

This instrument prepared by:
Mark H. Dahlmeier
Jones Foster, P.A.
505 South Flagler Drive
Suite 1100
West Palm Beach, FL 33401

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT (hereinafter "Declaration") is made by Town of Palm Beach, a municipal corporation existing under the laws of the State of Florida (hereinafter "GRANTOR"), and the Florida Department of Environmental Protection (hereinafter "FDEP"). This Declaration is neither extinguished nor affected by the Marketable Record Title Act pursuant to section 712.03, Florida Statutes (F.S.).

RECITALS

A. GRANTOR is the fee simple owner of that certain real property situated in the County of Palm Beach, State of Florida, more particularly described and identified as the Entire Property in Exhibit "A" attached hereto and made a part hereof (hereinafter the "Property"). The portion of the Property this is being restricted by this Declaration is more particularly described and identified as the Restricted Property in Exhibit "A" attached hereto and made a part hereof (hereinafter the "Restricted Property").

B. The FDEP Facility Identification Number for the Restricted Property is Site No.: ERIC_15384 (Formerly COM_389587). The facility name at the time of this Declaration is Town of Palm Beach Marina. This Declaration addresses the discharge that was reported to the FDEP on November 6, 2019.

C. The discharge of waste oil on the Restricted Property is documented in the following reports that are incorporated by reference:

1. *Waste Oil Tank Assessment, dated October 28, 2019, prepared and submitted by SCS Engineers; and*
2. *Tank Closure Assessment Report, dated February 26, 2021, prepared and submitted by SCS Engineers; and*
3. *Memorandum dated March 10, 2021, from Michael J. Bland, Professional Geologist II, District & Business Support Program, Division of Waste Management, Florida Department of Environmental Protection; and*
4. *Engineering Control Maintenance Plan, dated September 3, 2021, prepared and submitted by SCS Engineers; and*
5. *Letter dated October 7, 2021, from Christopher Weller, Environmental Manager, Permitting & Waste Cleanup Program, Florida Department of Environmental Protection.*

D. The reports noted in Recital C set forth the nature and extent of the contamination described in Recital C that is located on the Restricted Property. These reports confirm that contaminated soil as defined by Chapter 62-780, Florida Administrative Code (F.A.C.), exists on the Restricted Property.

E. It is GRANTOR's and FDEP's intent that the restrictions in this Declaration reduce or eliminate the risk of exposure of users or occupants of the Restricted Property and the environment to the contaminants and to reduce or eliminate the threat of migration of the contaminants.

F. FDEP has agreed to issue a Site Rehabilitation Completion Order with Conditions (hereinafter "Order") upon recordation of this Declaration. FDEP can unilaterally revoke the Order if the conditions of this Declaration or of the Order are not met. Additionally, if concentrations of petroleum products' chemicals of concern increase above the levels approved in the Order, or if a subsequent discharge occurs at the Restricted Property, FDEP may require site rehabilitation to reduce concentrations of contamination to the levels allowed by the applicable FDEP rules. The Order relating to FDEP Facility No. ERIC_15384 (Formerly COM_389587), can be found by contacting the appropriate FDEP district office or Tallahassee program area.

G. GRANTOR deems it desirable and in the best interest of all present and future owners of the Restricted Property that an Order be obtained and that the Restricted Property be held subject to certain restrictions and engineering controls, all of which are more particularly hereinafter set forth.

NOW, THEREFORE, to induce FDEP to issue the Order and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the undersigned parties, GRANTOR agrees as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.

2. GRANTOR hereby imposes on the Restricted Property the following restrictions:

- a. Soil Engineering Controls. The "Restricted Property" as shown on Exhibit "B" shall be permanently covered and maintained with a minimum of two (2) feet of clean and uncontaminated soil that prevents human exposure, a portion of which shall also be overlaid by a paver walkway and other low permeability caps over said minimum of two (2) feet of clean and uncontaminated soil that prevents human exposure (hereinafter referred to as "the Engineering Control"). The location and extent of each of the above-described Engineering Controls are depicted in Exhibit "C". An Engineering Control Maintenance Plan (ECMP) has been approved

by the FDEP. The ECMP specifies the frequency of inspections and monitoring for the Engineering Control and the criteria for determining when the Engineering Control has failed. The Engineering Control shall be maintained in accordance with the ECMP as it may be amended upon the prior written consent of the FDEP. The ECMP, as amended, relating to FDEP Facility No. ERIC_15384 (Formerly COM_389587), can be obtained by contacting the appropriate FDEP district office or Tallahassee program area.

- b. Excavation and Construction. Excavation and construction below the Engineering Control is not prohibited on the Restricted Property provided any contaminated soils that are excavated are either: 1) placed back into the excavation and the Engineering Controls are reconstructed or 2) are removed and properly disposed of pursuant to Chapter 62-780, F.A.C., and any other applicable local, state, and federal requirements. Nothing herein shall limit any other legal requirements regarding construction methods and precautions that must be taken to minimize risk of exposure while conducting work in contaminated areas.

3. In the remaining paragraphs, all references to "GRANTOR" and "FDEP" shall also mean and refer to their respective successors and assigns.

4. For the purpose of monitoring the restrictions contained herein, FDEP is hereby granted a right of entry upon, over and through, and access to the Restricted Property at reasonable times and with reasonable notice to GRANTOR. Access to the Restricted Property is granted via providing access to the Property located at 320 South Lake Drive, Palm Beach, Florida, and as defined in Exhibit "A".

5. It is the intention of GRANTOR that this Declaration shall touch and concern the Restricted Property, run with the land and with the title to the Restricted Property, and shall apply to and be binding upon and inure to the benefit of GRANTOR and FDEP, and to any and all parties hereafter having any right, title or interest in the Restricted Property or any part thereof. FDEP may enforce the terms and conditions of this Declaration by injunctive relief and other appropriate available legal remedies. Any forbearance on behalf of FDEP to exercise its right in the event of the failure of GRANTOR to comply with the provisions of this Declaration shall not be deemed or construed to be a waiver of FDEP's rights hereunder. This Declaration shall continue in perpetuity, unless otherwise modified in writing by GRANTOR and FDEP as provided in paragraph 7 hereof. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation, or governmental agency that is substantially benefited by these restrictions. If GRANTOR does not or will not be able to comply with any or all of the provisions of this Declaration, GRANTOR shall notify FDEP in writing within three (3) calendar days. Additionally, GRANTOR shall notify FDEP thirty (30) days prior to any conveyance or sale, granting or transferring the Restricted Property or portion thereof, to

any heirs, successors, assigns or grantees, including, without limitation, the conveyance of any security interest in said Restricted Property.

6. In order to ensure the perpetual nature of this Declaration, GRANTOR shall record this Declaration, and GRANTOR shall reference these restrictions in any subsequent lease or deed of conveyance, including the recording book and page of record of this Declaration. Furthermore, prior to the entry into a landlord-tenant relationship with respect to the Restricted Property, GRANTOR agrees to notify in writing all proposed tenants of the Restricted Property of the existence and contents of this Declaration of Restrictive Covenant. Without limiting the generality of paragraph 3 above, it is the intention of the parties that if GRANTOR has conveyed the Restricted Property, the GRANTOR's successors and assigns shall be required to perform such notification.

7. This Declaration is binding until a release of covenant is executed by the FDEP Secretary (or designee) and is recorded in the public records of the county in which the land is located. To receive prior approval from the FDEP to remove any requirement herein, cleanup target levels established pursuant to Florida Statutes and FDEP rules must be achieved. This Declaration may be modified in writing only. Any subsequent amendments must be executed by both GRANTOR and FDEP and be recorded by GRANTOR as an amendment hereto.

8. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of that provision shall not affect the validity of any other provisions of the Declaration. All such other provisions shall continue unimpaired in full force and effect.

9. GRANTOR covenants and represents that on the date of execution of this Declaration that GRANTOR is seized of the Restricted Property in fee simple and has good right to create, establish, and impose this restrictive covenant on the use of the Restricted Property. GRANTOR also covenants and warrants that the Restricted Property is free and clear of any and all liens, mortgages, or encumbrances that could impair GRANTOR'S rights to impose the restrictive covenant described in this Declaration.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, TOWN OF PALM BEACH has executed this instrument,
this _____ day of _____, 20____.

GRANTOR

TOWN OF PALM BEACH, a municipal
corporation existing under the laws of the State
of Florida

By: _____
Kirk Blouin, Town Manager

Full Mailing Address:
360 South County Road
Palm Beach, Florida 33480

Signed, sealed and delivered in the presence of:

_____ Date: _____
Witness
Print Name: _____

_____ Date: _____
Witness
Print Name: _____

STATE OF FLORIDA)

COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of physical
presence or online notarization, this _____ day of _____, 20____,
by Kirk Blouin, Town Manager for TOWN OF PALM BEACH, a municipal corporation
existing under the laws of the State of Florida.

Personally Known _____ OR Produced Identification _____.
Type of Identification Produced _____.

Signature of Notary Public

Print Name of Notary Public

Commission No. _____

Commission Expires _____

Approved as to form by the Florida Department of Environmental Protection, Office of General Counsel _____.

IN WITNESS WHEREOF, the Florida Department of Environmental Protection has executed this instrument, this _____ day of _____, 20____.

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

JASON ANDREOTTA
Director of District Management
Department of Environmental Protection
Southeast District
3301 Gun Club Road, MCS7210-1
West Palm Beach, Florida 33406

Signed, sealed and delivered in the presence of:

Witness: _____ Date: _____
Print Name: _____

Witness: _____ Date: _____
Print Name: _____

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 20____, by _____ as representative for the Florida Department of Environmental Protection.

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

Signature of Notary Public

Print Name of Notary Public

Commission No. _____

Commission Expires: _____

EXHIBIT "A"

**DESCRIPTION SKETCH FOR:
TOWN OF PALM BEACH**

LEGAL DESCRIPTION (Entire Property):

Block 20, according to the **REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH, FLORIDA**, as recorded in Plat Book 4, Page 1, Public Records of palm Beach County, **LESS AND EXCEPT** that portion lying South of the Westerly prolongation of the South line of Lot 2, Block 13, according to said **REVISED MAP OF ROYAL PARK ADDITION**.

Containing in all 6.366 acres, more or less.

LEGAL DESCRIPTION (Restricted Property):

A Portion of Block 20, according to the **REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH, FLORIDA**, as recorded in Plat Book 4, Page 1, Public Records of Palm Beach County, being more particularly described as follows.

COMMENCE at the North West corner of Lot 3, Block 13, according to said plat;
 thence N. 88°55'12" W., along the Westerly prolongation of the North line of said Lot 3 (the North line of said Lot 3 is assumed to bear N. 88°55'12" W. and all other bearings are relative thereto), a distance of 40.05 feet to a point on the East line of said Block 20;
 thence N. 01°48'12" W., along said East line, a distance of 333.93 feet to a point;
 thence N. 03°21'35" E., a distance of 69.47 feet to a point;
 thence S. 89°19'45" W., departing said East line, a distance of 20.35 feet to the **POINT OF BEGINNING** of the hereinafter described parcel;
 thence S. 89°19'45" W., a distance of 64.56 feet to a point;
 thence N. 2°49'19" W., a distance of 25.85 feet to a point;
 thence N. 88°13'23" E., a distance of 36.46 feet to a point;
 thence S. 5°22'32" E., a distance of 15.49 feet to a point;
 thence S. 89°14'31" E., a distance of 28.74 feet to a point;
 thence S. 04°28'00" W., a distance of 10.42 feet to the **POINT OF BEGINNING**.

Containing in all 1,269 square feet, more or less.

NOTES:

1. No title policy or commitment affecting title or boundary to the subject property has been provided. It is possible there are deeds and easements, recorded or unrecorded, which could affect the subject property. No search of the Public Records has been made by this office.
2. This sketch cannot be transferred or assigned without the specific written permission of **Wallace Surveying Corporation**.
3. This is not a survey!
4. Unless presented in digital form with electronic seal and electronic signature this sketch must bear the signature and the original raised seal of a Florida licensed surveyor or mapper this drawing, sketch, plat or map is for informational purposes only and is not valid. This sketch must be accompanied by Exhibit "B".

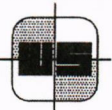
CERTIFICATION:

I HEREBY ATTEST that the description sketch shown hereon conforms to the Standards of Practice set forth by the Florida Board of Professional Surveyors and Mappers adopted in Rule 5J-17, Florida Administrative Code pursuant to Section 472.027, Florida Statutes, effective September 1, 1981.

CRAIG L WALLACE
 Digitally signed by CRAIG L WALLACE
 Date: 2022.01.04 13:15:03 -05'00'



(Handwritten Signature)
 Craig L. Wallace
 Professional Surveyor and Mapper
 Florida Certificate No. 3357



WALLACE SURVEYING
 CORP. LICENSED BUSINESS # 4569

5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

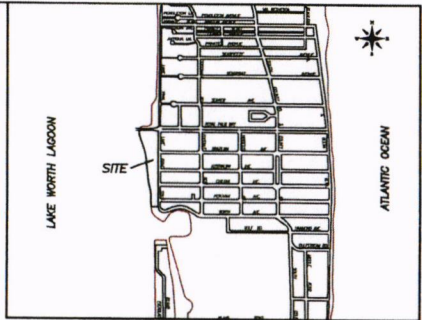
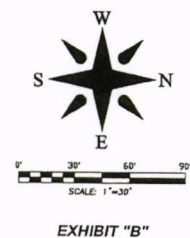
DATE: 09/03/21	DWG. No.: 95-1311-3
OFFICE: S.W.	SHEET: 1 OF 1
C'K'D.: C.W.	JOB No.: 95-1311.7

LEGEND

- A + ARC LENGTH
- AC + AIR CONDITIONING
- AE + ACCESS EASEMENT
- A.S.A. + ASBESTOS
- B.F.P. + BACKFLOW PREVENTER
- BLDD + BUILDING
- B.M. + BENCHMARK
- B.O.C. + BACK OF CURB
- B.O.W. + BACK OF WALK
- (C) + CALCULATED
- CA + CABLE ANTENNA TELEVISION
- CB + CHORD BEARING
- C.B.S. + CONCRETE BLOCK STRUCTURE
- C.C.L. + COASTAL CONSTRUCTION CONTROL LINE
- CH + CHORD
- C.L.F. + CHAIN LINK FENCE
- CLR. + CLEAR
- C.O. + CLEAN OUT
- CONC. + CONCRETE
- (D) + DESCRIPTION DATUM
- D.B. + DEED BOOK
- D.E. + DRAINAGE EASEMENT
- E.B. + ELECTRIC BOX
- E.M. + ELECTRIC METER
- EL. + ELEVATION
- ENC. + ENCROACHMENT
- E.O.P. + EDGE OF PAVEMENT
- E.O.W. + EDGE OF WATER
- F.D.C. + FIRE DEPARTMENT CONNECTION
- F.F. + FINISH FLOOR
- FND. + FOUND
- F.O.C. + FACE OF CURB
- I.D. + INSIDE DIAMETER
- INSV. + INSURANCE
- I.T.W.C.D. + INDIAN TRAIL WATER CONTROL DISTRICT
- L.A.E. + LIMITED ACCESS EASEMENT
- L.B. + LICENSE BOARD
- L.W.D.D. + LAKE WORTH DRAINAGE DISTRICT
- M. + MEASUREMENT
- M.H. + MANHOLE
- M.H.W. + MEAN HIGH WATER LINE
- M.L.W.L. + MEAN LOW WATER LINE
- N.A.V.D. + NORTH AMERICAN VERTICAL DATUM
- N.S.V.D. + NATIONAL GEODETIC VERTICAL DATUM
- N.P.B.C.I.D. + NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT
- NOT TO SCALE
- OA + OVERALL
- O.D. + OUTSIDE DIAMETER
- OH + OVERHEAD UTILITY LINE
- O.R.B. + OFFICIAL RECORD BOOK
- P. + PLANTER
- (P) + PLAT DATUM
- P.B. + PLAT BOOK
- P.B.C. + PALM BEACH COUNTY
- P.C. + POINT OF CURVATURE
- P.C.C. + POINT OF COMPOUND CURVATURE
- P.C.R. + PERMANENT CONTROL POINT
- PAGE. + PAGE
- P.I. + POINT OF INTERSECTION
- P.O. + POINT OF BEGINNING
- P.O.C. + POINT OF COMMENCEMENT
- P.O.C. + POINT OF REVERSE CURVATURE
- P.R.M. + PERMANENT REFERENCE MONUMENT
- PROP. + PROPOSED
- P.T. + POINT OF TANGENCY
- PRMT. + PAVEMENT
- (R) + RADIAL
- R. + RANGE
- R.P.B. + ROAD PLAT BOOK
- R.W. + RIGHT OF WAY
- (S) + SURVEY DATUM
- S.B. + SETBACK
- SEC. + SECTION
- S.F. + SQUARE FEET
- S.F.W.M.D. + SOUTH FLORIDA WATER MANAGEMENT DISTRICT
- S.I.R.W.C.D. + SOUTH INDIAN RIVER WATER CONTROL DISTRICT
- S.M. + SANITARY MANHOLE
- S.R. + STATE ROAD
- STAH. + STORM MANHOLE
- STY. + STORY
- SWY. + SIDEWALK
- T.O.B. + TOP OF BANK
- T.S.B. + TRAFFIC SIGNAL BOX
- TWP. + TOWNSHIP
- TYP. + TYPICAL
- UNC. + UNDER CONSTRUCTION
- U.E. + UTILITY EASEMENT
- UNR. + UNRECORDED
- W.C. + WITNESS CORNER
- W.M.E. + WATER MANAGEMENT EASEMENT
- W.M.M.E. + WATER MANAGEMENT MAINTENANCE EASEMENT
- W.M.T. + WATER MANAGEMENT TRACT
- W.M.T. + CENTERLINE
- W.M.T. + CENTRAL ANGLE/DELTA
- W.M.T. + CONCRETE MONUMENT FOUND (AS NOTED)
- W.M.T. + CONCRETE MONUMENT SET (L.B. #4558)
- W.M.T. + ROD & CAP FOUND (AS NOTED)
- W.M.T. + S.F. ROD & CAP SET (L.B. #4558)
- W.M.T. + IRON PIPE FOUND (AS NOTED)
- W.M.T. + IRON ROD FOUND (AS NOTED)
- W.M.T. + NAIL FOUND
- W.M.T. + NAIL & DISK FOUND (AS NOTED)
- W.M.T. + MUD HALL & DISK SET (L.B. #4558)
- W.M.T. + PROPERTY LINE
- W.M.T. + UTILITY POLE
- W.M.T. + FIRE HYDRANT
- W.M.T. + WATER METER
- W.M.T. + WATER VALVE
- W.M.T. + LIGHT POLE
- W.M.T. + PINE TREE
- W.M.T. + SAGPALM PALM

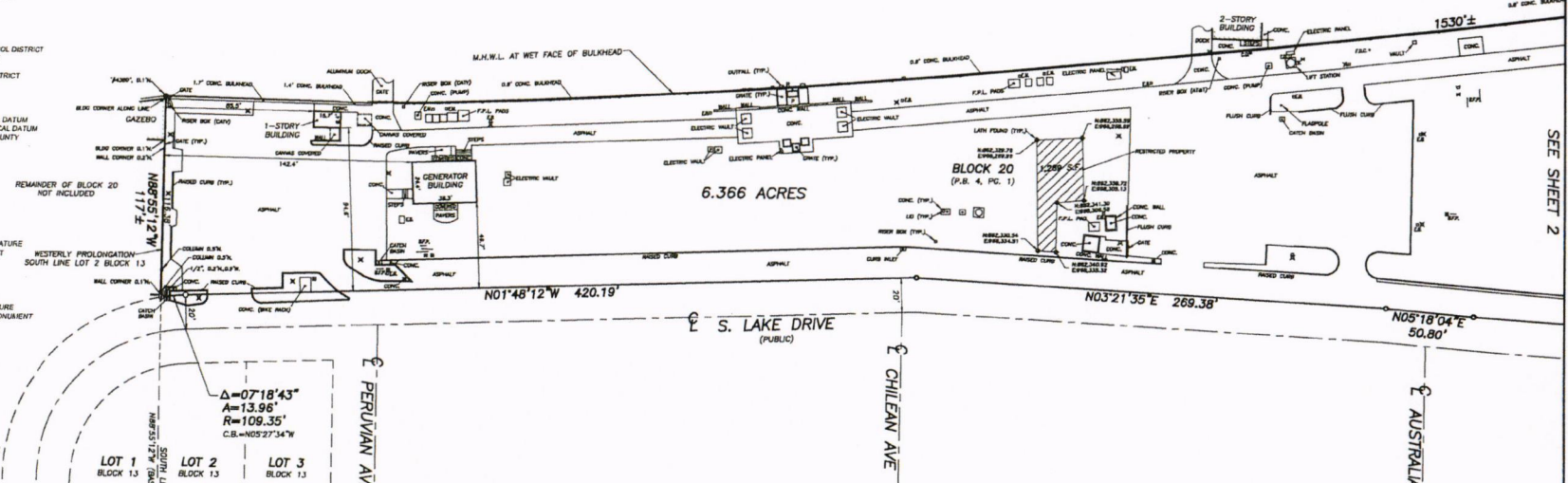
BOUNDARY SURVEY FOR: THE TOWN OF PALM BEACH

This survey is made specifically and only for the following party for the purpose of a closing on the surveyed property.
The Town of Palm Beach
The undersigned surveyor assumes no responsibility or liability for any other purpose or to any other party other than stated above.



LAKE WORTH LAGOON

VICINITY SKETCH N.T.S.



$$\Delta = 07'18''43''$$

$$A = 13.96'$$

$$R = 109.35'$$

$$C.B. = N05°27'34''W$$

CRAIG L WALLACE
Digitally signed by
CRAIG L WALLACE
Date: 2022.01.04
13:14:31 -05'00'

PROPERTY ADDRESS:
305 S Lake Drive
Palm Beach, FL 33408

LEGAL DESCRIPTION:
Block 20, according to the REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH, FLORIDA, as recorded in Plat Book 4, Page 1, Public Records of Palm Beach County, LESS AND EXCEPT that portion lying South of the Westerly prolongation of the South line of Lot 2, Block 12, according to said REVISED MAP or MAPAL PARK ADDITION.
Containing in all 6.366 acres, more or less.

FLOOD ZONE:
This property is located in Flood Zone AE (R) 6, according to F.I.R.M. (Flood Insurance Rate Map) No. 12090C0563F, dated 10/20/17.

CERTIFICATION:
I HEREBY ATTEST that the survey shown hereon conforms to the Standards of Practice set forth by the Florida Board of Professional Surveyors and Mappers adopted in Rule 6A-17, Florida Administrative Code pursuant to Section 472.027, Florida Statutes, effective September 1, 1991.

DATE OF LAST FIELD SURVEY: 4/24/19

- NOTES:**
- All information regarding record easements, adjacent, and other documents that might affect the quality of title in tract shown hereon was gained from a title search by Gordon Thompson, P.E. dated 2/19/21. This office has made no search of the Public Records.
 - Elevations shown hereon, if any, are in feet and decimal parts thereof and are based on NAVD-88. The expected accuracy of the elevations shown hereon is 0.03' for the hard surface elevations (shown plus a 0.03) and 0.1' (shown plus a 0.1) for the soft surface elevations. Elevations shown hereon are U.S. survey level unless otherwise stated.
 - Descriptions furnished by client or client's agent.
 - Utilities presented in digital form with electronic seal and electronic signature this survey must bear the signature and the original raised seal of a Florida licensed surveyor or mapper this drawing.
 - This survey cannot be transferred or assigned without the specific written permission of Wallace Surveying Corporation, Certificate of Authorization Number LD4558.
 - Except as shown, underground and overhead improvements are not located. Underground foundations not located.
 - The survey sketch shown hereon does not necessarily contain all of the information obtained or developed by the undersigned surveyor in his field work, office work or research.
 - No responsibility is assumed by this surveyor for the construction of improvements, such building line shown on this survey.
 - Revisions shown hereon do not represent a "survey update" unless otherwise stated.
 - All sales shown within the traverse block hereon are for interior file use only and in no way affect the date of the field survey stated herein.
 - In some instances, proper representations have been exaggerated to more clearly illustrate the relationships between physical improvements and/or lot lines. In all cases, dimensions shown shall control the location of the improvements over scaled positions.
 - If a violation of Rule 6A-17 of the Florida Administrative Code to alter the survey without the express prior written consent of the Surveyor. Actions and/or omissions made to the face of this survey will make this survey invalid.
 - The ownership of fences, perimeter walls and/or hedges shown hereon are not shown and thus are not listed as encroachments. Fences, hedges and/or perimeter walls are shown in their relative position to the boundary.
 - The expected horizontal accuracy of the information shown hereon is +/- 0.10'.

REVISIONS:

001/121 LOCATE STAKED SOIL REMOVAL AREA B.M.S.W. 85-1311.7 PB31066
TITLE REVIEW S.W. 85-1311.6

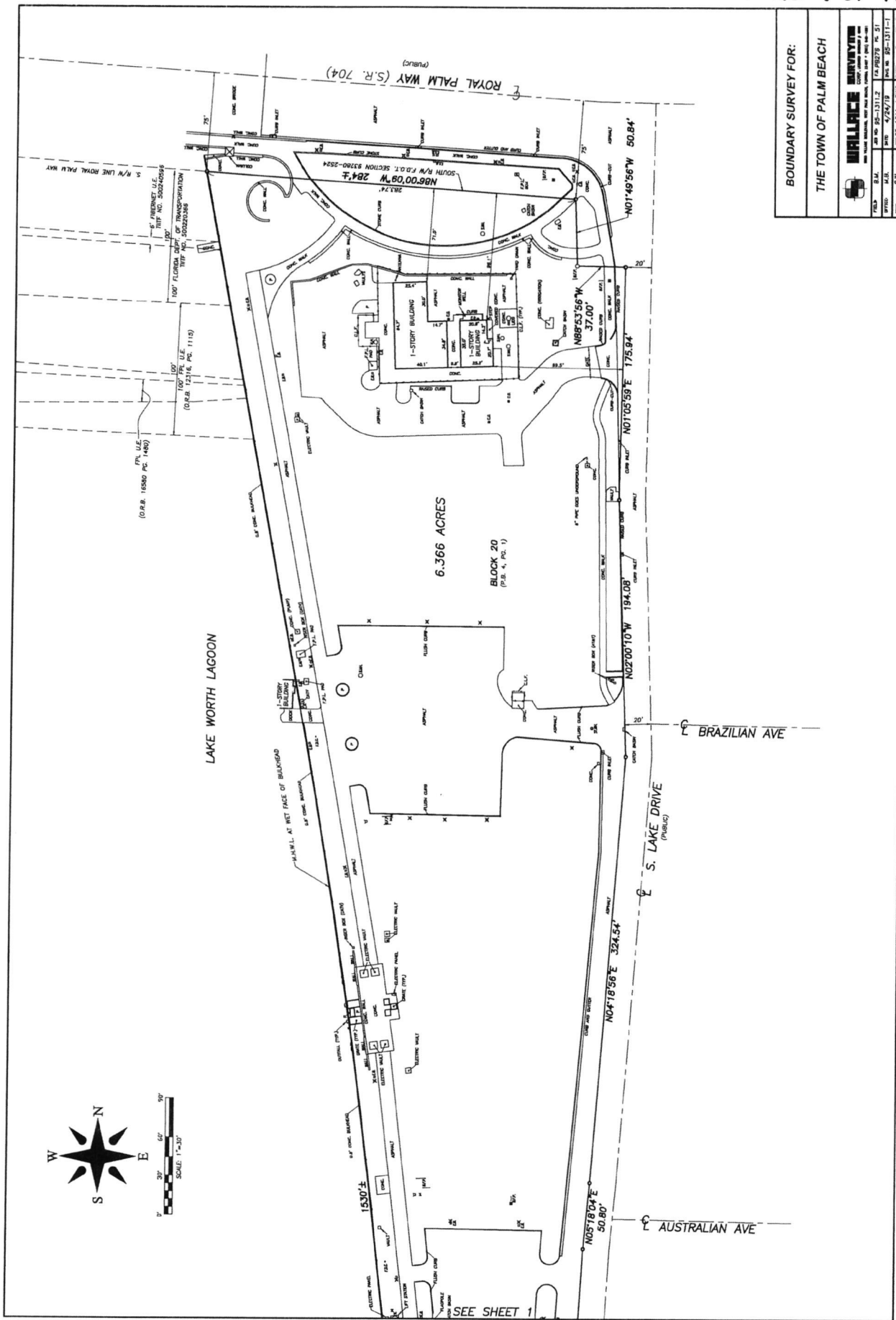
BOUNDARY SURVEY FOR:

THE TOWN OF PALM BEACH

WALLACE SURVEYING
CORP. LICENSE NUMBER 4558

FILED	B.M.	REV. NO.	85-1311.2	PLAT	PB276	PG.	51
OFFICE	M.D.	DATE	4/24/19	ENG. NO.	85-1311-1		
BY	C.W.	REV.	85-1311-1, L.O.W.G.	SHEET	1	OF	3

PAGE 8 OF 11

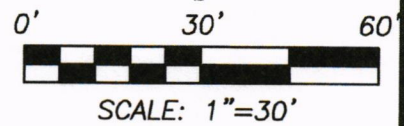


BOUNDARY SURVEY FOR:

THE TOWN OF PALM BEACH

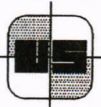
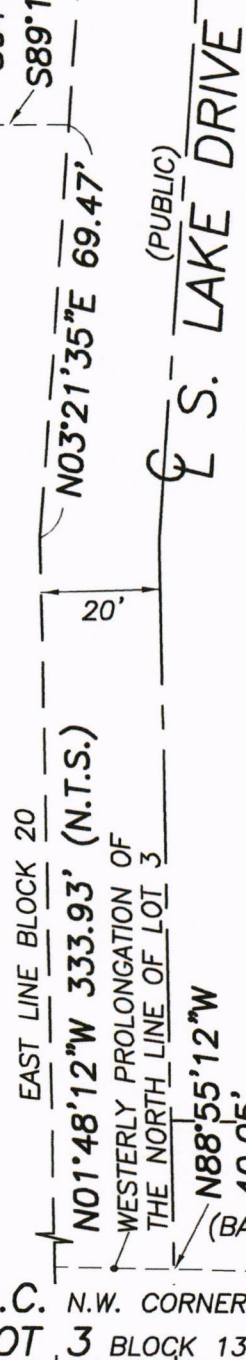
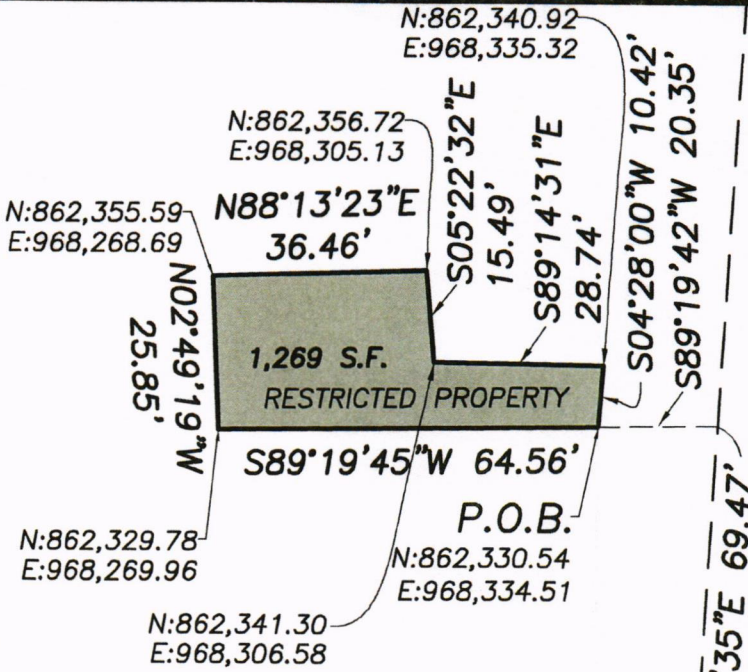
DATE	BY	SCALE	PROJECT
05/11/12	J. L. P. 279	1" = 20'	05-1311-2
05/11/12	J. L. P. 279	1" = 20'	05-1311-1
05/11/12	J. L. P. 279	1" = 20'	05-1311-3

EXHIBIT "B"



LAKE WORTH LAGOON

REVISED MAP OF
ROYAL PARK ADDITION
TO PALM BEACH,
FLORIDA
BLOCK 20
(P.B. 4, PG. 1)



WALLACE SURVEYING
CORP. LICENSED BUSINESS # 4569

5553 VILLAGE BOULEVARD, WEST PALM BEACH, FLORIDA 33407 * (561) 640-4551

DATE: 07/22/21	DWG. No.: 95-1311-2
OFFICE: S.W.	SHEET: 3 OF 3
C'K'D.: C.W.	JOB No.: 95-1311.7

