

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: December 19, 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 reimbursement for future facility relocations with the City of West Palm Beach (City) on a parcel of land located on the north side of N Congress Avenue approximately 1,450 feet northwest of the intersection with Palm Beach Lakes Boulevard.

**SUMMARY:** Approval of the subordination will subordinate a City sanitary sewer easement interest and allow Palm Beach County (County) to accept a warranty deed for additional right-of-way, free and clear of all encumbrances. As part of the development conditions associated with a new residential storage facility, the property owner is required to provide the County with additional right-of-way on the north side of N Congress Avenue. District 7 (LBH)

**Background and Justification:** As part of the development process, the City required the property owner to convey additional right-of-way to the County on the north side of N Congress Avenue. The parcel of land to be conveyed is encumbered by a sanitary sewer easement in favor of the City. Land conveyed to the County is required to be free and clear of all encumbrances. The subordination requires the City 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 City has already executed the subordination and staff recommends approval.

**Attachments:**

1. Location Map
2. Subordination of Utility Interests with Exhibit "A"

Recommended by: 

Department Director

Date

Approved by: 

Assistant County Administrator

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2018	2019	2020	2021	2022
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  
Does this item include the use of federal funds? Yes No X

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:

*[Signature]* 11/21/17  
RP ASD OFMB  
11/21 11/21

*[Signature]* 12/4/17  
Contract Dev. and Control  
12/4/17

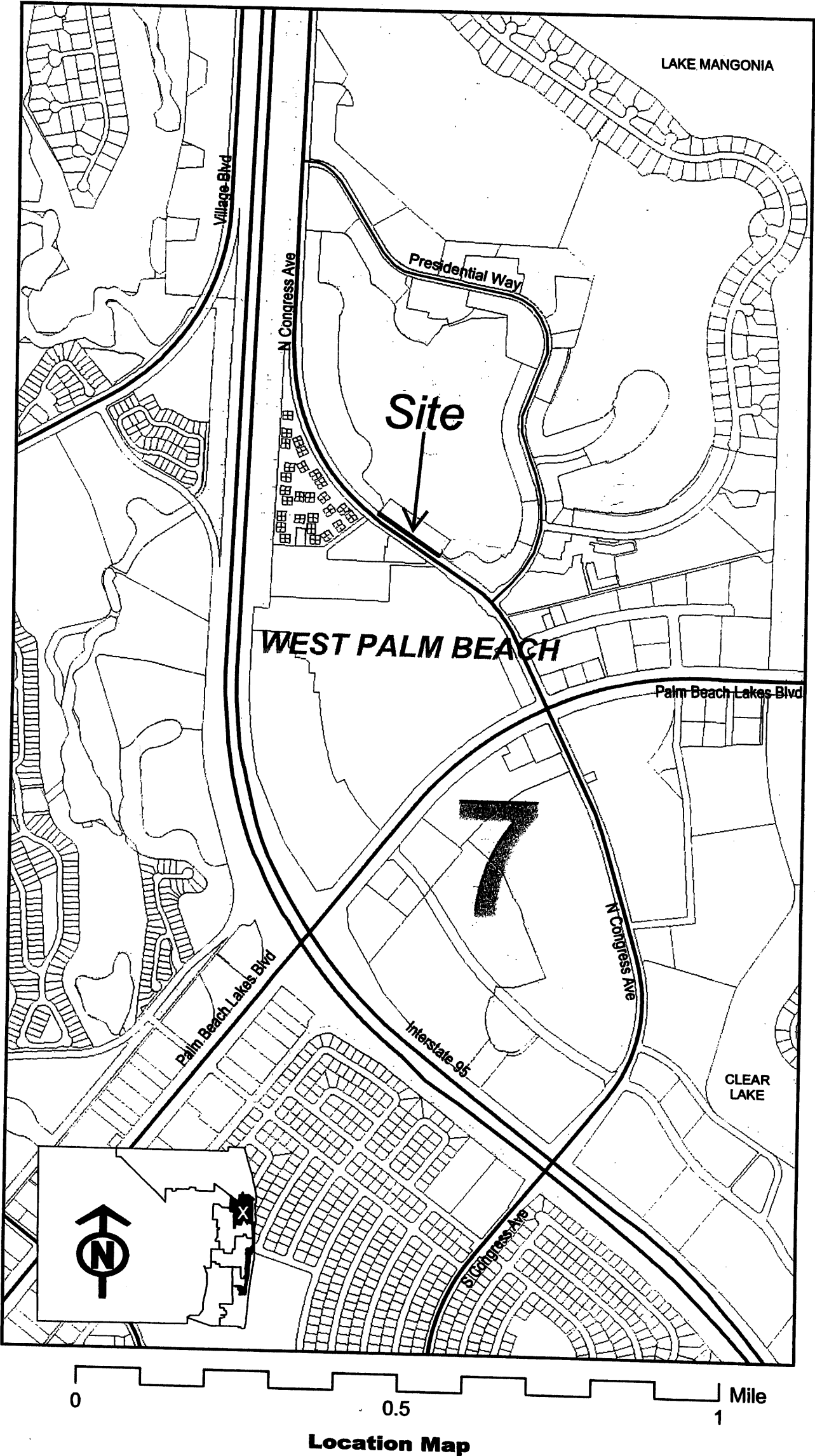
B. Approved as to Form  
and Legal Sufficiency:

*[Signature]*  
12/7/17 Assistant County Attorney

C. Other Department Review:

\_\_\_\_\_  
Department Director

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



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:  
Liz B. Herman, Assistant County Attorney  
Palm Beach County, County Attorney's Office  
Post Office Box 21229  
West Palm Beach, Florida 33416-1229

Property Control Number: 74-43-43-18-18-018-0000

**NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE**

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SPACE ABOVE THIS LINE FOR PROCESSING DATA

**PROJECT NO.: MRT 2017-010**  
**ROAD NAME: North Congress Avenue**  
**PARCEL NO.: Tract RW/ Presidential Storage plat/**  
**PB 122 P 56**

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**SUBORDINATION OF UTILITY INTERESTS**

**THIS SUBORDINATION** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, whose post office address is Post Office Box 21229, West Palm Beach, Florida 33416-1229, (hereinafter called "County") and, the **CITY OF WEST PALM BEACH**, a Florida municipal corporation whose post office address is 401 Clematis Street, West Palm Beach FL 33401, (hereinafter called "Utility").

**WHEREAS**, the Utility presently has easements on certain property that has been determined necessary for public purposes; and,

**WHEREAS**, the proposed use of this property will require subordination to the County of the interests claimed in said property by the Utility, and at the request of the County, the Utility has agreed, subject to the following conditions, to relocate its facilities from the Utility's easement onto public right-of-way, or has agreed to leave its facilities on the subordinated property (hereinafter "Property"), described in **Exhibit "A"** attached hereto and made a part hereof; and,

**WHEREAS**, the County is willing to pay to have the Utility's facilities relocated as necessary to prevent conflict between the facilities 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:

1. The Utility hereby subordinates any and all of its interest in that portion of the following easement lying within the Property, to the interest of the County, its successors or assigns, through, under, upon or across the Property;

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<u>NATURE OF ENCUMBRANCE</u>	<u>RECORD DATE</u>	<u>FROM OR AGAINST</u>	<u>IN FAVOR OF</u>	<u>BOOK / PAGE</u>
Perpetual Force Main Easement	10/01/1974	Perini Land Development Company	City of West Palm Beach	ORB 2355 PG 1135

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2. The Utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon all the Property in accordance with the County's current minimum standards for such facilities as of the date of such construction. Any new construction or relocation of the facilities within the Property will be subject to prior approval by the County. Should the County fail to approve any new construction or relocation of facilities by the Utility or hereafter require the Utility to alter, adjust or relocate its facilities from within the Property, the County hereby agrees to pay the Utility's reasonable cost of any required alteration, adjustment or relocation, caused by the County's actions, including the cost of acquiring the necessary easements.
3. The Utility shall have a reasonable right to enter upon the Property for the purposes outlined in paragraph 2 above, including the right to trim such trees, bushes, and growth which might endanger or interfere with the operation and safety of the Utility's facilities.
4. The Utility agrees to repair any damage to the County's facilities resulting from the Utility exercising its rights outlined in paragraphs 2 and 3 above. To the extent permitted by law, the Utility shall indemnify, defend, and hold harmless the County against any actions, claims, or damages arising out of Utility's exercise of its rights outlined above. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute an agreement to indemnify the County for the County's negligent acts or omissions.
5. These terms and conditions shall be attached as an addendum to the permit, if any, required by the County for location of facilities on the Property.
6. This subordination is not assignable except to the State of Florida or other governmental entity for the purposes described herein.
7. This Subordination is not intended to, nor shall it be construed, to create a third party beneficiary.

Signed, sealed and delivered in the presence of:

(Signature of two witnesses  
required by Florida law)

Haglin F. Cannon  
Witness Signature (Required)  
CITY CLERK

Jamekya Murrell  
Witness Name Printed or Typed

Geraldine Muroio  
Witness Signature (Required)

Yonique Watkins Yonique Watkins  
Witness Name Printed or Typed  
CITY ATTORNEY'S OFFICE

Approved as to form and legality  
By: WN

Utility:

City of West Palm Beach.  
A municipal corporation of the State of Florida

By: Geraldine Muroio  
Geraldine Muroio  
Mayor

(CORPERATE SEAL)

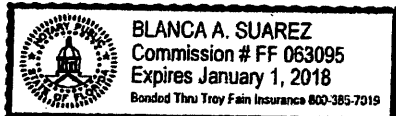
STATE OF FLORIDA

COUNTY OF PALE BEACH

Before me personally appeared Geraldine Mouio, who is personally known to me, ~~or has produced~~ \_\_\_\_\_  
\_\_\_\_\_ as identification, and who executed the foregoing instrument as Mayor of the City  
of West Palm Beach, Florida, a municipal corporation and severally acknowledged to and before me that she  
executed such instrument as such officer of said city, and that said instrument is the free act and deed of said city.

Witness my hand and official seal this 29<sup>th</sup> day of August, 2017.

(Stamp/Seal)



Blanca A. Suarez  
Notary Signature  
Notary Public, State of FLORIDA

BLANCA A SUAREZ  
Print Notary Name  
FF063095  
Commission Number  
My Commission Expires: 1/1/18

IN WITNESS WHEREOF County has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor or Vice Mayor of said Board, the day and year aforesaid.

**ATTEST:**

SHARON R. BOCK  
CLERK & COMPTROLLER

By: \_\_\_\_\_  
Deputy Clerk

**County:**

**PALM BEACH COUNTY,**  
a political subdivision of the State of Florida

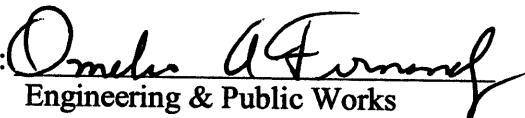
By: \_\_\_\_\_  
Mayor

**(Official Seal)**

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

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

**APPROVED AS TO TERMS AND  
CONDITIONS**

By:   
Engineering & Public Works

## EXHIBIT "A"

### DESCRIPTION:

BEING ALL OF TRACT RW OF THE PLAT OF PRESIDENTIAL STORAGE, AS RECORDED IN PLAT BOOK 122 AT PAGE 56, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA.

SAID LANDS LYING AND BEING IN SECTION 18, TOWNSHIP 43 SOUTH, RANGE 43 EAST, CITY OF WEST PALM BEACH, PALM BEACH COUNTY, FLORIDA.

CONTAINING 17,006 SQUARE FEET / 0.3904 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

### NOTES:

1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYOR'S SEAL.
2. LANDS SHOWN HEREON WERE ABSTRACTED BY CHICAGO TITLE INSURANCE COMPANY, ORDER NO. 6310046, EFFECTIVE DATE APRIL 29, 2017 AT 8:00AM., **THERE IS ONLY ONE PLOTTABLE EXCEPTION, ORB 2355, PAGE 1135 AND IT IS SHOWN ON THE SURVEY.**
3. BEARINGS ARE RELATIVE TO TO THE SOUTH LINE OF PLAT OF PRESIDENTIAL STORAGE, AS RECORDED IN PLAT BOOK 122, PAGES 56 AND 57 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, HAVING A BEARING OF N57°00'00"W.
4. THE COORDINATES SHOWN HEREON ARE STATE PLANE GRID COORDINATES ACCORDING TO THE TRANSVERSE MERCATOR PROJECTION OF THE FLORIDA EAST ZONE, N.A.D. 83, PER THE 1990 ADJUSTMENT, BASED ON THE GEODETIC CONTROL ESTABLISHED AND ACCEPTED BY THE PALM BEACH COUNTY SURVEY DEPARTMENT. THE LINEAR DIMENSIONS SHOWN HEREON ARE GROUND DISTANCES IN U.S. FEET AND DECIMAL PARTS THEREOF UNLESS OTHERWISE NOTED
5. THE "LAND DESCRIPTION" HEREON WAS PREPARED BY THE SURVEYOR.
6. DATA SHOWN HEREON WAS COMPILED FROM INSTRUMENTS OF RECORD AND DOES NOT CONSTITUTE A BOUNDARY SURVEY AS SUCH.

### CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED SKETCH OF DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON JUNE 13, 2017. I FURTHER CERTIFY THAT THIS SKETCH OF DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER 5J-17 ADOPTED BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES 472.027.

SHEET 1 OF 4



CAULFIELD & WHEELER, INC.

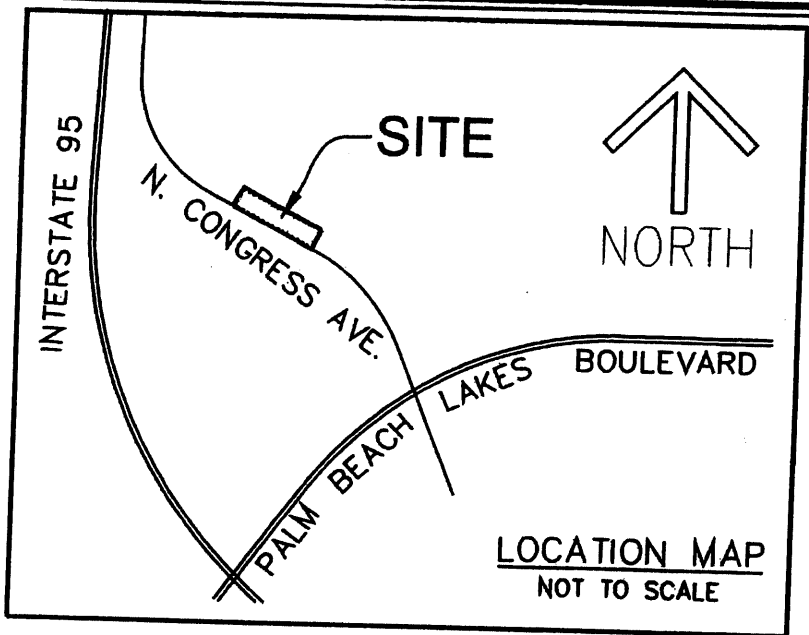
CIVIL ENGINEERING - LAND SURVEYING  
7900 GLADES ROAD - SUITE 100  
BOCA RATON, FLORIDA 33434  
PHONE (561)-392-1991 / FAX (561)-750-1452

PRESIDENTIAL STORAGE  
TRACT RW  
SKETCH OF DESCRIPTION

DAVID P. LINDLEY  
REGISTERED LAND  
SURVEYOR NO. 5005  
STATE OF FLORIDA  
LB# 3591

DATE	06/13/17
DRAWN BY	DLS
F.B./ PG.	N/A
SCALE	AS SHOWN
JOB NO.	7393-RW4





**NOTES**  
**COORDINATES, BEARINGS AND DISTANCES**

COORDINATES SHOWN ARE GRID  
DATUM = NAD 83 1990 ADJUSTMENT  
ZONE = FLORIDA EAST  
LINEAR UNIT = US SURVEY FEET  
COORDINATE SYSTEM 1983 STATE PLANE  
TRANSVERSE MERCATOR PROJECTION  
ALL DISTANCES ARE GROUND, UNLESS OTHERWISE NOTED  
SCALE FACTOR = 1.0000432  
GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE  
BEARINGS ARE RELATIVE TO PLAT OF PRESIDENTIAL STORAGE, AS  
RECORDED IN PLAT BOOK 122, PAGES 56 AND 57 OF THE PUBLIC  
RECORDS OF PALM BEACH COUNTY, FLORIDA.

N57°00'00"W (PLAT BEARING)

N55°53'01"W (GRID BEARING)  
SOUTH LINE OF THIS PLAT

01°06'59" = BEARING ROTATION  
(PLAT TO GRID)  
CLOCKWISE

**LEGEND ABBREVIATIONS**

☉	CENTERLINE	ORB	OFFICIAL RECORDS BOOK
Δ	DELTA (CENTRAL ANGLE)	PB	PLAT BOOK
E	EASTING	PG(S)	PAGE (S)
L	LENGTH	R/W	RIGHT-OF WAY
LB	LICENSED BUSINESS	R	RADIUS
N	NORTHING	U.E.	UTILITY EASEMENT

(P) DENOTES PLAT OF PRESIDENTIAL STORAGE, AS RECORDED IN PLAT  
BOOK 122, PAGES 56 AND 57 OF THE PUBLIC RECORDS OF PALM  
BEACH COUNTY, FLORIDA.

**SHEET 2 OF 4**



**CAULFIELD & WHEELER, INC.**

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**PRESIDENTIAL STORAGE  
TRACT RW  
SKETCH OF DESCRIPTION**

DATE	06/13/17
DRAWN BY	DLS
F.B./ PG.	N/A
SCALE	AS SHOWN
JOB NO.	7393-RW4

EXHIBIT "A"

TRACT "C"  
PLAT 1  
THE PRESIDENT COUNTRY CLUB  
PLAT BOOK 29 PAGE 72

NORTHEAST CORNER  
SECTION 18, TOWNSHIP 43  
SOUTH, RANGE 43 EAST  
NO MONUMENT FOUND  
PUBLISHED POSITION  
PER PALM BEACH COUNTY  
SURVEY DEPARTMENT  
N 874049.41  
E 954497.90

EAST 1/4 CORNER  
SECTION 18, TOWNSHIP 43  
SOUTH, RANGE 43 EAST  
NO MONUMENT FOUND  
PUBLISHED POSITION  
PER PALM BEACH COUNTY  
SURVEY DEPARTMENT  
N 871376.53  
E 954464.73

AST LINE OF SECTION 18-43-43

N 871420.29  
E 954489.39

TRACT "C"  
PLAT 1  
THE PRESIDENT COUNTRY CLUB  
PLAT BOOK 29  
PAGE 72

N89°35'41"E(P)  
56.81'

SHEET 3 OF 4

SOUTHEAST CORNER  
SECTION 18, TOWNSHIP 43 SOUTH,  
RANGE 43 EAST  
NO MONUMENT FOUND  
PUBLISHED POSITION  
PER PALM BEACH COUNTY SURVEY  
DEPARTMENT  
N 868703.64  
E 954431.55

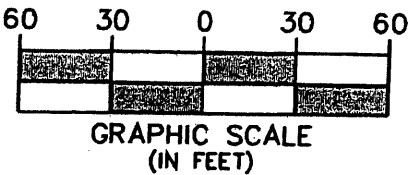
PRESIDENTIAL STORAGE  
PARCEL A

NORTH CONGRESS AVENUE  
(BEARING BASIS)  
N57°00'00"W

TRACT RW  
531.66'

106' RIGHT OF WAY AS  
SHOWN ON ROAD PLAT  
BOOK 4 PAGE 150

BLOCK 11  
FLAMING WATERS COUNTRY CLUB  
PLAT BOOK 28, PAGES 239 & 240



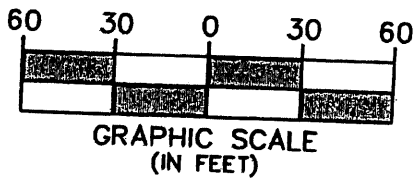
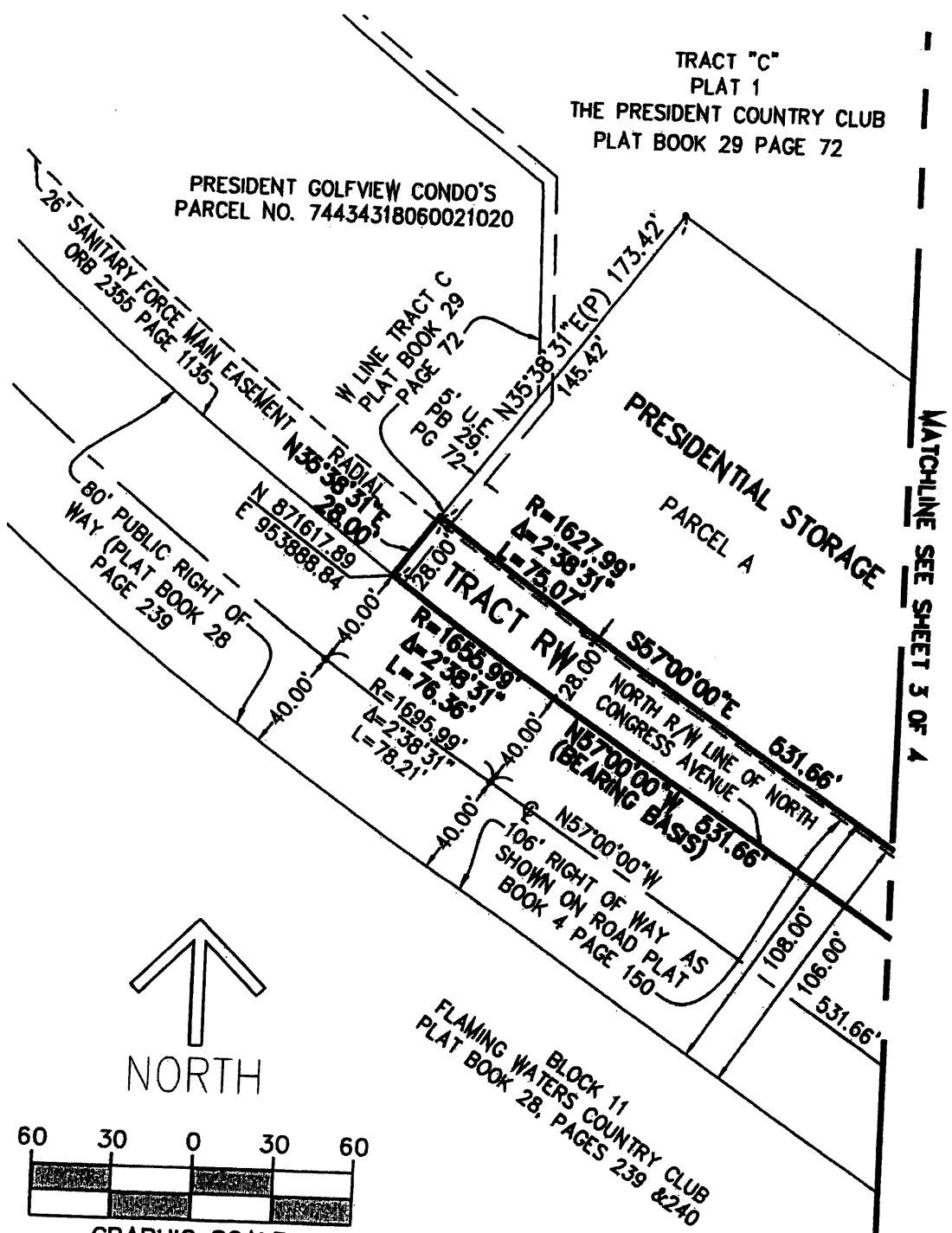
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SHEET 3 OF 4



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