

Agenda Item #: 3-C-5

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: July 7, 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 Amendment to the County Participation Agreement (R2008-0937) with 1950 Congress Avenue, LLC (Developer), concerning funding of the design and construction of the Old Boynton Road Bridge over the Lake Worth Drainage District E-4 Canal (Project).

SUMMARY: During construction of the Project, a drainage pipe was encountered that requires protection via installation of a concrete slab. Approval of this Amendment will enable Palm Beach County to reimburse the Developer up to \$15,040 for installation of the concrete slab.

District 3 (MRE)

Background and Justification: On June 3, 2008, the Board of County Commissioners approved Agreement R2008-0927 with the Developer, which provided a reimbursement of up to \$1,000,000 to the Developer for the design and construction of the Old Boynton Road Bridge over the Lake Worth Drainage District E-4 Canal. During construction, a drainage pipe in the vicinity of the bridge was encountered that had been damaged in the past. It was subsequently determined that protection of the pipe, in lieu of replacement, was the most cost effective approach. The pipe will be protected via installation of a six inch thick concrete slab. With this Amendment, Palm Beach County will provide additional funding for construction of the slab in an amount not to exceed \$15,040, bringing the total available reimbursement funding to \$1,015,040.

Attachments:

1. Location Map
2. Amendment (2)

Recommended By:

976
101

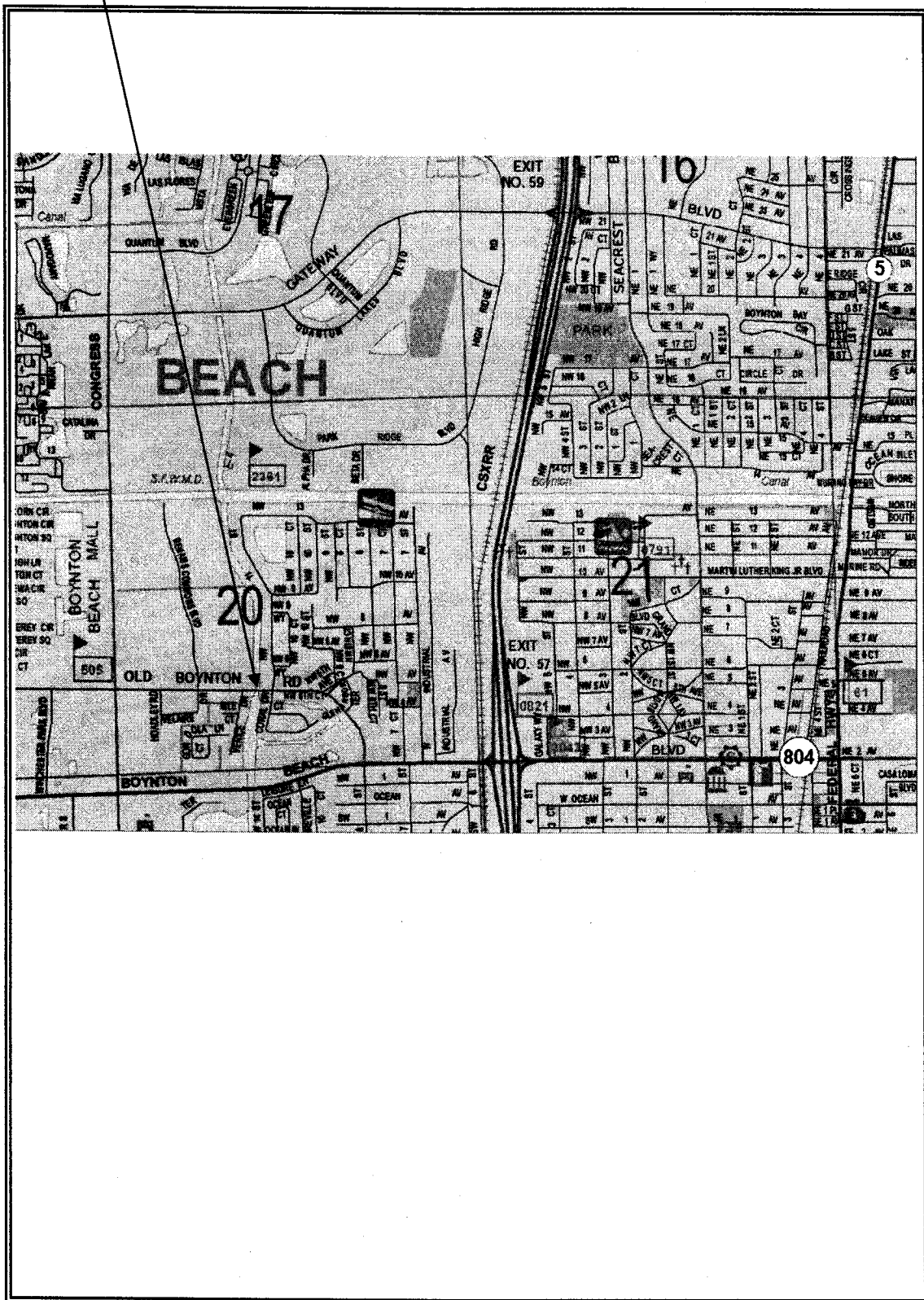
Division Director

Date

6/08/09

LOCATION MAP

— OLD BOYNTON ROAD BRIDGE OVER LWDD E-4 CANAL



**AMENDMENT TO COUNTY PARTICIPATION AGREEMENT WITH 1950
CONGRESS AVENUE LLC FOR IMPROVEMENTS TO THE OLD BOYNTON
ROAD BRIDGE OVER THE LWDD E-4 CANAL**

THIS AMENDMENT is made to the COUNTY PARTICIPATION AGREEMENT WITH 1950 CONGRESS AVENUE LLC FOR IMPROVEMENTS TO THE OLD BOYNTON ROAD BRIDGE OVER THE LWDD E-4 CANAL (R2008-0937) dated June 3, 2008, by and between THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as the "COUNTY", and 1950 CONGRESS AVENUE, LLC, a Florida Limited Liability Company, 5858 Central Avenue, St. Petersburg, Florida 33707, hereinafter referred to as "1950".

WHEREAS, on June 3, 2008, the COUNTY and 1950 entered into a County Participation Agreement (Agreement) through which the COUNTY will reimburse up to \$1,000,000 to 1950 for design and construction of the bridge over the LWDD E-4 Canal.

WHEREAS, there is existing 48" HDPE pipe underneath the existing roadway and the COUNTY desires to protect this pipe by placing a 6" concrete slab over this existing pipe; and

WHEREAS, the COUNTY desires to provide additional funding for construction of the 6" concrete slab in an amount not to exceed \$15,040, bringing the total available reimbursement funding to \$1,015,040.

NOW THEREFORE, in consideration of the mutual covenants, promises and representations contained in the Agreement and herein made, the parties hereto agree as follows:

1. The Agreement is hereby amended as follows:
 - A. 2.3.1. 1950 shall supervise and administer construction of the BRIDGE and the 6" concrete slab, including disbursement of funds associated with the work.
 - B. 2.3.2. 1950 shall contract for and provide all labor and materials necessary for construction of the BRIDGE and the 6" concrete slab.
 - C. 3.3. The COUNTY shall be responsible for funding up to \$15,040 towards the construction of a 6" concrete slab over the existing HDPE pipe.

- D. 3.4. The COUNTY shall make payment of the cost of the total invoice toward the 6" concrete slab as submitted pursuant to Paragraph 2 of the Agreement. The COUNTY Engineer shall have the right, but not the obligation, to inspect the construction. Invoices received from 1950 will be reviewed and approved by COUNTY pursuant to the requirements of the Agreement. Thereafter, they will be sent to COUNTY'S Finance Department for final approval and payment within thirty (30) days following receipt of an acceptable Contract Payment Request Form and a Contractual Services Purchase Schedule Form. Except as provided in Paragraph 9 of the Agreement, the COUNTY shall not have any payment obligation to any other entity or person.
2. In the event of any inconsistencies or conflicts between the Agreement and this Amendment, it is the intention of the parties that this Amendment shall control.
 3. The parties agree that 1950's acceptance of this Amendment to the Agreement shall not in any way or under any circumstances whatsoever bind, require, or obligate 1950 to further amend the Agreement between the parties.
 4. Except as changed by this Amendment, in all other respects, the Agreement dated June 3, 2008 shall remain unchanged, and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day and year indicated:

SIGNATURES APPEAR ON THE FOLLOWING PAGE

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD COUNTY

COMMISSIONERS

BY: _____
John F. Koons, Chairman

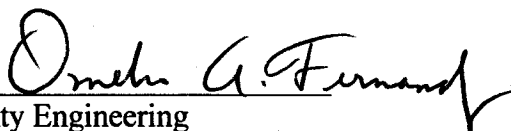
SHARON R. BOCK,
CLERK & COMPTROLLER
CIRCUIT COURT

BY: _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

^{DRG}
_{WAF} 
County Engineering

1950 CONGRESS AVENUE, LLC
a Florida limited liability company

By: Sembler Family Partnership #35,
Ltd., a Florida limited partnership, its
Manager


By: Sembler Commercial, Inc. a Florida
corporation, its general partner

By:  _____

Name: Jeffrey S. Fuqua
Title: Vice President

Date: May 26, 2009

ATTEST:

Name:  _____

Secretary

(Seal)