

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: May 17, 2016

☒ **Consent**

☐ **Regular**

☐ **Workshop**

☐ **Public Hearing**

Department:

Submitted By: Engineering and Public Works

Submitted For: Right-of-Way Section

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a consent to easement agreement (Agreement) with the United States of America, Department of the Army (DOA) for the Palmetto Park Road Bridge over Intracoastal Waterway, Project No. 2013607 (Project).

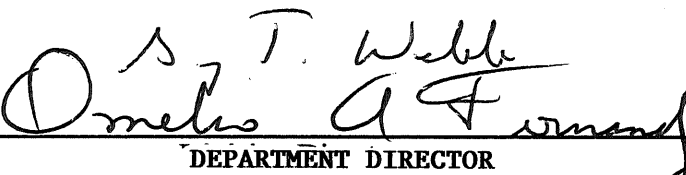

SUMMARY: Approval of the Agreement will allow Palm Beach County (County) to work within the DOA easement to make repairs to the bridge and replace the existing bridge fender system associated with the DOA Permit No. SAJ-2015-03763. As part of the permit process, the County is required to obtain permission to use said easement for construction, improvement, and maintenance of the bridge.

District 4 (MRE)

Background and Justification: The Project was adopted in the annual update of the Five Year Road Program for Fiscal Year 2016 through Fiscal Year 2020 on December 15, 2015. As part of the DOA permit process, the County is required to obtain permission to use the DOA easement for construction, improvement, and maintenance of the bridge in, on, across, over, and under a portion of the lands identified as Tract Nos. 908 and 909, Section 29, Township 47 South, Range 43 East in Palm Beach County, Florida.

Attachments:

1. Consent to easement agreement with Exhibit "A" and Exhibit "B" (2 originals)

Recommended by:  4/12/16 
DEPARTMENT DIRECTOR Date

Approved by:  4/24/16
ASSISTANT COUNTY ADMINISTRATOR Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
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-
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes No

Budget Acct No.: Fund__ Dept.__ Unit__ Object
Program

Recommended Sources of Funds/Summary of Fiscal Impact:

**This item has no fiscal impact.

C. Departmental Fiscal Review: Alii Kovalainen

III. REVIEW COMMENTS

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

Sherry Brown
KP RD OFMB 4/18 4/19 4/11/16

Dr. J. Jacobson 4/21/16
Contract Dev. and Control
4/20/16 TD

B. Approved as to Form and Legal Sufficiency:

Assistant County Attorney

C. Other Department Review:

Department Director

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

**DEPARTMENT OF THE ARMY
CONSENT TO EASEMENT
TO USE CORPS OF ENGINEERS RIGHT-OF-WAY**

Consent No. DACW17-9-16-0097
Project: Intracoastal Waterway,
Jacksonville to Miami,
Palm Beach County, Florida
Tract Nos. 908 and 909

THIS CONSENT TO EASEMENT AGREEMENT, made by and between the **UNITED STATES OF AMERICA, DEPARTMENT OF THE ARMY**, hereinafter referred to as the "Government", acting by and through the District Chief of Real Estate, Real Estate Contracting Officer, U.S. Army Corps of Engineers, Jacksonville District, hereinafter referred to as "said officer," and **PALM BEACH COUNTY, FLORIDA** hereinafter referred to as the "Grantee":

WHEREAS, the Government has acquired a right-of-way easement over the above-numbered tracts of land, which easement, by its terms, reserves to the Government, in perpetuity, the right to use said easement for the construction, improvement, and maintenance of the Intracoastal Waterway, Jacksonville to Miami Project, Palm Beach County, Florida; and

WHEREAS, the Grantee has requested permission to construct, use, maintain, repair, remove, and replace a bridge in, on, across, over, and under a portion of the lands identified as Tract Nos. 908 and 909, Section 29, Township 47 South, Range 43 East, Palm Beach County, Florida. The area comprising 0.70 of an acre, more or less, is shown in red on Exhibit "A" attached hereto and made a part hereof.

NOW THEREFORE, this consent is granted and accepted under the following conditions:

1. That it is understood that this consent is effective only insofar as the property rights of the Government in the land to be occupied are concerned and that it does not relieve the Grantee from the necessity of obtaining grants from the owners of the fee and/or other interests, therein, and does not obviate the requirement that the Grantee obtain State or local assent required by law for the activity authorized herein.
2. That any proposed improvements or use authorized herein shall not be commenced until appropriate rights have been obtained by the Grantee from the record owners and encumbrancers of the fee title to the lands involved, or until the Grantee has obtained all Federal, State, or local permits required by law.
3. That the proposed improvements or use authorized herein shall be consistent with the terms and conditions of this consent; and that any improvements or use not specifically identified and authorized shall constitute a violation of the terms and conditions of this consent which may result in a revocation of this consent and in the

institution of such legal proceedings as the Government may consider appropriate, whether or not this consent has been revoked or modified.

4. That the exercise of the privileges hereby consented to shall be without cost or expense to the Government and under the supervision of and subject to the approval of the said officer having immediate jurisdiction over the property and subject to such regulations as he may from time to time prescribe, including, but not limited to, the specific conditions, requirements, and specifications set forth in paragraph 14 below.

5. That the Grantee shall supervise and maintain the said improvements and cause it to be inspected at reasonable intervals, and shall immediately repair any damage found therein as a result of such inspection, or when requested by said officer to repair any defects. Upon completion of the installation of said improvements or the making of any repairs thereto, the premises shall be restored immediately by the Grantee, at the Grantee's own expense, to the same condition as that in which they existed prior to the commencement of such work, to the satisfaction of said officer.

6. That any property of the Government damaged or destroyed by the Grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Grantee to the satisfaction of the said officer, or in lieu of such repair or replacement, the Grantee shall, if so required by said officer and at his option, pay to the Government an amount sufficient to compensate for the loss sustained by the Government by reason of damage to or destruction of Government property.

7. That the Government shall not be responsible for damages to the property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Grantee, or for damages to the property or injuries to the person of the Grantee, or the persons of the Grantee's officers, agents, servants, or employees, or others who may be on said premises at the invitation of the Grantees or the invitation of one of them, arising from Governmental activities on or in the vicinity of the said premises, and the Grantee shall hold the Government harmless from any and all claims to the extent allowed by law.

8. That the Government shall in no case be liable for any damage, either hidden or known, to any improvements herein authorized which may be caused by any action of the Government, under the rights obtained in its easements, or that may result from the future operations undertaken by the Government, and no claim or right to compensation shall accrue from such damage, and if further operations of the Government require the alteration or removal of any improvements herein authorized, the Grantees shall, upon due notice, from said officer, alter or remove said improvements without expense to the Government and subject to the supervision and approval of the said officer and no claim for damages shall be made against the Government on account of such alterations or removal.

9. That construction and/or operation, maintenance, and use of any improvements incident to the exercise of the privileges herein granted shall be in such a manner as not to conflict with the rights of the Government, nor to interfere with the operations by the Government under such rights nor to endanger lives and safety of the public.

10. That this consent may be terminated by the Government or said officer upon reasonable notice to the Grantee if the Government or said officer shall determine that any improvements or use to which consent is herein granted interferes with the use of said land or any part thereof by the Government, and this consent may be annulled and forfeited by the declaration of the Government or said officer for failure to comply with any or all of the provisions and conditions of this consent, or for nonuse for a period of two (2) years, or for abandonment.

11. That upon relinquishment, termination, revocation, forfeiture, or annulment of this consent, the Grantee shall vacate the premises, remove all property of the Grantee therefrom, and restore the premises to a condition satisfactory to the said officer. If the Grantee shall fail or neglect to remove the said property and so restore the premises, then at the option of the Government or said officer, the said property shall either become the property of the Government without compensation therefor, or the Government or said officer, may cause it to be removed, and the premises to be so restored at the expense of the Grantee, and no claim for damages against the Government, or its officer or agents, shall be created by or made on account of such removal and restoration.

12. That the Grantee within the limits of its respective legal powers shall comply with all Federal, interstate, State, and/or local governmental regulations, conditions, or instructions for the protection of the environment and all other matters as they relate to real property interests granted herein.

13. That the Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural, or other cultural artifacts, relics, vestiges, remains, or objects of antiquity. In the event such items are discovered on the premises, the Grantee shall immediately notify the District Engineer, Jacksonville District, Post Office Box 4970, Jacksonville, Florida 32232-0019, and the site and the material shall be protected by the Grantee from further disturbance until a professional examination of them can be made or until a clearance to proceed is authorized by the District Engineer.

14. That construction shall be in accordance with the drawings attached hereto and made a part hereof as Exhibit "B" and with Department of the Army Permit No. SAJ-2012-03763, incorporated herein by reference. That no additional structures shall be constructed waterward of the Government's right-of-way line and that any structures currently within the right-of-way must be removed by the Grantee, at Grantee's expense, if future needs of the Government so require.

15. That this consent may not be transferred to a third party without the prior written notice to the Chief, Real Estate Division, U.S. Army Corps of Engineers, Jacksonville District, Post Office Box 4970, Jacksonville, Florida 32232-0019, and by the transferee's written agreement to comply with and be bound by all the terms and conditions of this consent. In addition, if the Grantee transfers the improvements authorized herein by conveyance of realty, the deed shall reference this consent and the terms and conditions herein and the consent shall be recorded along with the deed in the Registrar of Deeds or with other appropriate official.

This consent is not subject to Title 10, United States Code, Section 2662.

IN WITNESS WHEREOF, I have hereunto set my hand, by authority of the Secretary of the Army, this _____ day of _____ 2016.

UNITED STATES OF AMERICA

BY: _____
AUDREY C. ORMEROD
District Chief of Real Estate
Real Estate Contracting Officer
U. S. Army Engineer District
Jacksonville, Florida

AGREED TO AND ACCEPTED


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

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

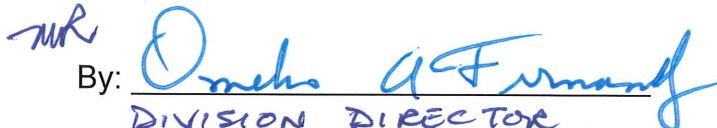
By: _____

By: _____

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

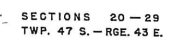

DIVISION DIRECTOR

CERTIFICATE OF AUTHORITY

I, _____, certify that I am the
Deputy Clerk _____ of the Board of County Commissioners, Palm Beach County,
Florida; that _____ who signed the foregoing
instrument on behalf of the Grantee was then the _____ of Palm Beach
County Board of County Commissioners. I further certify that the said officer was acting
within the scope of powers delegated to this officer by the governing board of the
Grantee in executing said instrument.

Date: _____

(Signature)

[illegible][illegible]

DEPARTMENT OF THE ARMY OFFICE OF THE JACKSONVILLE DISTRICT ENGINEER SOUTH ATLANTIC DIVISION	
DRAWN BY: <u> </u> CHECKED BY: <u>C. H. H.</u> ORDERED BY: <u>A. S. S.</u>	REAL ESTATE INTRACOASTAL WATERWAY JACKSONVILLE TO MIAMI
AUTHORIZED BY: <u> </u> SUPERVISOR: <u> </u> RECOMMENDED BY: <u> </u>	DATE: <u>10/21/1931</u> OFFICE OF THE DISTRICT ENGINEER, JACKSONVILLE, FLORIDA DISTRICT OF ENGINEERS, WASHINGTON 25, D. C.

五、上、中、下、

Attachment A: Project Maps and Drawings

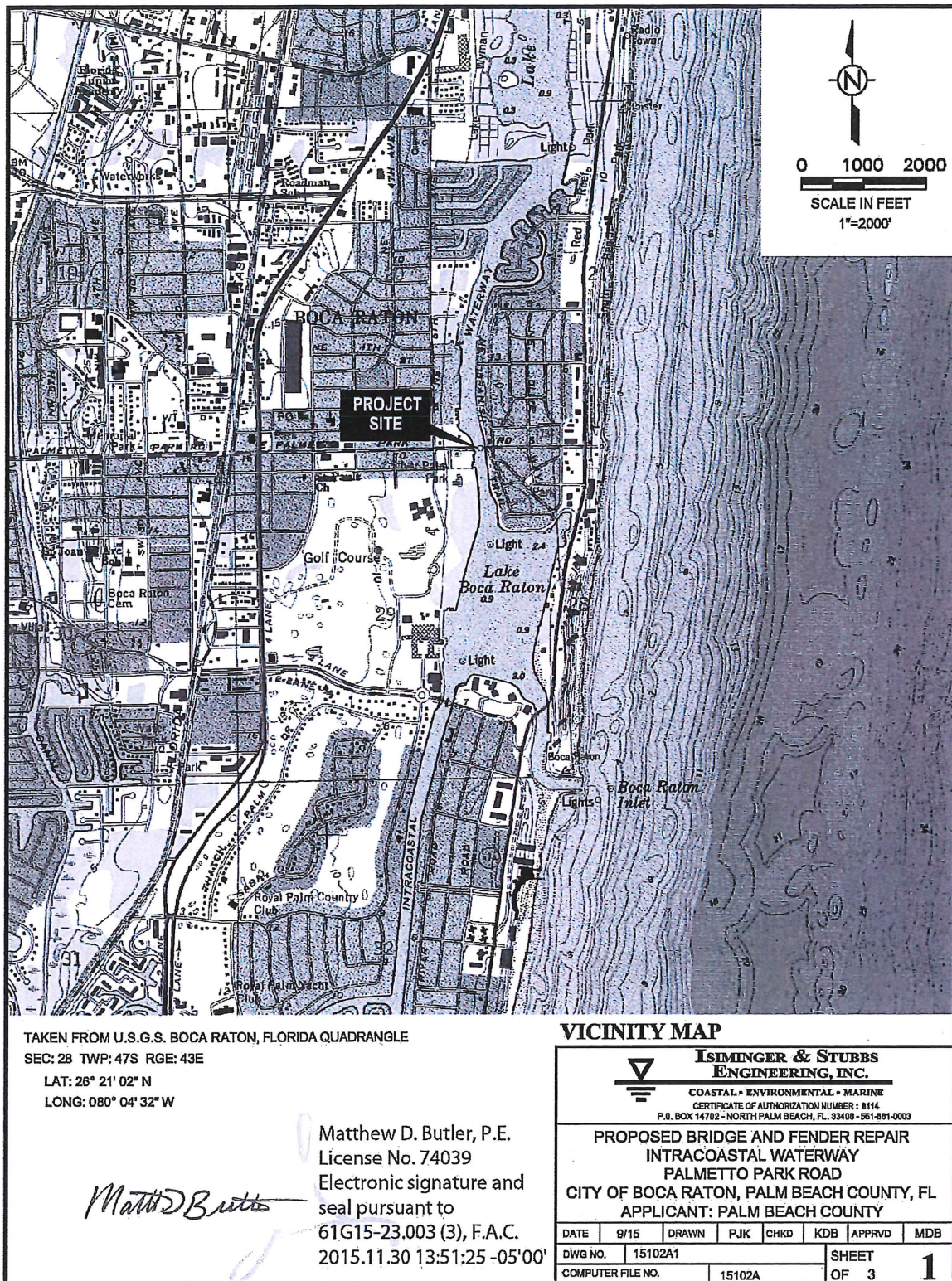


EXHIBIT "B"

