

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

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**Meeting Date:** May 17, 2016

☒ **Consent**

☐ **Regular**

☐ **Workshop**

☐ **Public Hearing**

**Department:**

**Submitted By:** Engineering and Public Works

**Submitted For:** Right-of-Way Acquisition Section

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**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: a subordination of utility interests and agreement for reimbursement for future facility relocations with Florida Power and Light Company (FPL) on a parcel of land located on the north side of Belvedere Road and west of Congress Avenue.

**SUMMARY:** Approval of the subordination agreement will subordinate an FPL utility easement interest and allow Palm Beach County (County) to accept a warranty deed for additional right-of-way for Belvedere Road. As part of the platting process, the Hertz Corporation (Hertz) is required to provide the County with additional right-of-way on the north side of Belvedere Road, for a total of 55 feet from the centerline of Belvedere Road. The County requires that this right-of-way be free and clear of all encumbrances.

District 7 (MRE)

**Background and Justification:** As part of the permit process Hertz submitted plans to make improvements to its property which is located on the north side of Belvedere Road. As a condition of zoning approval to make those improvements, Hertz is required to dedicate right-of-way to the County. FPL has a utility easement interest which encumbers part of that property. It is necessary to have this interest subordinated, since it is the County's policy that all property being conveyed to the County be free and clear of all encumbrances. The subordination agreement 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. FPL has already executed the subordination and staff recommends approval.

**Attachments:**

1. Location Map
2. Subordination of utility interests and agreement for reimbursement for additional facility relocations with Exhibit "A"

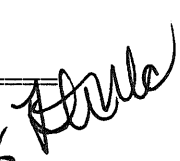
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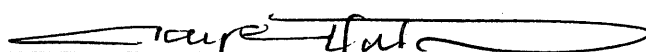
**Recommended by:**

  
Department Director

Date

4/13/16 

**Approved by:**



Assistant County Administrator

Date

5/2/16

  
RAG

## 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: Aliekovalaue

## III. REVIEW COMMENTS

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

Sherry M  
KP ASD OFMB 4/20/16

Dr. J. Jacobson 4/26/16  
Contract Dev. and Control

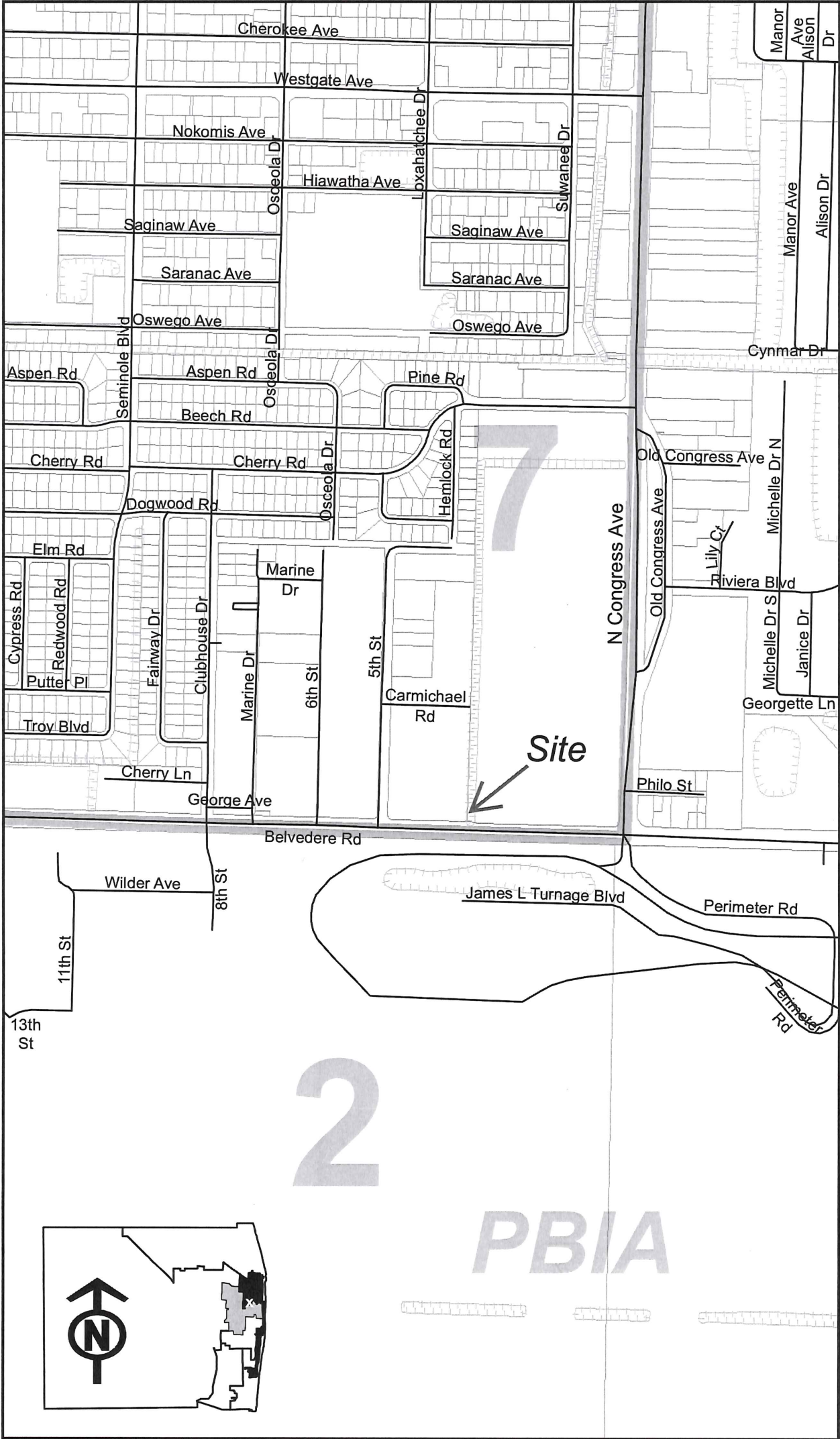
### B. Approved as to Form and Legal Sufficiency:

Monika P. Attia 4/28/16  
Assistant County Attorney

### 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 Acquisition Section  
Palm Beach County, Engineering & Public Works Department  
Post Office Box 21229  
West Palm Beach, Florida 33416-1229  
Attn.: Richard A. Graddock, Real Estate Technician  
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 : 00-43-43-30-00-000-5110

<b>NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE</b>	
<hr/>	
<b>SPACE ABOVE THIS LINE FOR PROCESSING DATA</b>	
<hr/>	
<b>PROJECT NO. MRT 2014-030</b>	
<hr/>	
<b>ROAD NAME: Belvedere Road/Hertz Corp.</b>	
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<b>PARCEL ADDRESS: 3175 Belvedere Road</b>	
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**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 \_\_\_\_ day of \_\_\_\_\_ 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:

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<u>NATURE OF ENCUMBRANCE</u>	<u>DATE</u>	<u>FROM OR AGAINST</u>	<u>IN FAVOR OF</u>	<u>BOOK AND PAGE</u>
FPL Easement	May 19, 1965	Industrial Corp. of Florida, Inc.	Florida Power & Light Company	ORB 1215. Pg. 347

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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**

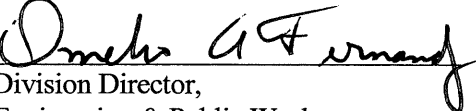
By: \_\_\_\_\_  
Clerk (or Deputy Clerk)

By: \_\_\_\_\_  
Mary Lou Berger, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

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

**APPROVED AS TO TERMS AND  
CONDITIONS**

By:   
Division Director,  
Engineering & Public Works

Signed, sealed and delivered  
in the presence of:

FLORIDA POWER & LIGHT COMPANY,  
a Florida corporation

By: Michelle M. Kahmann

By: Samantha J. Saucier

Print Name: Michelle M. Kahmann

Title: Area Real Estate Manager  
Print Name: Samantha J. Saucier

By: Marta Hull

Print Name: Marta Hull

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 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 4<sup>th</sup> day of Feb., 2016.

My Commission Expires:

Notary Signature: Michelle M. Kahmann  
Notary Public State of Florida

Printed Name: Michelle M. Kahmann



DESCRIPTION F.P.L. EASEMENT SUBORDINATION:

A PARCEL OF LAND LYING WITHIN AND BEING A PART OF AN FPL EASEMENT RECORDED IN ORB 1215, PAGE 347 AND ALSO WITHIN A STRIP OF LAND FOR ADDITIONAL RIGHT OF WAY IN SECTION 30, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE SOUTH LINE OF SAID SECTION 30 AT A DISTANCE OF 891.15 FEET WESTERLY FROM THE SOUTHEAST CORNER OF SAID SECTION 30; THENCE N 01°37'01"E, A DISTANCE OF 66.00 FEET TO THE SOUTHEAST CORNER OF TRACT "A" OF THE AFFIDAVIT OF LOT COMBINATION AS RECORDED IN OFFICIAL RECORD BOOK 26961, PAGE 864, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING ON THE NORTHERLY RIGHT OF WAY LINE OF BELVEDERE ROAD AS RECORDED IN ROAD PLAT BOOK 4, PAGE 202, PALM BEACH COUNTY PUBLIC RECORDS, AND BEING THE POINT OF BEGINNING OF SAID RELEASE OF EASEMENT; THENCE N88°22'59"W ALONG THE SOUTH LINE OF SAID TRACT "A", A DISTANCE OF 12.00; THENCE N01°37'01"E, A DISTANCE OF 2.00 FEET; THENCE S88° 22' 59"E ALONG A LINE 2 FEET NORTH OF AND PARALLEL WITH THE EXISTING RIGHT OF WAY LINE OF BELVEDERE ROAD, A DISTANCE OF 12.00 FEET TO THE EAST LINE OF SAID TRACT "A"; THENCE S01°37' 01"W A DISTANCE OF 2.00 FEET TO THE POINT OF BEGINNING. CONTAINING 24 SQUARE FEET MORE OR LESS.

LEGEND:

- P.O.B. INDICATES POINT OF BEGINNING

P.O.C. INDICATES POINT OF COMMENCING

LB INDICATES LICENSED BUSINESS

ORB/PG INDICATES OFFICIAL RECORD BOOK & PAGE

R.P.B./PG INDICATES ROAD PLAT BOOK & PAGE

P.B./PG INDICATES PLAT BOOK & PAGE

FPL INDICATES FLORIDA POWER & LIGHT

O INDICATES SET IRON ROD & CAP

LB# 6936 UNLESS NOTED OTHERWISE

PK INDICATES PARKER-KALON NAIL

Ⓢ INDICATES CENTERLINE
- FND INDICATES FOUND

R/W INDICATES RIGHT OF WAY

R INDICATES RADIUS

AL INDICATES ARC LENGTH

D INDICATES DELTA

SEC INDICATES SECTION

T43S INDICATES TOWNSHIP 43 SOUTH


R43E INDICATES RANGE 43 EAST


SE INDICATES SOUTHEAST

DESCRIPTION OF  
FPL EASEMENT  
SUBORDINATION

EXHIBIT A

This drawing is not valid without embossed seal of Surveyor.

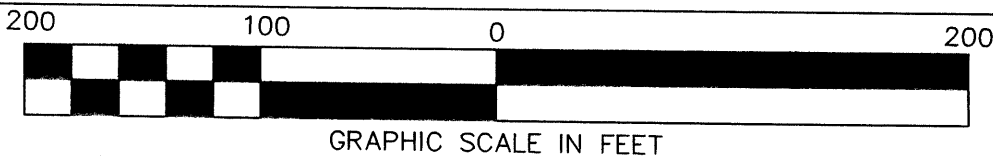
  
RICHARD N. DEAN  
Professional Surveyor & Mapper  
Florida Certificate No. 4406  
L.B. 6936



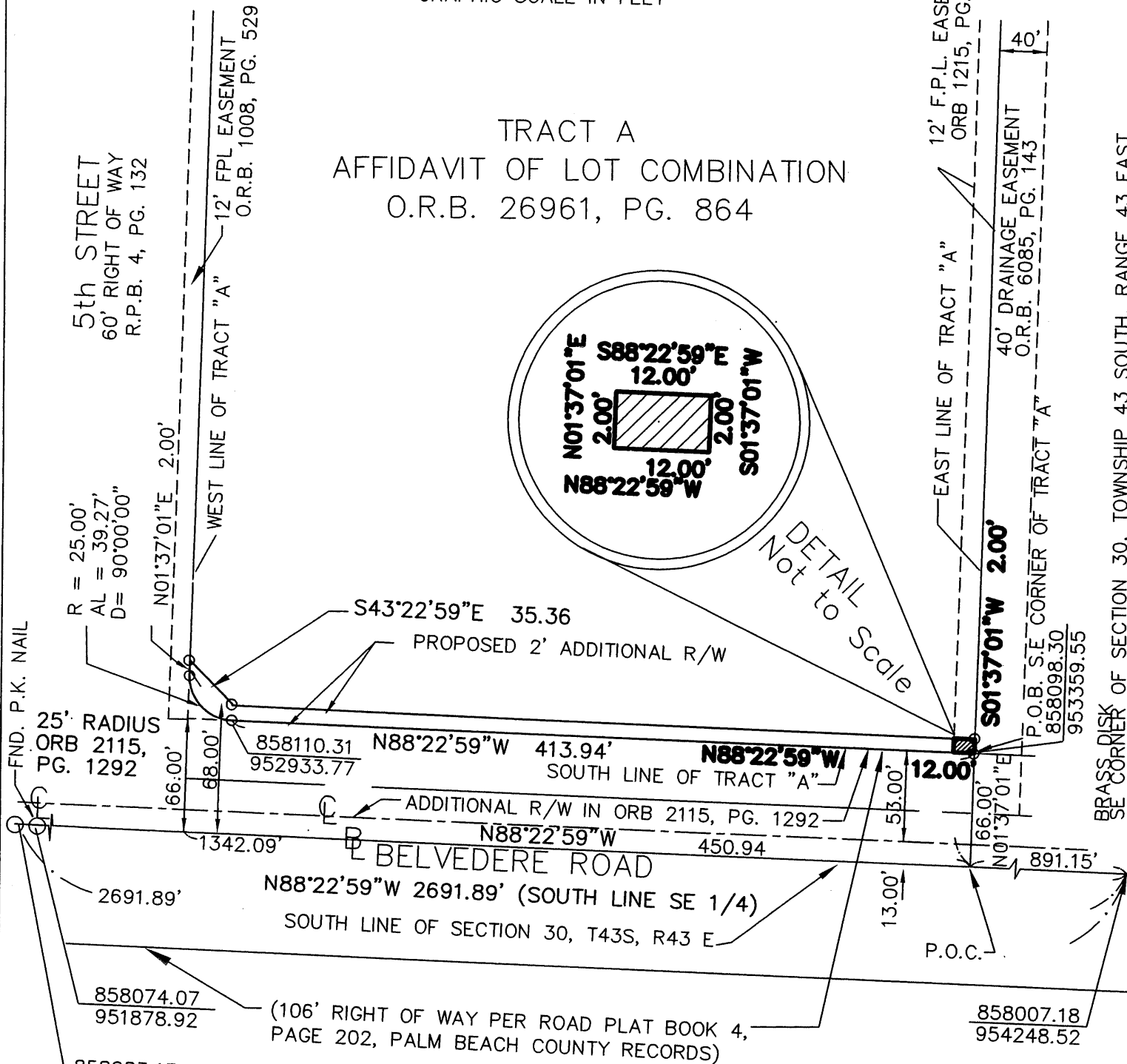
Dean Surveying and Mapping, Inc.  
"The Measuring Line Shall Go Forth" Jeremiah 31:39  
4201 WEST GATE AVENUE  
Suite A3  
West Palm Beach, Florida 33409  
Tel:(561)625-8748 Facsimile (561)626-4558

FIELD:	DATE: 11/30/15
DRAWN: T.P.	SCALE: N/A
SHEET: 1 of 2	JOB No.: 012-312-FPL





TRACT A  
AFFIDAVIT OF LOT COMBINATION  
O.R.B. 26961, PG. 864



SOUTH 1/4 CORNER  
SEC. 30/43/43  
PUBLISHED VALUE

SKETCH OF  
FPL EASEMENT  
SUBORDINATION

EXHIBIT A

NOTE:

This drawing is not valid without  
embossed seal of Surveyor.

RICHARD N. DEAN  
Professional Surveyor & Mapper  
Florida Certificate No. 4406  
L.B. 6936



Dean Surveying and Mapping, Inc.

"The Measuring Line Shall Go Forth" Jeremiah 31:39

4201 WEST GATE AVENUE

Suite A3

West Palm Beach, Florida 33409

Tel: (561) 625-8748

Facsimile (561) 626-4558

FIELD:	R.N.D.	DATE:	11/30/15
DRAWN:	T.P.	SCALE:	GRAPHIC
SHEET:	2 of 2	JOB No.:	012-312-FPL