

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: April 4, 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 southwest corner of Lake Worth Road and Jog Road.

SUMMARY: Approval of the subordination agreement will subordinate interest in three FPL utility easements 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 four feet of additional right-of-way on the southbound side of Jog Road. District 2

Background and Justification: As part of the development process, the property owners are required to convey four feet for future right-of-way to the County on the southbound side of Jog Road. The parcel of land to be conveyed is encumbered by three utility easements 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. The property owners have provided \$15,660.02 to the County for those future costs. FPL has already executed the subordination agreement and staff recommends approval.

Attachments:

1. Location Map
 2. Subordination of Utility Interests and Agreement for Reimbursement for Facility Relocations with Exhibit "A"
-
-

Recommended by:

By T. Webb
Department Director

3/6/17
Date

Approved by:

Carole Johnson
Assistant County Administrator

3/10/17
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	\$15,661	-0-	-0-	-0-	-0-
External Revenues	(\$15,661)	-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-	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes X No

Budget Account No:

Fund 0001 Dept 360 Unit 5220 RVSC 2903

Recommended Sources of Funds/Summary of Fiscal Impact:

General Fund
Land Development
Permit Fees Ordinance

This item will have a negligible fiscal impact. Approval of the Subordination of Utility Interests may require the expenditure of funds for future relocation of utility facilities. Utility relocation expenses are subject to Board approval of future budgets.

C. Departmental Fiscal Review: *Alicia Kovalainen*

III. REVIEW COMMENTS

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

[Signature]
OFMB *set 3/8*

[Signature] 3/9/17
Contract Dev. and Control *3/9/17*

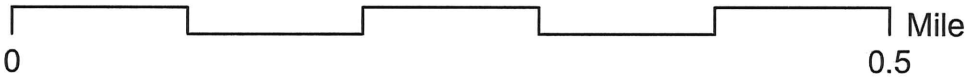
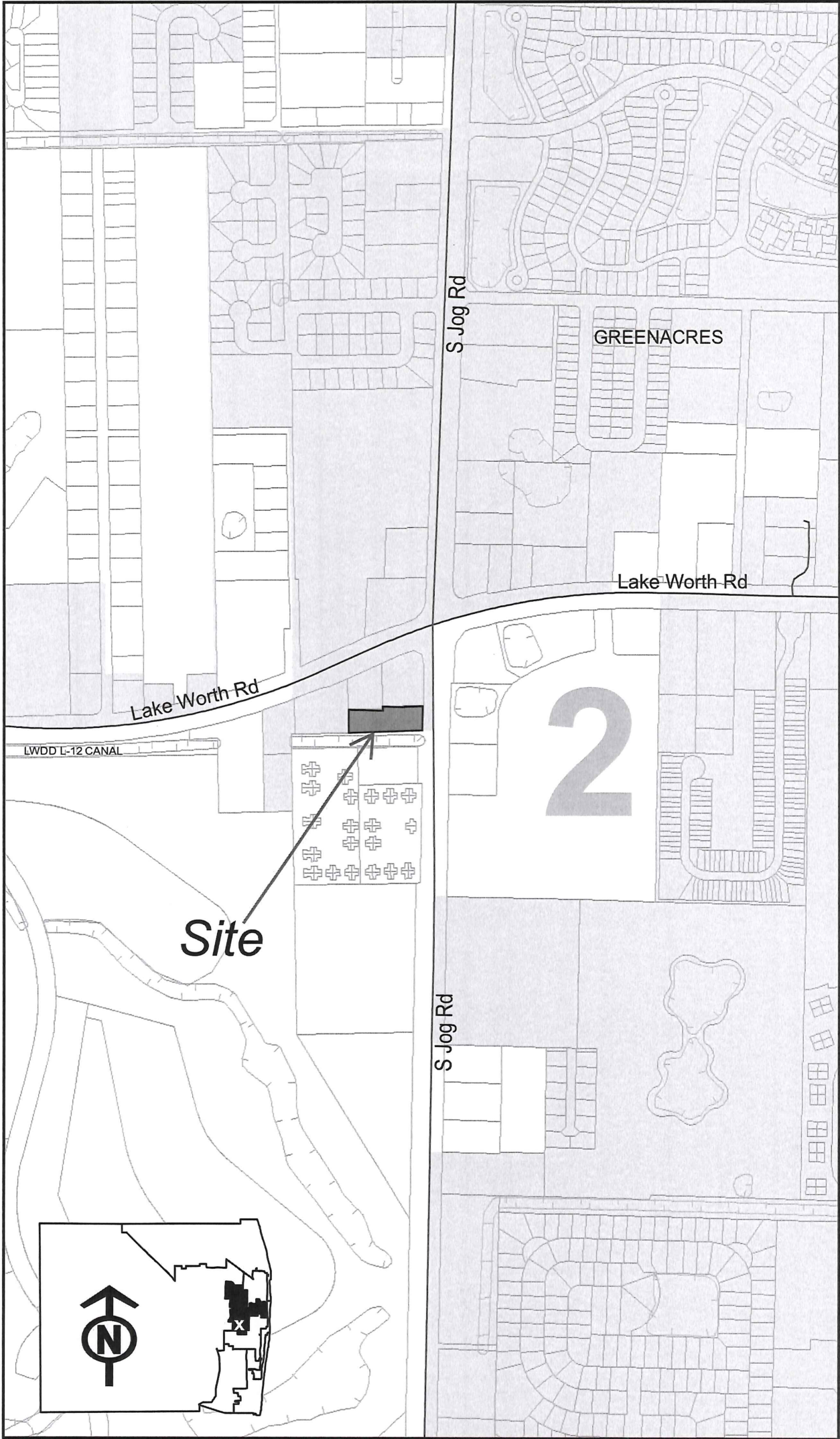
B. Approved as to Form and Legal Sufficiency:

[Signature] 3/15/17
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 00-42-43-27-05-022-0786

NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE

SPACE ABOVE THIS LINE FOR PROCESSING DATA

PROJECT NO.: MRT2016-033

ROAD NAME: JOG ROAD

PARCEL NO.: "A"

BRIGHT ACRES

**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 _____ 20____, 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	3/08/77	T. E. & Amanda Hunter	Florida Power & Light	ORB 2649/544
Easement	12/07/81	Peter C. Smith, Trustee	Florida Power & Light	ORB 3637/734
Easement	05/21/82	Peter C. Smith, Trustee	Florida Power & Light	ORB 3728/1544

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: _____
Paulette Burdick, 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\WAWA-LAKE WORTH RD & JOG RD\284-LGL SUBORDINATION OF UTILITY INTERESTS

Signed, sealed and delivered
in the presence of:

FLORIDA POWER & LIGHT COMPANY,
a Florida corporation

By: Holly Govekar

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

Print Name: Holly Govekar

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 10th day of February, 2017.

My Commission Expires:
June 3, 2019

Notary Signature: [Signature]
Notary Public State of Florida

Printed Name: Deborah C. Patterson



DEBORAH C. PATTERSON
MY COMMISSION # FF 209905
EXPIRES: June 3, 2019
Bonded Thru Budget Notary Services

SKETCH OF DESCRIPTION
(NOT A BOUNDARY SURVEY)

EXHIBIT "A"

LEGAL DESCRIPTION:


PARCEL "A", BRIGHT ACRES, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 122, PAGES 100-102, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LYING WITHIN SECTION 27, TOWNSHIP 44 SOUTH, RANGE 42 EAST, CITY OF GREEN ACRES, FLORIDA.

CONTAINING 460 SQUARE FEET, 0.011 ACRES OF LAND, MORE OR LESS.

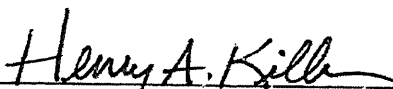
SKETCH REPORT:

1. UNLESS DIGITALLY SIGNED AND SEALED, THIS SKETCH OF DESCRIPTION IS 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 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: 12/8/14

SHEET NO.
1
OF 4

DATE: 8/19/2016

DRAWN: FRV

CHECKED: HAK

REVISION: 11/01/2016

FILE: BW054F00TESMTSODX.dwg

SCALE: 1" = 30'

SKETCH OF DESCRIPTION
RIGHT-OF-WAY DEDICATION
PART OF SECTION 27,
TOWNSHIP 44 SOUTH, RANGE 42 EAST
PALM BEACH COUNTY, FLORIDA

PROJECT NUMBER:
BWRE0005

SKETCH OF DESCRIPTION

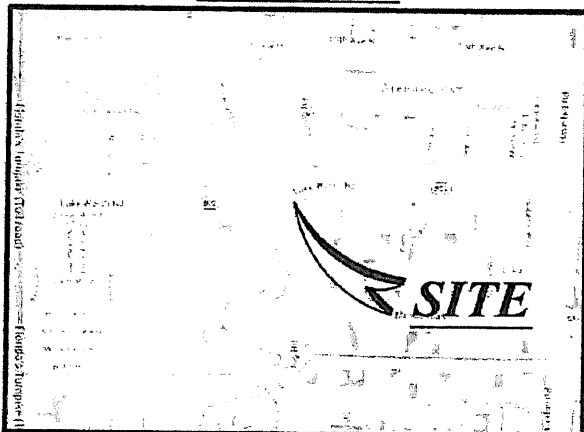
EXHIBIT "A"

(NOT A BOUNDARY SURVEY)

SURVEYOR'S NOTES:

1. LANDS SHOWN HEREON WERE ABSTRACTED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY COMMITMENT, FUND FILE NUMBER 16094413 JTI, DATED AUGUST 26, 2016 AT 8:00 A.M. ALL PLOTTABLE EASEMENTS ARE SHOWN HEREON.
2. 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 = 1.000030289 (NORTH 1/4 CORNER SECTION 27)
3. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH-SOUTH 1/4 SECTION LINE OF SECTION 27 HAVING A GRID BEARING OF S00°58'18"W (BEARING BASIS).
4. SUBJECT PARCEL LIES WHOLLY WITHIN THE LIMITS OF THE LANDS DESCRIBED IN BLANKET EASEMENTS AS DESCRIBED IN OFFICIAL RECORDS BOOK 9200, PAGE 1389, AND OFFICIAL RECORDS BOOK 9200, PAGE 1412, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LOCATION MAP



LEGEND

ABBREVIATIONS

(D)	DEED MEASUREMENT/CALL
D.B.	DEED BOOK
DEPT.	DEPARTMENT
(F)	FIELD MEASUREMENT
FDOT	FLORIDA DEPARTMENT OF TRANSPORTATION
FPL	FLORIDA POWER & LIGHT
ID	IDENTIFICATION
LB	LICENSED BUSINESS NUMBER
LS	LICENSED SURVEYOR
LWDD	LAKE WORTH DRAINAGE DISTRICT
ORB	OFFICIAL RECORDS BOOK
PBCUE	PAM BEACH COUNTY UTILITY EASEMENT
(P)	PLATTED MEASUREMENT/CALL
PG	PAGE
P.B.	PLAT BOOK
P.L.S.	PROFESSIONAL LAND SURVEYOR
R/W	RIGHT-OF-WAY

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

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

SHEET NO.

2
OF 4

DATE: 8/19/2016

DRAWN: FRV

CHECKED: HAK

REVISION: 11/01/2016

FILE: BW054FOOTESMTSODX.dwg

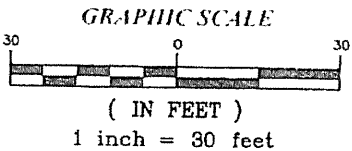
SCALE: 1" = 30'

SKETCH OF DESCRIPTION
RIGHT-OF-WAY DEDICATION
PART OF SECTION 27,
TOWNSHIP 44 SOUTH, RANGE 42 EAST
PALM BEACH COUNTY, FLORIDA

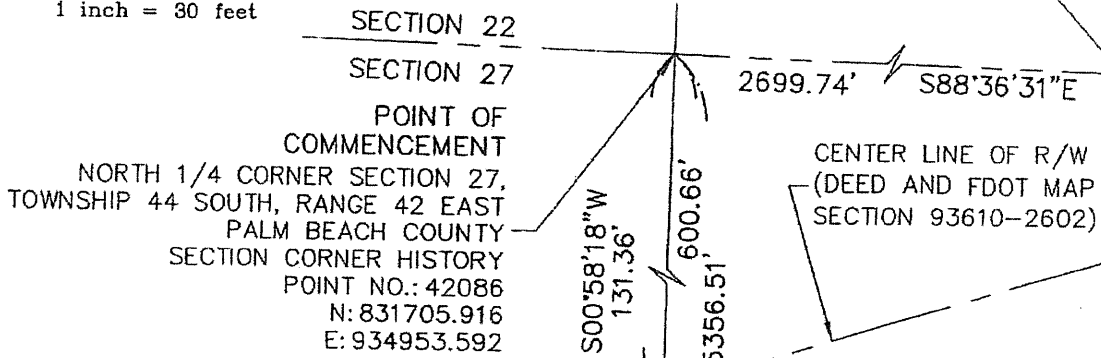
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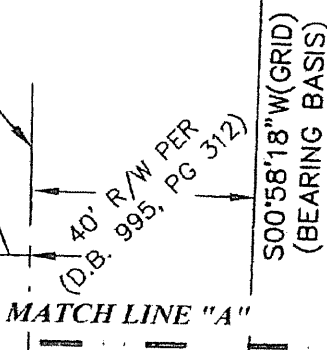
NORTHEAST CORNER OF
SECTION 27, TOWNSHIP 44 SOUTH,
RANGE 42 EAST
PALM BEACH COUNTY
SECTION CORNER HISTORY
POINT NO.: 42085
N: 831640.362
E: 937652.620



LAKE WORTH ROAD
(R/W VARIES PER FDOT MAP
SECTION 93610-2602)

NORTH-SOUTH 1/4
SECTION LINE OF
SECTION 27,
TOWNSHIP 44 SOUTH,
RANGE 42 EAST

WEST R/W LINE
PER DEED BOOK 995, PAGE 312
7.0' FPL EASEMENT
(ORB 2649, PAGE 544)
PART OF TRACT 78, BLOCK 22,
PALM BEACH FARMS CO. PLAT NO. 3
(PLAT BOOK 2, PAGE 45)
PARCEL ID.: 00-42-43-27-05-030-0785



EBI Surveying
8415 Sunstate Street
Tampa, Florida 33634

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

SHEET NO.
3
OF 4

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PALM BEACH COUNTY, FLORIDA

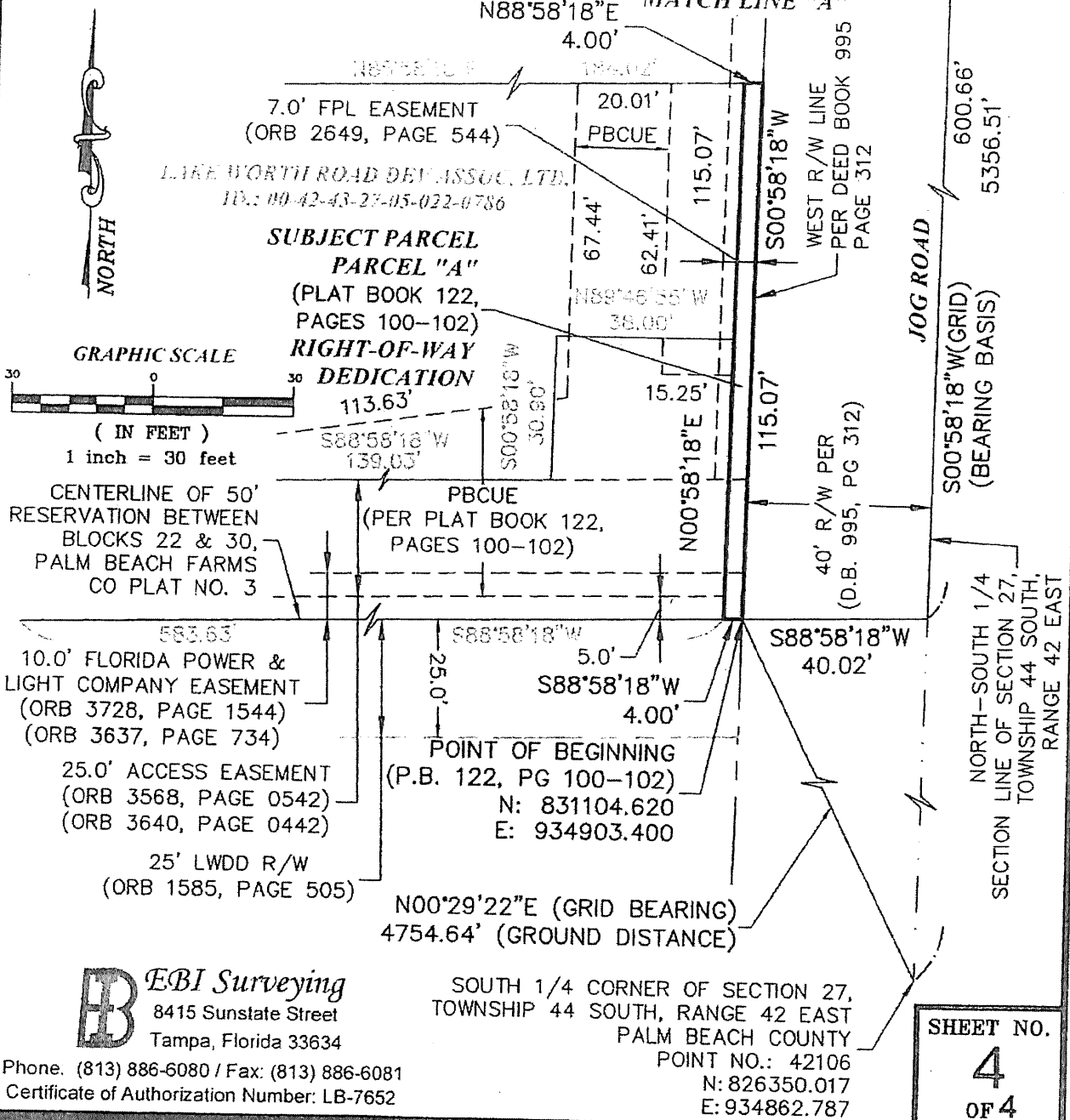
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