

Agenda Item # : **1**
PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: December 18, 2007 ☐ Consent ☒ Regular
 ☐ Workshop ☐ Public Hearing

Department:

Submitted By: Engineering and Public Works

Submitted For: Right-of-Way Acquisition Section

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve:

- A)** Three (3) County Easements in favor of property owners on Gardiner Lane, April Lane, and Perigon Way.
- B)** A County Deed in favor of the Gardiner Lane Association, Inc. (Association) for County owned property known locally as Gardiner Lane.

Summary: This action will approve County Easements to property owners on and abutting Gardiner Lane to preserve their rights to use Gardiner Lane; and it will approve a County Deed to transfer ownership of Gardiner Lane to the Association. This action has no fiscal impact.

District: 1 (PK)

Background and Justification: The property in question is a strip of land 16 feet wide and 783 feet long. The property is known locally as Gardiner Lane. It appears to have been created as an access for parcels north of Center Street along the Loxahatchee River Waterway (Waterway). This parcel does not supply direct access to the Waterway.

Beginning in 1953, the taxes were not paid on the property. Tax certificates were issued, and in 1971, the property was transferred to Palm Beach County as part of a Chancery case. The parcel has never been accepted for road maintenance by the County.

In 2006, the property owners who live north of Gardiner Lane, and have only Gardiner Lane for access, formed the Association, and approached the County about transferring the property to them. One property owner along the water is not a member of the Association. Two other groups of owners, who are not a part of the Association, abut Gardiner Lane.

The owners who live on Perigon Way are separated from Gardiner Lane by a Limited Access Easement, recorded in the plat of their neighborhood. Gardiner Lane is at the rear of their parcels.

The other owners, who live on April Lane, abut Gardiner Lane with no restrictions. Gardiner Lane is also at the rear of their properties, except for one owner. This one owner has his primary access on Gardiner Lane. (Continued on page 3)

Attachments:

1. Location Map
2. Detail Map
3. County Easement to owners on Perigon Way with Exhibit "A"
4. County Easement to owners on April Lane with Exhibit "A"
5. County Easement to owners on Gardiner Lane with Exhibit "A"
6. County Deed

Recommended by: Onelio A. Fernandez 11/8/07 [Signature]
Division Director Date

Approved by: D. L. Webb 12/3/07
County Engineer Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | <u>2008</u> | <u>2009</u> | <u>2010</u> | <u>2011</u> | <u>2012</u> |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|
| 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> |
| NET FISCAL IMPACT | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> |
| ADDITIONAL FTE POSITIONS (Cumulative) | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> |

Is Item Included In Current Budget? Yes _____ No _____
 _Budget Account No.: Fund _____ Dept. _____ Unit _____ Object _____
 Reporting Category _____

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

THIS ITEM HAS NO FISCAL IMPACT

C. Departmental Fiscal Review: R. D. Ward 10/30/07

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Jan D. L. 11-24-07
 OFMB

Jim J. J. 11/29/07
 Contract Dev. and Control
 E. J. J. 11/29/07

B. Legal Sufficiency:

Paul F. J. 11/30/07
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

Background and Justification continued

The Association approached the County about the transfer because the property is not maintained by the County, therefore, repairs are sporadic and not well coordinated, being done by Association members and other abutting owners.

The Engineering Department sent letters to the abutting owners who are on Perigon Way and April Lane asking for their comments and opinions on the proposed transfer. We then had two meetings to get additional input from the area residents.

Some owners on Perigon Way have been accessing Gardiner Lane for mainly pedestrian activities through back gates in their fences. The responding owners would like to be able to continue to enjoy those activities. They expressed concern that they would no longer be able to do so if it were to become private. The owners on Perigon Way can never have full access rights to Gardiner Lane because of the Limited Access Easement recorded in the plat of their subdivision. They are prohibited from having vehicle access because of the Limited Access Easement.

Some owners on April Lane have used Gardiner Lane as a second access, primarily for recreational vehicle purposes, in addition to pedestrian uses. These owners are more concerned with the possible loss of their access to Gardiner Lane.

Additionally, both the April Lane owner who has his only access on Gardiner Lane and the owner along the Waterway, have declined to be included in the Association.

In order to address these concerns, staff recommends that the Board of County Commissioners (Board) approve the attached County Easements.

The first Easement, in favor of the residents on Perigon Way, will preserve their non-vehicular rights to Gardiner Lane. The second Easement, in favor of the April Lane residents, will preserve their secondary access rights to Gardiner Lane. The third Easement, in favor of the residents of Gardiner Lane, including the owner who is not a member of the Association, and the owner on April Lane who has his primary access on Gardiner Lane, will preserve their unrestricted access rights to Gardiner Lane.

Staff then recommends that the Board approve the County Deed to transfer the property known as Gardiner Lane to the Association. Staff will ensure the correct recording order of the documents to achieve the goals stated herein.

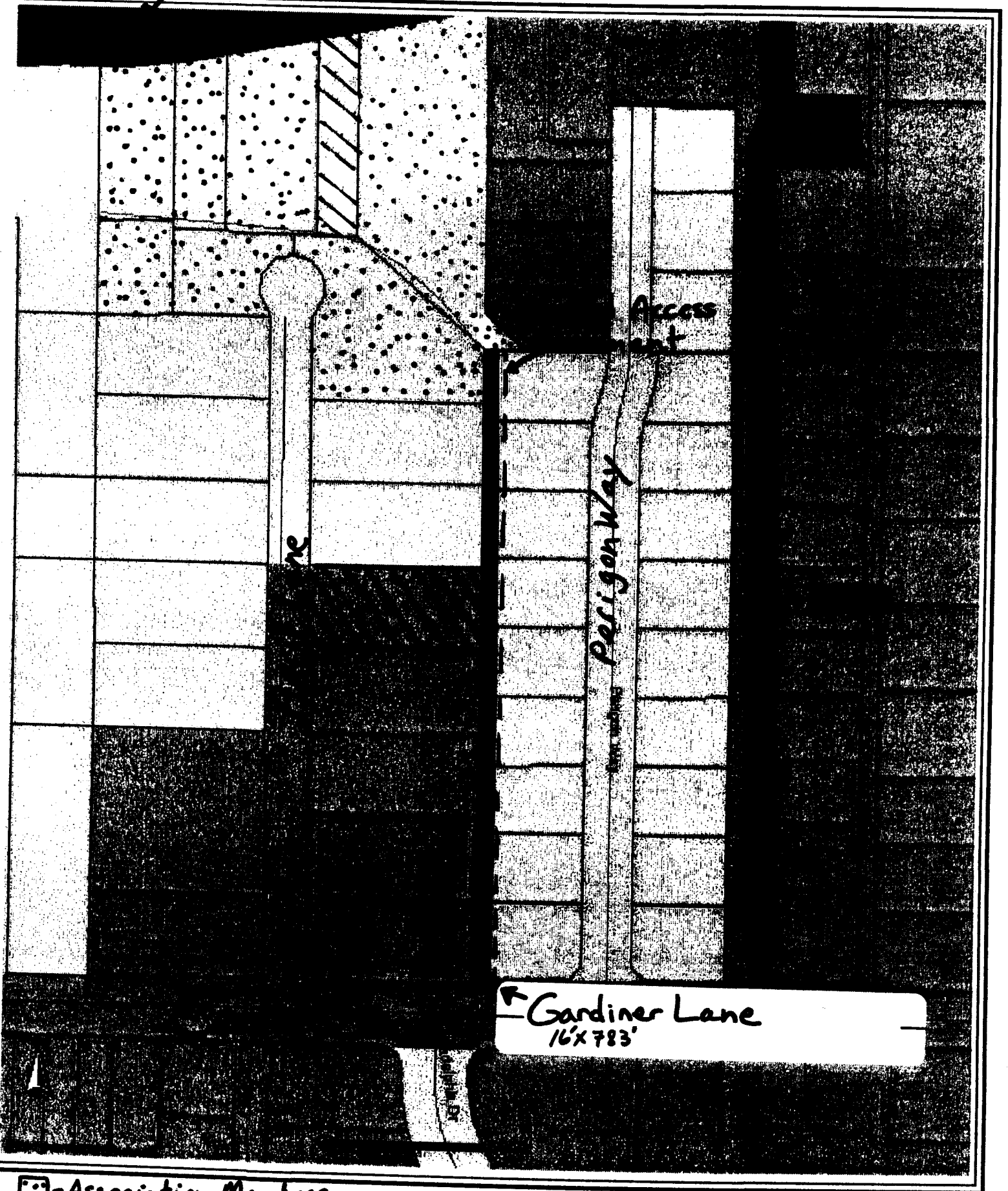
There are other issues, such as trash dumping, between the Association and the area owners, but since the approval of these documents will make Gardiner Lane private property, the resolution of these issues will be between the Association, the owners, and entities, such as the waste disposal authorities, that have jurisdiction.



1992



Loxahatchee River

N



-  - Association Members
-  - Access on Gardiner Lane Only

Map Scale 1:2237

Map produced on 1/19/2007

RETURN TO:

NAME:

ADDRESS:

PALM BEACH COUNTY
R/W ACQUISITION SECTION
POST OFFICE BOX 21229
WEST PALM BEACH, FLORIDA 33416
ATTN: Kat
ACCT. NO.: 1010 W/C BOX 1066

COUNTY EASEMENT DEED

THIS EASEMENT DEED, made this _____ by PALM BEACH COUNTY, a political subdivision of the State of Florida, party of the first part, and BONNIE STEIN; PATRICIA H. MC VAY; LEWIS I. HORNING AND CHRISTINE L. CARLSON; DONNA W. MC LAREN; LEO IACOPUCCI AND JANE IACOPUCCI; HOBSON D. BEEMAN, III; KENNETH J. SCHERGER AND BETTY J. SCHERGER; ANGELA P. CHANG; JEAN P. HARTMAN, parties of the second part, said parties owning the properties respectively described on Exhibit "A" attached hereto and made a part hereof.

WITNESSTH: that the party of the first part (County), in considerations of the sum of One dollar (\$1.00) and other valuable considerations paid, the receipt of which is hereby acknowledged, does hereby grant unto the parties of the second part, their successors and assigns, a limited perpetual easement and right-of-way for the purpose of ingress and egress, accruing to the parcel described on Exhibit "A", attached hereto and made a part hereof, over, upon, through, and across the property known as Gardiner Lane, said easement rights are to run with the land, more particularly described as follows, to wit:

The West sixteen (16) feet of the East nine hundred and fifty (950) feet of Government Lot 5, Section 36, Township 40 South, Range 42 East, (Private Road) as described in Official Record Book 1902, Page 1322, being Parcel 317, Public Records, Palm Beach County, Florida (hereinafter Gardiner Lane).

This Easement is subject to an existing Limited Access Easement, as recorded in Plat Book 36, Pages 37 and 38, which abuts the property described above, and nothing contained herein will impose and/or grant any rights, terms, restrictions, and/or conditions in conflict with those existing as to said Limited Access Easement.

Said Easement being subject to the following terms, restrictions, and conditions:

1. The parties of the second part shall have unrestricted pedestrian, including non-motorized vehicles, use of and access to Gardiner Lane.
2. The parties of the second part shall not construct nor maintain a primary or secondary vehicle access on to Gardiner Lane from the property described in Exhibit "A".

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairperson or Vice Chair of said Board, the day and year aforesaid.

ATTEST:

SHARON R. BOCK, Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY COMMISSIONERS

BY: _____

Clerk (or Deputy Clerk)

BY: _____

Addie L. Greene, Chairperson
or Vice Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____

County Attorney

This instrument prepared by:
Paul King, Assistant County Attorney
Palm Beach County
P.O. Box 21229
West Palm Beach, FL 33416

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 200__ by _____, Chairperson or Vice Chair, Board of County Commissioners, who is personally known to me.

Typed name of Acknowledger
Deputy Clerk

EXHIBIT "A"

STEIN: Lot 21, Perigon Point, Plat Book 36, page 37, as described in Official Record Book 9995, page 1592, Public Records, Palm Beach County, Florida.

MC VAY: Lot 20, Perigon Point, Plat Book 36, page 37, as described in Official Record Book 7043, page 536, Public Records, Palm Beach County, Florida.

HORNUNG/CARLSON: Lot 19, Perigon Point, Plat Book 36, page 37, as described in Official Record Book 14938, page 721, Public Records, Palm Beach County, Florida.

MC LAREN: Lot 18, Perigon Point, Plat Book 36, page 37, as described in Official Record Book 9989, page 781, Public Records, Palm Beach County, Florida.

IACOPUCCI: Lot 17, Perigon Point, Plat Book 36, page 37, as described in Official Record Book 19290, page 222, Public Records, Palm Beach County, Florida.

BEEMAN: Lot 16, Perigon Point, Plat Book 36, page 37, as described in Official Record Book 4116, page 1924, Public Records, Palm Beach County, Florida.

SCHERGER: Lot 15, Perigon Point, Plat Book 36, page 37, as described in Official Record Book 3083, page 419, Public Records, Palm Beach County, Florida.

CHANG: Lot 14, Perigon Point, Plat Book 36, page 37, as described in Official Record Book 20329, page 1926, Public Records, Palm Beach County, Florida.

HARTMAN: Lot 13, Perigon Point, Plat Book 36, page 37, as described in Official Record Book 13733, page 240, Public Records, Palm Beach County, Florida.

RETURN TO:

NAME:

ADDRESS:

PALM BEACH COUNTY
R/W ACQUISITION SECTION
POST OFFICE BOX 21229
WEST PALM BEACH, FLORIDA 33416
ATTN: Kat
ACCT. NO.: 1010 W/C BOX 1066

COUNTY EASEMENT DEED

THIS EASEMENT DEED, made this _____ by PALM BEACH COUNTY, a political subdivision of the State of Florida, party of the first part, and ALLEN L. MORRIS AND DONNA L. MORRIS; DAVID C. CONNER AND PAMELA J. CONNER; DEBORAH VERMEAL; STEPHEN A. LEWIS AND LINDA J. LEWIS; JAMES W. ALLEN AND HARRIET J. ALLEN AND MILDRED F. FOLLETT; GARY S. PARKER AND BONITA M. PARKER, parties of the second part, said parties owning the properties respectively described on Exhibit "A" attached hereto and made a part hereof.

WITNESSTH: that the party of the first part (County), in considerations of the sum of One dollar (\$1.00) and other valuable considerations paid, the receipt of which is hereby acknowledged, does hereby grant unto the parties of the second part, their successors and assigns, a limited perpetual easement and right-of-way for the purpose of ingress and egress, accruing to the parcel described on Exhibit "A", attached hereto and made a part hereof, over, upon, through, and across the property known as Gardiner Lane, said easement rights are to run with the land, more particularly described as follows, to wit:

The West sixteen (16) feet of the East nine hundred and fifty (950) feet of Government Lot 5, Section 36, Township 40 South, Range 42 East, (Private Road) as described in Official Record Book 1902, Page 1322, being Parcel 317, Public Records, Palm Beach County, Florida (hereinafter Gardiner Lane).

Said Easement being subject to the following terms, restrictions, and conditions:

1. The parties of the second part shall have unrestricted pedestrian, including non-motorized vehicles, use of and access to Gardiner Lane.
2. The parties of the second part shall have the right to use Gardiner Lane as a secondary vehicle access, provided said use does not obstruct Gardiner Lane.
3. The parties of the second part shall not construct nor maintain a primary vehicle access on to Gardiner Lane from the property described in Exhibit "A".

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairperson or Vice Chair of said Board, the day and year aforesaid.

ATTEST:

SHARON R. BOCK, Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY COMMISSIONERS

BY: _____

Clerk (or Deputy Clerk)

BY: _____

Addie L. Greene, Chairperson
or Vice Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____

County Attorney

This instrument prepared by:
Paul King, Assistant County Attorney
Palm Beach County
P.O. Box 21229
West Palm Beach, FL 33416

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 200__ by _____, Chairperson or Vice Chair, Board of County Commissioners, who is personally known to me.

Typed name of Acknowledger
Deputy Clerk

EXHIBIT "A"

MORRIS: Section 36, Township 40 South, Range 42 East; the west 208 feet of the east 1159.2 feet of the north 98 feet of the south 719 feet of Government Lot 5, as described in Official Record Book 20878, page 371, Public Records, Palm beach County, Florida.

CONNER: Section 36, Township 40 South, Range 42 East; the north 98 feet of the south 621 feet of the east 208 feet of the west 370 feet of Government Lot 5, as described in Official Record Book 8973, page 1541, Public Records, Palm Beach County, Florida.

VERMEAL: Section 36, Township 40 South, Range 42 East; north 98 feet of the south 425 feet of the east 208 feet of the west 370 feet of Government Lot 5, also known as Lot 13 of the unrecorded plat of Half Acres, as described in Official Record Book 15523, page 1868, Public Records, Palm Beach County, Florida.

LEWIS: Section 36, Township 40 South, Range 42 East; north 98 feet of the south 327 feet of the east 208 feet of the west 370 feet of Government Lot 5, also known as Lot 12 of the unrecorded plat of Half Acres, as described in Official Record Book 12535, page 603, Public Records, Palm Beach County, Florida.

ALLEN/FOLLETT: Section 36, Township 40 South, Range 42 East; north 98 feet of the south 229 feet of the east 208 feet of the west 370 feet of Government Lot 5, also known as Lot 11 of the unrecorded plat of Half Acres, as described in Official Record Book 11956, page 1916, Public Records, Palm Beach County, Florida.

PARKER: Section 36, Township 40 South, Range 42 East; north 98 feet of the south 131 feet of the east 208 feet of the west 370 feet of Government Lot 5, also known as Lot 10 of the unrecorded plat of Half Acres, as described in Official Record Book 9102, page 457, Public Records, Palm Beach County, Florida.

RETURN TO:

NAME: PALM BEACH COUNTY
R/W ACQUISITION SECTION
POST OFFICE BOX 21229
ADDRESS: WEST PALM BEACH, FLORIDA 33416
ATTN: Kat
ACCT. NO.: 1010 W/C BOX 1066

COUNTY EASEMENT DEED

THIS EASEMENT DEED, made this _____ by PALM BEACH COUNTY, a political subdivision of the State of Florida, party of the first part, and ROBERT E. WARBURTON AND JOYCE E. WARBURTON; DOUGLAS E. YELENCICS AND DIANE M. YELENCICS; DARYL L. STEWART AND KIMBERLY K. STEWART; JOHN S. TRIMPER AND DIANE C. TRIMPER; BETTY E. MOODY, TRUSTEE, JAMES G. MOODY RESTATED REVOCABLE TRUST 4 U/A 2/16/95; MOODY INVESTMENTS LIMITED PARTNERSHIP; DANIEL B. MOODY AND CARRIE E. MOODY; MICHAEL J. SULLIVAN, JR. AND DIANNA F. SULLIVAN; JOSEPH J. GREEN AND DONNA S. GREEN, parties of the second part, said parties owning the properties respectively described on Exhibit "A" attached hereto and made a part hereof.

WITNESSTH: that the party of the first part (County), in considerations of the sum of One dollar (\$1.00) and other valuable considerations paid, the receipt of which is hereby acknowledged, does hereby grant unto the parties of the second part, their successors and assigns, a perpetual easement and right-of-way for the purpose of ingress and egress, accruing to the parcels described on Exhibit "A", attached hereto and made a part hereof, over, upon, through, and across the property known as Gardiner Lane, said easement rights are to run with the land, more particularly described as follows, to wit:

The West sixteen (16) feet of the East nine hundred and fifty (950) feet of Government Lot 5, Section 36, Township 40 South, Range 42 East, (Private Road) as described in Official Record Book 1902, Page 1322, being Parcel 317, Public Records, Palm Beach County, Florida.

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairperson or Vice Chair of said Board, the day and year aforesaid.

ATTEST:
SHARON R. BOCK, Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY COMMISSIONERS

BY: _____
Clerk (or Deputy Clerk)

BY: _____
Addie L. Greene, Chairperson
or Vice Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: Paul F. S.
County Attorney

This instrument prepared by:
Paul King, Assistant County Attorney
Palm Beach County
P.O. Box 21229
West Palm Beach, FL 33416

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 200__ by _____, Chairperson or Vice Chair, Board of County Commissioners, who is personally known to me.

Typed name of Acknowledger
Deputy Clerk

EXHIBIT "A"

WARBURTON: Section 36, Township 40 South, Range 42 East; the easterly 115 feet of the west 370 feet of Government Lot 5, less the south 719 feet and that property described in Official Record Book 1897, page 938; as described in Official Record Book 4221, page 216, Public Records, Palm Beach County, Florida.

YELENCISICS: Section 36, Township 40 South, Range 42 East; the easterly 82.62 feet of the west 255 feet of Government Lot 5, less the south 719 feet and that property described in Official Record Book 1897, page 938; as described in Official Record Book 9327, page 1322, Public Records, Palm Beach County, Florida.

STEWART: Section 36, Township 40 South, Range 42 East; the east 109.63 feet of the west 172.38 feet of Government Lot 5, less the south 928 feet, as described in Official Record Book 16933, page 1021, Public Records, Palm Beach County, Florida.

TRIMPER: Section 36, Township 40 South, Range 42 East; the east 2.25 feet of Government Lot 4, less the south 928 feet, and the west 62.75 feet of Government Lot 5, less the south 928 feet, as described in Official Record Book 17534, page 1851, Public Records, Palm Beach County Florida.

MOODY TRUST: Section 36, Township 40 South, Range 42 East; the west 89 feet of the east 91.25 feet of Government Lot 4, less the south 928 feet, as described in Official Record Book 16989, page 1336, Public Records, Palm Beach County, Florida.

MOODY INVESTMENTS: Section 36, Township 40 South, Range 42 East; the north 111 feet of the south 928 feet of the west 89 feet of the east 91.25 feet of Government Lot 4, as described in Official Record Book 18461, page 837, Public Records, Palm Beach County, Florida.

MOODY: Section 36, Township 40 South, Range 42 East; property also known as Lot 1, less the west 89, of the unrecorded plat of Half Acres, as described in Official Record Book 11794, page 203, Public Records, Palm Beach County, Florida.

SULLIVAN: Section 36, Township 40 South, Range 42 East, property also known as Lot 17 of the unrecorded plat of Half Acres, as described in Official Record Book 11953, page 550, Public Records, Palm Beach County, Florida.

GREEN: Section 36, Township 40 South, Range 42 East, property also known as Lot 14 of the unrecorded plat of Half Acres, as described in Official Record Book 9188, page 1531, Public Records, Palm Beach County, Florida.

RETURN TO:

NAME: PALM BEACH COUNTY
R/W ACQUISITION SECTION
POST OFFICE BOX 21229
ADDRESS: WEST PALM BEACH, FLORIDA 33416
ATTN: KAT
ACCT. NO.: 1010 W/C BOX 1066

COUNTY DEED

THIS DEED, made this _____ by PALM BEACH COUNTY, a political subdivision of the State of Florida, party of the first part, and GARDINER LANE ASSOCIATION, INC., party of the second part.

WITNESSETH: That the said party of the first part, for and in consideration of the sum of Ten (\$10.00) Dollars to it in hand paid by the parties of the second part, receipt whereof is hereby acknowledged, has granted, bargained and sold to the parties of the second part, their heirs and assigns forever, the following described land lying and being in Palm Beach County, Florida:

The West sixteen (16) feet of the East nine hundred and fifty (950) feet of Government Lot 5, Section 36, Township 40 South, Range 42 East, (Private Road) as described in Official Record Book 1902, Page 1322, being Parcel 317, Public Records, Palm Beach County, Florida.

Subject to County Easements as recorded in Official Record Book _____, page _____; and Official Record Book _____, page _____; and Official Record Book _____, page _____, Public Records, Palm Beach County, Florida.

The party of the first part hereby reserves mineral rights interests in the property, in accordance with Florida Statute 270.11.

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairperson or Vice Chair of said Board, the day and year aforesaid.

ATTEST:
SHARON R. BOCK, Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY COMMISSIONERS

BY: _____
Clerk (or Deputy Clerk)

BY: _____
Addie L. Greene, Chairperson
or Vice Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: Paul F. King
County Attorney

This instrument prepared by:
Paul King, Assistant County Attorney
Palm Beach County
P.O. Box 21229
West Palm Beach, FL 33416

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 200__ by _____ Chairperson or Vice Chair, Board of County Commissioners, who is personally known to me or who has produced _____ as identification and who did not take an oath.

Typed name of Acknowledger
Deputy Clerk