

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: August 13, 2013 Consent [X] Regular []
Public Hearing []

Department: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Release of Utility Easement in the Lake Worth Drainage District.

Summary: This document will release the County's interest in a Utility Easement recorded in the Official Records of Palm Beach County in Book 3543, Page 0078. It has been determined that the referenced easement encroached on an existing Lake Worth Drainage District (LWDD) easement at time of conveyance. LWDD now requests release of the encroaching easement. The Water Utilities Department concurs with this request and, therefore, recommends the release. There are no costs related to the release of this easement. District 5 (MJ)

Background and Justification: On May 28, 1981, Appolonia Investments LTD granted an Easement to South Palm Beach Utilities Corporation, since acquired by Palm Beach County Water Utilities. It has been determined that the utility easement granted to South Palm Beach Utilities Corporation encroached on an existing LWDD easement. The water main and force main located in the encroaching easement will be covered by a perpetual permit issued by LWDD at no cost to the County. The LWDD is now requesting the release of the encroaching easement that the County has determined that it no longer needs.

Attachments:

- 1. Two (2) Original Release of Utility Easement
- 2. Location Map
- 3. LWDD Permit Form

Recommended By:  7/15/13
Department Director Date

Approved By:  7/25/13
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures	<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><u>0</u></u>	<u><u>0</u></u>	<u><u>0</u></u>	<u><u>0</u></u>	<u><u>0</u></u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Budget Account No.:	Fund _____	Dept _____	Unit _____	Object _____	

Is Item Included in Current Budget? Yes ___ No ___

Reporting Category N/A



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

No Fiscal Impact.

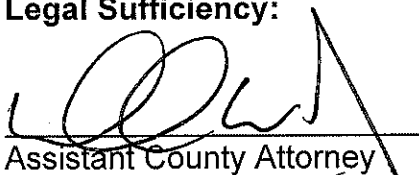
C. Department Fiscal Review: Delia M. West

III. REVIEW COMMENTS

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

 _____ OFMB JB 7/19/13 PM 7-19-13	 _____ Contract Development and Control 7-19-13 [Signature]
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B. Legal Sufficiency:



 Assistant County Attorney
 7/23/13

C. Other Department Review:

 Department Director

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

ATTACHMENT 1

Prepared by and return to:
Palm Beach County Water Utilities Department
Att: Plan Review
8100 Forest Hill Blvd
West Palm Beach, Florida 33413

RELEASE OF UTILITY EASEMENT

THIS PARTIAL RELEASE OF UTILITY EASEMENT, executed this ___ day of _____, 2013, by Palm Beach County, a political subdivision of the State of Florida, first party, c/o Water Utilities Department, 8100 Forest Hill Blvd, West Palm Beach, Florida 33413, to Lake Worth Drainage District, whose address is 13081 Military Trail Delray Beach, FL 33484-1105, second party:

WITNESSETH:

THAT the first party, for and in consideration of the sum of \$10.00 (Ten Dollars) in hand paid by the second party, the receipt of which is hereby acknowledged, wishes to terminate, renounce, and release the UTILITY EASEMENT recorded in Official Records Book 3543, Page 0078, Public Records of Palm Beach County, Florida.

THEREBY, the first party hereby releases any and all of its rights, title, and interest in the UTILITY EASEMENT as shown in the sketch and legal description attached hereto and incorporated herein as Exhibit "A."

IN WITNESS WHEREOF the first party has caused this RELEASE OF UTILITY EASEMENT to be executed as of the day and year first written above.

ATTEST:

Sharon R. Bock, Clerk

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

By: _____
Deputy Clerk

By: _____
Steven L. Abrams, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

PREPARED BY Jack S. Cox, Esquire
PERRY AND MCCARTHY, P.A.
501 South Flagler Drive
Suite 302
West Palm Beach, FL 33402

Exhibit A

GRANT OF UTILITY EASEMENT

STATE OF FLORIDA)
) SS
COUNTY OF PALM BEACH)

THIS INDENTURE made and entered into on this 28th day of May, 1981, by and between APPOLONIA INVESTMENTS LTD., a Bahamian corporation of 50 Shirley Street, Post Office Box 8913, Nassau, Bahamas, GRANTOR and SOUTH PALM BEACH UTILITIES CORPORATION, a Florida corporation, GRANTEE. 23005 S. State Road 7 Boca Raton, Fl. 33433

WHEREAS, GRANTOR is the fee simple owner of the lands lying in Sections 31 and 32, Township 46 South, Range 42 East, Palm Beach County, Florida; and

WHEREAS, the Grantee with respect to the performance of utility services to its franchise area finds it essential to request from the Grantor an easement for the purposes of digging, laying and maintaining utility lines as well as other appropriate utility uses on and under the aforesaid land;

NOW THEREFORE, in consideration of the sum of TEN DOLLARS and no/100 (\$10.00) and other valuable consideration, to the GRANTOR in hand paid by the GRANTEE, the receipt of which is hereby acknowledged by the GRANTOR, the undersigned does hereby grant unto the GRANTEE, its successor and assigns a utility easement for the aforesaid purposes on and under the following specifically described property, to wit:

See Exhibit 1 attached hereto and by reference made a part hereof.

The Grantor does hereby reserve to itself and assigns the right to use the easement as an equestrian bridle path and that said use shall be in harmony with the Grantee's use as a utility easement.

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

Margaret S. Coff BY: Margaret S. Cox
PRESIDENT

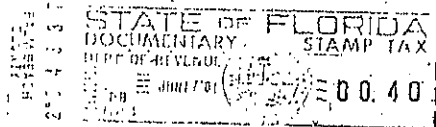
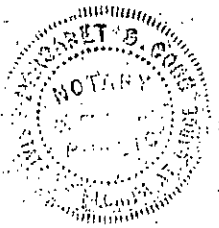
Shirley Messner Attest: [Signature]
SECRETARY

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared J. Charles Scott and David B. Dickenson to me known to be the person described in and who executed the foregoing instrument and they acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 28th day of May A.D., 1981.

Margaret S. Coff
Notary Public, State of Florida at Large
My Commission Expires Oct. 10, 1984
Bonded Three Thousand Dollars Insurance



81 107265

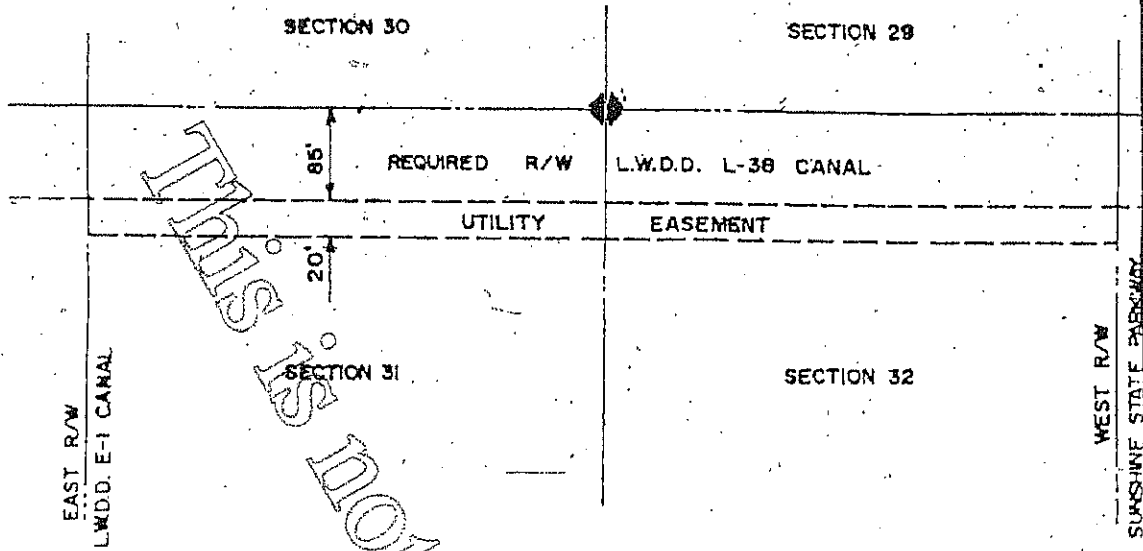
1981 JUN 17 AM 11:23

100.00
8.20
40
31-46-42

83543 P0078

Return to: S. Palm Beach Utilities
23005 S. State Rd 7
Boca Raton, Fla 33433

EXHIBIT 1



LAND DESCRIPTION

UTILITY EASEMENT

A portion of Section 31 and 32, Township 46 South, Range 42 East, more particularly described as follows:

The South 20.00 feet of the North 105.00 feet of said Section 31 and 32 lying West of the West right-of-way line of the Sunshine State Parkway and lying East of the East right-of-way line of the Lake Worth Drainage District E-1 Canal.

Said lands lying in Palm Beach County, Florida.

Prepared by:
Craig A. Smith & Associates
Engineers & Surveyors
Diversified Utility Services
5845 Margate Blvd.
Margate, Florida 33063
April 23, 1981

83543 P0079

RECORD VERIFIED
PALM BEACH COUNTY, FLA
JOHN B. DUNKLE
CLERK CIRCUIT COURT



**Palm Beach County
Water Utilities
Department
Service Area (SA) and
Major Facilities**

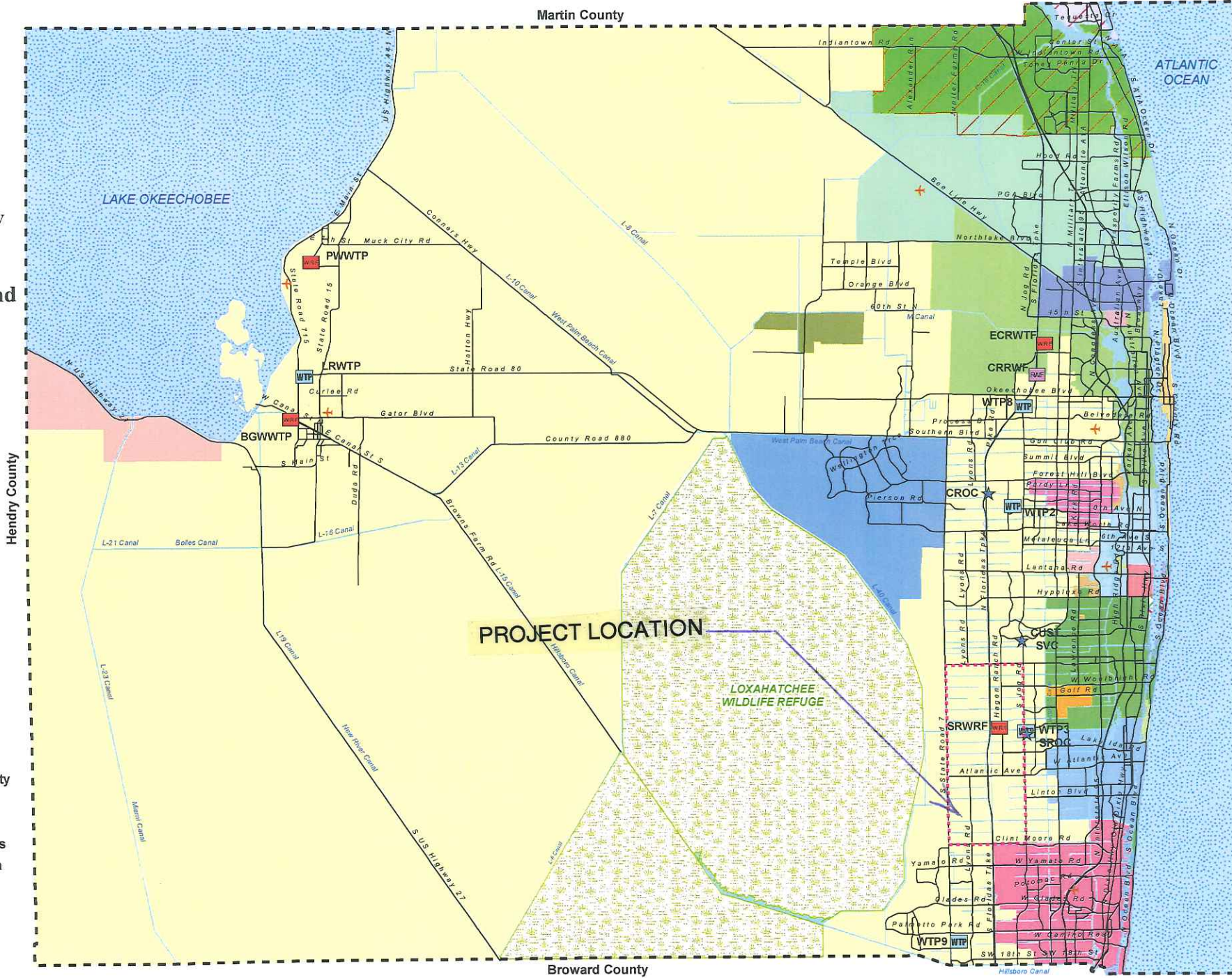
Attachment 2

Legend

- ★ Administration
- WTP Water Treatment Facility
- WRF Water Reclamation Facility
- RWF Reclamation Facility
- Mandatory Reclaimed SA
- - - Palm Beach County Limits
- Yellow P.B.C.W.U.D. Service Area



NOT TO SCALE



PROJECT LOCATION

LOXAHATCHEE WILDLIFE REFUGE

JUN 18 2013

LAKE WORTH DRAINAGE DISTRICT
13081 Military Trail
Delray Beach, FL 33484-1105
(561) 498-5363 or 737-3835
Fax: (561) 495-9694

LWDD RECORDS

LWDD Permit No. 13-2069U.06
 Canal No. L-38
 June 6, 2013
 Page 1 of 4

PARALLEL
GOVERNMENTAL UTILITY PERMIT

WHEREAS, Palm Beach County Water Utilities, hereinafter called Permittee, has requested from the LAKE WORTH DRAINAGE DISTRICT, hereinafter called LWDD, a Governmental Utility Permit to construct and maintain the facilities described on the attached Exhibit 'A', subject, however, to the following conditions:

1. Permittee shall maintain in good safe operating condition the facility permitted and involved herein.

2. This Permit may not be assigned to other than an affiliate of the Permittee without written consent of LWDD.

3. No sampling points, corporation stops (air release valves), valve boxes or other appurtenances will be permitted within the LWDD right-of-way unless specifically shown and dimensioned on the plans and designed to withstand the normal and routine maintenance of LWDD.

4. Without waiver of limitation as provided for in §768.28, Florida Statutes, and to the extent permitted by law, the Permittee shall indemnify and hold harmless LWDD from and against all claims, damages, losses, and expenses arising out of or resulting from the breach of this Permit by the Permittee, its agents or employees, or due to negligent act or omission on the part of the Permittee, its agents or employees, or due to the maintenance of the permitted utility. However, neither the Permittee, nor its agents or employees will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of LWDD or any of its officers, agents, or employees. This indemnity is intended to extend for all such time as the utility exists.

5. Permittee acknowledges the limitation of liability for personal injury and damages contained in Chapter No. 2003-344, Laws of Florida.

6. The address appearing beneath the Permittee's signature shall, for notice purposes, be considered as the permanent mailing address of said Permittee unless LWDD has been notified of a change of address in writing.

7. Permanent warning markers shall be placed and maintained on each side of the waterway (at right-of-way lines) indicating the exact location of the utility line.

8. This permit may be terminated if the County is in default of the terms of this Permit and fails to cure said violations within thirty (30) days of written notice of said default. Where a cure within thirty (30) days is not possible, County shall be in compliance with this provision if County supplies to LWDD, within thirty (30)

13-2069U.06

days of receipt of said notice from LWDD, a plan to cure said default. LWDD acknowledges that, in exchange for this Permit, the County is releasing its easement rights pursuant to that utility easement granted in Official Records Book 3543/Page 78 of the Public Records of Palm Beach County, and that the County is relying on this Permit, and its perpetual and irrevocable nature, in order to continue to locate certain critically necessary facilities within the Permit area. In addition, LWDD acknowledges that the County has expended substantial amounts of money on these critical facilities located within the Permit area.

LWDD ACCEPTANCE:

LAKE WORTH DRAINAGE DISTRICT

June 20, 2013
Permit Issuance Date

By: *James M. Fardmy*
FOR Patrick A. Martin, P.E.
District Engineer

PERMITTEE ACCEPTANCE: (COMPLETE ALL INFORMATION)

Jim Stiles
(1) Witness Signature

Jim Stiles
Printed Name

Jocelyn Colon
(2) Witness Signature

Jocelyn Colon
Printed Name

Palm beach County Water Utilities
Company or Agency Name

By: *Brian Shields*
Signature of Authorized Personnel

Brian Shields, Deputy Director
Printed Name and Title

8100 Forest Hill Blvd
Business Mailing Address

West Palm Beach, FL 33413
Business Mailing Address (cont'd)

PERMITTEE NOTARIZATION:

STATE OF FLORIDA :
COUNTY OF PALM BEACH :

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Brian Shields the Deputy Director of Palm Beach County Water Utilities He / She is personally known to me or has produced _____ as identification, and who did (did not) take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this the 17 day of June, 20 13.

Valerie Cintron Perez
Notary Public



Notary Stamp or Seal

EXHIBIT 'A'

This permit is to allow existing One 18 Inch Force Main and One 18 Inch Water Main already constructed by Palm Beach County Water Utilities to remain in the south edge of the Lake Worth Drainage District's L-38 Canal as shown on the plans designed by Diversified Utility Services Consulting Engineers for South Palm Beach Utilities Corp. and dated June, 1981.