

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2024	2025	2026	2027	2028
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>0</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No x_____

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

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

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
 Program _____

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

No fiscal impact.

Fixed Asset Number not required for Temporary Construction Easement.

C. Departmental Fiscal Review: [Signature]

*R. D. Reiner Mgr., OFMO,
OFAB 6/15/24*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 6/21/24
 OFMB [Signature]
 6/21/24

[Signature] 6/24/24
 Contract Development and Control
 6/24/24

B. Legal Sufficiency:

[Signature] 6/26/24
 Assistant County Attorney

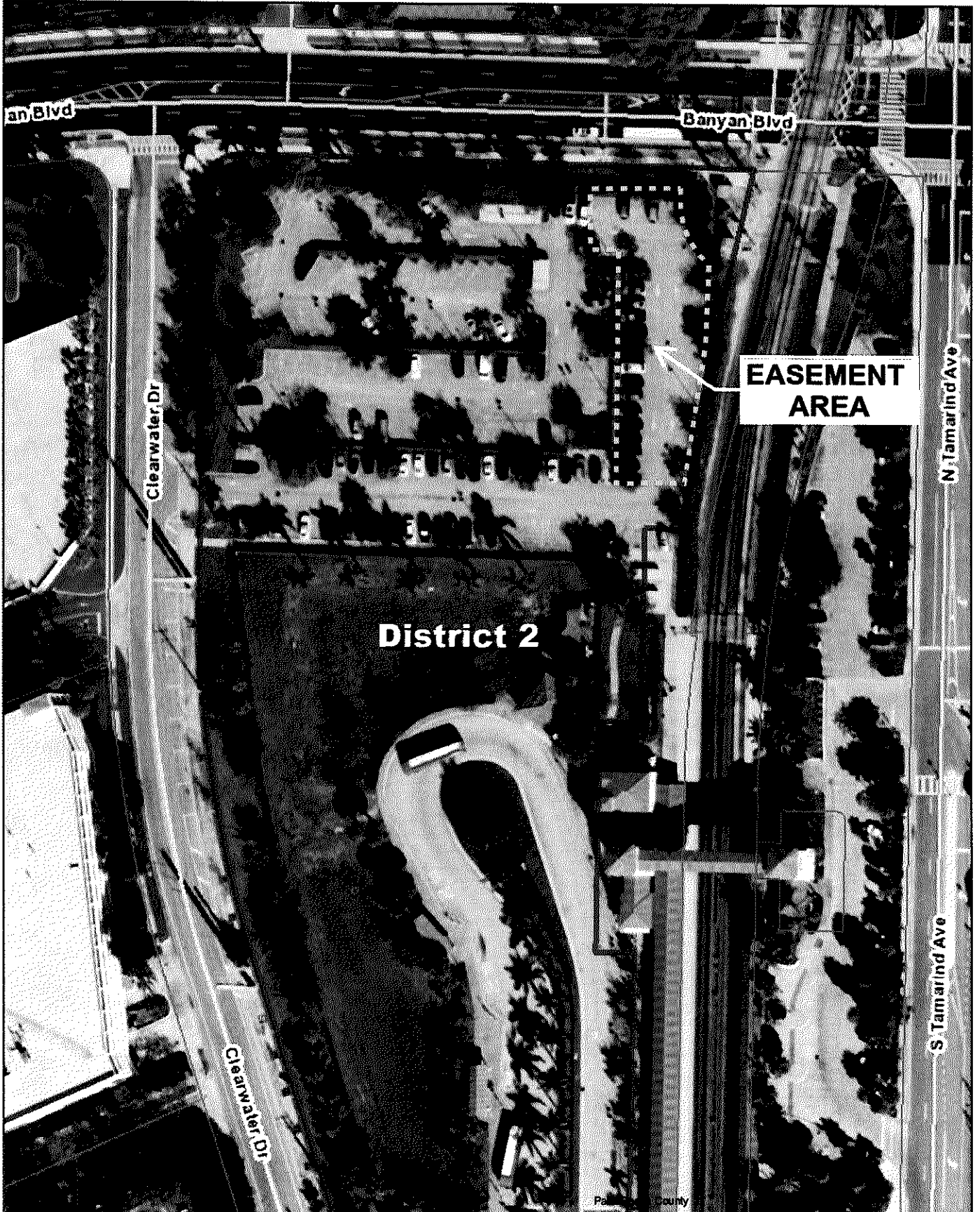
C. Other Department Review:

 Department Director

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

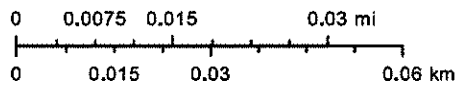
Location Map

74-43-43-21-27-001-0000, portion



February 5, 2024

1:1,128



Attachment 1

Prepared by & Return to:

Ben Williamson
Palm Beach County
Property & Real Estate Management Division
2633 Vista Parkway
West Palm Beach, FL 33411-5605

PCN: Portion of 74-43-43-21-27-001-0000

AMENDED AND RESTATED TEMPORARY CONSTRUCTION EASEMENT

THIS AMENDED AND RESTATED EASEMENT made May 2, 2024 (the "Amended Easement") by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, ("County") whose mailing address is 2633 Vista Parkway, West Palm Beach, Florida 33411-5605, and **SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY**, a body politic and corporate, a public instrumentality and an agency of the State of Florida, pursuant to Florida Statutes, Chapter 343, whose mailing address is 801 NW 33rd Street, Pompano Beach, Florida 33064 ("Grantee") ("County" and "Grantee" collectively referenced herein as the "Parties").

RECITALS

WHEREAS, County is the owner of the land described in Exhibit "A" attached hereto (the "County Property"); and

WHEREAS, County and Grantee have previously entered into an Easement Agreement as recorded in O.R. Book 23224, Page 1648 of the Public Records of Palm Beach County, Florida over a portion of the County Property for the SFRTA Parking Facility, as defined in said Easement Agreement; and

WHEREAS, Grantee intends to make certain repairs to its pedestrian bridge at the West Palm Beach Station located at 203 South Tamarind Avenue, West Palm Beach, FL 33401; and

WHEREAS, County granted a Temporary Construction Easement dated January 30, 2024, to allow Grantee to temporarily use the Easement Premises, as defined herein, as a construction staging site during the pedestrian bridge rehabilitation for a period of ninety (90) days; and

WHEREAS, said Temporary Construction Easement is set to expire on May 5, 2024; and

WHEREAS, Grantee wishes to extend the period of said temporary use of the Easement Premises for an additional ninety (90) days commencing on May 6, 2024, and expiring on August 5, 2024;

NOW, THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00) to County in hand paid by said Grantee, and various other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County does hereby grant to the Grantee a non-exclusive Temporary Construction Easement upon the real property legally described in Exhibit "B" attached hereto (the "Easement Premises"). The rights granted pursuant to this Amended Easement shall be limited to the right to utilize the Easement Premises solely to as a construction staging site during the pedestrian bridge rehabilitation (the "Project"). The rights granted pursuant to this Amended Easement shall expire and this Amended Easement shall automatically terminate upon the earlier of Grantee's completion of the Project or ninety (90) days after the Effective Date as defined in Paragraph 22 of this Amended Easement. Notwithstanding such automatic termination, Grantee shall promptly deliver to County a Release of Easement, in a form satisfactory to County, upon completion of the Project, if so requested by County.

1. **Conditions to Right of Usage.** Grantee shall obtain from County and any other necessary governmental entities written approval of all plans relating to construction of any improvement within the Easement Premises prior to commencement of construction thereof. Approval shall be obtained from Director, Property and Real Estate Management Division, Facilities Development & Operations, Palm Beach County. All improvements shall be constructed at Grantee's sole cost and expense and within the confines of the Easement Premises in accordance with the approved plans and all permits and applicable statutes, rules, regulations, codes and ordinances. Grantee shall install and maintain a construction fence to secure the Easement Premises area at all times. Grantee shall give County ten (10) days written notice prior to commencement of construction; Grantee shall not be entitled to construct any improvements within the Easement Premises other than those specifically identified herein.

2. **Intentionally Deleted.**

3. **Use Limitation.** Grantee acknowledges and agrees that the rights granted by this Amended Easement are and shall be strictly limited to those specifically granted herein and that Grantee may not utilize the Easement Premises for any purpose not specifically permitted hereby.

4. **Maintenance, Repair, and Restoration.** Grantee shall be solely responsible for and shall, at all times, maintain and repair at its sole cost and expense the Easement Premises and all improvements currently existing or constructed hereafter therein during the term of this Amended Easement. Grantee shall be solely responsible for and shall, at its own cost and expense, promptly repair any damage arising out of Grantee's exercise of the rights granted hereby and restore any improvements or landscaping now existing or constructed or installed hereinafter within the Easement Premises to the condition it was in prior to such damage, using materials of like kind and quality. In the event that Grantee fails to fulfill these obligations, County may complete the work and

Grantee shall reimburse County for all costs and expenses incurred as a result of such failure.

5. **Other Obligations.** Grantee agrees to diligently pursue all work performed hereunder to completion and to exercise the rights granted hereunder in a manner that does not unreasonably interfere with and minimizes the impact on County's use of the County Property. Grantee hereby acknowledges and accepts the Special Conditions as set forth in Exhibit "C" attached hereto and made a part hereof.

6. **Personal Property.** County shall have no liability or responsibility whatsoever for Grantee's improvements, equipment, personal or other property, nor that of any other person or entity, placed upon or located within the Easement Premises.

7. **Prohibition Against Liens.** Neither County's nor Grantee's interest in the Easement Premises shall be subject to liens arising from Grantee's or any other person or entity's use of the Easement Premises, or exercise of the rights granted hereunder. Grantee shall promptly cause any lien imposed against the Easement Premises or the County Property to be discharged or bonded off, pursuant to Chapter 255.05 and Chapter 713, Florida Statutes. In addition, Grantee shall either require all contractors to furnish a payment and performance bond in accordance with Section 255.05, Florida Statutes, naming County as an obligee or require such contractors to comply with County's Bond Waiver Program as set forth in PPM #CW-F-016 as the same may be amended from time to time, which is hereby incorporated herein by reference. Any required payment or performance bond shall be delivered to County prior to commencement of construction.

8. **Insurance.**

Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (Statute), the Grantee represents that it is self-insured with coverage subject to the limitations of the Statute, as may be amended.

If Grantee is not self-insured, Grantee shall, at its sole expense, purchase and maintain in full force and effect at all times during the life of this contract, insurance coverage at limits not less than those contained in the Statute.

Should Grantee purchase excess liability coverage, Grantee agrees to include County as an Additional Insured.

The Grantee agrees to maintain or to be self-insured for Workers' Compensation insurance in accordance with Chapter 440, Florida Statutes.

Should Grantee contract with a third-party ("Contractor") to perform any service related to the Easement, Grantee shall require the Contractor to provide the following minimum insurance:

Commercial General Liability insurance with minimum limits of \$1,000,000 combined single limit for property damage and bodily injury per occurrence and \$2,000,000 per aggregate. Such policy shall be endorsed to include Grantee and County as Additional Insureds. Grantee shall also require that the Contractor include a Waiver of Subrogation against County.

Business Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits for property damage and bodily injury per occurrence.

Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes, and which shall include coverage for Employer's Liability with minimum limits of \$1,000,000 each accident.

When requested, Grantee shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance.

Compliance with the foregoing requirement shall not relieve the Grantee of its liability and obligations under this Agreement.

Compliance with the foregoing insurance requirements shall not relieve Grantee of its liability and obligations under this Easement. *Grantee shall ensure that any contractor or subcontractor entering the Easement Premises on its behalf has and maintains insurance coverage at least equal to that required of the Grantee under the provisions of Paragraph 8 of this Amended Easement. The required certificates must be signed by the authorized representative of the Insurance Company shown on the certificate.*

Grantee's self-insurance or general liability insurance shall be primary with respect to any coverage afforded to or maintained by the County.

9. Indemnification. Without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes, Grantee, and its successors and assigns, shall indemnify, defend, and hold County harmless from and against any damages, liability, actions, claims, or expenses (including reasonable attorney's fees and expenses at trial and all appellate levels) arising out of the exercise of the rights granted hereby and use of this Amended Easement by any person whomsoever, including, without limitation, loss of life, personal injury, and/or damage to property arising from or out of any occurrence in or upon the Easement Premises or access routes or in connection with the use or operation of the Easement Premises or access routes.

10. **No Dedication**. The grant of Easement contained herein is solely for the use and benefit of Grantee and Grantee's authorized agents and employees, and is not intended, and shall not be construed as a dedication to the public of any portion of the Easement Premises for public use.

11. **Time of Essence**. The Parties expressly agree that time is of the essence in this Amended Easement.

12. **Matters of Record**. Grantee hereby accepts the Easement Premises "As-Is", without warranty or representation and subject to zoning and other governmental restrictions, matters reflected on any plat relating to the Easement Premises, and all other easements, restrictions, conditions, encumbrances, and other matters of record.

13. **Non-Discrimination**. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Parties agree that no person shall, on the grounds of race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information be excluded from the benefits of, or be subjected to, any form of discrimination under any activity conducted pursuant to this Amended Easement. Failure to meet this requirement shall be considered default of this Amended Easement.

14. **Palm Beach County Office of the Inspector General** Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Sections 2-421 - 2-440, as may be amended. The Inspector General is authorized with the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second- degree misdemeanor.

15. **Construction**. The terms of this Amended Easement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Amended Easement and the same shall remain in full force and effect.

16. **Notices**. All notices and elections (collectively, "notices") to be given or delivered by or to any party hereunder, shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, national overnight delivery service (provided in each case a receipt is obtained), telecopied, or faxed, or,

alternatively, shall be sent by United States Certified Mail, Return Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or overnight delivery service, or on the date of transmission with confirmed answer back if telecopier or fax if transmitted before 5:00 PM EST on a business day and on the next business day if transmitted after 5:00 PM EST or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The Parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

To County:

Property & Real Estate Management Division
Attention: Director
2633 Vista Parkway
West Palm Beach, Florida 33411-5605
Telephone: 561-233-0217
Fax: 561-233-0210

With a copy to:

Palm Beach County Attorney's Office
Attention: Real Estate
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401
Telephone: 561-355-2225
Fax: 561-355-4398

To Grantee:

SFRTA Director of Strategic Planning
801 NW 33 Street
Pompano Beach, FL 33064
Telephone: 954-788-7921
Fax: 954-788-3818

With a copy to:

SFRTA General Counsel
801 NW 33 Street
Pompano Beach, FL. 33064

Any party may from time to time change the address at which notice under this Amended Easement shall be given such party, upon three (3) days prior written notice to the other parties.

17. **Default.** In the event Grantee fails or refuses to perform any term, covenant, or condition of this Amended Easement for which a specific remedy is not set forth in this Amended Easement, County shall, in addition to any other remedies provided at law or in equity, have the right of specific performance thereof.

18. **Governing Law & Venue.** This Amended Easement shall be governed by, construed and enforced in accordance with the laws of the State of Florida. Venue in any action, suit or proceeding in connection with this Amended Easement shall be in a state court of competent jurisdiction in Palm Beach County, Florida.

19. **Prohibition Against Assignment.** This Amended Easement may not be assigned by Grantee.

20. **No Third Party Beneficiary.** No provision of this Amended Easement is intended to, or shall be construed to, create any third-party beneficiary or to provide any rights to any person or entity not a party to this Amended Easement, including but not limited to any citizens of County or employees of County or Grantee.

21. **Effective Date of Easement.** This Amended Easement is expressly contingent upon the approval of the Director of Facilities Development & Operations and shall become effective on May 6, 2024, or when executed by all necessary parties.

22. **Reservation of Rights.** County hereby retains all rights relating to the Easement Premises not specifically conveyed by this Amended Easement including the right to use the Easement Premises and any improvements now existing or constructed hereinafter therein, and the right to grant to third parties additional easements in the Easement Premises or the right to use the improvements therein.

23. **Waste or Nuisance.** Grantee shall not commit or suffer to be committed any waste upon the Easement Premises or any nuisance or other act or thing which may result in damage or depreciation of value of the Easement Premises or which may affect County's fee interest in the Easement Premises. Grantee shall keep the access to the Easement Premises, the parking areas, driveways and other contiguous areas to the Easement Premises free and clear of obstruction.

24. **Governmental Regulations.** Grantee shall, at Grantee's sole cost and expense, secure any required permits and comply with all regulations of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to Grantee or its use of the Easement Premises,

and shall faithfully observe in the use of the Easement Premises all municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force and all applicable association/governing body rules and regulations pertaining to the Grantee's use of the Easement Premises. Grantee shall not store or dispose any contaminants including, but not limited to, hazardous or toxic substances, chemicals, or other agents, including any petroleum products, used or produced in Grantee's activity, on the Easement Premises or in any manner not permitted by law. Grantee shall indemnify, defend and save County, its agents, officers, and employees harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from Grantee's failure to perform its obligations specified in this Section. Grantee's indemnification obligations set forth in the foregoing shall survive termination or expiration of this Amended Easement.

25. Surrender of Premises. Upon termination of the use of the Easement Premises by the Grantee, Grantee, at its sole cost and expense, shall remove all of its personal property from the Easement Premises and shall surrender the Easement Premises to the County in at least the same condition the Easement Premises as of the Effective Date.

26. Subcontracting. The Grantee may not subcontract or assign any rights, responsibilities or obligations of this Amended Easement

27. Entire Understanding. This Amended Easement represents the entire understanding between the Parties and supersedes all other negotiations, representations, or agreements, either written or oral, relating to this Amended Easement. Except as otherwise provided herein, no subsequent agreement, alteration, waiver, change, or addition to this Amended Easement shall be binding upon County or Grantee unless reduced to writing and signed by the Parties.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Temporary Construction Easement as of the day and year first above written.

Signed, sealed, and delivered in the presence of:

Grantee:

SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY, a body politic and corporate and an agency of the State of Florida created pursuant to Chapter 343, Florida Statutes.

ATTEST:

DocuSigned by:
By: Cariveau Anthony
11409F40F8D94A4...
Anthony Cariveau
Chief Contracting Officer

By: [Signature]
DAVID W. DECH
Executive Director

29 DAY OF April, 2024

Approved by General Counsel as to legal form and sufficiency:

[Signature]
TERESA J. MOORE, Esq.
General Counsel

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 29 day of April, 2024, by David W. Dech, the Executive Director, of SFRTA, a _____, who is personally known to me OR has produced _____ as identification.


(Notary Seal)



Denise Lerner
Notary Public, State of Florida
Denise Lerner
Type, print or stamp name

Commission Number: HH 281652
My Commission Expires: July 25, 2026

Signed, sealed, and delivered
in the presence of:

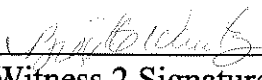


Witness 1 Signature
Vancea Asora

Print Witness 1 Name
2633 Vista Parkway

West Palm Beach FL 33411

Witness 1 Address



Witness 2 Signature
Brigitte Nantz


Print Witness 2 Name
2633 Vista Parkway

West Palm Beach, FL 33411

Witness 2 Address

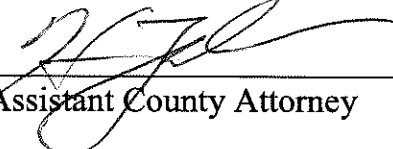
COUNTY:

PALM BEACH COUNTY, a political
subdivision of the State of Florida

By: 

Director, Facilities Development & Operations

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

By: 


Assistant County Attorney

**APPROVED AS TO TERMS
AND CONDITIONS**

By: 

Department Director

**APPROVED AS TO
CONTRACT REVIEW**

By: 

OFMB/CDC

EXHIBIT "A"

COUNTY'S PROPERTY

Parcel A, West Palm Beach Intermodal Facility plat, as recorded in Plat Book 110, Pages 191 and 192 of the Public Records of Palm Beach County, Florida.

EXHIBIT "B"

EASEMENT PREMISES

A portion of Parcel A, West Palm Beach Intermodal Facility plat, as recorded in Plat Book 110, Pages 191 and 192 of the Public Records of Palm Beach County, Florida as depicted below.

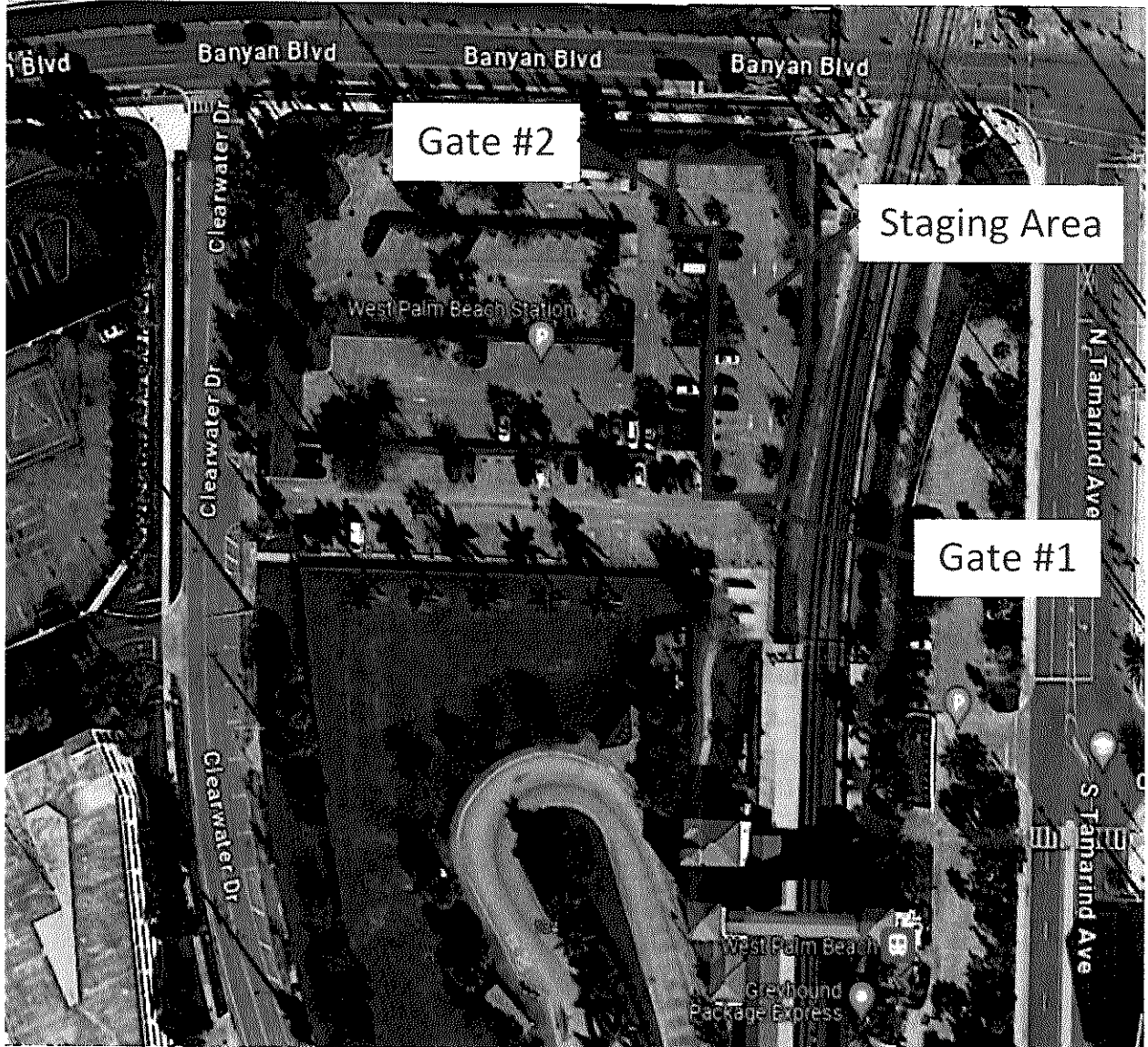


EXHIBIT "C"

SPECIAL CONDITIONS

Grantee shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in the continued operation of the SFRTA Parking Facility.

Grantee acknowledges and agrees that County shall have continued use of twenty-five (25) parking spaces in the designated employee parking area within the SFRTA Parking Facility reserved for County bus drivers and County employees as set forth in the Easement Agreement as recorded in O.R. Book 23224, Page 1648 of the Public Records of Palm Beach County, Florida.

Grantee agrees that there will be no disturbance or excavation of the asphalt top coat.

This Amended Easement shall not be recorded into the public records of Palm Beach County, Florida.