

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: July 21, 2009

<input checked="" type="checkbox"/>	Consent	<input type="checkbox"/>	Regular
<input type="checkbox"/>	Workshop	<input type="checkbox"/>	Public Hearing

Department:

Submitted By: Engineering & Public Works

Submitted For: Traffic Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: An Agreement with Independence Homeowners Association Incorporated (Community) for traffic control jurisdiction to be performed by the Palm Beach County Sheriff's Office (Sheriff).

SUMMARY: Approval of this Agreement will authorize the Sheriff to provide traffic control enforcement services within the Community.

District 6 (MRE)

Background and Justification: Section 316.006, Florida Statutes, provides that Palm Beach County (County) may exercise traffic control jurisdiction over private roads by written Agreement after consultation with the Sheriff. The Community wishes to contract with the County for performance of law enforcement services and functions relating to traffic control within its boundaries. The Community desires to have the Sheriff and his deputies control traffic upon its roadways. This will be provided at the discretion of the Sheriff. Should the Community desire deputies to be situated in its development at times outside normal hours, the Community understands that a separate contract must be executed with the Sheriff for additional services and that the Community will be invoiced by the Sheriff for such additional services.

Attachments:

1. Location Sketch
2. Agreements with Exhibits A, B, C (3)

Recommended By:

Jan Zuercher

Division Director

06/12/09

Date

Approved By:

S. T. Wehl

County Engineer

6/29/09

Date

II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-

ADDITIONAL FTE
POSITIONS (Cumulative) _____

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

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

This item has no additional fiscal impact.

C. Departmental Fiscal Review: Shirley White

III. REVIEW COMMENTS

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

* Funding for routine law enforcement services and functions relating to traffic control within Palm Beach County's boundaries are included in the current budget for the Sheriff # 0001-160-1601-9498.

WJL 7/1/09
OFMB 7/1/09
CN 6/29/09

John J. Jacobus 7/9/09
Contract Dev. and Control
6 June 7/8/09

B. Approved as to Form and Legal Sufficiency:

Monroe R. Alt 7/13/09
Assistant County Attorney

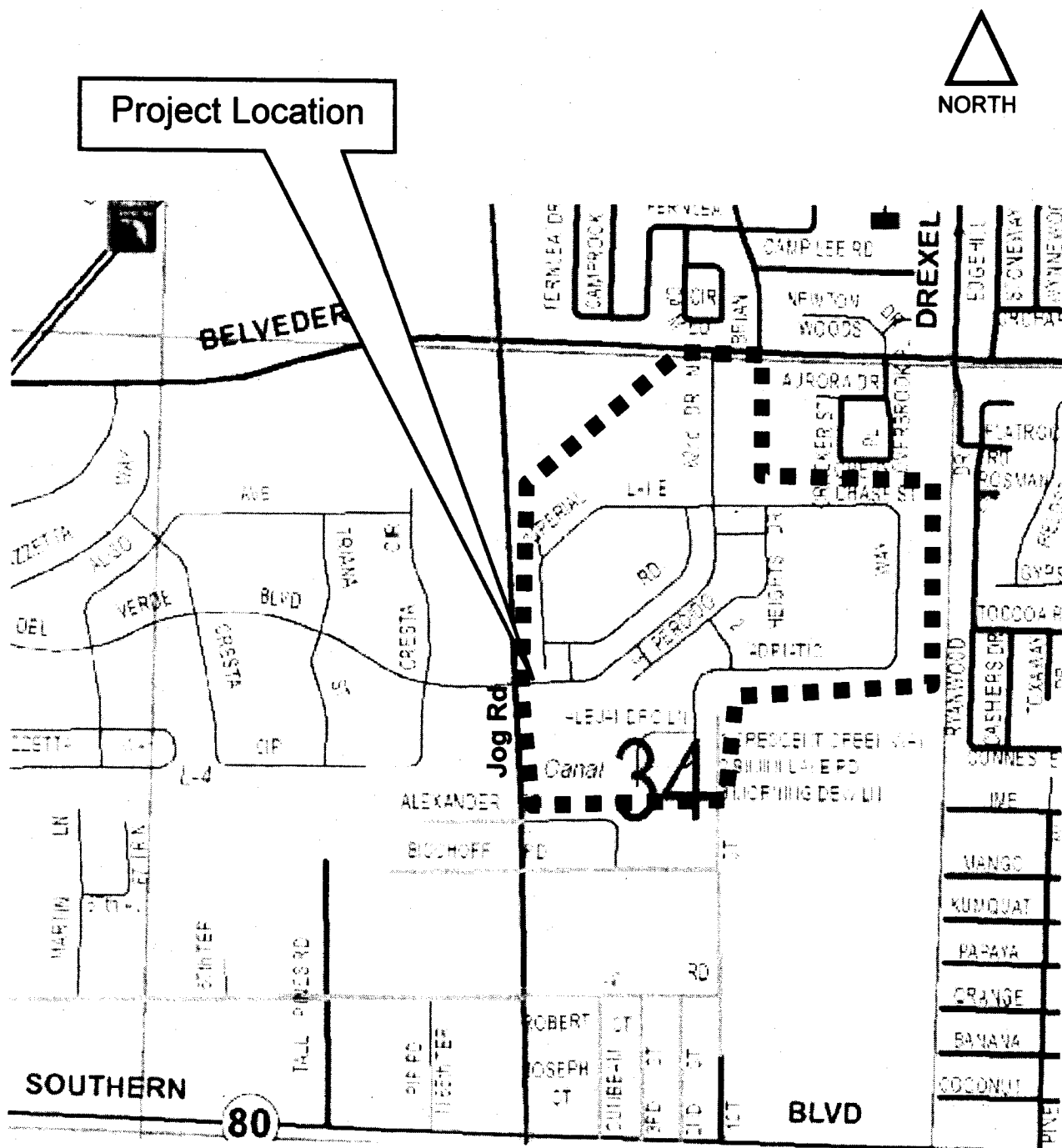
This Contract complies with our
contract review requirements.

C. Other Department Review:

Department Director

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

Attachment 1



**AGREEMENT FOR TRAFFIC CONTROL JURISDICTION BETWEEN PALM
BEACH COUNTY AND INDEPENDENCE HOMEOWNERS ASSOCIATION
INCORPORATED**

THIS AGREEMENT, made and entered into this _____ day of _____, 2008 and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter **County**, and **INDEPENDENCE HOMEOWNERS ASSOCIATION INCORPORATED** representing a private residential community located in Palm Beach County, Florida, hereinafter **Community**.

WITNESSETH:

WHEREAS, Community owns/or controls the roadways within its development as private roads; and

WHEREAS, Section 316.006(3) provides that County may exercise traffic control jurisdiction over private roads by written agreement after consultation with the Palm Beach County Sheriff's Office, hereinafter Sheriff; and

WHEREAS, Community wishes to contract with the County for performance of law enforcement services and functions relating to traffic control within its boundaries in Palm Beach County, Florida.

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

1. The above recitations are true and correct and incorporated herein.
2. Community desires to have the Sheriff and his deputies control traffic upon its roadways during normal patrol hours (hereinafter Services). Should Community desire deputies to be situated in its development at times outside normal hours, Community understands that a separate contract shall be executed for additional services and Community will be invoiced for such additional services.
3. Community shall provide County with certification by a licensed engineer that the roadway signage is in accordance with the standards set forth in the *Manual on Uniform Traffic Control Devices* and Chapter 316, Florida Statutes (Exhibit A). In addition, Community shall provide an affidavit stating that Community does in fact own/or control the roadways within said development (Exhibit B).
4. County and Sheriff shall exercise the authority in Community's geographical area pursuant to this Agreement and granted by the laws of the State of Florida.
5. The rendition of Services, standards of performance, discipline and other matters incident to the performance of such Services (hereinafter Operational Matters), and the control of personnel employed shall be within the sole discretion of the Sheriff.

6. Persons employed in the performance of Services provided are appointees of the Sheriff and not County. As appointees of the Sheriff they receive all benefits, training and promotion opportunities provided by the Sheriff.

7. This Agreement may be canceled by the County or Community for any reason after (60) days written notice has been provided to the other party with a copy to the Sheriff.

8. This Agreement is subject to modification in writing by the mutual consent of parties to this Agreement and executed with the same formality as the original Agreement.

9. All notices and/or inquiries required or allowed by this Agreement shall be delivered in person or mailed by Certified Mail, Return Receipt Requested, with sufficient postage affixed, to the party to whom such notice is to be given. Such mailed notices shall be deemed received three (3) business days following the notices being placed in the U.S. Mail. Notices are to be to the following:

As to the activities of the County and Community:

PALM BEACH COUNTY:

Palm Beach County Attorney's Office
Attention: Marlene Romano Everitt
Assistant County Attorney
P.O. Box 1989
West Palm Beach, FL 33402-1989

With a copy to:

Dan Weisberg, P.E., Director
Traffic Division
Palm Beach County Engineering and
Public Works Department
P.O. Box 21229
West Palm Beach, FL 33416-1229

COMMUNITY:

Independence Homeowners Association Incorporated
Attention: Beth Acker (President)
6051 Adriatic Way
West Palm Beach, FL 33413
(561) 684-6936

As to contract administration of the Operational Matters under this Agreement:

SHERIFF:

Palm Beach County Sheriff's Office
Attention: Commander of Traffic Division
3228 Gun Club Road
West Palm Beach, FL 33406
(561) 688-3508

10. The exercise of the traffic enforcement jurisdiction provided for herein shall be in addition to the jurisdictional authority presently exercised by County and Sheriff under law, and nothing in this Agreement shall be construed to limit or remove any jurisdictional authority.

11. The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions, and negligence of the other party. Further, nothing herein shall be construed as a waiver of sovereign immunity by either party, pursuant to Section 768.28, Florida Statutes.

12. The parties acknowledge that they have consulted with Sheriff as required by Florida Statutes 316.006(3)(b)(2). See acknowledgment of consultation a copy of which is attached hereto and incorporated herein as Exhibit C.

13. In the event that any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be valid, such shall not effect the remaining portions of this Agreement and the same shall remain in full force and effect.

14. This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, either written or oral, relating to this Agreement.

15. This Agreement shall be construed by and governed by the laws of the State of Florida.

16. Any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and/or conditions of this Agreement shall be borne by the respective parties.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the day and year first written above.

COMMUNITY:

Independence Homeowners Association Incorporated
Attention: Beth Acker (President)
6051 Adriatic Way
West Palm Beach, FL 33413
(561) 684-6936

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

By: Beth L. Acker
Beth Acker, President

By: ~~Addie L. Greene, Chairperson~~
John F. Koons, Chairman

ATTEST:



ATTEST:
SHARON R. BOCK,
CLERK & COMPTROLLER

By: Cathy Ann Gellatly

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
County Attorney

By: John F. Koons

January 26, 2009

Palm Beach County Engineering Department
Traffic Division
P.O. Box 21229
West Palm Beach, FL 33416-1229

**Re: Independence Homeowners Association
Engenuity Project No. 8033.00**

To Whom It May Concern:

The Independence Homeowners Association has contracted with Engenuity Group, Inc. to provide engineering services for purposes of obtaining a traffic control agreement with Palm Beach County.

I hereby certify that the traffic and regulatory signage and pavement markings as noted on the attached drawing (Independence - Internal Neighborhood Signage and Marking Plan, Job No. 8033.03, Sheet 1 of 1) for both existing and proposed, is in place and complies with FDOT standards. The posted speed limit is 30 mph per Florida Statutes.

Please do not hesitate to call if you have any questions.

Sincerely,



Keith B. Jackson, P. E.
Vice President
Florida Registration No. 37289

c: Beth Acker, Independence HOA
Hal Bradford, Esq., Moyle Flannigan

Independence

Independence Homeowners Association, Inc.

West Palm Beach, Florida

Not for Profit Organization Tax ID# 54-2084709

AFFIDAVIT

BEFORE ME, the undersigned, BETH L. ACKER, as President of INDEPENDENCE HOMEOWNERS ASSOCIATION, INC., (INDEPENDENCE) who having been first duly sworn upon oath according to law, depose and say as follows:

A. I have personal knowledge of all matters set forth in this Affidavit.

B. I am the owner (hereafter referred to as the "Owner") of the fee simple title to certain real property (hereafter referred to as the "Property") situated in Palm Beach County, Florida, known as Waterways Taheri P.U.D., which is described in Plat Book 101, Page 40, and revised in Plat Book 105, Page 62, both of the Public Records of Palm Beach County, Florida.
stop code

C. INDEPENDENCE, owns and maintains control of all of the roads contained within the Plat(s) referenced above.

D. This Affidavit is made and given by Owner with full knowledge of applicable Florida laws regarding sworn Affidavits and the penalties and liabilities resulting from false statements and misrepresentations therein.

INDEPENDENCE HOMEOWNERS ASSOCIATION, INC.

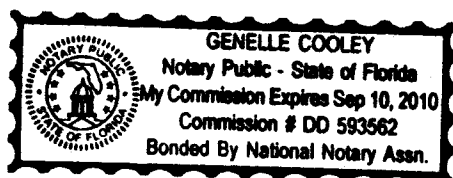
By: Beth L. Acker

Beth L. Acker, as President

STATE OF FLORIDA

COUNTY OF PALM BEACH

SWORN TO AND SUBSCRIBED before me this 14 day of April, 2009, by BETH L. ACKER, as President, of INDEPENDENCE HOMEOWNERS ASSOCIATION, INC., to me personally known _____ or produced as identification.



Name: Genelle Cooley

Notary Public

My Commission Expires: 9/10/10

Commission No.: 593562

PBSO ACKNOWLEDGMENT OF CONSULTATION

Ric L. Bradshaw, Sheriff of Palm Beach County, Florida, hereby acknowledges that Palm Beach County has consulted with a designee of the Palm Beach County Sheriff's Office regarding the agreement for enforcement of the state traffic laws over the private road or roads which are owned or controlled by Independence Homeowners Association Incorporated, a private residential community.

FISCAL IMPACT

There is no fiscal impact to the Palm Beach County Sheriff's Office resulting from routine enforcement in regard to the Agreement for Traffic Control Jurisdiction between Palm Beach County and Independence Homeowners Association Incorporated.

Date: _____

By: _____

Title: _____