

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

=====

|  |   |   |
|--|---|---|
| <b>Meeting Date:</b> November 17, 2009 | <input checked="" type="checkbox"/> Consent | <input type="checkbox"/> Regular        |
|  | <input type="checkbox"/> Workshop           | <input type="checkbox"/> Public Hearing |

**Department:**  
**Submitted By:** Engineering and Public Works  
**Submitted For:** Right-of-Way Acquisition Section

=====

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to:

- A) Adopt a Resolution authorizing the Subordination of a County Drainage Easement to the Florida Department of Transportation (FDOT); and
- B) Approve an agreement for Subordination of County Drainage Easement with FDOT.

**SUMMARY:** Approval of this item will allow FDOT to complete right-of-way acquisition along State Road #708 (Blue Heron Boulevard) at the Congress Avenue intersection.

District 7 (PFK)

**Background and Justification:** Palm Beach County was granted a Drainage Easement, referenced in the Warranty Deed recorded in Official Record Book 5991, Page 1924 of the Public Records of Palm Beach County, Florida lying in Section 30, Township 42, Range 43. FDOT is acquiring right-of-way along the south side of Blue Heron Boulevard, east of Congress Avenue for an intersection improvement project, and requested a subordination of the County Drainage Easement. Staff has reviewed the subordination request and has no objections.

**Attachments:**

- 1. Location Map
- 2. Resolution
- 3. Subordination of County Drainage Easement

=====

|                        |  |                 |
|------------------------|--|-----------------|
| <b>Recommended by:</b> |  | <u>10/16/09</u> |
|                        | <b>Division Director</b>   | <b>Date</b>     |

|                     |   |                 |
|---------------------|---|-----------------|
| <b>Approved by:</b> |  | <u>10/21/09</u> |
|                     | <b>County Engineer</b>  | <b>Date</b>     |

TDC

## II. FISCAL IMPACT ANALYSIS

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

| Fiscal Years            | 2010                | 2011 | 2012 | 2013 | 2014 |
|-------------------------|---------------------|------|------|------|------|
| 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       | <del>X</del> \$ -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:

~~X~~ This item has no fiscal impact.

C. Departmental Fiscal Review:                     Shullwhite                    

## III. REVIEW COMMENTS

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

                    na                      
10-28-09  
OFMB  
                    UD                      
10/29/09 11/2/09 10/26/09

                    D. J. J.                      
Contract Dev. and Control  
11/4/09

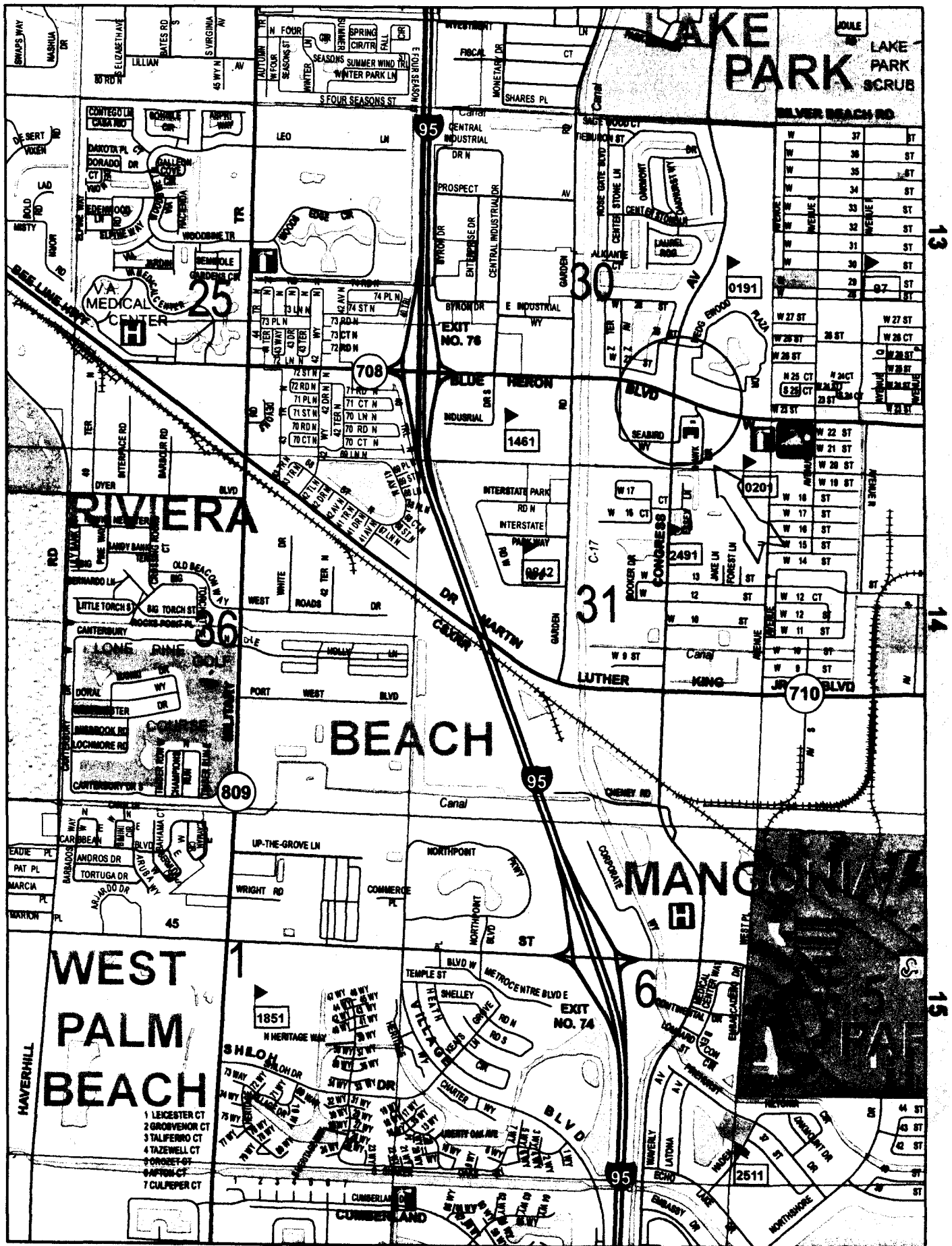
### B. Approved as to Form and Legal Sufficiency:

                    Paul F. J.                      
11/9/09  
Assistant County Attorney

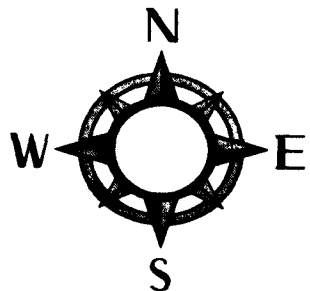
### C. Other Department Review:

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

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



Location Map



**RESOLUTION NO. R-2009-**

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, SUBORDINATING COUNTY DRAINAGE EASEMENT, AS NEEDED FOR FLORIDA DEPARTMENT OF TRANSPORTATION PURPOSES TO IMPROVE STATE ROAD #708 (BLUE HERON BOULEVARD) AT THE INTERSECTION OF BLUE HERON BOULEVARD AND CONGRESS AVENUE IN SECTION 30, TOWNSHIP 42, RANGE 43; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Palm Beach County was granted a Drainage Easement, referenced in the Warranty Deed recorded in Official Record Book 5991, Page 1924 of the Public Records of Palm Beach County, Florida lying in Section 30, Township 42, Range 43, at the southeast corner of the intersection of Blue Heron Boulevard and Congress Avenue; and,

**WHEREAS**, the State of Florida Department of Transportation (FDOT) proposes to construct or improve Blue Heron Boulevard, Item/Segment No. 4170622, Section No. 93012-2502, in Palm Beach County, Florida; and

**WHEREAS**, the proposed use of these lands for FDOT highway purposes will require a Subordination of County Drainage Easement by the County to FDOT; and,

**WHEREAS**, it is therefore appropriate to subordinate the County Drainage Easement referenced in Exhibit "A", attached hereto and made a part hereof.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA THAT:**

1. This Board adopts and ratifies those matters set forth in the foregoing recitals.
2. That the application of the State of Florida Department of Transportation for a Subordination of County Drainage Easement is for transportation purposes which is in the public or community interest and for public welfare; that a Subordination of County Drainage Easement in favor of the State of Florida Department of Transportation, in Palm Beach County, should be drawn and executed by this Board of County Commissioners.
3. This Resolution shall be effective immediately upon its adoption.

The foregoing Resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

|                                  |       |
|----------------------------------|-------|
| District 1 - Karen T. Marcus     | _____ |
| District 2 - John F. Koons       | _____ |
| District 3 - Shelley Vana        | _____ |
| District 4 - Steven L. Abrams    | _____ |
| District 5 - Burt Aaronson       | _____ |
| District 6 - Jess R. Santamaria  | _____ |
| District 7 - Priscilla A. Taylor | _____ |

The Chairman thereupon declared the Resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

|  |  |
|--|--|
| APPROVED AS TO FORM<br>AND LEGAL SUFFICIENCY | PALM BEACH COUNTY, FLORIDA<br>BY ITS BOARD OF COUNTY COMMISSIONERS |
|  | SHARON R. BOCK, CLERK AND COMPTROLLER                              |

|                              |                           |
|------------------------------|---------------------------|
| BY: _____<br>County Attorney | BY: _____<br>Deputy Clerk |
|------------------------------|---------------------------|

23-UTL.02-06/93

This instrument prepared  
under the direction of:

Dawn Raduano, Esq. \_\_\_\_\_

Legal description prepared by:  
Grace K. Abel (10-01-09) \_\_\_\_\_

Department of Transportation  
3400 W. Commercial Boulevard  
Ft. Lauderdale, Florida 33309

|                    |                  |
|--------------------|------------------|
| Parcel No.         | 104.6R(10-01-09) |
| Item/Segment No.   | 4170622          |
| Section No.        | 93012-2502       |
| Managing District: | 04               |
| S.R. No.           | 708              |
| County:            | Palm Beach       |

#### **SUBORDINATION OF COUNTY DRAINAGE EASEMENT**

THIS AGREEMENT, entered into by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the FDOT, and PALM BEACH COUNTY, a Political Subdivision of the State of Florida, hereinafter called the COUNTY.

#### **W I T N E S S E T H:**

WHEREAS, the COUNTY presently has an interest in certain lands that have been determined necessary for highway purposes; and

WHEREAS, the proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by the COUNTY to the FDOT; and

WHEREAS, the FDOT is willing to pay to have the COUNTY'S facilities relocated if necessary to prevent conflict between the facilities so that the benefits of each may be retained.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, COUNTY and FDOT agree as follows:

COUNTY subordinates to the interest of FDOT its successors and assigns, any and all of its interest in the lands as follows, viz:

Parcel No 104

Item/Segment No. 4170622  
(Section No. 93012-2502)

A portion of Tract A, REPLAT OF A PORTION OF THE PLAT OF CONGRESS PARK, according to the plat thereof, as recorded in Plat Book 62, Page 77 of the Public Records of Palm Beach County, Florida, lying in Section 30, Township 42 South, Range 43 East, Palm Beach County, Florida, being more particularly described as follows:

BEGIN at the Northwest Corner of said Tract A, lying on the Southerly Existing Right of Way Line for State Road 708 (Blue Heron Boulevard) as shown on the Florida Department of Transportation Right of Way map for Item/Segment No. 4170622, Section No. 93012-2502; thence

(Continue on the next page)

South 68°44'31" East along said Southerly Existing Right of Way Line, a distance of 335.08 feet to a point on a curve concave Northerly, having a chord bearing of South 69°49'17" East; thence Easterly along said Southerly Existing Right of Way Line and the arc of said curve, having a radius of 2,917.93 feet, through a central angle of 02°09'32" and an arc distance of 109.95 feet to a point on the East Line of said Tract A and the end of said curve; thence South 01°04'06" West along said East Line, a distance of 7.80 feet to a point on a curve concave Northerly, having a chord bearing of North 72°14'27" West; thence Westerly along the arc of said curve, having a radius of 2,999.79 feet, through a central angle of 00°04'04" and an arc distance of 3.55 feet to a point on a compound curve concave Northerly, having a chord bearing of North 69°48'37" West; thence Westerly along the arc of said curve, having a radius of 2,925.43 feet, through a central angle of 02°08'12" and an arc distance of 109.10 feet to the end of said curve; thence North 68°44'31" West, a distance of 314.69 feet; thence South 56°47'32" West, a distance of 61.72 feet to a point on the West Line of said Tract A and the Easterly Existing Right of Way Line for Congress Avenue; thence North 02°20'00" East along said West Line and said Easterly Existing Right of Way Line, a distance of 25.76 feet to a point on the Southerly Existing Right of Way Line for said State Road 708 (Blue Heron Boulevard); thence North 56°47'57" East along said Southerly Existing Right of Way Line, a distance of 41.00 feet to the POINT OF BEGINNING.

Containing 4,348 square feet, more or less.

**RECORDED**

| INSTRUMENT        | DATE     | IN FAVOR OF       | O.R.B. & PAGE |
|-------------------|----------|-------------------|---------------|
| Drainage Easement | 02/27/89 | PALM BEACH COUNTY | 5991/1924     |

PROVIDED that the COUNTY has the following rights:

1. The COUNTY shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon the lands described herein in accordance with the FDOT'S current minimum standards for such facilities as required by the FDOT, Utility Accommodation Manual in the effect at the time the agreement is executed. Any new construction or relocation of facilities within the lands will be subject to prior approval by the FDOT. Should the FDOT fail to approve any new construction or relocation of facilities by the COUNTY or require the COUNTY to alter, adjust, or relocate its facilities located within said lands, the FDOT hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate easements.
2. Notwithstanding any provisions set forth herein, the terms of the utility permits shall supersede any contrary provisions, with the exception of the provision herein with reimbursement rights.
3. The COUNTY shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the FDOT's facilities.

4. The COUNTY agrees to repair any damage to FDOT facilities and to be responsible for any loss or damage resulting from the COUNTY exercising its rights outlined in Paragraphs 1 and 3 above.

IN WITNESS WHEREOF, the FDOT hereto has executed this agreement on the day and year first above written

Signed, sealed and delivered  
in the presence of witnesses:

STATE OF FLORIDA DEPARTMENT  
OF TRANSPORTATION

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Name: JAMES A. WOLFE  
Title: District Secretary  
for District IV

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Attorney approved as to form:

\_\_\_\_\_  
Name: DAWN RADUANO

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_  
day of \_\_\_\_\_, 200\_\_\_\_, by JAMES A. WOLFE, District Secretary  
for District IV, who is personally known to me or who has produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public in and for the  
County and State last aforesaid.  
My Commission Expires: \_\_\_\_\_  
Serial No., if any: \_\_\_\_\_

ATTEST: SHARON R. BOCK,  
Clerk and Comptroller

PALM BEACH COUNTY BOARD  
OF COUNTY COMMISSIONERS

By \_\_\_\_\_

Print Name: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM  
LEGAL SUFFICIENCY

By \_\_\_\_\_

Print Name: \_\_\_\_\_  
Chair (Vice-Chair)

APPROVED AS TO TERMS AND  
CONDITIONS

By \_\_\_\_\_

Print Name: \_\_\_\_\_  
County Attorney

By *Omilio A. Fernandez*  
Print Name: Omilio A. Fernandez

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this \_\_\_\_\_  
day \_\_\_\_\_, 2009 by \_\_\_\_\_,  
Chair or Vice -Chair, Board of County Commissioners, who is personally  
known to me or who has produced \_\_\_\_\_ as  
identification and who did not take an oath.

\_\_\_\_\_  
Typed name of Acknowledger  
Deputy Clerk