

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: October 16, 2012

☒ **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:

- A) Accept a deed for right-of-way from Win-Preferred, LLC for a parcel of land located on the northeast corner of Clint Moore Road and Military Trail; and
- B) Approve a subordination of utility interests (Subordination Agreement) with the City of Boca Raton (City) on said parcel of land.

SUMMARY: Acceptance of the right-of-way deed from Win-Preferred, LLC will provide Palm Beach County (County) with 63.9 square feet of additional right-of-way at the northeast corner of Clint Moore Road and Military Trail. Approval of the Subordination Agreement will release a City utility easement interest in that parcel and allow the County to accept the warranty deed from the owner free and clear of all encumbrances.

District 4 (MRE)

Background and Justification: As part of its platting process for the plat of 1801 Clint Moore Road the City required the applicant, Win-Preferred, LLC, to dedicate a right-of-way parcel to the County at the northeast corner of Clint Moore Road and Military Trail located within the City. The parcel being conveyed is encumbered by a utility easement in favor of the City. Land conveyed to the County is required to be free and clear of all encumbrances. Win-Preferred, LLC, obtained a Subordination Agreement from the City subordinating its interests to the County. Future relocation is not anticipated, however. The Subordination Agreement requires the City to relocate any facilities it may have from the dedicated right-of-way, when and if requested by the County, and requires the County to pay for reasonable relocation costs of said facilities, as necessary. Staff recommends acceptance of the right-of-way deed and approval of the Subordination Agreement.

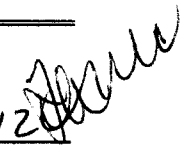
Attachments:

- 1. Location Map
- 2. Warranty Deed to Palm Beach County with Exhibit "A"
- 3. Subordination of Utility Interests and Agreement for Reimbursement for Facility Relocation with Exhibit "A"

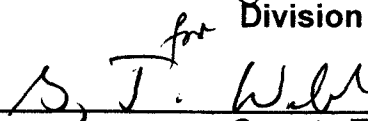
Recommended by:



Division Director

9/11/12 
Date

Approved by:



County Engineer

9/19/12
Date



II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ 7*	-0-	-0-	-0-	-0-
# ADDITIONAL FTE					
POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes No

Budget Acct No.: Fund__ Dept.__ Unit__ Object
Program

Recommended Sources of Funds/Summary of Fiscal Impact:

* This item has no additional fiscal impact.
Approval of the Subordination of Utility Interests may require the expenditure of funds for future relocation of utility facilities. This potential impact is not possible to quantify or state with any certainty that it will occur at the present time.

C. Departmental Fiscal Review: Alice Kovalainen

III. REVIEW COMMENTS

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

[Signature]
OFMB
9/20/12 9/17/12

[Signature] 9/28/12
Contract Dev. and Control
9.27.12 BWhale

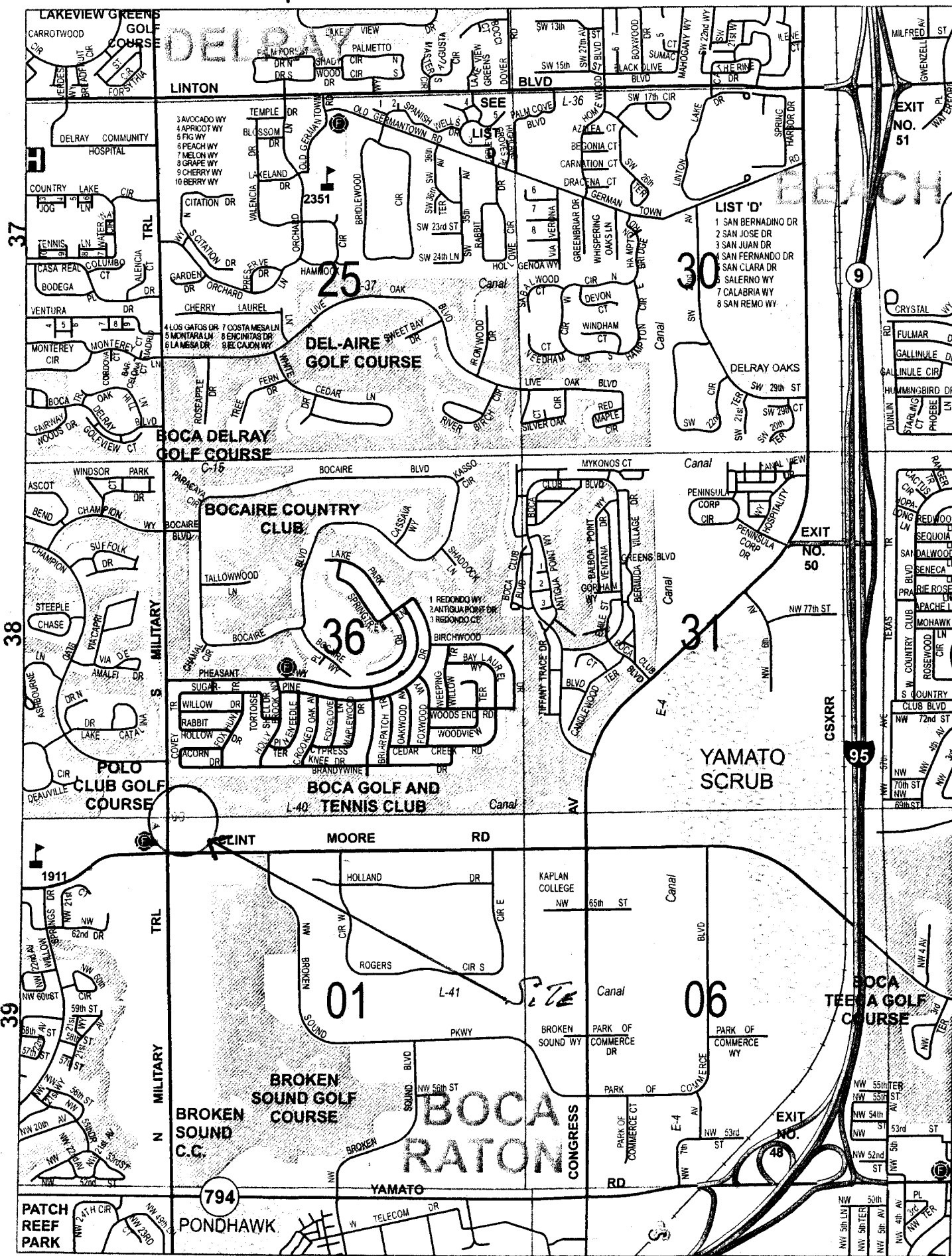
B. Approved as to Form and Legal Sufficiency:

[Signature] 10/3/12
Assistant County Attorney

C. Other Department Review:

Department Director

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



Return to: Right-of-Way Acquisition Section
Name: Palm Beach County Engineering
Post Office Box 21229
Address: West Palm Beach, Florida 33416
Attn:
Acct. No.: 1010 W/C BOX 1066

Attachment 2

This Instrument Prepared by:
Name:

PCN: _____ NOT TO BE RECORDED
WITHOUT BOARD OF COUNTY
COMMISSIONERS ACCEPTANCE DATE
SPACE ABOVE THIS LINE FOR PROCESSING DATA

(Corporation)

PROJECT NO.

ROAD NAME: 1801 Clint Moore Road
PARCEL NO. 06-42-47-01-08-000-0020

THIS WARRANTY DEED, made this 18th day of May, 2012, by **WIN-PREFERRED, LLC**, a Florida limited liability company, existing under the laws of **FLORIDA**, and having its principal place of business at 2255 Glades Road, Suite 324-A, Boca Raton, FL 33431, hereinafter called grantor, to **PALM BEACH COUNTY**, a political subdivision of the State of Florida, whose post office address is P.O. Box 21229, West Palm Beach, Florida 33416, hereinafter called grantee.

WITNESSETH: That the grantor, for and in consideration of the sum of TEN (\$10.00) dollars and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in Palm Beach County, Florida, viz:

Property more particularly described in Exhibit "A" attached hereto and made a part hereof.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor hereby covenants with said grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes subsequent to December 31, 2011.

IN WITNESS WHEREOF the grantor has caused these presents to be executed in its name, and its corporate seal to be affixed, by its proper officers thereunto duly authorized, the day and year first above written.

(CORPORATE SEAL)

Signed, sealed and delivered in the presence of:
(Signature of two witnesses required by Florida law)

WIN-PREFERRED, LLC, a Florida limited liability company

By: PREFERRED CLINT MOORE, LLC, a Florida limited liability company, its Managing Member

BY:

SIGNATURE

Rod C. Sheldon, Manager

TYPED OR PRINTED NAME

Alicia Ash
(WITNESS Signature (Required))

Alicia Ash
TYPED OR PRINTED NAME OF WITNESS

WITNESS SIGNATURE (Required)

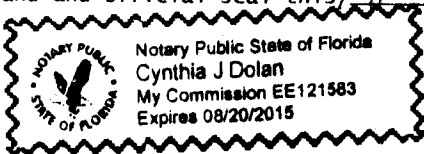
MAURICIO VIANNA
TYPED OR PRINTED NAME OF WITNESS

2255 Glades Road, Suite 324-A
Boca Raton, FL 33431
MAILING ADDRESS

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this day by Rod C. Sheldon, Manager of PREFERRED CLINT MOORE, LLC, a Florida limited liability company, the Managing Member of WIN-PREFERRED, LLC, a Florida limited liability company, on behalf of the companies. He is personally known to me or has produced _____ as identification.

witness my hand and official seal this 18th day of May, 2012.



Signed:

Public in and for the County and State aforementioned

Notary

EXHIBIT "A"

DESCRIPTION SKETCH FOR: WIN-PREFERRED, LLC

DESCRIPTION:

A PARCEL OF LAND, BEING A PORTION OF LOT 2 OF BOCA TECH - PHASE TWO, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 47, PAGES 142 AND 143 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGIN AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 00°00'35" WEST, ALONG THE WEST LINE OF SAID LOT 2 (THE WEST LINE OF SAID LOT 2 ALSO BEING THE EAST RIGHT-OF-WAY LINE OF MILITARY TRAIL AS SHOWN ON SAID PLAT AND IS ASSUMED TO BEAR NORTH 00°00'35" WEST AND ALL OTHER BEARINGS ARE RELATIVE THERETO) A DISTANCE OF 8.68 FEET TO A POINT OF CUSP OF A NON-TANGENT CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 48.50 FEET, A CENTRAL ANGLE OF 23°45'30" AND A CHORD BEARING OF SOUTH 63°42'43" EAST; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 20.11 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 2; THENCE NORTH 89°29'20" WEST ALONG SAID SOUTH LINE (SAID SOUTH LINE ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF CLINT MOORE ROAD AS RECORDED IN ROAD PLAT BOOK 4, PAGE 243, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA) A DISTANCE OF 17.90 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2 AND THE POINT OF BEGINNING.

CONTAINING IN ALL, 63.9 SQUARE FEET, MORE OR LESS.

NOTES:

- 1. ALL INFORMATION REGARDING RECORD EASEMENTS, ADJOINERS, AND OTHER DOCUMENTS THAT MIGHT AFFECT THE QUALITY OF TITLE TO TRACT SHOWN HEREON WAS GAINED FROM COMMITMENT NUMBER FA-C-464607, ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY, AMENDED DATE 09/12/2011. NO SEARCH OF THE PUBLIC RECORDS HAS BEEN MADE BY THIS OFFICE.
- 2. THIS SKETCH IS NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYOR'S SEAL AND ACCOMPANIED BY SHEET NO. 2 OF 2.
- 3. THIS SKETCH CANNOT BE TRANSFERRED OR ASSIGNED WITHOUT THE SPECIFIC WRITTEN PERMISSION OF WALLACE SURVEYING CORPORATION.
- 4. THE WEST LINE OF LOT 2, BOCA TECH-PHASE TWO, AS RECORDED IN PLAT BOOK 47, PAGE 142, IS ASSUMED TO BEAR NORTH 00°00'35" WEST (SAID LINE ALSO BEING THE EAST RIGHT-OF-WAY LINE OF MILITARY TRAIL) AND ALL OTHER BEARINGS SHOWN HEREON ARE RELATIVE THERETO.
- 5. COORDINATES SHOWN ARE GRID.
- 6. DATUM = NAD 83, 1990 ADJUSTMENT.
- 7. ZONE = FLORIDA EAST
- 8. LINEAR UNIT = US FOOT
- 9. COORDINATES SHOWN ON THE CONTROL P.R.M.'S ARE BASED UPON THE FLORIDA STATE PLANE COORDINATE SYSTEM ON THE NORTH AMERICAN DATUM OF 1983, 1990 ADJUSTMENT AS READJUSTED BY PALM BEACH COUNTY, FLORIDA, IN 1998.
- 10. ALL DISTANCES ARE GROUND.
- 11. SCALE FACTOR = 1.000035936
- 12. GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE
- 13. THIS IS NOT A SURVEY!

CERTIFICATION:

I HEREBY ATTEST THAT THE DESCRIPTION SKETCH SHOWN HEREON MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS. PURSUANT TO SECTIONS 472.027, FLORIDA STATUTES, AND ADOPTED IN RULE 5J-17, FLORIDA ADMINISTRATIVE CODE, EFFECTIVE SEPTEMBER 1, 1981.

ROBERT J. CAJAL
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO.6266

DATE: 6/7/12, REVISIONS PER COUNTY MEMO DATED 6/6/12

 WALLACE SURVEYING CORP. LICENSED BUSINESS # 4569 5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551	DATE: 11/15/11	DWG. No.: 98-1153-7
	OFFICE: M.B.	SHEET: 1 OF 2
	C'K'D.: R.C.	REF.: 98-1153-7.DWG

EXHIBIT "A"

LEGEND

- Δ = CENTRAL ANGLE/DELTA
- A = ARC
- C.B. = CHORD BEARING
- L.B. = LICENSED BUSINESS
- O.R.B. = OFFICIAL RECORDS BOOK
- P.B. = PLAT BOOK
- PG. = PAGE
- P.O.B. = POINT OF BEGINNING
- P.R.M. = PERMANENT REFERENCE MONUMENT
- R = RADIUS
- R.P.B. = ROAD PLAT BOOK
- S.F. = SQUARE FEET
- U.E. = UTILITY EASEMENT

BEARING ROTATION EQUATION:

PLAT BEARING: $N00^{\circ}00'35''W$
GRID BEARING: $N01^{\circ}19'17''W$

$01^{\circ}18'42''$ COUNTER-CLOCKWISE
ROTATION PLAT TO GRID

NOTE:
COORDINATES SHOWN HEREON
MEET OR EXCEED THE 2 CENTI-
METER ACCURACY REQUIREMENT
AND ARE BASED ON THE
PUBLISHED LOCATIONS FOR THE
NORTHEAST CORNER & EAST 1/4
CORNER FOR SECTION 2/47/42

MILITARY TRAIL

WEST LINE SECTION 1/47/42

NORTHWEST
CORNER LOT 2
(P.B. 47, PG. 142)

4"x4" CONCRETE
MONUMENT "P.R.M."
WALLACE L.B.
4569" FOUND

EAST R/W LINE MILITARY TRAIL

6' ROADWAY EASEMENT
(O.R.B. 4677, PG. 335)

10' U.E. (P.B. 47, PG. 142)

(BASIS OF BEARINGS)

$N00^{\circ}00'35''W$

LOT 2
BOCA TECH - PHASE TWO
PLAT BOOK 47, PAGE 142

MAG NAIL & DISK
"P.R.M. WALLACE
L.B. 4569" FOUND
(NW CORNER OF
DESCRIBED
PARCEL)

$N00^{\circ}00'35''W$
8.68'
70'

P.O.B.

SW CORNER
LOT 2

N: 755073.12
E: 943726.81

NOTE:

THIS SKETCH IS NOT
VALID UNLESS
ACCOMPANIED WITH
SHEET No. 1.
THIS IS NOT A SURVEY.

N: 755081.80
E: 943726.61

$\Delta=23^{\circ}45'30''$

$A=20.11'$

$R=48.50'$

$C.B.=S63^{\circ}42'43''E$

63.9 S.F.

SOUTH LINE LOT 2

10' U.E. (P.B. 47, PG. 142)

14' ROADWAY EASEMENT
(O.R.B. 4677, PG. 335)

N: 755073.37
E: 943744.71

$N89^{\circ}29'20''W$ 17.90'

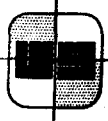
NORTH R/W CLINT MOORE ROAD
(R.P.B. 4, PG. 243)

CLINT MOORE ROAD

(R.P.B. 4, PG. 243)

NORTH

SCALE: 1"=20'



WALLACE

SURVEYING

CORP. LICENSED BUSINESS # 4569

5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

DATE: 11/15/11

DWG. No.: 98-1153-7

OFFICE: M.B.

SHEET: 2 OF 2

C'K'D.: R.C.

REF.: 98-1153-7.DWG

Return To: Right-of-way Acquisition Section
Name: Palm Beach County Engineering
Address: Post Office Box 21229
West Palm Beach Florida 33416
Attn: Richard Graddock
Account No.: 1010 W/C BOX 1066

This Instrument Prepared By:
Name: Marlene R. Everitt, Esq.
Assistant County Attorney
Post Office Box 21229
West Palm Beach, Florida 33416
P.I.N.: 06-42-47-01-08-000-0020

Not to be recorded without Board of County Commissioners Acceptance Date

Project No.: 1993901
Project Name: 1801 Clint Moore Road
Parcel No.: 06-42-47-01-08-000-0020

**SUBORDINATION OF UTILITY INTERESTS
TO PALM BEACH COUNTY, FLORIDA**

THIS AGREEMENT, entered into this ____ day of _____, 20__, by and between the COUNTY OF PALM BEACH (hereinafter the "County"), and CITY OF BOCA RATON whose mailing address is 201 W. Palmetto Park Road, FL 33432, hereinafter the "Utility").

WHEREAS, the Utility presently has easements in certain property that has been determined necessary for public purposes; and,

WHEREAS, the proposed use of this property will require subordination to the County of the interests claimed in said property by the Utility and at the request of the County, the Utility has agreed, subject to the following conditions, to relocate its facilities from the Utility's easement onto public right-of-way, or has agreed to leave its facilities on the subordinated property (hereinafter "Property"), described in Exhibit "A" attached hereto and made a part hereof; and,

WHEREAS, the County is willing to pay to have the Utility's facilities relocated as necessary to prevent conflict between the facilities so that the benefits of each may be retained;

NOW THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, the Utility and the County agree as follows:

1. The Utility hereby subordinates any and all of its interest in that portion of the following easement lying within the Property, to the interest of the County, its successors or assigns, through, under, upon or across the Property;

<u>NATURE OF ENCUMBRANCE</u>	<u>DATE</u>	<u>FROM OR AGAINST</u>	<u>IN FAVOR OF</u>	<u>BOOK AND PAGE</u>
6'/14' Roadway and Utility Easement	07/25/1985	Terry W. Stiles & Maurice Finkle	City of Boca Raton, FL	OR 4677 Pg 0335

2. The Utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon all the Property in accordance with the County's current minimum standards for such facilities as of the date of such construction. Any new construction or relocation of the facilities within the Property will be subject to prior approval by the County. Should the County fail to approve any new construction or relocation of facilities by the Utility or hereafter require the Utility to alter, adjust or relocate its facilities from within the Property, the County hereby agrees to pay the Utility's reasonable cost of any required alteration, adjustment or relocation, caused by the County's actions, including the cost of acquiring the necessary easements.
3. The Utility shall have a reasonable right to enter upon the Property for the purposes outlined in paragraph 2 above, including the right to trim such trees, bushes, and growth which might endanger or interfere with the operation and safety of the Utility's facilities.
4. The Utility agrees to repair any damage to the County's facilities and to indemnify and hold harmless the County against any loss or damage resulting from the Utility exercising its rights outlined in paragraph 2 and 3 above.

5. These terms and conditions shall be attached as an addendum to the permit, if any, required by the County for location of facilities on the Property.
6. This agreement is not assignable except to the State of Florida for the purposes described herein.
- IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first written.

ATTEST:

Sharon R. Bock, Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA, a
Political subdivision of the
State of Florida
BOARD OF COUNTY COMMISSIONERS

By: _____
Clerk (or Deputy Clerk)

By: _____
Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

Susan S. Saxton
Witness Signature

SUSAN S. SAXTON
Print Name of witness

Pamela G. John
Witness Signature
PAMELA G. John
Print Name of witness

CITY OF BOCA RATON, a Florida municipal
corporation

By: Susan Wheelchel
Signature

SUSAN WHELCHER
Print Name

MAYOR
Title

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 6 day of September 2012, by Susan Wheelchel, the Mayor of the CITY OF BOCA RATON, a Florida municipal corporation, who is personally known to me, or who supplied N/A as identification, and who did/did not take an oath.

SEAL

266-LGL REV. 11/19/02

Diane M. King
NOTARY PUBLIC

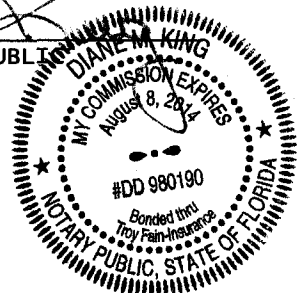


EXHIBIT "A"

DESCRIPTION SKETCH FOR: WIN-PREFERRED, LLC**DESCRIPTION:**

A parcel of land, being a portion of Lot 2 of **BOCA TECH - PHASE TWO**, according to the plat thereof, recorded in Plat Book 47, Pages 142 and 143 of the Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows;

BEGIN at the Southwest corner of said Lot 2; thence North 00°00'35" West, along the West line of said Lot 2 (the West line of said Lot 2 also being the East right-of-way line of Military Trail as shown on said plat and is assumed to bear North 00°00'35" West and all other bearings are relative thereto) a distance of 8.68 feet to a point of cusp of a non-tangent curve, concave to the Northeast, having a radius of 48.50 feet, a central angle of 23°45'30" and a Chord Bearing of South 63°42'43" East; thence Southeasterly, along the arc of said curve, a distance of 20.11 feet to a point on the South line of said Lot 2; thence North 89°29'20" West along said South line (said South line also being the North right-of-way line of Clint Moore Road as recorded in Road Plat Book 4, Page 243, Public Records of Palm Beach County, Florida) a distance of 17.90 feet to the Southwest corner of said Lot 2 and the **POINT OF BEGINNING**.

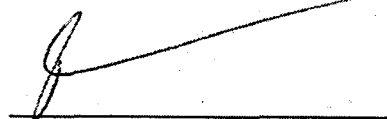
Containing in all, 63.9 square feet, more or less.

NOTES:

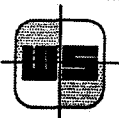
1. All information regarding record easements, adjoiners, and other documents that might affect the quality of title to tract shown hereon was gained from commitment number FA-C-464607, issued by First American Title Insurance Company, amended date 09/12/2011. No search of the Public Records has been made by this office.
2. This sketch is not valid unless sealed with an embossed surveyor's seal and accompanied by Sheet No. 2 of 2.
3. This sketch cannot be transferred or assigned without the specific written permission of Wallace Surveying Corporation.
4. Additions or deletions to survey, maps or reports by other than the signing party or parties is prohibited without written consent of the signing party or parties.
5. This is not a survey!

CERTIFICATION:

I HEREBY ATTEST that the description sketch shown hereon meets the minimum technical standards set forth by the Florida Board of Professional Surveyors and Mappers pursuant to sections 472.027, Florida Statutes, and adopted in Rule 5J-17, Florida Administrative Code, effective September 1, 1981.



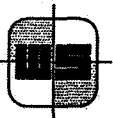
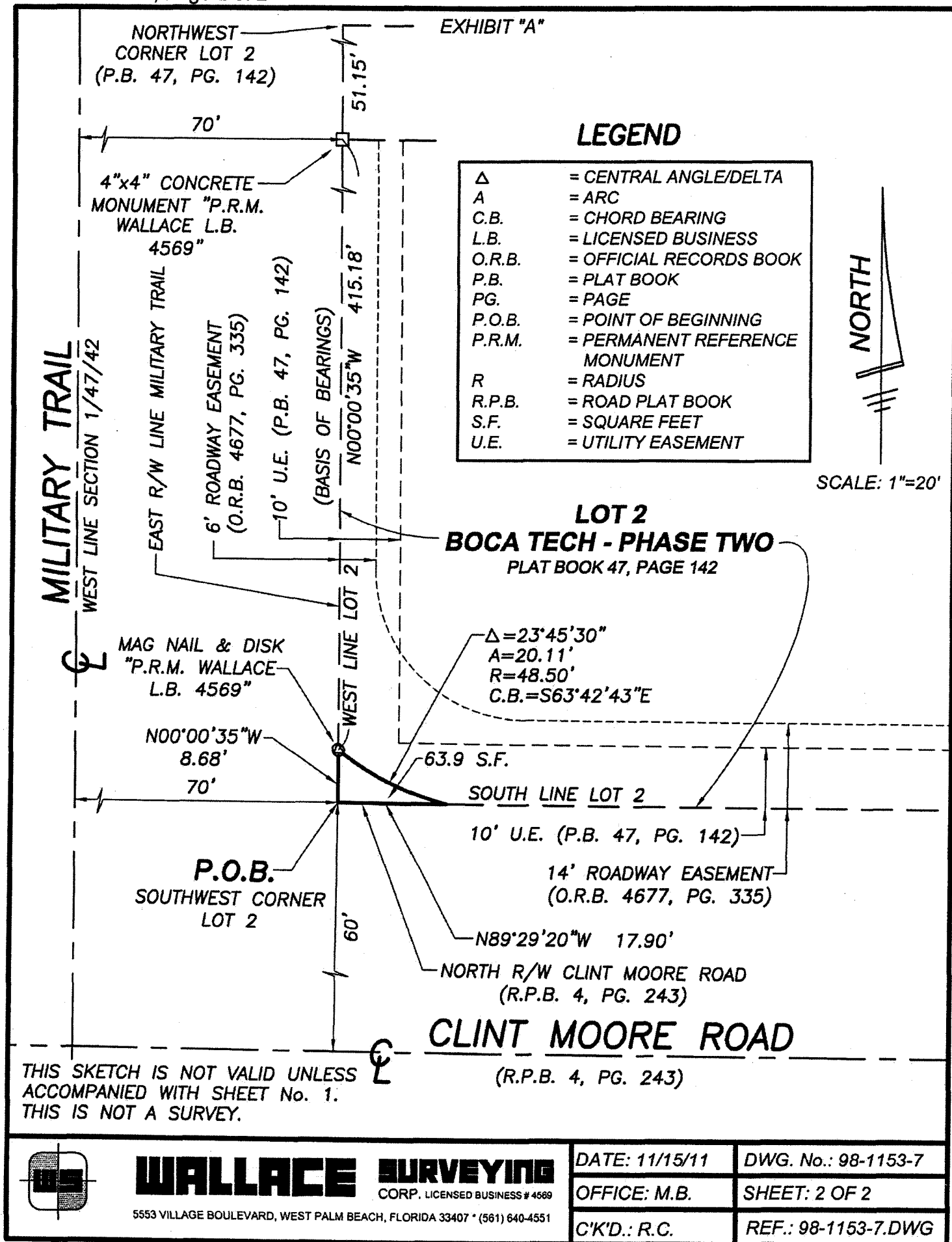
Robert J. Cajal
Professional Surveyor and Mapper
Florida Certificate No.6266



WALLACE SURVEYING
CORP. LICENSED BUSINESS # 4569

5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

DATE: 11/15/11	DWG. No.: 98-1153-7
OFFICE: M.B.	SHEET: 1 OF 2
C'K'D.: R.C.	REF.: 98-1153-7.DWG



WALLACE SURVEYING
CORP. LICENSED BUSINESS # 4569

5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

DATE: 11/15/11

DWG. No.: 98-1153-7

OFFICE: M.B.

SHEET: 2 OF 2

C'K'D.: R.C.

REF.: 98-1153-7.DWG