

## Section 7.8

# RIGHT OF WAY RESOLUTIONS

### TABLE OF CONTENTS

PURPOSE.....	7-8-1
AUTHORITY .....	7-8-1
REFERENCE .....	7-8-1
SCOPE.....	7-8-1
DEFINITIONS .....	7-8-1
7.8.1 Project Resolution .....	7-8-1
7.8.2 Eminent Domain Parcel Resolution.....	7-8-2
7.8.3 Execution and Filing of Project and Parcel Resolutions .....	7-8-2
7.8.4 Changes to Resolutions .....	7-8-2
TRAINING .....	7-8-2
FORMS .....	7-8-3

## Section 7.8

# RIGHT OF WAY RESOLUTIONS

### PURPOSE

This section establishes the forms and processes for preparing right of way resolutions.

### AUTHORITY

Section 20.23(3)(a), Florida Statutes  
Section 334.048(3), Florida Statutes

### REFERENCE

Section 373.023(3), Florida Statutes

### SCOPE

The Central and District Offices of Right of Way and the Office of the General Counsel will use this section.

### DEFINITIONS

**Eminent Domain Parcel Resolution (Parcel Resolution):** The official statement by the Florida Department of Transportation (Department) that parcels described in the resolution are necessary for the project and acquisition of the parcels by eminent domain is authorized.

**Limited Access Project:** A highway designed for through traffic to which access is fully controlled by the Department.

**Project Resolution:** The official statement by the Department approving the location of a project, stating that acquisition of property and property rights are necessary for the project, and authorizing acquisition of necessary property and property rights.

### 7.8.1 Project Resolution

**7.8.1.1** A *Project Resolution* must be executed prior to delivery of the first offer on the project (a Supplemental Resolution may be executed at any time when needed). For

non-limited access projects, the resolution shown as **Attachment A** must be used. For limited access projects, the resolution shown as **Attachment B** must be used. Each **Project Resolution** must be recorded in the public records of the county where the project is located.

**NOTE:** For those advance acquisition parcels or projects not under the threat of condemnation whereby a project resolution may not be prepared, written authorization from the District Secretary will be sufficient.

**7.8.1.2 Section 373.023(3), Florida Statutes**, requires the Department to notify the Florida Department of Environmental Protection or the governing board of any affected water management district prior to exercising the Department's condemnation authority. Notification may be accomplished by providing a copy of the executed **Project Resolution** prior to commencing right of way acquisition.

## **7.8.2 Eminent Domain Parcel Resolution**

An **Eminent Domain Parcel Resolution, Attachment C**, must be executed for each eminent domain lawsuit prior to the suit being filed.

## **7.8.3 Execution and Filing of Project and Parcel Resolutions**

**7.8.3.1** Each **Project Resolution** and **Parcel Resolution** must be executed by the District Secretary of the District in which the project is located, attested and imprinted with the Department's official seal. In the absence of the District Secretary, the resolution must be forwarded to Central Office for execution by the Secretary of Transportation. It is recommended that resolutions requiring execution by the Secretary of Transportation be sent to the Director, Office of Right of Way, for handling.

**7.8.3.2 Original Project Resolutions** and **Eminent Domain Parcel Resolutions** must be maintained in the official right of way project file.

## **7.8.4 Changes to Resolutions**

Changes to **Project Resolutions** or to **Eminent Domain Parcel Resolutions** or the use of resolutions other than those attached to this procedure must be approved in writing by the Office of the General Counsel.

## **TRAINING**

None required.

## **FORMS**

None

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
PROJECT RESOLUTION  
FOR STATE HIGHWAY SYSTEM PROJECTS

**WHEREAS**, pursuant to Chapters 334 through 339 and Chapters 73 and 74, Florida Statutes, as amended, the State of Florida, Department of Transportation ("Department") has authority to locate and designate certain transportation facilities as a part of the State Highway System and construct and maintain the same with funds which are now or which may hereafter become available to the Department; and

**WHEREAS**, pursuant to Section 337.27, Florida Statutes, the Secretary of Transportation has delegated the authority to execute eminent domain resolutions to the Chief Administrative Officer of the District in which the property is located; and

**WHEREAS**, the property to be acquired hereunder is located in District \_\_\_\_\_ of the Department; and

**WHEREAS**, \_\_\_\_\_ is the Chief Administrative Officer of said District; and

**WHEREAS**, the Department has bifurcated its eminent domain resolutions into two types of resolutions; the Project Resolution, authorizing acquisition of property and property rights for the transportation facility, and the Parcel Resolution, authorizing the parcel acquisition and identifying the specific property and property rights to be acquired for the transportation facility; and

**WHEREAS**, the Department has prepared Right of Way maps showing the two geographic points (beginning and ending points of the transportation corridor) for Item/Segment Number \_\_\_\_\_ together with the projected area within said corridor; and

**WHEREAS**, the Department anticipates revising the Right of Way maps to reflect changes that may occur within the area between the two geographic points of the transportation corridor. The two geographic points will remain the same unless changed by a Supplemental Project Resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the District Secretary that the part of \_\_\_\_\_ in \_\_\_\_\_ County, Florida is hereby located and designated as Item/Segment Number \_\_\_\_\_, and the line and location of said part of said facility, as reflected in the Right of Way maps, are hereby designated as a part of the State Highway System; and

**BE IT FURTHER RESOLVED**, that it is the judgment of the Department that the construction of said portion of said Item/Segment Number is necessary, practical and in the best interest of the State; and that the acquisition of such property and property rights as are needed for said construction is necessary for the performance of its duties and for the construction, reconstruction, and maintenance of said state facility for the use of the general public; and that the Department is authorized to make such acquisition by gift, purchase, or condemnation.

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
District Secretary

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Executive Secretary

(SEAL)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
PROJECT RESOLUTION  
FOR STATE HIGHWAY SYSTEM PROJECTS

**WHEREAS**, pursuant to Chapters 334 through 339 and Chapters 73 and 74, Florida Statutes, as amended, the State of Florida, Department of Transportation ("Department") has authority to locate and designate certain transportation facilities as a part of the State Highway System and construct and maintain the same with funds which are now or which may hereafter become available to the Department; and

**WHEREAS**, pursuant to Chapters 334 through 339 and Chapters 73 and 74, Florida Statutes, as amended, the highway authorities of the state, counties, cities, towns, and villages, acting alone or in cooperation with each other or with any federal, state, or local agency of any other state having authority to participate in the construction and maintenance of transportation facilities, are authorized to designate, provide, and regulate limited access facilities; and

**WHEREAS**, pursuant to Section 337.27, Florida Statutes, the Secretary of Transportation has delegated the authority to execute eminent domain resolutions to the Chief Administrative Officer of the District in which the property is located; and

**WHEREAS**, the property to be acquired hereunder is located in District \_\_\_\_\_ of the Department; and

**WHEREAS**, \_\_\_\_\_ is the Chief Administrative Officer of said District; and

**WHEREAS**, the Department has bifurcated its eminent domain resolutions into two types of resolutions; the Project Resolution, authorizing acquisition of property and property rights for the transportation facility, and the Parcel Resolution, authorizing the parcel acquisition and identifying the specific property and property rights to be acquired for the transportation facility; and

**WHEREAS**, the Department has prepared Right of Way maps showing the two geographic points (beginning and ending points of the transportation corridor) for Item/Segment Number \_\_\_\_\_ together with the projected area within said corridor; and

**WHEREAS**, the Department anticipates revising the Right of Way maps to reflect changes that may occur within the area between the two geographic points of the transportation corridor. The two geographic points will remain the same unless changed by a Supplemental Project Resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the District Secretary that the part of \_\_\_\_\_ in \_\_\_\_\_ County, Florida is hereby located and designated as Item/Segment Number \_\_\_\_\_, and the line and location of said part of said facility, as reflected in the Right of Way maps, are hereby designated as a part of the State Highway System; and

**BE IT FURTHER RESOLVED**, that the District Secretary, finding that traffic conditions, present or future, would justify said facility being designated as a limited access facility, hereby designates, or has designated the same as a limited access facility; and

**BE IT FURTHER RESOLVED**, that it is the judgment of the Department that the construction of said portion of said Item/Segment Number is necessary, practical and in the best interest of the State; and that the acquisition of such property and property rights as are needed for said construction is necessary for the performance of its duties and for the construction, reconstruction, and maintenance of said state facility for the use of the general public; and that the Department is authorized to make such acquisition by gift, purchase, or condemnation.

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
District Secretary

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Executive Secretary

(SEAL)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
EMINENT DOMAIN PARCEL RESOLUTION

**WHEREAS**, pursuant to Chapters 334 through 339 and Chapters 73 and 74, Florida Statutes, as amended, the State of Florida, Department of Transportation ("Department") has authority to locate and designate certain transportation facilities as a part of the State Highway System and construct and maintain the same with funds which are now or which may hereafter become available to the Department; and

**WHEREAS**, pursuant to Section 337.27, Florida Statutes, the Secretary of Transportation has delegated the authority to execute eminent domain resolutions to the Chief Administrative Officer of the District in which the property is located; and

**WHEREAS**, the property to be acquired hereunder is located in District \_\_\_\_\_ of the Department; and

**WHEREAS**, \_\_\_\_\_ is the Chief Administrative Officer of said District; and

**WHEREAS**, the District Secretary of Transportation by Resolution dated \_\_\_\_\_, \_\_\_\_\_, did locate and designate Item/Segment Number \_\_\_\_\_; and

**WHEREAS**, it is the finding of the District Secretary of Transportation, that the acquisition of the properties and property rights as described in the parcel descriptions under the Department Parcel Numbers:

\_\_\_\_\_  
\_\_\_\_\_  
copies of which descriptions are attached hereto and by reference made a part hereof, is necessary, to the extent of the estate or interest set forth in the respective parcel descriptions, for the performance of the duties of the Department and for the construction, reconstruction, and maintenance of said state facility.

**NOW, THEREFORE, BE IT RESOLVED** by the Department that said property descriptions are ratified and confirmed; and

**BE IT FURTHER RESOLVED** by the Department that the acquisition of the properties and property rights described in said parcel descriptions is necessary for the performance of its duties and for the construction, reconstruction, and maintenance of said state facility for the use of the general public, and that the Department is hereby authorized to acquire the same by gift, purchase, or condemnation.

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
District Secretary

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Executive Secretary

(SEAL)