50-1 Agenda Item #:

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date:	October 8, 2019	[] Consent [] Ordinance	[X] Regular [] Public Hearing	
Department:	Facilities Developme	nt & Operations		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Street Light Easement in favor of the City of West Palm Beach (City), for the installation of streetlights along the western boundary of the Judicial Center Parking Garage in West Palm Beach.

Summary: The City is proposing to install street lighting along the east and west sides of Rosemary Avenue, between Banyan Boulevard and 8th Street. The City is requesting an easement for the installation of street lighting along the western boundary of the Judicial Center Parking Garage. The easement area is approximately 10' wide by 507' long, containing approximately 2,510 square feet (0.06 acres). All street lighting improvements within the easement area will be installed and maintained by the City, at the City's expense. The County will grant the City a non-exclusive easement at no charge, since the street lighting will benefit the community. The easement will be recorded in the public records of Palm Beach County to document its existence and location. (**Property and Real Estate Management**) **District 7** (**HJF**)

Background & Policy Issues: On December 18, 2007 (R2007-2259 & R2007-2260), the County granted the City a sidewalk easement and utility easement along the western and northern boundary of the Judicial Center Parking Garage. Portions of the proposed street light easement will overlap with the existing sidewalk and utility easement along the western boundary of the Property.

Attachments:

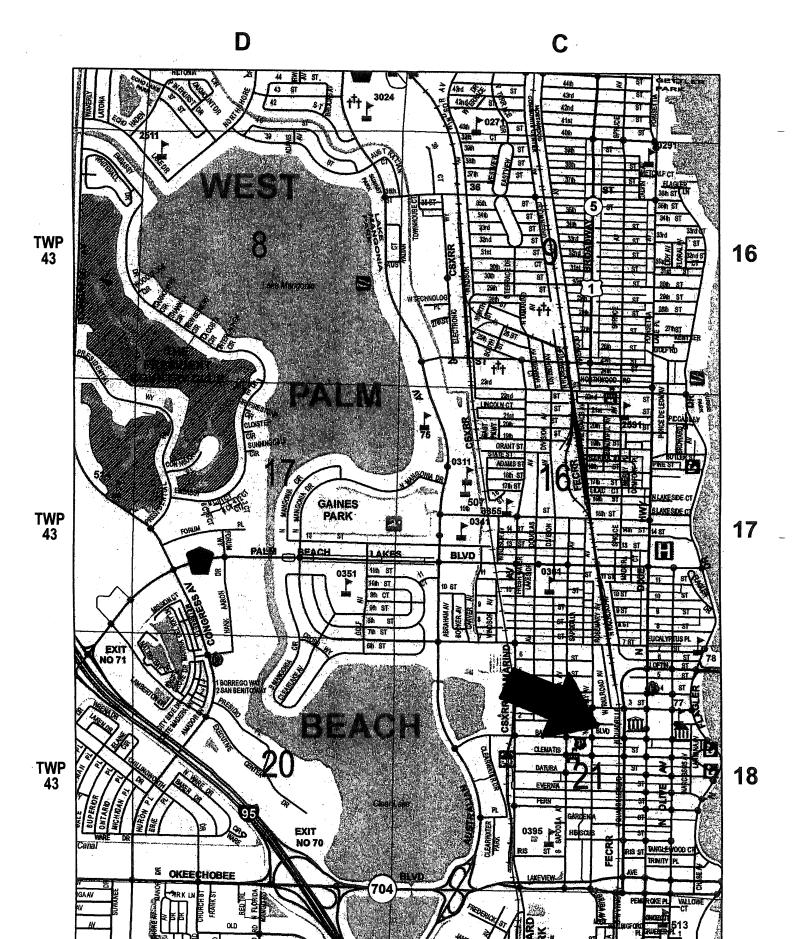
- 1. Location Map
- 2. Street Light Easement w/Exhibit "A" & "B"

Recommended By:	at Army Way	9/13/19	
	Department Director	Date	
Approved By:	llBaker	9/23/19	
	County Administrator	Date '	

II. FISCAL IMPACT ANALYSIS

A.	Five Year Summary	of Fiscal Impact				
Fise	cal Years	2020	2021	2022	2023	2024
Ope Ext Pro	pital Expenditures erating Costs ernal Revenues ogram Income (County Kind Match (County	 				
NE'	T FISCAL IMPACT				-	
	DDITIONAL FTE SITIONS (Cumulative					
Is I	tem Included in Curre	nt Budget: Yes		No		
Do	es this item include the	use of federal fu	nds? Yes	No _X	-	
Buc	lget Account No: F	und D Program _		Unit	_ Object _	
В.	Recommended Sour	ces of Funds/Sun	amary of Fis	cal Impact:		
	There is no financial	mpact to County	associated wi	th this item.		
	Fixed Asset Number	N/A	/	1		
C.	Departmental Fiscal	Review:	m Ly	Les		
		III. <u>REV</u>	IEW COMM	<u>IENTS</u>		
A.	OFMB Fiscal and/or	Contract Develo	opment Com	ments:		
	OFMB DC 9/19	1/19	Contract D	evelopment and	Control	120/19
В.	Legal Sufficiency: Assistant County Atto	9/23/19 orney		1/20/11	W	
C.	Other Department F	Review:				
	Department Director					

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



RNG 43 RNG 43

PREPARED BY AND RETURN TO: Marcel Pessoa, Real Estate Specialist Palm Beach County Property & Real Estate Management Division 2633 Vista Parkway West Palm Beach, Florida 33411-5605

PCN: 74-43-43-21-01-051-0010

STREET LIGHT EASEMENT

THIS IS AN EASEMENT made and entered into this __day of _____2019, between PALM BEACH COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners, having an address at 2633 Vista Parkway, West Palm Beach, Florida 33411-5605 ("County") and the CITY OF WEST PALM BEACH, a municipal corporation organized and existing under the laws of the State of Florida, whose address is P.O. Box 3366, West Palm Beach, Florida 33402 ("Grantee").

WITNESSETH:

WHEREAS, County owns the property described in Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter the "County Property"); and

WHEREAS, Grantee has requested that County grant Grantee a street light easement upon a portion of the County Property ("Easement"); and

WHEREAS, County has agreed to grant Grantee an Easement over the County Property as legally described in Exhibit "B" attached hereto and made a part hereof (the "Easement Premises").

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

- 1. <u>Recitals.</u> The foregoing recitals are true and correct and incorporated herein by reference.
- 2. <u>Grant of Easement.</u> County does hereby grant to Grantee, its successors and assigns, upon the conditions set forth herein, a perpetual non-exclusive easement in, on, over, under, through, and across the Easement Premises for access and to construct, install, maintain, repair, replace, improve, remove, and use for street lighting, underground conduit and wires, and other reasonable appurtenant equipment.
- 3. <u>Maintenance, Repair and Restoration.</u> Grantee shall be solely responsible for and shall, at all times, maintain in good condition and repair all improvements Grantee constructed within the Easement Premises pursuant to this Easement and restore the Easement Premises if necessary, at its sole cost and expense, unless said repairs are needed due to the acts of County

and/or its assigns. Grantee shall be solely responsible for and shall, at its own cost and expense, promptly repair any damage arising out of Grantee's exercise of the rights granted hereby and restore any improvements or landscaping now existing or constructed or installed hereinafter within the Easement Premises to the condition it was in prior to such damage, using materials of like kind and quality.

- 4. <u>No Dedication.</u> This Easement is for the use and benefit of Grantee and is not intended and shall not be construed as a dedication to the public of any portion of the Easement Premises for public use.
- 5. <u>Subject to Matters of Record.</u> This Easement is granted without warranty or representation and subject to zoning and other governmental restrictions, matters reflected on any plat relating to the Easement Premises, and all other easements, restrictions, conditions, encumbrances and other matters of record.
- 6. <u>County's Rights and Interest.</u> The grant of this Easement shall in no way restrict the right and interest of County in the use, maintenance and quiet enjoyment of the Easement Premises to the extent that such does not interfere with the rights granted hereby.
- 7. <u>Indemnification</u>. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees and agents thereof. Nothing herein shall be construed as an indemnity or a waiver of sovereign immunity enjoyed by either party as provided under Federal law or in section 768.28 Florida Statutes, as amended from time to time, or any other law providing limitations on claims. This section shall survive the termination of this Lease.
- 8. <u>Grantee Acceptance.</u> By Grantee's exercise of the rights granted by this instrument, Grantee acknowledges and agrees that the conditions imposed herein shall bind and be enforceable against Grantee to the same extent as if Grantee had physically executed this instrument.
- 9. <u>Insurance.</u> Grantee shall require all contractors to provide, maintain and keep in full force and effect General Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) general aggregate, bodily injury and property damage liability coverage, and Workers Compensation covering all employees in accordance with Chapter 440 Florida Statutes. The General Liability policy shall include coverage for the Easement Premises, Operations, Contractual Liability, Independent Contractors Contractual Liability, and Broad Form Property Damage Liability coverages. In addition, contractor shall maintain Business Automobile Liability at a limit of liability not less than \$1,000,000 Each Occurrence for all owned, non-owned and hired automobiles. In the event contractor does not own any automobiles, contractor shall maintain Hired & Non-Owned Auto Liability in such amount. Coverage shall be provided on a primary basis. Grantee shall cause any contractor or subcontractor performing work within the Easement Premises on behalf of Grantee to, at all times during the performance of such work, maintain in full force and effect insurance of the same type and amount as required herein.

Except for Workers Compensation, all insurance policies shall name County and Grantee as Additional Insured. Such insurance shall be issued by an insurance company licensed to do business in the State of Florida and approved by County.

All contractors shall provide a Certificate of Insurance evidencing such insurance coverage prior to the commencement of any work pursuant to this Easement, such Certificate shall require at least thirty (30) days prior notice of cancellation or adverse material change in coverage, to:

Palm Beach County Property & Real Estate Management Division Attention: Director 2633 Vista Parkway West Palm Beach, Florida 33411-5605

The required certificates must be signed by the authorized representative of the Insurance Company shown on the certificate.

In no event shall the limits of said insurance policies be considered as limiting the liability of Grantee under this Easement. Furthermore, Grantee shall and hereby does hold County harmless from any loss or damage incurred or suffered by County due to Grantee's failure to maintain such insurance.

- 10. <u>Protection of Improvements.</u> Grantee acknowledges that certain above ground and underground improvements have been constructed by County within the Easement Premises. Accordingly, Grantee covenants that it will protect all existing improvements and any improvements made by County in the future, including, but not limited to, water mains, irrigation pipes, storm water pipes, sanitary sewer pipes, electric service lines, telephone lines, lighting, fencing, trees, and landscaping.
- 11. <u>Extinguished by Abandonment.</u> If the Grantee, its successor or assigns, shall ever abandon the Easement granted hereby or cease to use the same, this Easement shall automatically terminate.
- 12. Approval of Plans, Notice, Permits. Grantee shall obtain from County and any other necessary governmental entities written approval of all plans relating to construction of any improvement within the Easement Premises prior to commencement of construction thereof. Grantee shall give County five (5) days written notice prior to commencement of construction. Grantee shall diligently perform all work hereunder to completion. Any improvements constructed pursuant to this Easement shall be constructed at Grantee's sole cost and expense within the confines of the Easement Premises in accordance with the approved plans and all permits related thereto and applicable statutes, codes, rules, regulations, and ordinances, shall be diligently pursued to completion, and shall be maintained in a presentable fashion.
- 13. <u>Not Subject to Liens.</u> Neither County's nor Grantee's interest in the Easement Premises, shall be subject to liens arising from Grantee's use of the Easement Premises, or exercise

of the rights granted hereunder. Grantee shall promptly cause any lien imposed against the Easement Premises, to be discharged or transferred to bond.

- 14. <u>Assignability.</u> This Easement may not be assigned by Grantee.
- 15. <u>Miscellaneous.</u> This Easement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Easement will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

No provision of this Easement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Easement, including but not limited to any citizen or employees of the County and/or Grantee.

No party shall be considered the author of this Easement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final agreement. Thus, the terms of this Easement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such holding shall not affect the remaining portions of this Easement and the same shall remain in full force and effect.

This Easement contains the entire understanding and agreement of the parties with respect to the subject matter hereof. No amendment shall be effective unless the same is in writing and signed by all parties.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

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

ATTEST:

SHARON R. BOCK CLERK & COMPTROLLER	PALM BEACH COUNTY, a political subdivision of the State of Florida		
By:	R_{V^*}		
Deputy Clerk	By: Mack Bernard, Mayor		
Witness Signature	_		
Print Witness Signature	_		
Witness Signature	_		
Print Witness Signature	-		
APPROVED AS TO FORM AND LEGAL SUFFICIENCY	APPROVED AS TO TERMS AND CONDITIONS		
	COMPITIONS		

G:\PREM\Dev\Open Projects\GG-Judicial Center Parking Garage.MJ\Street Light Easement.HF Approved 3-25-2019.docx

EXHIBIT "A" COUNTY PROPERTY

COMMENCE AT THE NORTHWEST CORNER OF LOT 11, BLOCK 30, OF SAID PLAT, MAP OF W.S. CLOW'S ADDITION TO THE TOWN OF WEST PALM BEACH FLORIDA, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 1 AT PAGE 60 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND RUN ON AN ASSUMED BEARING OF S89'59'43"E ALONG THE NORTH LINE OF SAID BLOCK 30 FOR A DISTANCE OF 302.26 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID NORTH LINE OF BLOCK 30 AND EASTERLY EXTENSION THEREOF, S89'59'43"E FOR A DISTANCE OF 188.19 FEET TO A POINT ON THE WESTERLY RIGHT—OF—WAY LINE OF A 100 FOOT RIGHT—OF—WAY OF THE FLORIDA EAST COAST RAILWAY AS NOW LAID OUT AND IN USE, SAID POINT BEING A POINT ON A NON TANGENT CURVE, SAID POINT BEARING \$84'58'00"W FROM THE RADIUS POINT OF THE NEXT DESCRIBED CURVE, THENCE RUN SOUTHERLY ALONG SAID WESTERLY RIGHT—OF—WAY LINE ALONG A CIRCULAR CURVE TO THE RIGHT AND CONCAVE TO THE WEST HAVING A RADIUS OF 2,913.72 FEET AND A CENTRAL ANGLE OF 04'41'09" FOR AN ARC DISTANCE OF 238.30 FEET TO A POINT OF TANGENCY, THENCE CONTINUE ALONG SAID WESTERLY RIGHT—OF—WAY LINE SOO'20'51"E FOR A DISTANCE OF 314.03 FEET, THENCE RUN N89'59'02"W ALONG A LINE PARALLEL WITH AND 33.00 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF BLOCK 51 OF SAID PLAT, MAP TO CORRECT FORMER PLAT OF BLOCKS 51, 52, 53, 54 WEST PALM BEACH, FLA, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 1 AT PAGE 38 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA FOR A DISTANCE OF 475.28 FEET TO THE NORTHERLY RIGHT—OF—WAY OF BANYAN BOULEVARD,

RECORDED IN OFFICIAL RECORD BOOK 5659, PAGE 1881 OF SAID PUBLIC RECORDS;
THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, N45'28'10"W FOR 21.08 FEET TO THE EAST RIGHT-OF-WAY OF ROSEMARY AVENUE, RECORDED IN OFFICIAL RECORD BOOK 9644, PAGE 1073, OF SAID PUBLIC RECORDS;

THENCE RUN NOO'20'41"W ALONG SAID EAST RIGHT-OF-WAY FOR A DISTANCE OF 497.06 FEET;

THENCE CONTINUE ALONG SAID RIGHT-OF-WAY, N44'50'13"E FOR 42.63 FEET TO THE SOUTH RIGHT-OF-WAY OF 3RD STREET, RECORDED IN SAID OFFICIAL RECORD BOOK 9644, PAGE 1073;

THENCE ALONG SAID SOUTH RIGHT-OF-WAY 589'57'14"E FOR 81.96 FEET;

THENCE CONTINUE ALONG SAID SOUTH RIGHT-OF-WAY, N86'51'27"E FOR 180.27 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION:

domenic, duri

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4: 55pm

May 22, 2019

PBC UTILITY EASEMENT - ROSEMARY AVE - 01

PBC.dwg

A PARCEL OF LAND LYING IN SECTION 21, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA BEING A PORTION OF BLOCK 30 AND BLOCK 51, OF THE PLAT OF W.S. CLOWS ADDITION TO THE TOWN OF WEST PALM BEACH, RECORDED IN PLAT BOOK 1, PAGE 60 IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE ADDITIONAL RIGHT-OF-WAY PARCEL FOR ROSEMARY AVENUE AND 3rd STREET AS RECORDED IN OFFICIAL RECORD BOOK 9644, PAGE 1073 OF SAID PUBLIC RECORDS; THENCE, BEARING NORTH 00°49'46" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 497.01 FEET TO A POINT; THENCE, CONTINUING ALONG SAID EAST LINE BEARING NORTH 46°05'21" EAST, A DISTANCE OF 7.04 FEET TO A POINT; THENCE, LEAVING SAID EAST LINE, BEARING SOUTH 00°49'46" WEST, A DISTANCE OF 507.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF BANYAN BLVD. AS RECORDED IN OFFICIAL RECORDS BOOK 5659, PAGE 1881 OF SAID PUBLIC RECORDS; THENCE, BEARING NORTH 44°00'02" WEST ALONG SAID NORTH LINE, A DISTANCE OF 7.09 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PREMISES CONTAIN AN AREA OF 2,510 SQUARE FEET OR 0.06 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS, CONDITIONS AND RESTRICTIONS AS CONTAINED WITHIN THE CHAIN OF TITLE

This certifies that a legal description and sketch of the property shown hereon was made under my supervision and that this legal description and sketch meets the standards of practice set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes, and that this drawing is a true and accurate representation thereof to the best of my knowledge and belief. Subject to notes and notations shown hereon.

E.C. DEMETER, P.S.M. NO. 5179

S-29-19

Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.

REVISION PER PBC COMMENTS DATED MAY 9, 2019 5/22/19

NWING DRIFF. K. VRB. SULVBY/144391058 - ROSEMARY AVE. AND BANYAN BLVD\CADD\UTILITY EASEMENT - PALM BEACH COUNTY - S&D - REV

THE COUNTY - S&D - REV

T

ECD

Kimley» Horn
© 2019 KIMLEY-HORN AND ASSOCIATES, INC.
445 24TH STREET, SUITE 200, VERO BEACH, FL 32960
PHONE: 772-794-4100 FAX: 772-794-4130
WWW.KIMLEY-HORN.COM

DATE 5/1/19

PROJECT NO. 144391058 EXHIBIT "B"
PALM BEACH COUNTY
EASEMENT
NORTH ROSEMARY AVENUE

1 of 3

SHEET NUMBER

