

Agenda Item # : **3-C-15**

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: February 27, 2007

Consent

Regular

Workshop

Public Hearing

Department:

Submitted By: Engineering and Public Works

Submitted For: Right-of-Way Acquisition Section

Project No. 2002912

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: An Assignment of Right to Purchase and Waiver of Claims for Loss of Access.

Summary: This action will provide for the settlement of all claims arising out of the County's purported denial of access to Lot 8, as designated in the Franklin Park Subdivision, by the County's construction of a pedestrian crossing bridge over the Florida East Coast (FEC) Railroad tracks. The settlement will release the County from damages while assigning the right to purchase the property to a third party.

District: 7(PK)

Background and Justification: The Engineering Department determined that the metal stairways serving as access to a pedestrian crossing over the FEC Railroad right-of-way at its intersection with Palm Beach Lakes Boulevard were in need of replacement due to age. The replacement structures were required to be constructed as ramps to comply with the Americans with Disabilities Act and purportedly cut off access to Lot 8 of the Franklin Park Subdivision in West Palm Beach, Florida, (Plat Book 7 page 47). The property owner made a claim for loss of access. The County negotiated the purchase of the property for the fair market value based on a then existing contract the owner had to sell the property to a third party. Prior to closing, County was approached by another third party wanting to purchase said parcel while foregoing any loss of access claims. The attached Assignment and Waiver, upon execution, will permit the owner to sell the property to this new buyer. This action is in the best interest of the residents of Palm Beach County.

Attachments:

1. Location Map
2. Assignment and Waiver

Recommended by:

Don Charles Rich
Division Director

1/24/07
Date

Approved by:

A. J. Wade
County Engineer

1/29/07
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-

ADDITIONAL FTE POSITIONS (Cumulative) _____

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

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

This item has no additional fiscal impact.

C. Departmental Fiscal Review: R. A. Ward 1/23/07

III. REVIEW COMMENTS

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

Jim Dul 2-5-07
 OFMB
 2.5.07
 DM 2-1-07
 2/7/07
Jim J. Jocolant 2/7/07
 Contract Dev. and Control

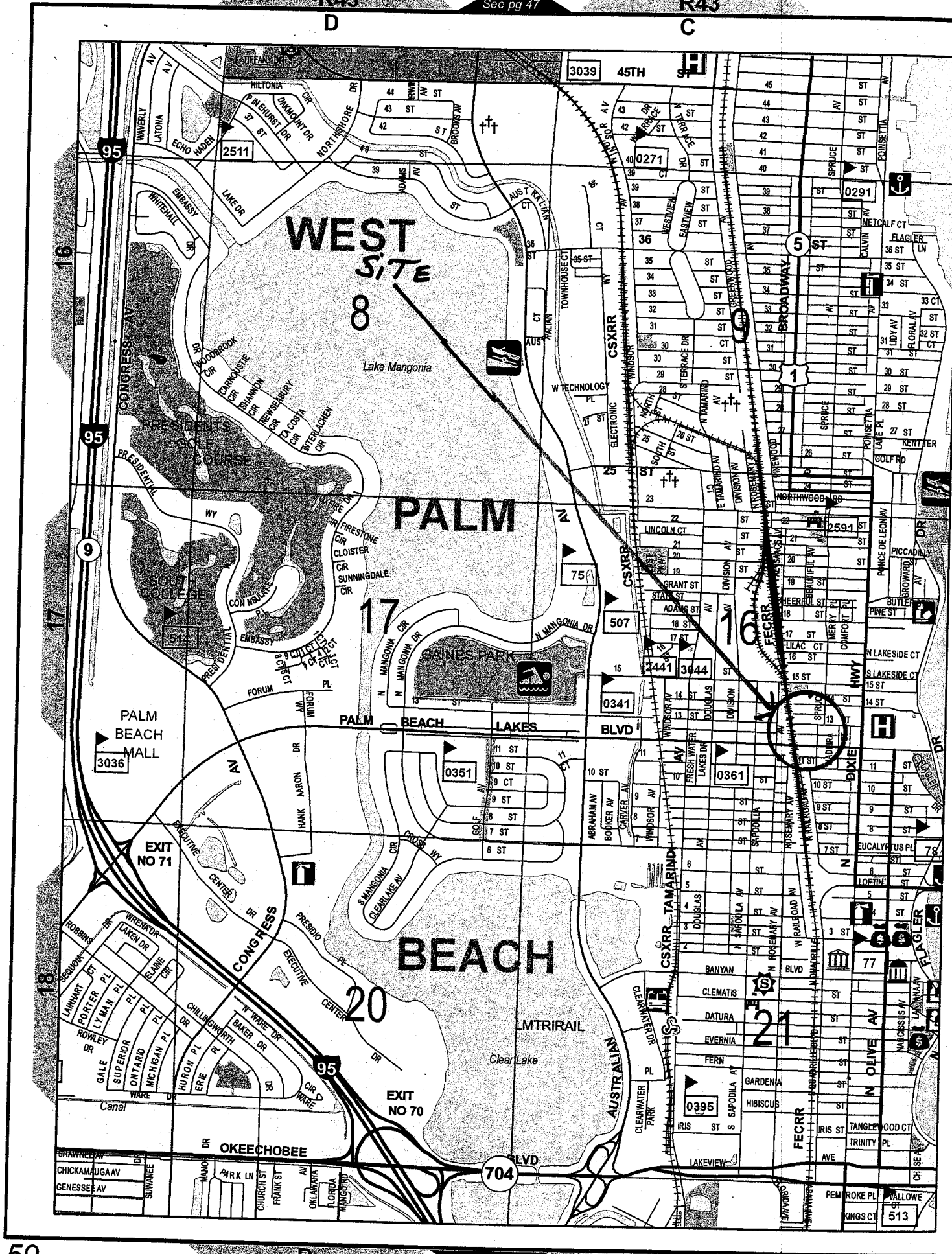
B. Approved as to Form and Legal Sufficiency:

Paul F. G. 2/08/07
 Assistant County Attorney

C. Other Department Review:

 Department Director

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



T43

T43

T43

ASSIGNMENT OF RIGHT TO PURCHASE AND
WAIVER OF CLAIMS FOR LOSS OF ACCESS

THIS AGREEMENT by and between RUE ANTIBES, LLC., a Florida limited liability company and PALM BEACH COUNTY a political subdivision of the State of Florida,

WITNESSETH that

WHEREAS RUE ANTIBES, LLC. desires to acquire the following described parcel of real property [hereinafter "the Property"]:

Lot 8, Block 68, FRANKLIN PARK, a subdivision of the City of West Palm Beach, Florida, according to the plat thereof on file in the office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 7, Page 57

and

WHEREAS the current owner of the Property, JOSEPH A. ROSSO, has asserted a claim against Palm Beach County arising from alleged loss or diminution of access to the Property or from the property to Palm Beach Lakes Blvd. or 12th St. as a result of the proposed placement of an overpass on Palm Beach Lakes Boulevard over the Florida East Coast Railway right of way, and

WHEREAS PALM BEACH COUNTY has negotiated a purchase of the Property from JOSEPH A. ROSSO together with a release from ROSSO of any claim for loss or diminution of access, and

WHEREAS PALM BEACH COUNTY is willing to assign its purchase rights to RUE ANTIBES, LLC in return for a release by RUE ANTIBES, LLC of any claim for loss or diminution of access and RUE ANTIBES, LLC is willing to accept such purchase rights and grant such release,

NOW THEREFORE, for and in consideration of the premises the parties agree as follows:

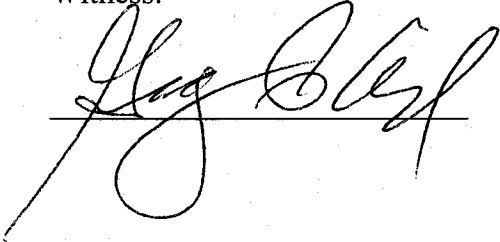
I. PALM BEACH COUNTY hereby assigns to RUE ANTIBES, LLC, a Florida limited liability company, all rights that it may have to purchase the Property.

II. RUE ANTIBES, LLC does hereby waive and release in favor of PALM BEACH COUNTY any claim which it may acquire, as owner of the Property, against PALM BEACH COUNTY as a result of any loss diminution of access to the Property or from the property to Palm Beach Lakes Blvd. or 12th St. resulting from the placement or existence of an overpass of Palm Beach Lakes Boulevard over the Florida East Coast Railway right of way. This waiver and release does not include any claims that may arise

for physical damage to the Property or persons thereon which may occur during construction, maintenance or existence of the overpass.

IN WITNESS WHEREOF the parties have executed this instrument on the date(s) indicated below.

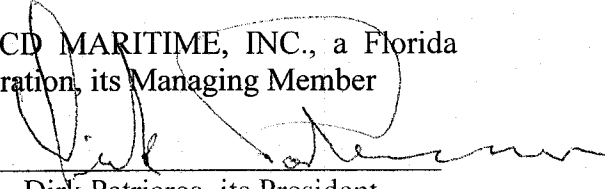
Witness:



A handwritten signature in black ink, appearing to be "Greg B. [unclear]", written over a horizontal line.

RUE ANTIBES, LLC

by DCD MARITIME, INC., a Florida corporation, its Managing Member



A handwritten signature in black ink, appearing to be "Dirk Patriarca", written over a horizontal line.

by
Dirk Patriarca, its President

Dated 12-13-06

PALM BEACH COUNTY SIGNATURE ON PAGE 3

PALM BEACH COUNTY, a
political Subdivision of the State of
Florida

ATTEST:
SHARON R. BOCK, Clerk & Comptroller

By its BOARD OF COUNTY
COMMISSIONERS

Deputy Clerk

By: _____
Addie L. Greene, Chairperson

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: Paul F. [Signature]
Assistant County Attorney

By: Charles [Signature]
~~Department~~-Director
DIVISION