Agenda Item #: 3 - C - 20

# PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date: November 18, 2008 {X} Consent { } Regular { } Public Hearing { } Workshop

Department:
Submitted By: Engineering and Public Works
Submitted For: Engineering Services Division

### I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: An Assignment and Assumption Agreement with the Florida East Coast Railway (FEC) and the City of Boynton Beach (City) for the crossing at SE 23<sup>rd</sup> Avenue, DOT #272485-X.

**Summary:** The Board of County Commissioners (Board), at the December 18, 2007 meeting, approved resolution R2007-2223. This resolution recognized a resolution from the City to transfer the license agreement for the railway crossing at SE 23<sup>rd</sup> Avenue from the City to Palm Beach County. These documents were required by the FEC to proceed with the transfer. This instrument will approve an Assignment and Assumption Agreement with the FEC and City to complete the transfer.

District 7 (MRE)

**Background and Justification:** On April 21, 1981, the Palm Beach County (County) took over maintenance of SE 23<sup>rd</sup> Avenue from the City through functional classification. The License Agreement with the FEC was not transferred at that time. In the interest of uniformity the County is willing to accept transfer of the License Agreement at this time. Although there is no immediate fiscal impact, the County will eventually be required to fund the reconstruction and/or relocation of the railway crossing.

This office, having reviewed the Assignment and Assumption Agreement, recommends that the Board approve the agreement.

### Attachments:

1. Location Map

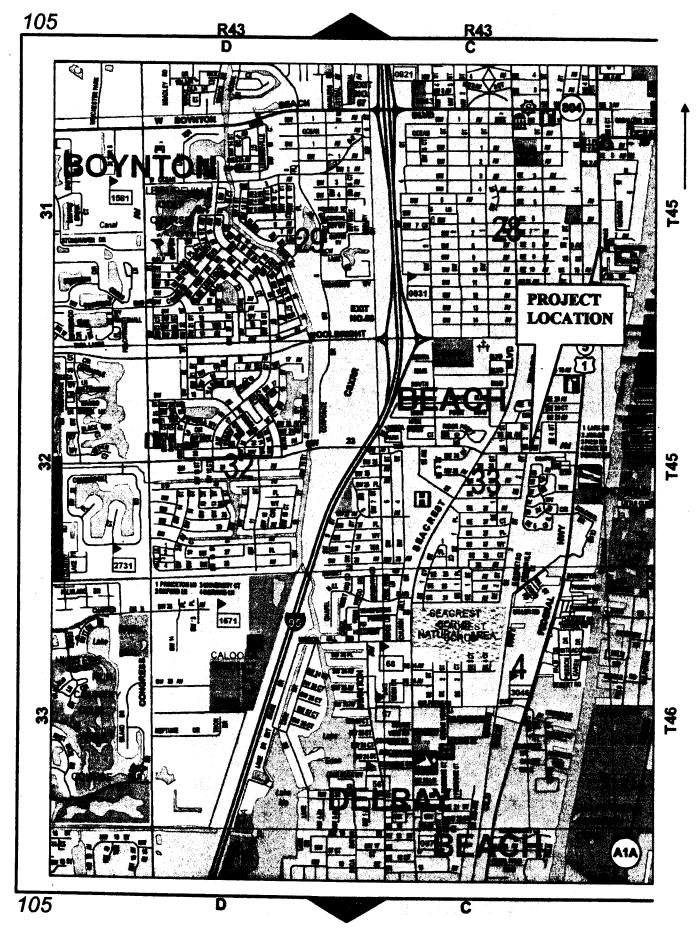
2. Agreement (4)

Recommended By: 10/15/08 Division Director Date

Approved By: 10/23/06

## II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of F	Fiscal Impact:			
Fiscal Years	2009 2010	2011	2012	2013
Capital Expenditures	\$ -0-	-0-	-0-	-0-
Operating Costs	-00-	-0-	-0-	<u>-0-</u> -0-
External Revenues	-00-	-0-	-0-	<u>-0-</u>
Program Income (County)	-00-	-0-	-0-	<u>-0-</u> -0-
In-Kind Match (County)	-00-	-0-	<del>-0-</del> -	<u>-0-</u> -0-
NET FISCAL IMPACT	\$ -0-		-0-	<u>-0-</u> -0-
	ebelow			
POSITIONS (Cumulative)				
Is Item Included in Current I Budget Acct No.: Fund Progr	Dept Unit	Object	No	
B. Recommended Sources	of Funds/Summar	y of Eigaal Impe		
This item has no fiscal impac		y Ot Fiscal Impa	ict:	
This recin has no fiscar impac	il.			
C. Departmental Fiscal Rev	riew: <u>. Duc</u>	<del></del>		· ·
	III. REVIEW COM	MENTS		
A. OFMB Fiscal and/or Con The County will eventual the fiscal impact an	Hu he Venuino	to fund the leterminas	e reconstruction	10/29/00
B. Approved as to Form			ntract complies wi	
and Legal Sufficiency:		contrac	review requireme	nts.
Assistant County Attorn	11/03/08	Mer vas	from the	orting executar.
C. Other Department Revie	w:		<b>,</b>	
Department Director				
This summary is not to be us	ed as a basis for p	eayment.		
I:\WP\AgendaPage2\Agnogtyg2000\	2	<b>.</b>		



LOCATION MAP

### ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement ("Agreement") is made effective as of November 13, 2007 (the "Effective Date") among the Florida East Coast Railway, L.L.C., a Florida limited liability company (the "Railway"), the City of Boynton Beach, a political subdivision of the State of Florida (the "City"), and Palm Beach County, a political subdivision of the State of Florida (the "County").

#### **Preamble**

The City and the Railway are parties to an Agreement dated June 18, 1952, granting a license to the City for a public road crossing purposes over and across the Railway's right of way property located at SE 23<sup>rd</sup> Avenue (Crossing Number 272485-X). On April 21, 1981, the County acquired maintenance responsibility for SE 23<sup>rd</sup> Avenue through functional classification, and the County has maintained SE 23<sup>rd</sup> Avenue since it obtained responsibility.

The City is a party to various agreements with the Railway related to a railroad crossing at SE 23<sup>rd</sup> Avenue, which is within the boundaries of the County.

The assignment of the various agreements from the City to the County require the consent of the Railway, which consent the Railway is willing to give under the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Railway, City and County agree as follows:

- 1. The City hereby grants, assigns, transfers and delivers to the County, all of the rights, interests, liabilities and obligations of the City in and under the following agreement (collectively the "Agreements"):
  - a. License Agreement dated June 17, 1952 between the Railway and the City regarding the crossing at MP 313 + 3517' (SE 23<sup>rd</sup> Street, Boynton Beach, Florida - DOT #3133517); and
  - b. Resolution No. R-2007-2223, dated December 18, 2007, of the Board of County Commissioners of Palm Beach County Florida authorizing the transfer of the existing Agreement for SE 23<sup>rd</sup> Avenue, from the City of Boynton Beach to Palm Beach County.
- 2. The County hereby accepts the foregoing assignments and assumes all rights, interests, liabilities and obligations of the City in and under the Agreements.
- 3. Railway hereby consents to the foregoing assignments by the City and assumptions by the County of the rights, interests, liabilities and obligations of the City in and under the Agreements.

IN WITNESS WHEREOF, and intending to caused this Agreement to be executed by their representatives this day of	duly authorized officers and
OWNER:	COMPANY:
PALM BEACH COUNTY, FLORIDA, A Political Subdivision of the State of Florida	Florida East Coast Railroad, L.L.C. a Florida Limited Corporation
BOARD OF COUNTY COMMISSIONERS	BY:
BY:	Bv:
, Chair	By:Assistant Secretary
ATTEST: Sharon R. Bock, Clerk Circuit Court	Witnesses as to Company:  By:  By:
BY: Deputy Clerk  SEAL	The City of Boynton Beach  By: Its:
APPROVED AS TO TERMS & CONDITIONS:	Witnesses
By: Charle Rich Engineer	
APPROVED AS TO FORM AND LEGAL SUFFICIENCY:	
By:	
County Attorney	