PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: January 15, 2019

Consent [X] Regular [] Public Hearing []

Department: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Subordination of Utility Interests to the State of Florida Department of Transportation (FDOT).

Summary: On April 11, 2006, a utility easement for public utility facilities associated with the extension of the wastewater force main along Atlantic Avenue was granted to the County by the then Property Owner. The utility easement was recorded in the Official Records of Palm Beach County, ORB 20294, Page 438. The FDOT has an interest in a portion of this utility easement that has been determined to be necessary for highway purposes. The proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by the County to FDOT. FDOT has committed to pay to have the County's facilities relocated in the future if necessary. The Water Utilities Department has determined that the subordination of utility interests will not affect any existing public utility facilities and therefore recommends the subordination. District 5 (MJ)

Background and Justification: The subordination of utility interests to FDOT will not hinder the County during the operation and maintenance of the facilities. Any future relocation costs that may be required will be paid by FDOT. FDOT is requesting the subordination of utility easements.

Attachments:

- 1. Location Map
- 2. Two (2) Original Subordination of Utility Interests
- 3. Original Utility Easement (ORB 20294/438)

Recommended By:	Department Director	12-1	<u>14-18</u> Date	
Approved By:	Assistant County Administrator	/	8 9 Date	

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

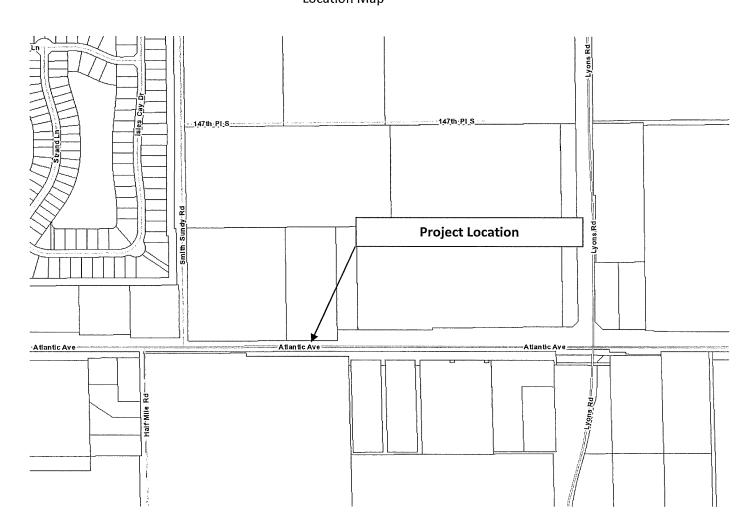
Fiscal	Years	2019	2020	2021	2022	2023
Opera Extern Progra	Il Expenditures ting Costs al Revenues am Income (County) d Match County	0 0 0 0 0		0 0 0 0 0		0 0 0 0 0
NET F	ISCAL IMPACT	0	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	DITIONAL FTE FIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Budge	et Account No.: Fi	und Dej	ot	Unit	Object	
Is Item	n Included in Current E	Budget?		Yes	No	
Does t	his item include the us	se of federal fu	nds?	Yes	No <u>X</u>	
		Re	eporting Cate	egory <u>N/A</u>		
В.	Recommended Sou	rces of Funds	/Summary o	f Fiscal Impac	:t:	
	No fiscal impact.					
C.	Department Fiscal R	eview:	S		<u></u>	
		III. <u>REVI</u>	EW COMME	INTS		
A.	OFMB Fiscal and/or	Contract Dev	elopment ar	d Control Co	mments:	
	Palipher	20 12/2-	i	Ohtract Develo	pment and Con	12128/18 troi
В.	Legal Sufficiency: Assistant Cour	nty Attorney	6/19			

C. Other Department Review:

Department Director

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

ATTACHMENT 1 Location Map



23-UTL.02-08/13-PBC

1.1

This instrument prepared under the direction of: Dawn Raduano, Esq. _____ Legal Description prepared by: <u>Kenneth J. Osborne, P.S.M. (05-10-18)</u> <u>Compass Surveying</u> Document prepared by: <u>Grace K. Abel (05-21-18)</u> Department of Transportation Right of Way Production Services 3400 W. Commercial Boulevard Ft. Lauderdale, Florida 33309

Parcel No. Item/Segment No. Section: Managing District: S.R. No. County:

128.3 4413231 93030-2504 04 806 (Atlantic Avenue) Palm Beach

SUBORDINATION OF COUNTY UTILITY INTERESTS

THIS AGREEMENT entered into this ______ day of ______, 201_____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the FDOT, and PALM BEACH COUNTY, a Political Subdivision of the State of Florida, hereinafter called the COUNTY.

WITNESSETH:

WHEREAS, the COUNTY presently has an interest in certain lands that have been determined necessary for highway purposes; and

WHEREAS, the proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by the COUNTY to the FDOT; and

WHEREAS, the FDOT is willing to pay to have the COUNTY'S facilities relocated if 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, COUNTY and FDOT agree as follows:

COUNTY subordinates to the interest of FDOT its successors and assigns, any and all of its interest in the lands as follows, viz:

Page 1 of 4

A portion of Tract 123, PALM BEACH FARMS COMPANY PLAT NO. 1, in Section 18, Township 46 South, Range 42 East, according to the plat thereof, recorded in Plat Book 2, Page 25 of the Public Records of Palm Beach County, Florida, less road right-of-way, described as follows:

BEGINNING at the Southeast corner of subject property described above; thence run West along the Existing North R/W line of Atlantic Avenue as described in Deed Book 654, Page 574, South 89°32'49" West for 326,40 feet, to the West line of Tract 123; thence run North 01°06'57" West, along the West line of Tract 123, for 70.00 feet; thence run North 89°32'49" East, 326.41 feet to the East line of Tract 123; thence run South 01°06'19" East, along the East line of Tract 123, for 70.00 feet to the POINT OF BEGINNING.

(More particularly described in the sketch and description attached hereto as Exhibit "A")

<u>RECORDED</u>

INSTRUMENT	DATE	FROM	то	O.R.B. & PAGE
Utility Easement	04/11/2006	Brian Lulfs	Palm Beach County, c/o Water Utilities Department	20294 / 0438

PROVIDED that the COUNTY has the following rights:

- 1. The COUNTY shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon the lands described herein in accordance with the FDOT'S current minimum standards for such facilities as required by the FDOT, Utility Accommodation Manual in the effect at the time the agreement is executed. Any new construction or relocation of facilities within the lands will be subject to prior approval by the FDOT. Should the FDOT fail to approve any new construction or relocation of facilities by the COUNTY or require the COUNTY to alter, adjust, or relocate its facilities located within said lands, the FDOT hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate easements.
- 2. Not withstanding any provisions set forth herein, the terms of the utility permits shall supersede any contrary provisions, with the exception of the provision herein with reimbursement rights.
- 3. The COUNTY shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the FDOT's facilities.

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4. The COUNTY agrees to repair any damage to FDOT facilities, and, to the extent permitted by law, to indemnify the FDOT against any loss or damage resulting from the COUNTY exercising its rights outlined in Paragraphs 1 and 3 above. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor as a waiver of any defense the COUNTY may have under said statute, nor shall the same be construed to constitute agreement by the COUNTY to indemnify the FDOT for FDOT's negligent, willful or intentional acts or omissions, nor as consent to be sued by third parties.

IN WITNESS WHEREOF, the FDOT hereto has executed this agreement on the day and year first above written.

Signed, sealed and delivered in the presence of witnesses

Print Name:_____

6.1

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By:___

Name: GERRY O'REILLY, P.E. District Four Secretary

Attorney approved as to form:

Print Name:_____

STATE OF FLORIDA

Name: DAWN RADUANO

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 201____, by GERRY O'REILLY, P.E., District Four Secretary, who is personally known to me or who has produced ______ as identification.

(SEAL)

Notary Public

Typed, printed or stamped name of Notary Public My Commission Expires:

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IN WITNESS WHEREOF, the 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.

> PALM BEACH COUNTY, a Political Subdivision of the State of Florida **Board of County Commissioners of** Palm Beach County

Signed:

Mack Bernard, Mayor

ATTEST Sharon R. Bock, Clerk & Comptroller

(Deputy Clerk)

APPROVED AS TO TERMS AND CONDITIONS

By: <u>Jum Subs</u> Director of Water Utilities

APPROVED AS TO FORM AND LEGAL SUFFICENCY:

(County Attorney)

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day ___ by Mack Bernard, Mayor, who is personally known to me or who has produced as identification and who did not take an oath.

Typed name of Acknowledger Deputy Clerk

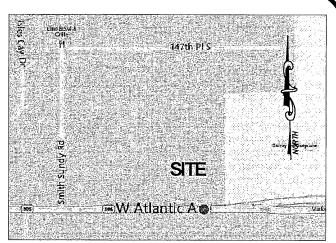
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SKETCH AND DESCRIPTION

(COVER & LEGAL DESCRIPTION)

PROPERTY ADDRESS: 9295 ATLANTIC AVENUE DELRAY BEACH, FL 33446

THE PURPOSE OF THIS SKETCH AND DESCRIPTION IS TO SHOW THE PROPOSED SOUTH 70.0' TRACT TO BE TRANSFERRED FOR ROAD RIGHT OF WAY



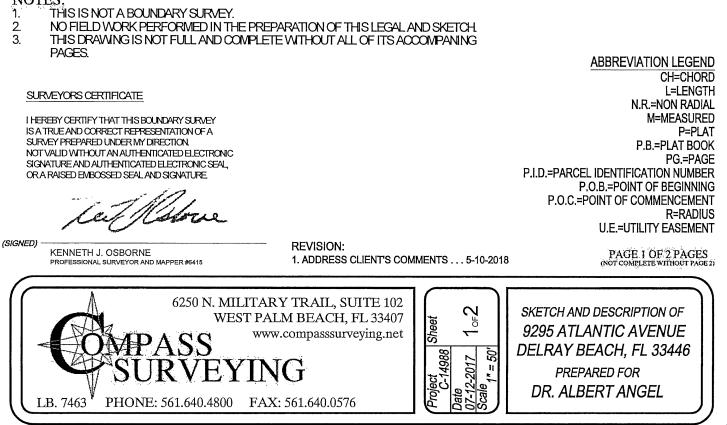
VICINITY MAP NOT TO SCALE

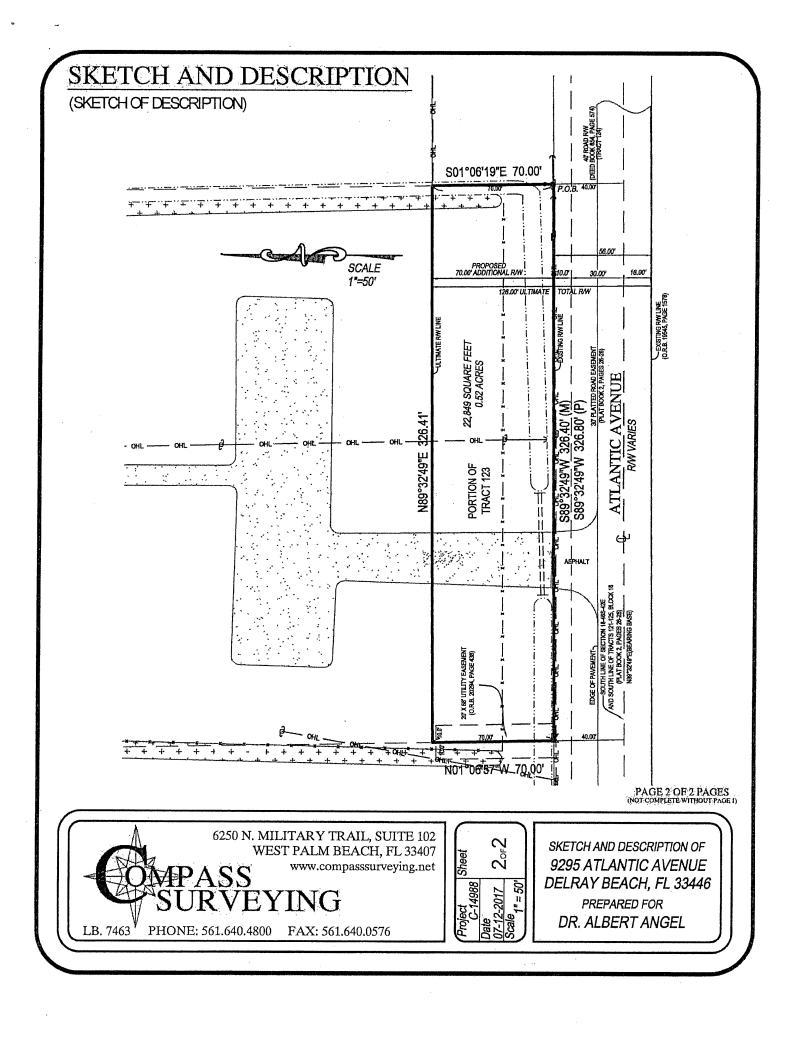
LEGAL DESCRIPTION

A PORTION OF TRACT 123, **PALM BEACH FARMS COMPANY PLAT NO. 1**, IN SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 26, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA LESS ROAD RIGHT-OF-WAY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SUBJECT PROPERTY DESCRIBED ABOVE; THENCE RUN WEST ALONG THE EXISTING NORTH RWUINE OF ATLANTIC AVENUE AS DESCRIBED IN DEED BOOK 654, PAGE 574, SOUTH 89°32'49' WEST FOR 326.40 FEET, TO THE WEST LINE OF TRACT 123; THENCE RUN NORTH 01°06'57' WEST, ALONG THE WEST LINE OF TRACT 123, FOR 70.00 FEET; THENCE RUN NORTH 89°32'49' EAST 326.41 FEET, TO THE EAST LINE OF TRACT 123; THENCE RUN SOUTH 01°06'19' EAST, ALONG THE EAST LINE OF TRACT 123, FOR 70.00 FEET, TO THE POINT OF BEGINNING.

NOTES:





Will Call Box 133 Prepared by and Return to: Palm Beach County Water Utilities Department ATTN: Debbie Wilson P.O. Box 16097

West Palm Beach, Florida 33416-6097 PCN #: 00-42-46-18-01-000-1230 Project #: 04-229 Project Name: Atlantic Ave & SR 7 WW Project

CFN 20060264847 OR BK 20294 PG 0438 RECORDED 05/04/2006 16:02:36 Palm Beach County, Florida Sharon R. Bock, CLERK & COMPTROLLER Pgs 0438 - 441; (4pgs)

ACCT. # 1023

WINEL Kall

UTILITY EASEMENT

Attachment 3

THIS EASEMENT is made, granted and entered into this <u>1</u> day of <u>Gpc.</u> 2006, by <u>Brian Lulfs</u> (hereinafter referred to as "Grantor"), whose address is <u>7457 Park Lane, Lake Worth, FL 33467-6702</u>, to Palm Beach County (hereinafter referred to as "Grantee"), c/o Water Utilities Department, P.O. Box 16097, West Palm Beach, Florida 33416-6097.

WITNESSETH

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the Grantee and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a perpetual utility easement which shall permit Grantee authority to enter upon the property of the Grantor at any time to install, operate, maintain, service, construct, reconstruct, remove, relocate, repair, replace, improve, expand, tie into, and inspect potable water, reclaimed water and/or wastewater lines and appurtenant facilities and equipment in, on, over, under and across the easement premises.

SEE EXHIBIT "A", ATTACHED HERETO AND MADE A PART HEREOF

Grantor hereby covenants with Grantee t described and that it has good and lawful right encumbrances unless specifically stated to the contr	hat it is lawfully seized and in possession of the real property herein to grant the aforesaid easement free and clear of mortgages and other ary. has hereunto set its hand and affixed its seal as of the date first above GRANTOR:
IN WITNESS WHEREOF, the Grantor written.	has hereunto set its hand and affixed its seal as of the date first above
WITNESSES: Signed, seeled and delivered	GRANTOR:
in the presence of:	BM
Witness Signature William Abaeu Print Name	Signature Britan TLIS, gen, Partner Print Name (and Title if applicable)
Witness Silmature Salou Gumbs	Signature
Print Name	Print Name (and Title if applicable)
STATE OF <u>Ilorida</u> COUNTY OF <u>film Beach</u>	TARY CERTIFICATE
The foregoing instrument was acknowled by <u>Brean T. UM FI</u> . known to me or who has produced	edged before me this // day of <u>April</u> , 20 <u>06</u> and <u>as identification</u> , who is/are personally
My Commission Expires:	Caral G. Francia Notary Signature
	Carol A Marero My Commission DD170221 Typed, Printed or Starting Magnes Collection 2005

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DESCRIPTION & SKETCH PREPARED FOR: PALM BEACH COUNTY WATER UTILITIES	
ATLANTIC AVENUE (S.R. 806)	
UTILITY EASEMENT No.6A & 6B	
LEGAL DESCRIPTION:	
COUNTY, FLORIDA, LYING IN TRACTS 122	P 46 SOUTH, RANGE 42 EAST, PALM BEACH AND 123, OF PALM BEACH FARMS COMPANY PAGE 26, OF THE PUBLIC RECORDS OF PALM ARLY DESCRIBED AS FOLLOWS:
EASEMENT "6A":	
RIGHT-OF-WAY MAP, SECTION 93030-150 PARALLEL WITH, THE SOUTH LINE OF SAID TO SAID TRACTS 122 AND 123; THENCE	MENT OF TRANSPORTATION STATE ROAD 806 02, LYING 40.00 FEET NORTH OF, AND 9 SECTION 18, WITH THE TRACT LINE COMMON ALONG SAID TRACT LINE, N01"0'10"W FOR 68.00 ET; THENCE S01"10'10"E FOR 68.00 FEET TO E ALONG SAID NORTH RIGHT-OF-WAY,
CONTAINING 680 SQUARE FEET, MORE OR	LESS.
SURVEYOR'S NOTES	
1. THIS DRAWING IS NOT A SURVEY.	
2. NO SEARCH OF THE PUBLIC RECORDS HAS BEEN	MADE BY THIS OFFICE.
3. THE DESCRIPTION SKETCH AND THE DESCRIPTION LEGAL DESCRIPTION. THE LEGAL DESCRIPTION IS N ACCOMPANY EACH OTHER.	TEXT COMPRISE THE COMPLETE OT VALID UNLESS BOTH
4. THIS LEGAL DESCRIPTION IS NOT VALID WITHOUT T ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SI EMPLOYED BY WANTMAN GROUP, INC.	JRVEYOR AND MAPPER LEGEND: DE = DRAINAGE EASEMENT
5. THE BASIS OF BEARING IS THE SOUTH LINE OF SE TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEA LINE IS SAID TO BEAR N89"32'49"E.	CH COUNTY FLORIDA. OF TRANSPORTATION ORB = OFFICIAL RECORD BOOK
6. DATE OF LEGAL DESCRIPTION: AUGUST 8, 2005	(P) = PLAT DIMENSION PB = PLAT BOOK PG. = PAGE
WANTMAN GROXIP, INC.	PCN = PROPERTY CONTROL NUMBER POB = POINT OF BEGINNING POC = POINT OF COMMENCEMENT R/W = RIGHT-OF-WAY
THOMAS R. DITMAN PROFESSIONAL SURVEYOR AND MAPPER FLORIDA GERTIFICATE No. 5763	RPB = ROAD PLAT BOOK R.D.E. = ROAD AND DITCH EASEMENT S.R. = STATE ROAD UE == UTILITY EASEMENT
Wantman Group, INC	CAD 510 UE1-13.DWG
Engineering 🗢 Surveying 🕏 Mapping	
2035 VISTA PARKWAY, SUITE 100 WEST PALM BEACH, FL 33411	FLD FB. PG. JOB 105510.00
(561) 687-2220 phone (561) 687-1110 fax	OFF MDB DATE 08/08/05
CERT No. 6091 - LB No. 7055	CKD TRD SHEET 1 OF 3 DWG A-105510

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DESCRIPTION & SKETCH PREPARED FOR:	
PALM BEACH COUNTY WATER UTILITIES	
ATLANTIC AVENUE (S.R. 806)	
UTILITY EASEMENT	
No.6A & B	·
LEGAL DESCRIPTION (CONTINUED)	
EASEMENT "6B":	
RIGHT-OF-WAY MAP, SECTION 93030-150	MENT OF TRANSPORTATION STATE ROAD 806 02, LYING 40.00 FEET NORTH OF, AND 9 SECTION 18, MITH THE TRACT LINE COMMON ALONG SAID TRACT LINE, N01"10'10"W FOR .00 FEET; THENCE S01"10'10"E FOR 68.00 7; THENCE ALONG SAID NORTH
CONTAINING 680 SQUARE FEET, MORE OR	LESS.
· ·	
· ·	
· · ·	
Wantman Group, INC	7 CAD 510 UE1-13.DWG
Wantman Group, INC	REF
Wantman Group, INC Engineering & Surveying & Mapping 2035 VISTA PARKWAY, SUITE 100 WEST PALM BEACH, FL 33411	REF

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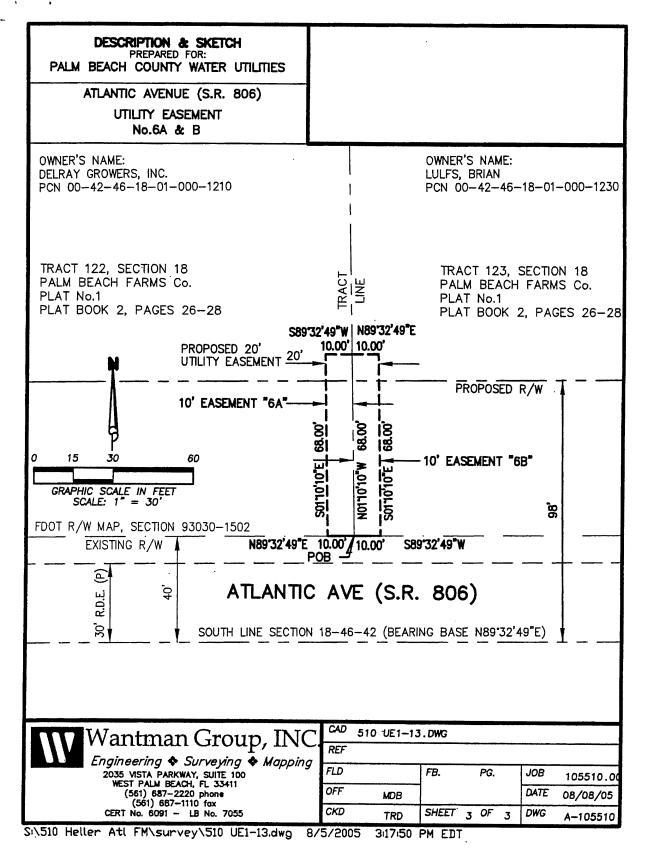
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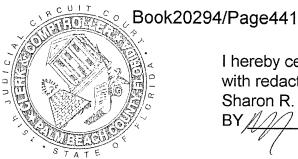
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Car Section to be

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I hereby certify the foregoing is a true copy of the record in my office with redactions, if any as required by law as of this day, Oct 24, 2018. Sharon R. Bock, Clerk and Comptroller, Palm Beach County, Florida BY And Compton Deputy Clerk

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