

Structure No.: A115V5, A115V6, B115V5, B115V6, C115V5, C115V6, 115V4A, 115V5A, 115V5, 115V6  
Section 06, Township 44S, Range 41E  
Easement No.: c08500010, c085a0100  
Parcel ID: 73414406030100020 and 73414406030100010  
(Maintained by County Appraiser)

**RIGHT-OF-WAY CONSENT AGREEMENT  
(Governmental Entity)**

FLORIDA POWER & LIGHT COMPANY, a Florida corporation, whose mailing address is P.O. Box 14000, Juno Beach, Florida 33408-0420, Attn: Corporate Real Estate Department, hereinafter referred to as "**Company**", hereby consents to the Village of Wellington, whose mailing address is 12300 Forest Hill Boulevard, Wellington, Florida 33414, hereinafter referred to as "**Licensee**", using an area within Company's right-of-way granted by that certain agreement recorded in Official Record Book 1766, at Page 1317, and Deed Book 1031, at Page 476, both of the Public Records of Palm Beach County, Florida. The said area within Company's right-of-way, hereinafter referred to as "**Lands**", is more particularly described on **Exhibit "A"** attached hereto. The use of the Lands by Licensee shall be solely for the purpose of one eight foot (8') wide asphalt path to be used solely for bicycle and pedestrian purposes (as such terms are used in Florida Statute 375.251) as shown on the plans and specifications submitted by Licensee, attached hereto as **Exhibit "B"**. **Use of the Lands for equestrian purposes is strictly prohibited.**

In consideration for Company's consent and for the other mutual covenants set forth below, and for Ten Dollars and No Cents (\$10.00) and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. Licensee agrees to obtain all necessary rights from the owners of the Lands in the event Licensee does not own said Lands; to obtain any and all applicable federal, state, and local permits required in connection with Licensee's use of the Lands; and at all times, to comply with all requirements of all federal, state, and local laws, ordinances, rules and regulations applicable or pertaining to the use of the Lands by Licensee pursuant to this Agreement.

2. Licensee understands and agrees that the use of the Lands pursuant to this Agreement is subordinate to the rights and interest of Company in and to the Lands and agrees to notify its employees, agents, and contractors accordingly. Company specifically reserves the right to maintain its facilities located on the Lands; to make improvements; add additional facilities; maintain, construct or alter roads; maintain any facilities, devices, or improvements on the Lands which aid in or are necessary to Company's business or operations; and the right to enter upon the Lands at all times for such purposes. Licensee understands that in the exercise of such rights and interest, Company from time-to-time may require Licensee, to relocate, alter, or remove its facilities and equipment, including parking spaces and areas, and other improvements made by Licensee pursuant to this Agreement which interfere with or prevent Company, in its opinion, from properly and safely constructing, improving, and maintaining its facilities. Licensee agrees to relocate, alter, or remove said facilities, equipment, parking spaces and areas, and other improvements within thirty (30) days of receiving notice from Company to do so. Such relocation, alteration, or removal will be made at the sole cost and expense of Licensee and at no cost and expense to Company; provided however, should Licensee, for any reason, fail to make such relocation, alteration, or removal, Company retains the right to enter upon the Lands and make said relocation, alteration, or removal of Licensee's facilities, equipment, parking spaces and areas, and other improvements and Licensee hereby agrees to reimburse Company for all of its costs and expense incurred in connection therewith upon demand.

3. Licensee agrees that it will not use the Lands in any manner which, in the opinion of Company, may tend to interfere with Company's use of the Lands or may tend to cause a hazardous condition to exist. Licensee agrees that no hazardous substance, as the term is defined in Section 101 (14) of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") (42 USC Section 9601 [14]), petroleum products, liquids or flammables shall be placed on, under, transported across or stored on the Lands, which restricts, impairs, interferes with, or hinders the use of the Lands by Company or the exercise by Company of any of its rights thereto. Licensee agrees further that in the event it should create a hazardous condition, then upon notification by Company, Licensee shall, within seventy-two (72) hours, at its sole cost and expense, correct such condition or situation; provided however that the Company retains the right to enter upon the Lands and correct any such condition or situation at any time and, by its execution hereof, Licensee hereby agrees to indemnify and hold harmless Company from all loss, damage or injury resulting from Licensee's failure to comply with the provisions of this Agreement. The foregoing indemnification and hold harmless shall not be construed as a waiver of sovereign immunity by the Licensee beyond the limits set forth in Section 768.28, Florida Statutes, if applicable.

4. Licensee hereby agrees and covenants to prohibit its agents, employees, and contractors from using any tools, equipment, or machinery on the Lands capable of extending greater than fourteen (14) feet above existing grade and further agrees that no dynamite or other explosives shall be used within the Lands and that no alteration of the existing terrain, including the use of the Lands by Licensee as provided herein, shall be made which will result in preventing Company access to its facilities located within said Lands. Unless otherwise provided herein, Licensee agrees to maintain the Lands clear of any activities of Company's existing and planned facilities.

5. Licensee understands and agrees that the planting of trees, shrubs, and other foliage capable of exceeding fourteen (14) feet in height at full maturity is not permitted within Company's Lands.

6. Outdoor lighting installed or to be installed upon the Lands by Licensee are not to exceed a height of fourteen (14) feet above existing grade and all poles or standards supporting light fixtures are to be of a non-metallic material.

7. Sprinkler systems installed or to be installed by Licensee upon the Lands are to be constructed of a non-metallic material and sprinkler heads are to be set so the spray height does not exceed fourteen (14) feet above existing grade and does not make contact with any Company's facilities. Aboveground systems shall not be installed within or across Company patrol or finger roads and underground systems crossing said patrol and finger roads are to be buried at a minimum depth of one (1) foot below existing road grade.

8. Licensee agrees to warn its employees, agents, contractors and invitees of the fact that the electrical facilities and appurtenances installed or to be installed by Company within the Lands are of high voltage electricity and agrees to use all safety and precautionary measures when working under or near Company's facilities. Licensee hereby acknowledges the receipt and required execution of Form 360 **Exhibit "C"** prior to the commencement of construction within the Lands.

9. Licensee agrees, at all times, to maintain and keep the Lands clean and free of debris. Except as provided herein, Licensee further understands and agrees that Company grants this License to Licensee for the creation and maintenance of an eight foot (8') wide asphalt path to be used solely for pleasure riding of bicycles and pedestrian hiking purposes as set forth in Florida Statute 375.251, and for no other purposes whatsoever, including without limitation, hunting and camping which is strictly prohibited.

10. The use of the Lands by Licensee shall be at the sole risk and expense of Licensee, and Company is specifically relieved of any responsibility for damage or loss to Licensee or other persons resulting

from Company's use of the Lands for its purposes, subject to the sovereign immunity limitations contained below in Paragraph 11.

11. Notwithstanding any provision contained herein, Licensee agrees to reimburse Company for all cost and expense for any damage to Company's existing or future facilities located within the Lands, resulting from Licensee's negligent, willful or intentional acts or omissions up to and in an amount not to exceed Three Million Dollars (\$3,000,000) per occurrence. Licensee shall reimburse Company through insurance coverage or directly if insurance coverage is not available in whole or in part upon a determination that Licensee's negligent, willful or intentional acts or omissions have resulted in damage to Company's existing or future facilities located within the Lands. Nothing herein shall be construed as a waiver of sovereign immunity by Licensee for damage to Company's existing or future facilities located within the Lands beyond the limits set forth in this paragraph. Further, nothing herein shall be construed as a waiver of sovereign immunity by Licensee beyond the limits set forth in Section 768.28, Florida Statutes, for any other acts or omissions by Licensee not involving damage to Company's existing or future facilities located within the Lands.

12. Each party hereto agrees it shall be responsible for its own negligent, willful, or intentional acts or omissions. Licensee agrees it will exercise its privileges hereunder at its own sole risk and agrees subject to the limitations contained in Section 768.28, Florida Statutes, if applicable, to indemnify and save harmless Company, its parent, subsidiaries, affiliates, and their respective officers, directors, agents and employees (hereinafter referred to as the "FPL Entities"), from all liability, loss, cost, and expense, including attorneys' fees, which may be sustained by FPL Entities to any person, natural or artificial, by reason of the death of or injury to any person or damage to any property, arising out of or in connection with the herein described purposes by Licensee, its contractors, agents, or employees; and Licensee agrees subject to the limitations contained in Section 768.28, Florida Statutes, if applicable, to defend at its sole cost and expense and at no cost and expense to FPL Entities any and all suits or action instituted against FPL Entities, for the imposition of such liability, loss, cost and expense. Nothing contained herein shall be construed as a waiver of sovereign immunity by the Licensee beyond the limits set forth in Section 768.28, Florida Statutes. Furthermore, nothing contained herein shall be construed to be consent by either party to be sued by third parties in any matter arising out of this Agreement. This section shall survive revocation, termination, extinguishment of this Agreement coextensively with other surviving provisions of this Agreement.

13. During all times of construction, Licensee shall include in any agreement with each of Licensee's contractors and subcontractors performing work in connection with the Project, the requirement that the contractors and subcontractors procure and maintain at their sole expense, the minimum insurance listed in **Exhibit "D"**.

14. This Agreement will become effective upon execution by Company and Licensee and will remain in full force and effect until completion of Licensee's use of the Lands pursuant to this Agreement, unless earlier terminated upon ninety ( 90 ) days written notice by Company to Licensee, or at the option of Company, immediately upon Licensee failing to comply with or to abide by any or all of the provisions contained herein.

15. The use granted herein as shown on **Exhibit "B"** shall be under construction by Licensee within one (1) year of the effective date of this Agreement and the construction shall be diligently pursued to completion. Licensee shall give Company ten (10) days prior written notice of its commencement of construction. "Under construction" is the continuous physical activity of placing the foundation or continuation of construction above the foundation of any structure or improvement permitted hereunder. Under construction does not include application for or obtaining a building permit, a site plan approval or zoning approval from the appropriate local government agency having jurisdiction over the activity, purchasing construction materials, placing such construction materials on the site, clearing or grading the site (if permitted) in anticipation of construction, site surveying, landscaping work or reactivating construction after substantially

all construction activity has remained stopped for a period of two (2) months or more. Licensee acknowledges that failure to have the use under construction within the one (1) year time period will result in immediate termination of this Agreement in accordance with Paragraph 14 herein for failing to comply with the provisions contained herein unless Licensors grants a written extension for a mutually agreed upon time. Any request for an extension of time shall be submitted in writing by Licensee no later than thirty (30) days prior to the expiration of the one (1) year period for the project to be under construction.

16. The term "Licensee" shall be construed as embracing such number and gender as the character of the party or parties require(s) and the obligations contained herein shall be absolute and primary and shall be complete and binding as to each, including its successors and assigns, upon this Agreement being executed by Licensee and subject to no conditions precedent or otherwise.

17. Should any provision of this Agreement be determined by a court of competent jurisdiction to be illegal or in conflict with any applicable law, the validity of the remaining provisions shall not be impaired. In the event of any litigation arising out of enforcement of this Consent Agreement, the prevailing party in such litigation shall be entitled to recovery of all costs, including reasonable attorneys' fees. Venue for any litigation arising from this Agreement shall be exclusively in Palm Beach County, Florida,

18. Licensee may assign its rights and obligations under this Agreement to a solvent party upon prior written consent of the company, which consent shall not be unreasonably withheld.

19. Licensee agrees that any review or approval by Company of the plans and/or specifications submitted by Licensee attached hereto as **Exhibit "B"**, the approval of the identity of any contractors, subcontractors and materialmen, or the delivery by Company of any construction specifications to Licensee, is solely for the purpose of processing this Consent, and without any representation or warranty whatsoever to Licensee with respect to the adequacy, correctness or efficiency thereof or otherwise and it is understood that such Company's approval does not absolve Licensee of any liability hereunder. Further, Licensee, in connection with the construction, maintenance and/or removal of improvements depicted on **Exhibit "B"** to the Agreement, agrees to observe and fully comply with all construction, operation and maintenance standards, as well as all applicable laws, rules and regulations of the United States, the State of Florida, and all agencies and political subdivisions thereof, including without limitation, the National Electric Safety Code and the Occupational Safety & Health Administration regulations, standards, rules, registers, directives or interpretations.

20. This Agreement includes and is subject to the provisions described on the attached Addendum.

[Signatures appear on following page.]

The parties have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Witnesses:

**FLORIDA POWER & LIGHT COMPANY**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

Its: Samantha J. Saucier\_

Print Name: Area Real Estate Manager\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Witnesses:

**LICENSEE: VILLAGE OF WELLINGTON**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

Its: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(Corporate Seal)

## **Exhibit "A"**

### **Legal Description of the Lands**

A 25.00' wide strip of land lying within a portion of Parcel "J", BINK'S FOREST OF THE LANDINGS AT WELLINGTON P.U.D. PLAT 2, according to the plat thereof as recorded in Plat Book 70, Page 162 of the Public Records of Palm Beach County, Florida. Being more particularly described as follows:

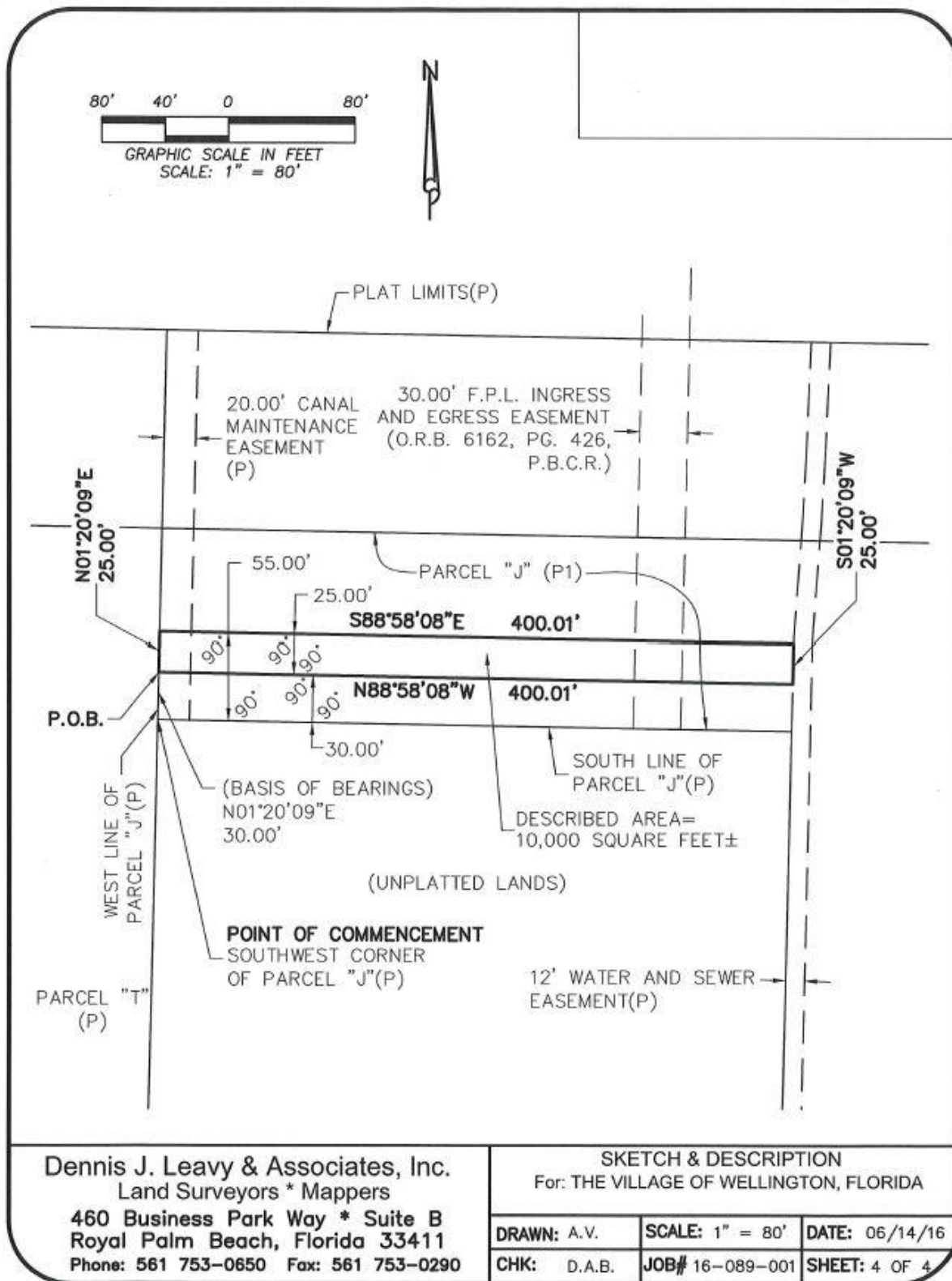
COMMENCING at the Southwest corner of said Parcel "J"; thence North 01°20'09" East (as a basis of bearings) along the West line of said Parcel "J", a distance of 30.00 feet, to a point being on a line lying 30.00 feet North of and parallel with (as measured at right angles) the South line of said Parcel "J" and the POINT OF BEGINNING; thence continue North 01°20'09" East along the West line of said Parcel "J", a distance of 25.00 feet to a point being on a line lying 55.00 feet North of and parallel with (as measured at right angles) the South line of said Parcel "J"; thence South 88°58'08" East along said parallel line, a distance of 400.01 feet; thence South 01°20'09" West, a distance of 25.00 feet to a point being on a line lying 30.00 feet North of and parallel with (as measured at right angles) the South line of said Parcel "J"; thence North 88°58'08" West along said parallel line, a distance of 400.01' to the POINT OF BEGINNING.

Said lands situate, lying and being within Section 6, Township 44 South, Range 41 East, Palm Beach County, Florida.

Containing 10,000 square feet more or less.

*Together with:*

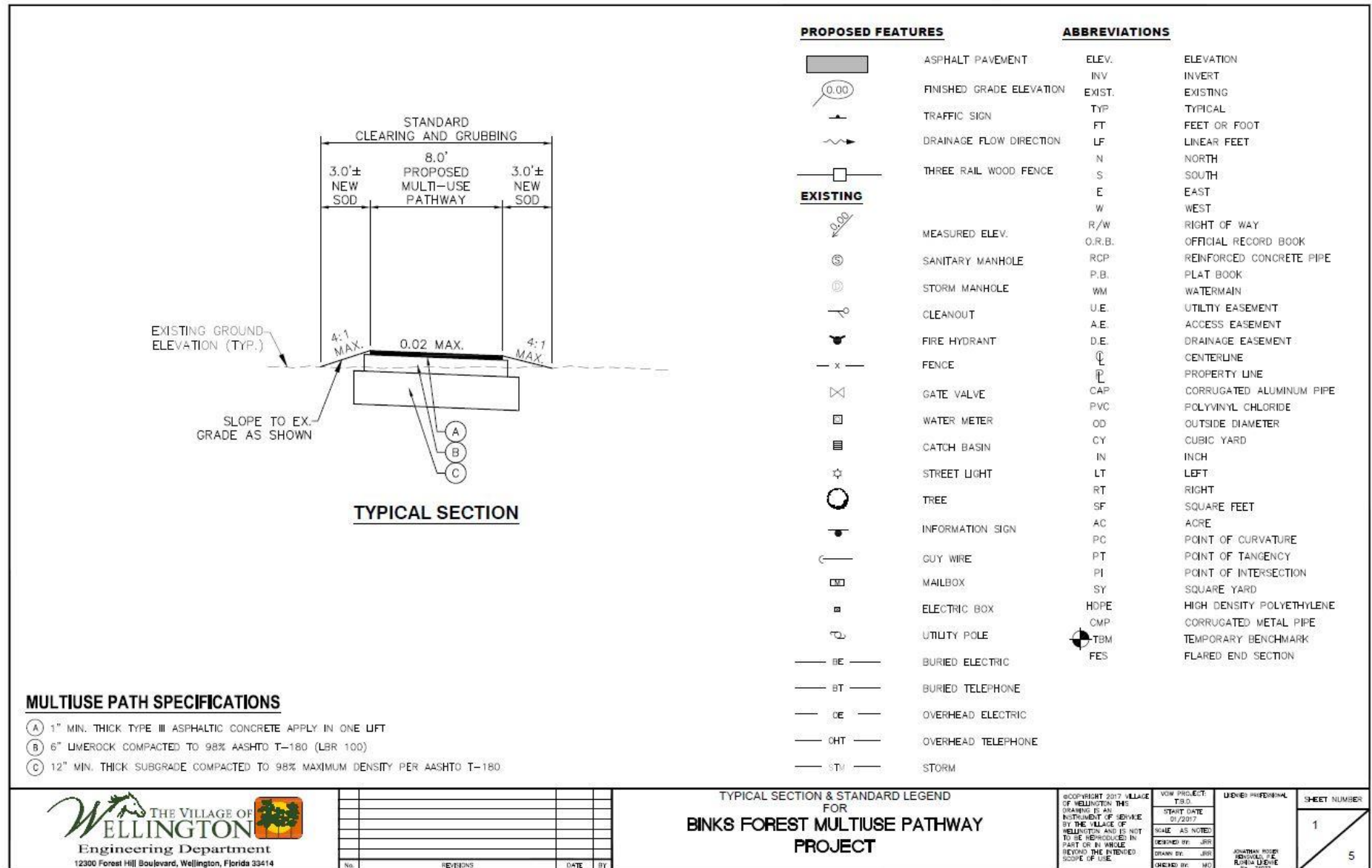
TRACT "W" OF BINKS POINTE, ACCORDING TO THE PLAT THEREOF, AS RECORDED, IN PLAT BOOK 123, PAGES 158-159, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.



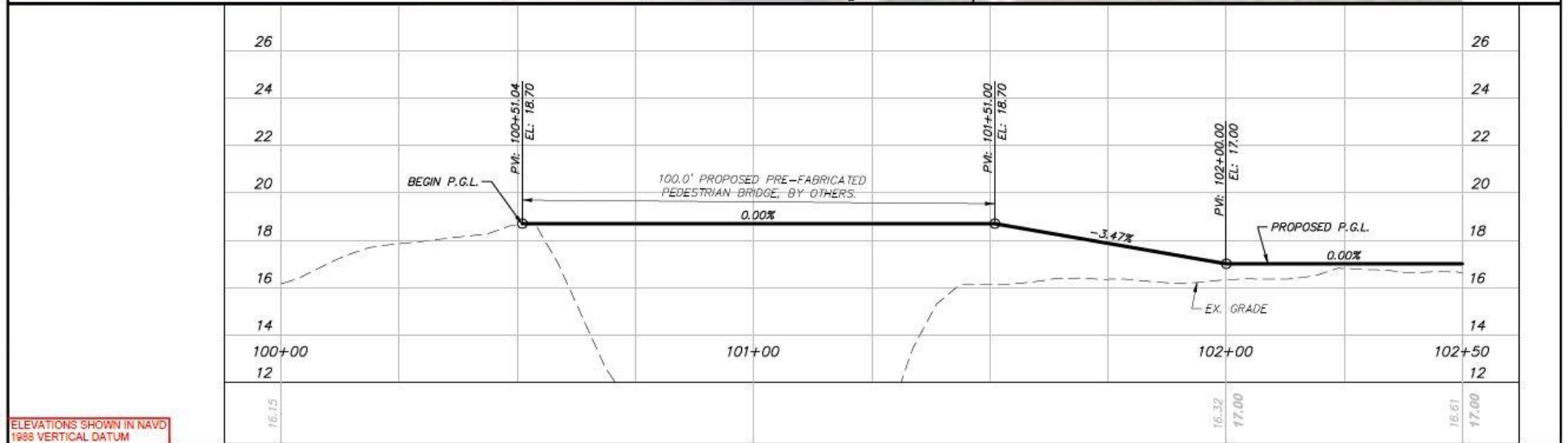
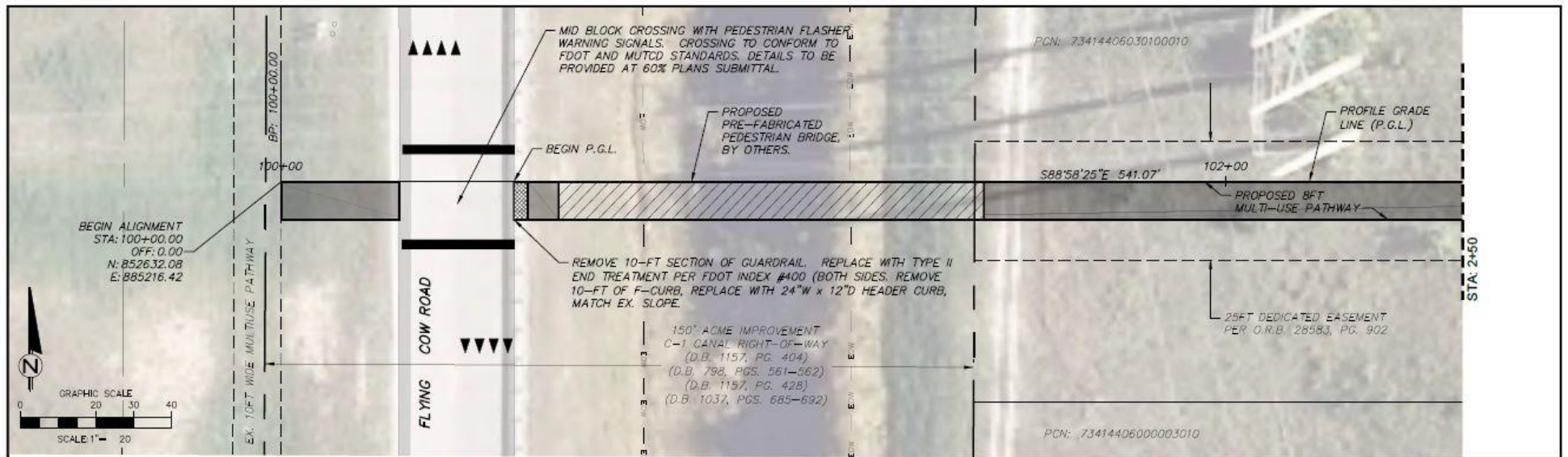
K:\2016 jobs\16-089\dwg\16-089-SD.dwg, 6/23/2016 9:23:10 AM, 0dhdv12\CONICA MINOLTA C201

# Exhibit "B"

## Approved Plans and Specifications







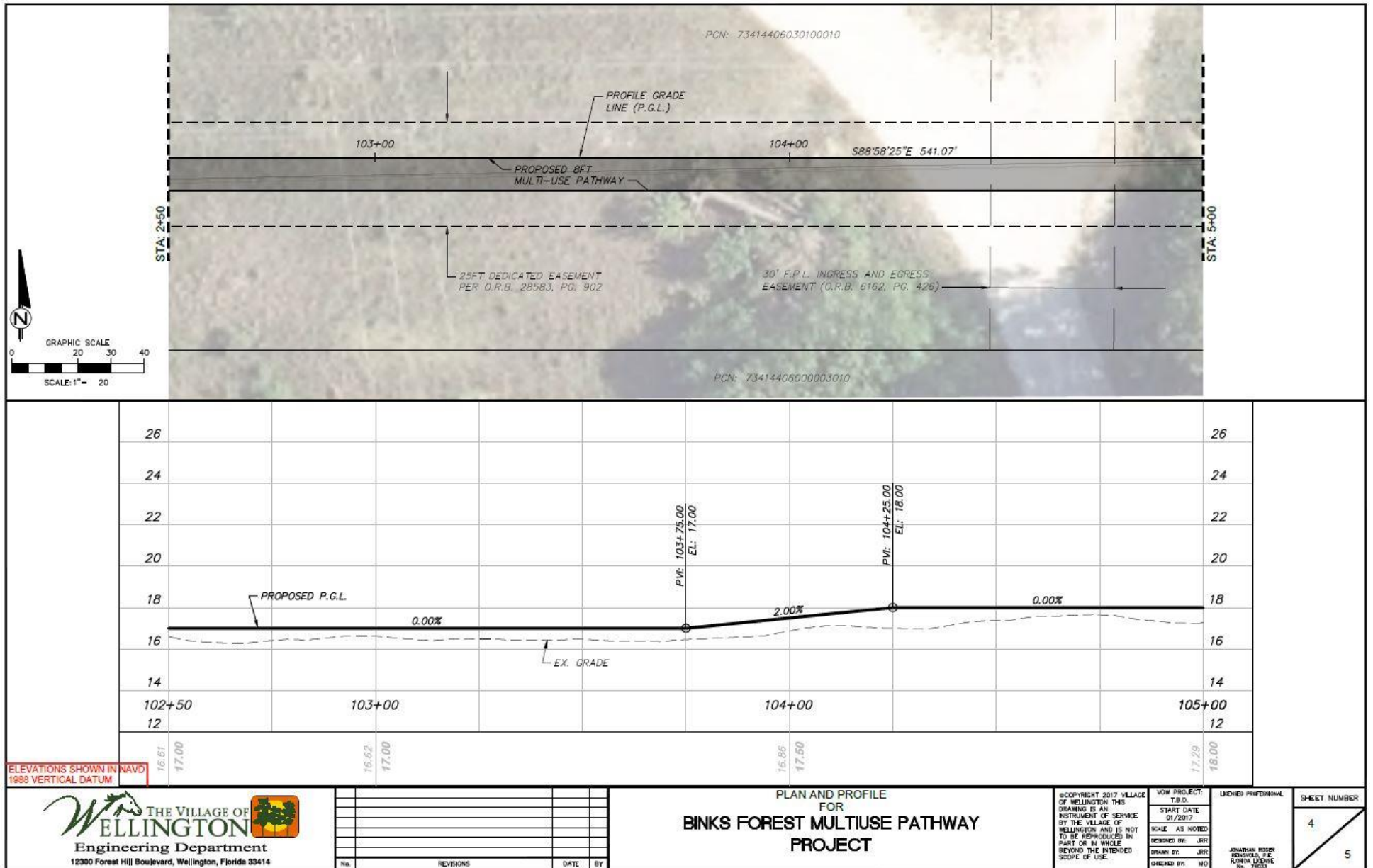
ELEVATIONS SHOWN IN NAVD  
1988 VERTICAL DATUM

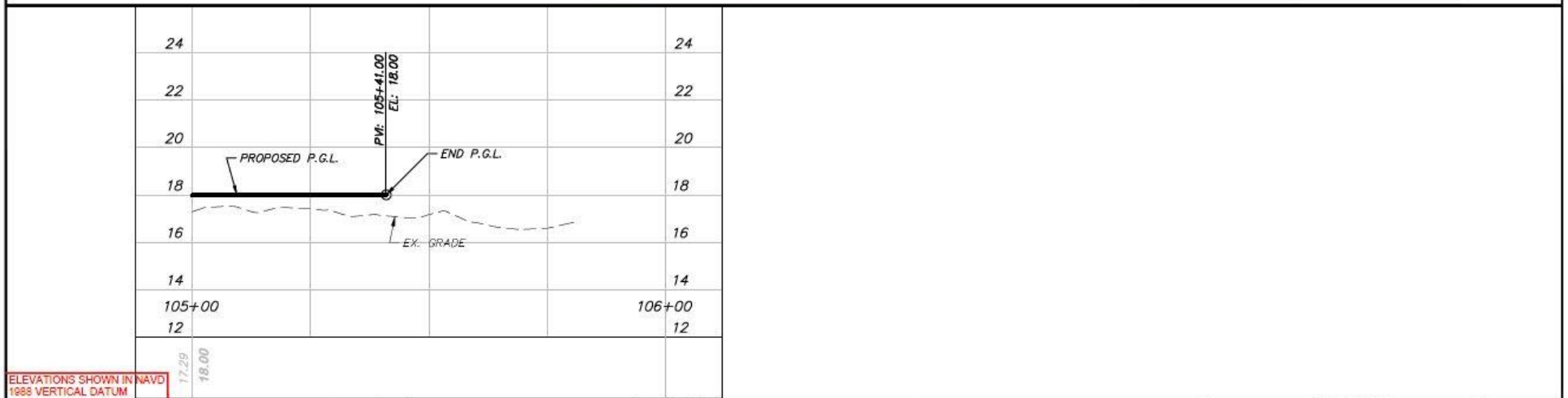
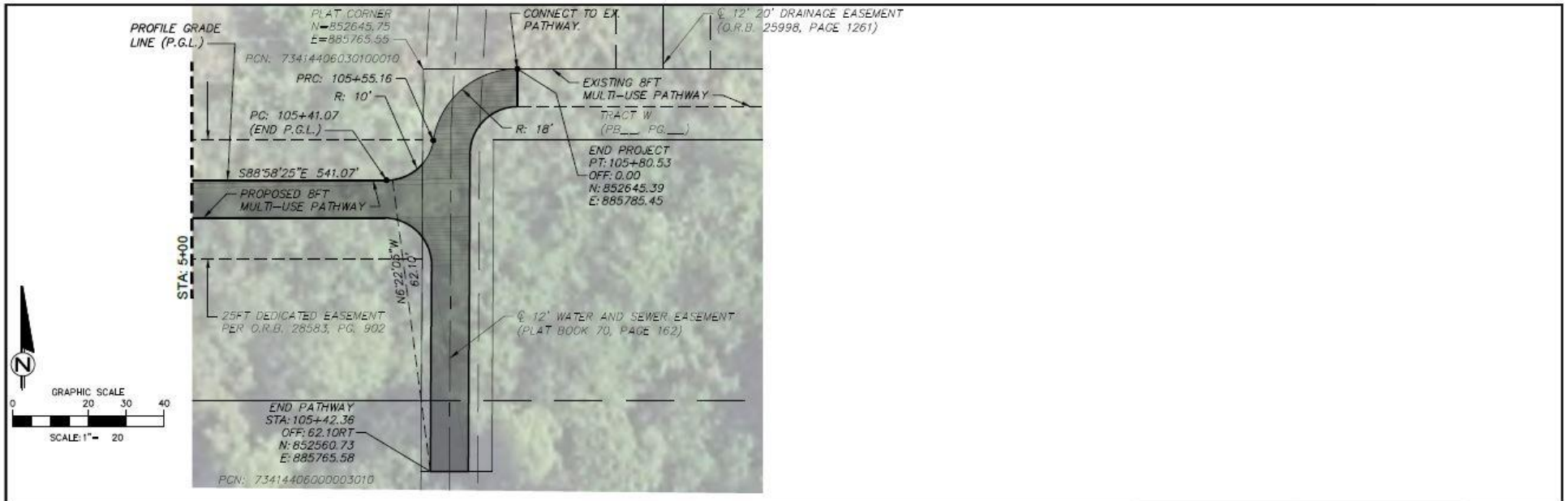


No.	REVISIONS	DATE	BY

### PLAN AND PROFILE FOR BINKS FOREST MULTIUSE PATHWAY PROJECT

COPYRIGHT 2017 VILLAGE OF WELLINGTON THIS DRAWING IS AN INSTRUMENT OF SERVICE BY THE VILLAGE OF WELLINGTON AND IS NOT TO BE REPRODUCED IN PART OR IN WHOLE BEYOND THE INTENDED SCOPE OF USE.	VOW PROJECT: T.S.O. START DATE: 01/2017 SCALE: AS NOTED DESIGNED BY: JRR DRAWN BY: JRR CHECKED BY: MD	LAKSHMI HATHIRAMAL JONATHAN ROOPER JENNIFER L. JONES REG. 74503	SHEET NUMBER 3 5
--	--	--	------------------------







**THE VILLAGE OF WELLINGTON**  
Engineering Department  
12300 Forest Hill Boulevard, Wellington, Florida 33414

PLAN AND PROFILE  
FOR  
**BINKS FOREST MULTIUSE PATHWAY  
PROJECT**

No.	REVISIONS	DATE	BY

©COPYRIGHT 2017 VILLAGE OF WELLINGTON THIS DRAWING IS AN INSTRUMENT OF SERVICE BY THE VILLAGE OF WELLINGTON AND IS NOT TO BE REPRODUCED IN PART OR IN WHOLE BEYOND THE INTENDED SCOPE OF USE.

VOW PROJECT: T.S.D.  
START DATE: 01/2017  
SCALE: AS NOTED  
DESIGNED BY: JRR  
DRAWN BY: JRR  
CHECKED BY: MO

LIKENESS PROFESSIONAL  
JONATHAN ROSEN  
KENDALL, F.E.  
FLORIDA LICENSE NO. 14000

SHEET NUMBER

5



# Exhibit "C"

## Form 360



### NOTIFICATION OF FPL FACILITIES

Customer/Agency \_\_\_\_\_ Date of Meeting/Contact: \_\_\_\_\_  
 Developer/Contractor Name \_\_\_\_\_ Project Number/Name: \_\_\_\_\_  
 Location of Project \_\_\_\_\_ City: \_\_\_\_\_  
 FPL Representative \_\_\_\_\_ Phone: \_\_\_\_\_  
 Developer/Contractor Representative \_\_\_\_\_ FPL Work Request #/Work Order #: \_\_\_\_\_

FPL calls your attention to the fact that there may be energized, high voltage electric lines, both overhead and underground, located in the area of this project. It is imperative that you visually survey the area and that you also take the necessary steps to identify all overhead and underground facilities prior to commencing construction to determine whether the construction of any proposed improvements will bring any person, tool, machinery, equipment or object closer to FPL's power lines than the OSHA-prescribed limits. If it will, you must either re-design your project to allow it to be built safely given the pre-existing power line location, or make arrangements with FPL to either deenergize and ground our facilities, or relocate them, possibly at your expense. **You must do this before allowing any construction near the power lines.** It is impossible for FPL to know or predict whether or not the contractors or subcontractors, and their employees, will operate or use cranes, digging apparatus or other mobile equipment, or handle materials or tools, in dangerous proximity to such power lines during the course of construction, and, if so, when and where. Therefore, if it becomes necessary for any contractor or subcontractor, or their employees, to operate or handle cranes, digging apparatus, draglines, mobile equipment, or any other equipment, tools or materials in such a manner that they might come closer to underground or overhead power lines than is permitted by local, state or federal regulations, you and any such contractor or subcontractor must notify FPL in writing of such planned operation prior to the commencement thereof and make all necessary arrangements with FPL in order to carry out the work in a safe manner. **Any work in the vicinity of the electric lines should be suspended until these arrangements are finalized and implemented.**

The National Electrical Safety Code ("NESC") prescribes minimum clearances that must be maintained. If you build your structure so that those clearances cannot be maintained, you may be required to compensate FPL for the relocation of our facilities to comply with those clearances. As such, you should contact FPL prior to commencing construction near pre-existing underground or overhead power lines to make sure that your proposed improvement does not impinge upon the NESC clearances.

It is your responsibility and the responsibility of your contractors and subcontractors on this project to diligently fulfill the following obligations:

1. Make absolutely certain that all persons responsible for operating or handling cranes, digging apparatus, draglines, mobile equipment or any equipment, tool, or material capable of contacting a power line, are in compliance with all applicable state and federal regulations, including but not limited to U.S. Department of Labor OSHA Regulations, while performing their work.
2. Make sure that all cranes, digging apparatus, draglines, mobile equipment, and all other equipment or materials capable of contacting a power line have attached to them any warning signs required by U.S. Department of Labor OSHA Regulations.
3. Post and maintain proper warning signs and advise all employees, new and old alike, of their obligation to keep themselves, their tools, materials and equipment away from power lines per the following OSHA minimum approach distances (refer to OSHA regulations for restrictions):

*Power Line Voltages	**Personnel and Equipment (29 CFR 1910.333 and 1926.600)	Cranes and Derricks (29 CFR 1926.1407, 1408)	Travel under or near Power Lines (on construction sites, no load) (29 CFR 1926.600 – Equipment) (1926.1411 – Cranes and Derricks)	
0 - 750 volts	10 Feet	10 Feet	4 Feet	4 Feet
751 - 50,000 volts	10 Feet	10 Feet	4 Feet	6 Feet
69,000 volts	11 Feet	15 Feet	10 Feet	10 Feet
115,000 volts	13 Feet	15 Feet	10 Feet	10 Feet
138,000 volts	13 Feet	15 Feet	10 Feet	10 Feet
230,000 volts	16 Feet	20 Feet	10 Feet	10 Feet
500,000 volts	25 Feet	25 Feet	16 Feet	16 Feet

\*When uncertain of the voltage, maintain a distance of 20 feet for voltages up to 350,000 volts and 50 feet for voltages greater than 350,000 volts.

\*\*For personnel approaching insulated secondary conductors less than 750 volts, avoid contact (Maintain 10 Feet to bare energized conductors less than 750 volts). For qualified personnel and insulated aerial lift equipment meeting requirements of 29 CFR 1910.333, distances may be reduced to those shown in 29 CFR 1910.333 Table S-5.

4. All excavators are required to contact the Sunshine State One Call of Florida, phone number 1-800-432-4770 or 811 a minimum of two working days (excluding weekends) in advance of commencement of excavation to ensure facilities are located accurately.
5. Conduct all locations and excavations in accordance with the Florida Statute 556 of the Underground Facilities Damage Prevention & Safety Act and all local city and county ordinances that may apply.
6. When an excavation is to take place within a tolerance zone, an excavator shall use increased caution to protect underground facilities. The protection requires hand digging, pot holing, soft digging, vacuum methods, or similar procedures to identify underground facilities.

A copy of this notification must be provided by you to each contractor and subcontractor on this project, to be shared with their supervision and employees prior to commencing work on this project.

Means by which this notification was provided to customer and/or contractor

Address

FPL Representative Signature

Date

Customer/Developer/Contractor Representative Signature

Date

Form 360 (Rev. 1/9/12)

## **Exhibit “D”**

### **Insurance Requirements**

During all times of bicycle and pedestrian pathway construction within Company’s easements, Licensee shall (i) if performing the construction work in connection with any bicycle and pedestrian pathway hereunder, or (ii) cause each of its contractors and subcontractors performing any and all construction work in connection with any bicycle and pedestrian pathway construction hereunder, to procure and maintain at Licensee’s, or Licensee’s contractors’ and subcontractors’, as applicable, sole expense, the following minimum insurance during all times of construction. The insurance shall be obtained from insurers with a rated “A-, VII” or higher by A.M. Best’s Key Rating Guide that are licensed to do business in the State of Florida, or as may be approved in writing by FPL’s Risk Management Department from time to time:

- (i) Workers’ Compensation Insurance for statutory obligations imposed by applicable Florida law, including, where applicable, the United States Longshoremen’s and Harbor Workers’ Act, the Maritime Coverage and the Jones Act;
- (ii) Employers’ Liability Insurance, including Occupational Disease, shall be provided with a limit of One Million Dollars (\$1,000,000) for bodily injury by accident, One Million Dollars (\$1,000,000) for bodily injury by disease/policy and One Million Dollars (\$1,000,000) for bodily injury by disease/employee;
- (iii) Automobile Liability Insurance which shall apply to all owned, non-owned, leased and hired automobiles in an amount with a limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage per accident; and
- (iv) General Liability Insurance, covering liability arising out of premises, operations, bodily injury, property damage, products completed and liability insured under and insured contract (sometimes referred to broad form contractual liability), with a limit of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate, which shall insure the indemnity obligations assumed by contractor under these requirements.

Except for the Workers’ Compensation Insurance, Company shall be designated as an additional insured on the required insurance policies. All required insurance policies shall cause the insurers of their respective insurance to include, either in printed text or by endorsement: (i) a severability of interests clause; (ii) an endorsement that the contractors’ and subcontractors’ insurance policies are to be primary and non-contributory to any insurance that may be maintained by or on behalf of Company; and (iii) a waiver of subrogation against Company.

In the event that any policy furnished by Licensee or License’s contractors and subcontractors provides for coverage on a “claims made” basis, the retroactive date of the policy shall be the same as the effective date of this Right-of-Way Consent Agreement between Company and Licensee that authorizes the bicycle and pedestrian pathway construction within Company’s easements, or such other date, as to protect the interest of Company. Furthermore, for all policies furnished on a “claims made” basis, the coverage shall survive the termination of this Right-of-Way Consent Agreement, until the expiration of the maximum statutory period of limitations in the State of Florida for actions based in contract or in tort. If coverage is on “occurrence” basis, Licensee and Licensee’s contractors and subcontractors, as applicable, shall maintain such insurance during the construction of the bicycle and pedestrian pathway.

Licensee, or Licensee’s contractors and subcontractors, as applicable, shall promptly provide evidence of the minimum insurance coverage required above in the form of an ACORD certificate or other

certificate of insurance acceptable to Company. Upon Company's request, Licensee, or Licensee's contractors and subcontractors, as applicable, shall provide Company with complete copies of all required insurance policies under this agreement. If any of the required insurance is cancelled or non-renewed, Licensee, or Licensee's contractors and subcontractors, as applicable, shall file a new Certificate of Insurance or binder with Company demonstrating to Company's satisfaction that the required insurance coverages to be maintained hereunder have been extended or replaced. Neither Licensee, nor Licensee's contractors and subcontractors, as applicable, failure to provide evidence of minimum coverage of insurance following Company's request, nor Company's decision to not make such request, shall release Licensee, or Licensee's the contractors and subcontractors, as applicable, from their respective obligations to maintain the minimum required coverage.

Licensee shall be responsible for managing and administering all insurance policies required to be held by Licensee hereunder, if any, and Licensee shall be responsible for causing Licensee's contractors and subcontractors to manage and administer all insurance policies required to be held by Licensee's contractors and subcontractors hereunder, including the payment of all deductibles and self-insured retention amounts, the filing of all claims and the taking of all necessary and proper steps to collect any proceeds on behalf of the relevant insured person or entity. Licensee shall at all times keep Company informed of the filing and progress of any claim. If Licensee shall fail to perform these responsibilities, Company may take such action as it determines appropriate under the circumstances. In the event Licensee collects proceeds on behalf of other persons or entities, it shall ensure that these are paid directly from the insurers to the relevant person or entity and, in the event that it receives any such proceeds, it shall, unless otherwise directed by Company, pay such proceed to such party forthwith and prior thereto, hold the same in trust for the recipient.

Company assumes no responsibility for the solvency of any insurer or the failure of any insurer to settle any claim. In the event that Licensee self-insures or completes the work on its own behalf, Licensee shall provide Company with a letter of self-insurance in form and substance satisfactory to Company's Risk Management Department. Licensee's contractors and sub-contractors may not self-insure. These requirements shall survive the expiration of this Right-of-Way Consent Agreement that any bicycle and pedestrian pathway construction is completed pursuant to.

Nothing contained herein shall be construed as a waiver of sovereign immunity by Licensee beyond the limits set forth in Section 768.28, Florida Statutes, if applicable. Furthermore, nothing contained herein shall be construed to be consent by any party to be sued by third parties in any matter arising out of this agreement. This section shall survive revocation, termination, extinguishment of this agreement coextensively with other surviving provisions of this agreement.

This Exhibit D shall be included in any contract that Licensee executes with any contractor or subcontractor to complete the construction of any bicycle and pedestrian pathways within Company's easements.