

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: March 1, 2016 Consent Regular
Public Hearing

Department: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to accept: a Utility Easement (Easement) granted by McDonald's Restaurants of Florida, Inc. (McDonald's), to Palm Beach County (County) on property located at Lake Worth Road and Sherwood Forest Boulevard.

Summary: The proposed Easement will allow the Water Utilities Department (WUD) to access the McDonald's property located on Lake Worth Road Sherwood Forest Boulevard to replace the existing force main located on the discharge side of the McDonald's lift station. (WUD Project No. 14-105) District 2 (MJ)

Background and Justification: : A Non Standard Utility Easement is needed to access McDonald's property for the operation, maintenance, repair, and replacement of the force main. McDonald's owns and operates a private lift station which discharges into WUD's sewer collection system via a 10" force main crossing Lake Worth Road. The force main has been failing and needs to be replaced. McDonald's agreed to grant the required easement subject to certain conditions as described in the Utility Easement. While the Department Director is authorized to accept a Standard Utility Easement, the Board's approval is necessary for this Non Standard Easement.

Attachments:

- 1. Location Map
- 2. One (1) Original Utility Easement
- 3. Legal Description and Sketch

Recommended By: Jim Stiles 2-17-16
Department Director Date

Approved By: Sharon R. Bly 2-18-16
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
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>
CCRT Funds	<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>

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: *M. M. M. M. M.*

III. REVIEW COMMENTS

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

[Signature]

 1/29 OFMB

[Signature] 2/16/16

 Contract Development and Control

B. Legal Sufficiency:

[Signature] 2/17/16

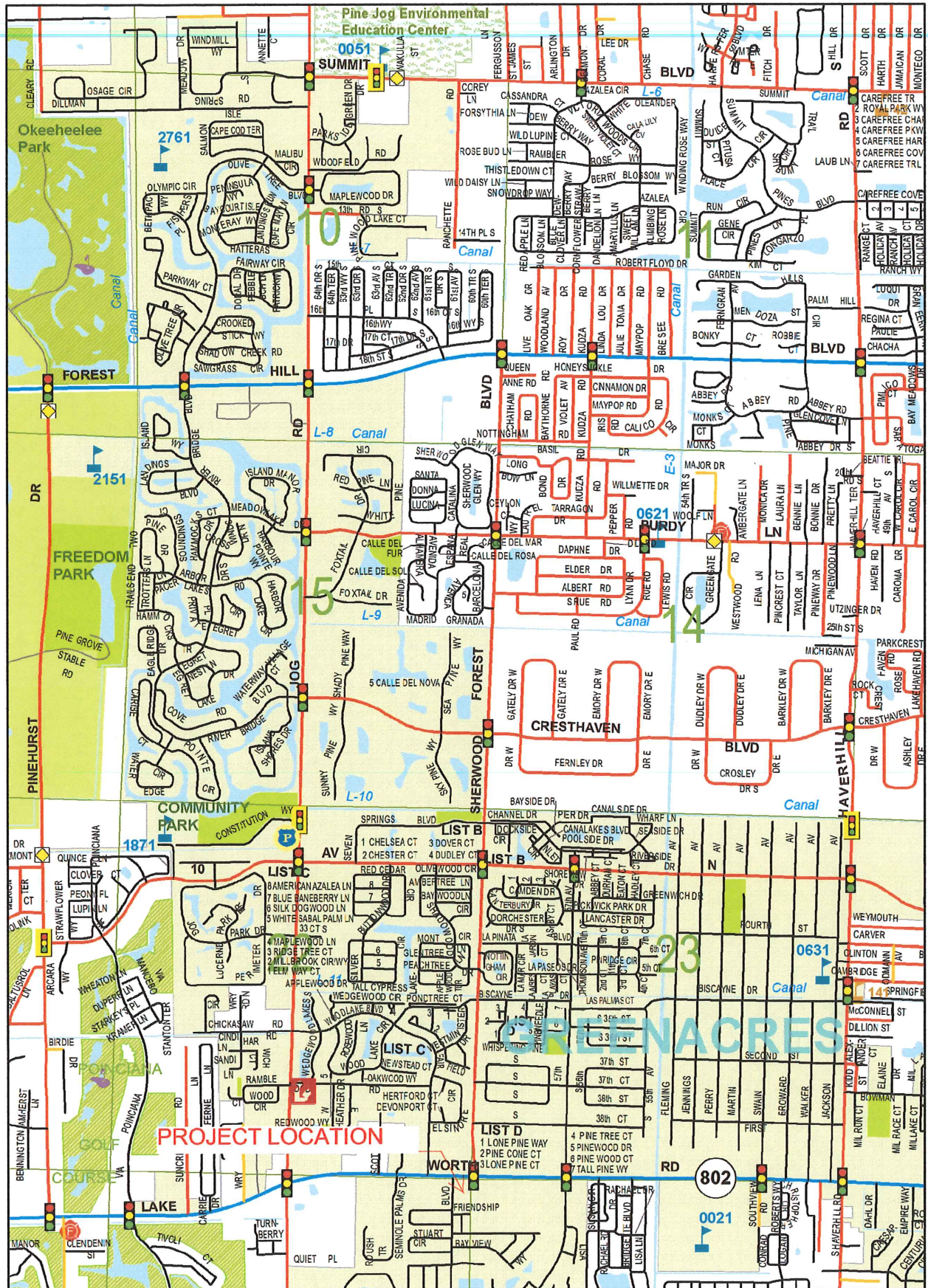
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

LOCATION MAP



Return to: Jennifer Prettel
Palm Beach County Water Utilities Department
8100 Forest Hill Blvd
West Palm Beach, Florida 33413

UTILITY EASEMENT

THIS EASEMENT is made, granted and entered into this ___ day of _____, 20___, by McDonald's Restaurants of Florida, Inc. a Florida Corporation (hereinafter referred to as "Grantor"), whose address is One McDonald's Plaza, Oak Brook, IL 60523 to Palm Beach County (hereinafter referred to as "Grantee"), c/o Water Utilities Department, P.O. Box 16097, West Palm Beach, Florida 33416-6097.

WITNESSETH

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the Grantee and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a perpetual utility easement which shall permit Grantee authority to enter upon the property of the Grantor at any time to install, operate, maintain, service, construct, reconstruct, remove, relocate, repair, replace, improve, expand, tie into, and inspect potable water, reclaimed water and/or wastewater lines and appurtenant facilities and equipment in, on, over, under and across the easement premises which is described as a strip of land lying, situate and being in Palm Beach County, Florida, and being more particularly described in EXHIBIT "A" and attached hereto and made a part hereof and cross-hatched in EXHIBIT "A-1" attached hereto and made a part hereof.

Grantor hereby covenants with Grantee that it is lawfully seized and in possession of the real property herein described and that it has good and lawful right to grant the aforesaid easement free and clear of mortgages and other encumbrances unless specifically stated to the contrary.

Grantor and Grantee agree to the terms and conditions further described in the Rider attached hereto as Exhibit "B" and made a part hereof.

Grantor hereby covenants with Grantee that it is lawfully seized and in possession of the real property herein described and that it has good and lawful right to grant the aforesaid easement free and clear of mortgages and other encumbrances unless specifically stated to the contrary.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and affixed its seal as of the date first above written.

WITNESSES:

Signed, sealed and delivered
in the presence of:

[Signature]
Witness Signature
Patricia Henslee
Print Name
Kimberly Calabrese
Witness Signature
Kimberly Calabrese
Print Name

GRANTOR: MCDONALD'S RESTUARANTS OF FLORIDA, INC.

[Signature] D. Dunn
Signature
Mahmud S. Hussain, Vice President
Print Name (and Title if applicable)
[Signature]
Signature
Padraic G. Molloy, Assistant Secretary
Print Name (and Title if applicable)

NOTARY CERTIFICATE

STATE OF Illinois
COUNTY OF DuPage

The foregoing instrument was acknowledged before me this 7th day of December, 2015 by Mahmud S. Hussain and Padraic G. Molloy who is/are personally known to me or who has produced _____ as identification.

My Commission Expires:



[Signature]
Notary Signature
JoAnn M. Carmody
Typed, Printed or Stamped Name of Notary

ACCEPTANCE BY GRANTEE

GRANTEE HEREBY accepts and agrees to all terms and conditions of this Utility Easement in consideration of the grant thereof.

**ATTEST:
SHARON R. BOCK,
CLERK AND COMPTROLLER**

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

By: _____
Deputy Clerk

By _____
Mary Lou Berger, Mayor

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

By: _____
County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

By:  _____
Director-Water Utilities

Exhibit "A"


LEGAL DESCRIPTION
10' PALM BEACH COUNTY UTILITY EASEMENT

A STRIP OF LAND 10 FEET IN WIDTH FOR PALM BEACH COUNTY UTILITY EASEMENT PURPOSES, BEING A PORTION OF THE NORTH 10 FEET OF THAT PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORD BOOK 3930, PAGE 123, OF THE PUBLIC RECORD OF PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 27, TOWNSHIP 44 SOUTH, RANGE 42 EAST; THENCE SOUTH $00^{\circ}52'01''$ WEST, ALONG THE EAST LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 27, A DISTANCE OF 26.30 FEET TO THE POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 802 (LAKE WORTH ROAD) AS RECORDED IN ROAD PLAT BOOK 5, PAGE 130, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING THE NORTHEAST CORNER OF THE SAID PARCEL OF LAND AS RECORDED IN OFFICIAL RECORDS BOOK 3930, PAGE 123, AND THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED 10.00 FEET WIDE EASEMENT:

THENCE CONTINUE SOUTH $00^{\circ}52'01''$ WEST, ALONG THE SAID EAST LINE OF SAID SECTION 27, A DISTANCE OF 10.00 FEET TO THE INTERSECTION WITH A NON-TANGENT CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 11,529.16 FEET, THE CHORD OF WHICH BEARS NORTH $89^{\circ}49'34''$ WEST; THENCE WESTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF $00^{\circ}14'55''$; THENCE NORTH $00^{\circ}52'01''$ EAST A DISTANCE OF 10.00 FEET TO THE INTERSECTION WITH THE SAID SOUTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 802 (LAKE WORTH ROAD), BEING A NON-TANGENT CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 11,519.16 FEET, AND BEING CONCENTRIC WITH THE FIRST HEREIN DESCRIBED CURVE; THE CHORD OF WHICH BEARS SOUTH $89^{\circ}49'36''$ EAST; THENCE EASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF $00^{\circ}14'55''$ TO THE POINT OF BEGINNING.

CONTAINING 500 SQUARE FEET, OR 0.011 ACRES, MORE OR LESS.

PROJECT NO. 2015008-16	SHEET 1 OF 3	PROJECT: 10' P.B.C. UTILITY EASEMENT SHERWOOD FOREST BOULEVARD & LAKE WORTH ROAD		SCALE: 1" = 20' APPROVED: R. W. JOHNSON DRAWN: E. A. O'NEILL CHECKED: G. W. M. M. DATE: 05/06/15 FILED BOOK NO.:	NO.	REVISION	BY	DATE
		1	PARCEL LEGAL		FC	9/17		
DESIGN FILE NAME S-1-15-3633.DGN		DRAWING NO. S-1-15-3633		 PALM BEACH COUNTY ENGINEERING AND PUBLIC WORKS ROADWAY PRODUCTION 2300 NORTH JOG ROAD WEST PALM BEACH, FL 33411				

SURVEYOR'S NOTES

1. THIS IS NOT A BOUNDARY SURVEY, BUT A GRAPHIC DEPICTION OF THE ATTACHED LEGAL DESCRIPTION. THERE HAS BEEN NO FIELD WORK, VIEWING OF THE SUBJECT PROPERTY, OR MONUMENTS SET IN CONJUNCTION WITH THE PREPARATION OF THE INFORMATION SHOWN HEREON.
 2. THE BEARINGS SHOWN HEREON ARE BASED ON A GRID BEARING (NAD 83, 90 ADJUSTMENT) OF S 00°52'01" W ALONG THE EAST LINE OF THE NORTH-EAST ONE-QUARTER SECTION 27, TOWNSHIP 44 SOUTH, RANGE 42 EAST, UTILIZING PUBLISHED PALM BEACH COUNTY POSITIONS FOR THE NORTH-EAST CORNER AND THE EAST QUARTER CORNER OF SECTION 27.
 3. NO SEARCH OF THE PUBLIC RECORDS HAS BEEN MADE BY THE SIGNING SURVEYOR.
 4. I HAVE REVIEWED THE TITLE INFORMATION PROVIDED BY PALM BEACH COUNTY ROADWAY PRODUCTION DIVISION AND ALL OF THE SURVEY RELATED ENCUMBRANCES APPLICABLE TO THE DESCRIBED PROPERTY ARE SHOWN HEREON.
 5. IT IS POSSIBLE THAT THERE ARE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS, OR OTHER INSTRUMENTS WHICH COULD AFFECT THE SUBJECT PROPERTY, WHICH ARE UNKNOWN TO THE SIGNING SURVEYOR.
 6. COORDINATES SHOWN ARE GRID
DATUM = NAD 83, 1990 ADJUSTMENT
ZONE = FLORIDA EAST
LINEAR UNITS = US SURVEY FOOT
COORDINATE SYSTEM 1983 STATE PLANE TRANSVERSE MERCATOR PROJECTION.
ALL DISTANCES ARE GROUND.
STATIONING REFERENCES ARE GRID.
PROJECT SCALE FACTOR = 1.000032028
GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE
BEARING ROTATION EQUATION: GRID BEARING APPLY A COUNTER-CLOCKWISE ANGLE OF 00°25'57" TO DETERMINE DEED BEARINGS.
 7. THE INTENDED PLOT SCALE OF THIS DRAWING IS 1" = 20', ON AN 8.5" X 11.0" SHEET.
- THIS INSTRUMENT PREPARED BY RICHARD W. BUSSELL, P.S.M., IN THE OFFICE OF THE COUNTY ENGINEER, VISTA CENTER 2300 NORTH JOG ROAD, WEST PALM BEACH, FLORIDA 33411-2745.

SURVEYOR'S CERTIFICATION

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

I HEREBY CERTIFY THAT THE LEGAL DESCRIPTION AND SKETCH SHOWN HEREON WAS MADE UNDER MY RESPONSIBLE DIRECTION AND SUPERVISION AND MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN RULE 5J-17.050-.052, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, OF THE FLORIDA STATUTES.

Richard W. Buswell

RICHARD W. BUSSELL, P.S.M.
FLORIDA CERTIFICATE NO. 3858

9/13/15

DATE

NORTH QUARTER CORNER
SECTION 27, TOWNSHIP
44 SOUTH, RANGE 42 EAST
PALM BEACH COUNTY POSITION
N 831705.916
E 934953.592

POINT OF COMMENCEMENT
NORTHEAST CORNER OF
SECTION 27, TOWNSHIP
44 SOUTH, RANGE 42 EAST
PALM BEACH COUNTY POSITION
N 831640.362
E 937652.620

LAKE WORTH ROAD (S.R. 802)
(ROAD PLAT BOOK 5, PG 130)

POINT OF BEGINNING
NE CORNER
ORB 3930, PG 123

N88°36'31"W 2699.74'
NORTH LINE OF SECTION 27

R = 11,519.16'
Δ = 00°14'55"
L = 50.00'
CB = S89°49'36"E

N02°17'17"E
N89°35'50"E
N89°21'51"E

S R/W LINE S.R. 802
RPB 5, PG 130

R = 11,529.16'
Δ = 00°14'55"
L = 50.00'
CB = N89°49'34"W
50.00'



COLONIAL BOULEVARD
(PRIVATE ROAD)
ORB 2798, PG 1889

McDONALDS RESTAURANT
ORB 3930, PG 123
UNPLATTED
PCN 18424427000001300

E LINE OF NE 1/4
OF SECTION 27/44/42

10' FPL EASEMENT
ORB 3980, PG 426

5' U.E.
ORB 4201, PG 533

7' FPL EASEMENT
ORB 3960, PG 1887

20' U.E.
PER PLAT

S00°52'01"W 2684.79'

PLAT OF GREENACRES TARGET
PB 79, PG 156-157
INGRESS/EGRESS
EASEMENT PER PLAT

LEGEND

- | | | |
|-------------------------------|------------------------|---------------------------|
| PCN = PROPERTY CONTROL NUMBER | CB = CHORD BEARING | 12' FPL EASEMENT PER PLAT |
| ORB = OFFICIAL RECORD BOOK | R = RADIUS | |
| FPL = FLORIDA POWER & LIGHT | Δ = CENTRAL ANGLE | |
| D.E. = DRAINAGE EASEMENT | L = ARC LENGTH | |
| U.E. = UTILITY EASEMENT | | |
| R/W = RIGHT OF WAY | | |
| S.R. = STATE ROAD | PENTECOSTAL TABERNACLE | |
| PB = PLAT BOOK | PCN 18424427000001052 | |
| PG = PAGE | ORB 22320, PG 1628 | |

EAST QUARTER CORNER
SECTION 27, TOWNSHIP
44 SOUTH, RANGE 42 EAST
PALM BEACH COUNTY POSITION
N 828955.787
E 937611.997

EXHIBIT "B" – RIDER

- 1) Grantee will construct the Facilities in a good and workmanlike manner, and will keep the Facilities in good maintenance and repair at its sole cost and expense. Grantee will not perform any construction work between the hours of 11:00 a.m. to 2:00 p.m.
- 2) Grantee will give written notice to grantor at least 10 days before beginning any work in the easement area, which notice will specify the work to be performed and a date when the work will be completed. Grantee will use its best efforts to complete the work by that date.
- 3) Unless otherwise agreed in writing, immediately after Grantee completes any work in the easement area, Grantee will restore the easement area to the same or better condition as it was in before Grantee began the work and to a safe condition, and will remove all of its equipment, tools, trash and debris from the easement area.
- 4) Unless otherwise agreed in writing, Grantee will not move, remove or demolish any of Grantor's signs, Access drives curbing or other improvements located within the easement area.
- 5) Grantee will separate by cones or other appropriate construction safety barriers ("cone off") the easement area while Grantee performs any work in the easement area.
- 6) Grantee will perform all work in such a manner so as to not unduly disrupt the operation of the McDonald's restaurant on Grantor's property. Grantee or any third-party hired by Grantee shall not use any mechanical digging equipment within 5 feet of the McDonald's Sign. Grantee will "cone off" no more than 4 parking stalls at any one time, and will not "cone off" or block in any manner more than half of any access drive at any time, allowing at least one lane open at all times in each access drive for vehicular traffic.
- 7) Grantee will not store any construction vehicles, equipment or materials within the easement area or on Grantor's other property.
- 8) If any damage occurs to Grantor's property or any improvements thereon arising out of, related to, or as a consequence of any of Grantee's work in the easement area, Grantor promptly will notify Grantee in writing of the damage. Unless otherwise agreed by the parties, Grantee will repair the damage (or commence and diligently pursue repairing the damage) within 30 days after receipt of Grantor's notice.
- 9) If Grantee defaults under any provision of the easement agreement, Grantor will be entitled to: 1) obtain specific performance or any other appropriate equitable relief against Grantee; and/or 2) in the case of incomplete repairs, Grantor may complete the necessary repairs, and Grantee promptly will pay Grantor for the actual cost of the repairs plus 20% for overhead costs and expenses.
- 10) County acknowledges the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 768.28 and acknowledges that such statute permits actions at law against the County to recover damages in tort for money damages up

to the amounts set forth in such statute for injury or loss of property, personal injury, or death caused by the negligence or wrongful act or omission of an employee of County while acting within the scope of the employee's office or employment under circumstances in which County, if a private person, would be liable under the general laws of the State of Florida.

- 11) Grantee's contractor's, if any, will defend and hold harmless and indemnify Grantor, its lessees, licensees, employees, agents, contractors and assigns, and each of their lessees, licensees, employees, agents, contractors and assigns, against any and all claims, liabilities and costs (including, but not limited to reasonable attorney's fees) for injuries to any person and damage to any property arising out of, in connection with, or as a result or consequence of Grantee's work in and/or use of the easement area.


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	DESIGN FILE NAME S-1-15-3633.DGN	DRAWING NO. S-1-15-3633					

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Richard W. Buswell
RICHARD W. BUSSELL, P.S.M.
FLORIDA CERTIFICATE NO. 3858

9/13/15
DATE

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(ROAD PLAT BOOK 5, PG 130)

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ORB 3930, PG 123

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S R/W LINE S.R. 802
RPB 5, PG 130

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CB = N89°49'34"W
50.00'

S00°52'01"W
10.00'

UE
ORB 4201,
PG 533

D.E.
PER
PLAT

SCALE: 1" = 40'

COLONIAL BOULEVARD
(PRIVATE ROAD)
ORB 2798, PG 1889

McDONALDS RESTAURANT
ORB 3930, PG 123
UNPLATTED
PCN 18424427000001300

E LINE OF NE 1/4
OF SECTION 27/44/42

20' U.E.
PER PLAT

S00°52'01"W 2684.79'

PLAT OF GREENACRES TARGET
PB 79, PG 156-157

10' FPL EASEMENT
ORB 3980, PG 426

5' U.E.
ORB 4201, PG 533

7' FPL EASEMENT
ORB 3960, PG 1887

INGRESS/EGRESS
EASEMENT PER PLAT

LEGEND

- | | | |
|-------------------------------|------------------------|----------------------------|
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| U.E. = UTILITY EASEMENT | | |
| RPB = ROAD PLAT BOOK | | |
| R/W = RIGHT OF WAY | | |
| S.R. = STATE ROAD | PENTECOSTAL TABERNACLE | EAST QUARTER CORNER |
| PB = PLAT BOOK | PCN 18424427000001052 | SECTION 27, TOWNSHIP |
| PG = PAGE | ORB 22320, PG 1628 | 44 SOUTH, RANGE 42 EAST |
| | | PALM BEACH COUNTY POSITION |
| | | N 828955.787 |
| | | E 937611.997 |