beach, Florida 33413

AS TO CITY

11. This Agreement shall be construed and governed by the laws of the State of Florida. Any and all 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 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.

12. 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.

13. 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.

14. Nothing contained in this Agreement shall be construed to constitute a transfer of powers in any way whatsoever. This Agreement is solely an agreement delineating the parties' obligations related to the management of pred-design, design, bidding, construction, and close-out services of certain potable water and wastewater improvements, as authorized in Florida Statutes, Chapter 163. The governing bodies for the COUNTY and the CITY shall each maintain all legislative authority with regard to their respective political subdivision. All of the privileges and immunities from liability; exemption from laws, ordinances, and rules; and pensions and relief, disability, workers compensation and other benefits which apply to the activity of officers, agents or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extra-territorially under the provisions of this Agreement.

15. Each party agrees to abide by all laws, orders, rules and regulations and CITY will comply with all applicable governmental codes in the ownership, operation and maintenance of the Improvements.

16. The parties to this Agreement shall not be deemed to assume any liability for the negligent or wrongful acts or omissions of the other party (or parties). Nothing contained herein shall be construed as a waiver by COUNTY, by CITY or by any of the parties, of the liability limits established in Section 768.28, Florida Statutes.

17. CITY shall promptly notify COUNTY of any lawsuit-related complaint, or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement.

18. 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.

19. 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.

20. This Agreement represents the entire understanding among the parties, and supersedes all other negotiations, representations, or agreements, written or oral, relating to this Agreement.

21. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.

22. This Agreement shall take effect upon execution by both parties and the effective date shall be the date of execution of the last party to execute this Agreement.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Agreement.

CITY OF PAHOKEE

(CITY SEAL)

CITY OF PAHOKEE
BY ITS CITY COUNCIL

ATTEST:

By: 
CITY SECRETARY

By: 
MAYOR

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
CITY ATTORNEY

PALM BEACH COUNTY

(COUNTY SEAL)

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

ATTEST:

SHARON R. BOCK, CLERK
AND COMPTROLLER

By: _____
JOHN F. KOONS, CHAIRMAN

By: _____
DEPUTY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: 
ASSISTANT COUNTY ATTORNEY

APPROVED AS TO TERMS AND CONDITIONS

By: 
DIRECTOR OF WATER UTILITIES

EXHIBIT "A"

In accordance with the Interlocal Agreement between Palm Beach County and the City of Pahokee for Construction Management Services (County Resolution No. R2009-_____) (hereinafter "Interlocal Agreement"), please accept this letter as the City of Pahokee's request for the County to manage the pre-design, design, bidding, construction, and close-out services related to _____ ("Project.") A description of the Project is attached hereto and incorporated herein as **Attachment 1**. All terms and conditions of the Interlocal Agreement shall apply to the County's performance of these services on the Project.

REQUESTED BY CITY OF PAHOKEE

[CITY TO ADD REQUIRED SIGNATURE BLOCK]

ACCEPTED BY PALM BEACH COUNTY

WITNESSES:

PALM BEACH COUNTY

By: _____
County Administrator or Designee

Date: _____

WATER UTILITIES DEPARTMENT APPROVAL

By: _____
Director of Finance and Administration

**APPROVED AS TO FORM AND LEGAL
SUFFICIENCY**

By: _____
County Attorney

**OFFICE OF COMMUNITY REVITALIZATION
BUDGET AVAILABILITY STATEMENT**

REQUEST DATE: 04/13/2009

REQUESTED BY: Steve McGrew

PHONE: 493-6110

PROJECT TITLE: Canal Point Wastewater and Pahokee Headwork's

FAX:

PROJECT NO.:

ORIGINAL CONTRACT AMOUNT:

BCC RESOLUTION#:

REQUESTED AMOUNT:

DATE:

CSA or CHANGE ORDER NUMBER:

CONSULTANT/CONTRACTOR:

PROVIDE A BRIEF STATEMENT OF THE SCOPE OF SERVICES TO BE PROVIDED BY THE CONSULTANT/CONTRACTOR:

CONSTRUCTION
PROFESSIONAL SERVICES
STAFF COSTS** (Design/Construction Phase)
MISC. (permits, prints, advertising, etcetera)
TOTAL

*** By signing this BAS your department agrees to these staff costs and your account will be charged upon receipt of this BAS by FD&O. Unless there is a change in the scope of work, no additional staff charges will be billed.*

BUDGET ACCOUNT NUMBER (IF KNOWN)

FUND:	DEPT:	UNIT:	OBJ:
3900	366	X058	6506

FUNDING SOURCE (CHECK ALL THAT APPLY): ☐ AD VALOREM ☒ OTHER

☐ FEDERAL/DAVIS BACON

BAS APPROVED BY:

DATE:

4/13/09

ENCUMBRANCE NUMBER:

NOTE: **Budget:** \$822,925. **Encumbered:** \$779,692
 Available: \$43,233