

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

---

Meeting Date: June 2, 2020	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
Department: Engineering and Public Works	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Submitted By: Engineering and Public Works		
Submitted For: Roadway Production Division		

---

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: a subordination of utility interests and agreement for reimbursement for additional facility relocations with Florida Power & Light Company (FPL) on a parcel of land located at the southwest corner of Roebuck Road and Loxahatchee River Road.

**SUMMARY:** Approval of the subordination agreement will subordinate FPL’s utility easement interests and allow Palm Beach County (County) to accept a warranty deed for additional right-of-way. As part of the development conditions associated with Family Church 5 LLC, the property owners are required to provide the County with 63.5 feet of right-of-way on Roebuck Road, and 70 feet of right-of-way on Loxahatchee River Road. This right-of-way is encumbered by an FPL utility easement. The subordination agreement requires FPL to relocate any facilities it may have from the dedicated right-of-way, when and if requested by the County, and requires the County to pay for reasonable relocation costs of said facilities. The property owners have provided \$40,000 to the County for those future costs. FPL has negotiated their subordinations not to include the indemnity provision associated with PPM CW-F-049. This has been reviewed by the County Attorney’s office and Risk Management. District 1 (YBH)

**Background and Justification:** The parcel of land to be dedicated is encumbered by a utility easement in favor of FPL. Land conveyed to the County is required to be free and clear of all encumbrances. FPL has already executed the subordination agreement. The Engineering Department recommends the Board of County Commissioners’ approval.

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

Recommended by: YBH/TEL

County Engineer

Date

Approved by:

Assistant County Administrator

Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

<b>Fiscal Years</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
<b>Capital Expenditures</b>	<u>\$ -0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b>Operating Costs</b>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b>External Revenues</b>	<u>(\$40,000)</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b>Program Income (County)</b>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b>In-Kind Match (County)</b>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b>NET FISCAL IMPACT</b>	<u>(\$40,000)</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b># ADDITIONAL FTE</b>					
<b>POSITIONS (Cumulative)</b>					

Is Item Included in Current Budget?	Yes	No X
Does this item include the use of federal funds?	Yes	No X

**Budget Account No:**

Fund 3500 Dept 360 Unit 4260 Rvsc 6948

**Recommended Sources of Funds/Summary of Fiscal Impact:**

Transportation Improvement Fund  
Roadway Production

Approval of the Subordination of Utility Interests may require the expenditure of funds for future relocation of utility facilities. This potential impact is not possible to quantify or state with any certainty that it will occur at the present time. The property owners have provided \$40,000 for future costs.

C. Departmental Fiscal Review: Affordable

### III. REVIEW COMMENTS

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

*[Signature]* 5/4/2020  
OFMB 8/5/4

A. S. Andrew 5/5/2020  
Contract Dev. and Control  
5/5/2020 TW

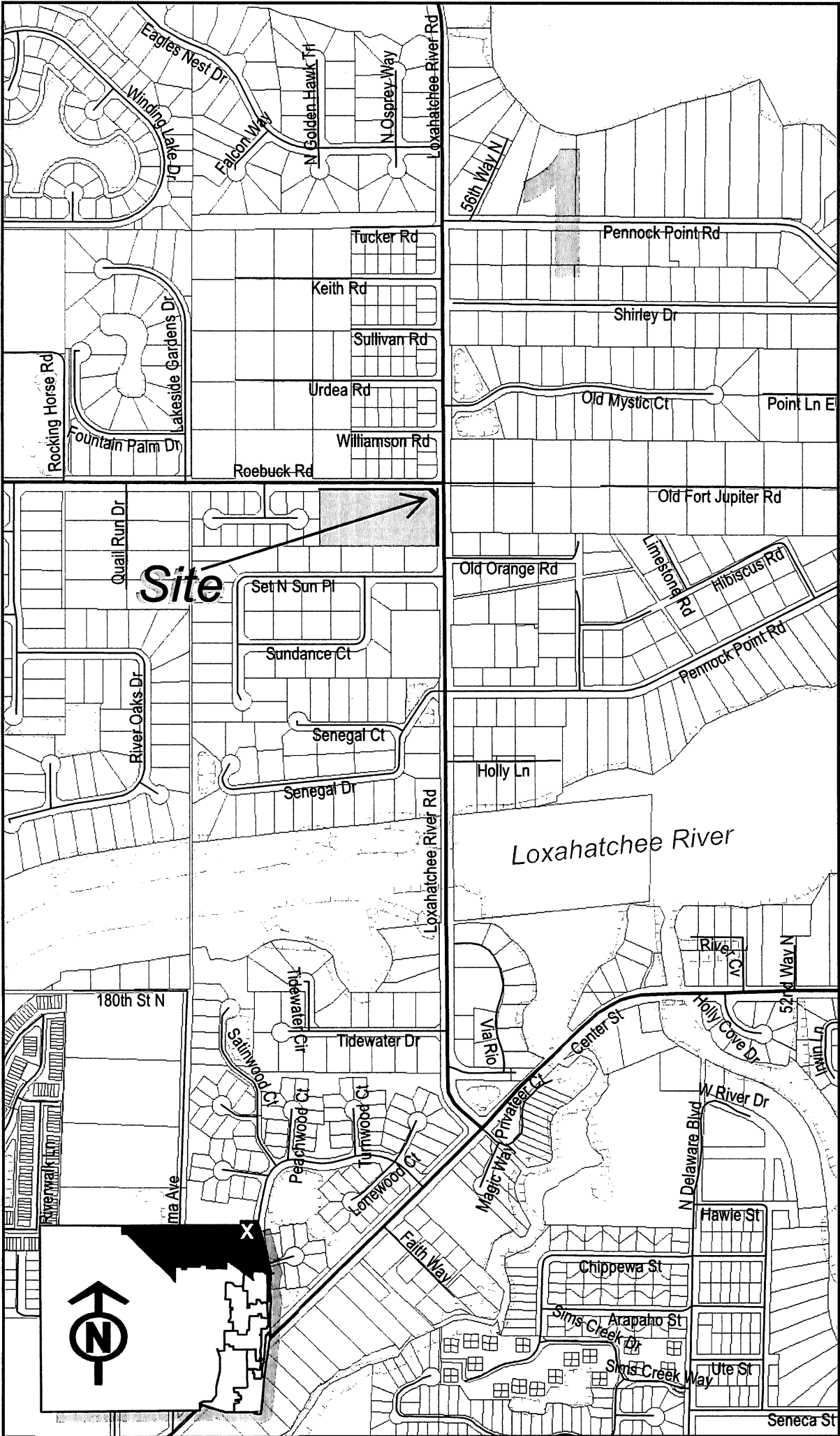
**B. Approved as to Form  
and Legal Sufficiency:**

YBH Helene C. Biggs  
Assistant County Attorney

**C. Other Department Review:**

**Department Director**

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



0 500 1,000 1,500 2,000 2,500 Feet

Location Map

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

This instrument prepared by:  
Samantha J. Saucier  
Florida Power & Light Company  
700 Universe Boulevard, CRE/JB  
Juno Beach, Florida 33408

Property Control Number: Portion of 00-42-40-35-00-000-7010

**NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE**

**SPACE ABOVE THIS LINE FOR PROCESSING DATA**

**PROJECT NO. MRT 2019-017**  
**ROAD NAME: ROEBUCK ROAD @**  
**LOXAHATCHEE RIVER ROAD**  
**PARCEL NO.RW**

**SUBORDINATION OF UTILITY INTERESTS AND AGREEMENT FOR  
REIMBURSEMENT FOR ADDITIONAL FACILITY RELOCATIONS**

**THIS SUBORDINATION OF UTILITY INTERESTS AND AGREEMENT FOR REIMBURSEMENT FOR ADDITIONAL FACILITY RELOCATIONS** (“Agreement”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners (“County”), whose mailing address is Post Office Box 21229, West Palm Beach, Florida 33416-1229, and **FLORIDA POWER & LIGHT COMPANY**, a Florida corporation (“Utility”), whose mailing address is Post Office Box 14000, Juno Beach, Florida 33408-0420.

**WITNESSETH**

WHEREAS, the Utility presently has an interest in certain lands as legally described and depicted on attached **Exhibit “A”** (“Lands”) that have been determined necessary for future Public Right-of-Way purposes; and

WHEREAS, the proposed use of the Lands for highway purposes will require subordination of the interest claimed in such Lands by the Utility to the County; and

WHEREAS, at the request of the County, the Utility has agreed, subject to the terms and conditions set forth herein, to either (i) leave such facilities on the subordinated Lands until such time as the County requests relocation of such facilities, if at all, or (ii) relocate such facilities from the subordinated Lands to an area acceptable to the

Utility, as applicable, and the County is willing to pay for such relocation and, if relocated within Public Right-of-Way, any and all future relocations of said facilities, if necessary, to prevent conflict between the County’s use and the Utility’s use so that the benefits of each may be retained.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, the Utility and the County agree as follows:

**AGREEMENT**

1. The Utility hereby subordinates any and all of its interest in that certain portion of the Utility’s easement located upon the Lands, as granted via the below-referenced instrument, to the interest of the County for the purposes of constructing, improving, maintaining and operating a road over, through, upon, and/or across such Lands:

---

<u>NATURE OF ENCUMBRANCE</u>	<u>DATE</u>	<u>FROM OR AGAINST</u>	<u>IN FAVOR OF</u>	<u>BOOK / PAGE</u>
EASEMENT	09/14/1994	CHARLEY MILLS	FP&L	ORB8425/PG684

---

2. “Public Right-of-Way”, as used herein, shall mean existing right-of-way and that certain area of land to become future right-of-way also shown on attached **Exhibit “A”**, and which a portion of the Public Right-of-Way includes all or a part of the Utility’s above-referenced easement on the Lands (all as depicted on said Exhibit).

3. Should the County require the Utility to alter, adjust, or relocate any of the Utility’s facilities presently located on, within, or upon the Lands, the County hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate replacement easement(s). In addition, the Utility retains the right to be reimbursed in the future for any and all additional alterations, adjustments, or relocations of its facilities located presently or to be located on the Lands (or Public Right-of-Way if such facilities were previously relocated from the Lands to the Public Right-of-Way under this Agreement) if such alteration, adjustment, or relocation is caused by present or future uses of the Public Right-of-Way by the County or its assigns, including, but not limited to, the cost of accommodating the Utility within the Public Right-of-Way, or if necessary, acquiring replacement easement(s).

4. The Utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate its facilities on, within, and upon the Lands in accordance with the County’s current minimum standards for such facilities as of the date of this Agreement. Any new construction or relocation of such facilities by the Utility on, within, and upon the Lands will be subject to prior approval by the County. Should the County fail to approve any new construction or relocation of such facilities on, within, and upon the Lands, the County hereby agrees to pay the cost of such alteration, adjustment, or relocation required by the County’s failure to approve such

new construction or relocation, including, but not limited to the cost of acquiring appropriate replacement easement(s).

5. The Utility shall have the right to enter upon the Lands (and/or the area of the Public Right-of-Way where the facilities have been relocated) for the purposes outlined in Paragraph 4 above, including the right to trim such trees, brush, and growth which might endanger or interfere with the Utility’s facilities. The County shall provide and allow access to the Lands (and/or the area of the Public Right-of-Way where the facilities have been relocated) by the Utility.

6. The Utility agrees to repair any damage to the County facilities and to indemnify the County against any loss or damage, in an amount not to exceed One Million Dollars (\$1,000,000), resulting from the Utility exercising its rights to construct, operate, maintain, improve, add to, upgrade or remove its facilities on the Lands (and/or the area of the Public Right-of-Way where the facilities have been relocated).

7. This Agreement shall not be assigned by County, except to the State of Florida or any other governmental entity that has an interest in the Public Right-of-Way. In the event of any assignment hereunder, County shall provide written notice of such assignment to Utility within thirty (30) days of such assignment.

*(Signatures and Acknowledgements appear on following pages.)*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

ATTEST:

SHARON R. BOCK  
CLERK & COMPTROLLER

County:

PALM BEACH COUNTY,  
a political subdivision of the State of Florida  
by and through its Board of County Commissioners

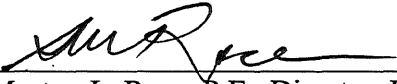
By: \_\_\_\_\_  
Clerk (or Deputy Clerk)

By: \_\_\_\_\_  
Dave Kerner, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
Yelizaveta B. Herman  
Assistant County Attorney

APPROVED AS TO TERMS AND  
CONDITIONS

By:  \_\_\_\_\_  
Morton L. Rose, P.E., Director, Roadway Production  
Engineering & Public Works Department

Utility:

**FLORIDA POWER & LIGHT COMPANY,**  
a Florida corporation

Signed, sealed and delivered  
in the presence of:

By: [Signature]

Print Name: Colleen Sementelli

By: [Signature]

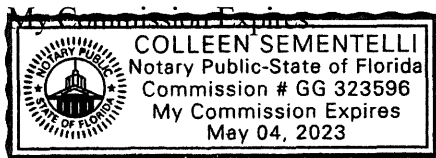
Print Name: Stacy B. Winnubst

By: [Signature]  
Samantha J. Saucier  
Corporate Real Estate Manager

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I hereby certify that on this day, before me, an officer duly authorized to take acknowledgements, personally appeared Samantha J. Saucier, to me known and personally known to me to be the person described in, and did not take an oath and who executed the foregoing instrument as Area Real Estate Manager of Florida Power & Light Company, a Florida corporation and acknowledged before me by means of (*choose one*) physical presence *or* online notarization, that she executed the same as such official in the name and on behalf of said Corporation.

WITNESS my hand and official seal in the County and State aforesaid this 9th day of April, 2020.



Notary Signature: [Signature]  
Notary Public State of Florida

Printed Name: Colleen Sementelli



LEGAL DESCRIPTION

BEING A PORTION OF A FLORIDA POWER & LIGHT EASEMENT, AS RECORDED IN OFFICIAL RECORDS BOOK 8425, PAGE 684, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 35, TOWNSHIP 40 SOUTH, RANGE 42 EAST, SAID LAND SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 35, AS SHOWN ON THE PLAT OF JUPITER HIGHLANDS AS RECORDED IN PLAT BOOK 25, PAGE 241, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; RUN THENCE SOUTH 00°16'29" EAST, ALONG THE CENTERLINE OF LOXAHATCHEE RIVER ROAD, A DISTANCE OF 58.00 FEET; THENCE NORTH 89°55'09" WEST, (DEPARTING FROM SAID CENTERLINE), A DISTANCE OF 30.01 FEET TO A POINT ON THE EXISTING WEST RIGHT-OF-WAY LINE OF LOXAHATCHEE RIVER ROAD, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89°55'09" WEST, (DEPARTING FROM SAID WEST RIGHT-OF-WAY LINE), A DISTANCE OF 25.25 FEET; THENCE NORTH 45°05'49" WEST, A DISTANCE OF 14.19 FEET; THENCE SOUTH 89°55'09" EAST, A DISTANCE OF 25.25 FEET; THENCE SOUTH 45°05'52" EAST, A DISTANCE OF 14.19 FEET TO A POINT ON THE EXISTING WEST RIGHT-OF-WAY LINE OF LOXAHATCHEE RIVER ROAD, SAID POINT ALSO BEING THE POINT OF BEGINNING.

CONTAINING 253 SQUARE FEET, OR 0.0058 ACRES, MORE OR LESS.

CERTIFICATION

I HEREBY CERTIFY THAT THE ATTACHED SKETCH OF LEGAL DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON AUGUST 2, 2019. I FURTHER CERTIFY THAT THIS SKETCH OF LEGAL DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH IN RULE 5J-17 F.A.C., ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES 472.027.

Timothy M. Smith

TIMOTHY M. SMITH, P.S.M.  
FLORIDA REGISTRATION NO. 4676

NOT A SURVEY

EXHIBIT A

SHEET 1 OF 4

**TIMOTHY M. SMITH**  
**LAND SURVEYING, INC.**  
4546 CAMBRIDGE STREET  
WEST PALM BEACH, FL 33415  
(561) 602-8160  
LB #6865

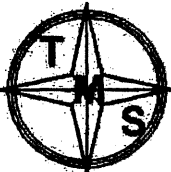
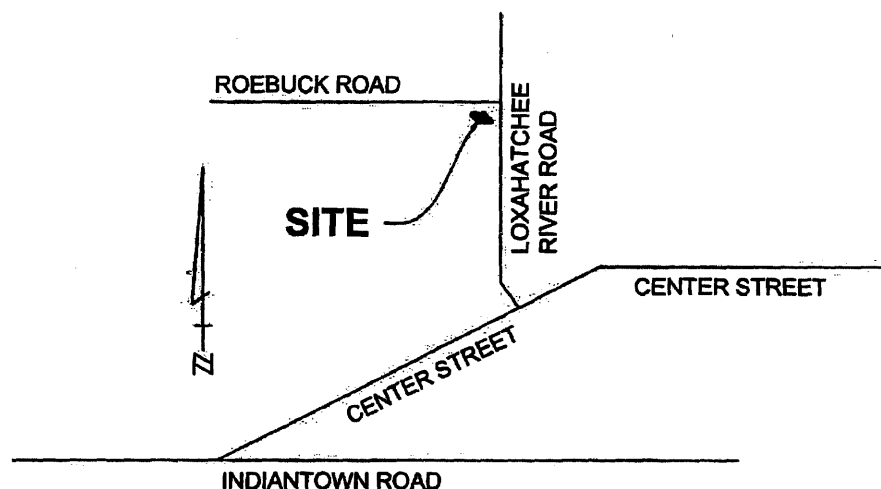


EXHIBIT A  
SUBORDINATION  
AGREEMENT  
SKETCH OF LEGAL  
DESCRIPTION

SCALE: N/A  
DATE: JULY 2019  
DIRECTORY: FAMIOXA  
FIELD BOOK: N/A  
DWG NO.: FAMIOXA SK04

## LOCATION MAP

SECTION 35, TOWNSHIP 40 SOUTH, RANGE 42 EAST  
NOT TO SCALE



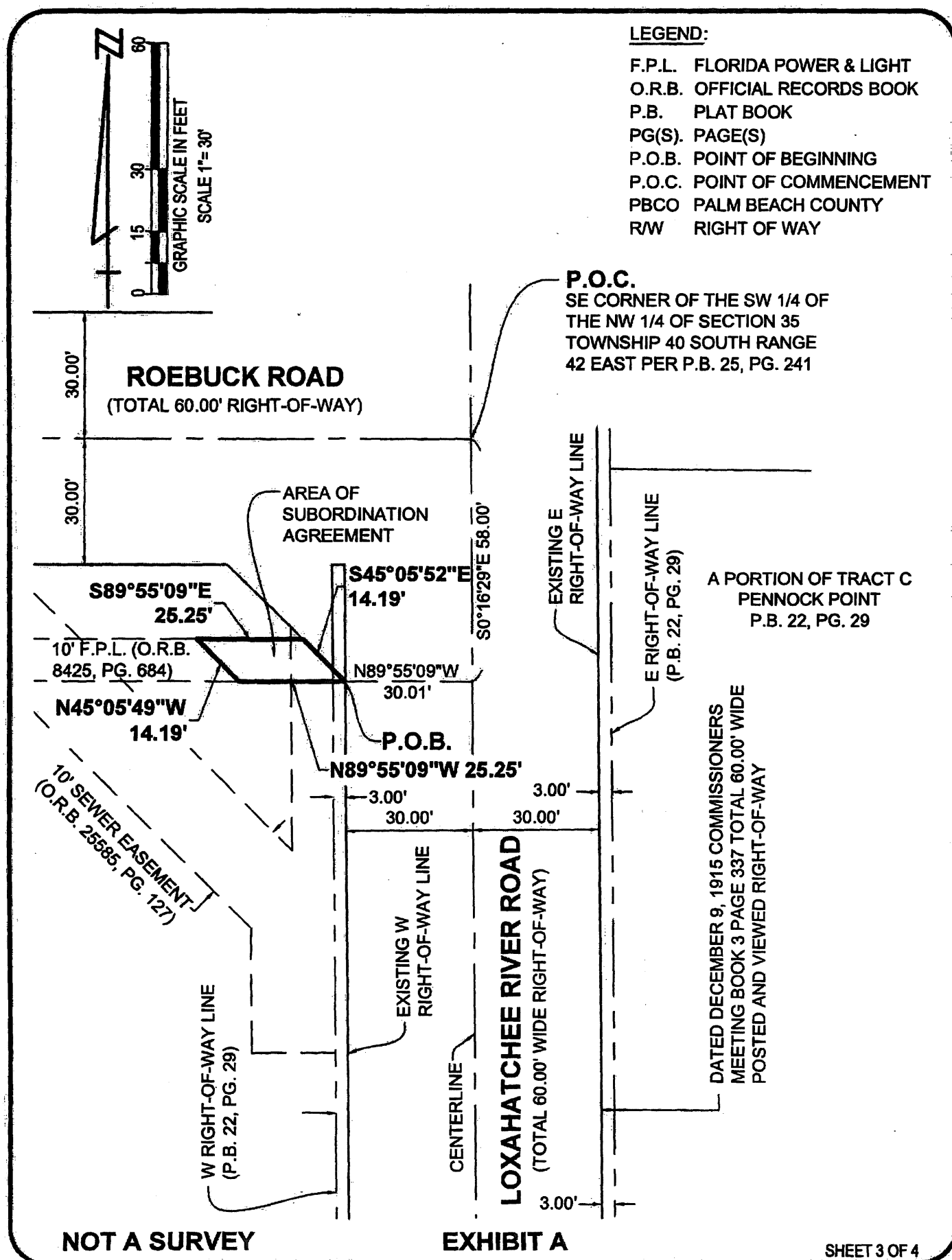
## SURVEYOR'S NOTES

1. SURVEY MAP OR COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND SEAL OF TIMOTHY M. SMITH, P.S.M., FLORIDA CERTIFICATE LS 4676.
2. LANDS SHOWN HEREON WERE ABSTRACTED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, COMMITMENT NUMBER: 735696, EFFECTIVE DATE: MAY 15, 2019 AT 11:00PM. SCHEDULE B-SECTION II EXCEPTIONS WERE REVIEWED BY THIS OFFICE AND ALL PLOTTABLE EXCEPTIONS ARE SHOWN HEREON.
3. BEARINGS SHOWN HEREON ARE REFERENCED TO THE LINE BETWEEN PALM BEACH COUNTY HORIZONTAL CONTROL POINTS "FERGUS" AND "COUNTRY CLUB" WITH A GRID BEARING OF NORTH 76°59'54" WEST. (ACCORDING TO THE TRANSVERSE MERCATOR PROJECTION OF THE FLORIDA EAST ZONE, N.A.D. 83, PER THE 1990 ADJUSTMENT, BASED ON THE GEODETIC CONTROL ESTABLISHED AND ACCEPTED BY THE PALM BEACH COUNTY SURVEY DEPARTMENT.)
4. ADDITIONS OR DELETIONS TO SURVEY MAPS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
5. REFER TO SPECIFIC PURPOSE SURVEY BY TIMOTHY M. SMITH LAND SURVEYING, INC., "FAMILLOXA SY03 SPS", DATED MAY 22, 2019.

## COORDINATES, BEARINGS, AND DISTANCES NOTES

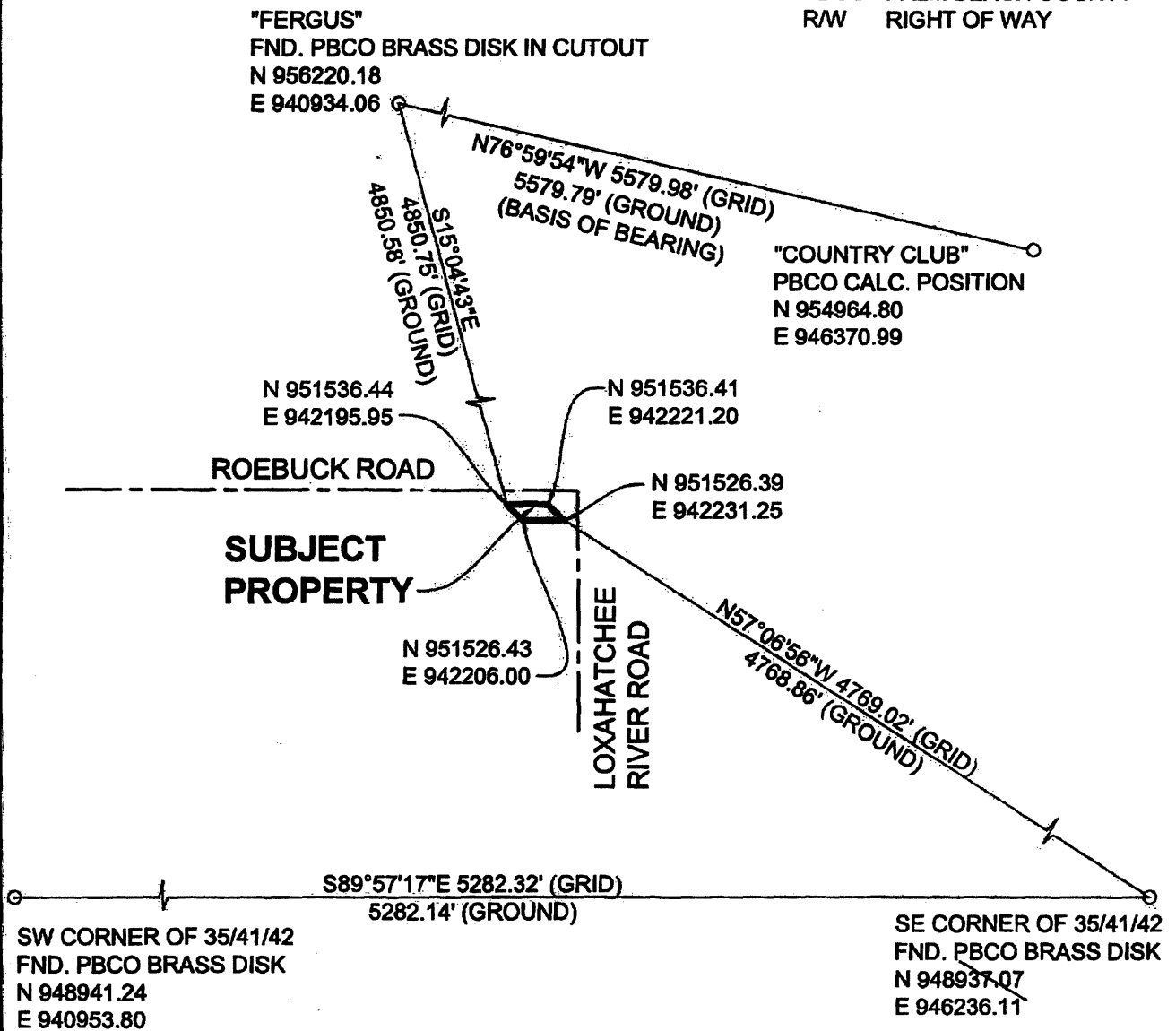
COORDINATES SHOWN ARE GRID DATUM = NAD 83 1990 ADJUSTMENT  
ZONE = FLORIDA EAST  
LINEAR UNIT = US SURVEY FEET  
COORDINATE SYSTEM 1983 STATE PLANE TRANSVERSE MERCATOR  
PROJECTION  
ALL DISTANCES ARE GROUND  
SCALE FACTOR = 1.0000341545  
GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE  
BEARINGS AS SHOWN HEREON ARE GRID DATUM, NAD 83 1990  
ADJUSTMENT, FLORIDA EAST ZONE.

**NOT A SURVEY**



**LEGEND:**

FND. FOUND  
P.B. PLAT BOOK  
PG. PAGE  
P.O.B. POINT OF BEGINNING  
P.O.C. POINT OF COMMENCEMENT  
PBCO PALM BEACH COUNTY  
R/W RIGHT OF WAY



**BEARING SKETCH**  
NOT TO SCALE

**NOT A SURVEY**