

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: August 14, 2018 ☒ Consent ☐ Regular
 ☐ Workshop ☐ Public Hearing

Department: Engineering & Public Works Department
Submitted By: Engineering & Public Works Department
Submitted For: Roadway Production Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a release of a relocatable drainage easement for Hypoluxo Road (Relocatable Easement) within the Toscana Isles Planned Unit Development (PUD).

SUMMARY: This approval will release a Palm Beach County (County) Relocatable Easement recorded in Official Record Book 23193, Page 1174, public records of Palm Beach County, Florida. The developer is in the process of platting the remainder of the PUD and the Relocatable Easement is inconsistent with the approved site plan. The developer is requesting that the Relocatable Easement be released, and agrees to provide a replacement easement and drainage system on land to be platted as Toscana Isles PUD Plat II and Toscana Isles PUD Plat III. In the event the developer fails to plat Toscana Isles PUD Plats II and III and construct the new drainage system, the developer is providing the County with a fully executed drainage easement covering the County's drainage system, which will be held in escrow. The fully executed drainage easement will allow the County to maintain a drainage outfall for Hypoluxo Road. District 3 (LBH)

Background and Justification: The Relocatable Easement was acquired by the County in 2008 for the drainage of Hypoluxo Road. The future platted easement will accommodate a replacement drainage system that will convey runoff from Hypoluxo Road south into the Lake Worth Drainage District L-19 Canal. The developer is requesting that the Relocatable Easement be released to allow the replatting process to move forward. The Engineering Department recommends approval of the release of the Relocatable Easement.

Attachments:

1. Location Map
2. Release of Relocatable Drainage Easement
3. Drainage Easement with Exhibit "A"

Recommended by:

Department Director

18 JULY 2019

Date

Approved by:

Assistant County Administrator

7/18/18

Date

dk

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?

Does this item include the use of federal funds?

Yes

No

Yes

No X

Budget Account No:

Fund Dept Unit Object

Recommended Sources of Funds/Summary of Fiscal Impact:

**This item has no fiscal impact.

C. Departmental Fiscal Review:

Alii Koralanui

III. REVIEW COMMENTS

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

Lisa Pura 7/5/18
OFMB

7/5
7/6
7/13

Dr. J. Jacob 7/10/18
Contract Dev. and Control
7/9/18 *FW*

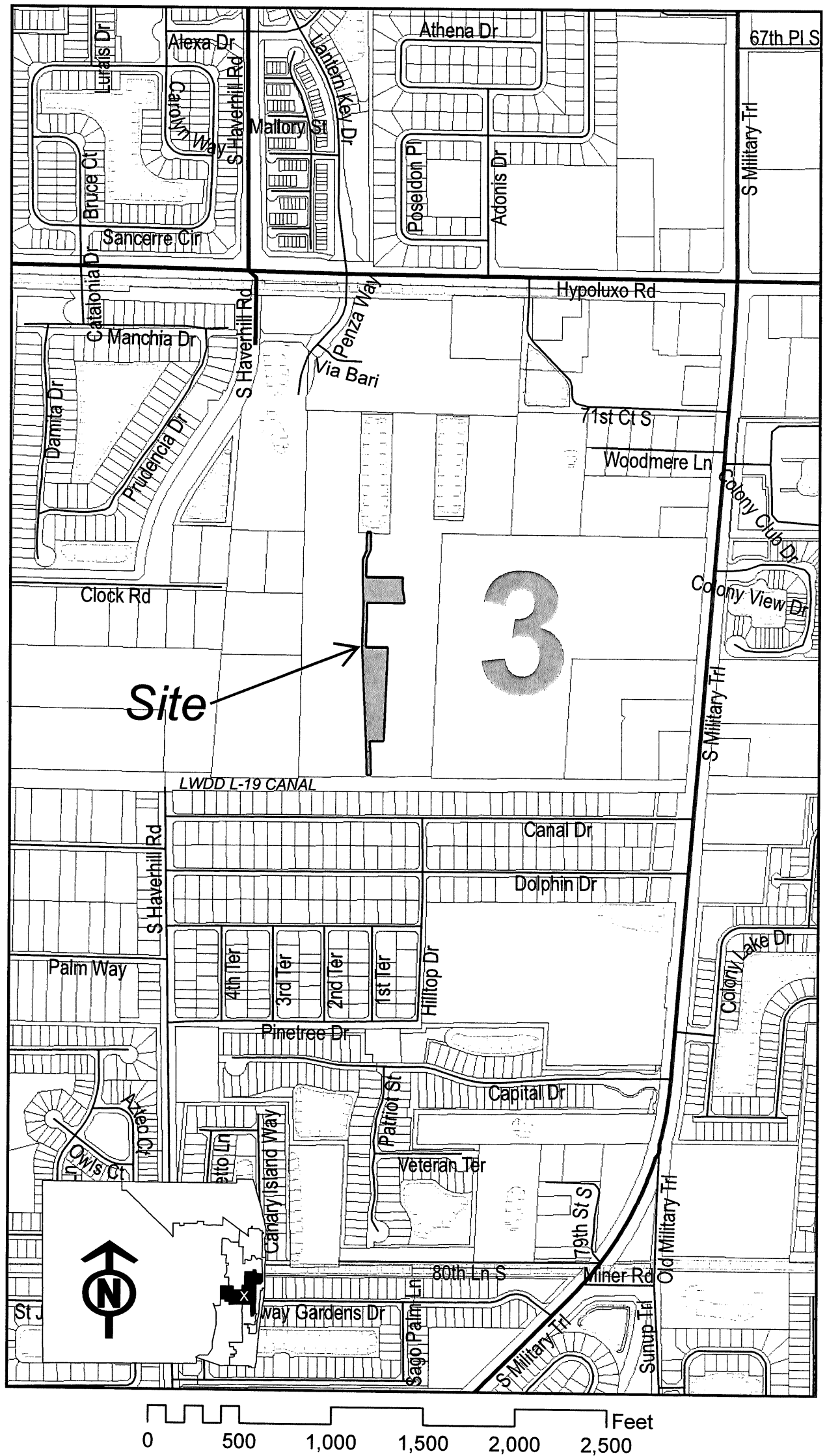
B. Approved as to Form and Legal Sufficiency:

M. J. Lema 7/12/2018
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 Section
Palm Beach County, Engineering & Public Works Department
Post Office Box 21229
West Palm Beach, Florida 33416-1229
Attn.: David Kuzmenko, Right-of-Way Specialist
Acct. No.: 1010 **W/C BOX 1066**

This Instrument Prepared by:
Yelizaveta B. Herman, Assistant County Attorney
Palm Beach County Attorney's Office
Post Office Box 21229
West Palm Beach, Florida 33416-1229

Portion of Property Control Numbers: 00-42-45-12-30-001-0000
 00-42-45-12-33-012-0000
 00-42-45-12-33-013-0000
 00-42-45-12-33-015-0000
 00-42-45-12-33-018-0000

NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE

SPACE ABOVE THIS LINE FOR PROCESSING DATA

PROJECT NO.: 2003 511

ROAD NAME: Hypoluxo Road

PARCEL NO.:

RELEASE OF RELOCATABLE DRAINAGE EASEMENT

WHEREAS, a relocatable drainage easement was conveyed from **HYPOLUXO HOMES, LLC**, a Florida limited liability company, to **PALM BEACH COUNTY**, a political subdivision of the State of Florida (County), on May 12, 2008 and recorded in Official Record Book 23193, Page 1174, Public Records of Palm Beach County, Florida (Relocatable Drainage Easement); and,

WHEREAS, **WEST ATLANTIC DEVELOPMENT I, LLC**, a Delaware limited liability company authorized to transact business in Florida, whose post office address is 5300 West Atlantic Avenue, Suite 505, Delray Beach, Florida 33484-8833, (Developer), is the successor to **HYPOLUXO HOMES, LLC**; and,

WHEREAS, the Relocatable Drainage Easement is located on land currently platted as Toscana Isles P.U.D. – Plat I, recorded in Plat Book 116, Page 133 Public Records of Palm Beach County, Florida, and on land to be platted as Toscana Isles P.U.D. – Plat II by the Developer; and,

WHEREAS, the Relocatable Drainage Easement is inconsistent with the approved site plan; and,

WHEREAS, the Developer has requested that the Relocatable Drainage Easement be released, and the Developer agrees to provide a replacement drainage easement and drainage system on land to be platted as Toscana Isles PUD Plats II and III; and,

WHEREAS, the Developer has provided the County with the replacement drainage easement to be held in escrow, and a performance bond of \$22,110; and,

WHEREAS, in the event the Developer fails to plat Toscana Isles PUD Plats II and III, provide the replacement drainage easement, and construct the new drainage system by December 31, 2019, the Developer will forfeit the performance bond of \$22,110, and the County will record the replacement drainage easement held in escrow; and,

WHEREAS, the County Engineering & Public Works Department has reviewed the request and finds it is appropriate to release the Relocatable Drainage Easement.

NOW, THEREFORE, in consideration of the recitals set forth herein, which are true, correct and are incorporated herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County does hereby release the relocatable drainage easement as described in Official Record Book 23193, Page 1174, Public Records of Palm Beach County, Florida. The Developer hereby agrees to forfeit the performance bond and agrees for the County to record the replacement drainage easement if the Developer fails to plat Toscana Isles PUD Plats II and III and construct the new drainage system by December 31, 2019.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, the County, by and through its Board of County Commissioners, has caused this Release of Relocatable Drainage Easement to be executed on _____.

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

County:

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

By: _____
Melissa McKinlay, Mayor

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

By: _____
Assistant County Attorney

(Official Seal)

Signed, sealed and delivered in the presence of:

(Signature of two witnesses
required by Florida law)

[Signature]
Witness Signature (Required)

Cleopatra Dean
Witness Name Printed or Typed

[Signature]
Witness Signature (Required)

Shelia Baichman
Witness Name Printed or Typed

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before me personally appeared Ramzi Akel, who is (choose one) personally known to me, or has produced _____ as identification, and who executed the foregoing instrument as Manager of WEST ATLANTIC DEVELOPMENT I, LLC, a Delaware limited liability company authorized to transact business in Florida, and severally acknowledged to and before me that he executed such instrument as such officer of said company, and that said instrument is the free act and deed of said company.

Witness my hand and official seal this 25 day of June, 2018.

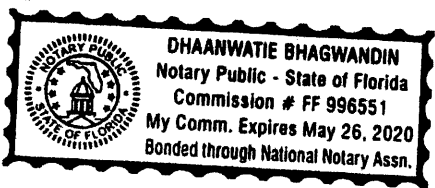
[Signature]
Notary Signature
Notary Public, State of Florida

D. Bhagwandin
Print Notary Name

FF 956551
Commission Number

My Commission Expires: 5-26-2020

(Stamp/Seal)



Developer:
WEST ATLANTIC DEVELOPMENT I, LLC.
a Delaware limited liability company
authorized to transact business in Florida
By: [Signature]
Ramzi Akel, Manager

(SEAL)

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.: David Kuzmenko, Right-of-Way Specialist
Acct. No.: 1010 W/C BOX 1066

This Instrument Prepared by:
Yelizaveta B. Herman, Assistant County Attorney
Palm Beach County Attorney's Office
Post Office Box 21229
West Palm Beach, Florida 33416-1229

Portion of Property Control Number: 00-42-45-12-30-001-0000

NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE

SPACE ABOVE THIS LINE FOR PROCESSING DATA

PROJECT NO.: 2003511, R2012-1053, Condition E5
ZONING CONTROL NO.: 2004-458
ROAD NAME: Hypoluxo Road

DRAINAGE EASEMENT

THIS DRAINAGE EASEMENT ("Easement") is made this 25 day of June, 2018, by WEST ATLANTIC DEVELOPMENT I, LLC, a Delaware limited liability company authorized to transact business in Florida, whose post office address is 5300 West Atlantic Avenue, Suite 505, Delray Beach, Florida 33484-8833, ("Grantor"), to PALM BEACH COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose post office address is Post Office Box 21229, West Palm Beach, Florida 33416-1229, ("Grantee").

WITNESSETH: That Grantor, for and in consideration of the sum of ONE (\$1.00) dollar and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants unto Grantee, its successors and assigns, for the purpose of a perpetual drainage easement over, upon, under, through and across the following described land, situate in Palm Beach County, Florida: Property more particularly described in Exhibit "A" attached hereto and made a part hereof ("Easement Premises").

This Easement shall be used to permanently construct, install, operate, and maintain (collectively "Perform Work") roadway facilities and related facilities in the Easement Premises (collectively "Facilities"). Facilities shall include earth embankment fill; drainage facilities for transporting water, both above ground (swales) and buried (pipes and structures) to or from water retention areas. The Easement includes the right at any time to install, bore, alter, improve, enlarge, add to, change the nature of physical characteristics of, replace, remove, or relocate the Facilities,

or perform any other activities related to the Facilities.

This Easement shall be non-exclusive, provided, however, that Grantor, its successors and assigns, shall be permanently prohibited from hindering, obstructing, removing or interfering with the operation, functioning, maintenance, or repair of any of the Facilities.

To the extent that Grantor, its successors and assigns, hinder, obstruct, remove or interfere with the operation, functioning, maintenance, or repair of any of the Facilities (collectively "Interference"). Grantor, its successors and assigns shall be liable for any and all expenses and damages related to the Interference.

The installation of Facilities shall not extend beyond the limits of the Easement Premises.

Grantee, its agents, successors and assigns, shall have the right, but not the obligation, to Perform Work on the Facilities and/or to remove and use any or all of the soil and/or subsoil within the Easement Premises.

Any amendment or modification to this Easement shall be effective if the same is in writing, signed, and recorded in the public records of Palm Beach County, Florida.

Notwithstanding anything contained in this instrument to the contrary, the terms set forth above are subject to the terms of that certain Public Facilities Agreement in Resolution R2008-0015 dated January 15, 2008 (PFA) between the parties, their successors, and assigns. In the event of any conflict between this instrument and the PFA, the PFA shall control and prevail.

Remainder of page intentionally left blank.

TO HAVE AND TO HOLD THE SAME unto Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the date first above written.

Signed, sealed and delivered in the presence of:

(Signature of two witnesses
required by Florida law)

[Signature]
Witness Signature (Required)

Cleopatre Dean
Witness Name Printed or Typed

[Signature]
Witness Signature (Required)

Shela R. Sanchez
Witness Name Printed or Typed

Grantor:

WEST ATLANTIC DEVELOPMENT I, LLC,
a Delaware limited liability company
authorized to transact business in Florida

By: [Signature]
Ramzi Akel, Manager

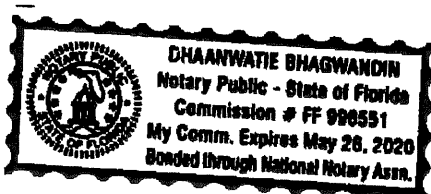
(SEAL)

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before me personally appeared Ramzi Akel, who is (choose one) personally known to me, or has produced _____ as identification, and who executed the foregoing instrument as Manager of WEST ATLANTIC DEVELOPMENT I, LLC, a Delaware limited liability company authorized to transact business in Florida, and severally acknowledged to and before me that he executed such instrument as such officer of said company, and that said instrument is the free act and deed of said company.

Witness my hand and official seal this 25 day of June, 20 18.

(Stamp/Seal)



[Signature]
Notary Signature
Notary Public, State of Florida

D. BHAGWANDIN
Print Notary Name
FF 990551

Commission Number
My Commission Expires: 5-26-2020

DESCRIPTION:

EXHIBIT "A"

A PORTION TRACTS 12, AND 13 IN THE NORTHWEST QUARTER OF THE AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN ET AL, AS RECORDED IN PLAT BOOK 9, PAGE 74 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 13; THENCE, ALONG THE WEST LINE OF SAID TRACT 13, NORTH 01°10'08" EAST, A DISTANCE OF 29.01 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF THE 5 FOOT LAKE WORTH DRAINAGE DISTRICT EASEMENT AS RECORDED IN OFFICIAL RECORD BOOK 20468, PAGE 739 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA THAT RUNS ALONG THE NORTH LINE OF THE 80 FOOT LAKE WORTH DRAINAGE DISTRICT L-19 CANAL RIGHT-OF-WAY; THENCE, ALONG SAID NORTH EASEMENT LINE, NORTH 89°36'43" EAST, A DISTANCE OF 374.33 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PALM BEACH COUNTY DRAINAGE EASEMENT; THENCE, DEPARTING SAID NORTH EASEMENT LINE, NORTH 00°23'17" WEST, A DISTANCE OF 125.00 FEET; THENCE NORTH 04°11'16" WEST, A DISTANCE OF 40.09 FEET; THENCE NORTH 00°23'17" WEST, A DISTANCE OF 20.00 FEET; THENCE NORTH 02°28'27" WEST, A DISTANCE OF 515.17 FEET; THENCE NORTH 00°40'40" EAST, A DISTANCE OF 100.00 FEET; THENCE NORTH 03°09'09" EAST, A DISTANCE OF 40.04 FEET; THENCE NORTH 00°40'40" EAST, A DISTANCE OF 100.00 FEET; THENCE NORTH 01°50'04" WEST, A DISTANCE OF 142.96 FEET; THENCE NORTH 00°40'40" EAST, A DISTANCE OF 100.00 FEET; THENCE NORTH 23°34'27" EAST, A DISTANCE OF 54.28 FEET; THENCE NORTH 00°40'40" EAST, A DISTANCE OF 100.00 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF TRACT L-3, TOSCANA ISLES P.U.D.-PLAT I, AS RECORDED IN PLAT BOOK 116, PAGES 133 THROUGH 136 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE, ALONG SAID SOUTH TRACT LINE, SOUTH 89°19'20" EAST, A DISTANCE OF 20.00 FEET; THENCE, DEPARTING SAID SOUTH TRACT LINE, SOUTH 00°40'40" WEST, A DISTANCE OF 100.00 FEET; THENCE SOUTH 23°34'27" WEST, A DISTANCE OF 54.28 FEET; THENCE SOUTH 00°40'40" WEST, A DISTANCE OF 100.00 FEET; THENCE SOUTH 89°19'20" EAST, A DISTANCE OF 199.92 FEET; THENCE SOUTH 01°08'10" WEST, A DISTANCE OF 35.98 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 190.00 FEET, A CENTRAL ANGLE OF 7°45'54", AN ARC DISTANCE OF 25.75 FEET TO A POINT NON OF TANGENCY; THENCE SOUTH 07°38'45" EAST, A DISTANCE OF 61.51 FEET; THENCE SOUTH 02°07'20" EAST, A DISTANCE OF 20.32 FEET; THENCE NORTH 89°19'20" WEST, A DISTANCE OF 204.80 FEET; THENCE SOUTH 00°40'40" WEST, A DISTANCE OF 100.00 FEET; THENCE SOUTH 03°09'09" WEST, A DISTANCE OF 40.04 FEET; THENCE SOUTH 00°40'40" WEST, A DISTANCE OF 100.00 FEET; THENCE SOUTH 89°19'20" EAST, A DISTANCE OF 119.68 FEET; THENCE SOUTH 02°19'29" WEST, A DISTANCE OF 512.80 FEET; THENCE SOUTH 89°36'43" WEST, A DISTANCE OF 76.64 FEET; THENCE SOUTH 00°23'17" EAST, A DISTANCE OF 20.00 FEET; THENCE SOUTH 07°01'42" EAST, A DISTANCE OF 40.27 FEET; THENCE SOUTH 00°23'17" EAST, A DISTANCE OF 125.00 FEET TO A POINT OF INTERSECTION WITH THE AFORESAID NORTH LINE OF THE 5 FOOT LAKE WORTH DRAINAGE DISTRICT EASEMENT; THENCE, ALONG SAID NORTH LINE, SOUTH 89°36'43" WEST, A DISTANCE OF 22.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING AND BEING IN THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

CONTAINING 105,991 SQUARE FEET, 2.4332 ACRES MORE OR LESS.



CAULFIELD & WHEELER, INC.

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

TOSCANA ISLES P.U.D. - PLAT III
PALM BEACH COUNTY DRAINAGE EASEMENT
SKETCH OF DESCRIPTION

SHEET 1 OF 7

DATE 6/21/18

DRAWN BY DLS

F.B./ PG. N/A

SCALE AS SHOWN

JOB NO. 4648-PBCDE

EXHIBIT "A"

NOTES:

1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYOR'S SEAL.
2. LANDS SHOWN HEREON WERE ABSTRACTED BY SACHS SAX CAPLAN, P.L., THROUGH COMMONWEALTH LAND TITLE INSURANCE COMPANY, ORDER NO. 6857696, REVISION 3, EFFECTIVE THROUGH 04/24/2018 AT 8:00 A.M., AND ALL PLOTTABLE EXCEPTIONS ARE SHOWN HEREON.
3. BEARINGS SHOWN HEREON ARE RELATIVE TO A GRID BEARING OF SOUTH 04°29'07" WEST ALONG THE WEST LINE OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NORTH AMERICAN DATUM OF 1983 (1990 ADJUSTMENT).
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.
7. ALL INSTRUMENTS SHOWN HEREON ARE RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CERTIFICATE:

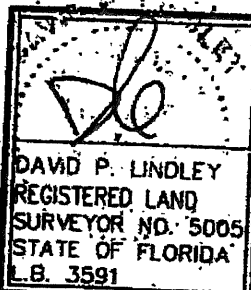
I HEREBY CERTIFY THAT THE ATTACHED SKETCH OF DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON JUNE 21, 2018. I FURTHER CERTIFY THAT THIS SKETCH OF DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN RULE 5J17-050-.052, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

CAULFIELD & WHEELER, INC.



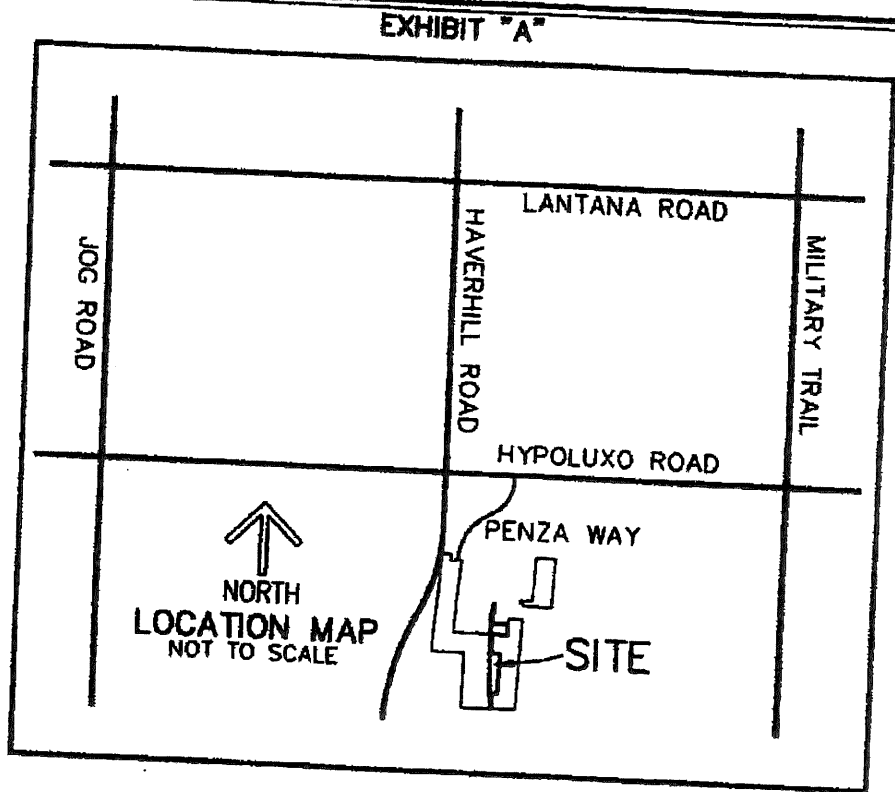
CIVIL ENGINEERING - LAND SURVEYING
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TOSCANA ISLES P.U.D. - PLAT III
PALM BEACH COUNTY DRAINAGE EASEMENT
SKETCH OF DESCRIPTION



SHEET 2 OF 7

DATE	6/21/18
DRAWN BY	DLS
F.B./ PG.	N/A
SCALE	AS SHOWN
JOB NO.	4648-PBCDE



NOTES
COORDINATES, BEARINGS AND DISTANCES

COORDINATES SHOWN ARE GRID
DATUM = NAD 83 (90/98 ADJUSTMENT)
ZONE = FLORIDA EAST
LINEAR UNIT = US SURVEY FEET
COORDINATE SYSTEM 1983 STATE PLANE
TRANSVERSE MERCATOR PROJECTION
ALL DISTANCES ARE GROUND
SCALE FACTOR = 1.0000341
GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE
BEARINGS AS SHOWN HEREON ARE GRID DATUM,
NAD 83 (1990 ADJUSTMENT), FLORIDA EAST ZONE.

LEGEND/ABBREVIATIONS

E - EASTING (WHEN USED WITH COORDINATES)
LB - LICENSED BUSINESS
L.W.D.D. - LAKE WORTH DRAINAGE DISTRICT
N - NORTHING (WHEN USED WITH COORDINATES)
O.R.B. - OFFICIAL RECORD BOOK
P.B.C.D.E. - PALM BEACH COUNTY DRAINAGE EASEMENT
P.O.B. - POINT OF BEGINNING
P.O.C. - POINT OF COMMENCEMENT



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TOSCANA ISLES P.U.D. - PLAT III
PALM BEACH COUNTY DRAINAGE EASEMENT
SKETCH OF DESCRIPTION

SHEET 3 OF 7

DATE	6/21/18
DRAWN BY	DLS
F.B./ PG.	N/A
SCALE	AS SHOWN
JOB NO.	4648-PBCDE

