

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

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Meeting Date: **September 10, 2019**             **Consent**                     **Regular**  
    **Workshop**                     **Public Hearing**

Department:        **Engineering and Public Works**  
Submitted By:      **Engineering and Public Works**  
Submitted For:     **Road and Bridge Division**

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**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: an Interlocal Agreement (Agreement) with the Indian Trail Improvement District (District) in an amount not to exceed \$24,000 per year, to provide for the mowing and grading (Maintenance) on 60<sup>th</sup> Street North from Avocado Boulevard to 120<sup>th</sup> Avenue North.

**SUMMARY:** Approval of this Agreement will allow the District to provide Maintenance on the unpaved portion of 60<sup>th</sup> Street North, located within the District’s boundary, at a yearly cost of \$24,000. This annual amount was calculated based on the expected Maintenance cost that Palm Beach County (County) anticipates for the road over the course of a year. District 6 (YBH)

**Background and Justification:** Pursuant to Chapter 163, Florida Statutes, the County is authorized to enter into agreements with other governmental entities. The road is not paved and consists of shellrock. The County took over ownership of the road in 2014. The District continued to provide Maintenance of the road until the early part of 2019. The road is scheduled to be widened and paved with drainage improvements in FY2022 per the Five Year Road Program. It is more efficient for the County to reimburse the District because the maintenance equipment used by the District on their roads is already in the area.

**Attachments:**

1. Location Map
  2. Indian Trail Improvement District Agreement (2)
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- 



Recommended by:

  
County Engineer

8/27/2019  
Date

Approved by:

  
Assistant County Administrator

9/9/19  
Date

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	24,000	24,000	24,000	-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	\$ **	24,000	24,000	24,000	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes  No  
 Does this item include the use of federal funds? Yes No

**Budget Account No:**

Fund 1201 Dept 360 Unit 2230 Object 4607

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

County Transportation Trust Fund  
 Road Section

This item has no immediate fiscal impact. Road maintenance will commence on October 1, 2019. Subsequent year amounts are subject to BCC approval of future budgets

**C. Departmental Fiscal Review:** Alicia Koralaunen

**III. REVIEW COMMENTS**

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

[Signature] 8/28/19  
 AP ABD OFMB  
 8/28 8/29

[Signature] 9/19/19  
 Contract Dev. and Control  
 9/19/19

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

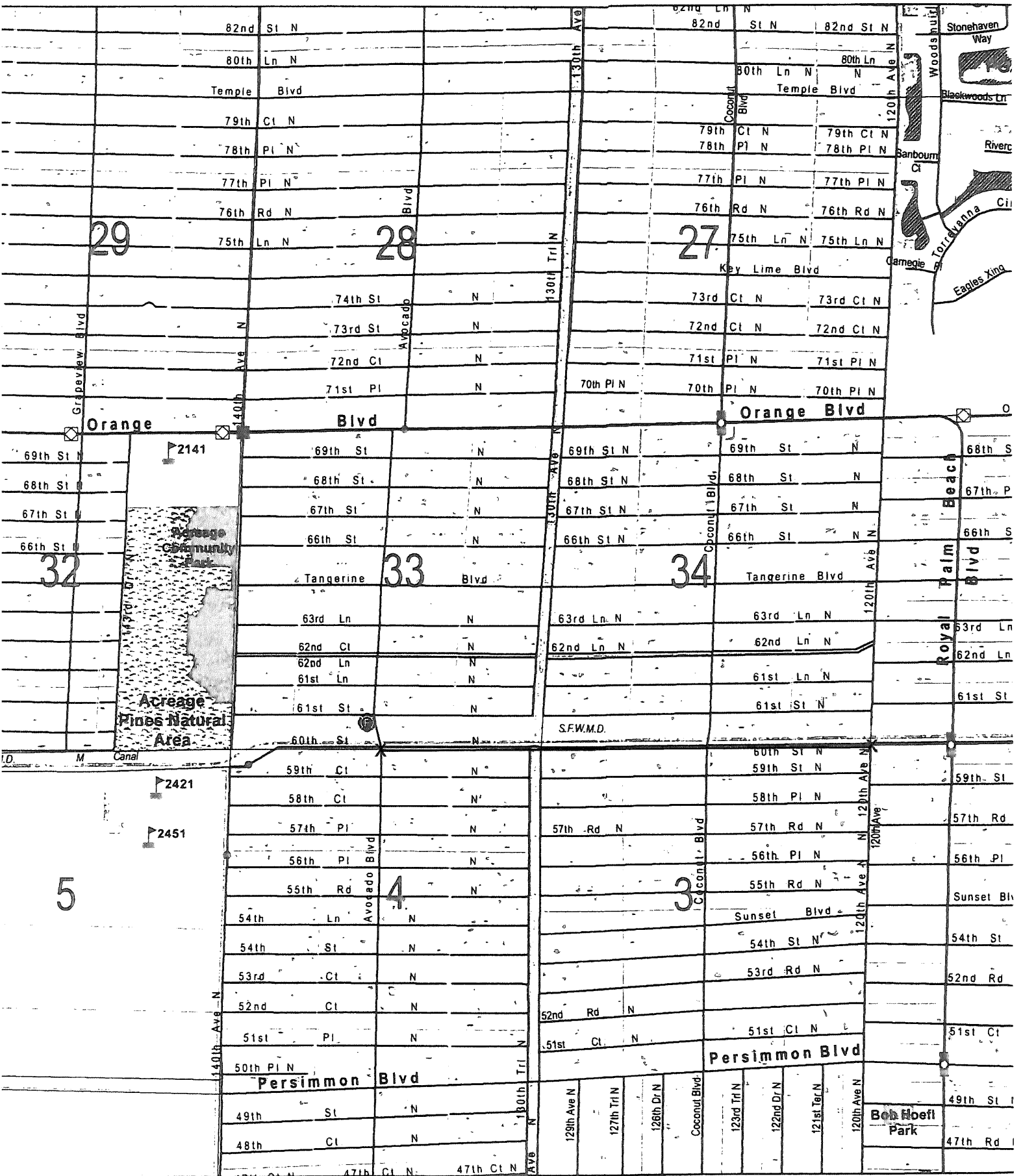
[Signature] 9/9/19  
 Assistant County Attorney

**C. Other Department Review:**

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

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

# Attachment 1



Location Map



**INTERLOCAL AGREEMENT**  
**BY AND BETWEEN**  
**PALM BEACH COUNTY, FLORIDA**  
**AND**  
**INDIAN TRAIL IMPROVEMENT DISTRICT**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY" and **INDIAN TRAIL IMPROVEMENT DISTRICT**, an independent special district of the State of Florida, organized and existing under Chapter 298, Florida Statutes, hereinafter referred to as "DISTRICT".

**WITNESSETH:**

**WHEREAS**, the COUNTY and the DISTRICT are authorized to enter into this Agreement pursuant to Chapter 163, Florida Statutes, as amended, which permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage; and

**WHEREAS**, COUNTY has jurisdiction and control of 60<sup>th</sup> Street North right-of-way from 140<sup>th</sup> Avenue North to SR 7 Extension within the DISTRICT's boundary; and

**WHEREAS**, 60<sup>th</sup> Street North is not a paved roadway from east of Avocado Boulevard to 120<sup>th</sup> Avenue North (hereinafter, "60<sup>th</sup> St Segment"); and

**WHEREAS**, the DISTRICT has been providing mowing and grading services within the 60<sup>th</sup> St Segment and is willing to continue such services; and

**WHEREAS**, the COUNTY and the DISTRICT agree that allowing the DISTRICT to continue providing mowing and grading services at COUNTY'S expense is the most economical way to maintain the 60<sup>th</sup> St Segment; and

**WHEREAS**, the COUNTY and the DISTRICT declare that mowing and grading services provided by the DISTRICT and funded by the COUNTY will best serve the health, safety and welfare of the public;

**NOW, THEREFORE**, in consideration of the mutual covenants, promises, and agreements herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

The above recitals are true and correct and hereby adopted and incorporated herein.

**1. SERVICES**

The DISTRICT'S responsibility under this Agreement is to provide mowing and grading services on 60<sup>th</sup> St Segment, hereinafter "MAINTENANCE." The DISTRICT shall provide MAINTENANCE on the 60<sup>th</sup> St Segment at the following minimum interval rates;

- (a) mowing eight (8) times annually; and
- (b) grading fifty-two (52) times annually.

MAINTENANCE includes provision of additional, reconstructive fill material on an as-needed basis, but does not include dust control or removal of existing material. Either party may determine the need for fill material. The total amount of fill provided shall not exceed eight truck loads per year.

**2. PAYMENTS TO DISTRICT**

- A. The COUNTY shall pay the DISTRICT a yearly amount not to exceed TWENTY FOUR THOUSAND and 00/100 DOLLARS (\$24,000), payable on a quarterly basis in FOUR equal installments of SIX THOUSAND AND 00/100 DOLLARS (\$6,000) for all such work satisfactorily performed. This amount shall be inclusive of all DISTRICT costs relating to the MAINTENANCE of the 60<sup>th</sup> St Segment, including but not limited to, equipment, labor, fuel, and maintenance of the equipment.

- B. The DISTRICT shall invoice the COUNTY on a quarterly basis, in the amount of SIX THOUSAND and 00/100 DOLLARS (\$6,000) for MAINTENANCE performed by the DISTRICT pursuant to the terms and conditions of this Agreement.
- C. Invoices received from the DISTRICT pursuant to this Agreement will be reviewed and approved by the COUNTY'S representative, to verify that services have been rendered in conformity with the Agreement. Approved invoices will then be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.

**3. TERM**

The DISTRICT shall commence MAINTENANCE on October 1, 2019 and provide all services until December 31, 2020.

This Agreement shall renew automatically at 12 A.M. (Midnight) on December 31<sup>st</sup> of each year for an additional one (1) year term unless sooner amended or terminated by the parties as set forth below.

**4. AMENDMENTS**

Proposed amendments to this Agreement, including but not limited to future rate changes for MAINTENANCE shall be submitted to the COUNTY no later than September 1<sup>st</sup> of the current contract calendar year. Failure to submit proposed amendments by September 1<sup>st</sup> of the current calendar year will indicate that the DISTRICT intends to continue the Agreement according to its current terms unless otherwise terminated as set forth below. An amendment shall be adopted according to the same formalities as the original Agreement.

**5. TERMINATION**

This Agreement may be terminated by either party upon sixty (60) days' prior written notice to either party. After receipt of a Termination Notice and except as otherwise directed by the COUNTY, the DISTRICT shall stop work on the date and to the extent specified in the letter of termination. DISTRICT will be paid for work completed prior to the date of termination. In the event of termination, DISTRICT

shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the contract by the DISTRICT and COUNTY may withhold any payment to DISTRICT for off-setting purposes, until such time as the exact amount of damages due COUNTY is determined. In the event DISTRICT elects to terminate its MAINTENANCE obligation under this Agreement, it shall be the obligation of the DISTRICT to restore, if necessary, 60th St Segment to at least the original condition of the 60th St Segment, as of October 1, 2019,, the acceptance of which the COUNTY shall not unreasonably withhold or delay.

**6. PERSONNEL**

All of the services required herein under shall be performed by the DISTRICT and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

As provided in Section 287.132-133, Fla. Stat., by entering into the Agreement or performing any work in furtherance hereof, DISTRICT 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 required by 287.133(3)(a), Fla. Stat.

All MAINTENANCE shall comply with the latest Florida Department of Transportation safety standards.

**7. INSURANCE**

Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (Statute), the DISTRICT represents that it is self-insured with coverage subject to the limitations of the Statute, as may be amended.

If DISTRICT is not self-insured, DISTRICT shall, at its sole expense, purchase and maintain in full force and effect at all times during the life of this Agreement, insurance coverage at limits not less than those contained in the Statute.

Should DISTRICT purchase excess liability coverage, DISTRICT agrees to include COUNTY as an Additional Insured.

The DISTRICT agrees to maintain or to be self-insured for Workers' Compensation insurance in accordance with Chapter 440, Florida Statutes.

Should DISTRICT contract with a third-party (Contractor) to perform any service related to the Agreement, DISTRICT shall require the Contractor to provide the following minimum insurance:

- Commercial General Liability insurance with minimum limits of \$1,000,000 combined single limit for property damage and bodily injury per occurrence and \$2,000,000 per aggregate. Such policy shall be endorsed to include DISTRICT and COUNTY as Additional Insureds. DISTRICT shall also require that the Contractor include a Waiver of Subrogation against COUNTY.
- Business Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits for property damage and bodily injury per occurrence.
- Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes, and which shall include coverage for Employer's Liability with minimum limits of \$1,000,000 each accident.

When requested, the DISTRICT shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance.

Compliance with the foregoing requirement shall not relieve the DISTRICT of its liability and obligations under this Agreement.

## **8. INDEMNIFICATION**



DISTRICT shall protect, defend, reimburse, indemnify and hold the COUNTY, its agents, employees and elected officers free and harmless from and against any and all claims, liability, expenses, losses, costs, fines and damages or causes of action of every kind or character including attorney's fee, whether at trial or appellate levels or otherwise arising during or as a result of the DISTRICT'S performance of the terms of this Agreement, or due to the acts or omissions of the DISTRICT. The DISTRICT'S aforesaid indemnity and hold harmless obligations shall apply to the fullest extent permitted by law. Notwithstanding the foregoing, nothing set forth in this paragraph shall constitute a waiver of DISTRICT's sovereign immunity beyond the limits set forth at Section 768.28, Florida Statutes. This paragraph shall survive the expiration or termination of this Agreement.

**9. AVAILABILITY OF FUNDS**

The COUNTY'S performance and obligation to pay under this Agreement for subsequent fiscal years are contingent upon annual appropriations for its purpose by the Board of County Commissioners.

**10. NOTICE**

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 prepaid, to the following:

**AS TO COUNTY:** Mr. Daryl Dawson  
Palm Beach County Engineering  
Road & Bridge Division  
2555 Vista Parkway  
West Palm Beach, FL 33411

**With copy to:** Palm Beach County Attorney's Office  
301 North Olive Avenue, Suite 601  
West Palm Beach, FL 33401

**AS TO THE DISTRICT:** Indian Trail Improvement District  
ATTN: Executive Director  
13476 61<sup>st</sup> Street North  
West Palm Beach, FL 33412-1915

**With Copy to:** Mr. Jason Lester  
Indian Trail Improvement District  
13476 61<sup>st</sup> Street North  
West Palm Beach, FL 33412-1915

**11. INSPECTOR GENERAL**

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY agreements, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the DISTRICT, its officers, agents, employees, and lobbyists in order to ensure compliance with agreement requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation with regard to this Agreement shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Fla. Stat., in the same manner as a second degree misdemeanor.

**12. MISCELLANEOUS PROVISIONS**

**A. REMEDIES**

This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will 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 such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**B. THIRD PARTY BENEFICIARIES**

No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or DISTRICT.

**C. EXCUSABLE DELAYS**

The DISTRICT shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the DISTRICT without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

Upon the DISTRICT'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the DISTRICT'S failure to perform was without its fault or negligence, the Agreement Schedule and/or any other affected provision of this Agreement shall be revised accordingly, subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

**D. ARREARS**

The DISTRICT shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any agreement, debt, obligation, judgment, lien, or any form of indebtedness. The DISTRICT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

**E. ACCESS AND AUDITS**

The DISTRICT shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Agreement. The COUNTY shall have access to such books, records, and documents with regards to this Agreement as required in this section for the purpose of inspection or audit during normal business hours, at the DISTRICT'S place of business.

F. NONDISCRIMINATION

The Parties agree to comply with the COUNTY'S Nondiscrimination Policy, as described in Resolution 2017-1770, as amended, and that neither Party conducts business with nor appropriates funds to any entity that practices discrimination on the basis of race, color, national origin, disability, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity or expression, disability, or genetic information. The DISTRICT understands and agrees that a material violation of this clause shall be considered a material breach and default of the Agreement. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

G. SEVERABILITY

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

H. ENTIRETY OF AGREEMENT

The COUNTY and the DISTRICT agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

I. ATTORNEY FEES

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.

J. INDEPENDENT CONTRACTOR RELATIONSHIP

The DISTRICT is, and shall be, in the performance of all work, services and activities under this Agreement, an independent contractor and not an employee, agent or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to the Agreement shall at all times in all places be subject to the DISTRICT'S sole direction, supervision, and control. The DISTRICT shall exercise control over the means and manner in which its employees, agents or contractors perform the work in all respects. The DISTRICT'S relationship and the relationship of its employees, agents or contractors to the COUNTY shall be that of an independent contractor and not as employees or agents of the COUNTY.

K. LAWSUITS

DISTRICT shall promptly notify COUNTY 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.

L. DEFAULT

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.

M. JOINT PREPARATION

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.

N. BINDING EFFECT

All of the terms and provisions of this Agreement whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, successors and permitted assigns.

O. HEADINGS

The headings contained in this Agreement are for convenience of reference only, and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

P. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Q. DISTRICT AUTHORITY

DISTRICT has the authority to enter into this Agreement, and to perform the obligations contained herein.

R. FILING

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

S. EFFECTIVE DATE

This Agreement shall take effect upon execution by both parties.

T. LAWS AND REGULATIONS

The DISTRICT shall abide by applicable federal, state and local laws, orders, rules and regulations when performing under this Agreement. The DISTRICT further agrees to include this provision in all contracts issued as a result of this Agreement.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

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

**PALM BEACH COUNTY, FLORIDA**, a Political Subdivision of the State of Florida

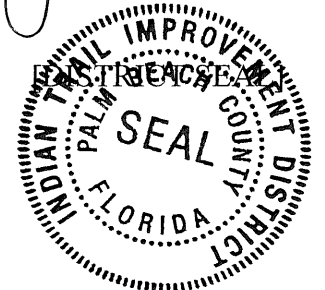
**INDIAN TRAIL IMPROVEMENT DISTRICT**, an Independent Special District of the State of Florida

BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Mack Bernard, Mayor

BY: Betty Argue  
Betty Argue  
ITS: President

[SEAL]



ATTEST:  
Sharon R. Bock, Clerk & Comptroller  
Circuit Court

ATTEST:  
BY: Mary M. Viator  
Mary M. Viator  
District Secretary

BY: \_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

APPROVED AS TO TERMS  
AND CONDITIONS:

BY: Stu Can

APPROVED AS TO FORM  
& LEGAL SUFFICIENCY

ybh  
Yelizaveta Herman, Assistant County Attorney