

**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:**

- A) An Agreement with Seasons Homeowners Association in an amount not to exceed \$34,400 for landscaping and irrigation; and
- B) A Budget Transfer of \$34,400 in the Transportation Improvement Fund from Reserve for District 4 (\$8,000) and Sweep Reserves (\$26,400) to Seasons Homeowners Association Landscape Buffer – District 4.

**SUMMARY:** Approval of the Agreement and Budget Transfer will provide funds to help pay for landscaping and irrigation along Jog Road from Lake Worth Drainage District Canal L-41 to N.W. 64<sup>th</sup> Avenue.

District 4 (MRE)

**Background and Justification:** During the construction of Jog Road from Yamato Road to Clint Moore Road, Palm Beach County (County) removed trees within the right-of-way which provided a buffer from the retention pond located on the Seasons Homeowners Association (Seasons) property. Once the trees were removed, the retention pond was visible and accessible from the sidewalk. The County was planning to install a chain link fence at the back of the right of way to discourage access to the pond. Seasons proposed that they be given the funds and be allowed to install fencing and landscaping instead of the County. The County staff agreed. The District 4 Commissioner believes this will serve the public's best interest.

**Attachments:**

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

**Recommended by:**

\_\_\_\_\_  
**Division Director**

\_\_\_\_\_  
**Date**

**Approved by:**

*Sg. J. Wald*  
\_\_\_\_\_  
**County Engineer**

*4/7/10*  
\_\_\_\_\_  
**Date**

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	\$34,400	-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-
<b>NET FISCAL IMPACT</b>	<b>\$34,400</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

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

Is Item Included in Current Budget? Yes \_\_\_\_\_ No X  
Budget Account Number: \_\_\_\_\_

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

Transportation Improvement Fund  
Reserve for District 4  
Sweep Reserves  
Seasons HOA Landscape Buffer - Dist 4

**Note:** This contract will be subject to the Inspector General Fee.

C. Departmental Fiscal Review: Atwillhite

**III. REVIEW COMMENTS**

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

[Signature] 4/13/2010  
OFMB NPL 4-9-10  
2/12/10

[Signature] 4/14/10  
Contract Dev. and Control  
E. Jones 4/14/10

This Contract complies with our contract review requirements.

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

[Signature] 4/27/10  
Assistant County Attorney

**C. Other Department Review:**

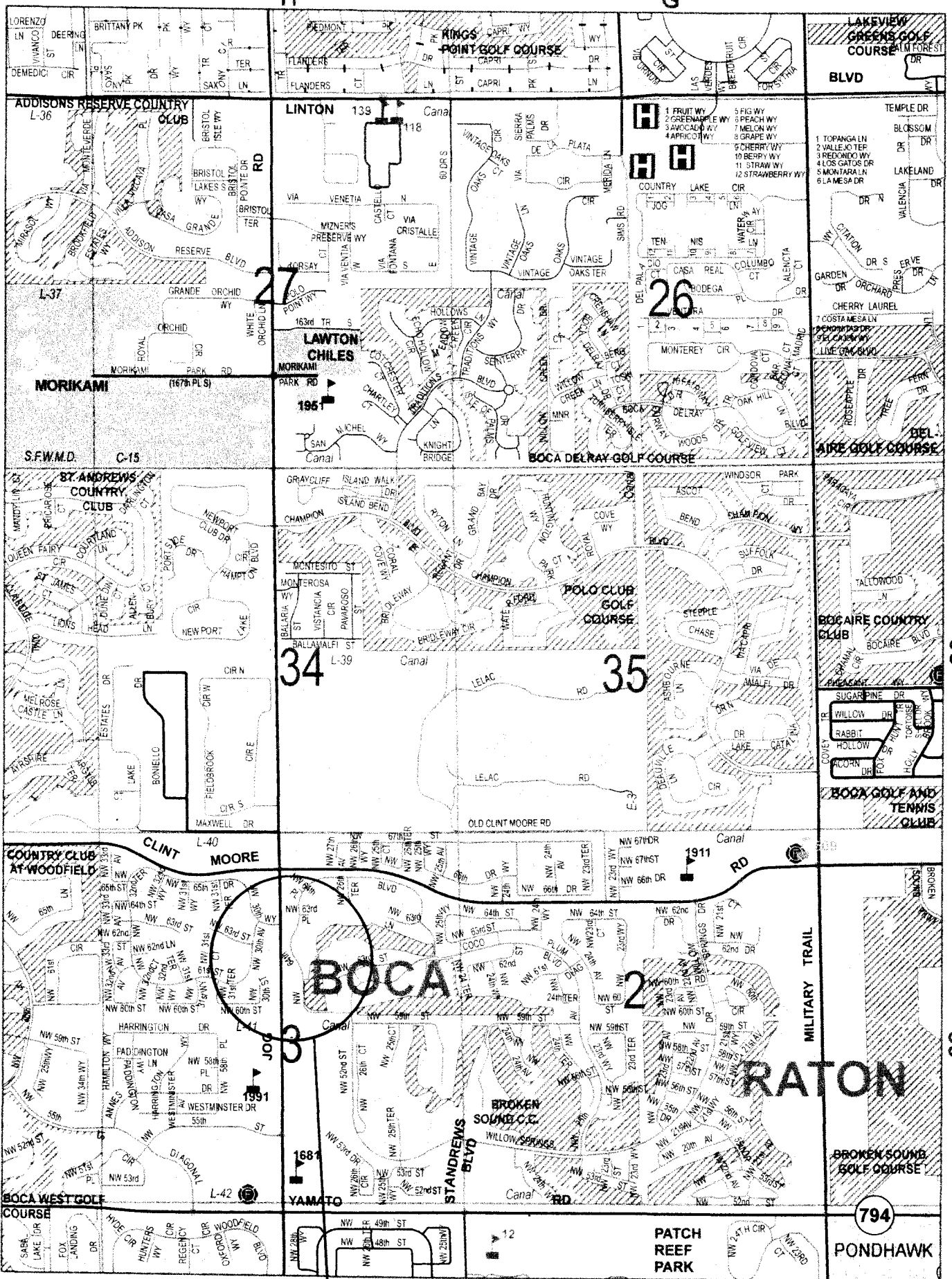
\_\_\_\_\_  
Department Director

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

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JOG RD L-41 CANAL TO N.W. 64 AVE

Attachment # 1.



JUL 02 2009

**STEVEN L. ABRAMS**

Commissioner, District IV

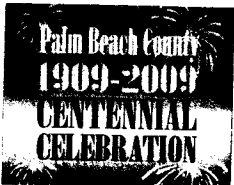


Palm Beach County  
Board of County Commissioners  
Governmental Center, 12th Floor  
301 North Olive Avenue  
West Palm Beach, FL 33401  
(561) 355-2204  
Fax: (561) 355-4422

sabrams@pbcgov.org

Southeast County Complex  
345 Congress Avenue, Room 112  
Delray Beach, FL 33445  
(561) 276-1220  
Fax: (561) 276-1297

www.pbcgov.com



"An Equal Opportunity  
Affirmative Action Employer"

printed on recycled paper

July 1, 2009

Mr. Larry Cooper  
President  
Season's Homeowner's Association  
6450 N.W. 30<sup>th</sup> Avenue  
Boca Raton, FL 33496

Dear Mr. Cooper:

This is formal notification that I am awarding \$8,000 from the District IV, FY 2008-09 Gas Tax Discretionary Fund to Seasons of Boca Raton to assist with the irrigation expenses incurred due to the widening of the Jog Road Project.

A copy of this letter and your request are being forwarded to Owen Miley, Special Projects Coordinator in the Engineering Department at the County to prepare the appropriate agreement for processing. As you may know, this program is processed on a reimbursement basis.

Please feel free to contact me if you have any questions.

Sincerely,

Steven L. Abrams  
Commissioner, District IV  
Palm Beach County Commission

SLA:kfs

cc: Owen Miley, Special Projects Coordinator

Attachment #2

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**FINANCIAL ASSISTANCE AGREEMENT WITH  
SEASONS HOMEOWNERS ASSOCIATION INC.  
FOR THE INSTALLATION OF A BUFFER,  
LANDSCAPING AND IRRIGATION**

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THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between SEASONS HOMEOWNERS ASSOCIATION INC., a not-for-profit corporation of the State of Florida (Federal I.D. No.0131506), hereinafter referred to as "ASSOCIATION", and PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY".

**WITNESSETH:**

**WHEREAS**, the COUNTY removed trees within the right of way which provided a buffer from the retention pond located on the ASSOCIATION's property, during the construction of Jog Road from Yamato Road to Clint Moore Road; and

**WHEREAS**, once the trees were removed, the retention pond became visible and accessible from the sidewalk; and

**WHEREAS**, although not required, the COUNTY agreed to provide a four feet high green vinyl fence hereinafter referred to as "FENCE" to protect and separate pedestrians of a nearby middle school from the existing retention pond on the ASSOCIATION's property, as part of the construction via change order for Jog Road from Yamato Road to Clint Moore Road Project No. 2001505B, on the west side of Jog Road from Canal L- 41 to NW 64<sup>th</sup> Avenue for a distance of twelve hundred linear feet; and

**WHEREAS**, the ASSOCIATION requested deletion of the FENCE and installed prior to execution of an agreement a six feet high fence as a buffer with landscaping and irrigation on the west side of the right of way for Jog Road from Canal L-41 to NW 64<sup>th</sup> Avenue for a distance of twelve hundred linear feet using the funds that would have been expended on the FENCE on the ASSOCIATION's property within 25 feet of the right of way and visible from Jog Road hereinafter referred to as PROJECT: and

**WHEREAS**, the County supports the ASSOCIATION's efforts and finds that it is in the best interest of the health, safety and welfare of the public to provide a barrier between the pedestrians and the retention pond to reimburse the ASSOCIATION TWENTY SIX THOUSAND FOUR HUNDRED DOLLARS (\$26,400) for the completed PROJECT that was originally designated for the installation of the FENCE; and

1           **WHEREAS**, in addition to the TWENTY SIX THOUSAND FOUR HUNDRED  
2 DOLLARS (\$26,400) the **District 4 Commissioner** wishes to support the  
3 ASSOCIATION's efforts by providing an additional one-time contribution in an amount not  
4 to exceed EIGHT THOUSAND DOLLARS (\$8,000) for a total amount of THIRTY FOUR  
5 THOUSAND FOUR HUNDRED DOLLARS (\$34,400) toward the cost of the PROJECT;  
6 and

7           **WHEREAS**, any and all cost associated with the PROJECT over and above the  
8 funds that are allocated by the COUNTY shall be the responsibility of the ASSOCIATION;  
9 and

10           **WHEREAS**, the ASSOCIATION shall be responsible for the perpetual maintenance  
11 of the PROJECT.

12           **NOW THEREFORE**, in consideration of the mutual covenants, promises, and  
13 agreements herein contained, the parties agree as follows:

- 14           1. The above recitals are true and are incorporated herein.
- 15           2. COUNTY shall provide the ASSOCIATION reimbursement funding in an  
16 amount not to exceed THIRTY FOUR THOUSAND FOUR HUNDRED DOLLARS  
17 (\$34,400). Those cost incurred by the ASSOCIATION for the PROJECT subsequent to  
18 the date of this Agreement are eligible for reimbursement by the COUNTY pursuant to the  
19 terms and conditions hereof.
- 20           3. COUNTY agrees to reimburse ASSOCIATION the amount established in  
21 paragraph 2 for costs including cost incurred subsequent to the date of this Agreement  
22 associated with the PROJECT, upon ASSOCIATION's submission of acceptable  
23 documentation needed to substantiate their cost for the project. COUNTY will use its best  
24 efforts to provide these funds to the ASSOCIATION on a reimbursement basis within forty-  
25 five (45) days of receipt of all information required in paragraph 7.
- 26           4. COUNTY's obligation is limited to its payment obligation and COUNTY shall  
27 have no obligation to any other person or entity.
- 28           5. ASSOCIATION assumed all responsibility for design, bidding, contract  
29 preparation, and contract administration for the PROJECT, including payment(s), pursuant

1 to all applicable governmental laws and regulations and will comply with all applicable.  
2 governmental landscaping codes and permitting requirements in their selection and  
3 installation of the PROJECT. ASSOCIATION agrees to install the PROJECT substantially  
4 in accordance with the costs as approved by COUNTY. ASSOCIATION also agrees to  
5 assume financial responsibility for the completion of any portions of the PROJECT that are  
6 not fully-funded by the amount set forth in paragraph 2, above. Otherwise, COUNTY will  
7 have the final determination of the eligibility for reimbursement of any changes.

8 6. COUNTY may terminate this agreement upon written notice to  
9 ASSOCIATION for non-compliance by ASSOCIATION in the performance of any of the  
10 terms and conditions as set forth herein and where ASSOCIATION does not cure said non-  
11 compliance within ninety (90) days of receipt of written notice from COUNTY to do so.  
12 Further, if ASSOCIATION does not cure said non-compliance within the time frame  
13 specified above, then upon written notice, COUNTY may require ASSOCIATION to  
14 reimburse any funds provided to ASSOCIATION pursuant to this agreement either in whole  
15 or in part, once COUNTY has reasonably determined that no other remedy is available.

16 7. As provided in F.S. 287.132-133, by entering into this contract or performing  
17 any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers,  
18 subcontractors and consultants who will perform hereunder, have not been placed on the  
19 convicted vendor list maintained by the State of Florida Department of Management  
20 Services within the 36 months immediately preceding the date hereof. This notice is  
21 required by F.S. 287.133(3)(a).

22 8. ASSOCIATION provided all labor and materials associated with the  
23 PROJECT. COUNTY shall have the final determination of eligibility for reimbursement.  
24 ASSOCIATION shall furnish the Special Projects Coordinator, of the COUNTY'S  
25 Department of Engineering and Public Works with a request for payment supported by the  
26 following:

27 a. A Contract Payment Request Form and a Contractual Services  
28 Purchases Schedule Form, attached hereto and incorporated herein as Exhibit "A"  
29 (pages 1 and 2) which are required for each and every reimbursement requested by

1 ASSOCIATION. Said information shall list each invoice paid by ASSOCIATION and  
2 shall include the vendor invoice number, invoice date, and the amount paid by  
3 ASSOCIATION. ASSOCIATION shall attach a copy of each vendor invoice paid by  
4 ASSOCIATION along with a copy of the respective check and shall make reference  
5 thereof to the applicable item listed on the Contractual Services Purchases  
6 Schedule Form. Further, the Program Administrator and the Program Financial  
7 Officer for ASSOCIATION shall also certify that each vendor invoice listed on the  
8 Contractual Services Purchases Schedule Form was paid by ASSOCIATION as  
9 indicated.

10 9. ASSOCIATION shall maintain adequate records to justify all charges,  
11 expenses, and costs incurred in performing the PROJECT for at least three (3) years after  
12 the completion of such PROJECT. COUNTY shall have access to all books, records and  
13 documents as required in this Section for the purpose of inspection or audit during normal  
14 business hours.

15 10. ASSOCIATION agrees to be responsible for the perpetual maintenance of  
16 the PROJECT following its completion and shall be solely responsible for obtaining and  
17 complying with all necessary permits, approvals, and authorizations from any federal,  
18 state, regional, or COUNTY agency which are required for the subsequent maintenance of  
19 the PROJECT.

20 11. PROJECT is completed and final invoices must be submitted to COUNTY no  
21 later than October 1, 2010. In the event the ASSOCIATION needs additional time to  
22 invoice the COUNTY. The ASSOCIATION must notify the COUNTY in writing by July 1,  
23 2010, of the need for a time extension. Failure to meet the July 1, 2010 notification date  
24 may result in termination of this Agreement and loss of COUNTY funding for the PROJECT  
25 and COUNTY shall have no further obligation to ASSOCIATION for any cost incurred  
26 thereafter.

27 12. ASSOCIATION recognizes that it is an independent contractor and not an  
28 agent or servant of COUNTY or its Board of County Commissioners. In the event a claim  
29 or lawsuit is brought against COUNTY, its officers, employees, servants or agents, relating



1 to the PROJECT or any item which is the responsibility of ASSOCIATION. ASSOCIATION  
2 hereby agrees, to the extent permitted by law, to indemnify, save and hold harmless  
3 COUNTY, its officers, employees, servants or agents, and to defend said persons from any  
4 such claims, liabilities, causes of action and judgments of any type whatsoever arising out  
5 of or relating to the negligent or wrongful acts or omissions of ASSOCIATION relating to  
6 the installation and maintenance of the Project. ASSOCIATION, to the extent permitted by  
7 law, agrees to pay all costs, attorney's fees and expenses incurred by COUNTY, its  
8 officers, employees, servants or agents in connection with such claims, liabilities or suits  
9 except as may be incurred due to the negligence of COUNTY.

10 13. At all times during the installation of the PROJECT, the ASSOCIATION's  
11 Commercial General Liability insurance was in full force and effect. As evidenced by the  
12 certificate of insurance on file at the Engineering Department.

13 14. In the event of termination, ASSOCIATION shall not be relieved of liability to  
14 COUNTY for damages sustained by COUNTY by virtue of any breach of the contract by  
15 ASSOCIATION and COUNTY may withhold any payment to ASSOCIATION for the  
16 purpose of set-off until such time as the exact amount of damages due COUNTY is  
17 determined.

18 15. The ASSOCIATION warrants and represents that all of its employees are  
19 treated equally during employment without regard to race, color, religion, disability, sex,  
20 age, national origin, ancestry, marital status, sexual orientation, gender identity and  
21 expression.

22 16. In the event that any section, paragraph, sentence, clause, or provision  
23 hereof is held invalid by a court of competent jurisdiction, such holding shall not affect the  
24 remaining portions of this Agreement and the same shall remain in full force and effect.

25 17. All notices required to be given under this Agreement shall be in writing, and  
26 deemed sufficient to each party when sent by United States Mail, postage prepaid, to the  
27 following:

28 AS TO COUNTY

29 Engineering and Public Works Department  
30 Tanya N. McConnell, P.E.  
31 Deputy County Engineer

1 2300 North Jog Road Ste. 3E-13  
2 West Palm Beach, Florida 33411  
3  
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6 AS TO ASSOCIATION  
7

8 Seasons Homeowners Association, Inc.  
9 Larry Cooper, President  
10 6450 NW 30<sup>th</sup> Avenue  
11 Boca Raton, Florida 33496  
12 561-995-9140  
13

14 18. This Agreement shall be construed and governed by the laws of the State of  
15 Florida. Any and all legal action necessary to enforce this Agreement shall be held in Palm  
16 Beach County. No remedy herein conferred upon any party is intended to be exclusive of  
17 any other remedy, and each and every other remedy shall be cumulative and shall be in  
18 addition to every other remedy given hereunder or now or hereafter existing at law or in  
19 equity or by statute or otherwise. No single or partial exercise by any party of any right,  
20 power, or remedy shall preclude any other or further exercise thereof.

21 19. Any costs or expenses (including reasonable attorney's fees) associated with  
22 the enforcement of the terms and conditions of this Agreement shall be borne by the  
23 respective parties; provided, however, that this clause pertains only to the parties to the  
24 Agreement.

25 20. Except as expressly permitted herein to the contrary, no modification,  
26 amendment, or alteration in the terms or conditions contained herein shall be effective  
27 unless contained in a written document executed with the same formality and equality of  
28 dignity herewith.

29 21. Each party agrees to abide by all laws, orders, rules and regulations and  
30 ASSOCIATION will comply with all applicable governmental codes in the installation of the  
31 PROJECT.

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

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

4           24. The parties expressly covenant and agree that in the event any of the parties  
5 is in default of its obligations under this Agreement, the parties not in default shall provide  
6 to the defaulting party thirty (30) days written notice before exercising any of their rights.

7           25. The preparation of this Agreement has been a joint effort of the parties, and  
8 the resulting document shall not, solely as a matter of judicial constraint, be construed  
9 more severely against one of the parties than the other.

10          26. ASSOCIATION has the authority to enter into this Agreement, and to  
11 perform the obligations contained herein.

12          27. This Agreement represents the entire understanding among the parties, and  
13 supersedes all other negotiations, representations, or agreements, either written or oral,  
14 relating to this Agreement.

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

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

19                           **REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

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**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**

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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



**PROPERTY/HAZARD SCHEDULE**

INSURANCE CARRIER:

POLICY NUMBER:

POLICY PERIOD:           Effective Date:

Expiration Date:

Blanket Limit Applies

Replacement Cost  Special  Basic

Additional Wording:  
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Bldg	Location	Limit	# Units	Hurricane Ded	AOP Ded	Coins %
1	6450 NW 30 Avenue, Boca Raton, FL 33439		0			

---

**EXCESS FLOOD**

Not Covered

**CRIME / EMPLOYEE DISHONESTY**

INSURANCE CARRIER: Old Republic Surety

POLICY NUMBER: OCB575844

POLICY PERIOD:           Effective Date: 3/1/2010

Expiration Date: 3/1/2011

Limit: \$ 250,000

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**DIRECTORS & OFFICERS LIABILITY**

INSURANCE CARRIER: Travelers Casualty & Surety Co. of America

POLICY NUMBER: 105380622

POLICY PERIOD:           Effective Date: 12/12/2009

Expiration Date: 12/12/2010

Limit: \$ 1,000,000

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## IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

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

BGEX 120909-577

FUND Transportation Improvement

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 12/09/09	REMAINING BALANCE
<b><u>SEASONS HOA LANDSCAPE BUFFER – DIST 4</u></b>								
3500-368-1331-8201	Contributions-Non-Govtl Agency	0	0	34,400	0	34,400	0	34,400
<b><u>RESERVE FOR DISTRICT 4</u></b>								
3500-368-9114-9907	Res-Future Construction	114,000	108,000	0	8,000	100,000		
<b><u>RESERVES-ROAD PROGRAM SWEEPS</u></b>								
3500-361-9997-9901	Contingency Reserves	1,268,380	2,543,996	0	26,400	2,517,596		
				34,400	34,400			

SIGNATURE

DATE

By Board of County Commissioners  
At Meeting of 05/04/10

Engineering & Public Works

Atwellhite

3/24/10

Administration / Budget Approval

\_\_\_\_\_

\_\_\_\_\_

OFMB Department – Posted

\_\_\_\_\_

\_\_\_\_\_

Deputy Clerk to the  
Board of County Commissioners