

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: May 4, 2010

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: An Inter-Local Agreement with The City of Delray Beach (City) to extend the completion date from March 31, 2009 to June 30, 2010 for the installation of a trombone style signal mast arm on W. Atlantic Avenue and 12th Street.

SUMMARY: Approval of this Agreement with the City will extend the date of completion for the installation of trombone style signal mast arms from March 31, 2009 to June 30, 2010.

District 7 (MRE)

Background and Justification: The original agreement R2007-2157 to reimburse the City in an amount not to exceed \$250,000 was approved on December 4, 2007 and expired on March 31, 2009. The project did not begin until January 2009 as part of the Florida Department of Transportation project. Due to the expiration of the original agreement, the City and Palm Beach County established that a new agreement is required to allow more time for completion and final invoices.

Attachments:

1. Project Authorization
2. Agreement w/Exhibit 'A' (2)
3. Agreement R2007-2157

Recommended by: _____

Division Director

Date

Approved by: _____

County Engineer

Date

S. J. Webb

4/7/10

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	\$ <u>-0-</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>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

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 fiscal impact. The amendment to the agreement only extends the time period of the contract.

C. Departmental Fiscal Review: Adrian White

III. REVIEW COMMENTS

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

 Adrian 4/12/10
 OFMB
 MC
 4810
 4/12/10

 Dr. J. Jacob 4/13/10
 Contract Dev. and Control

B. Approved as to Form and Legal Sufficiency:

This Contract complies with our contract review requirements.

 Marianne Platt 4/27/10
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

Owen Miley

From: Priscilla Taylor A.
Sent: Tuesday, October 13, 2009 3:01 PM
To: Owen Miley
Subject: FW: Re: Extension for West Atlantic and 12th Avenue Traffic Signalization

From: Priscilla Taylor A.
Sent: Tuesday, October 13, 2009 2:56 PM
To: Owen Miley
Subject: Re: Extension for West Atlantic and 12th Avenue Traffic Signalization

Please be advised that I am in agreement with the extension to the Inter-local agreement between Palm Beach County and Delray Beach which now reflects the dates of March 31, 2009 through January 30, 2010.

Priscilla Taylor
County Commissioner-District 7

**INTERLOCAL AGREEMENT
THE CITY OF DELRAY BEACH
FOR INSTALLING TROMBONE STYLE MAST ARMS
AT SW/NW 12TH AVENUE AND WEST ATLANTIC AVENUE**

THIS INTERLOCAL AGREEMENT is made and entered into this _____ day of _____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "**COUNTY**" and **THE CITY OF DELRAY BEACH**, a municipal corporation of the State of Florida hereinafter referred to as "**CITY**"

WITNESSETH:

WHEREAS, on December 4, 2007 the **CITY** and the **COUNTY** entered into an Interlocal Agreement R2007-2157 providing funds to the **CITY** to reimburse the Florida Department of Transportation (FDOT) towards upgrading the traffic signal at 12th Avenue and W. Atlantic Avenue by adding a trombone style mast arm, support structure, traffic signal, drainage, and paving hereinafter referred to as "**PROJECT**" in an amount not to exceed **TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00)** and;

WHEREAS, Interlocal Agreement R2007-2157 expired on March ~~30~~³¹, 2009 after which **CITY** requested an extension of the time for reimbursement to June 30, 2010; and

WHEREAS, the **CITY** and **COUNTY** agree that due to the expiration of the agreement a new agreement is required to allow more time for completion and final invoices; and

WHEREAS, when completed by FDOT the **COUNTY** will be responsible for the subsequent maintenance of the **PROJECT** as per Traffic Signal Agreement R2007-1670; and

WHEREAS, the **COUNTY** believes that the **PROJECT** serves a public purpose by upgrading the existing intersection from withstanding up to one hundred fifteen miles per hour winds to one hundred fifty mile per hour winds and wishes to support the **PROJECT** by providing reimbursement funding for the documented costs in an amount not to exceed **TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00)**; 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 of the **PROJECT** in an amount not to exceed **TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00)**.

3. The **COUNTY** agrees to reimburse the **CITY** the amount established in paragraph 2 for costs associated with the **PROJECT**, including those cost incurred prior to the execution of this agreement, upon the **CITY's** submission of acceptable documentation needed to substantiate its cost for the **PROJECT**. The **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. The **COUNTY's** obligation is limited to its payment obligation and shall have no obligation to any other person or entity.

5. The **CITY** designed and the **FDOT** assumed all responsibility for contract preparation and contract administration necessary for the **PROJECT**, including payment(s) to contractor(s) pursuant to all applicable governmental laws and regulations.

6. The **FDOT** provided all labor and materials necessary for the **PROJECT** and furnished to the **CITY's** representative with a request for payment. The **CITY** has reimbursed **FDOT** and will furnish the **COUNTY's** represented with a request for payment supported by the following:

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's** Financial Officer 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, 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 **FDOT** obtained and complied with all necessary permits, approvals and authorizations from any federal, state, regional, or **COUNTY** agency which are required for the **PROJECT**.

9. The **PROJECT** is completed and final invoices shall be submitted to the **COUNTY** no later than June 30, 2010. In the event the **CITY** needs additional time to complete the **PROJECT** or invoice the **COUNTY**. The **CITY** must notify the **COUNTY** in writing by March 30, 2010 of the need for an extension of time. Failure to meet the March 30, 2010 notification date may result in expiration of this agreement and loss of **COUNTY** funding for the **PROJECT**.

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 768.28, 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 or for any amount over the limits set forth in FL Statute 768.28 despite any case law to the contrary.

11. Without waiving the right to sovereign immunity as provided by s.768.28 *f.s.*, the **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 the **CITY** maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under s.768.28 *f.s.*, the **CITY** shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage. The **CITY** agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute 440. When requested, the **CITY** shall agree to provide 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 coverage. Compliance with the foregoing requirements shall not relieve the **CITY** of its liability and

obligations under this Interlocal 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. If a contractor is engaged by the **CITY** for work associated with this Agreement; the **CITY** agrees to require the contractor 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.
- c. A payment and performance bond for the total amount of the **PROJECT** 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. Termination of this Agreement shall result in all obligations of the **COUNTY** for funding contemplated herein to be cancelled.

16. The **CITY** warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity and expression or handicap are not discriminated against in performance of this Agreement. In the event a contractor is engaged by the **CITY** for work associated with the **PROJECT**, the **CITY** agrees to include in the above language in the contract.

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
P.O. Box 21229
West Palm Beach, Florida 33416-1229

AS TO THE CITY

City of Delray Beach
Mr. Randall Krejcarek, P.E.
City Engineer
434 So. Swinton Avenue
Delray Beach, Florida 33444
Phone: 561-243-7322
Fax: 561-243-7314

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 **PROJECT**.

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, 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, either 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 be effective upon execution by both parties and shall continue in effect and be binding on the parties until the **PROJECT** is completed as evidenced by the written acceptance of the **COUNTY** or June 30, 2010, whichever occurs first, or terminated in accordance with Paragraphs 14 and 15.

REMAINDER OF PAGE LEFT BLANK

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

CITY OF DELRAY BEACH

By: [Signature]
Mayor

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

By: _____
Burt Aaronson, Chair

ATTEST:

By: [Signature]
Deputy City Clerk 3/15/10

ATTEST:

SHARON R. BOCK,
CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
City Attorney

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
Assistant County Attorney

Date: _____

Date: _____

APPROVED AS TO TERMS AND CONDITIONS

By: [Signature]

Date: 3/26/10

**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	_____	_____	_____
TOTAL PROJECT COSTS	_____	_____	_____

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

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Grant Expenditures	<u>\$250,000</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>\$250,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

ADDITIONAL FTE POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes _____ 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 7
 Delray/Trombone Mast Arms Atlantic & SW/NW 12th

C. Departmental Fiscal Review: R.D. Ward 10/14/07

III. REVIEW COMMENTS

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

Jim D... 11-15-07
 OFMB
 (LD) 11/15/07
 TPT 11/15/07
 UN 11/15/07

Jim J. ... 11/16/07
 Contract Dev. and Control
 E. ... 11/16/07

This Contract complies with per contract review requirements.

B. Approved as to Form and Legal Sufficiency:

Monique R. ... 11/19/07
 Assistant County Attorney

C. Other Department Review:

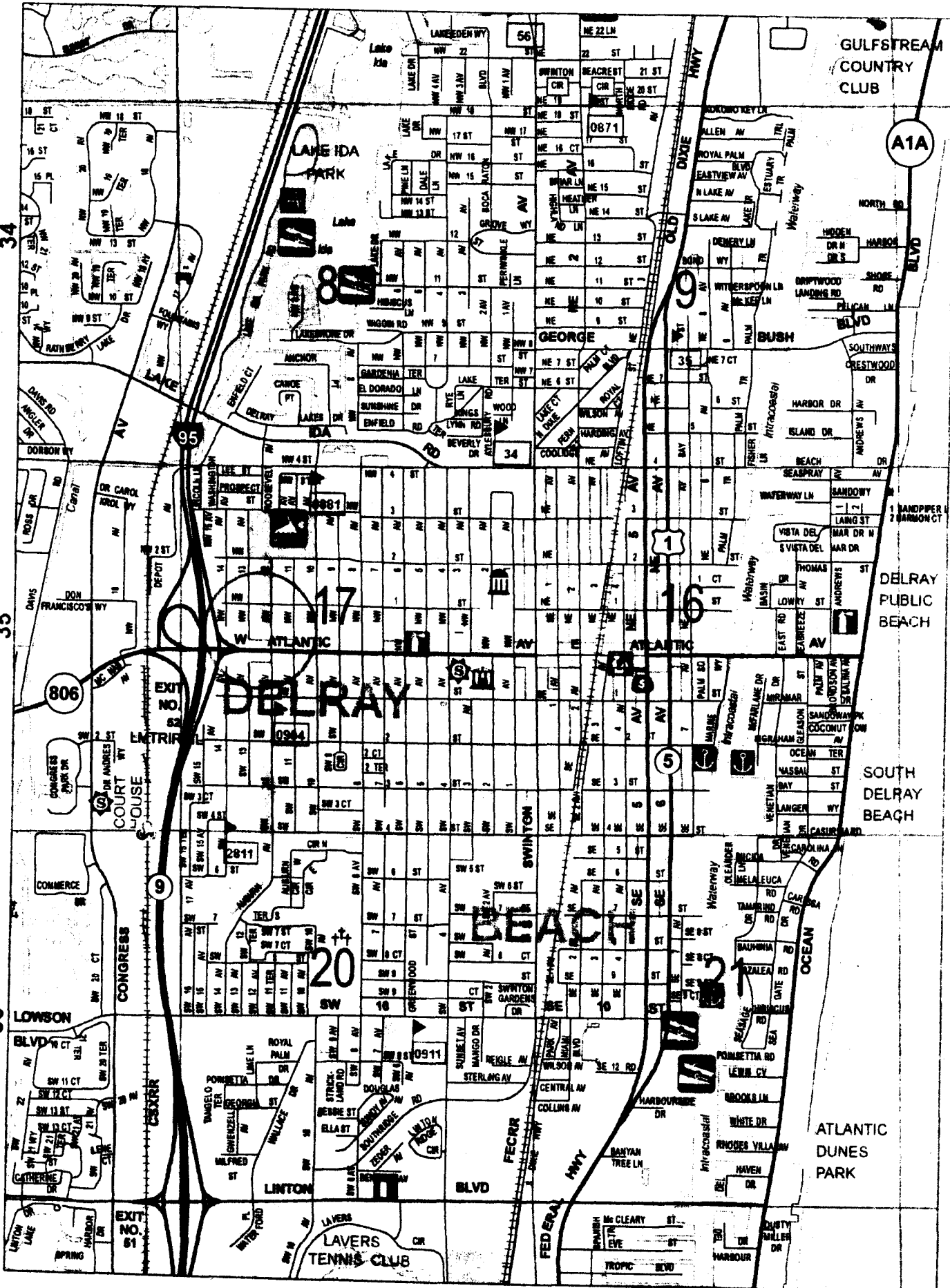
 Department Director

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

111

R43
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R43
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T46

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T46

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Owen Miley - Trombone Mast Arm at Atlantic Avenue and West 12th Avenue, Delray Beach

Page 1

From: Gladys Whigham
To: George Webb; Owen Miley
Date: 6/5/2007 2:03:33 PM
Subject: Trombone Mast Arm at Atlantic Avenue and West 12th Avenue, Delray Beach

This will serve as written notification that Commissioner Greene will pay for one Trombone Style Mast Arm Signalization at the above location. The funds will be allocated from her District VII Gas Tax Discretionary funds in the amount up to \$250,000.

These funds were verbally committed in early March.

The contact for the City of Delray Beach is:
Randall L. Krejcarek, P.E.
City Engineer
City of Delray Beach
100 North West 1st Avenue
Delray Beach, FL 33444
561 573-4590

Thank you for your assistance.

CC: Krejcarek, Randal

2008 0198

**BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
BUDGET Transfer**

BGEX 100907-1358

FUND Transportation Improvement

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 10/09/07	REMAINING BALANCE
<u>DELRAY/TRMBONE MAST ARMS ATL & SW/NW 12TH</u>								
3500-368-1264-8101	Contributions Othr Govtl Agency	0	0	250,000		250,000	0	250,000
<u>RESERVE FOR DISTRICT 7</u>								
3500-368-9117-9907	Res-Future Construction	3,797,960	3,524,787	0	250,000	3,274,787	0	3,274,787
				250,000	250,000			

Engineering & Public Works
Administration / Budget Approval
OFMB Department - Posted

SIGNATURE	DATE
<u>R. Howard</u>	<u>10/9/07</u>
<u>[Signature]</u>	<u>11-15-07</u>
_____	_____

By Board of County Commissioners
At Meeting of 12/04/07

Marcy Powell

Deputy Clerk to the
Board of County Commissioners

11/14/07

ATTACHMENT 4

**INTERLOCAL AGREEMENT
BETWEEN PALM BEACH COUNTY AND
THE CITY OF DELRAY BEACH
FOR INSTALLATION OF TROMBONE STYLE MAST ARMS
AT SW/NW 12TH AVENUE AND WEST ATLANTIC AVENUE**

R2007-2157

THIS INTERLOCAL AGREEMENT is made and entered into this _____ day of DEC 04 2007 by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY" and **THE CITY OF DELRAY BEACH**, a municipal corporation of the State of Florida hereinafter referred to as "CITY"

WITNESSETH:

WHEREAS, the **CITY** is undertaking the installation of trombone style mast arms at SW/NW 12TH Avenue and West Atlantic Avenue within the **CITY** limits hereinafter referred to as "**PROJECT**"; and

WHEREAS, the **PROJECT** consists of upgrading the intersection by adding a mast arm support structure for the traffic signal, by the **CITY**; and

WHEREAS, the **COUNTY** believes that the construction of the **PROJECT** serves a public purpose in the enhancement of this road and wishes to support the **PROJECT** by providing supplemental reimbursement funding for the documented costs of the **PROJECT** in an amount not to exceed **TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000)**; and

WHEREAS, after construction of the **PROJECT**, the **CITY** will be responsible for the subsequent maintenance of the **PROJECT**.

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 of the **PROJECT** in an amount not to exceed **TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000)**.
3. The **COUNTY** agrees to reimburse the **CITY** the amount established in paragraph 2 for costs associated with the **PROJECT**, upon the **CITY's** submission of acceptable documentation needed to substantiate its cost for the **PROJECT**. The **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. The **COUNTY's** 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 **PROJECT**, including payment(s) to contractor(s) pursuant to all applicable governmental laws and regulations.

6. The **CITY** will obtain or provide all labor and materials necessary for the **PROJECT**. The **CITY** shall furnish to the **COUNTY's** representative a request for payment supported by the following:

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's** Financial Officer 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, 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** shall be solely responsible for obtaining and complying with all necessary permits, approvals and authorizations from any federal, state, regional, **COUNTY** or agency which are required for the **PROJECT**.

9. The **PROJECT** shall be completed and final invoices submitted to the **COUNTY** no later than March 31, 2009, 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 768.28, 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 or for any amount over the limits set forth in FL Statute 768.28 despite any case law to the contrary.

11. Without waiving the right to sovereign immunity as provided by s.768.28 f.s., the **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 the **CITY** maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under s.768.28 f.s., the **CITY** shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage.

The **CITY** agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

When requested, the **CITY** shall agree to provide 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 coverage.

Compliance with the foregoing requirements shall not relieve the **CITY** of its liability and obligations under this Interlocal 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** shall require each contractor engaged by the **CITY** for work associated with this Agreement to maintain:

Workers' Compensation coverage in accordance with Florida Statutes, and;

- a. 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.
 - b. A payment and performance bond for the total amount of the **IMPROVEMENT** 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. The CITY's termination of this Agreement shall result in all obligations of the COUNTY for funding contemplated herein to be cancelled.
 16. The 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 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
P.O. Box 21229
West Palm Beach, Florida 33416-1229

AS TO THE CITY

City of Delray Beach
Mr. Randall Krejcarek, P.E.
Director of Environmental Services
100 NW First Avenue
Delray Beach, Florida 33444

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 **PROJECT**.

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, 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, either 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 be effective upon execution by both parties and shall continue in effect and be binding on the parties until the **PROJECT** is completed as evidenced by the written acceptance of the **COUNTY** or March 31, 2009, whichever occurs first, or terminated in accordance with Paragraphs 14 and 15.

REMAINDER OF PAGE LEFT BLANK

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

R2007-2157

CITY OF DELRAY BEACH

DEC 04 2007
PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

By: Rita Ellis
Mayor

By: Addie L. Greene
Addie L. Greene, Chair

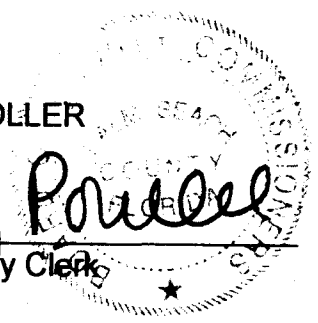
ATTEST:

ATTEST:

By: Cherrill D. Nelson
City Clerk

SHARON R. BOCK,
CLERK & COMPTROLLER

By: Nancy Powell
Deputy Clerk



APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
Asst. City Attorney

By: Malone R. [Signature]
Assistant County Attorney

Date: 9/12/07

Date: 11/19/07

APPROVED AS TO TERMS AND CONDITIONS

By: [Signature]

Date: 10/26/07

**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	_____	_____	_____
TOTAL PROJECT COSTS	_____	_____	_____

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