

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20060501

1. ACTION REQUESTED/PURPOSE:

Authorize Chairwoman Hall to execute a "Right - of - Way Consent Agreement" as required by Florida Power and Light (FPL) to install 4 culverts under their easement road that transects the "Island Park Regional Mitigation Area". The agreement was drafted by the Lee County Attorney's office and approved by FPL.

2. WHAT ACTION ACCOMPLISHES:

Confirms approval by FPL for Lee County DOT to install 4 culverts under their easement road on the "Island Park Regional Mitigation Area". The culvert installation is part of the mitigation plan required by the South Florida Water Management District (SFWMD) and U.S. Army Corps of Engineers (ACOE) permits issued for construction of the Transportation project known as Three Oaks Parkway South.

3. MANAGEMENT RECOMMENDATION: Approve

4. Departmental Category: 09 C9A		5. Meeting Date: 05-09-2006
6. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify) Statute _____ Ordinance _____ Admin. Code _____ Other _____	8. Request Initiated: Commissioner _____ Department <u>Transportation</u> Division _____ By: <u>Scott Gilbertson</u>

Background:

The "Island Park Regional Mitigation Area" is being utilized as wetland mitigation for the Transportation project known as Three Oaks Parkway South. The County is required to place 4 culverts under the FPL easement road that transects the mitigation area to restore historic flows on the property. Restoration of historic sheet flow on the property will provide additional water storage and treatment to flows through this area prior to discharge into Estero Bay and Hendry Creek. The culvert installation is required by the SFWMD and ACOE permits issued for the Transportation project. FPL has requested execution of the "Right - of - Way Consent Agreement" by Lee County to confirm approval of the restoration activities within their easement.

A copy of the Consent Agreement to be executed is attached.

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
 S. Gilbertson Date: 4/24/06		NA			RK 4/25	WS 4/25/06	4/25/06	4/25/06	 J. Lavender Date: 4/25/06

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
COUNTY ADMIN: [Signature]
4-24-06
10:13
COUNTY ADMIN
FORWARDED TO: [Signature]
4/24/06
2:36 PM

Rec. by CoAtty
Date: 4/24/06
Time: 8:35 AM
Forwarded To: County Admin
4/24/06 10:07

RIGHT-OF-WAY CONSENT AGREEMENT

THIS AGREEMENT is made by and between 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 ("**Company**") and LEE COUNTY, whose mailing address is 2120 Main Street, Fort Myers, Florida, 33902 ("**Fee Owner**").

WHEREAS, Fee Owner is the fee simple owner of land encumbered by Company's right-of-way granted by that certain agreement recorded in Deed Book 259, at Page 529, Public Records of Lee County, Florida, hereinafter referred to as the "**Lands**", and

WHEREAS, Fee Owner desires to use its land for the purpose of installation of four culvert crossings, as shown on the plans and specifications submitted by Fee Owner, attached hereto as Exhibit "A".

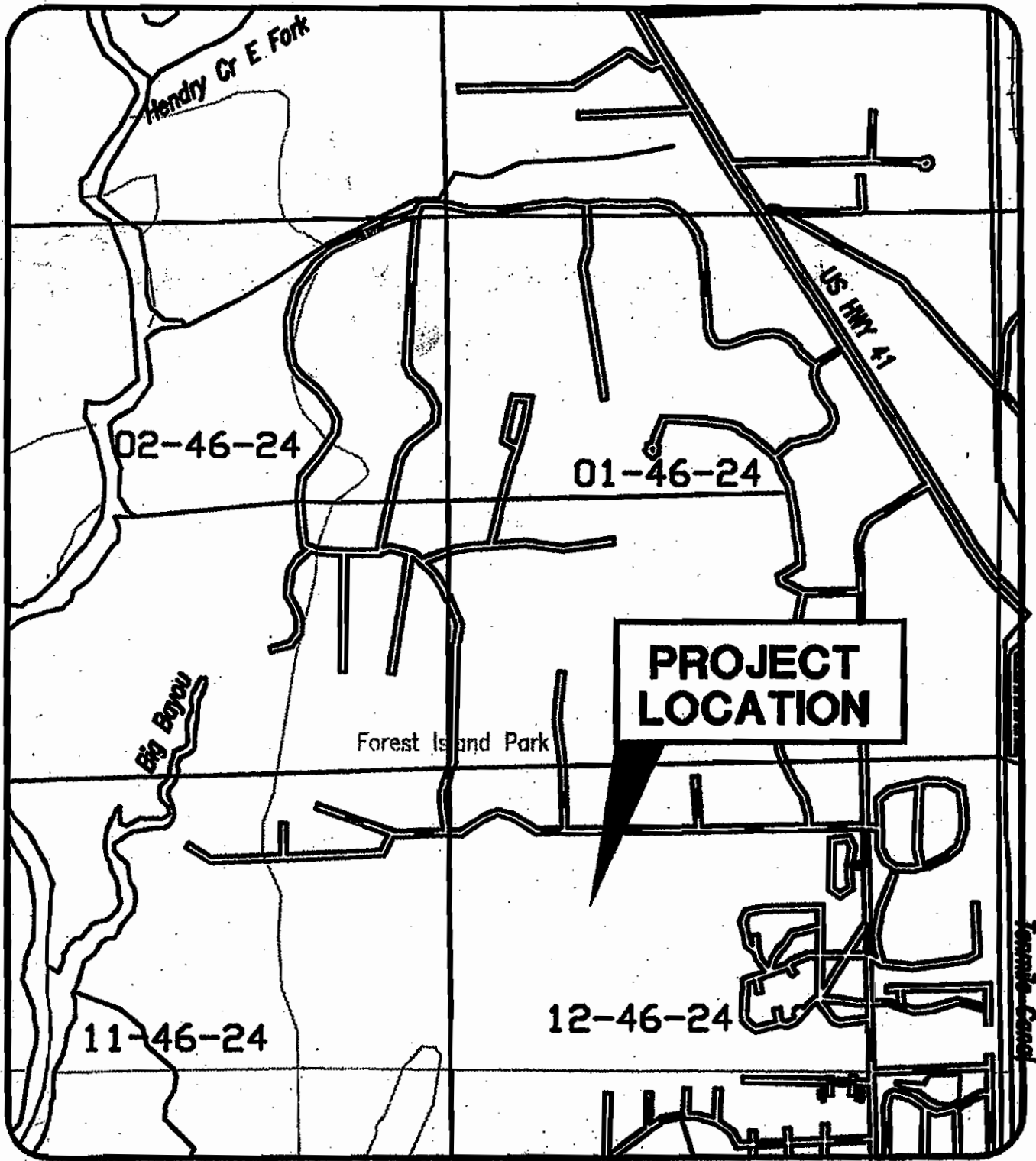
In consideration for Company's consent and for the other mutual covenants set forth below, and for Ten Dollars and No Cents (\$10.00) and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. Company consents to Fee Owner's use of the Lands for the construction and maintenance of the culverts shown on the attached Exhibit A.

2. Fee Owner agrees that it will coordinate its construction activities with Company to avoid any conflicts with Company's use of the Lands permitted by the right of way grant recorded in Deed Book 259, at Page 529

3. Fee Owner 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. Fee Owner 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. Fee Owner agrees to reimburse Company for all cost and expense for any damage to Company's facilities resulting from Fee Owner's use of the Lands and agrees that if, in the opinion of Company, it becomes necessary as a result of Fee Owner's use of the Lands for Company to relocate, rearrange or change any of its facilities, to promptly reimburse Company for all cost and expense involved with such relocation, rearrangement or change.

4. Fee Owner agrees to at all times, to maintain and keep the Lands clean and free of debris and to expeditiously complete construction of the culverts.

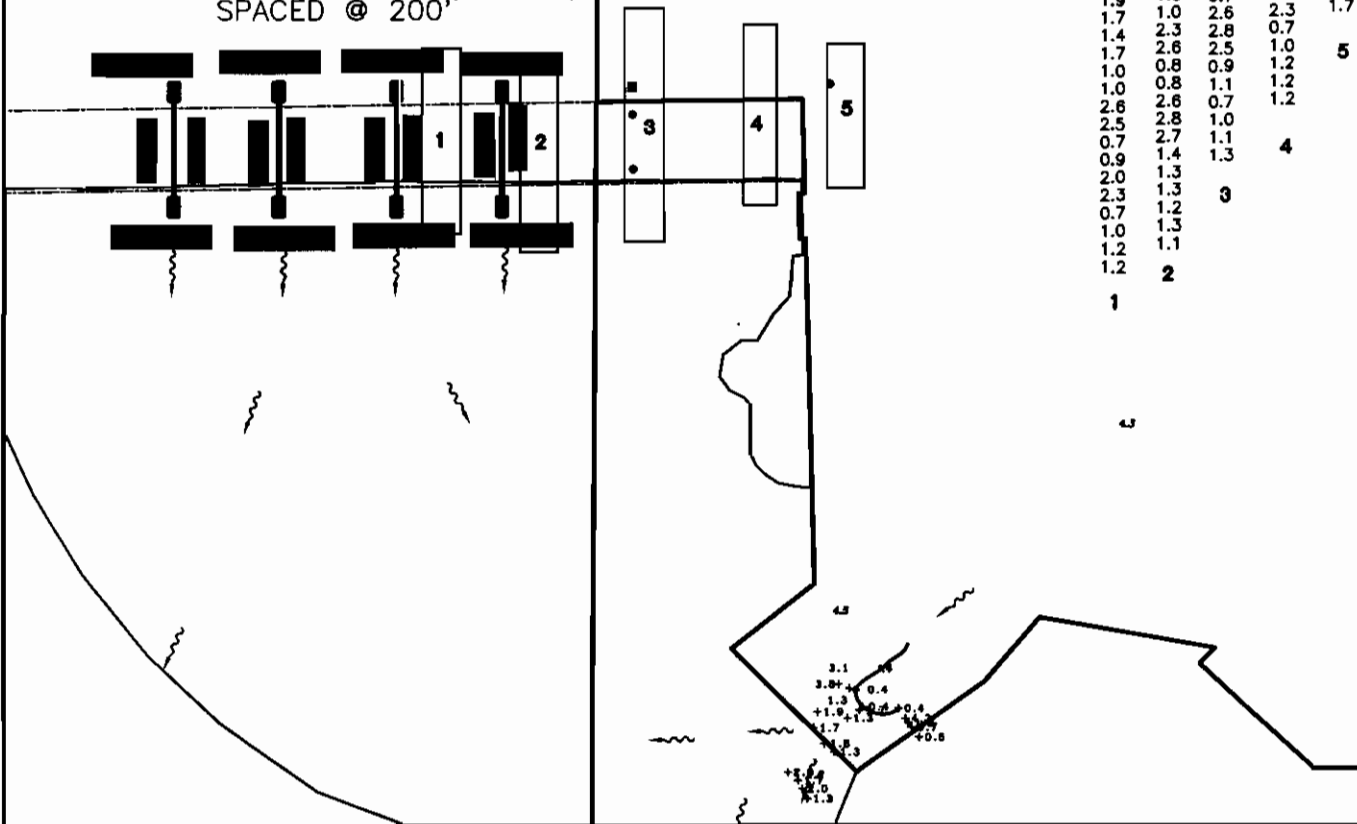


SITE MAP



ELEVATIONS SHOWN HEREON ARE
 BASED ON NORTH AMERICAN VERTICAL
 DATUM OF 1988. (NAVD88)

(4) 18" RCP PIPE WITH
 MITERED ENDS (TYPICAL)
 SPACED @ 200'



PROJECT: ISLAND PARK MITIGATION PROJECT – CULVERT LOCATION

CLIENT: LEE COUNTY D.O.T.



Planners • Engineers • Ecologists • Surveyors • Landscape Architects • Transportation Consultants

WilsonMiller, Inc.

Naples • Fort Myers • Sarasota • Bradenton • Tampa

111 3rd Avenue West, #180 • Bradenton, Florida 34205-7834 • Phone 941-714-0700 • Fax 941-714-0600 • Web Site www.wilsonmiller.com

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SCALE:	NTS	DATE:	MAR 2006
SEC:	TWP: RGE:	REV NO:	
PROJECT NO.	04325-001-000	INDEX NO:	
DRWN BY/EMP NO.	D.C.S./2186	SHEET NO:	1 of 1

The parties have executed this Agreement this _____ day of _____, 2006.

Witnesses for Company:

Company:
FLORIDA POWER & LIGHT COMPANY
A Florida corporation

Signature:
Print Name: _____

By: _____
Its: _____
Print Name: _____

Signature:
Print Name: _____

Witnesses for Fee Owner:

Fee Owner:
LEE COUNTY BOARD OF COUNTY
COMMISSIONERS

Signature:
Print Name: _____

By: _____
Tammara Hall, Chairwoman

Signature:
Print Name: _____