
**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Approval of a Mitigation Agreement for the Purchase of a Conservation Easement from Brio, LLC, in Conjunction with the State Road 434 Widening Project (Interstate 4 to Rangeline Road)

DEPARTMENT: Public Works

DIVISION: Engineering

AUTHORIZED BY: Gary Johnson

CONTACT: Shad Smith

EXT: 5707

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute a Mitigation Agreement for the purchase of a conservation easement by Seminole County from Brio, LLC, owner of the Brio Mitigation Area to offset wetland impacts associated with the State Road 434 Widening Project (Interstate 4 to Rangeline Road) (Financial Management Number 240233-3-52-01).

District 4 Carlton D. Henley

Jerry McCollum

BACKGROUND:

This roadway project will improve State Road 434 from Interstate 4 to Rangeline Road. The project consists of widening the roadway from 4 to 6 lanes including bike lanes and drainage improvements that consist of stormwater pipes, inlets and retention pond construction. Construction of all improvements is anticipated to start in the fall of 2012.

The construction of this project will impact 0.359 acres of existing wetlands. In order to mitigate these impacts, St. Johns River Water Management District (Application #4-117-115654-1) is requiring the purchase of wetland mitigation units by the Unified Mitigation Assessment Method (UMAM) at a cost of \$150,000. The attached agreement will purchase the wetland mitigation units from Brio, LLC, owner of the Brio Mitigation Area. A Budget Amendment Request (BAR) required to fund the transaction will be presented on the December 8, 2009 Agenda.

STAFF RECOMMENDATION:

Staff recommends that the Board approve and authorize the Chairman to execute the Mitigation Agreement for the purchase of a conservation easement by Seminole County from Brio, LLC, owner of the Brio Mitigation Area to offset wetland impacts associated with the State Road 434 Widening Project (Interstate 4 to Rangeline Road) (Financial Management Number 240233-3-52-01).

ATTACHMENTS:

1. Location Map - SR 434 (I-4 to Rangeline Road)
2. Agreement

Additionally Reviewed By:

■ Budget Review (Fredrik Coulter, Lisa Spriggs)

■ County Attorney Review (Matthew Minter)

CIP# 205303

SR 434 SIX LANING 1-4 TO RANGELINE

LAKE EMMA RD



EE WILLIAMSON RD

W 1-4

MARKHAM WOODS RD

RANGELINE RD

W SR 434

END PROJECT

BEGIN PROJECT

Island Lake

RAYMOND AVE

NORTH ST

DOUGLAS AVE

PALM SPRINGS DR

1 inch = 1,500 feet

MITIGATION AGREEMENT

On this ___ day of November, 2009, **BIO-TECH CONSULTING, INC.**, a Florida corporation (hereinafter, "Seller") which exclusively represents Brio, LLC, which is a Florida limited liability corporation organized under the laws of the State of Florida, and has the ownership rights of the Brio Mitigation Area does hereby offer to provide for the sole benefit of **SEMINOLE COUNTY**, a political subdivision of the State of Florida, (hereinafter, "Buyer"), an unencumbered conservation easement from Brio, LLC, to the St. Johns River Water Management District (SJRWMD) over an adequate acreage of uplands, wetlands or a combination of the two at the Brio Mitigation Area (the "conservation easement"), which will be appropriate to provide a total of 0.359 state only UMAM Mitigation Units as requested by the consultant for the project (Bowyer-Singleton & Associates). Seller warrants that it has full legal authority to represent that it is authorized to commit Brio, LLC, to convey the conservation easement described herein to SJRWMD.

At such time that full payment is made, Seller agrees to convey to SJRWMD and record a conservation easement over an unencumbered ___ acre portion of the Brio Mitigation Area, for the mitigation purchased. In this instance, the Buyer has indicated that this mitigation conservation easement is to be used to offset the wetland impacts associated with the construction of the State Road 434 Widening (Interstate 4 to Rangeline Road) in Seminole County ("project"), SJRWMD Application No. 4-117-115654-1. Seller warrants

that the conservation easement reserved herein is and will be available for application by the Buyer for assignment to this project within the terms described herein. Seller makes no warranty that the conservation easement reserved herein is sufficient to offset any particular impact associated with the Buyer's project.

Seller hereby commits to reserve and assign the appropriate acreage from the Brio Mitigation Area in Seminole County to the Buyer if a deposit in the amount of FORTY-FIVE THOUSAND AND NO/100 DOLLARS (\$45,000.00) is submitted with this signed agreement, and the remaining balance payment ONE HUNDRED FIVE THOUSAND AND NO/100 DOLLARS (\$105,000.00) is made within thirty (30) days of SJRWMD permit issuance. The total purchase price for the conservation easement from the Brio Mitigation Area is ONE HUNDRED FIFTY THOUSAND DOLLARS AND NO/CENTS (\$150,000.00), based on a price of \$350,000.00 per UMAM unit. This agreement is subject to acceptance within thirty (30) days of the above date. Beyond that time, the price and availability of the conservation easement cannot be guaranteed.

The remaining balance of the purchase price shall be due and payable within thirty (30) days of issuance of the SJRWMD permit authorizing the use of any or all of the conservation easement to offset wetland impacts. If payment is not received within thirty (30) days of SJRWMD permit issuance, the SJRWMD will be formally informed that the conservation easement from the Brio Mitigation Area is no longer available for this project and the initial deposit will be forfeited. In the event that the conservation easement for mitigation

described herein is not accepted by SJRWMD for this project, the deposit will be refunded to Buyer within twenty (20) days following written notification thereof from the Buyer, otherwise, the deposit shall be considered earned and non-refundable.

Payments shall be made to: Bio-Tech Consulting, Inc., and delivered to: Bio-Tech Consulting, Inc., 2002 East Robinson Street, Orlando, FL 32803. Upon receipt of the signed agreement and deposit, Seller will forward a copy of the mitigation package and Conservation Easement to the Buyer's consultant.

ATTEST:

BIO-TECH CONSULTING, INC.

Secretary

By: _____
JOHN MIKLOS, President

[CORPORATE SEAL]



Date: _____

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

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

By: _____
BOB DALLARI, Chairman

Date: _____

For the use and reliance
of Seminole County only.

As authorized for execution
by the Board of County Commissioners
at their _____, 20____
regular meeting.

Approved as to form and
legal sufficiency.

County Attorney
MGM
10/30/09
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