PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date:	March 14, 2023	[X] Consent [] Ordinance	[] Regular [] Public Hearing	
Department:	Facilities Developme	nt & Operations		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) Approve: a standard form Disclaimer of Interest In Property; and

B) Authorize: the County Administrator or Designee, which in this case shall be the Director of Facilities Development and Operations to sign and administer the Disclaimer of Interest in Property.

Summary: Early in the 1900's, strips of right of way were created by The Palm Beach Farms Co. Plat No. 3 (Plat), as recorded in Plat Book 2, Page 45 of the Public Records of Palm Beach County (County), Florida. Various court cases have held that the County has (with certain limited exceptions) no interest in the platted rights of way within the Plat, which were not accepted, improved or purchased by the County, and that the adjacent tract owners own to the centerline of the platted roadways. In July 2002, as part of a settlement of the litigation surrounding the Plat rights of way, the County received Quit Claim Deeds from West Peninsular Title Company and Absolute, Inc., (West Peninsular/Absolute) as recorded in Official Records Book 13889, Page 490 and Official Records Book 13889, Page 459 of said Public Records, the intent of which was to release any claim of interest of West Peninsular/Absolute within Palm Beach County. While the County's position has always been that West Peninsular/Absolute had no interest in the rights of way, the recordation of the West Peninsular/Absolute Quit Claim Deeds to the County created some ambiguity as to the County's interest and kept the Palm Beach County Property Appraiser from adjusting its records to reflect ownership of the right of way by the adjacent owners. The Disclaimer of Interest In Property form (Disclaimer) will establish the standard format to be used to disclaim, release and quit claim to an Owner the County's interest in the West Peninsular/Absolute Quit Claim deeds. Once a disclaimer request is received by the County from a property owner, the Facilities Development & Operations Department (FD&O) will coordinate with the Engineering and Public Works Department (Engineering), the Water Utilities Department (WUD) and the County Attorney's Office (CAO) to review the request. In the event any existing County improvements (water/sewer/reclaim/drainage lines and structures, etc.) are located within the right of way that is being disclaimed, staff will request that the property owner grant the County an easement to address any existing County improvements. (Property & Real Estate Management) Districts 2, 3, 5 & 6/Countywide (HJF)

Background and Justification: Staff is currently reviewing numerous requests for the release of the County's interest in the subject right-of-way and is attempting to establish an effective and efficient way to Continued on Page 3

Attachments:

- 1. General Location Map
- 2. Disclaimer of Interest In Property

Recommended By:	Barn l. legal- Caller	2/06/23	
	Department Director	Date	
Approved By:	1/CBalle	2/28/23	
	County Administrator	Date /	

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact: **Fiscal Years** 2023 2024 2025 2026 2027 **Capital Expenditures Operating Costs External Revenues Program Income (County) In-Kind Match (County NET FISCAL IMPACT** # ADDITIONAL FTE **POSITIONS (Cumulative) Is Item Included in Current Budget:** Yes No Does this item include the use of federal funds? Yes ____ No ___ _____ Unit ____ Budget Account No: Fund _____ Dept Object Program Recommended Sources of Funds/Summary of Fiscal Impact: В. No Fiscal impact. Fixed Asset Number N/A C. **Departmental Fiscal Review** III. REVIEW COMMENTS **OFMB Fiscal and/or Contract Development Comments:** A. Contract Development and Control В. Legal Sufficiency: C. **Other Department Reviews:**

Department Director, Water Utilities

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

Department Director, Engineering & Public Works

Background and Justification Continued: process said requests. Since the County has no interest in the Plat right of way, the Disclaimer and delegated signature authority would effectively simplify the overall process that requires the review and coordination amongst FD&O, Engineering and Water Utilities departments and the CAO.

Ownership of the rights of way for roads and ditches within The Palm Beach Farms Co. platted subdivisions has historically been a contentious issue. The Palm Beach Farms Co. subdivisions in the central portions of the County were established by several different plats recorded in the early 1900s. The rights of way shown on these various plats were dedicated to the public, but many were never formally accepted by the County for ownership or maintenance purposes.

In the 1980's, West Peninsular/Absolute acquired the interest of the original developer of The Palm Beach Farms Co. platted subdivisions and asserted claims to ownership of the rights of way within the plats. West Peninsular/Absolute started to sell portions of right of way to third parties, who were not adjacent owners for use of the property. This wreaked havoc on property owners and developers. In addition, West Peninsular/Absolute sued the County and other defendants in Federal court over the Abandonment Ordinance No. 86-18, among other issues, claiming the County was effectively selling land owned by West Peninsular/Absolute. The jury returned a verdict against the County finding that the County had never accepted the offer of dedication from plaintiffs' predecessor in interest (Final Judgment Order recorded in ORB 11687, Page 1584). In a related state court case, West Peninsular/Absolute lost its interest in the rights of way to the adjoining property owners, resulting in the property owners holding fee simple title to the rights of way free and clear of the Palm Beach Farms Plat No. 3 public dedication (ORB 9209, Page 116 and ORB 11006, Page1981). In 2002, the County reached a settlement with West Peninsular/Absolute where the County paid for those few rights of way the County was actually using, and West Peninsular/Absolute provided the County with Quit Claim Deeds releasing any claims to the rights of way within the Palm Beach Farms plats.

As a result of the Federal lawsuit, Engineering and the CAO have taken the position that (with certain limited exceptions for rights of way the County purchased as part of the settlement or owned as an adjacent owner) the County and the public have no interest in the rights of way that were part of the Federal lawsuit; that the adjacent tract owners own to the centerline of the road; that the County cannot abandon those rights of way, and that there is no need for the County to provide adjacent owners a quit claim deed to evidence clear title in the adjacent owners.

However, continued uncertainty exists with respect to the County's interest in the rights of way arising out of the West Peninsular/Absolute Quit Claim Deeds (ORB 13889, Page 490 and ORB 13889, Page 459). To the layperson, the record shows a Quit Claim Deed to the County. In addition, the Property Appraiser's records reflect the County as owner. Title companies and attorneys sometimes require a deed from the County in order to insure title. In those few instances, the County has provided Quit Claim Deeds to adjacent owners releasing any County interest. Most recently, on February 9, 2021, the Board of County Commissioners approved a Quit Claim Deed in favor of Judith A. Hoover, as Successor Trustee of the Credit Shelter Trust created under the Richard D. Hoover Trust Declaration u/a/d 12/24/1986 as amended and restated 2/23/1998 (collectively "Judith A. Hoover, as Successor Trustee") and Hoover Properties, LTD, a Florida Limited Partnership (collectively "Hoover") releasing of record any County interest in the Hoover's portion of the 15' strip of right of way within The Palm Beach Farms Co. Plat No. 3. While reviewing Hoover's request for a quit claim deed, it was discovered that utility lines exist within the subject property. Hoover provided the County a Utility Easement within the south 15' of the released road right of way.

The Disclaimer form disclaims, releases and quit claims to an Owner the County interest in the Property which may have arisen pursuant to the West Peninsular/Absolute Quit Claim Deeds. In order to be assured that the legal description for the strip of land being released by the Disclaimer is within the limits of the Plat and affected by the West Peninsular/Absolute judgements, Engineering will review and approve said legal description prior to recording of the Disclaimer.

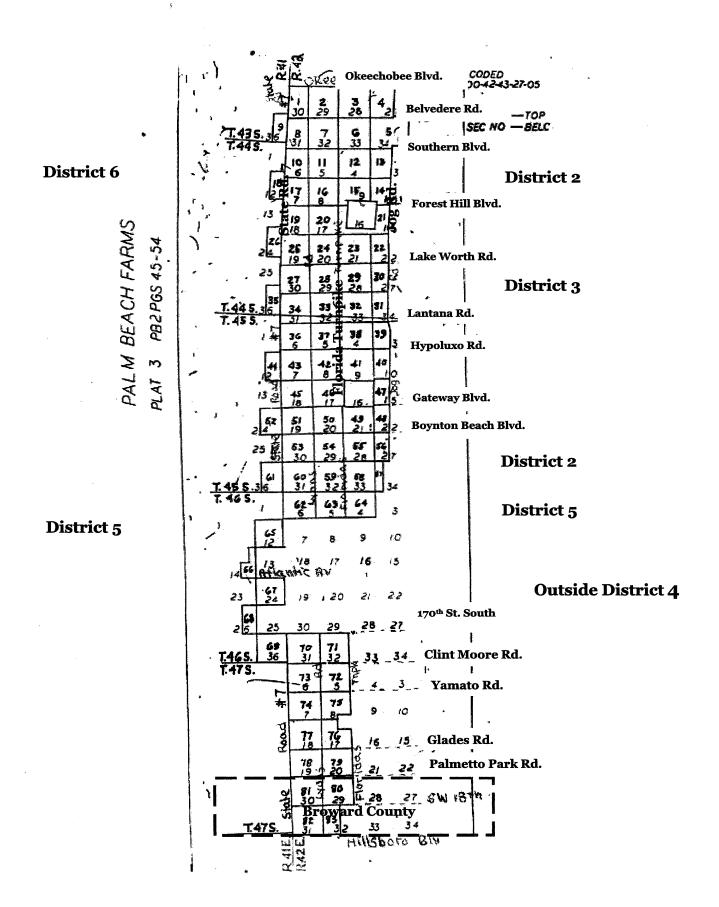
In the event any existing County improvements (water/sewer/reclaim/drainage lines and structures, etc.) are located within the right of way that is being disclaimed, Engineering and/or WUD will request that the property owner grant the County an easement to address any existing County improvements. If an easement is approved by the property owner, it will be processed by the impacted Department.

G:\PREM\Dev\Open Projects\West Penn - Absolute Litigation\Agenda Item - FD&O Director to Sign Disclaimer\Authorizes FDO Director to Sign- Disclaimer of Interest In Property. 9-5-

Attachment 1 Location Map

Page 1 of 1

General Location Map Palm Beach Farms Plat No. 3



PALM BEACH COUNTY PROPERTY & REAL ESTATE MANAGEMENT DI 2633 Vista Parkway West Palm Beach, FL 33411-5605	VISION
PCN:	
DISCLAIM	ER OF INTEREST IN PROPERTY
is 2633 Vista Parkway, West Palm I deeds from WEST PENNINSULA Office Record Book 13889, Page 49	a political subdivision of Florida, whose legal mailing address Beach, Florida 33411-5605, ("County") received quit claim R TITLE COMPANY , a Florida corporation, as recorded in 0 and ABSOLUTE , INC ., a Florida corporation, as recorded ge 459, of the Public Records of Palm Beach County, Florida 8").
and is the fee simple owner hereto and made a part hereof ("Proj	("Owner"), whose mailing address is of the property as legally described in Exhibit "A" attached perty").
County does hereby disclaim which may have arisen pursuant to t	n, release and quit claim to Owner any interest in the Property he Quit Claim Deeds.
by its Board of County Commission Operations Department, Palm Beach	County has caused these presents to be executed in its name oners acting through the Director, Facilities Development & County, pursuant to delegated authority under (Resolution #), dated, 20, the day and year aforesaid.
Signed and delivered in the presence of:	PALM BEACH COUNTY, a Political Subdivision of the State of Florida
Witness Signature	By: Director, Facilities Development & Operations
Print Witness Name	
Witness Signature	
Print Witness Name	

PREPARED BY AND RETURN TO:

CONTINUED ON NEXT PAGE

State of Florida County of Palm Beach) h)
or [] online notarization Development and Ope	instrument was acknowledged before me by means of [] physical presence on, this (date) by Isami Ayala-Collazo, Director, Facilities eration of Palm Beach County, on behalf of the Palm Beach County Board ion. She is personally known to me or who has produced. (type of ntification.
(Signature of person t	aking acknowledgment)
(Name typed, printed	or stamped)
(Title or rank)	
(Serial number if any))
APPROVED AS TO LEGAL SUFFICIEN By: Assistant County	NCY

EXHIBIT "A"