

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Grant Expenditures	<u>\$75,000</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>\$75,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

ADDITIONAL FTE
POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes X No _____
Budget Acct No.: Fund 3500 Dept. 361 Unit 1156 Object 8101

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

Transportation Improvement Fund
P Bch Lks Blvd/Exec. Ctr Dr to Hank Aaron Dr

FY 2004 KPBCB Grant \$75,000.00

C. Departmental Fiscal Review: R.D. Ward 7/6/06

III. REVIEW COMMENTS

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

J. M. [Signature] 7-18-06
OFMB
7-18-06
[Signature] 7-18-06
Contract Dev. and Control 7/20/06
7/29/06

B. Approved as to Form and Legal Sufficiency:

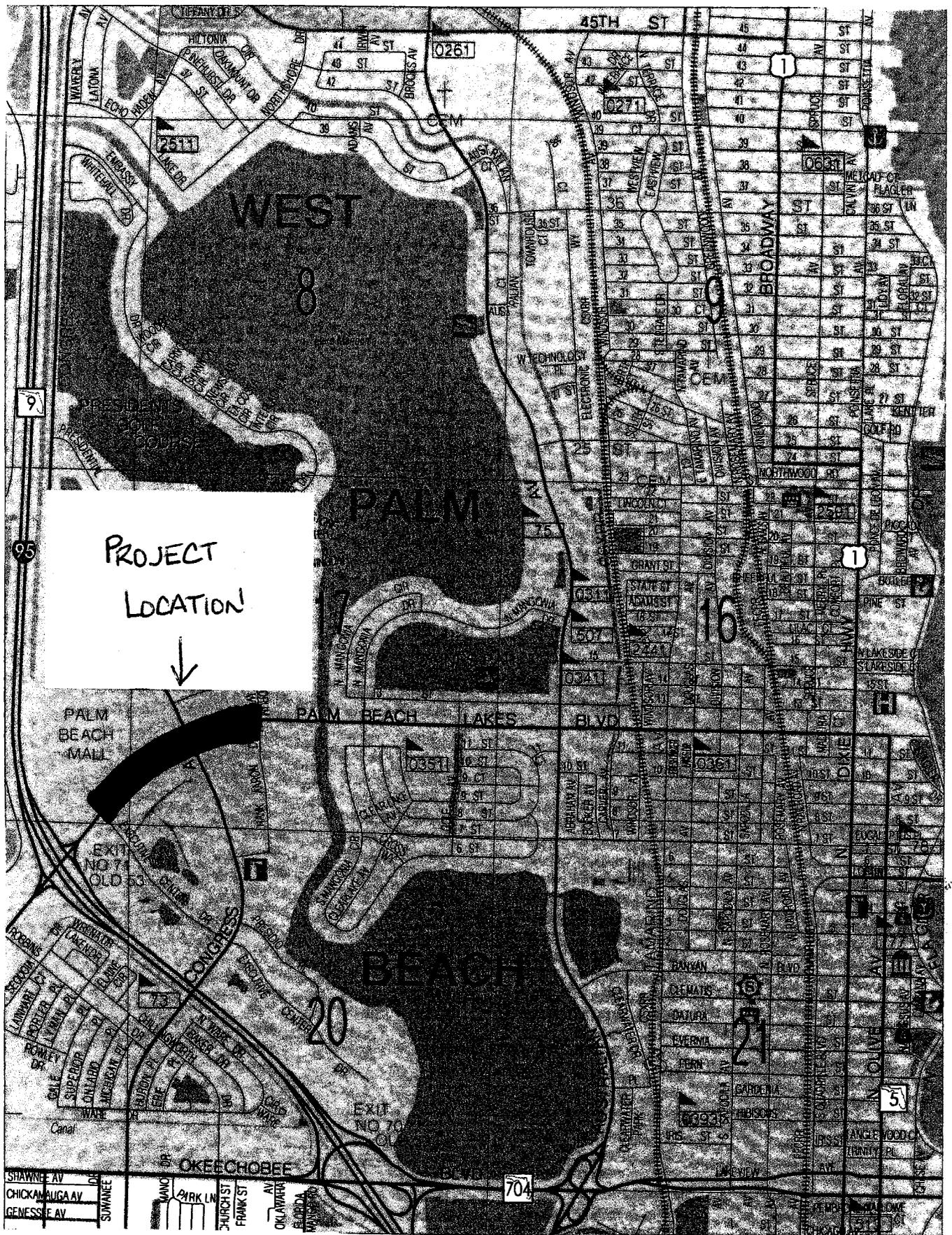
[Signature] 7/29/06
Assistant County Attorney

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.



LOCATION SKETCH

1 **FINANCIAL ASSISTANCE AGREEMENT WITH CITY OF WEST PALM BEACH FOR**
2 **BEAUTIFICATION IN THE COUNTY'S PALM BEACH LAKES BOULEVARD FROM**
3 **EXECUTIVE CENTER DRIVE TO HANK AARON DRIVE**

4 **THIS INTER-LOCAL AGREEMENT**, is made and entered into this _____ day of
5 _____, 2006, by and between CITY OF WEST PALM BEACH, a municipal
6 corporation of the State of Florida, hereinafter "**CITY**", and PALM BEACH COUNTY, a
7 political subdivision of the State of Florida, hereinafter "**COUNTY**".

8 **WITNESSETH:**

9 **WHEREAS, CITY** wishes to install beautification within the medians of Palm
10 Beach Lakes Boulevard from Executive Center Drive to Hank Aaron Drive hereinafter
11 "**IMPROVEMENTS**"; and

12 **WHEREAS, CITY** applied for this County funded grant thru Keep Palm Beach
13 County Beautiful, Inc.; and

14 **WHEREAS, the Board of County Commissioners** approved a grant allocation of
15 \$75,000 (41% of the total cost) to the **CITY**.

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

18 1. The above recitals are true, correct and are incorporated herein.

19 2. **COUNTY** agrees to reimburse **CITY** for forty one percent (41%) of the cost of
20 the **IMPROVEMENTS**, not to exceed a maximum amount of SEVENTY FIVE THOUSAND
21 AND 00/100 DOLLARS (\$75,000.00), whichever is less, of the cost of the initial installation,
22 hereinafter "**IMPROVEMENTS**".

23 3. **COUNTY** agrees to reimburse **CITY** the amount established in paragraph 2
24 for costs (materials and labor) associated with the installation of the **IMPROVEMENTS**,
25 upon **CITY**'s submission of acceptable documentation needed to substantiate its costs for
26 the **IMPROVEMENTS**. **COUNTY** will use its best efforts to provide said funds to **CITY** on a
27 reimbursement basis within forty-five (45) days of receipt of all information required in
28 Paragraph 6, below.

29 4. **COUNTY**'s obligation is limited to its payment obligation and **COUNTY** shall
30 have no obligation to any other person or entity.

31 5. **CITY** agrees to assume all responsibility for design, bidding, contract
32 preparation, and contract administration for the installation of the **IMPROVEMENTS**,
33 including payment(s) to contractor(s), pursuant to all applicable governmental laws and
34 regulations and will comply with all applicable governmental landscaping codes and
35 permitting requirements in the selection and installation of the **IMPROVEMENTS**. **CITY**
36 agrees to install the **IMPROVEMENTS** substantially in accordance with the plans,
37 specifications and costs as permitted by **COUNTY**. **CITY** also agrees to assume financial
38 responsibility for the completion of any portions of the **IMPROVEMENTS** that are not fully-
39 funded by the amount set forth in Paragraph 2, above. Otherwise, **COUNTY** will have the

1 final determination of the eligibility for reimbursement of any changes. Substantial
2 variations from the permitted plans shall require prior written approval from **COUNTY**
3 Engineer's Office. The final drawings must be signed and sealed by a Florida Registered
4 Landscape Architect.

5 6. **CITY** will obtain or provide all labor and materials necessary for the design
6 and installation of the **IMPROVEMENTS**. **COUNTY** shall have the final determination of
7 eligibility for reimbursement. **CITY** shall furnish the Manager, Streetscape Section, of
8 **COUNTY's** Department of Engineering and Public Works with a request for payment
9 supported by the following:

10 a. A statement from a Florida Registered Landscape Architect that the
11 **IMPROVEMENTS** have been inspected and were installed substantially in
12 accordance with the permitted plans for the **IMPROVEMENTS**, and;

13 b. A Contract Payment Request Form and a Contractual Services Purchases
14 Schedule Form, attached hereto and incorporated herein as Exhibit "A"
15 (pages 1 and 2) which are required for each and every reimbursement
16 requested by **CITY**. Said information shall list each invoice paid by **CITY** and
17 shall include the vendor invoice number, invoice date, and the amount paid
18 by **CITY**. **CITY** shall attach a copy of each vendor invoice paid by **CITY** along
19 with a copy of the respective check and shall make reference thereof to the
20 applicable item listed on the Contractual Services Purchases Schedule
21 Form. Further, the Program Administrator and the Mayor of **CITY**, or his
22 designee shall also certify that each vendor invoice listed on the Contractual
23 Services Purchases Schedule Form was paid by **CITY** as indicated.

24 7. **CITY** shall maintain adequate records to justify all charges, expenses, and
25 costs incurred in performing the **IMPROVEMENTS** for at least three (3) years after the
26 completion of the **IMPROVEMENTS**. **COUNTY** shall have access to all books, records and
27 documents as required in this Section for the purpose of inspection or audit during normal
28 business hours.

29 8. **CITY** agrees to be responsible for the perpetual maintenance of the
30 **IMPROVEMENTS** following its installation and shall be solely responsible for obtaining and
31 complying with all necessary permits, approvals, and authorizations from any federal, state,
32 regional, or **COUNTY** agency which are required for the subsequent maintenance of the
33 **IMPROVEMENTS**.

34 9. All installation of the **IMPROVEMENTS** shall be completed and final invoices
35 submitted to **COUNTY** no later than March 31, 2007, and **COUNTY** shall have no
36 obligation to **CITY** or any other entity or person for any cost incurred thereafter unless the
37 time for completion is extended by modification of this Agreement as provided herein.

38 10. **CITY** recognizes that it is an independent contractor, and not an agent or
39 servant of **COUNTY** or its Board of County Commissioners. In the event a claim or lawsuit

1 is brought against **COUNTY**, its officers, employees, servants or agents, relating to the
2 **IMPROVEMENTS** or any item which is the responsibility of **CITY**, **CITY** hereby agrees to
3 indemnify, save and hold harmless **COUNTY**, its officers, employees, servants or agents,
4 and to defend said persons from any such claims, liabilities, causes of action and
5 judgments of any type whatsoever arising out of or relating to the existence of the
6 **IMPROVEMENTS** or the performance by **CITY** as may relate to this Agreement. **CITY**
7 agrees to pay all costs, attorney's fees and expenses incurred by **COUNTY**, its officers,
8 employees, servants or agents in connection with such claims, liabilities or suits except as
9 may be incurred due to the negligence of **COUNTY**.

10 11. **CITY** shall, at all times during the term of this Agreement (the installation and
11 existence of the **IMPROVEMENTS**), maintain in force its status as an insured corporation.

12 12. As provided in F.S. 287.132-133, by entering into this Agreement or
13 performing any work in furtherance hereof, **CITY** certifies that its affiliates, suppliers, sub-
14 contractors, and consultants who perform work hereunder, have not been placed on the
15 convicted vendor list maintained by the State of Florida Department of Management
16 Services within 36 months immediately preceding the date hereof. This notice is required
17 by F.S. 287.133(3)(a).

18 13. **CITY** shall require each contractor engaged by **CITY** for work associated with
19 this Agreement to maintain:

20 a. Workers' Compensation coverage in accordance with
21 Florida Statutes, and;

22 b. Commercial General Liability coverage, including vehicle coverage, in
23 combined single limits of not less than ONE MILLION AND 00/100
24 DOLLARS (\$1,000,000.00). **COUNTY** shall be included in the coverage as
25 an additional insured.

26 c. A payment and performance bond for the total amount of the
27 **IMPROVEMENTS** in accordance with Florida Statute 255.05.

28 14. In the event of termination, **CITY** shall not be relieved of liability to **COUNTY**
29 for damages sustained by **COUNTY** by virtue of any breach of the contract by **CITY**; and
30 **COUNTY** may withhold any payment to **CITY** for the purpose of set-off until such time as
31 the exact amount of damages due **COUNTY** is determined.

32 15. **CITY**'s termination of this **AGREEMENT** shall result all obligations of **COUNTY**
33 for funding contemplated herein to be canceled.

34 16. **COUNTY** and **CITY** agree that no person shall, on the grounds of race, color,
35 national origin, sexual orientation, religion or creed, sex, age, or handicap be discriminated
36 against in performance of the Agreement.

37 17. **COUNTY** may, at **COUNTY**'s discretion and for the duration of the
38 **IMPROVEMENTS**, install signs within the public property or easement, notifying the public
39 that the **IMPROVEMENTS** were funded with **COUNTY** dollars.

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

4 19. All notices required to be given under this Agreement shall be in writing, and
5 deemed sufficient to each party when sent by United States Mail, postage prepaid, to the
6 following:

7 AS TO COUNTY

8 Manager, Streetscape Section
9 Palm Beach County Department of
10 Engineering and Public Works
11 Post Office Box 21229
12 West Palm Beach, Florida 33416-1229

13 AS TO CITY

14 Director, Public Utilities
15 City of West Palm Beach
16 1000 45th Street, Suite 15
17 West Palm Beach, FL 33407

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

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

29 22. Except as expressly permitted herein to the contrary, no modification,
30 amendment, or alteration in the terms or conditions contained herein shall be effective
31 unless contained in a written document executed with the same formality and equality of
32 dignity herewith.

33 23. Each party agrees to abide by all laws, orders, rules and regulations and
34 **CITY** will comply with all applicable governmental landscaping codes in the maintenance
35 and replacement of the **IMPROVEMENTS**.

36 24. The parties to this Agreement shall not be deemed to assume any liability for
37 the negligent or wrongful acts, or omissions of the other party (or parties). Nothing

1 contained herein shall be construed as a waiver by any of the parties, of the liability limits
2 established in Section 768.28, Florida Statutes.

3 25. CITY shall promptly notify COUNTY of any lawsuit-related complaint, or
4 cause of action threatened or commenced against it which arises out of or relates, in any
5 manner, to the performance of this Agreement.

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

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

12 28. 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 29. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in
16 and for Palm Beach County, Florida.

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

(INTENTIONALLY LEFT BLANK)

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

3 CITY OF WEST PALM BEACH

4 (CITY SEAL)

5 ATTEST:

6 By: Florence K. ...
7 Deputy CITY CLERK

By: [Signature]
MAYOR

8 APPROVED AS TO FORM
9 AND LEGAL SUFFICIENCY

10 By: WDR 2/10/06
11 CITY ATTORNEY

12 PALM BEACH COUNTY

13 (COUNTY SEAL)

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

15 ATTEST:

16 SHARON R. BOCK, CLERK & COMPTROLLER

17 By: _____
18 DEPUTY CLERK

By: _____
TONY MASILOTTI, CHAIRMAN

19 APPROVED AS TO FORM
20 AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

21 By: _____
22 ASSISTANT COUNTY ATTORNEY

BY: [Signature]