

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: March 14, 2017

Consent

Regular

Ordinance

Public Hearing

Department: Engineering and Public Works

Submitted By: Engineering and Public Works

Submitted For: Roadway Production Division

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 & Light Company (FPL) on a parcel of land located at the southeast corner of Belvedere Road and Australian 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. As part of the development conditions associated with a convenience store and gas station, the property owners are required to provide the County with right-of-way for an eastbound right turn lane on Belvedere Road. The County requires that this right-of-way be free and clear of all encumbrances. District 2 (HF)

Background and Justification: As part of the development process, the property owners are required to convey right-of-way for an eastbound right turn lane on Belvedere Road. The parcel of land to be conveyed is encumbered by a utility easement in favor of FPL. Land conveyed to the County is required to 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 Facility Relocations with Exhibit "A"

048 *[Signature]*
Recommended by: *[Signature]* **Department Director** 2/2/17 **Date**

Approved by: *[Signature]* **Assistant County Administrator** 2/9/17 **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2017	2018	2019	2020	2021
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: Alicia Kovalainen

III. REVIEW COMMENTS

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

 John W. L.
ASD OFMB/ET 2/2
2/2

 D. J. Aron 2/16/17
Contract Dev. and Control
2/6/17

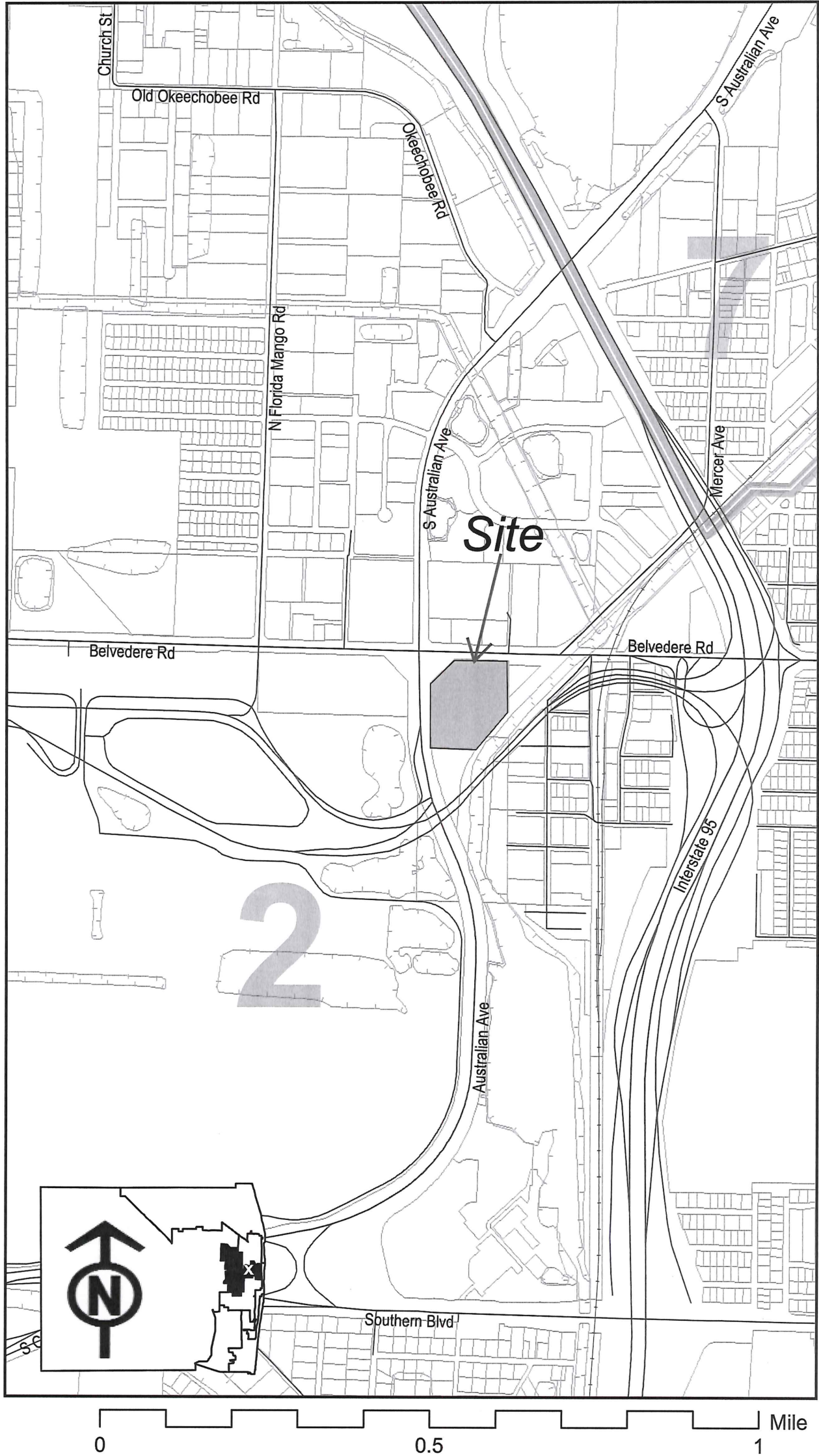
B. Approved as to Form and Legal Sufficiency:

 2/7/17
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:
Right-of-Way Acquisition Section
Palm Beach County, Engineering & Public Works Department
Post Office Box 21229
West Palm Beach, Florida 33416-1229
Attn.: Kaye Weichel, Right-of-Way Specialist
Acct. No.: 1010 **W/C BOX 1066**

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

Property Control Number: Portion of 74-43-43-32-00-000-1060

NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE

SPACE ABOVE THIS LINE FOR PROCESSING DATA

PROJECT NO.: MRT2016-008

**ROAD NAME: BELVEDERE
ROAD**

PARCEL NO.: WAWA

**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 11 day of January 2017, 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</u>	<u>IN FAVOR OF</u>	<u>BOOK / PAGE</u>
Easement	6/13/89	Second Palm Beach Hotel Enterprises Inc.	Florida Power & Light	ORB 6158/241

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

County:

PALM BEACH COUNTY,
a political subdivision of the state of
Florida

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 Department

N:\R_O_WKAYE\AUSTRALIAN&BELVEDEREWAWA\BELVEDEREROW284-LGL SUBORDINATION OF UTILITY INTERESTS

Signed, sealed and delivered
in the presence of:

FLORIDA POWER & LIGHT COMPANY,
a Florida corporation

By: Holly Gorekar
Print Name: Holly Gorekar

By: Samantha J. Saucier
Samantha J. Saucier
Area Real Estate Manager

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 Area Real Estate Manager of 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 11 day of January, 2017.

My Commission Expires:

Notary Signature: Tracy Davis
Notary Public State of Florida

Printed Name: _____



SKETCH OF DESCRIPTION
(NOT A BOUNDARY SURVEY)

EXHIBIT "A"

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN AND BEING PART OF SECTION 32, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:


COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 32; THENCE, ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 32, N89°37'39"W, A DISTANCE OF 666.90 FEET; THENCE, DEPARTING SAID NORTH LINE, S00°56'30"E, A DISTANCE OF 53.68 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF BELVEDERE ROAD, PARCEL 100-B AS DESCRIBED IN OFFICIAL RECORDS BOOK 6770, PAGE 152 AND OFFICIAL RECORDS BOOK 7077, PAGE 1341, PUBLIC RECORDS OF PALM BEACH COUNTY, AND THE POINT OF BEGINNING; THENCE, DEPARTING SAID RIGHT-OF-WAY LINE, S00°56'30"E, A DISTANCE OF 13.00 FEET; THENCE, N89°37'08"W, A DISTANCE OF 447.72 FEET TO THE WESTERLY BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 11250, PAGE 600; THENCE, N44°49'58"E ALONG SAID WESTERLY BOUNDARY LINE, A DISTANCE OF 19.42 FEET TO SAID SOUTHERLY RIGHT-OF-WAY LINE OF BELVEDERE ROAD; THENCE, S89°37'39"E ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 396.20 FEET; THENCE, S88°12'41"E, A DISTANCE OF 37.63 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,106 SQUARE FEET OR 0.14 ACRES, MORE OR LESS.


SKETCH REPORT:

1. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. THIS SKETCH OF DESCRIPTION IS NOT VALID WITHOUT SHEETS 1 THROUGH 4.

I HEREBY CERTIFY THAT THIS SKETCH OF DESCRIPTION WAS MADE UNDER MY DIRECTION AND MEETS THE STANDARDS OF PRACTICE REQUIREMENTS OF CHAPTER 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE.

 **EBI Surveying**
8415 Sunstate Street
Tampa, Florida 33634

Phone: (813) 886-6080 / Fax: (813) 886-6081
Certificate of Authorization Number: LB-7652


HENRY A. KILBURN, PSM
License Number: LS-6661

Date Signed: 8/4/16

SHEET NO.
1
OF 4

DATE: 01/20/2016
DRAWN: FRV
CHECKED: HAK
REVISION: SURVEYOR'S NOTE
8/4/16
FILE: 3DBW01-SODX.dwg
SCALE: 1" = 60'

SKETCH OF DESCRIPTION
RIGHT-OF-WAY DEDICATION
PART OF SECTION 32
TOWNSHIP 43 SOUTH, RANGE 43 EAST
PALM BEACH COUNTY, FLORIDA

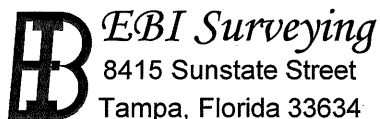
PROJECT NUMBER:
BWRE0001

SKETCH OF DESCRIPTION
(NOT A BOUNDARY SURVEY)

EXHIBIT "A"

SURVEYOR'S NOTES:

1. LANDS SHOWN HEREON WERE ABSTRACTED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY ORDER NO.: 5649104, EFFECTIVE DATE: FEBRUARY 5, 2016 AT 8:00 A.M. UPON REVIEW OF THE TITLE COMMITMENT IT IS THE OPINION OF THIS OFFICE THAT ALL THE PLOTTABLE EASEMENTS ARE SHOWN HEREON.
2. THIS RIGHT-OF-WAY DEDICATION IS SUBJECT TO THAT CERTAIN BLANKET DECLARATION EASEMENT DATED DECEMBER 18, 2015 AND RECORDED JANUARY 11, 2016 IN OFFICIAL RECORDS BOOK 28036, PAGE 690, PALM BEACH COUNTY PUBLIC RECORDS.
3. COORDINATES SHOWN HEREON ARE GRID.
DATUM IS REFERENCED TO NAD 83, 1990 ADJUSTMENT.
ZONE: FLORIDA EAST
LINEAR UNITS = U.S. SURVEY FOOT
COORDINATE SYSTEM: 1983 STATE PLANE TRANSVERSE MERCATOR PROJECTION
ALL DISTANCES SHOWN HEREON ARE GROUND DISTANCES.
SCALE FACTOR = 1.000044878
4. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 32, N89°37'39"W, PER OFFICIAL RECORDS BOOK 11250, PAGE 600, PALM BEACH COUNTY PUBLIC RECORDS.
5. THE BEARING ROTATION EQUATION IS AS FOLLOWS:
N89°37'39"W (ASSUMED BEARING) – N88°26'29"W (GRID BEARING) = 01°11'10"



8415 Sunstate Street
Tampa, Florida 33634

Phone: (813) 886-6080 / Fax: (813) 886-6081
Certificate of Authorization Number: LB-7652

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SHEET NO. 2 OF 4

DATE: 01/20/2016
DRAWN: FRV
CHECKED: HAK
REVISION: SURVEYOR'S NOTE
8/04/16
FILE: 3DBW01-SODX.dwg
SCALE: 1" = 60'

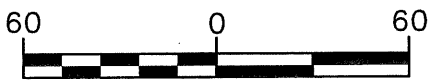
SKETCH OF DESCRIPTION
RIGHT-OF-WAY DEDICATION
PART OF SECTION 32
TOWNSHIP 43 SOUTH, RANGE 43 EAST
PALM BEACH COUNTY, FLORIDA

PROJECT NUMBER:
BWRE0001

SKETCH OF DESCRIPTION

(NOT A BOUNDARY SURVEY)

GRAPHIC SCALE



(IN FEET)

1 inch = 60 feet

POINT OF COMMENCEMENT
NE CORNER OF NE 1/4
OF SECTION 32
(PBC POSITION)

POINT NO: 33109

N: 857,862.5730

E: 959,574.8170

**SUBJECT PARCEL
R/W DEDICATION**

R/W PARCEL 100-B
NOT INCLUDED
(O.R.B. 6770, PG. 152)
(O.R.B. 7077, PG. 1341)

N88°26'29"W(C)(PBC)

S88°12'41"E

37.63'

NORTH LINE OF SECTION 32

(C)(PBC)

BELVEDERE ROAD

(R/W VARIES)

1099.44'(C)(PBC)

N89°37'39"W 666.90'
(BEARING BASIS)

CENTER LINE
OF R/W (D)

S89°37'39"E
396.20'

N89°37'08"W
447.72'

HERTZ CORP
O.R.B. 11250, PAGE 600

S00°56'30"E NORTH LINE OF
53.68' THE NE 1/4 OF
SECTION 32 (D)

POINT OF BEGINNING

SOUTHTHERLY R/W LINE
BELVEDERE ROAD

(O.R.B. 6770, PAGE 152)

(O.R.B. 7077, PAGE 1341)

S00°56'30"E

13.00'

KOL REALTY INC. PARCEL

ID.: 74-43-43-32-00-000-1010

SE CORNER OF NE 1/4
OF SECTION 32
(PBC POSITION)

POINT NO: 33116

N: 855,188.4970

E: 959,570.3130

S00°05'47"W(C)

2673.96'(C)

6 FEET WIDE
FLORIDA POWER &
LIGHT COMPANY EASEMENT
(O.R.B. 6158, PAGE 241)

LEGEND

ABBREVIATIONS

- (D) DEED MEASUREMENT/CALL DEPARTMENT
- (C) CALCULATED MEASUREMENT
- ID IDENTIFICATION
- LB LICENSED BUSINESS NUMBER
- LS LICENSED SURVEYOR
- PBC PALM BEACH COUNTY
- P.L.S. PROFESSIONAL LAND SURVEYOR
- R/W RIGHT-OF-WAY
- O.R.B. OFFICIAL RECORDS BOOK

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SHEET NO.

3

OF 4

DATE: 01/20/2016

DRAWN: FRV

CHECKED: HAK

REVISION: SURVEYOR'S NOTE
8/04/16

FILE: 3DBW01-SODX.dwg

SCALE: 1" = 60'

SKETCH OF DESCRIPTION

RIGHT-OF-WAY DEDICATION

PART OF SECTION 32

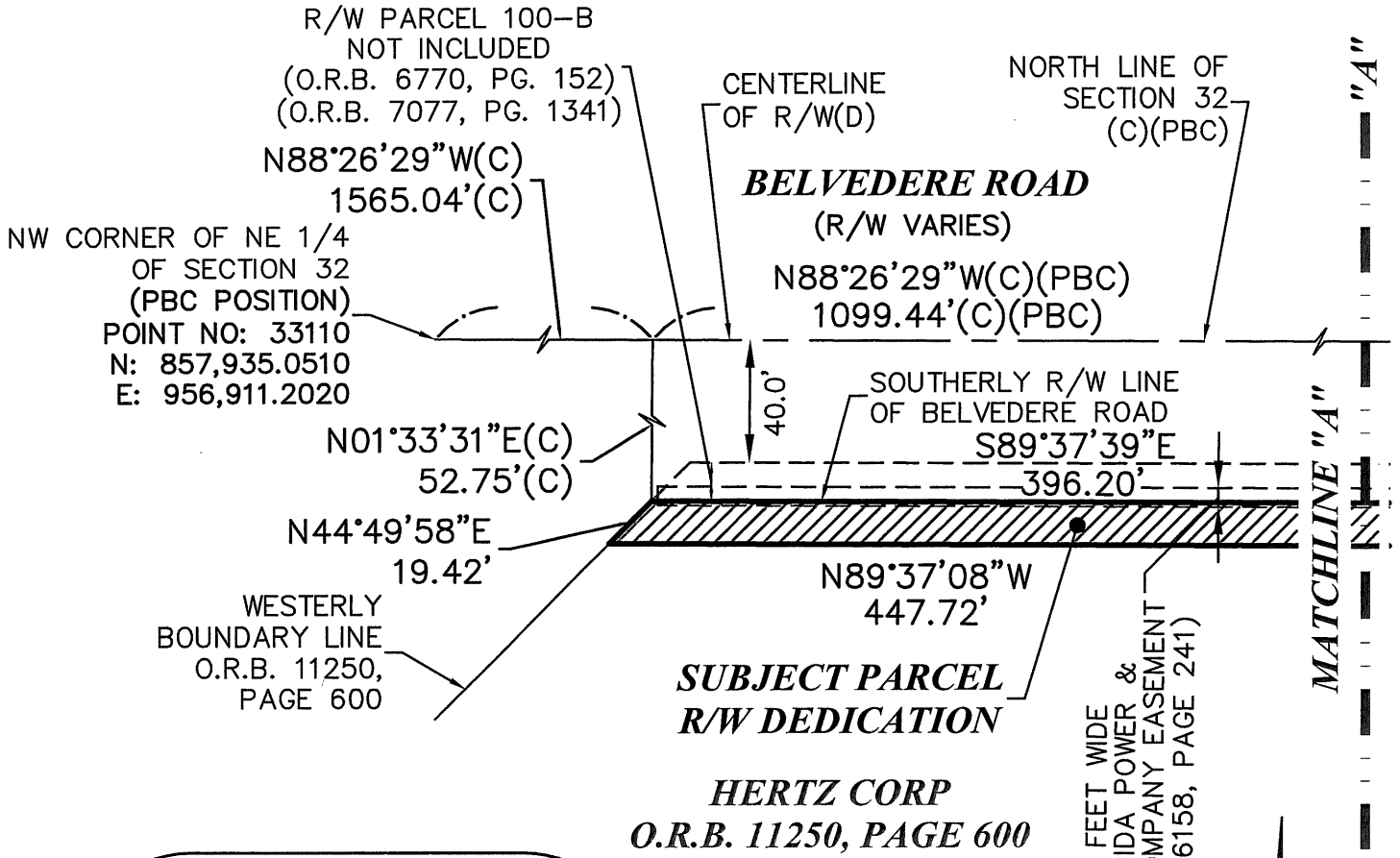
TOWNSHIP 43 SOUTH, RANGE 43 EAST
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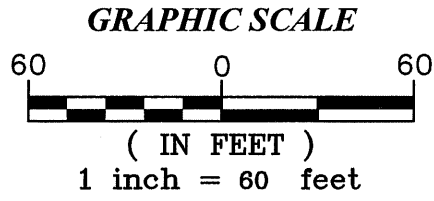
EXHIBIT "A"



LEGEND

ABBREVIATIONS

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- (C) CALCULATED MEASUREMENT
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