

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2017	2018	2019	2020	2021
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No _____

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

No fiscal impact.

Fixed Asset Numbers: N/A

C. Departmental Fiscal Review: _____ *W* 2-14-17

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature]

 OFMB *Jan 2/16* *2/16*

[Signature] *3/3/17*

 Contract Development and Control
3/3/17 TD

B. Legal Sufficiency:

[Signature] *3/3/17*

 Assistant County Attorney

C. Other Department Review:

 Department Director

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

TWP 43

TWP 43

TWP 44

19

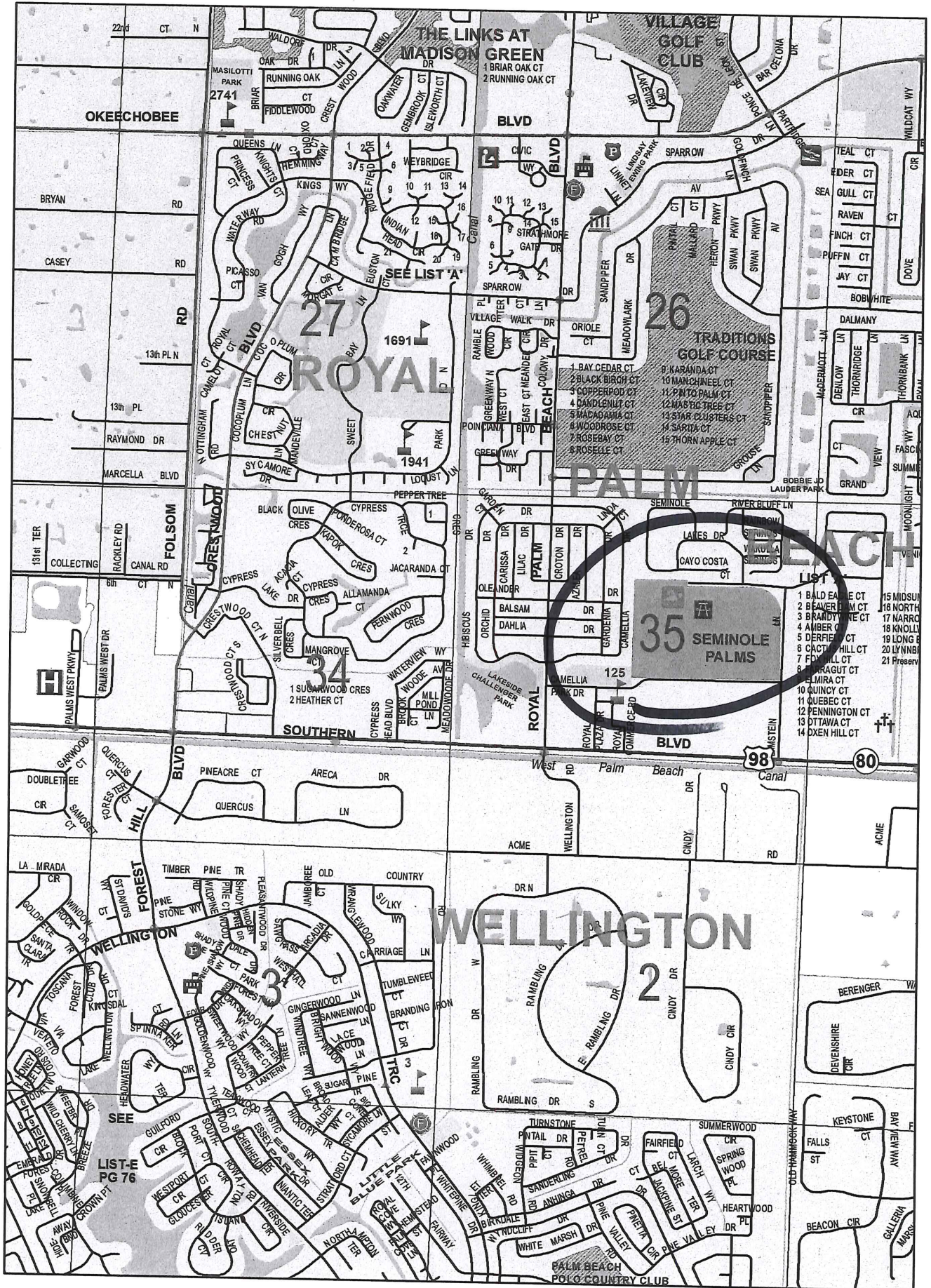
20

21

RNG 41

See pg 76

RNG 41



LOCATION MAP

Attachment 1
1 pg



Attachment 2
Easement Agreement (2)
(13 pg. each)

Prepared by & Return to:
Margaret Jackson, Contract Analyst
Palm Beach County
Property & Real Estate Management Division
2633 Vista Parkway
West Palm Beach, Florida 33411-5605

Property Control Number: portion of 72-41-43-35-00-000-1020

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (“Easement”), made this _____ day of 2017, between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose mailing address is 2633 Vista Parkway, West Palm Beach, Florida 33411-5605, hereinafter referred to as “County”, and **FLORIDA DEPARTMENT OF HEALTH**, whose mailing address is 800 Clematis Street, West Palm Beach, FL 33401, hereinafter referred to as “DOH”.

WITNESSETH:

WHEREAS, County owns the park property as depicted on Exhibit “A” and Exhibit “B” attached hereto and by this reference made a part hereof (the “Easement Premises”); and

WHEREAS, DOH desires to construct an air monitoring station (“Station”) for the purpose of monitoring air quality; and

WHEREAS, DOH has requested that County grant DOH an easement over County Property for purposes of installation, operation and maintenance of the Station; and

WHEREAS, County wishes to provide DOH, a non-exclusive easement over Easement Premises.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

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

2. Grant of Easement. County does hereby grant to DOH, its successors and assigns, a perpetual non-exclusive easement to construct, install and maintain the Station, including landscaping, over, upon, under, through, and across the Easement Premises legally described in Exhibit "A", together with reasonable access across the County's adjacent property to exercise the rights granted herein, and the right to run and maintain an underground electrical conduit from the Station to an existing pad mounted transformer as depicted on Exhibit "B" attached hereto and made a part hereof.

3. Construction. DOH shall, at its sole cost and expense, construct the Station, underground electrical conduit and install landscaping within the confines of the Easement Premises pursuant to the proposed site plan attached hereto and made a part hereof as Exhibit "C". In no event shall barbed wire be used in or around the Station.

4. Hours of Use. DOH's use of the Easement Premises is restricted to normal park operating hours, except in the case of an emergency, and shall be strictly limited to that specifically granted herein. In the event of an emergency, DOH will notify the Parks & Recreation Department within 24 hours of said emergency.

5. County's Rights and Interest. The grant of this Easement shall in no way restrict the right and interest of the County in the use, maintenance and quiet enjoyment of the Easement Premises to the extent that such does not interfere with the rights granted herein.

6. Maintenance, Repair, Restore. DOH shall be solely responsible for and shall, at all times, maintain in good condition and repair all improvements constructed within the Easement Premises pursuant to this Easement, and restore the Easement Premises if necessary, at its sole cost and expense. Additionally, in the event DOH abandons or ceases to use the easement granted hereby, DOH shall promptly repair, replace and/or restore the Easement Premises and any improvements now existing or constructed hereafter, including earth, fill and landscaping, to the condition it was in prior to exercise of any rights granted hereunder, using materials of like kind and quality.

7. Other Obligations. DOH agrees to diligently pursue all work performed hereunder to completion and exercise the rights granted hereunder in a manner that does

not unreasonably interfere with and minimizes the impact upon County's use of the Easement Premises or the County's adjacent property.

8. Protection of Improvements. DOH acknowledges that improvements may have been constructed by County within the Easement Premises or County's adjoining property. Accordingly, DOH covenants that it will protect all such improvements and any improvements made by County in the future, including, but not limited to, water mains, irrigation pipes, stormwater pipes, sanitary sewer pipes, electric service lines, telephone lines, park lighting, fencing, trees, and landscaping which have been or may be placed in the Easement Premises.

9. Extinguished by Abandonment. If the DOH, its successors or assigns, ever abandon the Easement granted hereby or cease to use the same, this Easement shall automatically terminate. Notwithstanding such automatic termination, DOH shall promptly deliver to County a Release of Easement, in a form satisfactory to County, if so requested by County.

10. Personal Property. County shall have no liability or responsibility whatsoever for DOH's improvements, equipment, underground electrical conduit, personal or other property, nor that of any other person or entity, placed upon or located within the Easement Premises.

11. Prohibition Against Liens. Neither County's nor DOH's interest in the Easement Premises, shall be subject to liens arising from DOH's use of the Easement Premises, or exercise of the rights granted hereunder. DOH shall promptly cause any lien imposed against the Easement Premises, to be discharged or transferred to bond.

12. Notice, Permits. DOH shall give County ten (10) days written notice prior to commencement of construction. Any improvements constructed pursuant to this Easement shall be constructed at DOH's sole cost and expense in accordance with all permits related thereto and applicable statutes, codes, rules, regulations, and ordinances, shall be diligently pursued to completion, and shall be maintained in a presentable fashion.

13. No Dedication. This Easement is for the use and benefit of DOH and is not intended and shall not be construed as a dedication to the public of any portion of the Easement Premises for public use.

14. Indemnity. Both Palm Beach County and the Department, as state agencies or subdivisions of the state, as defined in Section 768.28, F.S. agree to be fully responsible to the limits set forth in Section 768.28, F.S. for their own negligent acts which result in claims or suits against each party respectively and agrees to be liable to the limits set forth in Section 768.28, F.S., for any damages proximately caused by said acts or omissions. Nothing herein shall be construed as a waiver of sovereign immunity or consent by either party to be sued by third parties in any matter arising out of this Agreement.

15. Insurance. DOH: Without waiving the right to sovereign immunity as provided by s.768.28 F.S., DOH acknowledges to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$200,000 Per Person and \$300,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event DOH maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance on self-insurance under s.768.28 F.S., DOH shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage.

DOH agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

When requested, DOH shall provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which County agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing requirements shall not relieve DOH of its liability and obligations under this Easement.

In addition, DOH shall require all contractors to provide, maintain and keep in full force and effect General Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) general aggregate, bodily injury and property damage liability coverage, and Workers Compensation covering all employees in accordance with Chapter 440 Florida Statutes. The General Liability policy shall include coverage for the Easement Premises, Operations, Contractual Liability, Independent Contractors Contractual Liability, and Broad Form Property Damage Liability coverages. In addition, contractor shall maintain Business Automobile Liability at a limit

of liability not less than \$1,000,000 Each Occurrence for all owned, non-owned and hired automobiles. In the event contractor does not own any automobiles, contractor shall maintain Hired & Non-Owned Auto Liability in such amount. Coverage shall be provided on a primary basis. DOH shall cause any contractor or subcontractor performing work within the Easement Premises on behalf of DOH to, at all times during the performance of such work, maintain in full force and effect insurance of the same type and amount as required herein.

Except for Workers Compensation, all insurance policies shall name County and DOH as Additional Insured. Such insurance shall be issued by an insurance company licensed to do business in the State of Florida and approved by County.

All contractors shall provide a Certificate of Insurance evidencing such insurance coverage prior to the commencement of any work pursuant to this Easement, such Certificate shall require at least thirty (30) days prior notice of cancellation or adverse material change in coverage, to:

Palm Beach County
c/o Insurance Tracking Services, Inc. (ITS)
P.O. Box 20270
Long Beach, CA 90801
Email: pbc@instracking.com or Facsimile: (562) 435-2999

The required certificates must be signed by the authorized representative of the Insurance Company shown on the certificate.

In no event shall the limits of said insurance policies be considered as limiting the liability of DOH under this Easement. Furthermore, DOH shall and hereby does hold County harmless from any loss or damage incurred or suffered by County due to DOH's failure to maintain such insurance. The amount of the insurance required hereby shall be increased every ten (10) years by the increase over such ten (10) year period of the Consumer Price Index.

16. Reservation of Rights. County hereby retains all rights relating to the Easement Premises not specifically conveyed by this Easement including the right to use the Easement Premises and any improvements now existing or constructed hereinafter therein, and the right to grant to third parties additional easements in the Easement Premises or the right to use the improvements therein.

17. Covenant Running with Land. All of the benefits, burdens, covenants and agreements herein shall constitute covenants running with the land, shall be binding upon and/or shall accrue to the benefit of County and DOH and their respective successors and assigns, having or hereafter acquiring any right title or interest in or to all or any portion of the Easement Premises.

18. Assignability. This Easement may not be assigned by DOH.

19. Notices. All notices, consents, approvals, and elections (collectively, "notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service (provided in each case a receipt is obtained), telecopied or faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service, or on the date of transmission with confirmed answer back if telecopier or fax if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

County:

Palm Beach County
Property & Real Estate Management Division
Attention: Director
2633 Vista Parkway
West Palm Beach, Florida 33411-5605
Fax No.: (561) 233-0210

With a copy to:

County Attorney's Office
Attention: Real Estate
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401-4791
Fax No.: (561) 355-4398

and

With a copy to:

Palm Beach County Parks and Recreation Department
Attention: Director
2700 6th Avenue South
Lake Worth, Florida 33461
Fax No.: (561) 963-6747

DOH:

Timothy G. Mayer, RS, MPH
Director, Environmental Public Health
Florida Health Palm Beach County
800 Clematis Street
West Palm Beach, FL 33401
Fax No.: (561) 837-5295

20. Matters of Record. This Easement is granted without warranty or representation and subject to zoning and other governmental restrictions, matters reflected on any plat relating to the Easement Premises, and all other easements, restrictions, conditions, encumbrances and other matters of record.

21. Default. In the event DOH fails or refuses to perform any term, covenant, or condition of this Easement and fails to cure such failure or refusal to perform after receipt of written notice from the County providing a thirty (30) day time frame to cure, County shall have the right to give Grantee notice that County intends to terminate this Easement upon a specified date not less than thirty (30) days after the date notice is received by Grantee.

22. Governing Law & Venue. This Easement shall be governed by, construed and enforced in accordance with the laws of the State of Florida. Venue in any action, suit

or proceeding in connection with this Easement shall be in a state court of competent jurisdiction in Palm Beach County, Florida.

23. Construction. No party shall be considered the author of this Easement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final agreement. Thus, the terms of this Easement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such holding shall not affect the remaining portions of this Easement and the same shall remain in full force and effect.

24. Entire Understanding. This Easement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, either written or oral, relating to this Easement.

25. Time of Essence. The parties expressly agree that time is of the essence in this Easement and the failure by a party to complete performance within a reasonable time, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.

26. Non-Discrimination. The parties agree that no person shall, on the grounds their race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information be excluded from the benefits of, or be subjected to, any form of discrimination under any activity conducted pursuant to this Easement.

DOH has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, has acknowledged through a signed statement provided to County that DOH will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

27. Effective Date of Easement. This Easement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by and approved by the Palm Beach County Board of County Commissioners.

28. No Third Party Beneficiary. No provision of this Easement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Easement, including but not limited to any citizens of Palm Beach County or employees of County or DOH.

29. Palm Beach County Office of the Inspector General Audit Requirements. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General is authorized with the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

30. Termination. Notwithstanding anything in this Easement to the contrary, County may cancel this Easement for any reason upon ninety (90) days prior written notice to DOH at any time after the 5th anniversary of this Easement.

31. DOH Acceptance. By DOH's exercise of the rights granted by this instrument, DOH acknowledges and agrees that the conditions imposed herein shall bind and be enforceable against DOH, its successors and assigns to the same extent as if DOH had physically executed this instrument.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, County has caused these presents to be executed in its name, by its proper officers thereunto duly authorized, the day and year first above written.

ATTEST:

SHARON R. BOCK
CLERK & COMPROLLER

PALM BEACH COUNTY, a political
subdivision of the State of Florida

By: _____
Deputy Clerk

By: _____
Paulette Burdick, Mayor

Signed and delivered
in the presence of:

Witness Signature

Print Witness Name

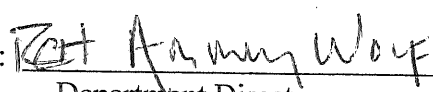
Witness Signature

Print Witness Name

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
Assistant County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: 
Department Director

APPROVED AS TO TERMS AND
CONDITIONS

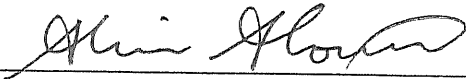
By: 
Alina Alonso, MD, Director
DOH Palm Beach County

EXHIBIT "A"
COUNTY PROPERTY/EASEMENT PREMISES
(STATION)

Portion of 72-41-43-35-00-000-1020 (Seminole Palms Park)
as recorded in ORB 7895 Page 179 public records of Palm Beach County, Florida

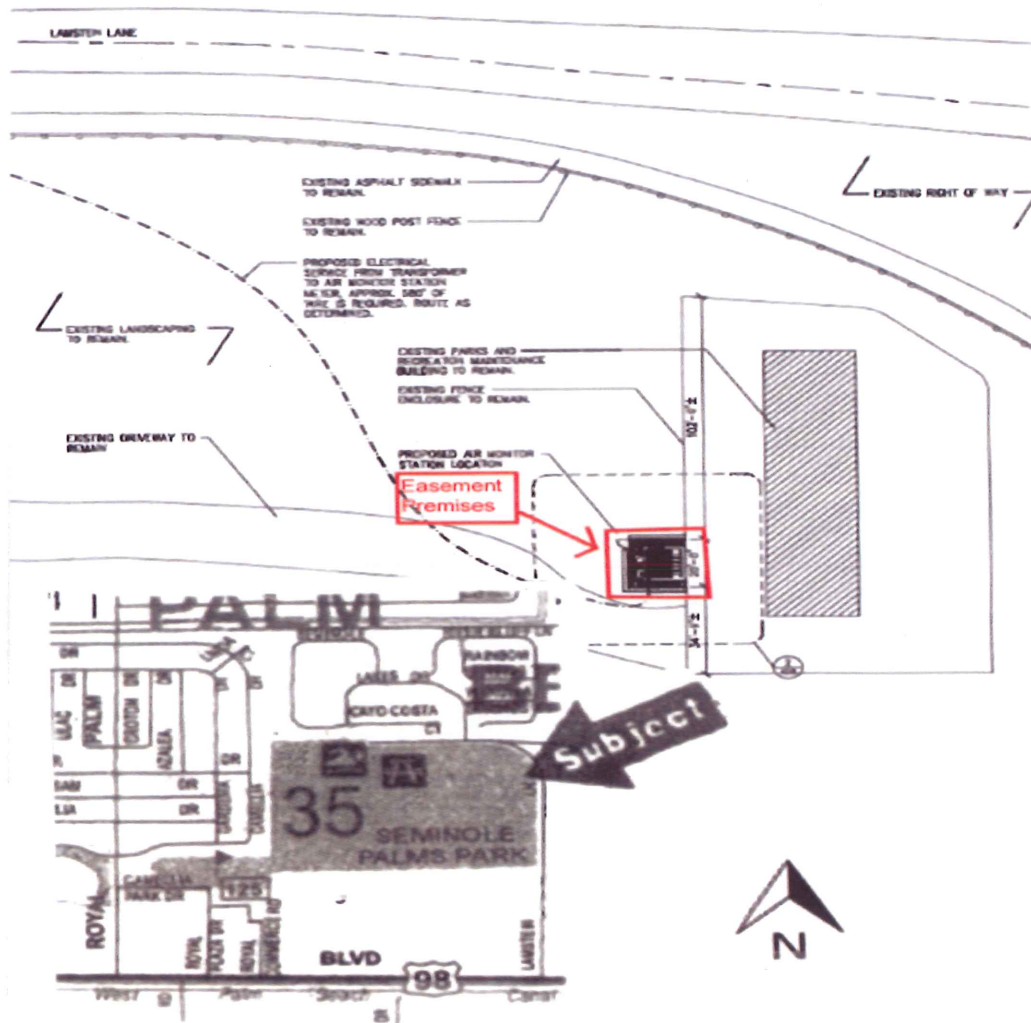


EXHIBIT "B"
COUNTY PROPERTY/EASEMENT PREMISES
(ELECTRICAL CONNECTION)

[Full size copy is available at the Parks & Recreation Department]

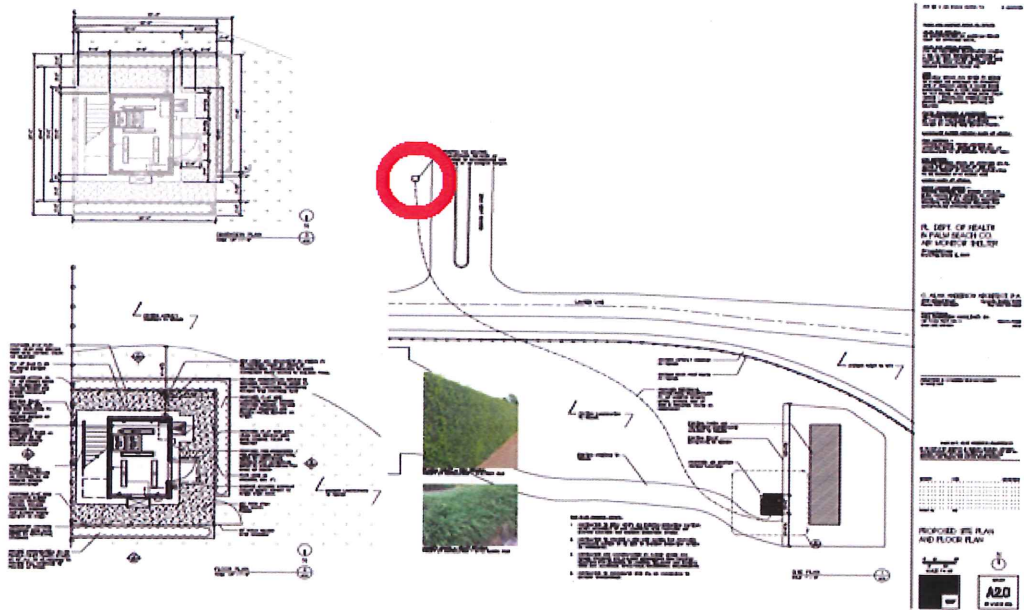


EXHIBIT "C"

PROPOSED SITE PLAN

[Full size copy is available at the Parks & Recreation Department]

