

Agenda Item #: **3-C-1**

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: February 15, 2011

Consent Regular
 Workshop 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 adopt: a Resolution of the Board of County Commissioners of Palm Beach County, Florida, amending Resolution No. R-2010-0455, adopted on April 6, 2010, which authorized Palm Beach County (County) to enter into a Roadway Transfer Agreement R-2010-0456 with the Florida Department of Transportation (FDOT) for the County to accept the transfer and maintenance responsibility of Church Street, from Okeechobee Boulevard to Old Okeechobee Road, a distance of 0.21 miles and Old Okeechobee Road, from Church Street to northwest of Australian Avenue, a distance of 0.46 miles, providing for execution of a revised Agreement to include a cultural resource assessment statement replacing Agreement R-2010-0456 and providing for an effective date.

SUMMARY: Adoption of this amending resolution will authorize execution of the attached replacement Road Transfer Agreement with FDOT to include a cultural resource assessment statement. District 2 (PFK)

Background and Justification: On April 6, 2010, the Board adopted Resolution No. R-2010-0455, entering into a Roadway Transfer Agreement with the FDOT. This Agreement transferred the jurisdictional control of the subject roads to the County. The FDOT has requested that the Agreement be revised to include a cultural resource assessment statement. This statement, indicated on Page 2, Section 1-D of the Agreement, states that no historic properties will be directly affected by the transfer of ownership of the subject roads.

Attachments:

1. Location Map
2. Resolution No. R-2010-0455
3. Amending Resolution with Exhibit "A" (3 originals)
4. FDOT / Palm Beach County Roadway Transfer Agreement (4 originals)

Recommended by: _____

Division Director

Date

Approved by: _____

Sy T. Webb
County Engineer

1/19/11
Date

II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2011	2012	2013	2014	2015
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 a negligible fiscal impact. The County is currently responsible for maintenance of these sections of Church Street and Old Okeechobee Road.

C. Departmental Fiscal Review: Amellhite

III. REVIEW COMMENTS

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

[Signature] 1/21/2011
 OFMB

[Signature] 1/25/11
 Contract Dev. and Control
 E. Jones 1/24/11

SN 1/20/11
 1/20/11

This Contract complies with our contract review requirements.

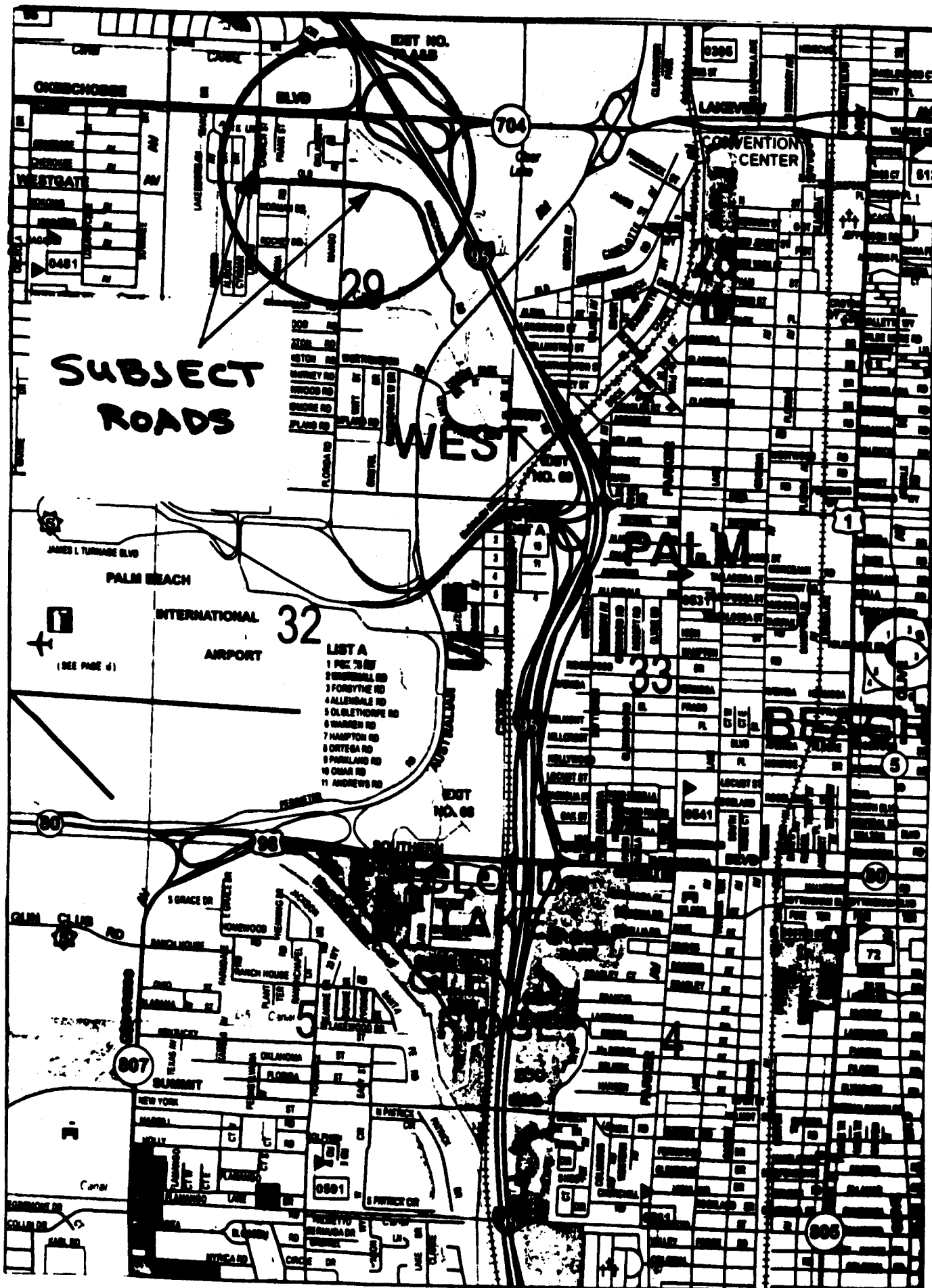
B. Approved as to Form and Legal Sufficiency:
Paul F. [Signature] 1/31/11
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

LOCATION MAP



ATTACHMENT 2
RESOLUTION NO. R-2010-0455
2010

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

Burt Aaronson, Chair	<u>Aye</u>
Karen T. Marcus, Vice Chair	<u>Aye</u>
Jeff Koons	<u>Aye</u>
Shelley Vana	<u>Aye</u>
Steven L. Abrams	<u>Aye</u>
Jess R. Santamaria	<u>Aye</u>
Priscilla A. Taylor	<u>Aye</u>

The Chair thereupon declared the Resolution duly passed and adopted this 6th day of April, 2010.

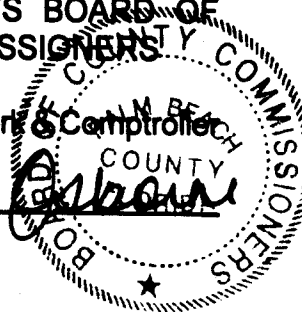
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: Paul F. J.
County Attorney

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

Sharon R. Bock, Clerk & Comptroller

BY: Latoya Gibson
Deputy Clerk



**FDOT/PALM BEACH COUNTY
ROADWAY TRANSFER AGREEMENT
(FDOT to COUNTY)**

**Church Street from SR-704/Okeechobee Boulevard to Old Okeechobee Road (0.21 Miles)
Old Okeechobee Road from Church Street to Northwest of Australian Ave (0.46 Miles)**

THIS AGREEMENT, made and entered into this _____ day of _____, 2010 by and between the FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the DEPARTMENT, and the County of Palm Beach, hereinafter called the COUNTY;

WITNESSETH

WHEREAS, Church Street and Old Okeechobee Rd are located in both Municipality boundaries of West Palm Beach and unincorporated Palm Beach County and is currently on the State Roadway System;

WHEREAS, the COUNTY, has requested the transfer of a portion of Church Street and Old Okeechobee Road to the COUNTY Road System, and this transfer is mutually agreed upon, between the COUNTY and the DEPARTMENT and,

NOW, THEREFORE, THIS INDENTURE WITNESSETH: in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the COUNTY and the DEPARTMENT agree as set forth below:

1. This Agreement sets forth the terms and conditions under which the COUNTY and the DEPARTMENT will abide, commencing on the date of approval by the DEPARTMENT'S Secretary.
 - a) The COUNTY accepts all responsibility for operation and maintenance of Church Street from SR-704/Okeechobee Boulevard south to Old Okeechobee Road and Old Okeechobee Road from Church Street east to a point 0.46 Miles north and west of Australian Avenue as depicted on the Location Map attached hereto as Exhibit A. In addition to the roadbed, this agreement includes all curbs, culverts, bridges, and drainage structures within the Church Street and Old Okeechobee Road right-of-way at the time of transfer.
 - b) The DEPARTMENT gives up all right to the roadway, except as may be specified in this agreement.
 - c) The transfer of jurisdiction of the road shall be effective following approval of the DEPARTMENT'S Secretary. The DEPARTMENT shall record the right-of-way map reflecting the transfer in the Public Records of Palm Beach County, Florida.
2. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

Transfer Agreement Church Street and Old Okeechobee Rd
Palm Beach County
Page 2 of 3
January 20th 2010

3. This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein, and this Agreement shall supersede all previous communication, representation, or agreements, either verbal or written, between the parties hereto.
4. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
5. For communication purposes, the parties may be reached at the following addresses and phone numbers.

Palm Beach County
Tanya N. McConnell, P.E.
Deputy County Engineer
2300 N. Jog Road 3rd floor East Wing
West Palm Beach, Florida 33411-2745
Telephone (561) 684-4019

With a copy to:

Palm Beach County
Paul King Esq.
Assistant County Attorney
Palm Beach County
301 North Olive Ave. Suite 601
West Palm Beach, FL 33401
Telephone (561) 355-2225

Florida Department of Transportation
Gustavo Schmidt, P.E.
Planning and Environmental Engineer
3400 West Commercial Blvd.
Fort Lauderdale, Florida 33309-3421
Telephone: (954) 777-4601

6. Each party is an independent contractor and is not an agent of the other party. Nothing contained in this Agreement shall be construed to create any fiduciary relationship between the parties, during or after the performance of this Agreement. Neither party shall have the authority to bind the other party to any obligation whatsoever to any third party without the express specific written consent of the other.
7. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
8. If any part of the Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

PALM BEACH COUNTY

**STATE OF FLORIDA
DEPARTMENT OF
TRANSPORTATION**

BY: _____
Burt Aaronson, Chair
Board of County Commissioners

BY: _____
James A. Wolfe, P.E.
District 4 Secretary

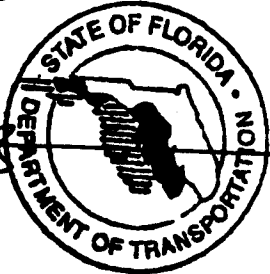
APPROVED AS TO FORM

APPROVED AS TO FORM

Paul King, Esquire
Assistant County Attorney

Laurice Mayes, Esq.
District 4 Legal Counsel

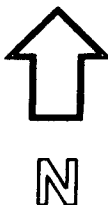
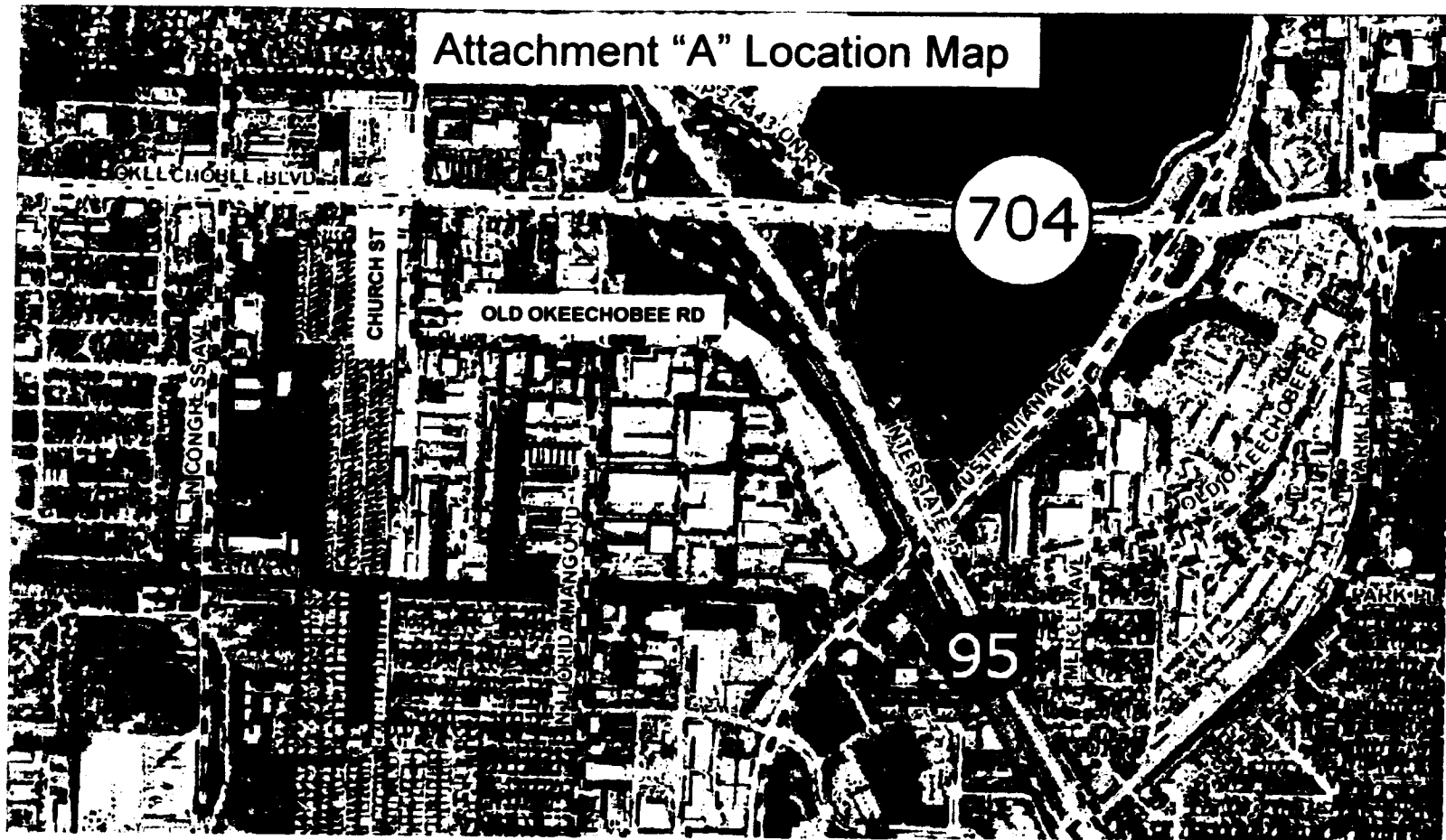
ATTEST: _____
Sharon R. Bock
Clerk & Comptroller

ATTEST: _____


APPROVED AS TO TERMS
and CONDITIONS:

By: _____
Department of Engineering and
Public Works

Attachment "A" Location Map



LEGEND

- CURRENT FDOT STATE HIGHWAY SYSTEM
- CURRENT ROAD NETWORK
- PROPOSED TRANSFER FROM FDOT TO COUNTY

PALM BEACH COUNTY

SECTION NO.	NAME	FROM	TO	LENGTH
93000133	Church St.	SR-704/Okeechobee Blvd.	Old Okeechobee Rd.	0.21 Miles
93000133	Old Okeechobee Rd.	Church St.	0.361 Miles NW of Australian Ave.	0.46 Miles



Planning & Environmental Management Office
 Date: 03/11/08 Prepared By: Carlton Card

ATTACHMENT 2
 RESOLUTION NO. R-2010-0455
 6.556

AMENDED RESOLUTION NO. R-2011-

AMENDED RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING RESOLUTION NO. R-2010-0455, ADOPTED ON APRIL 6, 2010, WHICH AUTHORIZED PALM BEACH COUNTY (COUNTY) TO ENTER INTO A ROADWAY TRANSFER AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR THE COUNTY TO ACCEPT THE TRANSFER AND MAINTENANCE RESPONSIBILITY OF CHURCH STREET, FROM OKEECHOBEE BOULEVARD TO OLD OKEECHOBEE ROAD, A DISTANCE OF 0.21 MILES AND OLD OKEECHOBEE ROAD, FROM CHURCH STREET TO NORTHWEST OF AUSTRALIAN AVENUE, A DISTANCE OF 0.46 MILES.

WHEREAS, on April 6, 2010, the Board of County Commissioners of Palm Beach County adopted Resolution No. R-2010-0455; and,

WHEREAS, said Resolution authorized the County to enter into a Roadway Transfer Agreement with the FDOT; and,

WHEREAS, the Roadway Transfer Agreement transferred the maintenance responsibility and ownership of the above referenced roads to the County; and,

WHEREAS, the FDOT has requested that the Roadway Transfer Agreement be revised to include a cultural resource statement, which states that no historic properties will be directly affected by the transfer of ownership of the subject roads; and,

WHEREAS, the revision of the Roadway Transfer Agreement will assist the FDOT to better conform with the most current transfer policies and will have no impact on the acceptance of ownership and maintenance responsibilities of the subject roads by the County.

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

- a. This Board adopts and ratifies those matters set forth in the foregoing recitals.

BE IT FURTHER RESOLVED that Palm Beach County Resolution No. R-2010-0455 be amended to include the cultural resource assessment statement which states that no historic properties will be directly affected by the roadway transfer.

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:

Commissioner Karen T. Marcus, Chair	_____
Commissioner Shelley Vana, Vice Chair	_____
Commissioner Paulette Burdick	_____
Commissioner Steven L. Abrams	_____
Commissioner Burt Aaronson	_____
Commissioner Jess R. Santamaria	_____
Commissioner Priscilla A. Taylor	_____

The Chair thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2011.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

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

Sharon R. Bock, Clerk & Comptroller

BY: _____
County Attorney

BY: _____
Deputy Clerk

**FDOT/PALM BEACH COUNTY
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 - b) The DEPARTMENT gives up all right to the roadway, except as may be specified in this agreement.
 - c) The transfer of jurisdiction of the road shall be effective following approval of the DEPARTMENT'S Secretary. The DEPARTMENT shall record the right-of-way map reflecting the transfer in the Public Records of Palm Beach County, Florida.

- d) If there is evidence of historical or archaeological resources that could be adversely impacted after a transfer, the COUNTY agrees to maintain the resources in accordance with the Cultural Resource Management Coordinator (CRMC) recommendations. If no evidence is found, the COUNTY agrees not to adversely affect any such resources if found after the transfer. The DEPARTMENT has provided the COUNTY with a letter from the Florida Department of State dated July 28, 2010, confirming that based on the results of a cultural resources assessment survey no historic properties will be directly affected by the transfer of ownership of the roadways.
- e) Pursuant to Section 337.29, F.S., deeds or existing right-of-way maps will be recorded by the transferring agency into the public land records of the County in which the rights of way are located. The transferring agency which currently has jurisdiction over the road shall supply all right-of-way documentation and/or right-of-way maps, if available. The receiving agency should produce right-of-way maps for possible future reference if they do not currently exist.
2. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.
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PALM BEACH COUNTY

BY: _____
Karen T. Marcus, Chair
Board of County Commissioners

APPROVED AS TO FORM

Paul King, Esq.
Assistant County Attorney

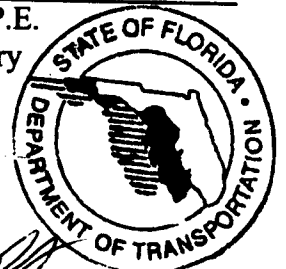
ATTEST: _____
Sharon R. Bock
Clerk & Comptroller

**STATE OF FLORIDA
DEPARTMENT OF
TRANSPORTATION**

BY: _____
James A. Wolfe, P.E.
District 4 Secretary

APPROVED:

Laurice Mayes, Esq.
District 4 Legal Counsel



ATTEST: _____

APPROVED AS TO TERMS AND CONDITIONS:

Department of Engineering and Public Works

Ornela A. Ferrer