

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: November 19, 2013      Consent [X]      Regular [ ]  
Public Hearing [ ]

Department: Water Utilities Department

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: The Release of a Temporary Construction Easement over property owned by Boynton Beach Associates XXIV LLLP.

**Summary:** On August 30, 1991, Temporary Construction and Permanent Utility Easements were established in favor of Palm Beach County through a Stipulated Order of Taking (Case No. CL91-2035 AF), recorded in ORB 6947/Page 757 of the Official Records of Palm Beach County. Following the Order of Taking, County has constructed a wastewater transmission force main within the limits of the Permanent Utility Easement. County has no need for the Temporary Construction Easement and therefore recommends its release. District 5 (MJ)

**Background and justification:** During the development planning for a residential PUD, it was discovered that a Temporary Construction Easement, established through an Order of Taking in 1991, interferes with the PUD's landscape buffer design. Property Owner is requesting to release the Temporary Construction Easement. County is retaining the Permanent Utility Easement over County owned utility facilities.

**Attachments:**

1. Location Map
2. Two (2) Original Release of Temporary Construction Easement

Recommended By: Paul Bauer      10/30/13  
Department Director      Date

Approved By: Sharon O'Byrne      11/5/13  
Assistant County Administrator      Date



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2014	2015	2016	2017	2018
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>
<b>NET FISCAL IMPACT</b>	<b>* <u>0</u></b>	<b><u>0</u></b>	<b><u>0</u></b>	<b><u>0</u></b>	<b><u>0</u></b>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	<b><u>0</u></b>	<b><u>0</u></b>	<b><u>0</u></b>	<b><u>0</u></b>	<b><u>0</u></b>

**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:**      Debra M West

**III. REVIEW COMMENTS**

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

Susan Reany      11/1/13  
 OFMB      11/01      11/11  
 Control

Angela Swales      11/7/13  
 Contract Development and  
 11-6-13      [Signature]

**B. Legal Sufficiency:**

[Signature]      11/7/13  
 Assistant County Attorney

**C. Other Department Review:**

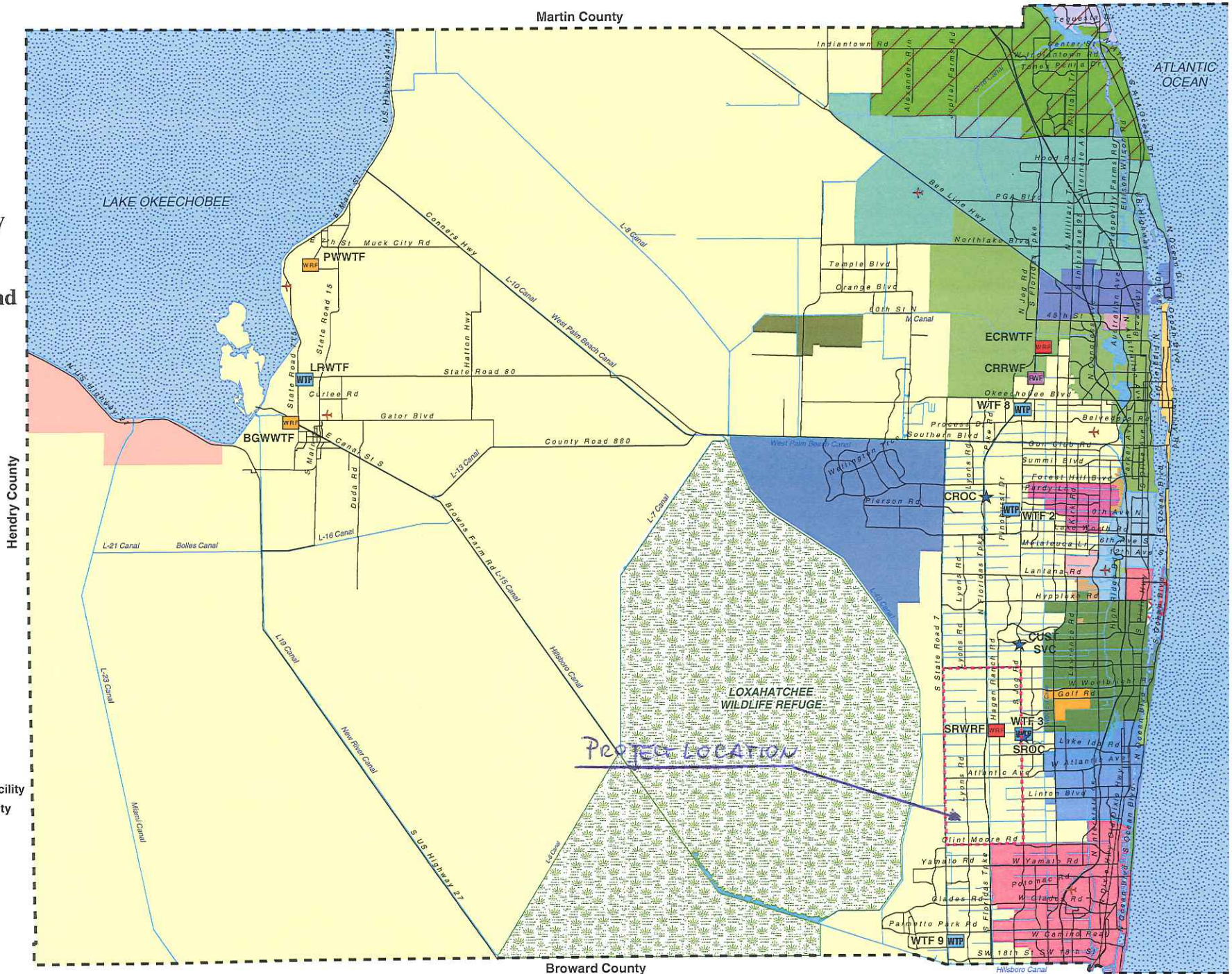
\_\_\_\_\_  
 Department Director



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

Attachment 1

- Legend**
- ★ Administration
  - WTF Water Treatment Facility
  - RFV Reclamation Facility
  - WRP Wastewater Reclamation Facility
  - WRF Wastewater Treatment Facility
  - Mandatory Reclaimed SA
  - - - Palm Beach County Limits
  - Yellow P.B.C.W.U.D. Service Area



*Proposed Location*

Charge # 1023 Return via WILL CALL #133  
Att: Plan Review  
Palm Beach County Water Utilities Department  
8100 Forest Hill Blvd  
West Palm Beach, Florida 33416

**RELEASE OF TEMPORARY CONSTRUCTION EASEMENT**

**THIS RELEASE OF TEMPORARY CONSTRUCTION EASEMENT**, executed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, 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 Boynton Beach Associates XXIV LLLP, whose address is 1600 Sawgrass Corporate Parkway, Suite 400, Sunrise, Florida, 33323, 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 that TEMPORARY CONSTRUCTION EASEMENT set forth in the Stipulated Order of Taking recorded in Official Records Book 6947, Page 757, Public Records of Palm Beach County, Florida, and identified therein as the "Hyder 9 Temporary".

THEREBY, the first party hereby releases any and all of its rights, title, and interest in that TEMPORARY CONSTRUCTION EASEMENT.

IN WITNESS WHEREOF the first party has caused this Release of TEMPORARY CONSTRUCTION EASEMENT to be executed as of the day and year first written above.

ATTEST:

Sharon R. Bock, Clerk & Comptroller

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

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
County Attorney

SEP-05-1991 09:29am 91-253832

ORB 6947 Pg 757

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT OF  
FLORIDA, IN AND FOR PALM BEACH  
COUNTY

CASE NO. CL 91-2035 AF

PALM BEACH COUNTY, etc.

Plaintiff,

vs.

BOCA COMMERCE PARK, et al

Defendants..

PARCELS 9 AND 9B

91 SEP -3 AM 11:23

STIPULATED ORDER OF TAKING

THIS CAUSE having come on to be heard by the Court upon the Stipulation of the parties, and it appearing that proper notice was first given to the Defendant, HYDER MANAGEMENT, and all persons having or claiming any equity, lien, title or other interest in or to the real property described in this litigation, as Parcels 9 and 9B and the Court being fully advised in the premises, upon consideration, it is therefore,

ORDERED AND ADJUDGED:

1. That the Court has jurisdiction of the subject matter and the parties to this case.
2. That the pleadings in this case are sufficient, and the Plaintiff is properly exercising its delegated authority.
3. That the estimate of value filed in this cause by the Plaintiff was made in good faith.
4. That the Plaintiff is entitled to the immediate vesting of a temporary construction and permanent utility easements in the

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following described property prior to the entry of a Final Judgment to wit:

SEE ATTACHED EXHIBIT 1 FOR THE LEGAL DESCRIPTION OF PARCEL 9 AND PARCEL 9B

upon payment into the Registry of this Court of the deposit hereinafter specified.

5. That said deposit of money shall secure the persons lawfully entitled to compensation, as shall be determined ultimately by Final judgment of the Court. The parties acknowledge that said deposit does not constitute a true good-faith estimate of value because the easements taken herein are greater than those shown in the Complaint. Palm Beach County will proceed forthwith to provide a corrected good-faith estimate for Parcels 9 and 9B.

6. That the said sum of money (in the total amount of Twenty Two Thousand Seven Hundred Sixty and 00/100 (\$22,760.00) Dollars for Parcels 9 and 9B shall be deposited by the Plaintiff into the Registry of the Court within twenty (20) days after the date of this Order, and upon making such deposit, the Plaintiff shall notify, in writing, all attorneys of record, that the deposit has been made, and that upon entry of this order, the Plaintiff shall be entitled to easements in the property described in the Complaint and attached hereto as Exhibit 1. Upon joint execution of this Stipulated Order of Taking by Counsel for the parties, Palm Beach County may proceed with land clearing only until the Order has been entered. The parties acknowledge that this Stipulated Order of Taking is being entered as an accommodation to Palm Beach County.

7. Nothing herein shall affect the Defendant's rights to seek full compensation and allowable damages for the taking of its property at a subsequent jury trial.

8. If the Plaintiff shall default in the depositing of said sum of money within the time provided, this Order shall be void and of no further force or effect and title to Parcels 9 and 9B shall automatically revert to Defendant HYDER MANAGEMENT.

DONE AND ORDERED this 30<sup>th</sup> day of August, 1991, in Chambers, West Palm Beach, Palm Beach County, Florida

*[Signature]*  
Circuit Court Judge

STIPULATED AND AGREED TO THIS 29<sup>th</sup> day of August, 1991.

PALM BEACH COUNTY  
Post Office Box 1989  
West Palm Beach, FL 33402  
(407) 355-6019

JONES, FOSTER, et al.  
Attys for Def., HYDER MGMT.  
P.O. Drawer "E"  
West Palm Beach, FL 33402-3475  
(407) 699-3000

By: *[Signature]*  
Paul F. King  
Assistant County Attorney  
Florida Bar No. 339431

By: *[Signature]*  
Scott G. Hawkins  
Florida Bar No. 460117

Copies Furnished to Above Counsel and

Ward G. Wagner, Jr., Esq.  
Attorney for Allen C. Clerk  
Cone, Wagner, et al.  
P.O. Box 3466  
West Palm Beach, FL 33402

RECORDER'S MEMO: Legibility of Writing, Typing or Printing unsatisfactory in this document when received.

This is not a certified copy

ORB 6947 Pg 760

"HYDER 9 PERPETUAL"

DESCRIPTION

The North 20 feet of the South 85 feet of Tracts 113 through 128 inclusive in Section 30, Palm Beach Farms Company Plat No. 1, as recorded in Plat Book 2, Pages 26, 27 and 28, Public Records of Palm Beach County, Florida.

Containing 107,655 square feet, more or less.

Subject to easements, restrictions, rights-of-way and observations of record.

The South line of said Section 30 being considered the South line of said Tracts.

I hereby attest the "Sketch" hereon meets the Minimum Technical Standards as set forth in Chapter 21HM-6, Florida Administrative Code.

Timothy M. Smith, P.L.S.  
Fla. Cert. No. 4676

INFORMATION SHOWN HEREON DOES NOT CONSTITUTE, NOR DOES IT REPRESENT A SURVEY OF THE SUBJECT PROPERTY.

REVISED DESCRIPTION 8-21-91  
REVISED DESCRIPTION

SHEET 1 OF 2

SKETCH NOT A SURVEY

REV. 7-19-91  
FIELD: N/A  
DRAFT: SMITH  
APPROVED: *TS*

NOCK, ROOS & ASSOCIATES, INC.  
ENGINEERS • SURVEYORS • PLANNERS  
5720 CORPORATE WAY  
WEST PALM BEACH, FLORIDA

Prepared for  
PALM BEACH COUNTY  
WATER UTILITIES DEPARTMENT

SCALE: N/A  
DATE: NOV. 1991  
P.A. NO. 85-136.04  
DL. NO. A-2275

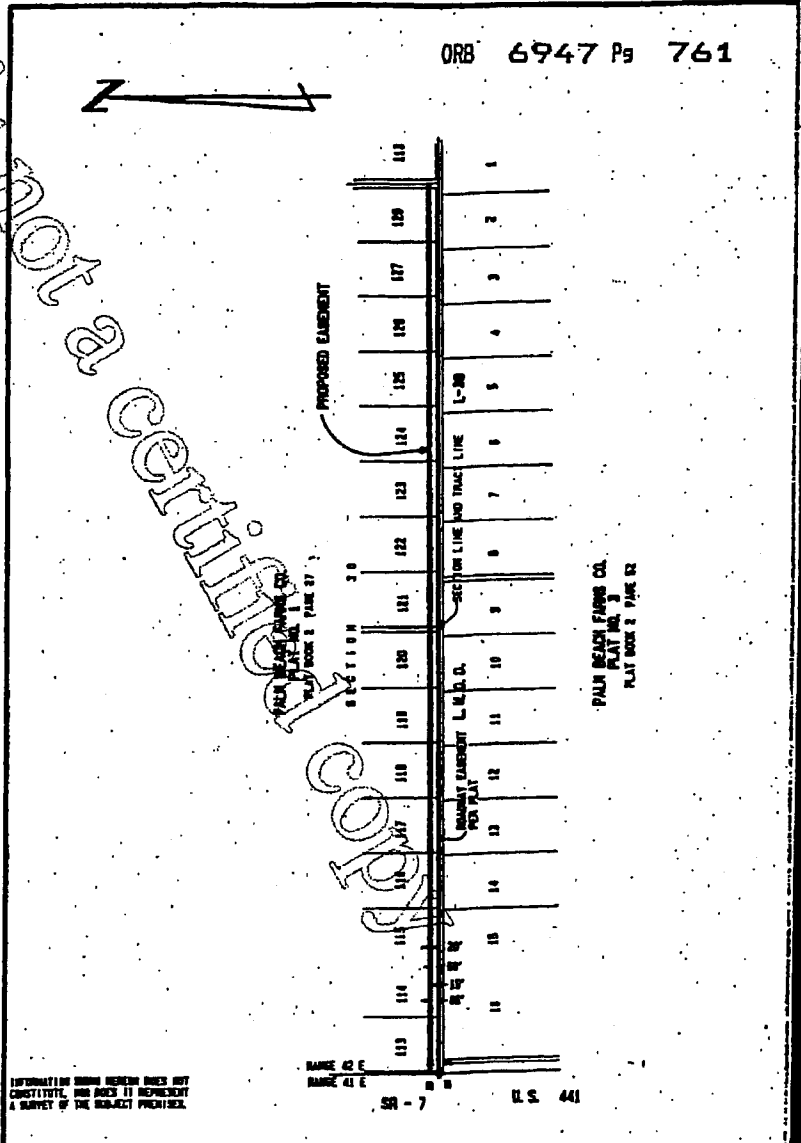
Exhibit 1



**RECORDER'S MEMO:** Legibility of Writing, Typing or Printing unsatisfactory in this document when received.

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ORB 6947 Pg 761



INFORMATION SHOWN HEREON DOES NOT CONSTITUTE, AND DOES NOT REPRESENT A SURVEY OF THE SUBJECT PREMISES.

REVISED EASEMENT LOCATION 8-21-91  
REVISED EASEMENT

SHEET 2 OF 2  
SKETCH NOT A SURVEY

REV: 7-19-91	<b>MOCK, ROOS &amp; ASSOCIATES, INC.</b> ENGINEERS • SURVEYORS • PLANNERS 1720 CORPORATE WAY WEST PALM BEACH, FLORIDA	Prepared for	SCALE: 1"=600'
FIELD: N/A		PALM BEACH COUNTY	DATE NOV. 1992
DRAWN: SMITH		WATER UTILITIES DEPARTMENT	P.A. NO. 8-15, 01
APPROVED:			DL. NO. A-2278

Exhibit 1

**RECORDER'S MEMO: Legibility of Writing, Typing or Printing unsatisfactory in this document when received.**

This is Not a Certified Copy

ORB 6947 Ps 762

'HYDER 9 TEMPORARY'

**DESCRIPTION**

The North 20 feet of the South 65 feet of Tracts 113 through 120 inclusive.

TOGETHER WITH

The North 35 feet of the South 120 feet of Tracts 117 and 118.

TOGETHER WITH

The West 50 feet of the North 35 feet of the South 120 feet of Tract 119.

TOGETHER WITH

The West 80 feet of the North 35 feet of the South 120 feet of Tract 121.

TOGETHER WITH

The East 50 feet of the West 150 feet of the North 35 feet of the South 120 feet of Tract 125, all in Section 30, Palm Beach Farms Company, Plus No. 1 as recorded in Plat Book 2, Pages 26, 27 and 28, Public Records of Palm Beach County, Florida.

Containing 137,307 square feet, more or less.

Subject to easements, restrictions, rights-of-way, and reservations of record.

The South line of said Section 30 being considered the South line of said Tracts.

I hereby attest the 'Sketch' hereon meets the Minimum Technical Standards as set forth in Chapter 21H-8, Florida Administrative Code.

Timothy M. Smith, P.L.S.  
Fla. Cert. No. 4676

INFORMATION SHOWN HEREON DOES NOT CONSTITUTE, NOR DOES IT REPRESENT A WARRANTY OF THE SUBJECT PROPERTIES.

ADDITIONAL EASEMENTS 8-21-91  
REVISED DESCRIPTION

SHEET 1 OF 2

SKETCH NOT A SURVEY

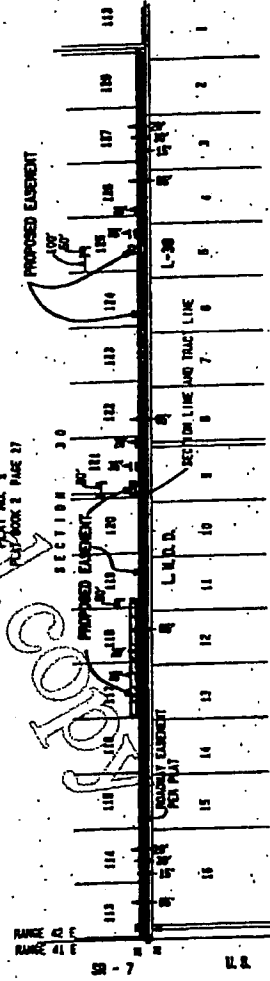
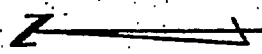
REV 7-19-91	<b>NOCK, ROOS &amp; ASSOCIATES, INC.</b> ENGINEERS • SURVEYORS • PLANNERS 5720 CORPORATE WAY WEST PALM BEACH, FLORIDA	Prepared for	SCALE N/A
FIELD N/A		PALM BEACH COUNTY	DATE-NOV. 1990
DRAWN: SMITH		WATER UTILITIES DEPARTMENT	P.A. NO. 08-126 04
APPROVED: [Signature]			DR. NO. A-2259

EXHIBIT 1

**RECORDER'S MEMO: Legibility of Writing, Typing or Printing unsatisfactory in this document when received.**

*This is not a certified copy*

ORB 6947 Pg 763



PALM BEACH PLANS CO.  
PLAT NO. 3  
PLAT BOOK 8 PAGE 22

INFORMATION SHOWN HEREON DOES NOT CONSTITUTE, NOR DOES IT REPRESENT A WARRANTY OF THE SUBJECT PROPERTIES.

59-7 U.S. 441

ADDITIONAL EASEMENTS 8-21-91  
REVISED EASEMENT

SHEET 2 OF 2  
SKETCH NOT A SURVEY

REV. 7-19-91		<b>MOCK, ROOS &amp; ASSOCIATES, INC.</b> ENGINEERS • SURVEYORS • PLANNERS 5720 CORPORATE WAY WEST PALM BEACH, FLORIDA	Prepared for	SCALE 1" = 600'
FIELD: N/A			PALM BEACH COUNTY	DATE NOV. 199
DRAWN: SMITH			WATER UTILITIES DEPARTMENT	P.A. NO. 88-125 N
APPROVED:				DL. NO. A-2259

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

Exhibit 7