

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

**Meeting Date: May 5, 2009**

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 Reimbursement Agreement with the City of Boynton Beach (City) for Southeast 4<sup>th</sup> Street Improvements in an amount not to exceed \$300,000; and
- B) A Budget Transfer of \$300,000 in the Transportation Improvement Fund from Reserve for District 4 to the City of Boynton Beach Southeast 4<sup>th</sup> Street Improvements – District 4.

**SUMMARY:** Approval of the Reimbursement Agreement and Budget Transfer will provide funds to the City to pay for street improvements on Southeast 4<sup>th</sup> Street from Ocean Avenue to Southeast 12<sup>th</sup> Street.

District 4 (MRE)

**Background and Justification:** The District 4 Commissioner wishes to support the City's efforts in relocating utilities, resurfacing the roadway, rebuilding sidewalks, landscaping, striping, and drainage on Southeast 4<sup>th</sup> Street. The District 4 Commissioner believes this will serve the public's best interest.

**Attachments:**

- 1. Location Map
- 2. Authorization
- 3. Agreement w/Exhibit A
- 4. Budget Transfer

**Recommended by:** *Jim McLaughlin*      3/24/09  
Division Director      Date

**Approved by:** *Dy T. Webb*      4/16/09  
County Engineer      Date

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2009	2010	2011	2012	2013
Grant Expenditures	<u>\$300,000</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>
<b>NET FISCAL IMPACT</b>	<b><u>\$300,000</u></b>	<b><u>-0-</u></b>	<b><u>-0-</u></b>	<b><u>-0-</u></b>	<b><u>-0-</u></b>

# ADDITIONAL FTE  
POSITIONS (Cumulative) \_\_\_\_\_

Is Item Included in Current Budget? Yes \_\_\_\_\_ No X  
Budget Acct No.: Fund \_\_\_\_\_ Dept. \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
Program \_\_\_\_\_


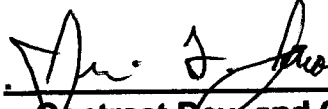
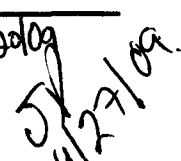
**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Transportation Improvement Fund  
Reserve For District 4  
City of Boynton Beach SE 4<sup>th</sup> Street Improvements - D4

C. Departmental Fiscal Review: \_\_\_\_\_

**III. REVIEW COMMENTS**

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

 4/28/09  
 OFMB 4/28/09 CN 4/30/09  
 4/28/09  
 Contract Dev and Control  
 E. Jones 4/28/09  
 5/27/09

This Contract complies with our contract review requirements.

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

  
 Assistant County Attorney 3/11/09 4/30/09

**C. Other Department Review:**

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

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

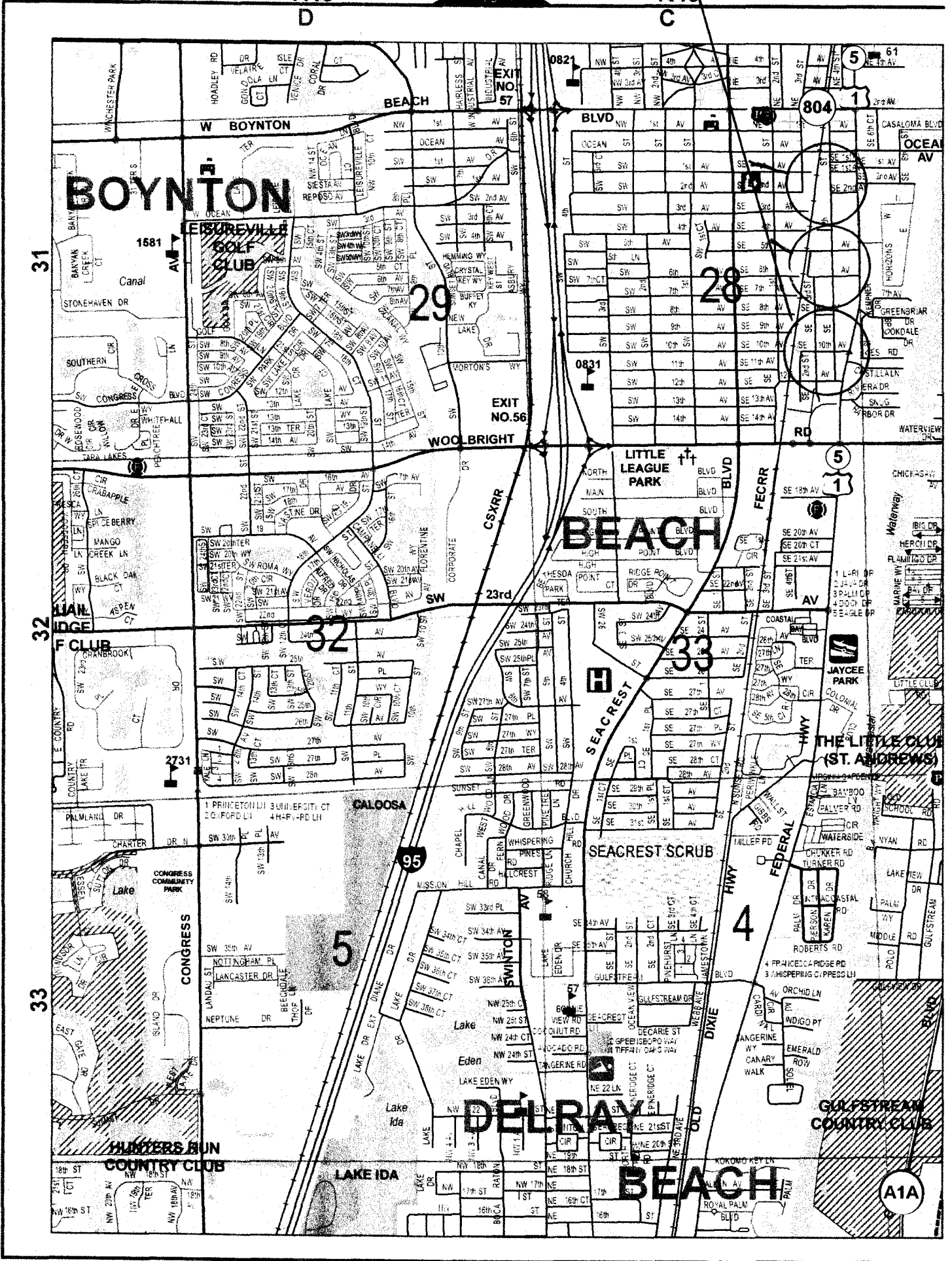
LOCATION MAP S.E. 4<sup>TH</sup> ST

105

R43  
D

See pg 99

R43  
C



T45

T45

T46

105

D

See pg 111

C



MAY 21 2008

May 20, 2008

P.O. Box 1989  
West Palm Beach, FL 33402-1989  
(561) 355-2001  
FAX: (561) 355-3990  
www.pbcgov.com

Ms. Lisa Bright  
Executive Director  
Boynton Beach CRA  
915 South Federal Highway  
Boynton Beach, FL 33435

Dear Ms. Bright:

This is formal notification that I am awarding an allocation of \$300,000 from the District IV Gas Tax Fund to the Boynton Beach Community Redevelopment Agency for the SE 4<sup>th</sup> Street Improvement Project.

Your request and a copy of this letter are being forwarded to Owen Miley, Special Projects Coordinator in the Engineering Department at the County to prepare the appropriate agreement for processing.

As always, it is a pleasure to assist the Boynton Beach Community Redevelopment Agency in this beautification project. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

*Mary*  
Mary McCarty  
Commissioner, District IV  
Palm Beach County Commission

cc: City of Boynton Beach  
Jerry Taylor, Mayor  
Owen Miley, Engineering Dept. /PBC

MM:kfs

**Palm Beach County  
Board of County  
Commissioners**

Addie L. Greene, Chairperson

Jeff Koons, Vice Chair

Karen T. Marcus

Robert J. Kanjian

Mary McCarty

Burt Aaronson

Jess R. Santamaria

**County Administrator**

Robert Weisman

"An Equal Opportunity  
Affirmative Action Employer"

printed on recycled paper

**REIMBURSEMENT AGREEMENT  
CITY OF BOYNTON BEACH  
SOUTHEAST 4<sup>TH</sup> STREET IMPROVEMENTS**

**THIS REIMBURSEMENT AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2009, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida hereinafter referred to as "**COUNTY**" and the city of **BOYNTON BEACH** a municipal corporation of the state of Florida hereinafter referred to as **CITY**.

**WITNESSETH:**

**WHEREAS**, the **CITY** will be undertaking street improvements on Southeast 4<sup>th</sup> Street from Ocean Avenue to Southeast 12<sup>th</sup> Avenue; and

**WHEREAS**, Southeast 4<sup>th</sup> Street, Ocean Avenue, and Southeast 12<sup>th</sup> Avenue are **CITY** owned roadways; and

**WHEREAS**, the **CITY** desires the financial support of the **COUNTY** for relocating underground utilities, asphalt resurfacing of roadway, rebuilding sidewalks, median landscaping, pavement markings and drainage hereinafter referred to as **IMPROVEMENTS**; and

**WHEREAS**, after completion of **IMPROVEMENTS** the **CITY** will be responsible for the perpetual maintenance of all **IMPROVEMENTS**; and

**WHEREAS**, **COUNTY** believes that the efforts by the **CITY** serve a public purpose and wishes to provide for the cost of the **IMPROVEMENTS** by providing reimbursement funding from the Board of County Commissioners Reserve District 4 in an amount not to exceed **THREE HUNDRED THOUSAND and 00/100 DOLLARS (\$300,000.00)**; and

**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 **CITY** reimbursement funding for documented costs associated with the **IMPROVEMENTS** in an amount not to exceed **THREE HUNDRED THOUSAND and 00/100 DOLLARS (\$300,000.00)**.
3. **COUNTY** agrees to reimburse the **CITY** the amount established in paragraph 2 for costs associated with the **IMPROVEMENTS**, upon the **CITY**'s submission of acceptable documentation needed to substantiate its cost for the **IMPROVEMENTS**. **COUNTY** will use its best efforts to provide said funds to the **CITY**

on a reimbursement basis within forty-five (45) days of receipt of all information required in paragraph 6, below.

4. **COUNTY** obligation is limited to its payment obligation and shall have no obligation to any other person or entity.

5. The **CITY** agrees to assume all responsibility for design, bidding, contract preparation, and contract administration necessary for the **IMPROVEMENTS**, including payment(s) to contractor(s) pursuant to all applicable governmental laws and regulations and will comply with all applicable governmental codes and permitting requirements in designing, completing and maintaining **IMPROVEMENTS**. The **CITY** also agrees to assume financial responsibility for the completion of any portions of the **IMPROVEMENTS** that are not fully funded by the amount set forth in Paragraph 2, above.

6. The **CITY** will obtain or provide all labor and materials necessary for the design and installation of the **IMPROVEMENTS**. **COUNTY** shall have the final determination of eligibility for reimbursement. The **CITY** shall furnish to the **OFFICE OF THE COUNTY ENGINEER** representative a request for payment supported by the following:

A) A statement from a Florida Registered Engineer that the **IMPROVEMENTS** have been inspected and were installed substantially in accordance with the permitted plans for the **IMPROVEMENTS**, and;

B) 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 **CITY**. Said information shall list each invoice payable by the **CITY** and shall include the vendor invoice number, invoice date, and the amount payable by the **COUNTY**. The **CITY** shall attach a copy of each vendor invoice paid by the **CITY** 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 **CITY** Financial Officer, or authorized representative, shall also certify that each invoice listed on the Contractual Services Purchases Schedule Form was paid by the **CITY** as indicated.

7. As it relates to this Agreement, and upon providing reasonable notice, the **COUNTY** may initiate a financial systems analysis and/or an internal fiscal control

evaluation of the **CITY** by an independent auditing firm employed by the **COUNTY** or by the County Internal Audit Department at any time the **COUNTY** deems necessary.

8. The **CITY** agrees to be responsible for the subsequent maintenance of the **IMPROVEMENTS** following the installation of the **IMPROVEMENTS**. The **CITY** shall be solely responsible for obtaining and complying with all necessary permits, approvals and authorizations from any federal, state, regional, **COUNTY**, or municipal agency if any are required for the **IMPROVEMENTS**.

9. The **IMPROVEMENTS** shall be completed and final invoices submitted to the **COUNTY** no later than October 1, 2010 and the **COUNTY** shall have no obligation to the **CITY** or any other entity or person for any cost incurred thereafter unless the time for completion is extended by modification of this Agreement.

10. Each party shall be liable for its own actions and negligence and to the extent permitted by law; the **CITY** shall indemnify, defend and hold harmless the **COUNTY** against any actions, claims or damages arising out of the **CITY's** negligence in connection with this Agreement or the performance by the **CITY** as it may relate to this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 786.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligence, willful or intentional acts or omissions.

11. Without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes, **CITY** acknowledges to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature. In the event **CITY** maintains third-party commercial General Liability and Business Auto Liability in lieu of exclusive reliance on self-insurance under Section 768.28, Florida Statutes, **CITY** shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage. **CITY** agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statutes 440. Prior to execution of this Agreement by the County **CITY** shall deliver to the County an affidavit or Certificate of Insurance evidencing insurance, self-insurance, and/or sovereign immunity status, which County agrees to recognize as acceptable for the above mentioned coverages. Certificate holder's address shall read Palm Beach

County, c/o Department of Engineering and Public Works, 2300 N. Jog Road , 3E-13, West Palm Beach, Florida 33411, Attention: Special Projects Coordinator (561-684-4018). Compliance with the foregoing requirements shall not relieve **CITY** of its liability and obligations under this Agreement.

12. As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the **CITY** 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 **CITY** will require each contractor engaged by the **CITY** for work associated with this Agreement to maintain:

- a. Workers' Compensation coverage in accordance with Florida Statutes, and;
- b. 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; and
- c. A payment and performance bond for the total amount of the **IMPROVEMENTS** in accordance with Florida Statute 255.05.

14. In the event of termination, the **CITY** 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 **CITY**; and the **COUNTY** may withhold any payment to the **CITY** for the purpose of set-off until such time as the exact amount of damages due the **COUNTY** is determined.

15. **CITY's** termination of this Agreement shall result in all obligations of the **COUNTY** for funding contemplated herein to be cancelled.

16. **COUNTY** and **CITY** agree that no person shall, on the grounds of race, color, national origin, sexual orientation, gender identity and expression, 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  
2300 North Jog Road  
West Palm Beach, Florida 33411

AS TO THE CITY

City of Boynton Beach  
Jeff Livergood Public Works Director  
100 East Boynton Beach Blvd.  
Boynton, Florida 33435  
561-737-3256 Fax 561-737-3258

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 CITY will comply with all applicable governmental codes during the **IMPROVEMENTS.**

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-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.

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.

29. This Agreement shall take effect upon execution and the effective date shall be the date of execution.

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

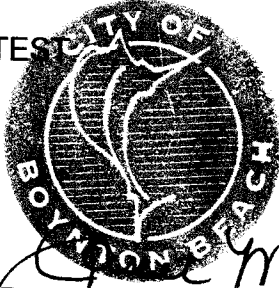
CITY OF BOYNTON BEACH

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

By: Jerry Taylor  
Chair

By: \_\_\_\_\_  
John F. Koons Chairman

ATTEST:



ATTEST:

SHARON R. BOCK, CLERK & COMPTROLLER

By: Joe M. Praino  
Secretary

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Michael J. City Attorney  
General Counsel

By: \_\_\_\_\_  
Assistant County Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO TERMS AND CONDITIONS

By: \_\_\_\_\_

By: Sharon R. Bock

Date: \_\_\_\_\_

Date: 3/23/09

**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 031709-1226

FUND Transportation Improvement

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 03/17/09	REMAINING BALANCE
<b><u>CITY OF BOYNTON BCH SE 4<sup>TH</sup> ST IMP - DIST 4</u></b>								
3500-368-1314-8101	Contributions Othr Govtl Agency	0	0	300,000	0	300,000	0	300,000
<b><u>RESERVE FOR DISTRICT 4</u></b>								
3500-368-9114-9907	Res-Future Construction	1,780,852	1,473,571	<u>0</u>	<u>300,000</u>	1,173,571		
				300,000	300,000			

SIGNATURE

DATE

By Board of County Commissioners  
At Meeting of 05/05/09

Engineering & Public Works

ahwillhite

3/17/09

Administration / Budget Approval

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OFMB Department - Posted

\_\_\_\_\_

\_\_\_\_\_

Deputy Clerk to the  
Board of County Commissioners