

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: March 1, 2016

Consent

Regular

Workshop

Public Hearing

Department:

Submitted By: Engineering and Public Works

Submitted For: Right-of-Way Section

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a subordination of utility interests and agreement for reimbursement for additional facility relocations with Florida Power & Light Company (FPL) on a parcel of land located on the south side of Via Ancho Road, west of Boca Rio Road.


SUMMARY: Approval of the subordination will subordinate an FPL utility license interest and allow Palm Beach County (County) to accept a warranty deed for the additional right-of-way. As part of the platting process, the Tri-County Humane Society is required to provide the County with additional right-of-way on the south side of Via Ancho Road, 40 feet from the centerline of the existing right-of-way, in accordance with the development conditions associated with a new animal shelter facility.

District 5 (MRE)

Background and Justification: As part of the platting process for the Tri-County Humane Society plat, the applicant is required to convey a right-of-way parcel to the County, measuring 40 feet from the centerline of the existing right-of-way, on the south side of Via Ancho Road. The parcel of land to be conveyed is encumbered by a utility license in favor of FPL. Land conveyed to the County is required to be free and clear of all encumbrances. The subordination requires FPL 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. FPL has already executed the subordination and staff recommends approval.

Attachments:

1. Location Map
2. Subordination with Exhibit "A"

Recommended by:  1/27/16
 Division Director Date

Approved by:  2/8/16
 County Engineer Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
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	\$ **	-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 Koralainen*

III. REVIEW COMMENTS

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

OFMB # 219
2/9 2/9

Contract Dev. and Control 2/18/16

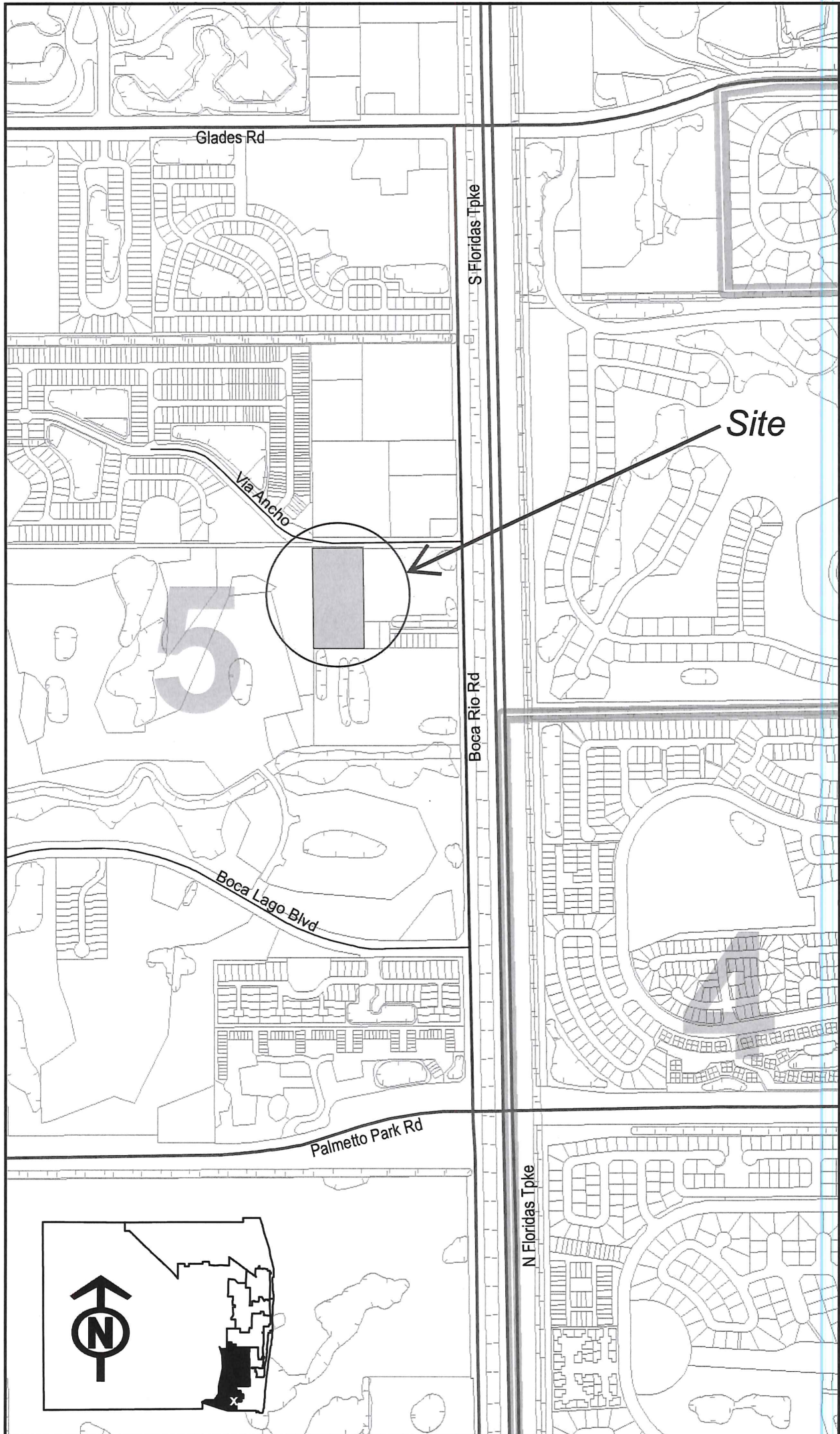
**B. Approved as to Form
and Legal Sufficiency:**

Assistant County Attorney 2/17/16

C. Other Department Review:

Department Director

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



0 0.1 0.2 0.3 0.4 0.5 of a Mile

Location Map

Return to:
Right-of-Way Section
Palm Beach County, Engineering & Public Works Department
Post Office Box 21229
West Palm Beach, Florida 33416-1229
Attn.: Toni Sharp, Right-of-Way Specialist
Acct. No.: 1010 **W/C BOX 1066**

This instrument prepared by:
Samantha J. Saucier
Florida Power & Light Company
700 Universe Blvd. CRE/JB
Juno Beach, FL 33408

Property Control Number: a portion of 00-42-43-27-05-079-0330

NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE

SPACE ABOVE THIS LINE FOR PROCESSING DATA

PROJECT NO. R2012-935; E1; MRT 2015-031
ROAD NAME: Via Ancho Road
PARCEL NO. Tri County Humane Society

**SUBORDINATION OF UTILITY INTERESTS
AND AGREEMENT FOR
REIMBURSEMENT FOR ADDITIONAL FACILITY RELOCATIONS**

THIS SUBORDINATION OF UTILITY INTERESTS AND AGREEMENT FOR REIMBURSEMENT FOR ADDITIONAL FACILITY RELOCATIONS (this "Agreement") is entered into this 20 day of January 2016, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida ("County"), whose mailing address is Post Office Box 21229, West Palm Beach, Florida 33416-1229, and **FLORIDA POWER & LIGHT COMPANY**, a Florida corporation ("Utility"), whose mailing address is Post Office Box 14000, Juno Beach, Florida 33408-0420.

WITNESSETH

WHEREAS, the Utility presently has an interest in certain lands as legally described and depicted on attached **Exhibit "A"** ("Lands") that have been determined necessary for future Public Right-Of-Way purposes; and

WHEREAS, the proposed use of the Lands for highway purposes will require subordination of the interest claimed in such Lands by the Utility to the County; and

WHEREAS, at the request of the County, the Utility has agreed, subject to the terms and conditions set forth herein, to either (i) leave such facilities on the subordinated Lands until such time as the County requests relocation of such facilities, if at all, or (ii) relocate such facilities from the subordinated Lands to an area acceptable to the Utility, as applicable, and the County is willing to pay for such relocation and, if relocated within Public Right-Of-Way, any and all future relocations of said facilities, if necessary, to prevent conflict between the County's use and the Utility's use 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:

AGREEMENT

1. The Utility hereby subordinates any and all of its interest in that certain portion of the Utility's easement located upon the Lands, as granted via the below-referenced instrument, to the interest of the County for the purposes of constructing, improving, maintaining and operating a road over, through, upon, and/or across such Lands:

<u>NATURE OF ENCUMBRANCE</u>	<u>DATE</u>	<u>FROM OR AGAINST</u>	<u>IN FAVOR OF</u>	<u>BOOK AND PAGE</u>
Utility Easement	01/11/1978	City of Boca Raton, Successor of Palm Beach County	FPL	ORB 2793, Pg. 1228

2. "Public Right-Of-Way", as used herein, shall mean existing right-of-way and that certain area of land to become future right-of-way also shown on attached **Exhibit "A"**, and which a portion of the Public Right-Of-Way includes all or a part of the Utility's above-referenced easement on the Lands (all as depicted on said Exhibit).

3. Should the County require the Utility to alter, adjust, or relocate any of the Utility's facilities presently located on, within, or upon the Lands, the County hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate replacement easement(s). In addition, the Utility retains the right to be reimbursed in the future for any and all additional alterations, adjustments, or relocations of its facilities located presently or to be located on the Lands (or Public Right-Of-Way if such facilities were previously relocated from the Lands to the Public Right-Of-Way under this Agreement) if such alteration, adjustment, or relocation is caused by present or future uses of the Public Right-Of-Way by the County or its assigns, including, but not limited to, the cost of accommodating the Utility within the Public Right-Of-Way, or if necessary, acquiring replacement easement(s).

4. The Utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate its facilities on, within, and upon the Lands in accordance with the County's current minimum standards for such facilities as of the date of this Agreement. Any new construction or relocation of such facilities by the Utility on, within, and upon the Lands will be subject to prior approval by the County. Should the County fail to approve any new construction or relocation of such facilities on, within, and upon the Lands, the County hereby agrees to pay the cost of such alteration, adjustment, or relocation required by the County's failure to approve such new construction or relocation, including, but not limited to the cost of acquiring appropriate replacement easement(s).

5. The Utility shall have the right to enter upon the Lands (and/or the area of the Public Right-Of-Way where the facilities have been relocated) for the purposes outlined in Paragraph 4 above, including the right to trim such trees, brush, and growth which might endanger or interfere with the Utility's facilities. The County shall provide and allow access to the Lands (and/or the area of the Public Right-Of-Way where the facilities have been relocated) by the Utility.

6. The Utility agrees to repair any damage to the County facilities and to indemnify the County against any loss or damage, in an amount not to exceed One Million Dollars (\$1,000,000), resulting from the Utility exercising its rights to construct, operate, maintain, improve, add to, upgrade or remove its facilities on the Lands (and/or the area of the Public Right-Of-Way where the facilities have been relocated).

7. This Agreement shall not be assigned by County, except to the State of Florida or any other governmental entity that has an interest in the Public Right-Of-Way. In the event of any assignment hereunder, County shall provide written notice of such assignment to Utility within thirty (30) days of such assignment.

(Signatures and Acknowledgements appear on following pages.)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above 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: _____
Mary Lou Berger, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

By: _____
County Attorney

By: *Ornelis A. Fernandez*
Division Director

STATE OF FLORIDA
COUNTY OF PALM BEACH

I hereby certify that on this day, before me, an officer duly authorized to take acknowledgements, personally appeared _____ and _____ to me known and personally known to me to be the persons described in, or has/have produced _____, as identification and did (did not) take an oath and who executed the foregoing instrument as its _____ and _____ respectively, of the County of _____ and severally acknowledged before me that they executed the same as such officials in the name and on behalf of said County of _____.

WITNESS my hand and official seal in the County and State aforesaid this ___ day of _____, 20___.

My Commission Expires:

Notary Signature: _____
Notary Public State of Florida

Printed Name: _____

Signed, sealed and delivered
in the presence of:

FLORIDA POWER & LIGHT COMPANY,
a Florida corporation

By: Lillian M. Cole
Print Name: Lillian M. Cole

By: [Signature]
Title: Area Real Estate Manager
Print Name: ~~Samantha J. Saucier~~
MARK L. BYERS

By: [Signature]
Print Name: RAE DOWLING

STATE OF FLORIDA
COUNTY OF PALM BEACH

I hereby certify that on this day, before me, an officer duly authorized to take acknowledgements, personally appeared ~~Samantha J. Saucier~~ MARK L. BYERS to me known and personally known to me to be the person described in, and did not take an oath and who executed the foregoing instrument as its Area Real Estate Manager of the Florida Power & Light Company, a Florida corporation and acknowledged before me that ~~she~~ executed the same as such official in the name and on behalf of said Corporation.

WITNESS my hand and official seal in the County and State aforesaid this 20th day of JANUARY, 2016.

My Commission Expires:

Notary Signature: Lillian M. Cole
Notary Public State of Florida
Printed Name: Lillian M. Cole



SKETCH & DESCRIPTION

EXHIBIT 'A'

RIGHT-OF-WAY
PARCEL 101
FOR VIA ANCHO ROAD

LAND DESCRIPTION:

Tract "RW-1", TRI-COUNTY HUMANE SOCIETY, according to the Plat thereof as recorded in Plat Book _____, Page _____, of the Public Records Of Palm Beach County, Florida.

Said lands lying in Palm Beach County, Florida and containing 6,600 square feet (0.1515 acres) more or less.

SUMMARY TABLE FOR:

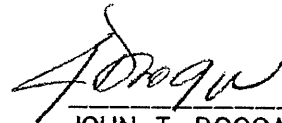
SCHEDULE B, SECTION 2 EXCEPTIONS TITLE COMMITMENT
FUND FILE NO. 06-2015-214021 (SEE SURVEYOR'S REPORT #2)

EXCEPTION NUMBER AND RECORDING INFORMATION	AFFECTS SUBJECT PROPERTY	AFFECTED AREA
No. 6 P.B. 2/45	Yes	Shown
No. 7 P.B. 36/36	Yes	Shown
No. 8 D.B. 306/330	?	Document illegible
No. 9 D.B. 450/202	Yes	Not Plottable
No. 11 O.R.B. 5851/1447	Yes	Not Plottable
No. 15 O.R.B. 2793/1228	Yes	Shown
No. 17 O.R.B. 23291/765	Yes	Not Plottable
No. 18 O.R.B. 23261/1690	No	

CERTIFICATION:


I HEREBY CERTIFY that the attached Sketch and Description of the hereon described property is true and correct to the best of my knowledge and belief as prepared under my direction. I FURTHER CERTIFY that this Sketch and Description meets the Minimum Technical Standards set forth in Chapter 5J-17.050 through 5J-17.052, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Date: 10/29/2015



JOHN T. DOOGAN, P.L.S.
Florida Registration No. 4409
AVIROM & ASSOCIATES, INC.
L.B. No. 3300

NOT VALID WITHOUT SHEETS 1 THRU 3

REVISIONS			 <p>AVIROM & ASSOCIATES, INC. SURVEYING & MAPPING 50 S.W. 2ND AVENUE, SUITE 102 BOCA RATON, FLORIDA 33432 TEL. (561) 392-2594, FAX (561) 394-7125 www.AVIROM-SURVEY.com ©2014 AVIROM & ASSOCIATES, INC. all rights reserved. This sketch is the property of AVIROM & ASSOCIATES, INC. and should not be reproduced or copied without written permission.</p>	JOB #:		
REVISED	W.R.E.	11/11/2014		9522_RW	SCALE:	-
REVISED	W.R.E.	10/01/2015		DATE:	05/27/2014	
REVISED	W.R.E.	10/06/2015		BY:	W.R.E.	
REVISED	W.R.E.	10/21/2015		CHECKED:	J.T.D.	
REVISED	W.R.E.	10/29/2015		F.B.	- PG. -	
			SHEET	1	OF 3	

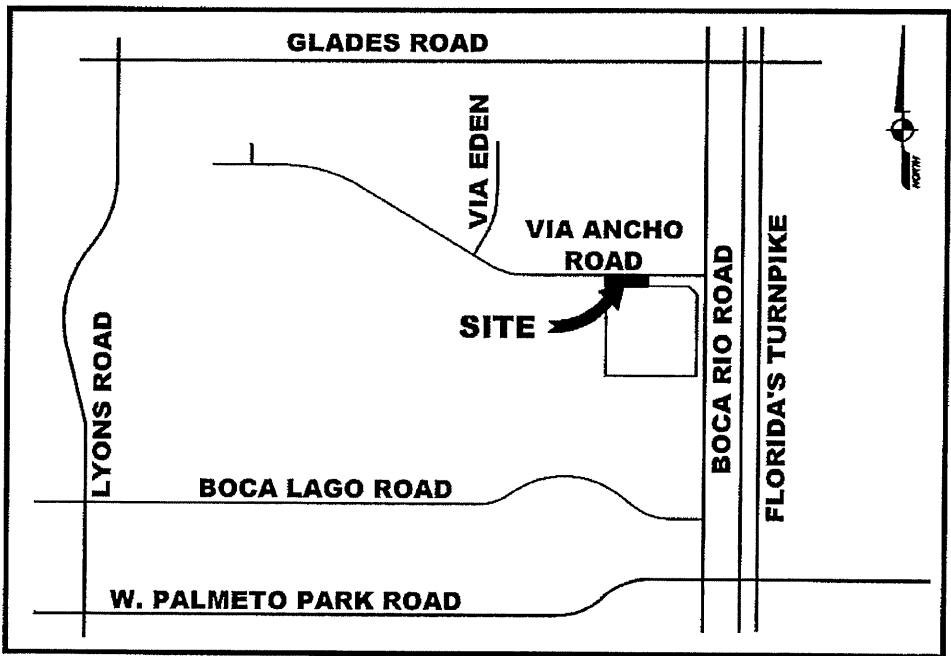
SKETCH & DESCRIPTION

EXHIBIT 'A'

RIGHT-OF-WAY
PARCEL 101
FOR VIA ANCHO ROAD

SURVEYOR'S REPORT:

1. Reproductions of this Sketch are not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
2. Lands shown hereon were not researched by Avirom & Associates, Inc. for easements, rights-of-way, ownership or other instruments of record. Instruments of record are per Fund File Number: 06-2015-214021, issued by Old Republic National Title Insurance Company, effective dates: July 27, 2015. Property shown hereon is subject to agreements, covenants, easements, restrictions and other matters contained in the Title Commitment. Easements, where applicable are shown on the survey. (see SUMMARY TABLE).
3. The land description shown hereon was prepared by the Surveyor.
4. Bearings shown hereon are assumed based on the east line of said Section 20-47-42 having a bearing of N00°57'07"W.
5. Coordinates shown hereon are based on the northeast quarter (NE 1/4) corner of Section 20-47-42 per the Florida Department Of Natural Resources, Certified Corner Record Document #052471, referenced to Grid North, based on the 1983 adjustment of the North American Datum (NAD 83/90) of the Florida State Plane Coordinate System (Transverse Mercator Projection), Zone = Florida East.
6. Data shown hereon was compiled from instrument(s) of record and does not constitute a boundary survey.
7. Abbreviation Legend: F.B. = Field Book; FPL = Florida Power & Light; L.B. = Licensed Business; O.R.B. = Official Records Book; P.B. = Plat Book; P.B.C.R. = Palm Beach County Records; PG. = Page; P.L.S. = Professional Land Surveyor; P.O.B. = Point of Beginning; R.W = Right-Of-Way.



LOCATION SKETCH

NOT TO SCALE

NOT VALID WITHOUT SHEETS 1 THRU 3

SECTION 20, TOWNSHIP 47 SOUTH, RANGE 42 EAST

REVISIONS		
REVISED	W.R.E.	11/11/2014
REVISED	W.R.E.	10/01/2015
REVISED	W.R.E.	10/06/2015
REVISED	W.R.E.	10/21/2015
REVISED	W.R.E.	10/29/2015



AVIROM & ASSOCIATES, INC.
SURVEYING & MAPPING
60 S.W. 2ND AVENUE, SUITE 102
BOCA RATON, FLORIDA 33432
TEL. (561) 392-2594, FAX (561) 394-7125
www.AVIROM-SURVEY.com

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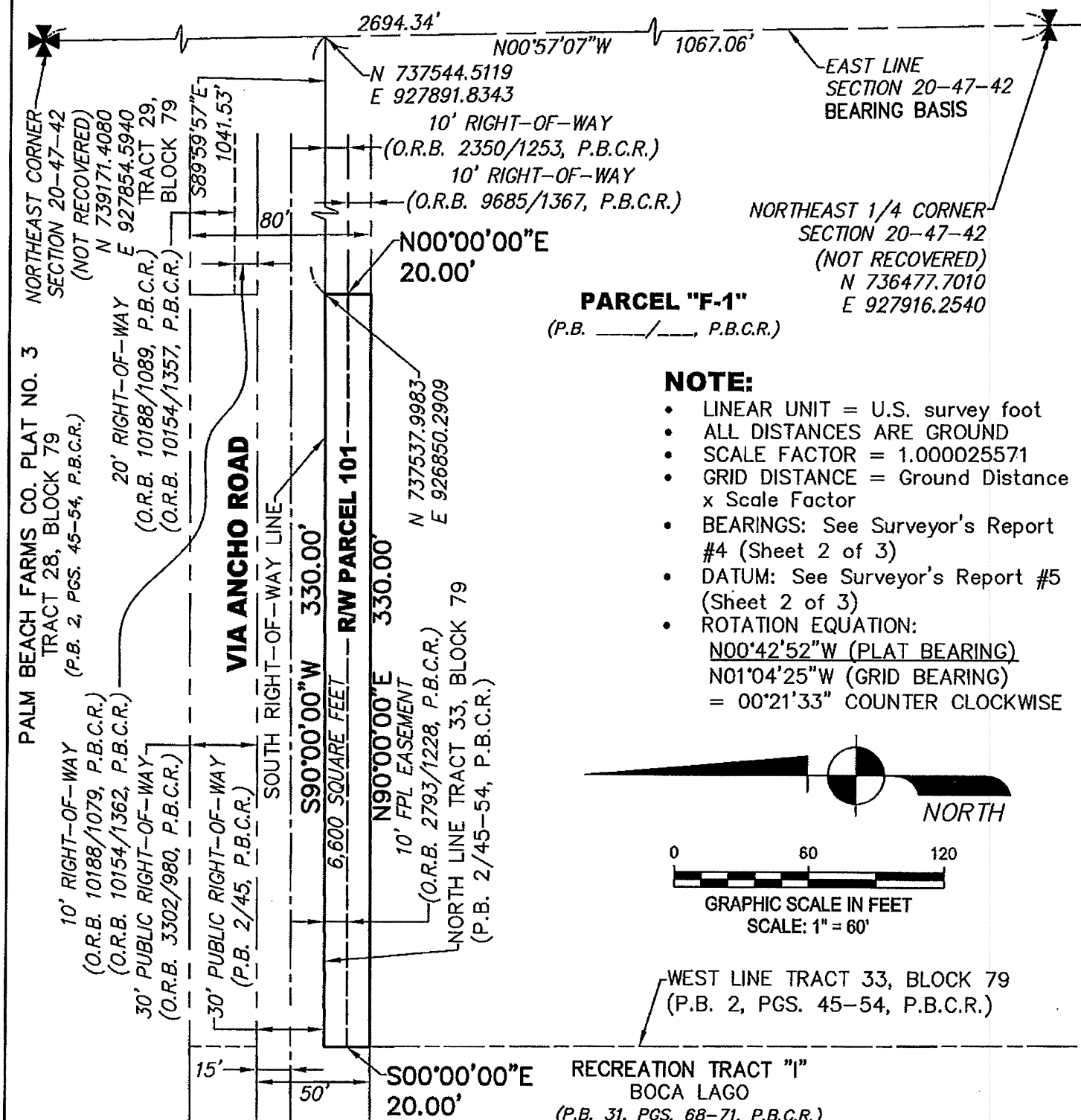
JOB #:	9522_RW
SCALE:	-
DATE:	05/27/2014
BY:	W.R.E.
CHECKED:	J.T.D.
F.B.	- PG. -
SHEET	2 OF 3

SKETCH & DESCRIPTION

EXHIBIT 'A'

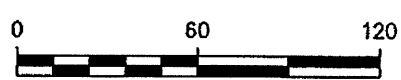
RIGHT-OF-WAY
PARCEL 101
FOR VIA ANCHO ROAD

**NOT VALID WITHOUT
SHEETS 1 THRU 3**



NOTE:

- LINEAR UNIT = U.S. survey foot
- ALL DISTANCES ARE GROUND
- SCALE FACTOR = 1.000025571
- GRID DISTANCE = Ground Distance x Scale Factor
- BEARINGS: See Surveyor's Report #4 (Sheet 2 of 3)
- DATUM: See Surveyor's Report #5 (Sheet 2 of 3)
- ROTATION EQUATION:
 $N00^{\circ}42'52''W$ (PLAT BEARING)
 $N01^{\circ}04'25''W$ (GRID BEARING)
 = $00^{\circ}21'33''$ COUNTER CLOCKWISE



GRAPHIC SCALE IN FEET
SCALE: 1" = 60'

WEST LINE TRACT 33, BLOCK 79
(P.B. 2, PGS. 45-54, P.B.C.R.)

REVISIONS		
REVISED	W.R.E.	11/11/2014
REVISED	W.R.E.	10/01/2015
REVISED	W.R.E.	10/06/2015
REVISED	W.R.E.	10/21/2015
REVISED	W.R.E.	10/29/2015



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JOB #:	9522_RW
SCALE:	1" = 60'
DATE:	05/27/2014
BY:	W.R.E.
CHECKED:	J.T.D.
F.B. - PG. -	- -
SHEET	3 OF 3