

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: April 20, 2021 Consent [X] Regular []
Public Hearing []

Department: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Five (5) Subordination of Utility Interests Agreements with the State of Florida Department of Transportation (FDOT). The Subordination of Utility Easements includes a portion of the following easements recorded in the Official Records of Palm Beach County:

- A) Subordination of Utility Interests, Parcel No. 106.3R, ORB 26516, Page 0560;
- B) Subordination of Utility Interests, Parcel No. 108.3R, ORB 5647, Page 714;
- C) Subordination of Utility Interests, Parcel No. 109.4R, ORB 11976, Page 1513;
- D) Subordination of Utility Interests, Parcel No. 110.3R, ORB 4076, Page 1208 and ORB 11640, Page 1101
- E) Subordination of Utility Interests, Parcel No. 112.3R, ORB 17876, Page 0055

Summary: The FDOT has an interest in a portion of the utility easements recorded in the Official Records of Palm Beach County as noted above that have been determined necessary for highway purposes. The proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by the County to FDOT. FDOT has committed to pay to have the County's facilities relocated in the future if necessary. The Palm Beach County Water Utilities Department (PBCWUD) has determined that the subordination of utility interests will not affect any existing public utility facilities and therefore recommends the subordination. District 2 (MJ)

Background and Justification: The utility easements listed above were granted/reserved to the County for public potable water, reclaimed water and wastewater facilities associated with properties identified by PCN 00-42-44-12-00-000-7180, 00-42-44-12-00-000-7160, 70-42-44-12-00-000-5430, 70-42-44-12-00-000-5460 and 70-42-44-12-03-000-0080 on December 11, 2013, August 1, 1985, July 24, 2000, June 7, 1983, February 7, 2000 and December 2, 2004 respectively. The subordination of utility interests to FDOT will not hinder PBCWUD during the operation and maintenance of the facilities.

Attachments:

1. Location Map
2. Two (2) Original Subordination of Utility Interests Parcel 106.3R
3. Two (2) Original Subordination of Utility Interests Parcel 108.3R
4. Two (2) Original Subordination of Utility Interests Parcel 109.4R
5. Two (2) Original Subordination of Utility Interests Parcel 110.3R
6. Two (2) Original Subordination of Utility Interests Parcel 112.3R

Recommended By: Jim Stebbins Department Director Date: 4-1-2021

Approved By: [Signature] Assistant County Administrator Date: 4/9/2021

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	0	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No.: Fund Dept Unit Object

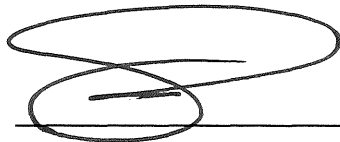
Is Item Included in Current Budget? Yes ___ No ___

Does this item include the use of federal funds? Yes ___ No ___

Reporting Category N/A

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

No Fiscal Impact.



C. Department Fiscal Review: _____

III. REVIEW COMMENTS

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

Lisa Mente 3/24/21
 KP 3/25 OFMB BR 3/25

Jan J. Jacobson 4/5/21
 Contract Development and Control
 4-2-21 TD

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney 4/6/21

C. Other Department Review:

 Department Director

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

23-UTL.02-01/21

Modified for Palm Beach County

This instrument prepared under the direction of:

Elizabeth S. Quintana, Esq.
District Four Assistant General Counsel

Legal Description prepared by:

Luis A. Gaztambide, P.S.M. (07/12/2019)

Document prepared by:

Grace K. Abel (01/11/2021)

Florida Department of Transportation

Right of Way Production Services

3400 W. Commercial Boulevard

Fort Lauderdale, Florida 33309

Parcel No. 106.3R

Item/Segment No. 4378781

Section: 93150-2510

Managing District: 04

S.R. No. 809 (Military Trail)

County: Palm Beach

SUBORDINATION OF COUNTY UTILITY INTERESTS

THIS AGREEMENT entered into this _____ day of _____, 20____, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter called the **FDOT**, and **PALM BEACH COUNTY, a Political Subdivision of the State of Florida**, hereinafter called the **COUNTY**.

WITNESSETH:

WHEREAS, the COUNTY presently has an interest in certain lands that have been determined necessary for highway purposes; and

WHEREAS, the proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by the COUNTY to the FDOT; and

WHEREAS, the FDOT is willing to pay to have the COUNTY'S facilities relocated if 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, COUNTY and FDOT agree as follows:

COUNTY subordinates to the interest of FDOT its successors and assigns, any and all of its interest in the lands as follows, viz:

Parcel No. 106

Item/Segment No. 4378781

A portion of Tract 2, Block 3, PLAT NO.1 PALM BEACH PLANTATIONS (MODEL LAND COMPANY), according to the plat thereof, as recorded in Plat Book 10, Page 20, of the Public Records of Palm Beach County, Florida, lying in Section 12, Township 44 South, Range 42 East, as shown on Sheet 4 of the Florida Department of Transportation Right of Way Map for Item/Segment No. 4378781, Section 93150-2510, being more particularly described as follows:

Commence at a mag nail & disk stamped "LB 6770", found marking the South One-Quarter (S. 1/4) Corner of said Section 12; thence North 01°30'19" West along the North-South One-Quarter (N-S 1/4) Section line of said Section 12, a distance of 600.21 feet to the point of tangent STA. 463+33.12, being a point on the Baseline of Survey of State Road 809 (Military Trail); thence continue North 01°30'19" West along said North-South One-Quarter (N-S 1/4) Section line and said Baseline of Survey of State Road 809 (Military Trail), a distance of 837.49 feet; thence South 88°29'41" West along a line at a right angle to the previously described course, a distance of 72.50 feet to a point on the Westerly Existing Right of Way line of State Road 809 (Military Trail) and the POINT OF BEGINNING; thence South 44°51'50" West along said Westerly Existing Right of Way line of State Road 809 (Military Trail), a distance of 5.53 feet; thence North 01°30'19" West, a distance of 107.01 feet; thence South 88°46'01" East, a distance of 4.01 feet to a point on said Westerly Existing Right of Way line of State Road 809 (Military Trail); thence South 01°30'19" East along said Westerly Existing Right of Way line of State Road 809 (Military Trail), a distance of 103.00 feet to the POINT OF BEGINNING.

Containing 420 square feet, more or less.

RECORDED

INSTRUMENT	DATE	FROM	TO	O.R.B. & PG.
Utility Easement	12/11/2013	Jomar Florida Enterprises, LLC, a Florida limited liability Company	Palm Beach County	26516 / 0560

PROVIDED that the COUNTY has the following rights:

1. The COUNTY shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon the lands described herein in accordance with the FDOT'S current minimum standards for such facilities as required by the FDOT, Utility Accommodation Manual in the effect at the time the agreement is executed. Any new construction or relocation of facilities within the lands will be subject to prior approval by the FDOT. Should the FDOT fail to approve any new construction or relocation of facilities by the COUNTY or require the COUNTY to alter, adjust, or relocate its facilities located within said lands, the FDOT hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate easements.
2. Notwithstanding any provisions set forth herein, the terms of the utility permits shall supersede any contrary provisions, with the exception of the provision herein with reimbursement rights.

3. The COUNTY shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the FDOT's facilities.

4. The COUNTY agrees to repair any damage to FDOT facilities, and, to the extent permitted by law, to indemnify the FDOT against any loss or damage resulting from the COUNTY exercising its rights outlined in Paragraphs 1 and 3 above. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor as a waiver of any defense the COUNTY may have under said statute, nor shall the same be construed to constitute agreement by the COUNTY to indemnify the FDOT for FDOT's negligent, willful or intentional acts or omissions, nor as consent to be sued by third parties.

IN WITNESS WHEREOF, the FDOT hereto has executed this agreement on the day and year first above written

Signed, sealed and delivered in the presence of: (Two witnesses required by Florida Law)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

Witness Signature:

BY: _____
Name: **GERRY O'REILLY, P.E.**
District Four Secretary

Print Witness Name:

Attorney approved as to form:

Witness Signature:

Name: **ELIZABETH S. QUINTANA**

Print Witness Name:

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by **GERRY O'REILLY, P.E.**, District Four Secretary, who is personally known by me or who has produced _____ as identification.

(SEAL)

Notary Public

My Commission Expires: _____

Printed or stamped name of Notary Public

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

ATTEST:
Joseph Abruzzo,
Clerk of the Circuit Court & Comptroller

By: _____
DAVE KERNER
Mayor

By: _____
(Deputy Clerk)

APPROVED AS TO TERMS AND
CONDITIONS

By:  _____
Director of Utilities

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

By: _____
(County Attorney)

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of _____ physical presence or
_____ online notarization, this _____ day of _____, 20____, by **DAVE KERNER**,
Mayor, Board of County Commissioners, who is personally known by me or who has produced
identification and who did not take an oath..

Type Name of Acknowledger
Deputy Clerk

23-UTL.02-01/21
Modified for Palm Beach County

This instrument prepared under the direction of:

Elizabeth S. Quintana, Esq.
District Four Assistant General Counsel

Legal Description prepared by:

Luis A. Gaztambide, P.S.M. (07/12/2019)

Document prepared by:

Grace K. Abel (01/11/2021)

Florida Department of Transportation

Right of Way Production Services

3400 W. Commercial Boulevard

Fort Lauderdale, Florida 33309

Parcel No.	108.3R
Item/Segment No.	4378781
Section:	93150-2510
Managing District:	04
S.R. No.	809 (Military Trail)
County:	Palm Beach

SUBORDINATION OF COUNTY UTILITY INTERESTS

THIS AGREEMENT entered into this _____ day of _____, 20____, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter called the **FDOT**, and **PALM BEACH COUNTY, a Political Subdivision of the State of Florida**, hereinafter called the **COUNTY**.

WITNESSETH:

WHEREAS, the COUNTY presently has an interest in certain lands that have been determined necessary for highway purposes; and

WHEREAS, the proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by the COUNTY to the FDOT; and

WHEREAS, the FDOT is willing to pay to have the COUNTY'S facilities relocated if 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, COUNTY and FDOT agree as follows:

COUNTY subordinates to the interest of FDOT its successors and assigns, any and all of its interest in the lands as follows, viz:

Parcel No. 108

Item/Segment No. 4378781

A portion of Tract 2, Block 3, PLAT NO.1 PALM BEACH PLANTATIONS (MODEL LAND COMPANY), according to the plat thereof, as recorded in Plat Book 10, Page 20, of the Public Records of Palm Beach County, Florida, lying in Section 12, Township 44 South, Range 42 East, as shown on Sheet 4 of the Florida Department of Transportation Right of Way Map for Item/Segment No. 4378781, Section 93150-2510, being more particularly described as follows:

Commence at a mag nail & disk stamped "LB 6770", found marking the South One-Quarter (S. 1/4) Corner of said Section 12; thence North 01°30'19" West along the North-South One-Quarter (N-S 1/4) Section line of said Section 12, a distance of 600.21 feet to the point of tangent STA. 463+33.12, being a point on the Baseline of Survey of State Road 809 (Military Trail); thence continue North 01°30'19" West along said North-South One-Quarter (N-S 1/4) Section line and said Baseline of Survey of State Road 809 (Military Trail), a distance of 1,260.12 feet; thence South 88°29'41" West along a line at a right angle to the previously described course, a distance of 53.00 feet to the intersection of the Westerly Existing Right of Way line of State Road 809 (Military Trail) and the Northerly Existing Right of Way line of Sunset Ranch Road and POINT OF BEGINNING; thence North 88°46'49" West along said Northerly Existing Right of Way line of Sunset Ranch Road, a distance of 10.75 feet; thence North 00°00'29" West, a distance of 143.08 feet to the South line of Parcel "A", DON COOK MOTORS, according to the plat thereof, as recorded in the Plat Book 124, Page 145, of the Public Records of Palm Beach County, Florida; thence South 88°47'24" East along the South line of said Parcel "A", a distance of 7.01 feet to a point on said Westerly Existing Right of Way line of State Road 809 (Military Trail); thence South 01°30'19" East along said Westerly Existing Right of Way line of State Road 809 (Military Trail), a distance of 143.21 feet to the POINT OF BEGINNING.

Containing 1,270 square feet, more or less.

RECORDED

INSTRUMENT	DATE	FROM	TO	O.R.B. & PG.
Grant of Easement	08/01/1985	Virgil W. Tank	Palm Beach County, a political subdivision of the State of Florida	5647 / 714

PROVIDED that the COUNTY has the following rights:

1. The COUNTY shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon the lands described herein in accordance with the FDOT'S current minimum standards for such facilities as required by the FDOT, Utility Accommodation Manual in the effect at the time the agreement is executed. Any new construction or relocation of facilities within the lands will be subject to prior approval by the FDOT. Should the FDOT fail to approve any new construction or relocation of facilities by the COUNTY or require the COUNTY to alter, adjust, or relocate its facilities located within said lands, the FDOT hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate easements.
2. Notwithstanding any provisions set forth herein, the terms of the utility permits shall supersede any contrary provisions, with the exception of the provision herein with reimbursement rights.

3. The COUNTY shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the FDOT's facilities.
4. The COUNTY agrees to repair any damage to FDOT facilities, and, to the extent permitted by law, to indemnify the FDOT against any loss or damage resulting from the COUNTY exercising its rights outlined in Paragraphs 1 and 3 above. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor as a waiver of any defense the COUNTY may have under said statute, nor shall the same be construed to constitute agreement by the COUNTY to indemnify the FDOT for FDOT's negligent, willful or intentional acts or omissions, nor as consent to be sued by third parties.

IN WITNESS WHEREOF, the FDOT hereto has executed this agreement on the day and year first above written

Signed, sealed and delivered in the presence of: (Two witnesses required by Florida Law)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

Witness Signature:

BY: _____
Name: **GERRY O'REILLY, P.E.**
District Four Secretary

Print Witness Name:

Attorney approved as to form:

Witness Signature:

Name: **ELIZABETH S. QUINTANA**

Print Witness Name:

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by **GERRY O'REILLY, P.E.**, District Four Secretary, who is personally known by me or who has produced _____ as identification

(SEAL)

Notary Public

My Commission Expires: _____

Printed or stamped name of Notary Public

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

ATTEST:
Joseph Abruzzo,
Clerk of the Circuit Court & Comptroller

By: _____
DAVE KERNER
Mayor

By: _____
(Deputy Clerk)

APPROVED AS TO TERMS AND
CONDITIONS

By:  _____
Director of Utilities

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

By: _____
(County Attorney)

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by **DAVE KERNER**, Mayor, Board of County Commissioners, who is personally known by me or who has produced identification and who did not take an oath..

Type Name of Acknowledger
Deputy Clerk

23-UTL.02-01/21
Modified for Palm Beach County

This instrument prepared under the direction of:

Elizabeth S. Quintana, Esq.

District Four Assistant General Counsel

Legal Description prepared by:

Luis A. Gaztambide, P.S.M. (07/12/2019)

Document prepared by:

Grace K. Abel (01/11/2021)

Florida Department of Transportation

Right of Way Production Services

3400 W. Commercial Boulevard

Fort Lauderdale, Florida 33309

Parcel No.	109.4R
Item/Segment No.	4378781
Section:	93150-2510
Managing District:	04
S.R. No.	809 (Military Trail)
County:	Palm Beach

SUBORDINATION OF COUNTY UTILITY INTERESTS

THIS AGREEMENT entered into this _____ day of _____, 20____, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter called the **FDOT**, and **PALM BEACH COUNTY, a Political Subdivision of the State of Florida**, hereinafter called the **COUNTY**.

WITNESSETH:

WHEREAS, the COUNTY presently has an interest in certain lands that have been determined necessary for highway purposes; and

WHEREAS, the proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by the COUNTY to the FDOT; and

WHEREAS, the FDOT is willing to pay to have the COUNTY'S facilities relocated if 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, COUNTY and FDOT agree as follows:

COUNTY subordinates to the interest of FDOT its successors and assigns, any and all of its interest in the lands as follows, viz:

Parcel No. 109

Item/Segment No. 4378781

A portion of Tract 4, Block 4, PLAT NO.1 PALM BEACH PLANTATIONS (MODEL LAND COMPANY), according to the plat thereof, as recorded in Plat Book 10, Page 20, of the Public Records of Palm Beach County, Florida, lying in Section 12, Township 44 South, Range 42 East, as shown on Sheet 4 of the Florida Department of Transportation Right of Way Map for Item/Segment No. 4378781, Section 93150-2510, being more particularly described as follows:

Commence at a mag nail & disk stamped "LB 6770", found marking the South One-Quarter (S. 1/4) Corner of said Section 12; thence North 01°30'19" West along the North-South One-Quarter (N-S 1/4) Section line of said Section 12, a distance of 600.21 feet to the point of tangent STA. 463+33.12 being a point on the Baseline of Survey of State Road 809 (Military Trail); thence continue North 01°30'19" West along said North-South One-Quarter (N-S 1/4) Section line and said Baseline of Survey of State Road 809 (Military Trail), a distance of 826.99 feet; thence North 88°29'41" East along a line at a right angle to the previously described course, a distance of 60.50 feet to a point on the Easterly Existing Right of Way line of State Road 809 (Military Trail) and the POINT OF BEGINNING; thence North 01°30'19" West along said Easterly Existing Right of Way line of State Road 809 (Military Trail), a distance of 146.29 feet; thence South 88°46'57" East, a distance of 7.01 feet; thence South 01°30'19" East, a distance of 141.66 feet; thence South 45°08'30" East, a distance of 33.95 feet; thence South 88°46'41" East, a distance of 194.41 feet to the West line of the Lot 8, ERIE TERRACE, according to the plat thereof, as recorded in Plat Book 24, Page 2, of the Public Records of Palm Beach County, Florida; thence South 01°30'19" East along the West line of said Lot 8, a distance of 5.01 feet to a point on the Northerly Existing Right of Way line of State Road 882 (Forest Hill Boulevard); thence North 88°46'41" West along said Northerly Existing Right of Way line of State Road 882 (Forest Hill Boulevard), a distance of 201.04 feet; thence North 45°08'30" West along said Northerly Existing Right of Way line of State Road 882 (Forest Hill Boulevard), a distance of 34.50 feet to the POINT OF BEGINNING.

Containing 2,272 square feet, more or less.

RECORDED

INSTRUMENT	DATE	FROM	TO	O.R.B. & PG.
Utility Easement	07/24/2000	Pinnacle Petroleum Corporation, a Florida corporation	Palm Beach County	11976 / 1513

PROVIDED that the COUNTY has the following rights:

1. The COUNTY shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon the lands described herein in accordance with the FDOT'S current minimum standards for such facilities as required by the FDOT, Utility Accommodation Manual in the effect at the time the agreement is executed. Any new construction or relocation of facilities within the lands will be subject to prior approval by the FDOT. Should the FDOT fail to approve any new construction or relocation of facilities by the COUNTY or require the COUNTY to alter, adjust, or relocate its facilities located within said lands, the FDOT hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate easements.
2. Notwithstanding any provisions set forth herein, the terms of the utility permits shall supersede any contrary provisions, with the exception of the provision herein with reimbursement rights.

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IN WITNESS WHEREOF, the FDOT hereto has executed this agreement on the day and year first above written

Signed, sealed and delivered in the presence of: (Two witnesses required by Florida Law)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

Witness Signature:

BY: _____
Name: **GERRY O'REILLY, P.E.**
District Four Secretary

Print Witness Name:

Attorney approved as to form:

Witness Signature:

Name: **ELIZABETH S. QUINTANA**

Print Witness Name:

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by **GERRY O'REILLY, P.E.**, District Four Secretary, who is personally known by me or who has produced _____ as identification

(SEAL)

Notary Public

My Commission Expires: _____

Printed or stamped name of Notary Public

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

ATTEST:
Joseph Abruzzo,
Clerk of the Circuit Court & Comptroller

By: _____
DAVE KERNER
Mayor

By: _____
(Deputy Clerk)

APPROVED AS TO TERMS AND
CONDITIONS

By:  _____
Director of Utilities

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

By: _____
(County Attorney)

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of _____ physical presence or
_____ online notarization, this _____ day of _____, 20____, by **DAVE KERNER**,
Mayor, Board of County Commissioners, who is personally known by me or who has produced
identification and who did not take an oath..

Type Name of Acknowledger
Deputy Clerk

23-UTL.02-01/21
Modified for Palm Beach County

This instrument prepared under the direction of:

Elizabeth S. Quintana, Esq.

District Four Assistant General Counsel

Legal Description prepared by:

Luis A. Gaztambide, P.S.M. (07/12/2019)

Document prepared by:

Grace K. Abel (01/11/2021)

Florida Department of Transportation

Right of Way Production Services

3400 W. Commercial Boulevard

Fort Lauderdale, Florida 33309

Parcel No.	110.3R
Item/Segment No.	4378781
Section:	93150-2510
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S.R. No.	809 (Military Trail)
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WHEREAS, the COUNTY presently has an interest in certain lands that have been determined necessary for highway purposes; and

WHEREAS, the proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by the COUNTY to the FDOT; and

WHEREAS, the FDOT is willing to pay to have the COUNTY'S facilities relocated if 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, COUNTY and FDOT agree as follows:

COUNTY subordinates to the interest of FDOT its successors and assigns, any and all of its interest in the lands as follows, viz:

Parcel No. 110

Item/Segment No. 4378781

A portion of Tract 4, Block 4, PLAT NO.1 PALM BEACH PLANTATIONS (MODEL LAND COMPANY), according to the plat thereof, as recorded in Plat Book 10, Page 20, of the Public Records of Palm Beach County, Florida, lying in Section 12, Township 44 South, Range 42 East, as shown on Sheet 4 of the Florida Department of Transportation Right of Way Map for Item/Segment No. 4378781, Section 93150-2510, being more particularly described as follows:

Commence at a mag nail & disk stamped "LB 6770", found marking the South One-Quarter (S. 1/4) Corner of said Section 12; thence North 01°30'19" West along the North-South One-Quarter (N-S 1/4) Section line of said Section 12, a distance of 600.21 feet to the point of tangent STA. 463+33.12 being a point on the Baseline of Survey of State Road 809 (Military Trail); thence continue North 01°30'19" West along said North-South One-Quarter (N-S 1/4) Section line and said Baseline of Survey of State Road 809 (Military Trail), a distance of 973.64 feet; thence North 88°29'41" East along a line at a right angle to the previously described course, a distance of 53.00 feet to a point on the Easterly Existing Right of Way line of State Road 809 (Military Trail) and the POINT OF BEGINNING; thence North 01°30'19" West along said Easterly Existing Right of Way line of State Road 809 (Military Trail), a distance of 211.66 feet; thence South 88°48'32" East, a distance of 11.66 feet; thence South 03°30'19" East, a distance of 81.66 feet; thence South 01°30'19" East, a distance of 130.20 feet; thence North 88°46'57" West, a distance of 14.52 feet to the POINT OF BEGINNING.

Containing 2,953 square feet, more or less.

RECORDED

INSTRUMENT	DATE	FROM	TO	O.R.B. & PG.
Easement Deed	06/07/1983	Pineta Company, a Florida corporation	Palm Beach County Water Utilities Dept	4076 / 1208
Utility Easement	02/07/2000	Albert Brown and Althea Brown, his wife	Palm Beach County	11640 / 1101

PROVIDED that the COUNTY has the following rights:

1. The COUNTY shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon the lands described herein in accordance with the FDOT'S current minimum standards for such facilities as required by the FDOT, Utility Accommodation Manual in the effect at the time the agreement is executed. Any new construction or relocation of facilities within the lands will be subject to prior approval by the FDOT. Should the FDOT fail to approve any new construction or relocation of facilities by the COUNTY or require the COUNTY to alter, adjust, or relocate its facilities located within said lands, the FDOT hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate easements.
2. Notwithstanding any provisions set forth herein, the terms of the utility permits shall supersede any contrary provisions, with the exception of the provision herein with reimbursement rights.

3. The COUNTY shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the FDOT's facilities.
4. The COUNTY agrees to repair any damage to FDOT facilities, and, to the extent permitted by law, to indemnify the FDOT against any loss or damage resulting from the COUNTY exercising its rights outlined in Paragraphs 1 and 3 above. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor as a waiver of any defense the COUNTY may have under said statute, nor shall the same be construed to constitute agreement by the COUNTY to indemnify the FDOT for FDOT's negligent, willful or intentional acts or omissions, nor as consent to be sued by third parties.

IN WITNESS WHEREOF, the FDOT hereto has executed this agreement on the day and year first above written

Signed, sealed and delivered in the presence of: (Two witnesses required by Florida Law)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

Witness Signature:

BY: _____
Name: **GERRY O'REILLY, P.E.**
District Four Secretary

Print Witness Name:

Attorney approved as to form:

Witness Signature:

Name: **ELIZABETH S. QUINTANA**

Print Witness Name:

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by **GERRY O'REILLY, P.E.**, District Four Secretary, who is personally known by me or who has produced _____ as identification

(SEAL)

Notary Public

My Commission Expires: _____

Printed or stamped name of Notary Public

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

ATTEST:
Joseph Abruzzo,
Clerk of the Circuit Court & Comptroller

By: _____
DAVE KERNER
Mayor

By: _____
(Deputy Clerk)

APPROVED AS TO TERMS AND
CONDITIONS

By:  _____
Director of Utilities

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

By: _____
(County Attorney)

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of _____ physical presence or
_____ online notarization, this _____ day of _____, 20____, by **DAVE KERNER**,
Mayor, Board of County Commissioners, who is personally known by me or who has produced
identification and who did not take an oath..

Type Name of Acknowledger
Deputy Clerk

23-UTL.02-01/21
Modified for Palm Beach County

This instrument prepared under the direction of:

Elizabeth S. Quintana, Esq.
District Four Assistant General Counsel

Legal Description prepared by:

Luis A. Gaztambide, P.S.M. (01/07/2020)

Document prepared by:

Grace K. Abel (01/11/2021)

Florida Department of Transportation

Right of Way Production Services

3400 W. Commercial Boulevard

Fort Lauderdale, Florida 33309

Parcel No. 112.3R(01/11/2021)

Item/Segment No. 4378781

Section: 93150-2510

Managing District: 04

S.R. No. 809 (Military Trail)

County: Palm Beach

SUBORDINATION OF COUNTY UTILITY INTERESTS

THIS AGREEMENT entered into this _____ day of _____, 20____, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter called the **FDOT**, and **PALM BEACH COUNTY, a Political Subdivision of the State of Florida**, hereinafter called the **COUNTY**.

WITNESSETH:

WHEREAS, the COUNTY presently has an interest in certain lands that have been determined necessary for highway purposes; and

WHEREAS, the proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by the COUNTY to the FDOT; and

WHEREAS, the FDOT is willing to pay to have the COUNTY'S facilities relocated if 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, COUNTY and FDOT agree as follows:

COUNTY subordinates to the interest of FDOT its successors and assigns, any and all of its interest in the lands as follows, viz:

Parcel No. 112

Item/Segment No. 4378781

A portion of Lots 8 and 9, ERIE TERRACE, according to the plat thereof, as recorded in Plat Book 24, Page 2, of the Public Records of Palm Beach County, Florida, lying in Section 12, Township 44 South, Range 42 East, as shown on Sheets 4 and 6 of the Florida Department of Transportation Right of Way Map for Item/Segment No. 4378781, Section 93150-2510, being more particularly described as follows:

Commence at a mag nail & disk stamped "LB 6770", found marking the South One-Quarter (S. 1/4) Corner of said Section 12; thence North 01°30'19" West along the North-South One-Quarter (N-S 1/4) Section line of said Section 12, a distance of 600.21 feet to the point of tangent STA. 463+33.12, being a point on the Baseline of Survey of State Road 809 (Military Trail); thence continue North 01°30'19" West along said North-South One-Quarter (N-S 1/4) Section line and said Baseline of Survey of State Road 809 (Military Trail), a distance of 733.95 feet to the point of intersection with the Baseline of Survey of State Road 882 (Forest Hill Boulevard); thence South 88°46'41" East along said Baseline of Survey of State Road 882 (Forest Hill Boulevard), a distance of 282.59 feet; thence North 01°13'19" East along a line at a right angle to the previously described course, a distance of 60.00 feet to a point on the Northerly Existing Right of Way line of State Road 882 (Forest Hill Boulevard) and the POINT OF BEGINNING; thence North 01°30'19" West along the Westerly line of said Lot 8, a distance of 17.02 feet; thence South 74°19'40" East, a distance of 48.09 feet; thence South 88°46'41" East, a distance of 8.59 feet; thence South 01°13'19" West, a distance of 5.00 feet to a point on said Northerly Existing Right of Way line of State Road 882 (Forest Hill Boulevard); thence North 88°46'41" West along said Northerly Existing Right of Way line of State Road 882 (Forest Hill Boulevard), a distance of 54.34 feet to the POINT OF BEGINNING.

Containing 548 square feet, more or less.

RECORDED

INSTRUMENT	DATE	FROM	TO	O.R.B. & PG.
Utility Easement	12/02/2004	Colombino Bakery, Inc.	Palm Beach County Water Utilities Department	17876 / 0055

PROVIDED that the COUNTY has the following rights:

1. The COUNTY shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon the lands described herein in accordance with the FDOT'S current minimum standards for such facilities as required by the FDOT, Utility Accommodation Manual in the effect at the time the agreement is executed. Any new construction or relocation of facilities within the lands will be subject to prior approval by the FDOT. Should the FDOT fail to approve any new construction or relocation of facilities by the COUNTY or require the COUNTY to alter, adjust, or relocate its facilities located within said lands, the FDOT hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate easements.
2. Notwithstanding any provisions set forth herein, the terms of the utility permits shall supersede any contrary provisions, with the exception of the provision herein with reimbursement rights.

3. The COUNTY shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the FDOT's facilities.
4. The COUNTY agrees to repair any damage to FDOT facilities, and, to the extent permitted by law, to indemnify the FDOT against any loss or damage resulting from the COUNTY exercising its rights outlined in Paragraphs 1 and 3 above. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor as a waiver of any defense the COUNTY may have under said statute, nor shall the same be construed to constitute agreement by the COUNTY to indemnify the FDOT for FDOT's negligent, willful or intentional acts or omissions, nor as consent to be sued by third parties.

IN WITNESS WHEREOF, the FDOT hereto has executed this agreement on the day and year first above written

Signed, sealed and delivered in the presence of: (Two witnesses required by Florida Law)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

Witness Signature:

BY: _____
Name: **GERRY O'REILLY, P.E.**
District Four Secretary

Print Witness Name:

Attorney approved as to form:

Witness Signature:

Name: **ELIZABETH S. QUINTANA**

Print Witness Name:

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of _____ physical presence or online notarization, this _____ day of _____, 20____, by **GERRY O'REILLY, P.E.**, District Four Secretary, who is personally known by me or who has produced _____ as identification

(SEAL)

Notary Public

My Commission Expires: _____

Printed or stamped name of Notary Public

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

ATTEST:
Joseph Abruzzo,
Clerk of the Circuit Court & Comptroller

By: _____
DAVE KERNER
Mayor

By: _____
(Deputy Clerk)

APPROVED AS TO TERMS AND
CONDITIONS

By:  _____
Director of Utilities

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

By: _____
(County Attorney)

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of _____ physical presence or
_____ online notarization, this _____ day of _____, 20____, by **DAVE KERNER**,
Mayor, Board of County Commissioners, who is personally known by me or who has produced
identification and who did not take an oath..

Type Name of Acknowledger
Deputy Clerk