

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

| | | |
|---|---|---|
| Meeting Date: March 10, 2020 | <input checked="" type="checkbox"/> Consent | <input type="checkbox"/> Regular |
| Department: Engineering and Public Works | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Public Hearing |
| 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 additional facility relocations with Florida Power & Light Company (FPL) on a parcel of land located on Haverhill Road at Okeechobee Boulevard.

SUMMARY: Approval of the subordination agreement will subordinate FPL’s utility easement interests and allow Palm Beach County (County) to accept a warranty deed for additional right-of-way. As part of the development conditions associated with the Good Samaritan Medical Center, the property owners are required to provide the County with 11 feet of additional right-of-way on Haverhill Road, south of Okeechobee Boulevard. This right-of-way is encumbered by an FPL utility easement. 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 negotiated their subordinations to not include the indemnity provision associated with PPM CW-F-049. This has been reviewed by the County Attorney’s office and Risk Management. District 2 (YBH)

Background and Justification: 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. FPL has already executed the subordination agreement. The Engineering Department recommends the Board of County Commissioners’ approval.

- Attachments:**
1. Location Map
 2. Subordination of Utility Interests and Agreement with Exhibit “A”
-

Recommended by: YBH/TEL  2/28/2020
County Engineer Date

Approved by:  3/2/20
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2020 | 2021 | 2022 | 2023 | 2024 |
|---|--------|------|------|------|------|
| 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 X
 Does this item include the use of federal funds? Yes No X

Budget Account No:

Recommended Sources of Funds/Summary of 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] 2/11/2020
 OFMB [Signature]

[Signature] 2/10/2020
 Contract Dev. and Control
 2/10/2020 TW

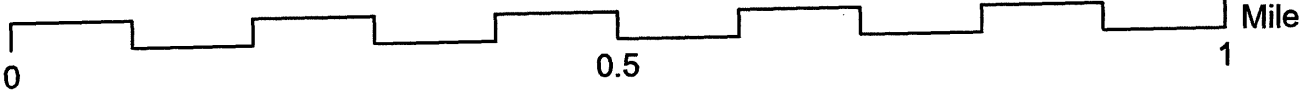
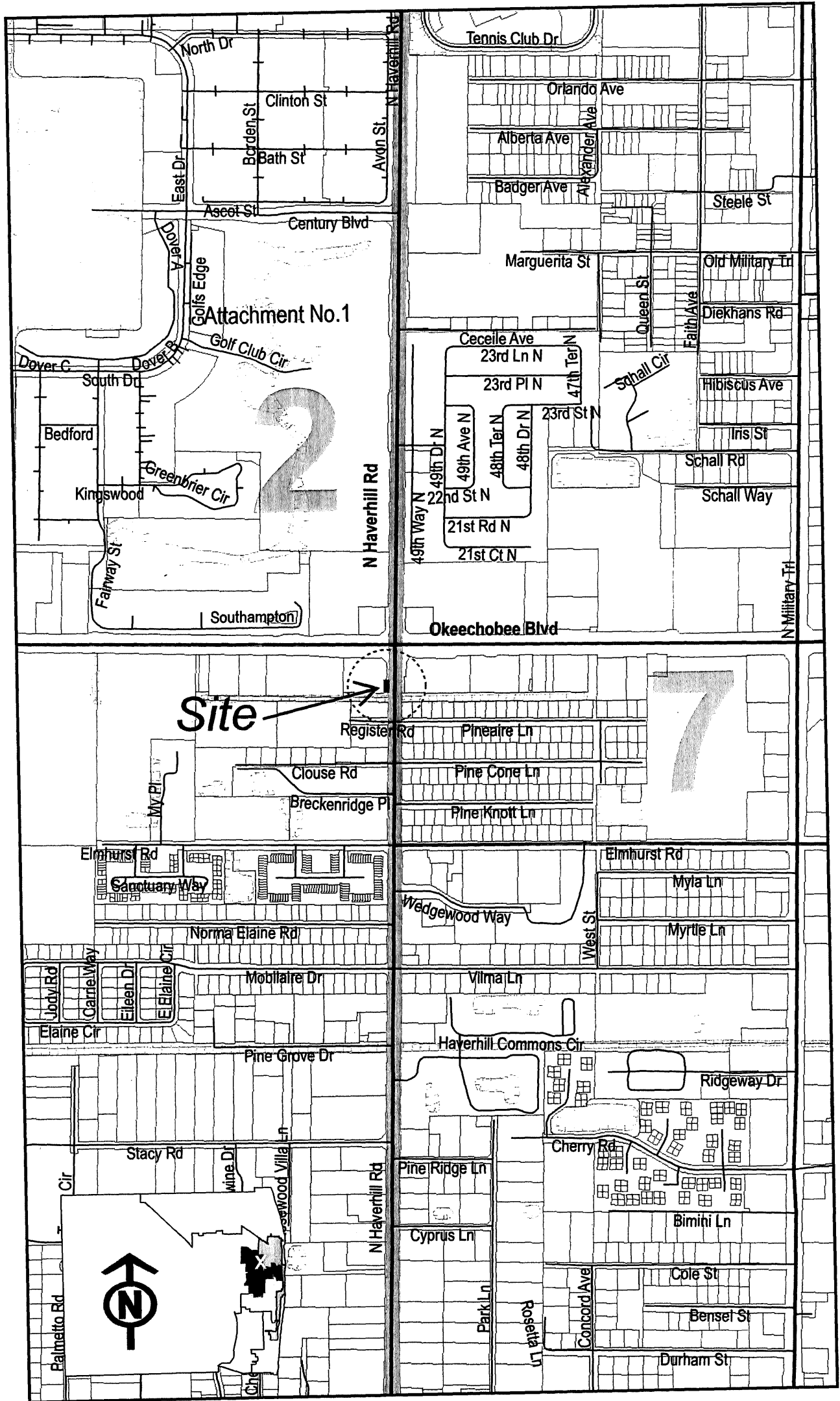
B. Approved as to Form and Legal Sufficiency:

[Signature] 2/11/2020
 Assistant County Attorney

C. Other Department Review:

 Department Director

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



Location Map

Return via Palm Beach County interoffice mail to:
Kaye Weichel, Right-of-Way Specialist
Palm Beach County, Engineering & Public Works Department
Roadway Production Division
2300 North Jog Road, 3rd Floor West
West Palm Beach, Florida 33411-2750

Escrow Account Number: 1010

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 00-42-43-26-00-000-1210

NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE

SPACE ABOVE THIS LINE FOR PROCESSING DATA

PROJECT NO. MRT2019-025
ROAD NAME: HAVERHILL RD
& OKEECHOBEE BLVD
PARCEL NO. TRACT RW
GOOD SAMARITAN MEDICAL
CENTER PB 129/169

**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 OR AGAINST</u> | <u>IN FAVOR OF</u> | <u>BOOK / PAGE</u> |
|------------------------------|-------------|------------------------|--------------------|--------------------|
| Easement | 9/20/74 | W. G. Lassiter, Jr. | FPL | ORB 2367 PG 914 |

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

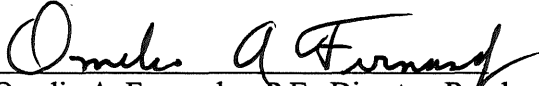
By: _____
Clerk (or Deputy Clerk)

By: _____
Dave Kerner, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
Yelizaveta B. Herman
Assistant County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

By: 
Omelio A. Fernandez, P.E., Director, Roadway Production
Engineering & Public Works Department

Signed, sealed and delivered
in the presence of:

FLORIDA POWER & LIGHT COMPANY,
a Florida corporation

By: Michelle M. Kahmann

By: Samantha T. Saucier

Print Name: Michelle M. Kahmann

Samantha J. Saucier
Corporate Real Estate Manager

By: [Signature]

Print Name: Sara S. Sibson

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 ^{Corporate} ~~Real~~ 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.

SS

WITNESS my hand and official seal in the County and State aforesaid this 14th day of Nov., 2019.

My Commission Expires:

Notary Signature: Michelle M. Kahmann
Notary Public State of Florida

Printed Name:



EXHIBIT "A"

DESCRIPTION:

TRACT RW, GOOD SAMARITAN MEDICAL CENTER, AS RECORDED IN PLAT BOOK 128 PAGES 169 THROUGH 171 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN THE NORTHEAST ONE-QUARTER OF SECTION 26, TOWNSHIP 43 NORTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA CONTAINING 1,100 SQUARE FEET/0.0253 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 A SURVEYOR'S SEAL.
2. BEARINGS SHOWN HEREON ARE RELATIVE TO A GRID BEARING OF S43°56'06"E ALONG THE LINE BETWEEN PALM BEACH COUNTY HORIZONTAL CONTROL POINTS "OKEE FIRE" AND "PINE GROVE", RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NORTH AMERICAN DATUM OF 1983 (90 ADJUSTMENT).
3. THE "LAND DESCRIPTION" HEREON IS BY RECORDED PLAT.
4. DATA SHOWN HEREON WAS COMPILED FROM INSTRUMENTS OF RECORD AND DOES NOT CONSTITUTE A BOUNDARY SURVEY AS SUCH.
5. MATTERS CONTAINED IN SCHEDULE B-SECTION II EXCEPTIONS, FIRST AMERICAN TITLE INSURANCE COMPANY, CUSTOMER ISSUING OFFICE FILE NO.: NCS-86942-CH2, REVISION 2, EFFECTIVE DATE: OCTOBER 4, 2018 @ 8:00 A.M. ALL PLOTTABLE ENCUMBRANCES THAT AFFECT THE PROPERTY ARE NOTED HEREON, NO SEARCH OF THE PUBLIC RECORDS HAS BEEN PERFORMED BY THIS OFFICE; IT IS POSSIBLE THAT THERE ARE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS, RESTRICTIONS OR OTHER INSTRUMENTS WHICH COULD AFFECT THE PROPERTY WHICH ARE UNKNOWN TO THE SIGNING SURVYOR AND ARE NOT SHOWN ON THIS SURVEY.
6. ALL RECORDING INFORMATION SHOWN HEREON IS RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.
7. THE PARENT PROPERTY CONTROL NUMBER IS 00-42-43-26-00-000-1210.

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 SEPTEMBER 24, 2019. 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 PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES 472.027.

SHEET 1 OF 5

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

| |
|---|
| GOOD SAMARITAN MEDICAL CENTER TRACT RW SKETCH OF DESCRIPTION |
|---|

| |
|--|
| David Lindley <small>Digitally signed by David Lindley DN: cn=US, st=Florida, o=Boca Raton, ou=Surveying, c=Caulfield & Wheeler, Inc., cn=David Lindley, email=David@cwassoc.com Date: 2019.09.24 09:26:46 -0400</small> |
| DAVID P. LINDLEY REGISTERED LAND SURVEYOR NO. 5005 STATE OF FLORIDA L.B. 3591 |

| | |
|-----------|---------------|
| DATE | 9/24/19 |
| DRAWN BY | DLS |
| F.B./ PG. | N/A |
| SCALE | NONE |
| JOB NO. | 7916 TRACT RW |

SCHEDULE B – II EXCEPTIONS

9. MATTERS SHOWN ON PLAT OF PLAT NO. 1 WESTMOOR PINES, RECORDED IN PLAT BOOK 4, PAGE 21, AS AFFECTED BY RESOLUTION IN OFFICIAL RECORD BOOK 107, PAGE 40.
(AFFECTS PROPERTY NOT ABLE TO PLOT)

10. EASEMENT GRANTED TO FLORIDA POWER & LIGHT COMPANY BY INSTRUMENT RECORDED IN OFFICIAL RECORD BOOK 2367, PAGE 914.
(AFFECTS PROPERTY SHOWN HEREON)

11. THE TERMS, PROVISIONS AND CONDITIONS CONTAINED IN THAT CERTAIN DECLARATION OF COVENANTS RECORDED IN OFFICIAL RECORD BOOK 11119, PAGE 1209.
(AFFECTS PROPERTY SHOWN HEREON)

12. THE TERMS, PROVISIONS AND CONDITIONS CONTAINED IN THAT CERTAIN STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT RECORDED IN OFFICIAL RECORD BOOK 11457, PAGE 9.
(AFFECTS PROPERTY SHOWN HEREON)

13. THE TERMS, PROVISIONS AND CONDITIONS CONTAINED IN THAT CERTAIN UNITY OF TITLE RECORDED IN OFFICIAL RECORD BOOK 11598, PAGE 195.
(AFFECTS PROPERTY SHOWN HEREON)

14. THE TERMS, PROVISIONS AND CONDITIONS CONTAINED IN THAT CERTAIN UTILITY EASEMENT RECORDED IN OFFICIAL RECORD BOOK 11945, PAGE 401, AS AFFECTED BY SURVEYORS AFFIDAVIT IN OFFICIAL RECORD BOOK 11957, PAGE 1496.
(AFFECTS PROPERTY SHOWN HEREON)


NOTES

COORDINATES, BEARINGS AND DISTANCES

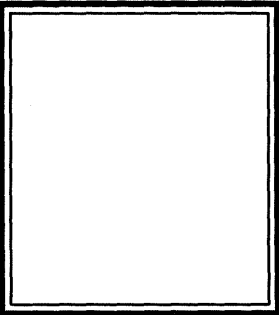
COORDINATES SHOWN ARE GRID
 DATUM = NAD 83 1990 ADJUSTMENT
 ZONE = FLORIDA EAST
 LINEAR UNIT = US SURVEY FEET
 COORDINATE SYSTEM 1983 STATE PLANE
 TRANSVERSE MERCATOR PROJECTION
 ALL DISTANCES ARE GROUND UNLESS OTHERWISE NOTED
 SCALE FACTOR = 1.0000360
 GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE
 BEARINGS AS SHOWN HEREON ARE GRID DATUM,
 NAD 83 1990 ADJUSTMENT, FLORIDA EAST ZONE.

LEGEND/ABBREVIATIONS

☉ - CENTERLINE
 Δ - DELTA (CENTRAL ANGLE)
 E - EASTING WHEN USED WITH COORDINATES
 FND - FOUND
 FPL - FLORIDA POWER AND LIGHT COMPANY
 LB - LICENSED BUSINESS
 L.W.D.D. - LAKE WORTH DRAINAGE DISTRICT
 MTE - MASS TRANSIT EASEMENT
 N - NORTHING WHEN USED WITH COORDINATES
 O.R.B. - OFFICIAL RECORD BOOK
 PBCUE - PALM BEACH COUNTY UTILITY EASEMENT
 PCP - PERMANENT CONTROL POINT
 R/W - RIGHT-OF-WAY
 UE - UTILITY EASEMENT
 - PALM BEACH COUNTY CONTROL POINT



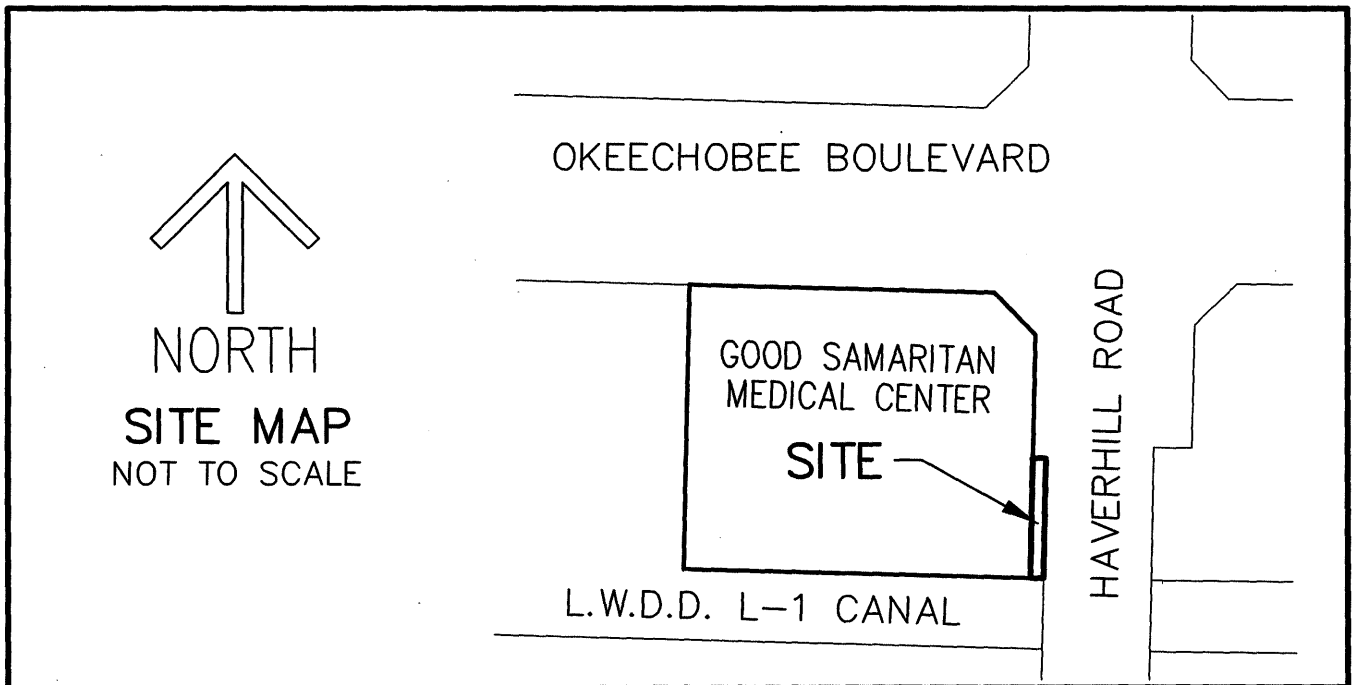
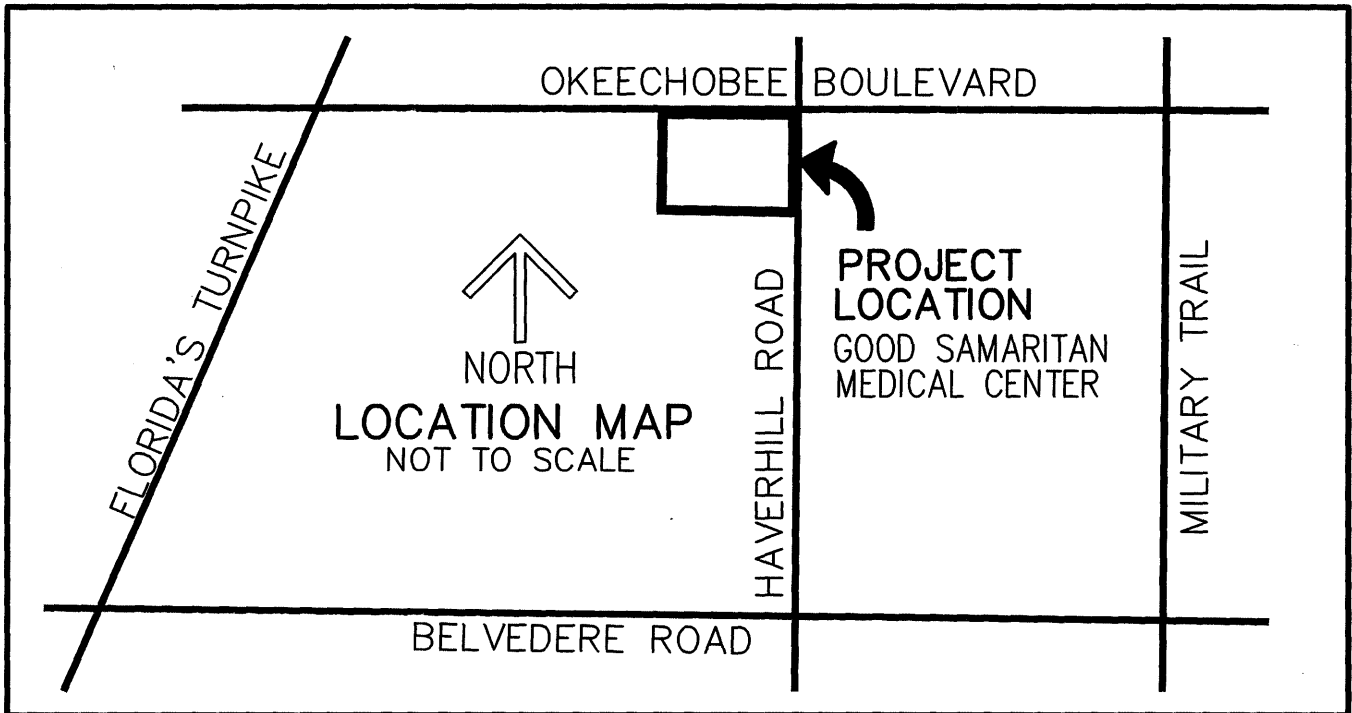
CAULFIELD & WHEELER, INC.
 CIVIL ENGINEERING – LAND SURVEYING
 7900 GLADES ROAD – SUITE 100
 BOCA RATON, FLORIDA 33434
 PHONE (561)-392-1991 / FAX (561)-750-1452




**GOOD SAMARITAN MEDICAL CENTER
 TRACT RW
 SKETCH OF DESCRIPTION**

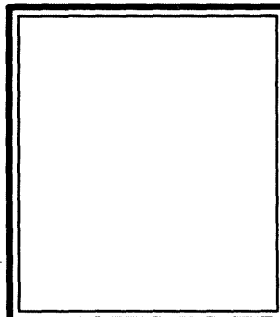
| | |
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| DATE | 9/24/19 |
| DRAWN BY | DLS |
| F.B./ PG. | N/A |
| SCALE | NONE |
| JOB NO. | 7916 TRACT RW |

EXHIBIT "A"



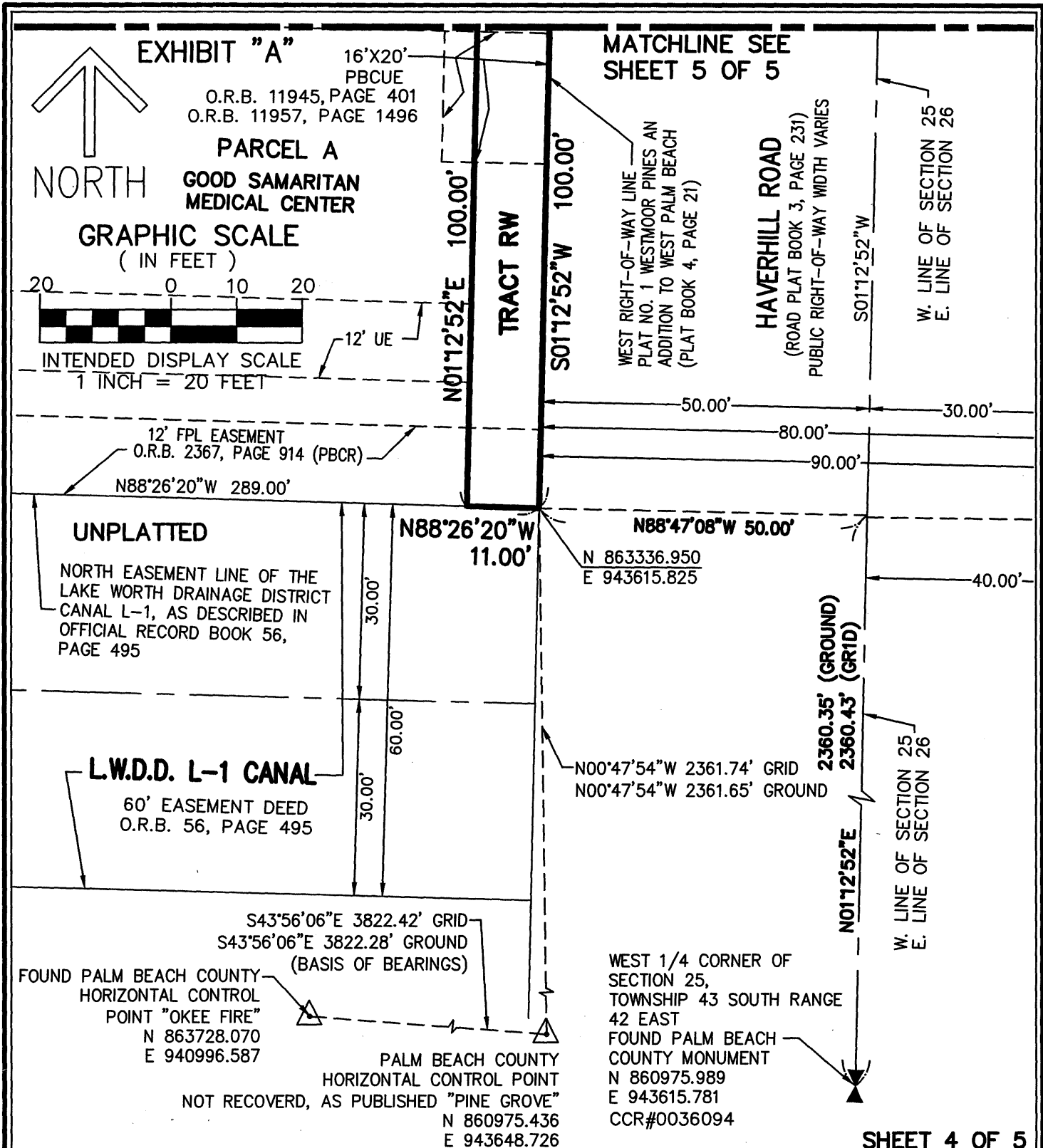
SHEET 3 OF 5

CAULFIELD & WHEELER, INC.

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



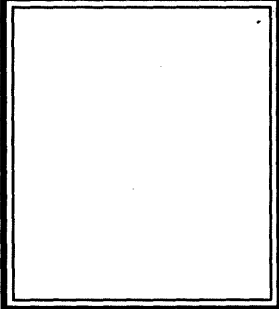
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**GOOD SAMARITAN MEDICAL CENTER
 TRACT RW
 SKETCH OF DESCRIPTION**



SHEET 4 OF 5

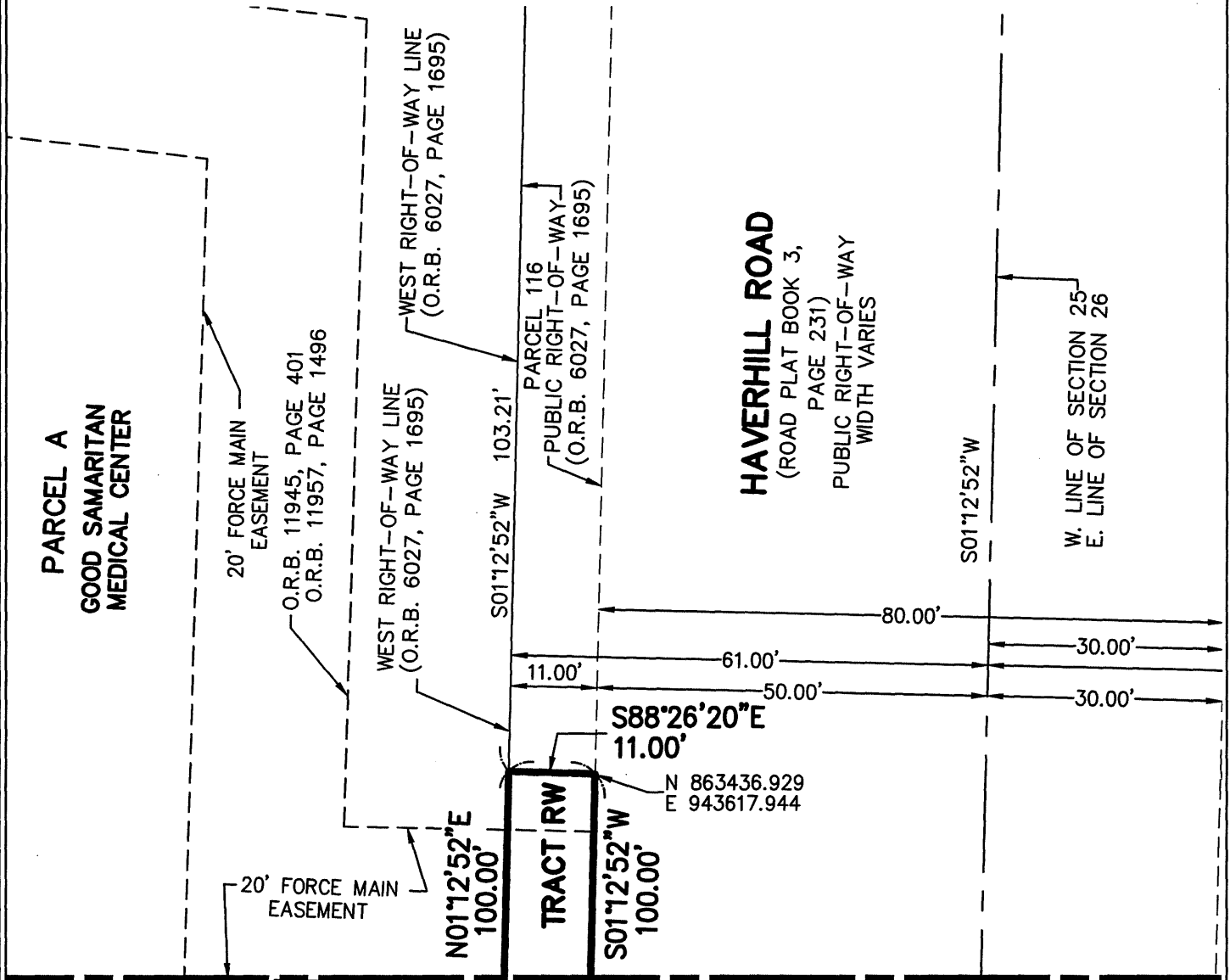
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|-----------|---------------|
| DATE | 9/24/19 |
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| F.B./ PG. | N/A |
| SCALE | 1"=20' |
| JOB NO. | 7916 TRACT RW |

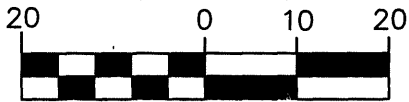
GOOD SAMARITAN MEDICAL CENTER
TRACT RW
SKETCH OF DESCRIPTION

EXHIBIT "A"

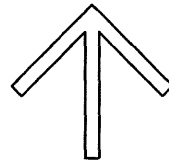


MATCHLINE SEE SHEET 4 OF 5

GRAPHIC SCALE
(IN FEET)



INTENDED DISPLAY SCALE
1 INCH = 20 FEET



NORTH

SHEET 5 OF 5

CAULFIELD & WHEELER, INC.



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