

**CITY/COUNTY RIGHT-OF-WAY
AGREEMENT FOR UNDERGROUND CONVERSIONS**

THIS AGREEMENT (the “**Agreement**”) is made and entered into this _____ day of March, 2021 by and between Martin County Board of Commissioners (“**Local Government**”), a Florida municipal corporation or county with an address of 2401 SE Monterey Rd, Stuart Florida, 34996 and Florida Power & Light Company (“**FPL**”), a Florida corporation with an address of P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408-0429.

WHEREAS, Local Government has requested that FPL convert certain overhead electric distribution facilities located within the following boundaries (the “**Conversion**”):
SE Lares Ave between Bridge Rd and SE Anstis
Place _____

_____ (collectively, the “**Existing Overhead Facilities**”) to underground facilities, including transformers, switch cabinets and other appurtenant facilities some of which may be installed above ground (collectively, the “**Underground Facilities**”) and has further requested that certain of the Underground Facilities be placed in certain of its road rights-of-way (“**Local Government ROW**”) and/or certain road rights-of-way owned by or under the jurisdiction of other agencies. Local Government ROW may be referred to as “**ROW**”; and

WHEREAS, the Local Government has agreed to pay FPL the cost of such Conversion as required by FPL’s electric tariff and Section 25-6.115 of the Florida Administrative Code and has or will enter into a separate Underground Facilities Conversion Agreement with FPL; and

WHEREAS, FPL is willing, subject to the terms and conditions set forth in this Agreement, FPL’s electric tariff and Section 25-6.115 of the Florida Administrative Code, to place certain of the Underground Facilities in the ROW.

NOW THEREFORE, in recognition of the foregoing premises and the covenants and agreements set forth herein, and other consideration the sufficiency of which is hereby acknowledged, intending to be legally bound hereby, the parties covenant and agree as follows:

1. The foregoing recitals are true and correct, and are hereby incorporated by reference into this Agreement.

2. Conditions Precedent to Placement of Underground Facilities in ROW

- (a) Local Government covenants, represents and warrants that:
 - (i) Local Government has full legal right and authority to enter into this Agreement;
 - (ii) Local Government has full legal right and authority to take all actions and measures necessary to fulfill Local Government's obligations under this Agreement;
 - (iii) Local Government hereby authorizes the use of the ROW by FPL for the purposes stated herein.
- (b) All applicable permits for FPL to install, construct, or maintain Underground Facilities in ROW must be issued on a timely basis by the appropriate agency, subject to the timely filing for permits by FPL.
- (c) Local Government agrees to provide, at its expense, a legal description that is acceptable to FPL of the ROW to be occupied by the Underground Facilities at a time before FPL initiates the design of the Underground Facilities. Said legal description shall be made part of this Agreement and attached as Exhibit "A".
- (d) FPL agrees to identify and document all existing FPL underground facilities within the ROW that will not be included under this Agreement. Local Government shall reimburse FPL's reasonable costs and expenses to deliver said documentation. Said documentation shall be made part of this Agreement and attached as Exhibit "B".
- (e) FPL warrants that the design of the Underground Facilities to which Local Government has agreed are in compliance with all operational and safety guidelines, codes and standards. FPL and Local Government have mutually agreed upon the location of the facilities within the ROW as per the construction drawings. Said construction drawings shall be attached as Exhibit "C" to this agreement, are part of this agreement, and may be amended to reflect changes to location of facilities as required.

3. Relocation and Rearrangement of FPL Facilities. If the Local Government or other agency with control over the Local Government ROW for any reason whatsoever, requires that FPL relocate or rearrange, in whole or in part, any Underground Facilities (as they are to exist as a result of this Conversion, or as they may later be modified, upgraded, or otherwise altered) from or within the Local Government ROW, the Local Government, notwithstanding any language to the contrary in any applicable permit or franchise agreement, and prior to any such relocation by FPL, shall provide FPL with a substitute location, satisfactory to FPL, obtain any easements that may be necessary, and shall pay FPL for the costs of any such relocation, adjustment or rearrangement, now or in the future. Local Government shall reimburse FPL for all costs to locate, expose, protect or support the Underground Facilities, whether underground or above ground, in the event of future construction or excavation in close proximity to the Underground Facilities, when such services are required by Local Government or other agency with control over the Local Government ROW. Local Government shall use its

best efforts in any design and construction of its future road improvement projects to avoid or mitigate the necessity of relocating or adjusting the Underground Facilities in Local Government ROW and, to the extent reasonably practicable.

Local Government shall only be responsible for relocation costs associated with replacement facilities conforming to FPL standards in effect at the time of relocation. Any costs associated with the replacement facilities to provide increased capacity, improved reliability, future use facilities, or other such enhancements over and above the FPL standards in effect at the time of the relocation shall not be the responsibility of Local Government.

Nothing herein shall preclude Local Government from obtaining reimbursement for any and all costs requiring FPL to relocate or rearrange any of its Underground Facilities from that entity which initiated the requirement for the relocation or rearrangement of the facilities, excluding only other agencies which own or have jurisdiction over the ROW.

FPL shall be responsible for any and all costs of removal or relocation when such removal or relocation is initiated by FPL. Additionally, FPL agrees that when any portion of a street is excavated by FPL in the location, relocation or repair of any of its facilities when said location, relocation or repair is initiated by FPL, the portion of the street so excavated shall, within a reasonable time and as early as practical after such excavation, be replaced by FPL at its expense in a condition as good as it was at the time of such excavation.

4. **Abandonment or Sale of Local Government ROW.** If the Local Government desires to subsequently abandon or discontinue use of the Local Government ROW, and ownership of the land is transferred to a private party, the Local Government, as a condition of and prior to any such sale, abandonment, or vacation, shall grant FPL an easement satisfactory to FPL for the Underground Facilities then existing within the ROW or require the transferee to so grant FPL an easement satisfactory to FPL at the time of transfer. If ownership of the Local Government ROW is transferred to another public entity, that public entity shall take the ROW subject to the terms and conditions of this Agreement.

5. **Term.** This Agreement shall remain in effect for as long as FPL or any successor or assign owns or operates the Underground Facilities placed in the ROW.

6. **Title and Ownership of Underground Facilities.** Title and ownership of Underground Facilities installed by FPL as a result of this Agreement shall, at all times, remain the property of FPL.

7. **Conversion Outside ROW.** In the event that the FPL Underground Facilities are not, for any reason other than the sole error of FPL or its contractors, constructed within the ROW, Local Government shall grant or secure, at Local

Government's sole cost and expense, new easements or ROW grants for the benefit of FPL for the placement of the Underground Facilities in these areas, and shall secure subordinations of any mortgages affecting these tracts to the interest of FPL. In the alternative, at the discretion of Local Government, Local Government shall reimburse FPL for all costs incurred to remove said facilities which were constructed outside the ROW and for reinstallation within the ROW. FPL shall be responsible at completion of construction for notifying Local Government in writing of FPL's approval and acceptance of the conversion as being constructed within the ROW. Upon acceptance there shall be no further responsibility on the Local Government for relocations referenced in this paragraph.

8. **Agreement Subject to FPL's Electric Tariff.** This Agreement is subject to FPL's electric tariff, including but not limited to the general rules and regulations for electric service and the rules of the Florida Public Service Commission.

9. **Venue; Waiver of Jury Trial.** This Agreement shall be enforceable in Martin County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Martin County, Florida. By entering into this Agreement, FPL and the Local Government expressly waive any rights either party may have to a trial by jury of any civil litigation related to or arising out of this Agreement. This Agreement shall be construed in accordance with the laws of the State of Florida.

10. **Attorney Fees.** In the event it becomes necessary for either party to institute or defend legal proceedings as a result of the failure of the other party to comply with the terms, covenants, or provisions of this Agreement, each party in such litigation shall bear its own cost and expenses incurred and extended in connection therewith, including, but not limited to attorneys' fees and court costs through all trial and appellate levels.

11. **Assignment.** Neither party, FPL and the Local Government, may assign the Agreement without the prior written consent of the other party.

12. **Recording.** This Agreement shall be adopted by the Local Government and maintained in the official records of Local Government for the duration of the term of this Agreement. This Agreement also shall be recorded in the Official Records of the County in which the Underground Facilities are located, in the place and in the manner in which deeds are typically recorded.

13. **Conflict between Terms of Permit or Franchise Agreement.** In the event of a conflict between the terms of this Agreement and any permit or franchise agreement entered into by Local Government and FPL, the terms of this Agreement shall control.

14. **Notice.** Any notice, instruction or other communication to be given to either party hereunder shall be in writing and shall be hand delivered, telecopied, sent by Federal Express or a comparable overnight service or by U. S. registered or certified mail, with return receipt requested and postage prepaid to each party at their respective addresses set forth below:

As to Local Government:
Jim Gorton, Martin County Public Works Director_
2401 SE Monterey Rd _____
Stuart, FL 34996 _____

With copies to:

As to FPL:
_FPL_____
_700 Universe Blvd_____
_Juno Beach, FL 33408_____
_Attn: Law Department_____

IN WITNESS WHEREOF, Florida Power & Light Company and Local Government have executed this Agreement on the date first set forth above.

For **LOCAL GOVERNMENT:**

ATTEST: BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

CAROLYN TIMMANN, CLERK OF THE
CIRCUIT COURT AND COMPTROLLER STACEY HETHERINGTON, CHAIR

SUFFICIENCY: APPROVED AS TO FORM & LEGAL

ATTORNEY SARAH W. WOODS, COUNTY

For **FLORIDA POWER & LIGHT COMPANY**

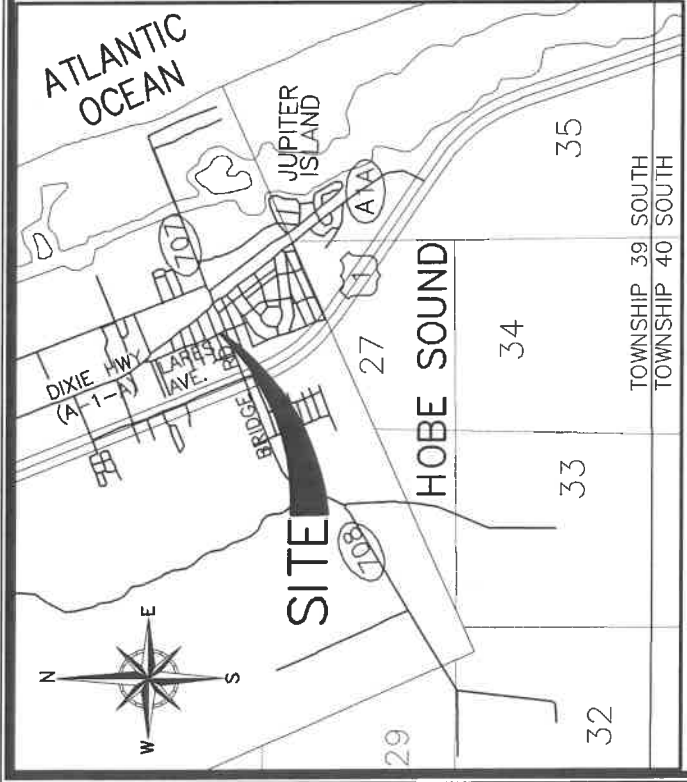
By:
(signature)

Name: William Bowley
(print or type)

Title: GM Central Projects
(print or type)

Exhibit A

WR # 9920423 ROW Legal Description



SURVEYOR'S NOTES

1. THE BEARINGS AS SHOWN HEREON ARE BASED ON STATE PLANE COORDINATES, NORTH AMERICAN DATUM OF 83/90, FLORIDA EAST ZONE, U.S. SURVEY FEET, REFERENCE A BEARING OF N21°40'14"W ALONG THE WESTERLY RIGHT OF WAY LINE OF S.E. LARES AVENUE, MARTIN COUNTY, FLORIDA.
2. THIS IS NOT A BOUNDARY SURVEY.
3. THIS SKETCH AND LEGAL DESCRIPTION SHALL NOT BE VALID UNLESS PROVIDED IN ITS ENTIRETY CONSISTING OF SHEETS 1 THROUGH 4.
4. THIS DOCUMENT MAY BE REPRODUCED UPON REQUEST IN AN ALTERNATIVE FORMAT BY CONTACTING THE COUNTY ADA COORDINATOR (772) 320-3131, THE COUNTY ADMINISTRATION OFFICE (772) 288-5400, FLORIDA RELAY 711, OR BY COMPLETING OUR ACCESSIBILITY FEEDBACK FORM AT www.martin.fl.us/accessibility-feedback

ABBREVIATIONS

AKA	ALSO KNOWN AS	P.L.S.	PROFESSIONAL LAND SURVEYOR
CL	CENTER LINE	P.O.B.	POINT OF BEGINNING
NO.	NUMBER	P.O.C.	POINT OF COMMENCEMENT
P.B.	PLAT BOOK	P.O.T.	POINT OF TERMINUS
PG.	PAGE	R/W	RIGHT OF WAY
O.R.B.	OFFICIAL RECORDS BOOK	S.F.	SQUARE FEET

SURVEYOR'S CERTIFICATION

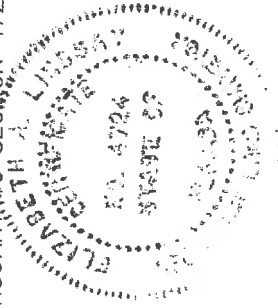
I HEREBY CERTIFY THAT THE "SKETCH TO ACCOMPANY LEGAL DESCRIPTION" AS SHOWN HEREON WAS PREPARED UNDER MY DIRECTION AND CHARGE ON MARCH 9, 2021, AND THAT SAID "SKETCH TO ACCOMPANY LEGAL DESCRIPTION" IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. IT IS FURTHER CERTIFIED THAT THIS "SKETCH TO ACCOMPANY LEGAL DESCRIPTION" COMPLIES WITH THE STANDARDS OF PRACTICE FOR "SKETCH TO ACCOMPANY LEGAL DESCRIPTION" SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

BETSY LINDSAY, INC.
SURVEYORS AND MAPPERS

[Signature]

ELIZABETH A. LINDSAY, P.L.S.
FLORIDA REGISTRATION NO. 4724

NOT VALID WITHOUT THE SIGNATURE
AND ORIGINAL RAISED SEAL OF FLORIDA
LICENSED SURVEYOR AND MAPPER
UNLESS DIGITALLY SIGNED



BRIDGE ROAD
IMPROVEMENT
PROJECT
EXHIBIT

SHEET NO. 1
OF 4 SHEETS
PROJECT NO. 98-28 H

DATE 03/27/2021	REVISIONS
REVISE PER MARTIN COUNTY COMMENTS	

BRIDGE ROAD IMPROVEMENT PROJECT MARTIN COUNTY, FLORIDA
SKETCH AND LEGAL DESCRIPTION FLORIDA POWER & LIGHT EASEMENT - LARES AVE.

DATE 03/09/2021
SCALE NOT TO SCALE
FIELD BK.
DRAWING BY D.B.
CHECKED BY E.A.L.

B	BETSY LINDSAY, INC.
SURVEYING AND MAPPING	
7997 S.W. JACK JAMES DRIVE STUART, FLORIDA 34997	
(772) 288-5753 (772) 288-5908 FAX	
LICENSED BUSINESS NO. 6852	

LEGAL DESCRIPTION

FLORIDA POWER AND LIGHT EASEMENT

S.E. LARES AVENUE FLORIDA POWER AND LIGHT EASEMENT NUMBER 1

A 10.00 FOOT WIDE STRIP OF LAND LYING WITHIN THE RIGHT OF WAY OF S.E. LARES AVENUE, BEING A PUBLIC ROAD, LYING AND BEING IN MARTIN COUNTY, FLORIDA. THE CENTERLINE OF SAID STRIP OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;
COMMENCING AT THE SOUTHEAST CORNER OF LOT 87 OF THE PLAT OF GOMEZ GRANT AND JUPITER ISLAND, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 80 OF THE PUBLIC RECORDS OF PALM BEACH (NOW MARTIN) COUNTY, FLORIDA;
THENCE NORTH 21°40'14" WEST ALONG THE WESTERLY RIGHT OF WAY LINE OF SAID S.E. LARES AVENUE, 149.32 FEET TO POINT OF BEGINNING NUMBER 1; THENCE, DEPARTING SAID WESTERLY RIGHT OF WAY LINE, NORTH 68°59'10" EAST, 18.00 FEET TO THE POINT OF TERMINUS NUMBER 1.

CONTAINING 180.0 SQUARE FEET OR 0.004 ACRES, MORE OR LESS.

TOGETHER WITH:

S.E. LARES AVENUE FLORIDA POWER AND LIGHT EASEMENT NUMBER 2

A 10.00 FOOT WIDE STRIP OF LAND LYING WITHIN THE RIGHT OF WAY OF S.E. LARES AVENUE, BEING A PUBLIC ROAD, LYING AND BEING IN MARTIN COUNTY, FLORIDA. THE CENTERLINE OF SAID STRIP OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

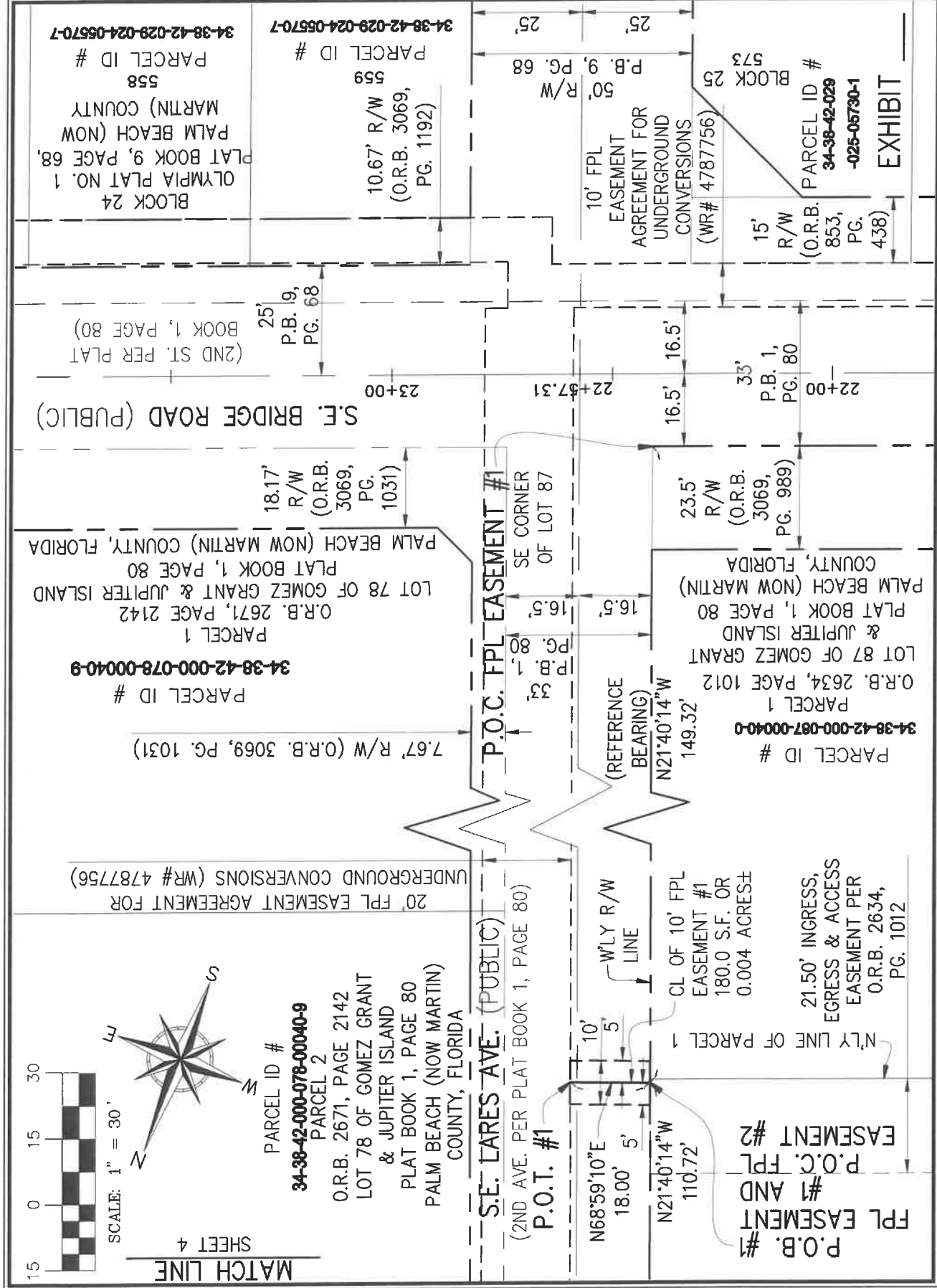
COMMENCE AT POINT OF BEGINNING NUMBER 1; THENCE NORTH 21°40'14" WEST ALONG SAID WESTERLY RIGHT OF WAY LINE OF SAID S.E. LARES AVENUE, 110.72 FEET; THENCE, DEPARTING SAID WESTERLY RIGHT OF WAY LINE, NORTH 68°19'46" EAST, 28.00 FEET TO AN INTERSECTION WITH A LINE BEING 5.00 FEET WESTERLY OF AND PARALLEL WITH THE EASTERLY RIGHT OF WAY LINE OF SAID S.E. LARES AVENUE AND POINT OF BEGINNING NUMBER 2; THENCE NORTH 21°40'14" WEST ALONG SAID PARALLEL LINE, 165.08 FEET TO THE POINT OF TERMINUS NUMBER 2.

CONTAINING 1,650.8 SQUARE FEET OR 0.038 ACRES, MORE OR LESS.

BEING SUBJECT TO ANY/ALL EASEMENTS, RESERVATIONS, DEDICATIONS OR RESTRICTIONS.

EXHIBIT

SHEET NO. <u>2</u> OF <u>4</u> SHEETS		DATE <u>03/22/2021</u>	REVISIONS REVISE PER MARTIN COUNTY COMMENTS
PROJECT NO. <u>98-28 H</u>			
BRIDGE ROAD IMPROVEMENT PROJECT MARTIN COUNTY, FLORIDA		DATE <u>03/09/2021</u> SCALE <u>NOT TO SCALE</u>	
SKETCH AND LEGAL DESCRIPTION FLORIDA POWER & LIGHT EASEMENT - LARES AVE.		FIELD BK. <u>D.B.</u> DRAWING BY <u>D.B.</u> CHECKED BY <u>E.A.L.</u>	
		B BETSY LINDSAY, INC. SURVEYING AND MAPPING 7997 SW JACK JAMES DRIVE STUART, FLORIDA 34997 (772)286-5753 (772)286-5938FAX LICENSED BUSINESS NO. 6852	



SHEET NO. 3
OF 4 SHEETS

PROJECT NO.
98-28 H

DATE
03/22/2021

REVISIONS
REVISE PER MARTIN COUNTY COMMENTS

BRIDGE ROAD IMPROVEMENT PROJECT
MARTIN COUNTY, FLORIDA

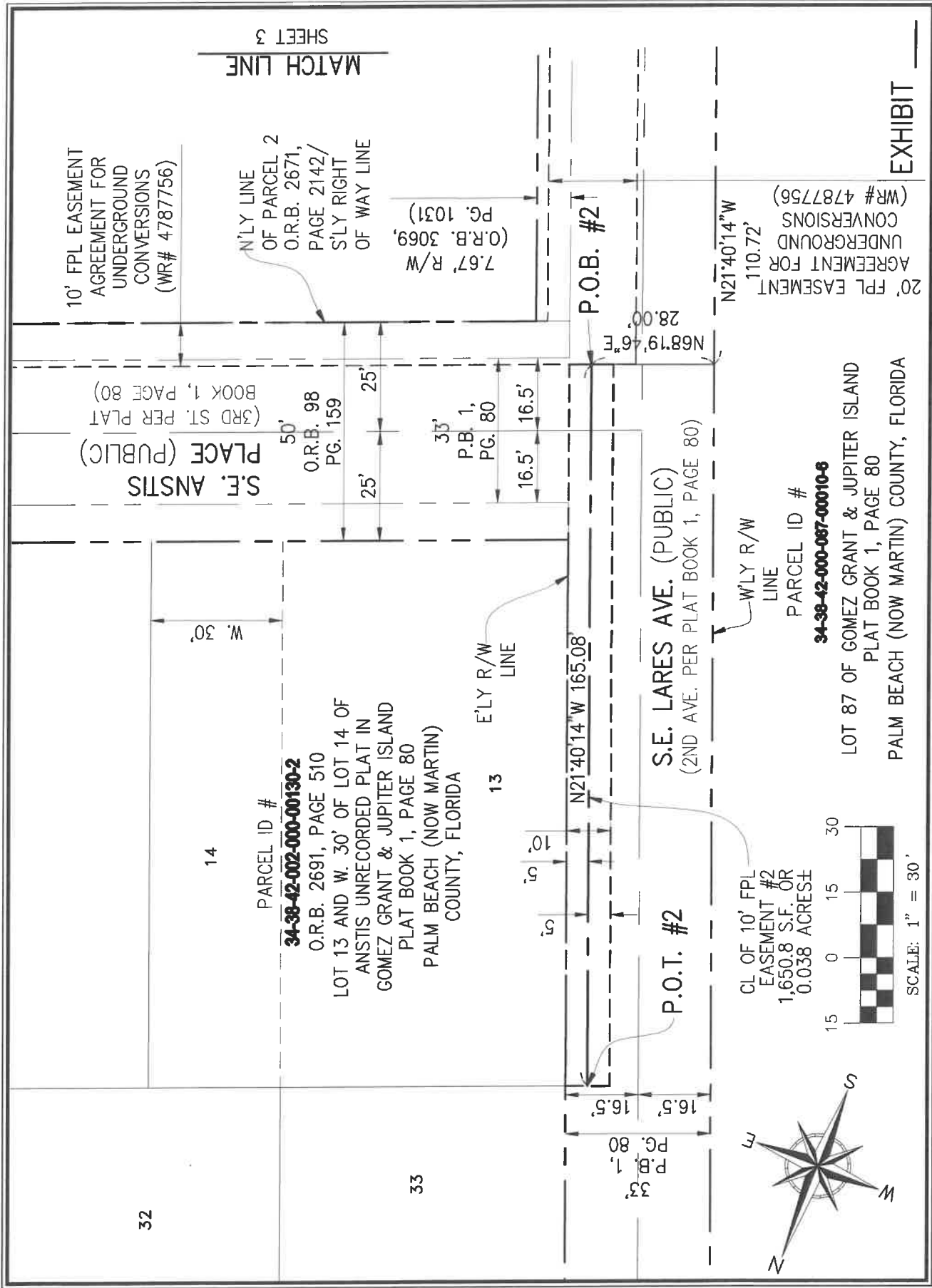
SKETCH AND LEGAL DESCRIPTION
FLORIDA POWER & LIGHT EASEMENT - LARES AVE.

DATE
03/09/2021

SCALE
1" = 30'

FIELD BK.
DRAWING BY D.B.
CHECKED BY E.A.L.

B BETSY LINDSAY, INC.
SURVEYING AND MAPPING
7997 SW JACK JAMES DRIVE STUART, FLORIDA 34997
(772)286-5753 (772)286-5932 FAX
LICENSED BUSINESS NO. 6852



SHEET NO. 4
OF 4 SHEETS

PROJECT NO.
98-28 H

DATE
03/22/2021

REVISIONS
REVISE PER MARTIN COUNTY COMMENTS

BRIDGE ROAD IMPROVEMENT PROJECT
MARTIN COUNTY, FLORIDA

SKETCH AND LEGAL DESCRIPTION
FLORIDA POWER & LIGHT EASEMENT - LARES AVE.

B BETSY LINDSAY, INC.
SURVEYING AND MAPPING
7997 SW JACK JAMES DRIVE STUART, FLORIDA 34997
(772) 286-5753 (772) 286-5938 FAX
LICENSED BUSINESS NO. 6852

DATE 03/09/2021
SCALE 1" = 30'
FIELD BK.
DRAWING BY D.B.
CHECKED BY E.A.L.

8:58 PROJECTS\98-28 H\98-28 H-1 - RW_TCE\MICHAEL.FPL\BMT LARES AVE.dwg, P.L. 4, 3/22/2021 8:47:20 AM, 1:1, M.O. 2008

Exhibit B

WR # 9920423 – Existing underground not included under this agreement

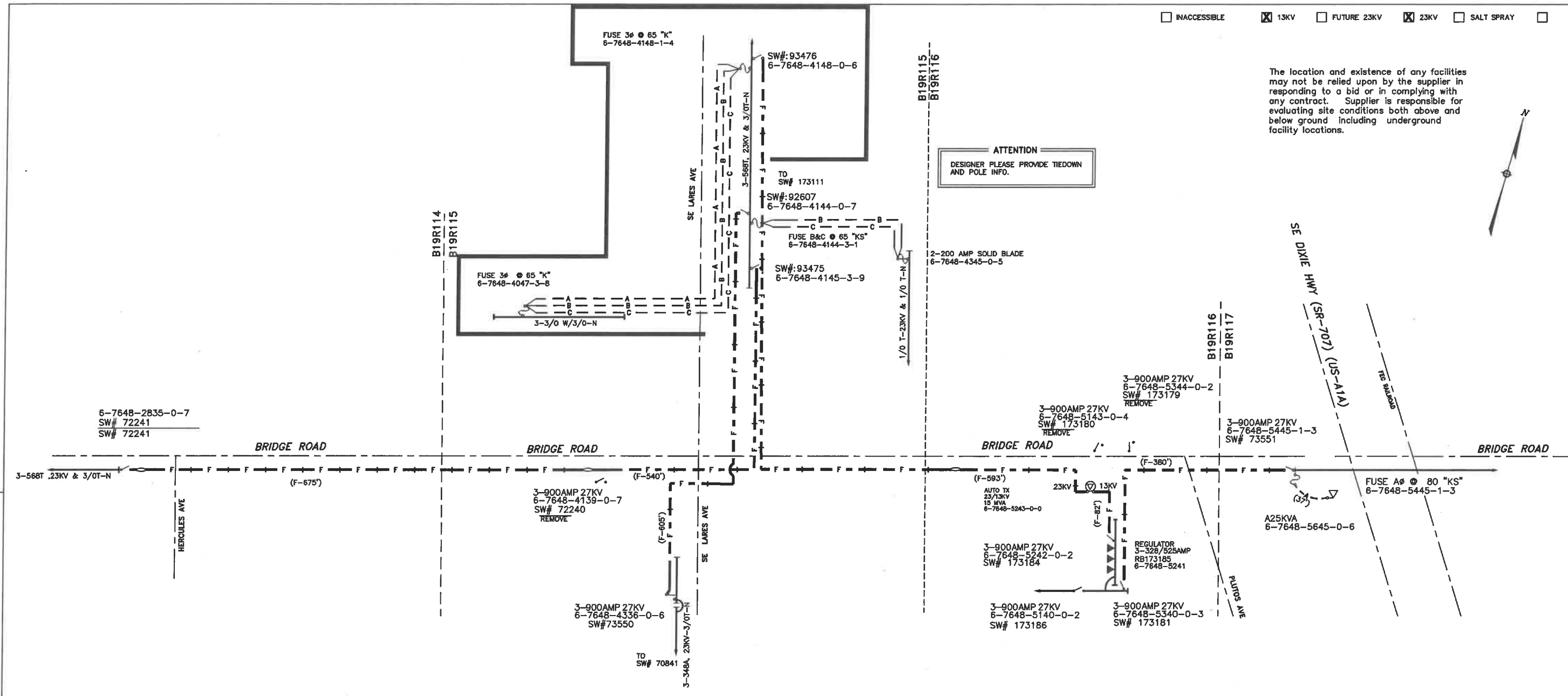
Currently, there are existing underground equipment within the road right-of-way. The existing underground were included in a previous agreement and therefore will not be included in this agreement.

Exhibit C

WR # 9920423 – FPL Construction drawings

☐ INACCESSIBLE ☒ 13KV ☐ FUTURE 23KV ☒ 23KV ☐ SALT SPRAY ☐

The location and existence of any facilities may not be relied upon by the supplier in responding to a bid or in complying with any contract. Supplier is responsible for evaluating site conditions both above and below ground including underground facility locations.



ATTENTION
DESIGNER PLEASE PROVIDE TIEDOWN AND POLE INFO.

CONSTRUCTION NOTES - WR# 9920423

REQUIRED DRAWINGS
B19R115 (NOTES)
B19CK119
UTILITY CONTACT LIST
CALL SUNSHINE 1-800-432-4770

REFERENCE DWG's

B19R114
B19R115
B19R116
B19R117

PLOT DATE: 1/13/2021 PLOT TIME: 9:14:35 AM CAD NAME: JAY

AS-BUILT	AUTH NO.	NO.	DATE	REVISION
	9920423	3	11/30/20	BRIDGE RD SE LARES - UG FOR CONSTRUCTION
	9348065	2	05/07/20	POLE HARDENING PROJECT
	4787753	1	05/28/15	RELOCATE SW CAB'S 1 & 2 TO NORTH
	4787756	0	05/26/15	PULL FEEDER CABLE, INSTALL PMDS# 1 AND 2 TO SVC SE BRIDGE ROAD

AS-BUILT COPY		AS-BUILT CREW PRINT	
Initials	Cert. Date	Foreman's Signature	Date
Job CERTIFIED COMPLETED as shown on this AS-BUILT print. Material changes shown on ROS.			
Supervisor's Signature		Date	
All required ground rods have been driven & verified to be within FPL standards. Values are shown at all locations.			
Foreman's Signature		Date	

Easement?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	Survey/Stake?	YES <input type="checkbox"/> NO <input type="checkbox"/>	Work with SMO?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Tree Work?	YES <input type="checkbox"/> NO <input type="checkbox"/>	Designer/Stake?	YES <input type="checkbox"/> NO <input type="checkbox"/>	CT/Special Mtr?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Map Posting?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	Trench Feet	100'	Duct Bank Feet	
CITY X DIST.		COUNTY AIR	STATE RD	FAA	
WMD RR XING		COUNTY RD.	TRANSM.		
Posted by	Telephone Request?		YES <input type="checkbox"/> NO <input type="checkbox"/>	CATV Request?	YES <input type="checkbox"/> NO <input type="checkbox"/>



DESIGNED BY	M.DESANTIS
DRAWN BY	R.TORRES
DATE	11/30/20
MAP NO.	X-0508

TWP: 48 R. 42 SEC. 29 QTR. _____	
w/ TC SE BRIDE RD	
2000' W/O LARES AVE S/O BRIDGE RD HOBE SOUND / MARTIN COUNTY, FL	
DWG NO.	B19CK114
WR#	9920423
HW#	D099-20-423

