

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	June 2, 2020	<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Regular
		<input type="checkbox"/> Workshop	<input type="checkbox"/> Public Hearing
Department:	Engineering and Public Works		
Submitted By:	Engineering and Public Works		
Submitted For:	Roadway Production Division		

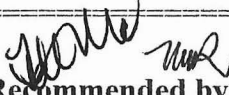

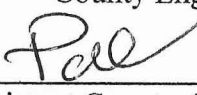
I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: a Resolution delegating authority to the County Administrator or designee to execute subordination of utility interests (Subordination) instruments associated with right-of-way conveyances from developers and property owners.

Summary: Adopting this Resolution will authorize the County Administrator or designee to execute developer funded Subordination instruments when a utility company is required to subordinate their easement interest associated with a right-of-way conveyance. Subordination instruments require the utility company to relocate any facilities it may have in the right-of-way, when and if requested by Palm Beach County (County); require the County to pay for reasonable relocation costs of said facilities; and are routine standard instruments that do not vary. Prior to the County processing a Subordination instrument, developers/property owners with development conditions are required to provide a payment to the County for those future relocation costs. Countywide (YBH)

Background and Justification: As part of a development process, property owners are frequently required to convey right-of-way, free and clear of encumbrances, to the County. During the title review of a proposed right-of-way conveyance, utility easements may be encountered. In order to resolve these encumbrances, Subordination instruments are prepared as identified in **Exhibit “A”** (Florida Power and Light Company), **Exhibit “B”** (Seacoast Utility Authority), **Exhibit “C”** (generic government utility template), **Exhibit “D”** (generic private utility template) and/or similar formats with minor modifications that do not change the intent of the original template. **Exhibits “A” and “B”** for the Florida Power and Light Company and the Seacoast Utility Authority have been negotiated to not include the indemnity provision associated with PPM CW-F-049. This has been reviewed by the County Attorney’s office and Risk Management. The timeframe associated with approval by the Board of County Commissioners (BCC) for these Subordination instruments often causes significant development delays for the property owner. The Engineering Department recommends that the BCC adopt the Resolution authorizing the County Administrator or designee to execute Subordination instruments on behalf of the BCC. This delegated authority will resolve utility encumbrances in right-of-way conveyances more expeditiously.

- Attachments:**
1. Resolution with Exhibits “A”, “B”, “C” & “D”

Recommended by:			7/10/2020
	County Engineer		Date
Approved by:			4/20/20
	Assistant County Administrator		Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
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	
Does this item include the use of federal funds?	Yes	No	X

Budget Account No:

Fund	Dept	Unit	Object
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Recommended Sources of Funds/Summary of Fiscal Impact:

****This item has no fiscal impact.**

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

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

[illegible]

Ar. J. Javabai
Contract Dev. and Control
2/24/2020 Tu
2/24/2020
4/16/2020
4-16-2020 Tu

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

M. A. Howard 2/26/2020
Assistant County Attorney

C. Other Department Review:

Department Director

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

RESOLUTION NO. R2020 - _____

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF
PALM BEACH COUNTY, FLORIDA, DELEGATING AUTHORITY TO
THE COUNTY ADMINISTRATOR OR DESIGNEE TO EXECUTE
SUBORDINATION OF UTILITY INTERESTS INSTRUMENTS
ASSOCIATED WITH RIGHT-OF-WAY CONVEYANCES FROM
DEVELOPERS AND PROPERTY OWNERS.**

WHEREAS, as part of a development process, a developer is frequently required to convey Right-of-Way to Palm Beach County (County) that is free and clear of encumbrances; and

WHEREAS, the County Engineer has delegated authority to accept Right-of-Way; and

WHEREAS, any utility easement within the proposed Right-of-Way is an impermissible encumbrance; and

WHEREAS, a subordination of utility interests (Subordination) instrument is required to subordinate the utility's easement interest in the proposed Right-of-Way; and

WHEREAS, a Subordination instrument requires the utility to relocate any facility it may have in the Right-of-Way, when and if requested by the County, and requires the County to pay for reasonable relocation costs of said facility; and

WHEREAS, prior to processing a Subordination instrument, the County requires the developer or property owner to provide a payment to the County for future relocation costs; and

WHEREAS, a Subordination instrument, as identified in **Exhibit "A"** (Florida Power & Light Company), **Exhibit "B"** (Seacoast Utility Authority), **Exhibit "C"** (generic government utility template), **Exhibit "D"** (generic private utility template) and/or similar instruments, depending upon the specific entity involved, is utilized with the associated acceptance of Right-of-Way; and

NOW, THEREFORE, be it resolved by the Board of County Commissioners (BCC) of Palm Beach County, Florida, that:

1. The recitals contained above are true and correct and incorporated herein by reference.
2. The County Administrator or designee is hereby delegated the authority to execute developer funded Subordination instruments as shown in **Exhibit "A"** (Florida Power & Light Company), **Exhibit "B"** (Seacoast Utility Authority),

Exhibit “C” (generic government utility template), **Exhibit “D”** (generic private utility template) and/or similar instruments, on behalf of the BCC.

3. The terms of this Resolution shall take effect upon its adoption.

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

- District 3: Dave Kerner, Mayor _____
- District 4: Robert S. Weinroth, Vice Mayor _____
- District 1: Hal R. Valeche _____
- District 2: Gregg K. Weiss _____
- District 5: Mary Lou Berger _____
- District 6: Melissa McKinlay _____
- District 7: Mack Bernard _____

The Mayor thereupon declared the Resolution duly passed and adopted this _____ day of _____, 20____.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: YBH/TEL */s/ Yelizaveta B. Herman*
Yelizaveta B. Herman,
Assistant County Attorney

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

Sharon R. Bock, Clerk & Comptroller

By: _____
Deputy Clerk

Return via Palm Beach County interoffice mail to:
[Your Name], Right-of-Way Specialist
Palm Beach County, Engineering & Public Works Department
Roadway Production Division
2300 North Jog Road, 3rd Floor West
West Palm Beach, Florida 33411-2750

This instrument prepared by:
Samantha J. Saucier
Florida Power & Light Company
700 Universe Boulevard, CRE/JB
Juno Beach, Florida 33408

Property Control Number: [Portion of] [Property Control Number(s)]

NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE

SPACE ABOVE THIS LINE FOR PROCESSING DATA

PROJECT NO.
ROAD NAME:
PARCEL NO.

SUBORDINATION OF UTILITY INTERESTS AND AGREEMENT FOR
REIMBURSEMENT FOR ADDITIONAL FACILITY RELOCATIONS

THIS SUBORDINATION OF UTILITY INTERESTS AND AGREEMENT FOR REIMBURSEMENT FOR ADDITIONAL FACILITY RELOCATIONS ("Agreement") is entered into this ____ day of _____ 20____, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners ("County"), whose mailing address is Post Office Box 21229, West Palm Beach, Florida 33416-1229, and FLORIDA POWER & LIGHT COMPANY, a Florida corporation ("Utility"), whose mailing address is Post Office Box 14000, Juno Beach, Florida 33408-0420.

WITNESSETH

WHEREAS, the Utility presently has an interest in certain lands as legally described and depicted on attached Exhibit "A" ("Lands") that have been determined necessary for future Public Right-of-Way purposes; and

WHEREAS, the proposed use of the Lands for highway purposes will require subordination of the interest claimed in such Lands by the Utility to the County; and

WHEREAS, at the request of the County, the Utility has agreed, subject to the terms and conditions set forth herein, to either (i) leave such facilities on the subordinated Lands until such time as the County requests relocation of such facilities, if at all, or (ii) relocate such facilities from the subordinated Lands to an area acceptable to the Utility, as applicable, and the County is willing to pay for such relocation and, if relocated within Public Right-of-

Way, any and all future relocations of said facilities, if necessary, to prevent conflict between the County’s use and the Utility’s use so that the benefits of each may be retained.

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

AGREEMENT

1. The Utility hereby subordinates any and all of its interest in that certain portion of the Utility’s [easement / easements] located upon the Lands, as granted via the below-referenced instrument, to the interest of the County for the purposes of constructing, improving, maintaining and operating a road over, through, upon, and/or across such Lands:

<u>NATURE OF</u>	<u>DATE</u>	<u>FROM OR</u>	<u>IN FAVOR OF</u>	<u>BOOK</u>
<u>ENCUMBRANCE</u>	<u>/ PAGE</u>			
	<u>AGAINST</u>			
[Type]	[Date]	[Name]	[Name]	[DB / ORB/PG]

2. “Public Right-of-Way”, as used herein, shall mean existing right-of-way and that certain area of land to become future right-of-way also shown on attached Exhibit “A”, and which a portion of the Public Right-of-Way includes all or a part of the Utility’s above-referenced easement on the Lands (all as depicted on said Exhibit).

3. Should the County require the Utility to alter, adjust, or relocate any of the Utility’s facilities presently located on, within, or upon the Lands, the County hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate replacement easement(s). In addition, the Utility retains the right to be reimbursed in the future for any and all additional alterations, adjustments, or relocations of its facilities located presently or to be located on the Lands (or Public Right-of-Way if such facilities were previously relocated from the Lands to the Public Right-of-Way under this Agreement) if such alteration, adjustment, or relocation is caused by present or future uses of the Public Right-of-Way by the County or its assigns, including, but not limited to, the cost of accommodating the Utility within the Public Right-of-Way, or if necessary, acquiring replacement easement(s).

4. The Utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate its facilities on, within, and upon the Lands in accordance with the County’s current minimum standards for such facilities as of the date of this Agreement. Any new construction or relocation of such facilities by the Utility on, within, and upon the Lands will be subject to prior approval by the County. Should the County fail to approve any new construction or relocation of such facilities on, within, and upon the Lands, the County hereby agrees to pay the cost of such alteration, adjustment, or relocation required by the County’s failure to approve such new construction or relocation, including, but not limited to the cost of acquiring appropriate replacement easement(s).

5. The Utility shall have the right to enter upon the Lands (and/or the area of the Public Right-of-Way where the facilities have been relocated) for the purposes outlined in Paragraph 4 above, including the right to trim such trees, brush, and growth which might endanger or interfere with the Utility's facilities. The County shall provide and allow access to the Lands (and/or the area of the Public Right-of-Way where the facilities have been relocated) by the Utility.

6. The Utility agrees to repair any damage to the County facilities and to indemnify the County against any loss or damage, in an amount not to exceed One Million Dollars (\$1,000,000), resulting from the Utility exercising its rights to construct, operate, maintain, improve, add to, upgrade or remove its facilities on the Lands (and/or the area of the Public Right-of-Way where the facilities have been relocated).

7. This Agreement shall not be assigned by County, except to the State of Florida or any other governmental entity that has an interest in the Public Right-of-Way. In the event of any assignment hereunder, County shall provide written notice of such assignment to Utility within thirty (30) days of such assignment.

(Signatures and Acknowledgements appear on following pages.)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

ATTEST:

County:

SHARON R. BOCK
CLERK & COMPTROLLER

PALM BEACH COUNTY,
a political subdivision of the State of Florida
by and through its Board of County Commissioners

By: _____
Clerk (or Deputy Clerk)

By: _____
[Name of Mayor or Vice Mayor], [Title]

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
Yelizaveta B. Herman
Assistant County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

By: _____
Morton L. Rose, P.E., Director, Roadway Production
Engineering & Public Works Department

Utility:

FLORIDA POWER & LIGHT COMPANY,
a Florida corporation

Signed, sealed and delivered
in the presence of:

By: _____

Print Name: _____

By: _____

Print Name: _____

By: _____

Samantha J. Saucier
Corporate Real Estate Manager

STATE OF FLORIDA
COUNTY OF PALM BEACH

I hereby certify that on this day, before me, an officer duly authorized to take acknowledgements, personally appeared Samantha J. Saucier, to me known and personally known to me to be the person described in, and did not take an oath and who executed the foregoing instrument as Area Real Estate Manager of Florida Power & Light Company, a Florida corporation and acknowledged before me by means of (*choose one*) physical presence *or* online notarization, that she executed the same as such official in the name and on behalf of said Corporation.

WITNESS my hand and official seal in the County and State aforesaid this ____ day of _____,
20__.

My Commission Expires:

Notary Signature: _____

Notary Public State of Florida

Printed Name: _____

Exhibit "A"

Certain Lands to be Determined for Specific
Subordination of Utility Interests and Agreement for
Reimbursement for Additional Facility Relocations.

Return via Palm Beach County interoffice mail to:
[Your Name], Right-of-Way Specialist
Palm Beach County, Engineering & Public Works Department
Roadway Production Division
2300 North Jog Road, 3rd Floor West
West Palm Beach, Florida 33411-2750

This Instrument Prepared by:
Yelizaveta B. Herman, Assistant County Attorney
Palm Beach County Attorney's Office
Post Office Box 21229
West Palm Beach, Florida 33416-1229

Property Control Number: [Portion of] [Property Control Number(s)]

NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE

SPACE ABOVE THIS LINE FOR PROCESSING DATA

PROJECT NO.:
ROAD NAME:
PARCEL NO.:

SUBORDINATION OF UTILITY INTERESTS

THIS SUBORDINATION ("Subordination") is entered into this ____ day of _____, 20____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose post office address is Post Office Box 21229, West Palm Beach, Florida 33416-1229, ("County") and **SEACOAST UTILITY AUTHORITY**, an interlocal governmental entity created under Chapter 163, Florida Statutes, whose post office address is 4200 Hood Road, Palm Beach Gardens, Florida 33410-2174, ("Utility").

WHEREAS, the Utility presently has an easement on certain property that has been determined necessary for public purposes; and,

WHEREAS, the proposed use of this property will require subordination to the County of the interests claimed in said property by the Utility. At the request of the County, the Utility has agreed, subject to the following conditions, to relocate its facilities from the Utility's easement onto public right-of-way, or has agreed to leave its facilities on the property ("Property"), described in Exhibit "A" attached hereto and made a part hereof; and,

WHEREAS, the County is willing to pay to have the Utility's facilities relocated as necessary to prevent any conflict between County improvements and Utility facilities so that the benefits of each may be retained.

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

1. The Utility hereby subordinates any and all of its interest in that portion of the following [easement / easements] lying within, through, under, upon or across the Property, to the interest of the County, its successors or assigns;

<u>NATURE OF ENCUMBRANCE</u>	<u>RECORD DATE</u>	<u>FROM OR AGAINST</u>	<u>IN FAVOR OF</u>	<u>BOOK / PAGE</u>
[Type]	[Date]	[Name]	[Name]	[DB or ORB/PG]

2. The Utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon all the Property in accordance with the County’s current minimum standards for such facilities as of the date of such construction. Any new construction or relocation of the facilities within the Property will be subject to prior approval by the County. Should the County fail to approve any new construction or relocation of facilities by the Utility or hereafter require the Utility to alter, adjust or relocate its facilities from within the Property, the County hereby agrees to pay the Utility’s reasonable cost of any required alteration, adjustment or relocation, caused by the County’s actions, including the cost of acquiring the necessary easements.
3. The Utility shall have a reasonable right to enter upon the Property for the purposes outlined in paragraph 2 above, including the right to trim such trees, bushes, and growth which might endanger or interfere with the operation and safety of the Utility’s facilities.
4. This Subordination shall be attached as an addendum to the permit, if any, required by the County for location of facilities on the Property.
5. This Subordination is not assignable except to the State of Florida or other governmental entity for the purposes described herein.

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IN WITNESS WHEREOF County has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor or Vice Mayor of said Board, the day and year aforesaid.

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
Yelizaveta B. Herman
Assistant County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

By: _____
Morton L. Rose, P.E., Roadway Production Director
Engineering & Public Works Department

County:

PALM BEACH COUNTY,
a political subdivision of the State of Florida,
by and through its Board of County Commissioners

By: _____
[Name of Mayor], Mayor

(Official Seal)

Signed, sealed and delivered in the presence of:

(Signature of two witnesses
required by Florida law)

Utility:

SEACOAST UTILITY AUTHORITY,
an interlocal governmental entity created under Chapter 163,
Florida Statutes

Witness Signature (Required)

By: _____
[Name of Chair], Chair

Witness Name Printed or Typed

Witness Signature (Required)

Attest: _____
[Name of Clerk], Clerk

Witness Name Printed or Typed

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before me personally appeared [Name of Chair] and [Name of Clerk] , who are (*choose one*) personally known to me, *or* have produced _____ as identification, and who executed the foregoing instrument as Chair and Clerk of SEACOAST UTILITY AUTHORITY, an interlocal governmental entity created under Chapter 163, Florida Statutes, and severally acknowledged to and before me by means of (*choose one*) physical presence *or* online notarization, that they executed such instrument as such officers of said Utility, and that said instrument is the free act and deed of said Utility.

Witness my hand and official seal this _____ day of _____, 20____.

(Stamp/Seal)

Notary Signature
Notary Public, State of Florida

Print Notary Name

Commission Number
My Commission Expires: _____

Exhibit "A"

Certain Lands to be Determined for Specific
Subordination of Utility Interests and Agreement for
Reimbursement for Additional Facility Relocations.

Return via Palm Beach County interoffice mail to:
[Your Name], Right-of-Way Specialist
Palm Beach County, Engineering & Public Works Department
Roadway Production Division
2300 North Jog Road, 3rd Floor West
West Palm Beach, Florida 33411-2750

This Instrument Prepared by:
Yelizaveta B. Herman, Assistant County Attorney
Palm Beach County Attorney's Office
Post Office Box 21229
West Palm Beach, Florida 33416-1229

Property Control Number: [Portion of] [Property Control Number(s)]

NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE

SPACE ABOVE THIS LINE FOR PROCESSING DATA

PROJECT NO.:
ROAD NAME:
PARCEL NO.:

SUBORDINATION OF UTILITY INTERESTS

THIS SUBORDINATION is entered into this ____ day of _____, 20____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose post office address is Post Office Box 21229, West Palm Beach, Florida 33416-1229, ("County") and **[REGISTERED NAME OF UTILITY IN BOLD CAPS]**, [a/an Name of State of Incorporation] corporation, whose post office address is [Corporate Street Address or Post Office Box, City, State, Zip+4], ("Utility").

WHEREAS, the Utility presently has easements on certain property that has been determined necessary for public purposes; and,

WHEREAS, the proposed use of this property will require subordination to the County of the interests claimed in said property by the Utility, and at the request of the County, the Utility has agreed, subject to the following conditions, to relocate its facilities from the Utility's easement onto public right-of-way, or has agreed to leave its facilities on the subordinated property ("Property"), described in Exhibit "A" attached hereto and made a part hereof; and,

WHEREAS, the County is willing to pay to have the Utility's facilities relocated as necessary to prevent conflict between the facilities so that the benefits of each may be retained.

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

- 1. The Utility hereby subordinates any and all of its interest in that portion of the following [easement /

easements] lying within the Property, to the interest of the County, its successors or assigns, through, under, upon or across the Property;

<u>NATURE OF ENCUMBRANCE</u>	<u>DATE</u>	<u>AGAINST</u>	<u>RECORD IN FAVOR OF</u>	<u>FROM OR BOOK / PAGE</u>
[Type]	[Date]	[Name]	[Name]	[DB or ORB/PG]
<hr/>				
2.	The Utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon all the Property in accordance with the County's current minimum standards for such facilities as of the date of such construction. Any new construction or relocation of the facilities within the Property will be subject to prior approval by the County. Should the County fail to approve any new construction or relocation of facilities by the Utility or hereafter require the Utility to alter, adjust or relocate its facilities from within the Property, the County hereby agrees to pay the Utility's reasonable cost of any required alteration, adjustment or relocation, caused by the County's actions, including the cost of acquiring the necessary easements.			
3.	The Utility shall have a reasonable right to enter upon the Property for the purposes outlined in paragraph 2 above, including the right to trim such trees, bushes, and growth which might endanger or interfere with the operation and safety of the Utility's facilities.			
4.	The Utility shall protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Agreement or due to the acts or omissions of Utility. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.			
5.	This subordination shall be attached as an addendum to the permit required by the County for location of facilities on the Property.			
6.	This subordination is not assignable except to the State of Florida or other governmental entity for the purposes described herein.			
7.	This subordination is not intended to, nor shall it be construed, to create a third party beneficiary.			

IN WITNESS WHEREOF County has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor or Vice Mayor of said Board, the day and year aforesaid.

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
Yelizaveta B. Herman
Assistant County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

By: _____
Morton L. Rose, P.E., Roadway Production Director
Engineering & Public Works Department

County:

PALM BEACH COUNTY,
a political subdivision of the State of Florida,
by and through its Board of County Commissioners

By: _____
[Name of Mayor or Vice Mayor], [Title]

(Official Seal)

Signed, sealed and delivered in the presence of:

(Signature of two witnesses
required by Florida law)

Utility:

[Registered Name of Corporation],
[a/an Name of State of Incorporation] corporation

Witness Signature (Required)

By: _____
[Name of Authorized Officer or Non-Officer with Written
Signatory Authority, Title]

Witness Name Printed or Typed

Witness Signature (Required)

(CORPORATE SEAL)

Witness Name Printed or Typed

STATE OF _____

COUNTY OF _____

Before me personally appeared [Name of Authorized Officer], who is personally known to me, or has produced _____ as identification, and who executed the foregoing instrument as [Title of Authorized Officer] of [Registered Name of Corporation], [a/an Name of State of Incorporation] corporation, and severally acknowledged to and before me by means of (*choose one*) physical presence *or* online notarization, that [he/she] executed such instrument as such officer of said company, and that said instrument is the free act and deed of said company.

Witness my hand and official seal this _____ day of _____, 20____.

(Stamp/Seal)

Notary Signature
Notary Public, State of _____

Print Notary Name

Commission Number
My Commission Expires: _____

Exhibit "A"

Certain Lands to be Determined for Specific
Subordination of Utility Interests and Agreement for
Reimbursement for Additional Facility Relocations.

Return via Palm Beach County interoffice mail to:
[Your Name], Right-of-Way Specialist
Palm Beach County, Engineering & Public Works Department
Roadway Production Division
2300 North Jog Road, 3rd Floor West
West Palm Beach, Florida 33411-2750

This Instrument Prepared by:
Yelizaveta B. Herman, Assistant County Attorney
Palm Beach County Attorney's Office
Post Office Box 21229
West Palm Beach, Florida 33416-1229

Property Control Number: [Portion of] [Property Control Number(s)]

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PROJECT NO.: _____
ROAD NAME: _____
PARCEL NO.: _____

SUBORDINATION OF UTILITY INTERESTS

THIS SUBORDINATION is entered into this _____ day of _____, 20____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose post office address is Post Office Box 21229, West Palm Beach, Florida 33416-1229, ("County") and **[REGISTERED NAME OF UTILITY IN BOLD CAPS]**, [a/an Name of State of Incorporation] corporation, whose post office address is [Corporate Street Address or Post Office Box, City, State, Zip+4], ("Utility").

WHEREAS, the Utility presently has easements on certain property that has been determined necessary for public purposes; and,

WHEREAS, the proposed use of this property will require subordination to the County of the interests claimed in said property by the Utility, and at the request of the County, the Utility has agreed, subject to the following conditions, to relocate its facilities from the Utility's easement onto public right-of-way, or has agreed to leave its facilities on the subordinated property ("Property"), described in **Exhibit "A"** attached hereto and made a part hereof; and,

WHEREAS, the County is willing to pay to have the Utility's facilities relocated as necessary to prevent conflict between the facilities so that the benefits of each may be retained.

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

1. The Utility hereby subordinates any and all of its interest in that portion of the following [easement / easements] lying within the Property, to the interest of the County, its successors or assigns, through, under, upon or across the Property;

<u>NATURE OF ENCUMBRANCE</u>	<u>DATE</u>	<u>AGAINST</u>	<u>RECORD IN FAVOR OF</u>	<u>FROM OR BOOK / PAGE</u>
[Type]	[Date]	[Name]	[Name]	[DB or ORB/PG]

2. The Utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon all the Property in accordance with the County’s current minimum standards for such facilities as of the date of such construction. Any new construction or relocation of the facilities within the Property will be subject to prior approval by the County. Should the County fail to approve any new construction or relocation of facilities by the Utility or hereafter require the Utility to alter, adjust or relocate its facilities from within the Property, the County hereby agrees to pay the Utility’s reasonable cost of any required alteration, adjustment or relocation, caused by the County’s actions, including the cost of acquiring the necessary easements.
3. The Utility shall have a reasonable right to enter upon the Property for the purposes outlined in paragraph 2 above, including the right to trim such trees, bushes, and growth which might endanger or interfere with the operation and safety of the Utility’s facilities.
4. The Utility shall protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney’s fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Agreement or due to the acts or omissions of Utility.
5. This subordination shall be attached as an addendum to the permit required by the County for location of facilities on the Property.
6. This subordination is not assignable except to the State of Florida or other governmental entity for the purposes described herein.
7. This subordination is not intended to, nor shall it be construed, to create a third party beneficiary.

IN WITNESS WHEREOF County has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor or Vice Mayor of said Board, the day and year aforesaid.

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
Yelizaveta B. Herman
Assistant County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

By: _____
Morton L. Rose, P.E., Roadway Production Director
Engineering & Public Works Department

County:

PALM BEACH COUNTY,
a political subdivision of the State of Florida,
by and through its Board of County Commissioners

By: _____
[Name of Mayor or Vice Mayor], [Title]

(Official Seal)

Signed, sealed and delivered in the presence of:

(Signature of two witnesses
required by Florida law)

Utility:

[Registered Name of Corporation],
[a/an Name of State of Incorporation] corporation

Witness Signature (Required)

By: _____
[Name of Authorized Officer or Non-Officer with Written
Signatory Authority, Title]

Witness Name Printed or Typed

Witness Signature (Required)

(CORPORATE SEAL)

Witness Name Printed or Typed

STATE OF _____

COUNTY OF _____

Before me personally appeared [Name of Authorized Officer], who is personally known to me, or has produced _____ as identification, and who executed the foregoing instrument as [Title of Authorized Officer] of [Registered Name of Corporation], [a/an Name of State of Incorporation] corporation, and severally acknowledged to and before me by means of (*choose one*) physical presence *or* online notarization, that [he/she] executed such instrument as such officer of said company, and that said instrument is the free act and deed of said company.

Witness my hand and official seal this _____ day of _____, 20____.

(Stamp/Seal)

Notary Signature
Notary Public, State of _____

Print Notary Name

Commission Number
My Commission Expires: _____

Exhibit "A"

Certain Lands to be Determined for Specific
Subordination of Utility Interests and Agreement for
Reimbursement for Additional Facility Relocations.