



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

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F.12.

7/9/2024

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### Subject:

Approval, Re: Brevard County Board of County Commissioners Written Consent to Easement in Connection with Florida Power & Light for the Use of State-Owned Uplands for a Light Pole Guy Wire Extending Into the Florida East Central Regional Rail Trail (District 1)

### Fiscal Impact:

None

### Dept/Office:

Parks and Recreation

### Requested Action:

It is requested that the Board of County Commissioners approve and authorize the Chair to execute the attached Brevard County Board of County Commissioners Written Consent to Easement

### Summary Explanation and Background:

The subject property is located in Section 20, Township 21 South, Range 35 East on the north side of Jay Jay Road in Titusville, FL. Florida Light & Power proposes to replace a light pole, but the guy wire will extend north into the Florida East Central Regional Rail Trail land, a trail over which Parks and Recreation is the custodian.

On April 25, 2008 the Board of Trustees of the Internal Improvement Trust Fund (TIIFT), Lessor, entered into Lease Agreement 4576 with the State of Florida, Department of Environmental Protection (FDEP), Lessee, over 663.62 acres. Paragraph 12 of the Lease states easements are expressly prohibited without the prior written approval of the Lessor. On September 2, 2008, Brevard County entered into a Sublease Agreement with FDEP over 196.6 acres of the East Coast Regional Rail Trail. Paragraph 32 of the Sublease states that easements are prohibited without the prior written approval of TIIFT and FDEP. As managing agent over the lands, the County must provide a written consent to the easement prior to the State considering FPL's application. The Consent is contingent on the written approval of the easement by the TIIF and FDEP.

Parks and Recreation recommends approval of this request.

### Clerk to the Board Instructions:

Upon execution, please send the Brevard County Board of County Commissioners Written Consent to Easement to the Parks and Recreation Department Attention: Mary Ellen Donner, Director.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

July 10, 2024

**M E M O R A N D U M**

**TO:** Mary Ellen Donner, Parks and Recreation Director

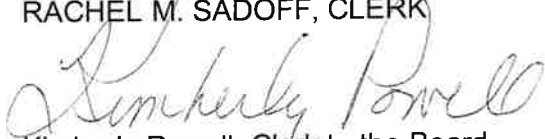
**RE:** Item F.12., Approval of Brevard County Board of County Commissioners Written Consent to Easement in Connection with Florida Power & Light for the Use of State-Owned Uplands for a Light Pole Guy Wire Extending Into the Florida East Central Regional Rail Trail

The Board of County Commissioners, in regular session on July 9, 2024, approved and authorized the Chair to execute the Brevard County Board of County Commissioners Written Consent to Easement in connection with Florida Power & Light for the use of State-owned uplands for a light pole guy wire extending into the Florida East Central Regional Rail Trail. Enclosed is a fully-executed Written Consent to Easement.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

/tr

Encl. (1)

## **BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

### **WRITTEN CONSENT TO EASEMENT**

**WHEREAS**, on the 25<sup>th</sup> day of April 2008, the Board of the Internal Improvement Trust Fund of the State of Florida (hereinafter the TIITF), Lessor, entered into Lease Agreement 4576 with the State of Florida, Department of Environmental Protection, (hereinafter FDEP), Lessor over 663.62 acres; and

**WHEREAS**, paragraph 12 of said lease states all easements are expressly prohibited without the prior written approval of the Lessor; and

**WHEREAS**, on the 2<sup>nd</sup> day of September, 2008, Brevard County, Florida sublessee, entered into a Sublease Agreement with FDEP over 196.6 acres of the East Coast Regional Rail Trail; and

**WHEREAS**, paragraph 32 of the sublease states all easements are prohibited without the prior written approval of the TIITF and FDEP; and

**WHEREAS**, Brevard County is the managing agent over said 196.6 acres; and

**WHEREAS**, the Florida Power & Light (FPL) desires to make application to the TIITF and FDEP for the use of State-owned uplands for the guy line location of a single pole replacement; and

**WHEREAS**, the easement is described in the attached "Exhibit A"; and

**WHEREAS**, the pole guy line extends north into the "Florida East Central Regional Rail Trail"; and

**WHEREAS**, the pole guy line will cross the abandoned Florida East Coast Railway right-of-way, which is the Rails to Trails land being managed by Brevard County; and

**WHEREAS**, prior to FPL making application for the use of State-owned uplands, the State requires this Consent to Easement from the County; and

**WHEREAS**, Brevard County Parks and Recreation Department, as custodian over the managed lands, has no objection to the easement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA that:

1. The recitals are true and correct, and incorporated herein.
2. The County has no objection to the requested easement, provided that the easement is approved in writing by the TIITF and the FDEP.

3. This Consent to Easement shall take effect immediately upon FPL obtaining the written approvals delineated in paragraph 2.

DONE AND ORDERED in Regular Session this 9<sup>th</sup> day of July, 2024.

ATTEST:



Rachel Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA



Jason Steele, Chair

As approved by the Board July 9, 2024

# SKETCH & DESCRIPTION

SECTIONS 20 & 29, TOWNSHIP 21 SOUTH, RANGE 35 EAST  
(NOT A BOUNDARY SURVEY)

SHEET 1 OF 2  
NOT VALID WITHOUT THE  
SKETCH ON SHEET 2 OF 2

WR 9938317

## LEGAL DESCRIPTION:

A parcel of land in the Southeast 1/4 of Section 20 and the Northeast 1/4 of Section 29, Township 21 South, Range 35 East, Brevard County, Florida, and being a part of the Florida East Central Regional Rail Trail Right-of-Way as described in Official Records Book 5838, Page 9507, Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at the South 1/4 corner of aforesaid Section 20, Township 21, South, Range 35 East; thence run N89°16'18"E along the South line of the Southeast 1/4 of Section 20 a distance of 1,622.55 feet to point on the Westerly Right-of-Way line of aforesaid Florida East Central Regional Rail Trail Right-of-Way, said point also being the POINT OF BEGINNING of the herein described parcel; thence N27°58'13"W along said Westerly Right-of-Way line a distance of 48.12 feet; thence N62°01'47"E a distance of 10.00 feet; thence S27°58'13"E a distance of 25.15 feet; thence N87°48'40"E a distance of 99.95 feet to a point on the Easterly Right-of-Way Line of aforesaid Florida East Central Regional Rail Trail; thence S27°58'13"E along said Easterly Right-of-Way line a distance of 11.11 feet; thence S87°48'40"W a distance of 99.95 feet; thence S27°58'13"E a distance of 37.41 feet to a Point of Intersection; thence S27°59'49"E parallel with and 10.00 feet Easterly by perpendicular measurement a distance of 135.00 feet; thence S62°00'11"W a distance of 10.00 feet to a point on aforesaid Westerly Right-of-Way Line; thence N27°59'49"W along said Westerly right-of-way line a distance of 135.00 feet to a Point of Intersection; thence N27°58'13"W a distance of 25.55 feet to the Point of Beginning.

Contains 3,086 square feet, more or less.

## SURVEYORS NOTES:

- Bearing based on State Plane Coordinates Grid Bearing being N89°16'18"E along the south line of the Southeast 1/4 of Section 20, Township 21 South, Range 35 East as shown hereon.

PREPARED BY:



1350 MALABAR ROAD S.E., SUITE 1, PALM BAY, FLORIDA 32907  
Phone (321)724-2940 Fax (321)951-4879  
E-MAIL: SMITHSURVEYINGFL @ GMAIL.COM



*Kevin A. Smith*  
KEVIN A. SMITH - FLORIDA CERTIFICATE NO. 4457  
(NOT VALID UNLESS SIGNED AND SEALED)

## PREPARED FOR:

DRAWN BY: P.A.D.

CHECKED BY: KAS

DRAWING NO. 21-1170

SECTIONS 20 & 29  
TOWNSHIP 21 SOUTH  
RANGE 35 EAST

DATE: JULY 7, 2021

SHEET 1 OF 2

REVISIONS JUNE 21, 2024

# SKETCH & DESCRIPTION

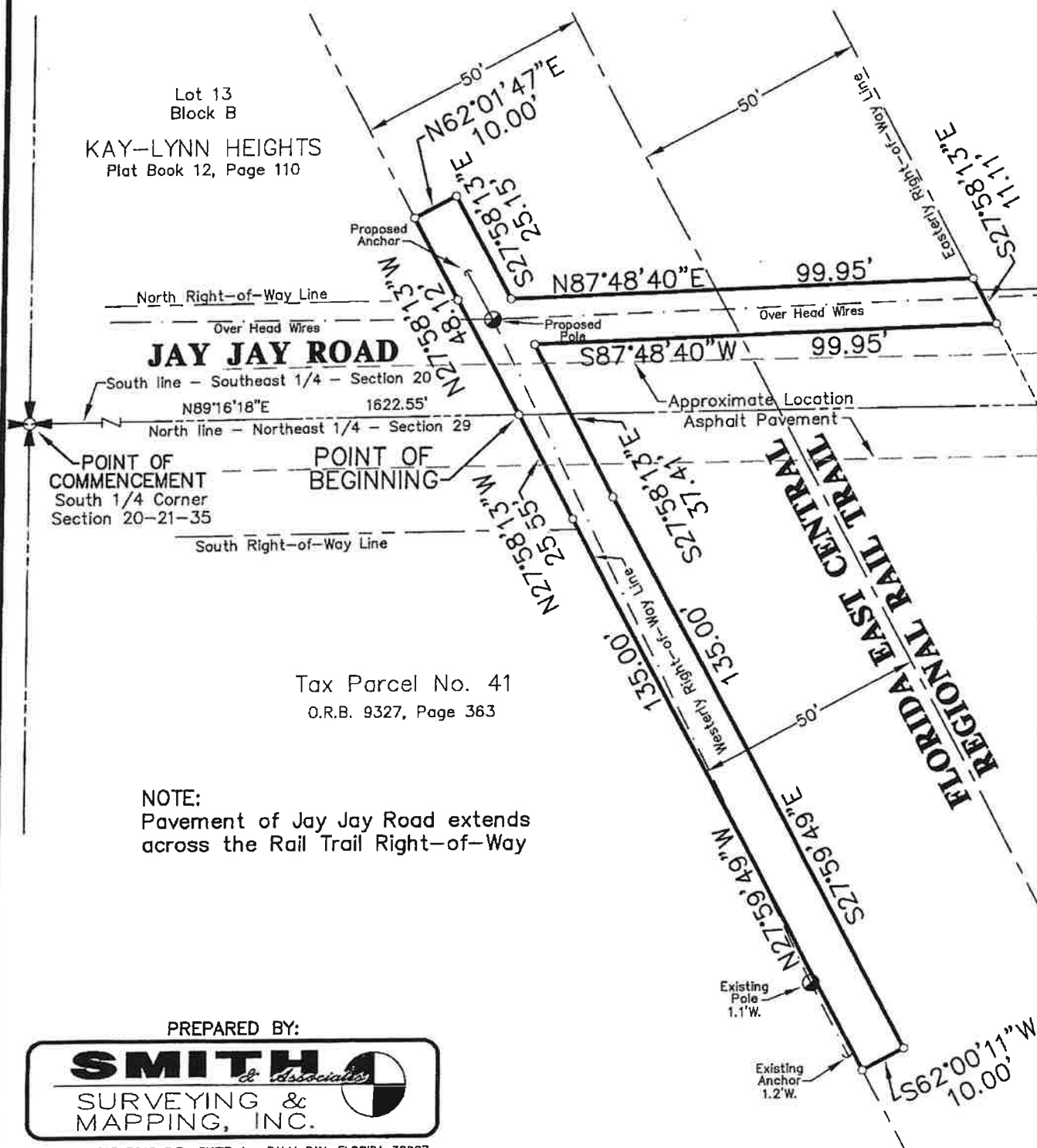
SECTIONS 20 & 29, TOWNSHIP 21 SOUTH, RANGE 35 EAST  
(NOT A BOUNDARY SURVEY)



SHEET 2 OF 2  
NOT VALID WITHOUT THE LEGAL  
DESCRIPTION ON SHEET 1 OF 2

WR 9938317

SCALE: 1" = 30'



PREPARED BY:

**SMITH**  
SURVEYING &  
MAPPING, INC.

1350 MALABAR ROAD S.E., SUITE 1, PALM BAY, FLORIDA 32907  
Phone (321)724-2940 Fax (321)951-4879  
E-MAIL: SMITHSURVEYINGFL @ GMAIL.COM

DRAWING NO. 21-1170

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

## CONTRACT REVIEW AND APPROVAL FORM

### SECTION I - GENERAL INFORMATION

<b>1. Contractor:</b> Florida Power & Light		<b>2. Amount:</b> None	
<b>3. Fund/Account #:</b> N/A		<b>4. Department Name:</b> Parks and Recreation	
<b>5. Contract Description:</b> Written Consent to Easement - FPL Single Pole Replacement Florida East Central Regional Rail Trail			
<b>6. Contract Monitor:</b> Diana Marquardt		<b>8. Contract Type:</b>  INTERGOVT/STATE	
<b>7. Dept/Office Director:</b> Mary Ellen Donner			
<b>9. Type of Procurement:</b> Exempt from Competition			

### SECTION II - REVIEW AND APPROVAL TO ADVERTISE

#### APPROVAL

<u>COUNTY OFFICE</u>	<u>YES</u>	<u>NO</u>	<u>SIGNATURE</u>
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____
Purchasing	<input type="checkbox"/>	<input type="checkbox"/>	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____

### SECTION III - REVIEW AND APPROVAL TO EXECUTE

#### APPROVAL

<u>COUNTY OFFICE</u>	<u>YES</u>	<u>NO</u>	<u>SIGNATURE</u>
User Agency	<input type="checkbox"/>	<input type="checkbox"/>	Marquardt, Diana <small>Digitally signed by Marquardt, Diana Date: 2024.06.24 15:22:22 -04'00'</small>
Purchasing	<input type="checkbox"/>	<input type="checkbox"/>	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Caron, Justin <small>Digitally signed by Caron, Justin Date: 2024.07.01 10:47:00 -04'00'</small>

### SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

<b>CM DATABASE REQUIRED FIELDS</b>	<b>Complete ✓</b>
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status, Title, Type, and Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date, Effective Date, and Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>