

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Resolution of Necessity – Seminole Wekiva Trail State Road 434
Underpass Project (at State Road 434 and Markham Woods Road)

DEPARTMENT: PUBLIC WORKS **DIVISION:** ENGINEERING

AUTHORIZED BY: W. Gary Johnson, P.E., Director **CONTACT:** Lenor Bromberg, P.E. ^{UMB} **EXT.** 5610
Jerry McCollum, P.E.

Agenda Date 12-20-05 Regular Consent Work Session Briefing
Public Hearing – 1:30 Public Hearing – 7:00

MOTION/RECOMMENDATION:

Adopt and authorize the Chairman to execute the Resolution of Necessity relating to the Seminole Wekiva Trail State Road 434 Underpass Project (at State Road 434 and Markham Woods Road).

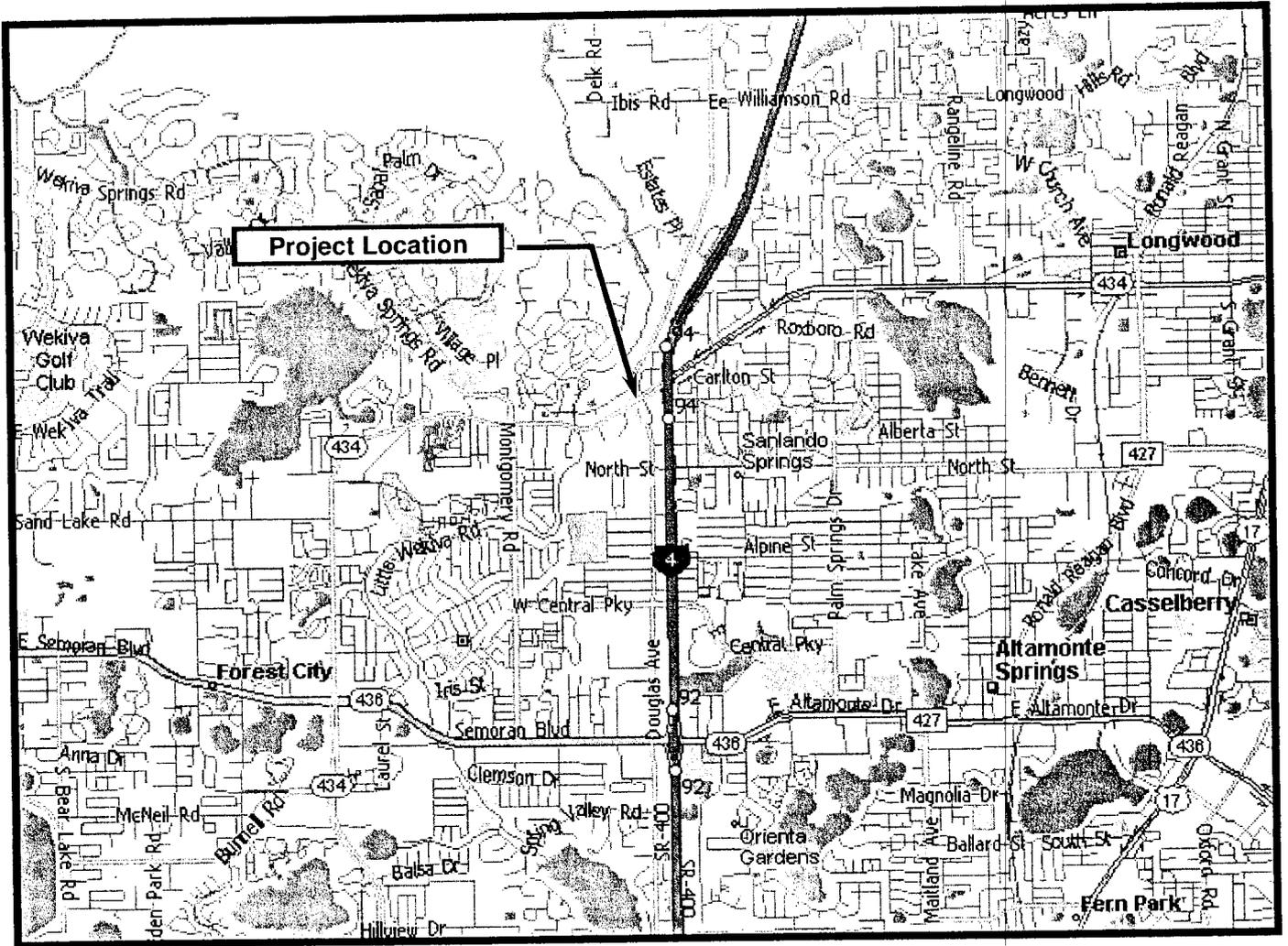
District 3-Commissioner Van Der Weide (Lenor Bromberg)

BACKGROUND:

Seminole County plans to construct a portion of the Seminole Wekiva Trail that will cross under State Road 434. The Seminole Wekiva Trail currently extends from State Road 436 to 0.5 mile west of Lake Markham Road. The placement of the underpass in this area of State Road 434 and Markham Woods Road is a critical transportation improvement and will provide a viable and safe bicycle and pedestrian facility. This Resolution of Necessity will establish the County's authority to use the eminent domain process for acquisition of a permanent perpetual access, utility and drainage easement for recreational trail use.

Attachment: Location Map
Resolution of Necessity

Reviewed by:
Co Atty: [Signature]
DFS: _____
Other: _____
DCM: [Signature]
CM: [Signature]
File No. CPWE01



SEMINOLE WEKIVA TRAIL
Pedestrian Underpass at SR 434 and Markham Woods Road

PROJECT LOCATION MAP



THE FOLLOWING RESOLUTION WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, AT ITS REGULARLY SCHEDULED MEETING OF _____, 2005.

WHEREAS, the Board of County Commissioners of Seminole County has actively supported the construction of a greenway and trail system in Seminole County and is committed to providing a wide array of recreational and alternative transportation uses which will allow the County's citizens and visitors to enjoy the natural beauty of Seminole County; and

WHEREAS, the Citizens of Seminole County overwhelmingly approved a bond referendum in 2000 to provide funding for the purchase of natural lands and the design and construction of neighborhood and arterial trails. The Seminole Wekiva Trail was specifically named in the referendum that was approved; and

WHEREAS, Seminole County plans to construct the Seminole Wekiva Trail, State Road 434 Underpass, at State Road 434 and Markham Woods Road. This portion of the trail will cross under State Road 434. The Seminole Wekiva Trail currently extends from State Road 436 to .5 miles west of Lake Markham Road.

WHEREAS, the placement of the underpass in this area is a critical transportation improvement and will provide viable bicycle and pedestrian transportation alternatives in

accordance with the public policy of the State of Florida and the Seminole County Comprehensive Plan; and

WHEREAS, Constitutional home rule powers, Chapter 125, Florida Statutes, Chapter 127, Florida Statutes, the *Florida Transportation Code (Chapters 334-339* and other provisions of the Florida Statutes as established in *Section 334.01, Florida Statutes)* and other applicable law gives the County the authority to acquire property for public purposes; and

WHEREAS, Seminole County has heretofore caused the area of the recreational trail easement to be located and surveyed and has caused a map to be prepared based upon and incorporating the survey and location data; and

WHEREAS, description of the property needed for the construction of the Seminole Wekiva Trail State Road 434 Underpass project has been prepared based upon the aforementioned survey and location data; and

WHEREAS, the Board of County Commissioners of Seminole County desires to utilize the provisions of Florida law to the fullest extent possible in order to accomplish the public purpose of acquiring necessary permanent trail easements at prices that are both fair to property owners and prudent in terms of spending public funds.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. The above recitals are adopted as findings and incorporated into the text of this Resolution.

Section 2. The acquisition of the property described in Exhibit "A" attached hereto consisting of 2 pages and identified as Schedule "A", Number 000001-000002, be and the same is hereby ratified and confirmed and found to be necessary for said

improvements as a permanent trail easement. The Board of County Commissioners of Seminole County hereby finds and determines that the acquisition of the parcel is necessary and serves a County and public purpose.

Section 3. The County Attorney's Office is hereby authorized and directed to institute a suit or suits in the name of Seminole County and fully exercise Seminole County's power of eminent domain for the purpose of acquiring the parcel described in Exhibit "A" attached hereto and is further authorized and directed to do all things necessary to prosecute such suit or suits to final judgment by settlement or adjudication. In pursuit of such authorization and direction, the County Attorney's Office is specifically authorized to sign and file a Declaration of Taking so that Seminole County may avail itself of the provisions of *Chapter 74, Florida Statutes*, and is further authorized to accomplish the acquisition of the parcel by settlement and compromise at such terms that it may deem advisable under the circumstances of the litigation in those instances where same can be effected in accordance with the terms, conditions and limitations if any are established from time to time by the Board of County Commissioners of Seminole County. The County Attorney's Office is authorized and directed to utilize and assert any and all constitutional and statutory authority of Seminole County and the Board of County Commissioners of Seminole County relative to the acquisition of the subject parcel including, but not limited to, the provisions of *Chapters 73, 74, 125, 127 and 332, Florida Statutes*, as well as the provisions of the *Florida Transportation Code* referred to in the recitals to this Resolution.

Section 4. Prior to the institution of any suits filed by the County Attorney's Office, the County Attorney or his designee is authorized to negotiate for the purchase

and sale of the property described in Exhibit "A" at a value consistent with the authority granted by the Board of County Commissioners of Seminole County and to bring back for execution by the Chairman or, in his absence, the Vice Chairman, without further Board action, the Agreement to consummate the sale to Seminole County or to bring offers from owner in excess of the authority granted by the Board of County Commissioners of Seminole County.

Section 5. The interests sought to be condemned designated as the Seminole Wekiva Trail State Road 434 Underpass parcel is a permanent perpetual access, utility and drainage easement for recreational trail use. The County's exclusive easement is for the primary purpose of providing permanent and perpetual public recreational use, specifically used by the general public for walking, bicycling, in-line skating and related activities. The County's use of this parcel shall include the right to construct, operate, secure, maintain, repair, and replace the trail and related drainage, utility and similar structures, together with appurtenances that are reasonably necessary to construct, operate, secure, maintain, repair and replace the trail and related structures. The County acquires the right to enter upon, over, under and across this parcel with all such roads, structures, fills, cuts, drains, ditches, and other facilities, which may be deemed necessary for the Seminole Wekiva Trail State Road 434 Underpass project. The owner's privileges in the use of this parcel include all uses and purposes not inconsistent with County uses. The owner retains all rights to include this parcel to meet applicable land development code regulations including: greenspace and landscape buffer regulations, buildable acreage calculations, and other land development code regulations.

Section 6. The County Engineer or his designee is hereby delegated the authority to amend the construction plans for the Seminole Wekiva Trail State Road 434 Underpass project and is authorized to bind the County to construct the Seminole Wekiva Trail State Road 434 Underpass project in accordance with the construction plans as amended from time to time. This authority shall encompass any change considered necessary in the discretion of the County Engineer or his designee, but shall not include changes in the typical section or alignment approved by the Board of County Commissioners of Seminole County.

ADOPTED this ____ day of _____, 2005.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

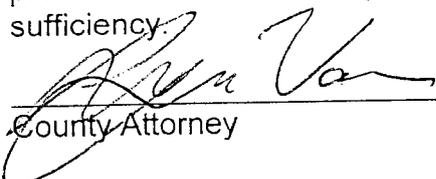
MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON D. HENLEY, Chairman

Date: _____

For the use and reliance
Seminole County only. Ap-
proved as to form and legal
sufficiency.

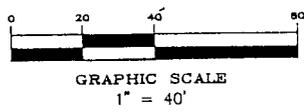
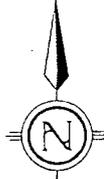
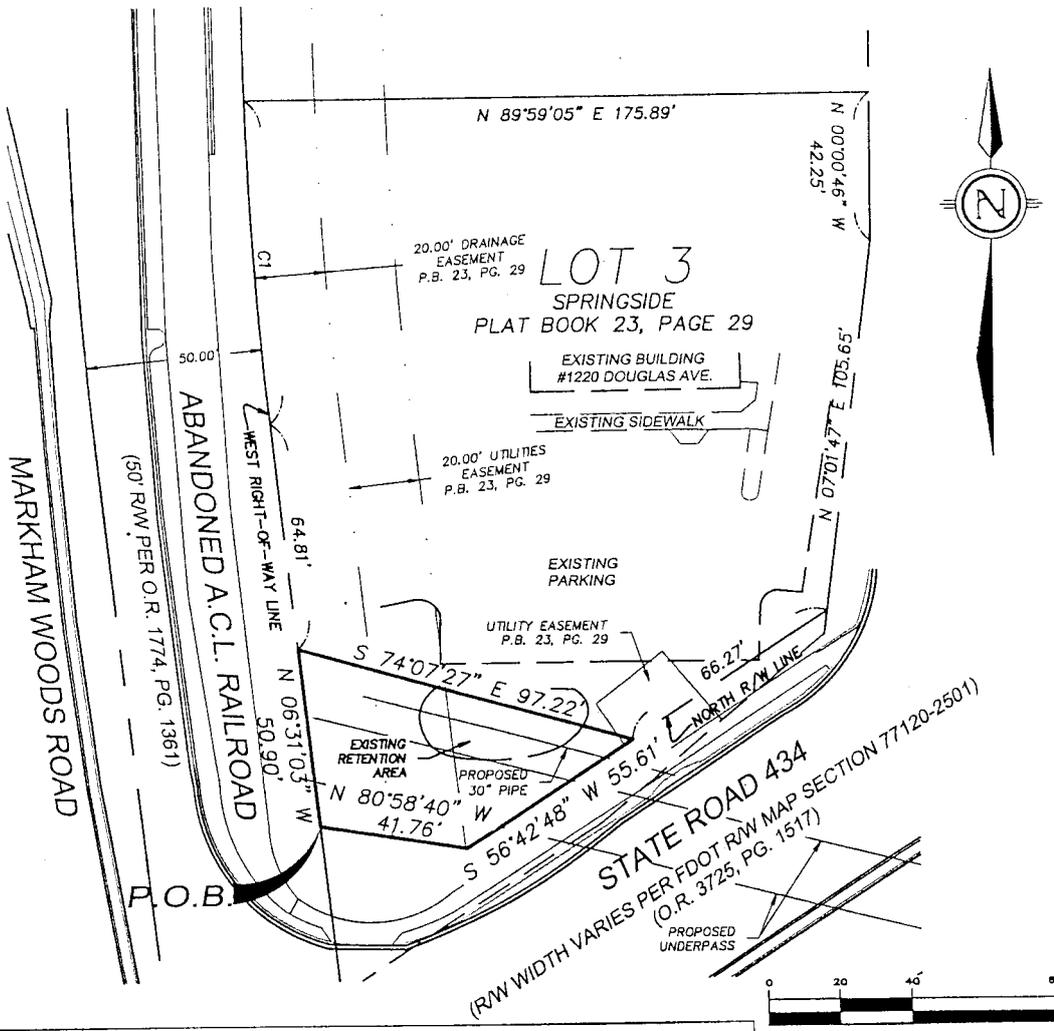
As authorized for execution by the Board
of County Commissioners at its _____,
2005, regular meeting



County Attorney

LMV/krc
10/18/05

Attachment:
Exhibit A - Legal Description 000001-000002



CURVE TABLE					
CURVE	RADIUS	DELTA	LENGTH	CHORD BEARING	DISTANCE
C1	1120.01	4°44'34"	92.71	S04°08'45"E	92.68

- LEGEND:**
- P.O.B. POINT OF BEGINNING
 - R/W RIGHT-OF-WAY
 - P.B. PLAT BOOK
 - PG. PAGE
 - FDOT FLORIDA DEPARTMENT OF TRANSPORTATION
 - PLS/PSM PROFESSIONAL SURVEYOR AND MAPPER
 - LB CERTIFICATE OF AUTHORIZATION NUMBER
 - O.R. OFFICIAL RECORDS BOOK

SHEET 1 OF 2

MAP OF DESCRIPTION
THIS IS NOT A SURVEY

DESCRIPTION ON SHEET 2 OF 2

PREPARED FOR:
SEMINOLE COUNTY
DATE: MARCH 24, 2005 SCALE: 1"=40'
PROJECT #: 03-0108.000
DESIGN: ALQ CHECKED: JRL

THIS MAP OF DESCRIPTION IS NOT VALID WITHOUT THE SURVEYOR'S SIGNATURE & ORIGINAL RAISED SEAL.

Allen L. Quickel
ALLEN L. QUICKEL 09/14/05
PROFESSIONAL SURVEYOR AND MAPPER #6481
STATE OF FLORIDA

DRMP
ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS
Phone: (407) 896-0594
L.B. #2648
1505 East Colonial Drive - Orlando, Florida 32803

LEGAL DESCRIPTION:

A portion of Lot 3, Springside, as recorded in the plat thereof recorded in Plat Book 23, Page 29 of the public records of Seminole County, Florida, lying in Section 2, Township 21 South, Range 29 East and being more particularly described as follows:

Begin at the intersection of the east right-of-way line of the abandoned A.C.L. Railroad as recorded in Official Records Book 1774, Page 1361 of the public records of Seminole County, Florida, and the north right-of-way line of State Road 434 as shown on Florida Department of Transportation right-of-way map, Section 77120-2501 and recorded in Official Records Book 3725, Page 1517 of the public records of Seminole County, Florida; thence run North 6°31'03" West, along said east right-of-way line, a distance of 50.90 feet; thence departing said east right-of-way line run South 74°07'27" East, a distance of 97.22 feet to a point on said north right-of-way line of State Road 434; thence run South 56°42'48" West, along said north right-of-way line, a distance of 55.61 feet; thence run North 80°58'40" West, along said north right-of-way line, a distance of 41.76 feet to the Point of Beginning.

The above described parcel containing 3,069.18 square feet, more or less.

SURVEYOR'S NOTES:

- 1) Bearings shown hereon are based on the north right-of-way line of State Road 434 as being South 56°42'48" West, an assumed bearing.
- 2) This property is subject to encumbrances, easements, and restrictions, if any, of record.
- 3) No underground installations or improvements, including, but not limited to, buried cables, sub-surface utilities, foundations, footers, or burial sites were located except as shown.
- 4) No instruments of record reflecting ownership or encumbrances were provided, except as noted, nor did this surveyor abstract these lands.
- 5) This Map of Description does not constitute a boundary survey, as such.

SKETCH ON SHEET 1 OF 2

SHEET 2 OF 2

PREPARED FOR:
SEMINOLE COUNTY

DATE: MARCH 24, 2005

PROJECT #: 03-0108.000

DESIGN: ALQ CHECKED: JRL

DATE	REVISIONS
09/14/05	REVISED PER COUNTY COMMENTS
06/21/05	ADD TOPO & PROPOSED PIPES



ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS

Phone: (407) 896-0594

L.B. #2648

1505 East Colonial Drive - Orlando, Florida 32803