

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: April 9, 2024 Consent [X] Regular [ ]  
Public Hearing [ ]

Department: Water Utilities Department

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: a Subordination of County Utility Interests to the State of Florida Department of Transportation (FDOT). The Subordination of Utility Easements includes a portion of the following easement recorded in the Official Records of Palm Beach County: ORB 14086 Page 320.

**Summary:** The FDOT has an interest in a portion of the utility easement recorded in the Official Records of Palm Beach County as noted above that has been determined necessary for highway purposes. The utility easement is located along the eastern boundary of the property located at 5301 S. State Road 7. The proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by the County to FDOT. The facilities located within the utility easement and covered by the Subordination are a 16-inch water main and an 8-inch sanitary sewer force main. 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 and/or current public utility facilities and therefore recommends the subordination. (PBCWUD Project No. 21-580) District 6 (MWJ)

**Background and Justification:** The utility easement listed above was granted/reserved to the County for public potable water, reclaimed water and wastewater facilities associated with property identified by PCN 00-42-43-27-05-035-0091 on July 30, 2002. The subordination of utility interests to FDOT will not hinder PBCWUD during the operation and maintenance of the facilities.

**Attachments:**

- 1. Two (2) Original Subordination of County Utility Interests, Parcel No. 216.3
- 2. Location Map

Recommended By: Ali Bayat 3/13/24  
Department Director Date  
Approved By: Zel J. Blum 3/28/24  
Assistant County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2024	2025	2026	2027	2028
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>
<b>NET FISCAL IMPACT</b>	0	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	<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

Is this item using Federal Funds?                      Yes                       No

Is this item using State Funds?                      Yes                       No

Reporting Category N/A

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

No Fiscal Impact.

**C. Department Fiscal Review:** Gen Egerton for EB

**III. REVIEW COMMENTS**

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

Steve Mante 3/20/24  
OFMB 9A 3/13  
NAP 3/13 APP 3/20

A. D. Beind, Mgr. Finance & IT 3/20/24  
Brenda Macell 3/21/24  
Contract Development and Control  
Tol 3/21/24

**B. Legal Sufficiency:**

COY 3/27/24  
Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
Department Director

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:

Principal Meridian Surveying, Inc.

Doug Walker, P.S.M. (11/20/2023)

Document prepared by:

Susanna Rowland (12/13/2023)

Florida Department of Transportation

Right of Way Production Services

3400 W. Commercial Boulevard

Fort Lauderdale, Florida 33309

Parcel No. 216.3

Item/Segment No. 4413231

Section: 93210

Managing District: 04

S.R. No. 7 (U.S. 441)

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:

(More particularly described in the sketch and legal description attached hereto)

**RECORDED**

INSTRUMENT	DATE	FROM	TO	O.R.B. & PG./
Utility Easement	07/30/2002	Edward J. Ludwick as Trustee of the Edward J. Ludwick Revocable Trust dated May 3, 1995	Palm Beach County	14086 / 320

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: **STEVEN C. BRAUN, P.E.**  
District 4 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 **STEVEN C. BRAUN, P.E.**, District 4 Secretary, \_\_\_ who is personally known by me or \_\_\_ who has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed or stamped name of Notary Public

My Commission Expires: \_\_\_\_\_

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

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

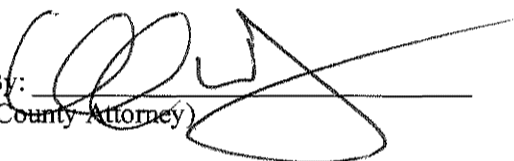
By: \_\_\_\_\_  
**MARIA SACHS**  
Mayor

By: \_\_\_\_\_  
(Deputy Clerk)

APPROVED AS TO TERMS AND  
CONDITIONS

By: Ali Bayat  
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 **MARIA SACHS**, 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

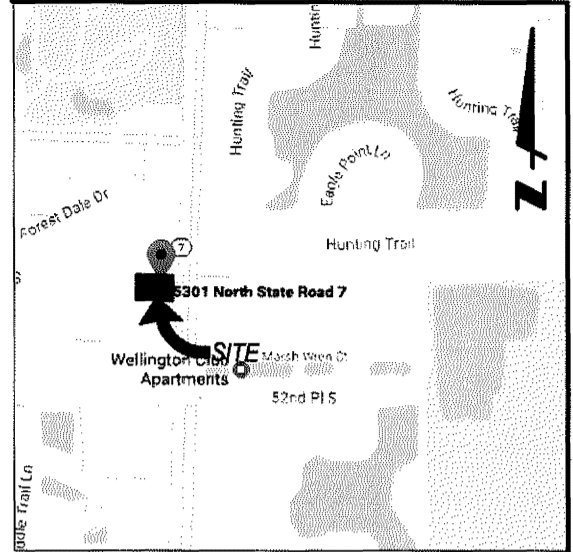
**RIGHT-OF WAY DONATION**  
SECTION 36, TOWNSHIP 44 SOUTH, RANGE 41 EAST,  
PALM BEACH COUNTY, FLORIDA

**LEGAL DESCRIPTION :**

A PARCEL OF LAND LYING IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 36, PROCEED SOUTH 01 DEGREE, 27 MINUTES AND 15 SECONDS WEST ALONG THE EAST LINE OF SAID SECTION 36 A DISTANCE OF 1460.19 FEET; THENCE SOUTH 89 DEGREES, 01 MINUTE AND 09 SECONDS WEST LEAVING SAID EAST LINE 221.86 FEET TO THE WEST RIGHT-OF-WAY OF STATE ROAD 7 AND THE POINT OF BEGINNING; THENCE SOUTH 01 DEGREE, 28 MINUTES AND 08 SECONDS WEST ALONG SAID RIGHT-OF-WAY 330.05 FEET; THENCE SOUTH 89 DEGREES, 01 MINUTE AND 09 SECONDS WEST LEAVING SAID RIGHT-OF-WAY 22.99 FEET; THENCE NORTH 01 DEGREE, 28 MINUTES AND 08 SECONDS EAST PARALLEL WITH THE WEST RIGHT-OF-WAY OF SAID STATE ROAD 7 A DISTANCE OF 277.79 FEET; THENCE NORTH 45 DEGREES, 10 MINUTES AND 36 SECONDS WEST 36.19 FEET; THENCE NORTH 00 DEGREES, 59 MINUTES AND 35 SECONDS WEST 26.27 FEET; THENCE NORTH 89 DEGREES, 01 MINUTE AND 09 SECONDS EAST 50.46 FEET TO THE TO THE POINT OF BEGINNING.

CONTAINING 8,630 SQUARE FEET



**VICINITY SKETCH**  
**NOT TO SCALE**

**SURVEYORS' NOTES:**

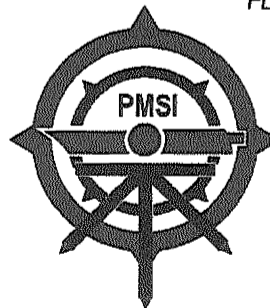
1. I HEREBY CERTIFY THIS SKETCH AND LEGAL MEETS STANDARDS OF PRACTICE SET FORTH IN RULE 5J-17.050-.052, OF THE FLORIDA ADMINISTRATIVE CODE, ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS, PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES.
2. THE SURVEY MAP AND REPORT AND THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OR VERIFIED ELECTRONIC SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. THIS FIRM'S CERTIFICATE OF AUTHORIZATION NUMBER IS LB 8261.
4. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
6. THIS SKETCH REFLECTS A BOUNDARY SURVEY PREPARED BY THIS OFFICE DATED 01-31-22, JOB NUMBER S17030272
7. A REVIEW OF THE COMMITMENT FOR TITLE INSURANCE BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY COMMITMENT NUMBER 1198592 A5, DATED MARCH 27, 2023 AT 11:00 PM, AND TITLE REPORT NO. 23179001 BY TITLE PARTNERS OF SOUTH FLORIDA, DATED NOVEMBER 6, 2023 WAS PERFORMED BY THIS OFFICE.
8. BEARINGS SHOWN HERON ARE BASED ON THE EAST LINE OF SECTION 36, AS SHOWN HEREON, HAVING A GRID BEARING OF S01°27'15"W.

NOTE ON COORDINATES, BEARINGS AND DISTANCES:  
COORDINATES SHOWN ARE GRID.  
DATUM IS NAD 83, 1990 ADJUSTMENT. ZONE IS FLORIDA EAST.  
LINEAR FOOT IS US SURVEY FOOT.  
COORDINATE SYSTEM IS 1983 STATE PLANE TRANSVERSE MERCATOR PROJECTION.  
ALL DISTANCES ARE GRID UNLESS NOTED OTHERWISE.  
SCALE FACTOR IS 1.0000180  
(GRID DISTANCE DIVIDED BY SCALE FACTOR IS GROUND DISTANCE.)  
BEARINGS SHOWN ARE GRID DATUM, NAD 83, 1990 ADJUSTMENT, FLORIDA EAST ZONE.

01-10-24  
DATE

*Doug Walker*  
DOUG WALKER

PROFESSIONAL LAND SURVEYOR AND MAPPER  
FLORIDA CERTIFICATE No. 7211



**PRINCIPAL  
MERIDIAN  
SURVEYING INC.**

4546 CAMBRIDGE STREET  
WEST PALM BEACH, FL 33415  
PHONE 833.478.7764 / FAX 561.478.1094  
WWW.PMSURVEYING.NET

PARCEL "B"  
SOUTH ROAD / 441  
PLAT BOOK 108, PAGE 3

NORTH RIGHT-OF-WAY LINE PER ORB 22158, PAGE 1252

POINT OF COMMENCEMENT

NE CORNER SECTION 36-44-41

N: 826800.2320

E: 915916.0480

TRACT "A", PLAT BOOK 108, PAGE 3  
52nd PLACE SOUTH

30' RIGHT-OF-WAY PLAT BOOK 2, PAGE 45

POINT OF BEGINNING

25.00'  
80.0'  
28.7'

N89°01'09"E 302.83'

N00°59'35"W  
26.27'

N89°01'09"E  
50.46'

221.86'  
S89°01'09"W

SOUTH RIGHT-OF-WAY LINE PER ORB 34312, PAGE 495

N45°10'36"W  
36.19'

PCN: 00424327050350091  
SOAPY SHARK SR 7 LLC  
ORB 33142, PAGE 1139

EAST 1/4 CORNER  
SECTION 36-44-41  
N: 824123.3280  
E: 915848.0900

ACCESS EASEMENT  
ORB 33361, PAGE 875

WEST LINE OF PERPETUAL RIGHT-OF-WAY EASEMENT PARCEL NUMBER  
832 PER ORB 10056, PAGE 643, AND ORB 10103, PAGE 1175

N01°28'08"E 277.79'

22.97' WIDE UTILITY EASEMENT  
ORB 14086, PAGE 320

S01°28'08"W 330.05'

WESTERLY LINE RIGHT-OF-WAY PARCEL NUMBER 192,  
PER ORB 10056 PG. 643, O.R.B. 10103 PG. 1171

EAST LINE OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 41 EAST

S01°27'15"W 2677.77' (GRID) SURVEY BEARING BASE

STATE ROAD 7  
RIGHT-OF-WAY VARIES

S89°01'09"W  
22.99'

N12°43'06"W  
905.57'  
(GRID)

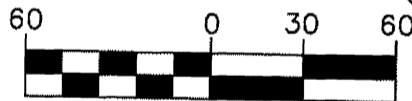
S89°01'09"W 315.32'

TRACT "A"  
CYPRESS LAKES PRESERVE, M.U.P.D.  
PLAT BOOK 100, PAGE 167

**PRINCIPAL  
MERIDIAN  
SURVEYING INC.**

4546 CAMBRIDGE STREET  
WEST PALM BEACH, FL 33415  
PHONE 833.478.7764 / FAX 561.478.1094  
WWW.PMSURVEYING.NET

GRAPHIC SCALE



1 INCH = 60 FT.

SECTION 36, TOWNSHIP 44 SOUTH, RANGE 41 EAST  
PALM BEACH COUNTY FLORIDA  
JOB#17-272





# ATTACHMENT No. 2

## Location Map PBCWUD Project No. 21-580

