

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

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Meeting Date: December 6, 2011 [X] Consent [ ] Regular  
[ ] Ordinance [ ] Public Hearing  
Submitted by: Facilities Development & Operations  
Submitted for: Water Utilities Department

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I. EXECUTIVE BRIEF

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

A) **approve** a Memorandum of Understanding (MOU) for Purchase and Sale of Utility Easement between the Department of Airports (DOA), the Facilities Development and Operations Department (FDO), and the Water Utilities Department (WUD) providing for the sale of an easement for water utility purposes across approximately 0.25 acres (10,780 sq. ft.) of land located on 5<sup>th</sup> Street, north of Belvedere Road, in West Palm Beach ("Easement Parcel").

B) **approve** a Declaration of Easement and Restrictive Covenants in favor of Palm Beach County for water utility purposes over the Easement Parcel.

C) **adopt** a Resolution determining that the Easement Parcel is not necessary for airport purposes and that the utility easement will not impair the operating efficiency of the airport system or reduce the revenue producing capability of the County's Airport System.

D) **authorize** the County Administrator or his designee (the DOA Director) to execute any necessary documentation for the release of the Easement Parcel from deed restrictions and Airport Improvement Program (AIP) Grant Assurances with the Federal Aviation Administration.

**Summary:** In April 2008, (R2008-0613), the Board approved a Memorandum of Understanding providing for the exchange of approximately 19.769 acres of property located on Cherry Road (Cherry Road Property) controlled by DOA for approximately 14.99 acres of property located along Belvedere Road and 5<sup>th</sup> Street (Belvedere Property) controlled by FDO. Included within the Belvedere Property transferred to DOA was approximately 1.47 acres acquired by WUD in 1979 as part of the acquisition of the Belvedere Water Company. WUD is working with the Westgate CRA to provide sewer service to the Belvedere Homes area and needs an easement for installation of a vacuum lift station. The Declaration of Easement will allow WUD to utilize the property for water utility purposes, which will include a wastewater vacuum pump station. Because DOA received the Belvedere Property in a value for value exchange and the property is now subject to FAA restrictions that must be released in order to install the lift station and WUD paid for the property initially, Staff is recommending that the County contribute \$100,000 toward the cost of this easement from the Public Building Improvement Fund – Land Acquisition, with the balance of \$34,750 to be paid by WUD from the Water Utilities Department Capital Improvement Fund - Water Transmission Mains. The appraisal of the Belvedere Property utilized in valuing the exchange assigned a value of \$12.50 per square foot, equating to a value or purchase price of \$134,750 for the proposed easement area. (PREM) District 2 (HJF)

(Continued on Page 3)

**Attachments:**

- 1. Location Map
- 2. BAS
- 3. Memorandum of Understanding for Purchase and Sale of Utility Easement
- 4. Declaration of Easement and Restrictive Covenants
- 5. Resolution

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Recommended By: Richard H. Wolf Department Director Date: 11/8/11  
Approved By: [Signature] County Administrator Date: 11/28/11

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**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	\$134,750	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>\$134,750</u>	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes  X  No

FDO Budget Account No:	Fund <u>3804</u>	Dept <u>411</u>	Unit <u>B212</u>	Object <u>6101</u>	(\$15,322)
	Program _____				
FDO Budget Account No:	Fund <u>3804</u>	Dept <u>411</u>	Unit <u>B312</u>	Object <u>6101</u>	(\$ 3,272)
	Program _____				
FDO Budget Account No:	Fund <u>3804</u>	Dept <u>411</u>	Unit <u>B392</u>	Object <u>6101</u>	(\$44,585)
	Program _____				
FDO Budget Account No:	Fund <u>3804</u>	Dept <u>411</u>	Unit <u>B406</u>	Object <u>6101</u>	(\$36,821)
	Program _____				
WUD Budget Account No:	Fund <u>4011</u>	Dept <u>721</u>	Unit <u>W006</u>	Object <u>6543</u>	(\$34,750)
	Program _____				

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

FDO will fund \$100,000 of the purchase price for the easement from the Public Building Improvement Fund – Land Acquisition unfunded projects. WUD will fund the balance of \$34,750 from the Water Utilities Department Capital Improvement Fund - Water Transmission Mains.

C. Departmental Fiscal Review: \_\_\_\_\_ *[Signature]* 11-8-11

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development Comments:**

OFMB *[Signature]* 11/17/11  
 Contract Development and Control *[Signature]* 11/21/11  
 11-18-11 *[Signature]*

**B. Legal Sufficiency:**

*[Signature]* 11/28/11  
 Assistant County Attorney

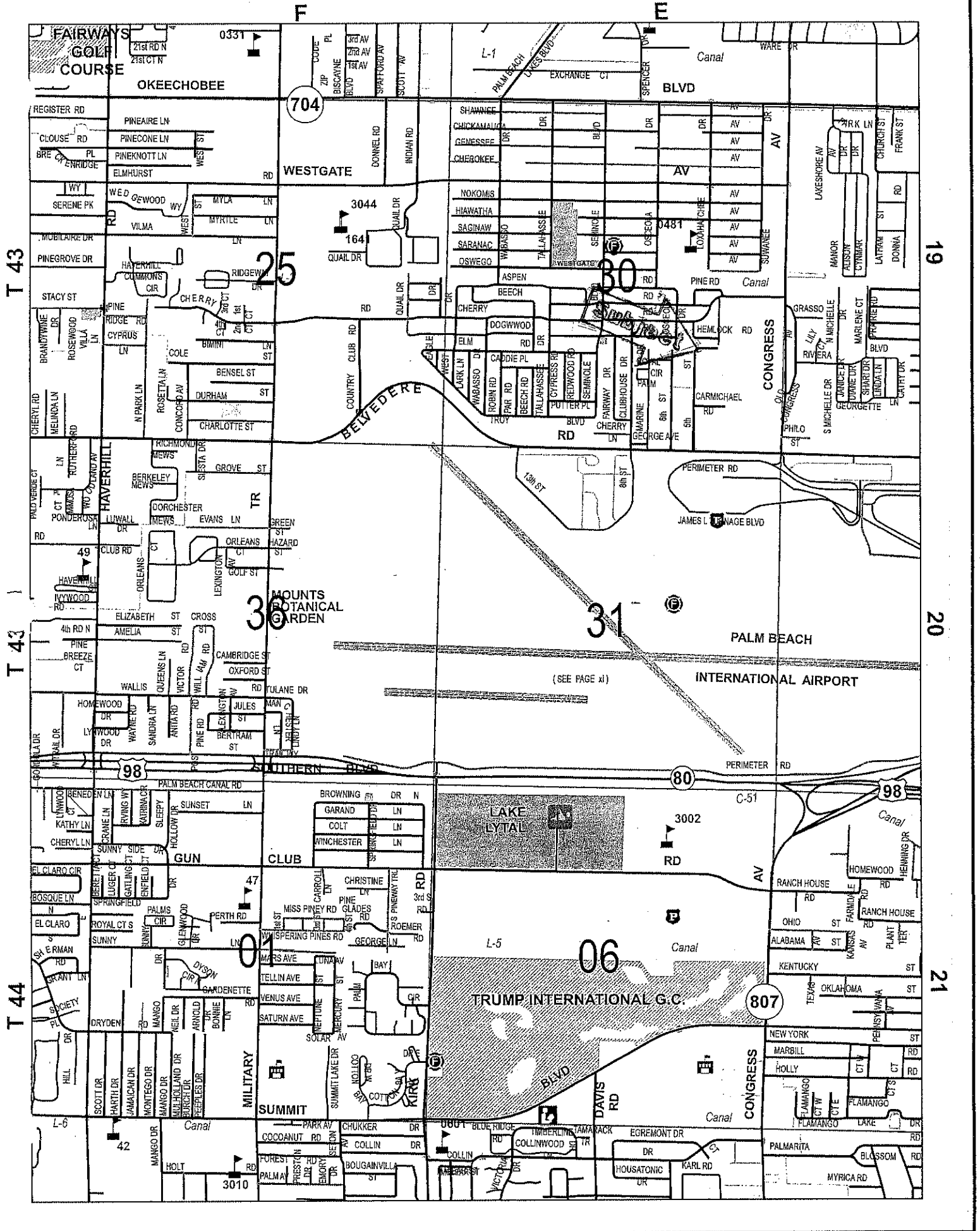
**C. Other Department Review:**

*[Signature]*  
 Department Director, Airports

*[Signature]*  
 Department Director, WUD

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

**Background and Justification:** The MOU is intended to formalize the agreement between FDO, WUD, and DOA regarding the sale of the easement. This easement will assist the Westgate CRA in expanding sewer improvements within the Westgate area. Construction of the lift station is scheduled to start later this year. The County's Water Utilities Department will maintain the proposed wastewater pump station once it is constructed. WUD and the Westgate CRA have worked together to determine a suitable location for the proposed lift station which will benefit the surrounding Westgate community. Approximately 1.57 acres of the 14.99 acres that the DOA received as part of the May 1, 2008, land exchange with County property was acquired by WUD in August 1979 from the Belvedere Water Company. The proposed easement area is located on land that was part of the Belvedere Water Company conveyance to the County. WUD is releasing any claim on the balance of the property which is not required for utility purposes.



LOCATION MAP



## BUDGET AVAILABILITY STATEMENT

REQUEST DATE: 11/8/11

REQUESTED BY: M. Jackson

PHONE: 233-0212

FAX: 233-0210

PROJECT TITLE: Westgate CRA - 5<sup>th</sup> Street

PROJECT NO.:

ORIGINAL CONTRACT AMOUNT:

BCC RESOLUTION#:

REQUESTED AMOUNT: \$100,000.00

DATE:

CSA or CHANGE ORDER NUMBER:

CONSULTANT/CONTRACTOR:

PROVIDE A BRIEF STATEMENT OF THE SCOPE OF SERVICES TO BE PROVIDED BY THE CONSULTANT/CONTRACTOR: Purchase of an easement for utility purposes.

CONSTRUCTION  
VENDOR SERVICES  
STAFF COSTS\*\*  
EQUIP. / SUPPLIES  
CONTINGENCY

TOTAL \$100,000.00

\*\* By signing this BAS your department agrees to these staff costs and your account will be charged upon receipt of this BAS by FD&O. Unless there is a change in the scope of work, no additional staff charges will be billed.

### BUDGET ACCOUNT NUMBER

FUND: 3804 DEPT: 411 UNIT: B212 OBJ: 6101 (\$15,322) SUB OBJ:  
FUND: 3804 DEPT: 411 UNIT: B312 OBJ: 6101 (\$ 3,272) SUB OBJ:  
FUND: 3804 DEPT: 411 UNIT: B392 OBJ: 6101 (\$44,585) SUB OBJ:  
FUND: 3804 DEPT: 411 UNIT: B406 OBJ: 6101 (\$36,821) SUB OBJ:

IDENTIFY FUNDING SOURCE FOR EACH ACCOUNT: (check all that apply)

Ad Valorem (source/type: \_\_\_\_\_)  
 Non-Ad Valorem (source/type: \_\_\_\_\_)  
 Grant (source/type: \_\_\_\_\_)  
 Park Improvement Fund (source/type: \_\_\_\_\_)  
 General Fund  Operating Budget  Federal/Davis Bacon  
 \_\_\_\_\_  \_\_\_\_\_  \_\_\_\_\_

**SUBJECT TO IG FEE?**  YES  NO

Department: FDO

BAS APPROVED BY: [Signature] DATE: 11-8-11

ENCUMBRANCE NUMBER:

## BUDGET AVAILABILITY STATEMENT

REQUEST DATE: 11/7/11

REQUESTED BY: M. Jackson

PHONE: 233-0212

FAX: 233-0210

PROJECT TITLE: Westgate CRA -- 5<sup>th</sup> Street

PROJECT NO.:

ORIGINAL CONTRACT AMOUNT:

BCC RESOLUTION#:

REQUESTED AMOUNT: \$34,750.00

DATE:

CSA or CHANGE ORDER NUMBER:

CONSULTANT/CONTRACTOR:

PROVIDE A BRIEF STATEMENT OF THE SCOPE OF SERVICES TO BE PROVIDED BY THE CONSULTANT/CONTRACTOR: Purchase of an easement for utility purposes.

CONSTRUCTION	
VENDOR SERVICES	
STAFF COSTS**	
EQUIP. / SUPPLIES	
CONTINGENCY	
TOTAL	\$34,750.00

\*\* By signing this BAS your department agrees to these staff costs and your account will be charged upon receipt of this BAS by FD&O. Unless there is a change in the scope of work, no additional staff charges will be billed.

### BUDGET ACCOUNT NUMBER

FUND: 4011 DEPT: 721 UNIT: W006 OBJ: 6543  
SUB OBJ:

IDENTIFY FUNDING SOURCE FOR EACH ACCOUNT: (check all that apply)

- Ad Valorem (source/type: \_\_\_\_\_)  
 Non-Ad Valorem (source/type: Water Utility user fees)  
 Grant (source/type: \_\_\_\_\_)  
 Park Improvement Fund (source/type: \_\_\_\_\_)  
 General Fund  Operating Budget  Federal/Davis Bacon  
 \_\_\_\_\_  \_\_\_\_\_  \_\_\_\_\_

**SUBJECT TO IG FEE?**  YES  NO

Department: Water Utilities

BAS APPROVED BY: Quay Eggertsson DATE: 11/8/2011

ENCUMBRANCE NUMBER:

**MEMORANDUM OF UNDERSTANDING  
FOR PURCHASE AND SALE OF UTILITY EASEMENT**

**THIS MEMORANDUM OF UNDERSTANDING FOR PURCHASE AND SALE OF UTILITY EASEMENT** (this "MOU") is made and entered into by and between the Palm Beach County Department of Airports, an administrative department of Palm Beach County ("DOA"), the Palm Beach County Facilities Development and Operations ("FDO"), and the Palm Beach County Water Utilities Department ("WUD"), administrative departments of Palm Beach County and approved by the Palm Beach County Board of County Commissioners (the "Board") on \_\_\_\_\_.

**WITNESSETH:**

**WHEREAS**, Palm Beach County (the "County"), by and through DOA owns and operates the Palm Beach International Airport (the "Airport"), located in Palm Beach County, Florida; and

**WHEREAS**, in April 2008, the Board approved a Memorandum of Understanding (R2008-0613) (the "2008 MOU"), providing for the value-for-value exchange of approximately 19.769 acres of property located on Cherry Road (Cherry Road Property) controlled by DOA for approximately 14.99 acres of property located along Belvedere Road and 5<sup>th</sup> Street (Belvedere Property) controlled by FDO. The Easement Parcel (as defined below) was included within the Belvedere Property transferred to DOA; and

**WHEREAS**, WUD is working with the Westgate Community Redevelopment Agency ("CRA") to provide sewer service to the Belvedere Homes area and needs an easement for installation of a vacuum lift station; and

**WHEREAS**, FDO and WUD, for and on behalf of the CRA, desire to purchase a utility easement for water utility purposes, over, upon and under the real property more particularly described on the attached Exhibit "A" as the "Easement Parcel", currently managed or controlled by DOA; and

**WHEREAS**, DOA has agreed to sell the utility easement, subject to the terms and conditions as set forth herein; and

**WHEREAS**, the Easement Parcel is part of the County's Airport System (as defined in the Bond Resolution) and is subject to the County's Airport System Revenue Bond Resolution (R-84-1659), as amended and supplemented ("Bond Resolution"), and federal grant assurance requirements; and

**WHEREAS**, this MOU is an inter-departmental agreement and is intended to formalize the understanding between DOA, FDO and WUD regarding the declaration of easement over, upon and under the Easement Parcel, the payment of consideration by FDO and WUD to DOA, and to ensure the requirements of the Bond Resolution and federal grant assurances are satisfied.

**NOW, THEREFORE**, in consideration of the premises and mutual covenants herein contained, and for such other good and valuable consideration, the receipt of which the parties hereby acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. Declaration of Easement and Restrictive Covenants. DOA agrees to the declaration of an easement over, upon and under the Easement Parcel, subject to the terms, covenants, and conditions hereinafter set forth, in the form attached hereto as Exhibit "B" (the "Declaration").

2. Purchase Price. As consideration for the Declaration, DOA shall receive \$134,750 (the "Purchase Price") at closing, at which time FDO shall complete a budget transfer to DOA in the amount of One Hundred Thousand Dollars (\$100,000.00) and WUD shall complete a budget transfer to DOA in the amount of Thirty Four Thousand Seven Hundred and Fifty Dollars (\$34,750.00). The Purchase Price represents the value for that portion of the Belvedere Property attributable to the Easement Parcel, in the 2008 MOU.

3. Condition of the utility easement. FDO and WUD agree to accept the Easement Parcel in its "AS IS CONDITION" and acknowledge that DOA has not made any representations whatsoever relating to the Easement Parcel, including, but not limited to, those relating to its value, title, environmental condition, physical condition or any improvements located thereon, or suitability for FDO's or WUD's intended use. Notwithstanding the foregoing, FDO and WUD shall have the right to have title examination, surveys and inspections performed for the Easement Parcel, at such party's sole cost and expense.

4. Condition Precedent to Closing.

A. FDO and WUD acknowledge that the Easement Parcel is part of the County's Airport System, and as such, is subject to certain agreements between the County and the Federal Aviation Administration ("FAA") (the "Grant Agreements").

B. The parties agree that the approval of the FAA authorizing the sale of the Declaration for payment of the Purchase Price by FDO and WUD to DOA, and releasing the Easement Parcel from any and all Grant Agreements entered by and between County and the FAA shall be an express condition precedent to DOA's obligation to close the transaction contemplated by this MOU.

C. DOA shall notify FDO and WUD in writing when the aforementioned conditions in this paragraph 4 have been satisfied. In the event the FAA does not authorize the release of the Easement Parcel from any and all Grant Agreements in accordance with the terms and conditions of this MOU, DOA shall have the right to terminate this MOU by delivering notice of such termination to FDO and WUD, in which event the parties shall be released from all further obligations under this MOU.

5. Date of Closing. The closing of the transaction contemplated by this MOU shall occur within thirty (30) days of satisfaction of the conditions precedent to DOA's obligation to close as set forth in paragraph 4 above, unless otherwise agreed to by the parties.



6. Closing Documents. At closing, DOA shall receive the Purchase Price and DOA will deliver, or cause to be delivered, to FDO and WUD a fully executed Declaration. Notwithstanding the foregoing, in the event the FAA requires additional provisions to be included in the Declaration as a condition of authorizing the exchange and release of the Easement Parcel and the additional provisions are acceptable to FDO and WUD, the form of the Declaration shall be modified to include such additional provisions. FDO shall be responsible for the costs of recording the Declaration. FDO and WUD acknowledge and agree that the utility easement interest in the Easement Parcel shall be subject and subordinate to the easements, covenants and restrictions contained in the Declaration, which may only be amended by a written amendment approved by the Board of County Commissioners and the FAA. DOA acknowledges and agrees that any conveyance of an interest in the Easement Parcel shall be subject and subordinate to the Declaration, which may only be amended by a written amendment approved by DOA and the Board of County Commissioners.

7. Release of Grant Agreements. DOA will take all actions necessary to document the removal of the Easement Parcel from the County's Airport System and to ensure compliance with any agreements between the County and the FAA relating to the release of the Easement Parcel from the Grant Agreements.

8. Entire Understanding. This MOU represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, whether written or oral, relating to this MOU.

9. Amendment. This MOU may be modified and amended only by written instrument executed by the parties hereto.

10. Incorporation by References. Exhibits attached hereto and referenced herein shall be deemed to be incorporated in this MOU by reference.

11. Effective Date. This MOU shall become effective on the date approved by the Board.

**(remainder of page intentionally left blank)**

IN WITNESS WHEREOF, the parties hereto have duly executed this MOU as of the day and year first above written.

**ATTEST:**  
**SHARON R. BOCK**  
**CLERK & COMPTROLLER**


**PALM BEACH COUNTY, A POLITICAL**  
**SUBDIVISION OF THE STATE OF FLORIDA,**  
**BY ITS BOARD OF COUNTY**  
**COMMISSIONERS**

By: \_\_\_\_\_  
Deputy Clerk

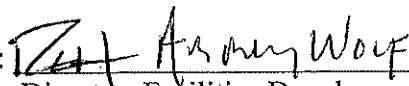
By: \_\_\_\_\_  
, Chair


**APPROVED AS TO FORM AND**  
**LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS AND**  
**CONDITIONS**

By:   
County Attorney

By:   
Director, Department of Airports

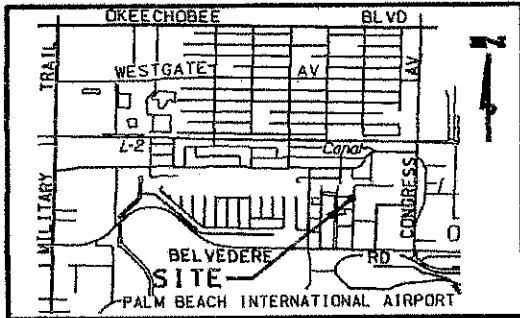
By:   
Director, Facilities Development  
& Operations Department

By:   
Director, Water Utilities Department

**EXHIBIT "A"**  
**TO MEMORANDUM OF UNDERSTANDING FOR PROPERTY EXCHANGE**

**Legal Description of the Easement Parcel**

SECTION 30, TOWNSHIP 43 SOUTH, RANGE 43 RANGE



**LOCATION MAP (NOT TO SCALE)**

**LEGAL DESCRIPTION**

A PARCEL OF LAND FOR UTILITY EASEMENT PURPOSES, LYING IN A PORTION OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 30; THENCE NORTH 88°22'59" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 30, A DISTANCE OF 1342.09 FEET TO THE SOUTHERLY EXTENSION OF THE EAST RIGHT-OF-WAY LINE 5TH STREET AS RECORDED IN ROAD BOOK 4, PAGE 132 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 01°37'56" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1557.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 25.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 39.27 FEET TO THE POINT OF TANGENCY AND THE SOUTH RIGHT-OF-WAY LINE OF SAID 5TH STREET; THENCE SOUTH 88°22'04" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 322.95 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 88°22'04" EAST ALONG SAID RIGHT OF WAY A DISTANCE OF 98.00 FEET TO THE WEST LINE OF A 40.00 FOOT DRAINAGE EASEMENT DESCRIBED IN OFFICIAL RECORD BOOK 6085, PAGE 143 OF SAID PUBLIC RECORDS; THENCE SOUTH 01°27'23" WEST ALONG SAID WEST LINE OF THE 40.00 FOOT DRAINAGE EASEMENT, A DISTANCE OF 110.00 FEET; THENCE NORTH 88°22'04" WEST, A DISTANCE OF 98.00 FEET; THENCE NORTH 01°27'23" EAST, A DISTANCE OF 110.00 FEET TO THE POINT OF BEGINNING.

EASEMENT CONTAINS 10.780 SQUARE FEET OR 0.2475 ACRES MORE OR LESS.

BEARINGS ON THIS SURVEY ARE BASED ON A GRID (NAD 83/90) BEARING OF NORTH 88°22'59" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA AND ALL OTHER BEARINGS ARE RELATIVE THERETO.

COORDINATES SHOWN ARE GRID  
 DATUM = NAD 83, 1990 ADJUSTMENT  
 ZONE = FLORIDA EAST  
 LINEAR UNITS = US SURVEY FOOT  
 COORDINATE SYSTEM 1983 STATE PLANE TRANSVERSE MERCATOR PROJECTION  
 ALL DISTANCES ARE GROUND.  
 PROJECT SCALE FACTOR = 1.000043050  
 GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE

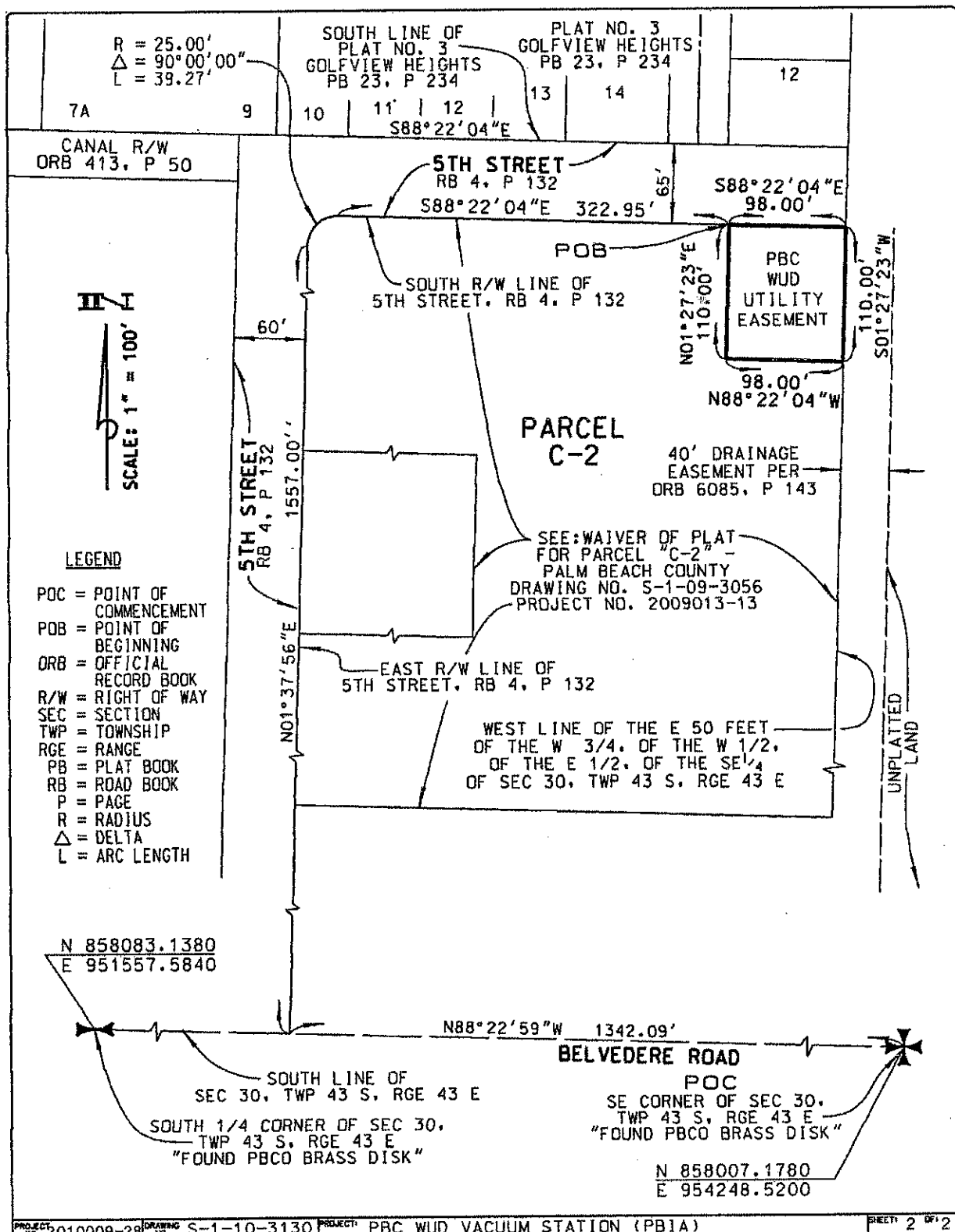
THIS INSTRUMENT PREPARED BY NORMAN J. HOWARD, P.S.M. IN THE OFFICE OF THE COUNTY ENGINEER @ VISTA CENTER, 2300 NORTH JOG ROAD, WEST PALM BEACH, FLORIDA 33411-2745.

*Norman J. Howard*  
 NORMAN J. HOWARD, P.S.M.  
 FLORIDA CERTIFICATE # 5776

7-9-2010  
 DATE

NO SEARCH OF THE PUBLIC RECORDS HAS BEEN MADE BY THE SIGNING SURVEYOR.

SHEET NO. 2 OF 2 DATE 201009-28	PROJECT: <b>PALM BEACH COUNTY                  WATER UTILITIES DEPARTMENT                  VACUUM STATION (PBA)</b>	NO. _____ REVISION _____ BY _____ DATE _____	PALM BEACH COUNTY ENGINEERING AND PUBLIC WORKS ENGINEERING SERVICES 2300 NORTH JOG ROAD WEST PALM BEACH, FL 33411
	DESIGN FILE NAME: S-1-10-3130.dgn DRAWING NO.: S-1-10-3130		



**EXHIBIT "B"**  
**TO MEMORANDUM OF UNDERSTANDING FOR PURCHASE AND SALE OF**  
**UTILITY EASEMENT**

**The Declaration**

Prepared by and return to:  
Laura Beebe, Deputy Director, Airports Business Affairs  
Palm Beach County Department of Airports  
846 Palm Beach International Airport  
West Palm Beach, FL 33406-1470

PCN: 00-43-43-30-00-000-5220 (a portion of)

**DECLARATION OF EASEMENT AND RESTRICTIVE COVENANTS**

**THIS DECLARATION OF EASEMENT AND RESTRICTIVE COVENANTS** (this "Declaration") is made this \_\_\_\_\_ by Palm Beach County, a political subdivision of the State of Florida ("County").

**WITNESSETH:**

**WHEREAS**, County is the owner and operator of the Palm Beach International Airport (hereinafter referred to as the "Airport"); and

**WHEREAS**, County is the owner of that certain real property situated in the County of Palm Beach, State of Florida, as more particularly described in **Exhibit "A"** (the "Easement Parcel"); and

**WHEREAS**, County desires to create an easement over, upon and under, and to impose restrictive covenants on, such Easement Parcel for the purposes set forth hereinafter; and

**WHEREAS**, County requested the Federal Aviation Administration ("FAA") to release the Easement Parcel from the terms, conditions, reservations and restrictions contained in all Grant Agreements between County and the FAA; and

**WHEREAS**, the FAA has agreed to release County from the terms, conditions, reservations and restrictions of the Grant Agreements applicable to the Easement Parcel upon the condition that County reserve a right of flight for the passage of aircraft in the airspace above the Easement Parcel and impose certain restrictions on the use of the Easement Parcel.

**NOW, THEREFORE**, County hereby declares that the Easement Parcel is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions and

easements hereinafter set forth, which shall constitute covenants running with the land and will be binding on all parties having any right, title or interest in the Easement Parcel.

1. The foregoing recitals are true and correct and are incorporated herein by reference.

2. County does hereby declare, grant and create a perpetual in gross utility easement for the benefit of County upon the Easement Parcel for the purpose of water and sewer utilities and shall include the right at any time to install, operate, maintain, service, construct, reconstruct, remove, relocate, repair, replace, improve, expand, tie into, and inspect potable water, reclaimed water and/or wastewater lines and appurtenant facilities and equipment in, on, over, under and across the Easement Parcel. The Easement Parcel or any portion thereof can be utilized for a wastewater pump station and said pump station may be fenced in for access control purposes.

3. County reserves unto itself, its successors and assigns, for the use and benefit of the public and the Airport, a right of flight for the passage of aircraft in the airspace above the surface of the Easement Parcel, together with the right to cause in said airspace such noise as may be inherent in the operations of aircraft, now known or hereafter used, for navigation of or flight in said airspace, for use of said airspace for landing on, or taking off from or operating on the Airport.

4. County expressly agrees for itself, its successors and assigns to restrict the height of structures, objects of natural growth and other obstructions on the Easement Parcel to such a height so as to comply with Federal Aviation Regulations, Part 77, as now or hereafter amended. Objects of natural growth include, without limitation, trees and other vegetation.

5. County expressly agrees for itself, its successors and assigns to prevent any use of the Easement Parcel which would interfere with the landing or takeoff of aircraft at the Airport or interfere with air navigation and/or communication facilities serving the Airport, or otherwise constitute an airport hazard.

6. County expressly agrees for itself, its successors and assigns that the Easement Parcel only be used for purposes that are compatible with noise levels generated by aircraft using the Airport. The Easement Parcel shall not be used for educational facilities or residential purposes, which purposes include, without limitation, single family and multi-family residential structures, and mobile homes. The prohibition against use of the Easement Parcel for educational facilities includes, without limitation, a prohibition against use of the Easement Parcel for daycare or preschool facilities.

7. The use of the Easement Parcel shall be in compliance with all FAA laws, rules, regulations, orders and advisory circulars, as now or hereafter amended, including, without limitation, AC 150/5200-33A, "Hazardous Wildlife Attractants on or Near Airports".

8. County expressly agrees for itself and its successors and assigns, that the Easement Parcel shall not be considered, administered or designated as a public park, recreation area or wildlife and waterfowl refuge, now or in the future.

9. In order to ensure the perpetual nature of the easements, covenants and restrictions contained in this Declaration, County expressly agrees for itself, its successors and assigns that the restrictions contained in this Declaration shall be referenced in any subsequent instruments of conveyance granting an interest in the Easement Parcel, including, without limitation, deeds and grants of easement interests. The recording book and page of record of this Declaration shall be included in all instruments of conveyance granting an interest in the Easement Parcel.

10. The easements created and reserved hereby shall not be extinguished by operation of law, including, without limitation, the doctrines of merger or unity of title and shall inure to the benefit of County and run with the land and encumber and burden the Easement Parcel upon the conveyance thereof by County.

11. County expressly agrees for itself, its successors and assigns, to be bound by and to observe and comply with all restrictions, covenants, conditions and obligations contained herein. "Successors and assigns" as used herein, includes, without limitation, invitees, permittees and others who may use or be upon the Easement Parcel, and/or their respective officers, agents and employees.

12. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions hereof. All such other provisions shall continue unimpaired in full force and effect.

13. The provisions of this Declaration may be amended only by written instrument executed by County and any amendments shall be subject to approval of the FAA.

(remainder of page intentionally left blank)

IN WITNESS WHEREOF, the County has executed this Declaration on the date set forth hereinabove.

**ATTEST:**  
**Sharon R. Bock**  
**Clerk & Comptroller**

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

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
, Chair

Signed and delivered  
in the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Witness Name

**APPROVED AS TO FORM AND**  
**LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS AND**  
**CONDITIONS**

By: \_\_\_\_\_  
County Attorney

By: \_\_\_\_\_  
Director, Department of Airports

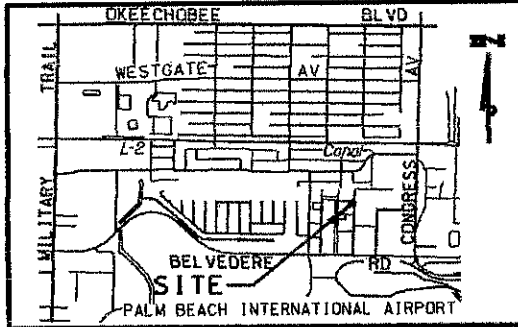


**EXHIBIT "A"**

**TO DECLARATION OF EASEMENT AND RESTRICTIVE COVENANTS**

**Easement Parcel**

SECTION 30, TOWNSHIP 43 SOUTH, RANGE 43 RANGE



**LOCATION MAP (NOT TO SCALE)**

**LEGAL DESCRIPTION**

A PARCEL OF LAND FOR UTILITY EASEMENT PURPOSES, LYING IN A PORTION OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 30; THENCE NORTH 88°22'59" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 30, A DISTANCE OF 1342.09 FEET TO THE SOUTHERLY EXTENSION OF THE EAST RIGHT-OF-WAY LINE 5TH STREET AS RECORDED IN ROAD BOOK 4, PAGE 132 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 01°37'56" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1557.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 25.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 39.27 FEET TO THE POINT OF TANGENCY AND THE SOUTH RIGHT-OF-WAY LINE OF SAID 5TH STREET; THENCE SOUTH 88°22'04" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 322.95 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 88°22'04" EAST ALONG SAID RIGHT OF WAY A DISTANCE OF 98.00 FEET TO THE WEST LINE OF A 40.00 FOOT DRAINAGE EASEMENT DESCRIBED IN OFFICIAL RECORD BOOK 6085, PAGE 143 OF SAID PUBLIC RECORDS; THENCE SOUTH 01°27'23" WEST ALONG SAID WEST LINE OF THE 40.00 FOOT DRAINAGE EASEMENT, A DISTANCE OF 110.00 FEET; THENCE NORTH 88°22'04" WEST, A DISTANCE OF 98.00 FEET; THENCE NORTH 01°27'23" EAST, A DISTANCE OF 110.00 FEET TO THE POINT OF BEGINNING.

EASEMENT CONTAINS 10,780 SQUARE FEET OR 0.2475 ACRES MORE OR LESS.

BEARINGS ON THIS SURVEY ARE BASED ON A GRID (NAD 83/90) BEARING OF NORTH 88°22'59" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA AND ALL OTHER BEARINGS ARE RELATIVE THERETO.

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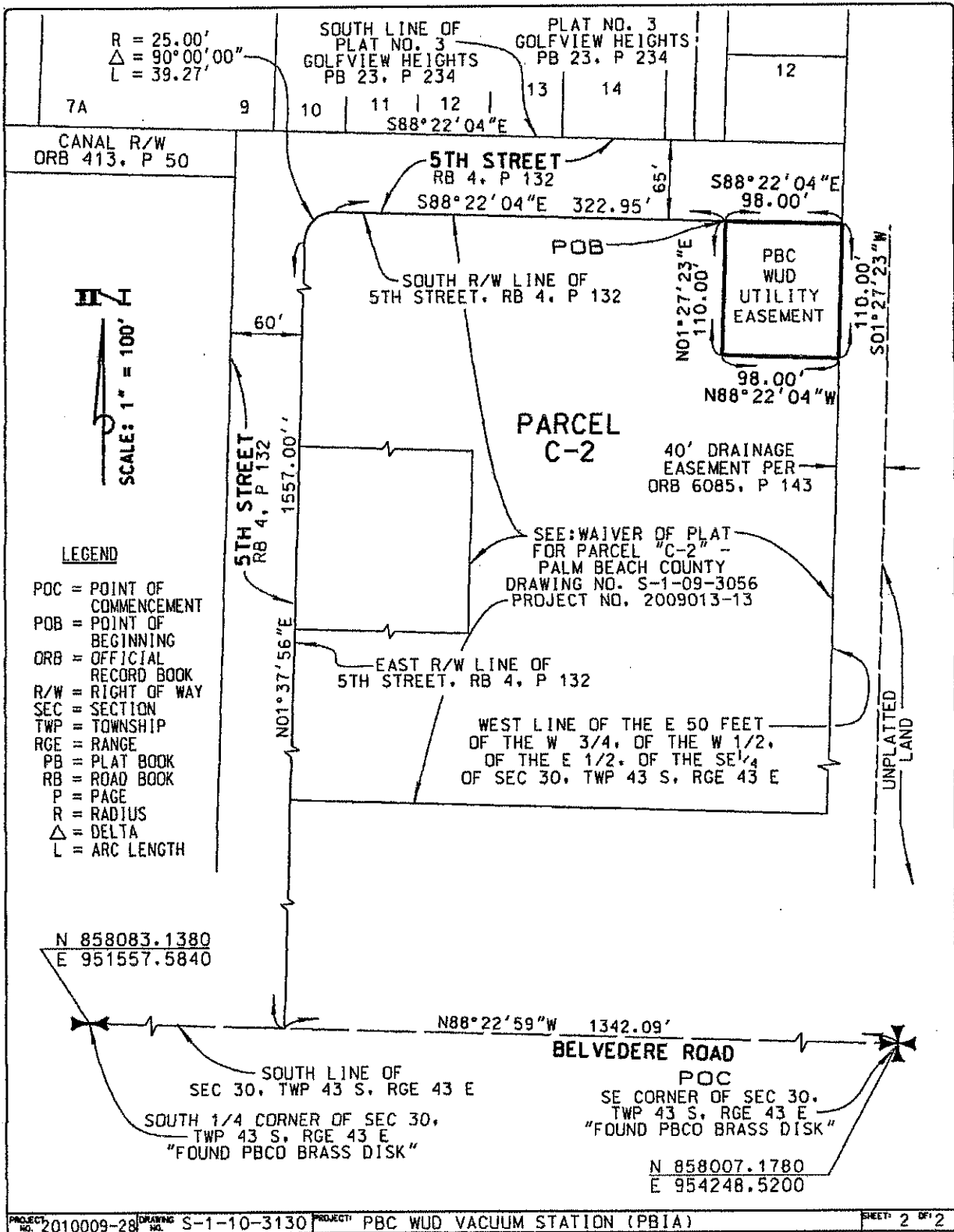
THIS INSTRUMENT PREPARED BY NORMAN J. HOWARD, P.S.M. IN THE OFFICE OF THE COUNTY ENGINEER @ VISTA CENTER, 2300 NORTH JOG ROAD, WEST PALM BEACH, FLORIDA 33411-2745.

*N. J. Howard*  
 NORMAN J. HOWARD, P.S.M.  
 FLORIDA CERTIFICATE # 5776

7-9-2010  
 DATE

NO SEARCH OF THE PUBLIC RECORDS HAS BEEN MADE BY THE SIGNING SURVEYOR.

SHEET NO. 2 20100909-28	PROJECT: <b>PALM BEACH COUNTY                  WATER UTILITIES DEPARTMENT                  VACUUM STATION (PB1A)</b>	SCALE: 1"=100' DRAWN BY: J.A.H. CHECKED BY: N.J.H. DATE: 07/08/10	NO. 1	REVISION 1	BY J.A.H.	DATE 7/9/10
	DESIGN FILE NAME S-1-10-3130.dgn		DRAWING NO. S-1-10-3130	PALM BEACH COUNTY ENGINEERING AND PUBLIC WORKS ENGINEERING SERVICES 2500 NORTH JOG ROAD WEST PALM BEACH, FL 33411		



Prepared by and return to:  
Laura Beebe, Deputy Director, Airports Business Affairs  
Palm Beach County Department of Airports  
846 Palm Beach International Airport  
West Palm Beach, FL 33406-1470

PCN: 00-43-43-30-00-000-5220 (a portion of)

## DECLARATION OF EASEMENT AND RESTRICTIVE COVENANTS

**THIS DECLARATION OF EASEMENT AND RESTRICTIVE COVENANTS** (this "Declaration") is made this \_\_\_\_\_ by Palm Beach County, a political subdivision of the State of Florida ("County").

### WITNESSETH:

**WHEREAS**, County is the owner and operator of the Palm Beach International Airport (hereinafter referred to as the "Airport"); and

**WHEREAS**, County is the owner of that certain real property situated in the County of Palm Beach, State of Florida, as more particularly described in **Exhibit "A"** (the "Easement Parcel"); and

**WHEREAS**, County desires to create an easement over, upon and under, and to impose restrictive covenants on, such Easement Parcel for the purposes set forth hereinafter; and

**WHEREAS**, County requested the Federal Aviation Administration ("FAA") to release the Easement Parcel from the terms, conditions, reservations and restrictions contained in all Grant Agreements between County and the FAA; and

**WHEREAS**, the FAA has agreed to release County from the terms, conditions, reservations and restrictions of the Grant Agreements applicable to the Easement Parcel upon the condition that County reserve a right of flight for the passage of aircraft in the airspace above the Easement Parcel and impose certain restrictions on the use of the Easement Parcel.

**NOW, THEREFORE**, County hereby declares that the Easement Parcel is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions and easements hereinafter set forth, which shall constitute covenants running with the land and will be binding on all parties having any right, title or interest in the Easement Parcel.

1. The foregoing recitals are true and correct and are incorporated herein by reference.

2. County does hereby declare, grant and create a perpetual in gross utility easement for the benefit of County upon the Easement Parcel for the purpose of water and sewer utilities and shall include the right at any time to install, operate, maintain, service, construct, reconstruct, remove, relocate, repair, replace, improve, expand, tie into, and inspect potable water, reclaimed water and/or wastewater lines and appurtenant facilities and equipment in, on, over, under and

across the Easement Parcel. The Easement Parcel or any portion thereof can be utilized for a wastewater pump station and said pump station may be fenced in for access control purposes.

3. County reserves unto itself, its successors and assigns, for the use and benefit of the public and the Airport, a right of flight for the passage of aircraft in the airspace above the surface of the Easement Parcel, together with the right to cause in said airspace such noise as may be inherent in the operations of aircraft, now known or hereafter used, for navigation of or flight in said airspace, for use of said airspace for landing on, or taking off from or operating on the Airport.

4. County expressly agrees for itself, its successors and assigns to restrict the height of structures, objects of natural growth and other obstructions on the Easement Parcel to such a height so as to comply with Federal Aviation Regulations, Part 77, as now or hereafter amended. Objects of natural growth include, without limitation, trees and other vegetation.

5. County expressly agrees for itself, its successors and assigns to prevent any use of the Easement Parcel which would interfere with the landing or takeoff of aircraft at the Airport or interfere with air navigation and/or communication facilities serving the Airport, or otherwise constitute an airport hazard.

6. County expressly agrees for itself, its successors and assigns that the Easement Parcel only be used for purposes that are compatible with noise levels generated by aircraft using the Airport. The Easement Parcel shall not be used for educational facilities or residential purposes, which purposes include, without limitation, single family and multi-family residential structures, and mobile homes. The prohibition against use of the Easement Parcel for educational facilities includes, without limitation, a prohibition against use of the Easement Parcel for daycare or preschool facilities.

7. The use of the Easement Parcel shall be in compliance with all FAA laws, rules, regulations, orders and advisory circulars, as now or hereafter amended, including, without limitation, AC 150/5200-33A, "Hazardous Wildlife Attractants on or Near Airports".

8. County expressly agrees for itself and its successors and assigns, that the Easement Parcel shall not be considered, administered or designated as a public park, recreation area or wildlife and waterfowl refuge, now or in the future.

9. In order to ensure the perpetual nature of the easements, covenants and restrictions contained in this Declaration, County expressly agrees for itself, its successors and assigns that the restrictions contained in this Declaration shall be referenced in any subsequent instruments of conveyance granting an interest in the Easement Parcel, including, without limitation, deeds and grants of easement interests. The recording book and page of record of this Declaration shall be included in all instruments of conveyance granting an interest in the Easement Parcel.

10. The easements created and reserved hereby shall not be extinguished by operation of law, including, without limitation, the doctrines of merger or unity of title and shall inure to the benefit of County and run with the land and encumber and burden the Easement Parcel upon the conveyance thereof by County.

11. County expressly agrees for itself, its successors and assigns, to be bound by and to observe and comply with all restrictions, covenants, conditions and obligations contained herein. "Successors and assigns" as used herein, includes, without limitation, invitees, permittees and others who may use or be upon the Easement Parcel, and/or their respective officers, agents and employees.

12. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions hereof. All such other provisions shall continue unimpaired in full force and effect.

13. The provisions of this Declaration may be amended only by written instrument executed by County and any amendments shall be subject to approval of the FAA.

(remainder of page intentionally left blank)

IN WITNESS WHEREOF, the County has executed this Declaration on the date set forth hereinabove.

**ATTEST:**  
**Sharon R. Bock**  
**Clerk & Comptroller**

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

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
, Chair

Signed and delivered  
in the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Witness Name

**APPROVED AS TO FORM AND**  
**LEGAL SUFFICIENCY**

By: \_\_\_\_\_  
County Attorney

**APPROVED AS TO TERMS AND**  
**CONDITIONS**

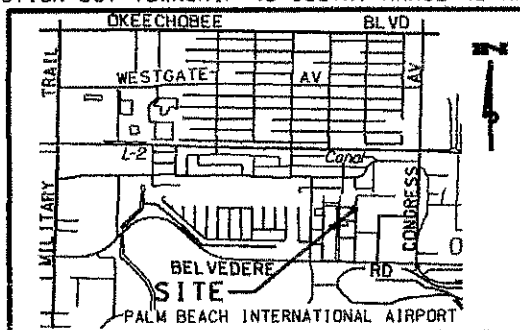
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**EXHIBIT "A"**

**TO DECLARATION OF EASEMENT AND RESTRICTIVE COVENANTS**

**Legal Description of the Easement Parcel**

SECTION 30, TOWNSHIP 43 SOUTH, RANGE 43 RANGE



**LEGAL DESCRIPTION**

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 ALL DISTANCES ARE GROUND.  
 PROJECT SCALE FACTOR = 1.000043050  
 GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE

THIS INSTRUMENT PREPARED BY NORMAN J. HOWARD, P.S.M. IN THE OFFICE OF THE COUNTY ENGINEER @ VISTA CENTER, 2300 NORTH JOG ROAD, WEST PALM BEACH, FLORIDA 33411-2745.

*Norman J. Howard*  
 NORMAN J. HOWARD, P.S.M. DATE: 7-9-2010  
 FLORIDA CERTIFICATE # 5776

NO SEARCH OF THE PUBLIC RECORDS HAS BEEN MADE BY THE SIGNING SURVEYOR.

PROJECT NO.  
2010009-28

PROJECT: **PALM BEACH COUNTY WATER UTILITIES DEPARTMENT VACUUM STATION (PB1A)**  
 DESIGN FILE NAME: S-1-10-3130.dgn  
 DRAWING NO.: **S-1-10-3130**

NO.	REVISION	BY	DATE

**PALM BEACH COUNTY ENGINEERING AND PUBLIC WORKS ENGINEERING SERVICES**  
 2300 NORTH JOG ROAD  
 WEST PALM BEACH, FL 33411

**RESOLUTION NO.**

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA; DETERMINING THAT CERTAIN REAL PROPERTY LOCATED ON THE PALM BEACH INTERNATIONAL AIRPORT IS NOT NECESSARY FOR AIRPORT PURPOSES; THAT THE DISPOSITION OF SUCH PROPERTY BY THE COUNTY SHALL NOT IMPAIR THE OPERATING EFFICIENCY OF THE AIRPORT SYSTEM OR REDUCE THE REVENUE-PRODUCING CAPABILITY OF THE AIRPORT SYSTEM; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Palm Beach County Airport System Revenue Bond Resolution, dated April 3, 1984 (R-84-1659), as amended and supplemented (the "Bond Resolution"), the County has issued Airport System Revenue Bonds; and

**WHEREAS**, in order to dispose of real property existing as part of the Airport System (as defined in the Bond Resolution), Section 708 of the Bond Resolution requires the County to make a determination that such real property is not necessary, useful or profitable in the operation of the Airport System; and

**WHEREAS**, the Water Utilities Department desires to use certain real property located on property that is part of the Airport System, as more particularly described on Exhibit "A", attached hereto and made a part hereof (hereinafter collectively referred to as the "Easement Parcel"), for water utilities purposes, which real property is currently part of the Airport System; and

**WHEREAS**, the Board of County Commissioners of Palm Beach County is satisfied that the Easement Parcel is required for general County purposes and is not necessary, useful or profitable in the operation of the Airport System; and

**WHEREAS**, the Department of Airports will receive payment of consideration from the Facilities Development and Operations Department (\$100,000.00) and the Water Utilities Department (\$34,750.00) in the amount of One Hundred Thirty-Four Thousand, Seven Hundred and Fifty Dollars (\$134,750.00), in exchange for the Easement Parcel, which constitutes fair and reasonable value for the Easement Parcel.

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

**Section 1.** The foregoing recitals are true and correct and incorporated herein by reference.

**Section 2.** The Board of County Commissioners of Palm Beach County hereby determines that: (a) the Easement Parcel is not necessary, useful or profitable in the operation of the Airport System; (b) the declaration of a utility easement over, upon and under the Easement Parcel will not impair the operating efficiency of the Airport System or reduce the revenue-producing capability of the Airport System; and (c) the consideration to be paid to the Department of Airports by the Facilities Development and Operations Department and the Water Utilities Department constitutes fair and reasonable value for the Easement Parcel.



**Section 3.** The provisions of this Resolution shall be effective immediately upon adoption hereof.

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 -
- Commissioner Shelley Vana -
- Commissioner Paulette Burdick -
- Commissioner Steven L. Abrams -
- Commissioner Burt Aaronson -
- Commissioner Jess R. Santamaria -
- Commissioner Priscilla A. Taylor -


The Chairman thereupon declared the Resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

SHARON R. BOCK, CLERK & COMPTROLLER

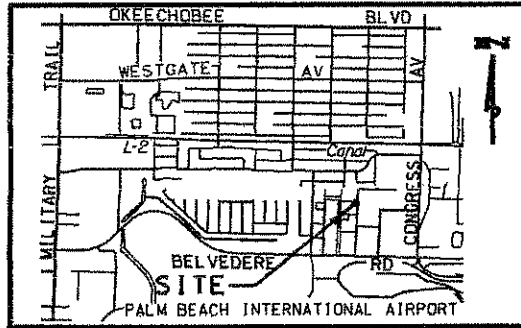
By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:  \_\_\_\_\_  
Assistant County Attorney

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*N. Howard*  
 NORMAN J. HOWARD, P.S.M.  
 FLORIDA CERTIFICATE # 5776

*7-7-2016*  
 DATE

NO SEARCH OF THE PUBLIC RECORDS HAS BEEN MADE BY THE SIGNING SURVEYOR.

PROJECT NO. 2010009-28 SHEET 1 OF 2	PROJECT <b>PALM BEACH COUNTY                  WATER UTILITIES DEPARTMENT                  VACUUM STATION (PB1A)</b>	SCALE: 1"=100' APPROPRIATE FOR: DESIGN: E.A.C.H. CHECKED: G.W.M.M.C. DATE: 07/06/16	NO.	REVISION	BY DATE	PALM BEACH COUNTY ENGINEERING AND PUBLIC WORKS ENGINEERING SERVICES 2500 NORTH JOG ROAD WEST PALM BEACH, FL 33411
	DESIGN FILE NAME S-1-10-3130.dgn		DRAWING NO. S-1-10-3130	NO.	REVISION	

