



## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>NET FISCAL IMPACT</b>	0	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

**Budget Account No.:** Fund                      Dept                      Unit                      Object

Is Item Included in Current Budget?                      Yes X                      No     

Does this item include the use of federal funds?                      Yes                           No X

Reporting Category N/A

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

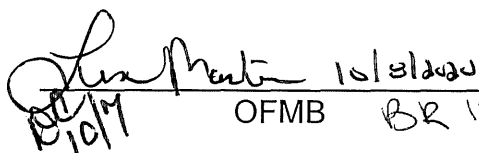
No fiscal impact.

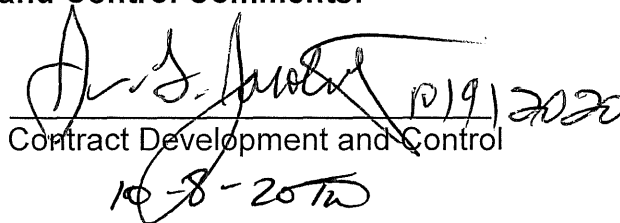
### C. Department Fiscal Review:



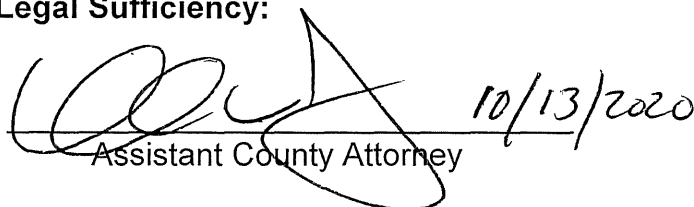
## III. REVIEW COMMENTS

### A. OFMB Fiscal and/or Contract Development and Control Comments:

  
OFMB BR 1017

  
Contract Development and Control  
10-8-2020

### B. Legal Sufficiency:

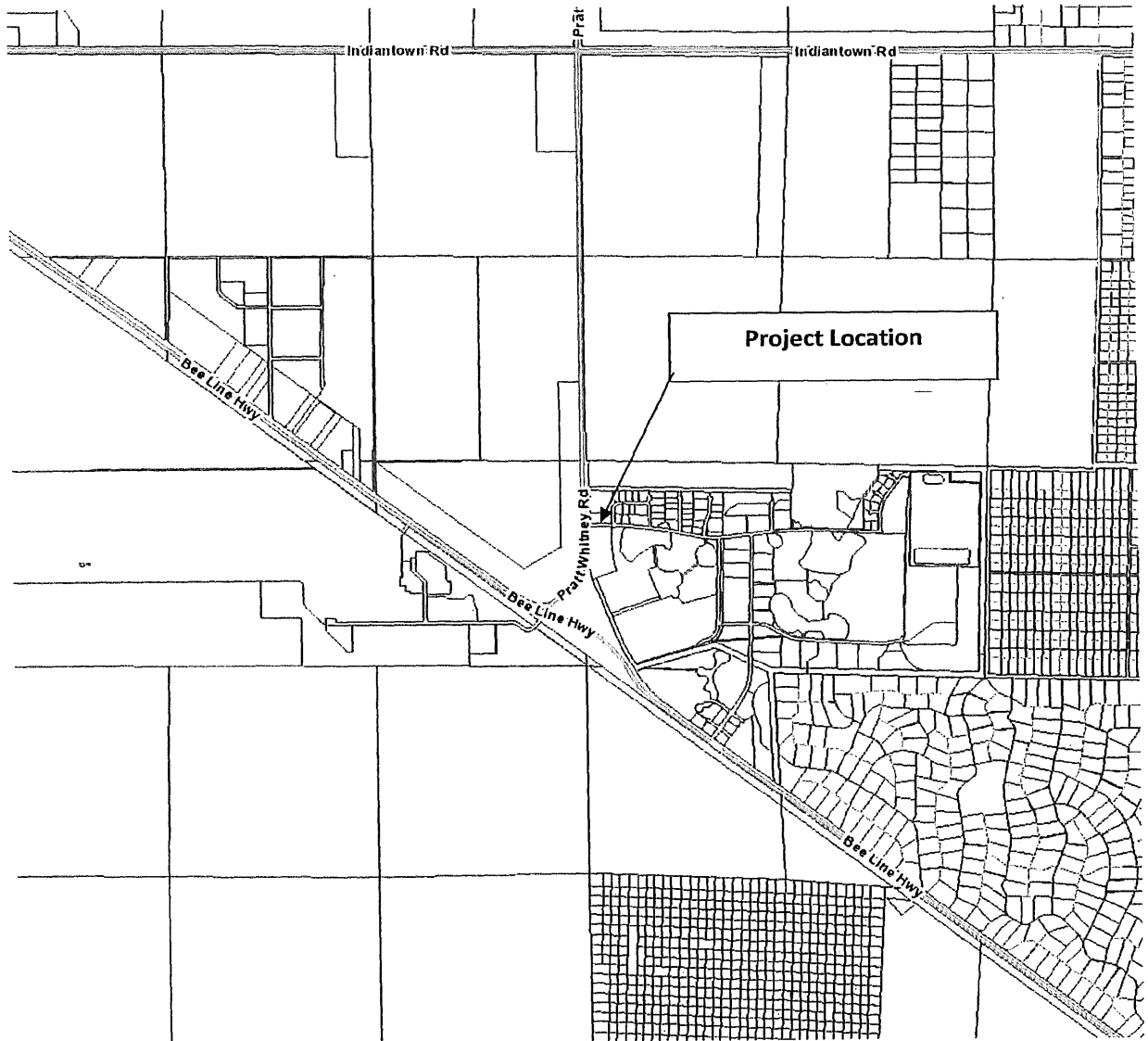
  
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

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

ATTACHMENT 1  
Location Map



## CORRECTIVE ACTION AGREEMENT

THIS CORRECTIVE ACTION AGREEMENT (this "Agreement") is made and entered into as of the \_\_\_\_ day of September 2020 (the "**Effective Date**"), by and between Palm Beach County, a political subdivision of the state of Florida, ("**County**"), and Palm Beach Park of Commerce Association, Inc. (the "**Association**").

WITNESSETH:

WHEREAS, the Association is the master property owner's association for the Palm Beach Park of Commerce which is located in Palm Beach County, Florida and more particularly depicted on Exhibit A attached hereto and incorporated herein by this reference (the "**Park of Commerce**"); and

WHEREAS, the Association is, among other things, a Non-Transient/Non Community Consecutive Public Water System responsible for the distribution of potable water to landowners within the Park of Commerce by virtue of an agreement, as amended from time to time, between the Association and Seacoast Utility Authority ("**Seacoast**") which supplies potable water to the Association; and

WHEREAS, Seacoast receives potable water that it provides to the Association by virtue of an interlocal agreement, as amended from time to time, with County; and

WHEREAS, County is prepared to become the owner of a certain potable water line constructed by Association the location of which is depicted on Exhibit B attached hereto and incorporated herein by this reference ("**Water Line**") which will solely serve the Park of Commerce and will accept ownership of the Water Line as constructed; and

WHEREAS, a portion of Water Line as depicted in Exhibit C was constructed in a manner which is not in conformity with County's technical requirements ("**Nonconforming Portion**") which Palm Beach County will only accept ownership of if the Association agrees to modify the Nonconforming Portion to be in compliance with County's technical requirements or otherwise acceptable to County and to defend, indemnify, and hold harmless the County for any damages related to the Nonconforming Portion.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, County and the Association hereby agree as follows:

1. Recitals. The foregoing recitations of fact are true and correct and incorporated by reference.
2. Installation of Water Line. The Association shall within three years of the Effective Date of this Agreement (the "**Correction Period**") completely construct and install a potable water line in lieu of the Nonconforming Portion in accordance with County technical standard or otherwise acceptable to County ("**Corrective Work**"). Prior to the Corrective

Work, Association shall submit plans and specifications ("**Plans**") to County for County's approval which shall not be unreasonably delayed, withheld or conditioned. Subsequent to the approval of Plans by County, Association shall perform the Corrective Work and provide County with drawings reflecting the Corrective Work certified by a licensed professional engineer which reflect that the Corrective Work was performed in conformance with the Plans approved by County.

3.     Transfer. Upon completion of the Corrective Work, the Association shall, to the extent required to effectuate a transfer of the personal property comprising the Corrective Work transfer such personal property to the County ("Transfer"). The Transfer shall be accomplished pursuant to the requirements of County.

4.     Indemnity. The Association, and its successors, heirs and/or assigns, hereby agrees to defend, indemnify and hold County harmless from and against any and all liabilities, damages, penalties, claims, costs and expenses whatsoever, including attorneys' fees at all levels, which may be imposed upon or asserted against County as a result of or in any way connected to the Nonconforming Portion.

5.     Repair Costs. The Association, and its successors, heirs and/or assigns, shall reimburse the County for any costs of repairs to the Nonconforming Portion which are incurred by the County prior to the Transfer. Said reimbursement shall occur within thirty (30) days of receipt of an invoice from the County for the cost of said repairs.

6.     Assignment. This Agreement shall not be assigned by the Association without the prior written consent of the County. The County's approval or denial of any assignment shall be at the sole and absolute discretion of the County.

7.     Notices. All notices and other communications hereunder shall be in writing, and be deemed duly given: (i) when given, if personally delivered; (ii) on the date mailed, if mailed by certified mail, return receipt requested, postage prepaid; and (iii) upon deposit with the applicable overnight courier service if shipping via FedEx or other nationally recognized overnight courier service, to the following addresses:

If to County:                     Palm Beach County Water Utilities  
8100 Forest Hill Blvd.  
Palm Beach, FL 33413  
Attention: Director

If to the Corporate Park:     Palm Beach Park of Commerce Association, Inc.  
15132 Park of Commerce Blvd, Suite 101  
Jupiter, Florida 33478  
Attention: Property manager

8.     Remedies for Breach. The terms and conditions of this Agreement shall be enforceable by either party or the Northern Palm Beach County Improvement District by actions for specific performance or injunction, in addition to any other remedies available at law.

9. Invalidity. If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.

10. No Waiver. No delay or omission by either party in exercising any right or power accruing upon any noncompliance or failure of performance by the other party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof.

11. Entire Agreement and Modification. This Agreement serves as the sole and exclusive agreement between the parties as related to the subject matter hereof and may only be modified by a written instrument executed by the parties hereto except that no amendments are permitted as to the Correction Period or the rights of Northern Palm Beach County Improvement District set forth herein.

12. Caption Headings. The headings and captions used in this Agreement are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Agreement.

13. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida.

14. Counterparts and Electronic Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Execution of this Agreement by the parties hereto may be evidenced by the transmission of electronic copies, which shall have the same effect as an original.

15. Inspector General. 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's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the activities of anyone contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and detect corruption and fraud.

16. Third Party Beneficiary. Except as to the Northern Palm Beach County Improvement District which is the fee title owner of the real property within which the Nonconforming Portion is contained and which is hereby deemed a third party beneficiary to this Agreement, no provision of this Agreement 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 Agreement, including but not limited to any citizen or employees of the County and/or the Association.

***SIGNATURES FOLLOW ON NEXT PAGE***

IN WITNESS WHEREOF, the duly authorized representatives of County and the Association have executed this Agreement as of the Effective Date written above.

(COUNTY SEAL)

**PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS**

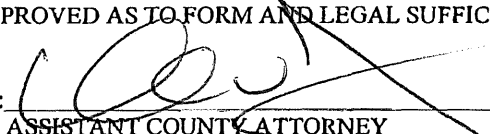
ATTEST:

SHARON R. BOCK, CLERK  
AND COMPTROLLER

By: \_\_\_\_\_  
DEPUTY CLERK

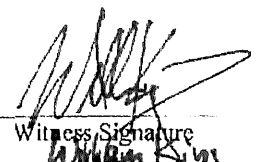
By: \_\_\_\_\_  
Dave Kerner, MAYOR

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:   
ASSISTANT COUNTY ATTORNEY

APPROVED AS TO TERMS AND CONDITIONS

By:   
DIRECTOR OF WATER UTILITIES

  
Witness Signature  
Print Name

**PALM BEACH PARK OF COMMERCE  
ASSOCIATION, INC., a Florida not for profit  
corporation**

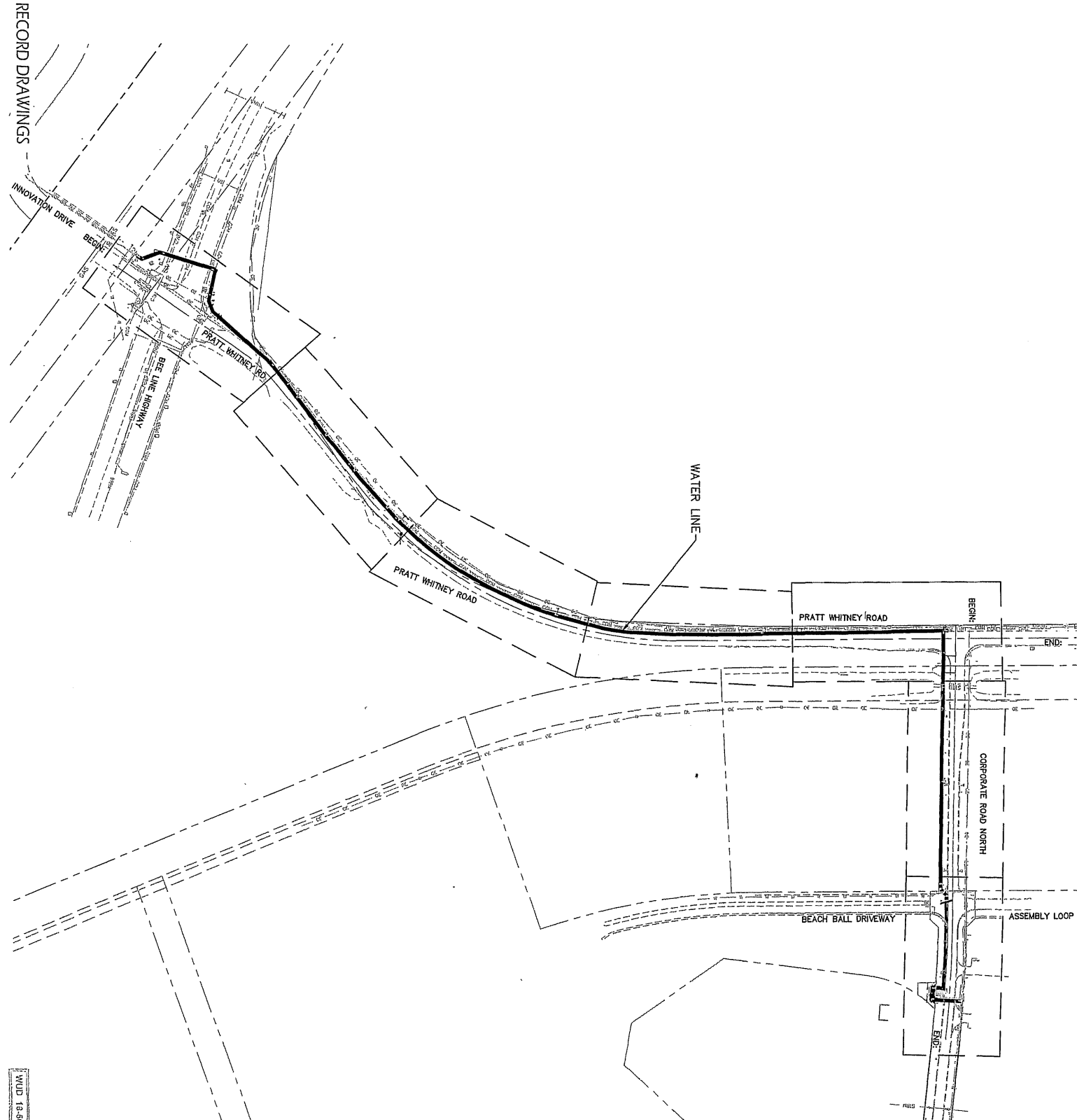
By:   
Name: Joe E. Brees

Exhibit A

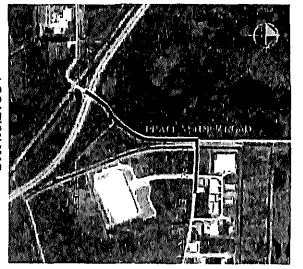
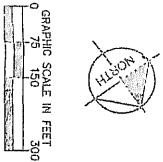




**Exhibit B**



RECORD DRAWINGS



**VOID 13.603**

REVISIONS TO THIS DRAWING SHALL BE BASED ON THE NORTH-AMERICAN VERTICAL DATUM OF 1988 AND BE LISTED IN THE REVISION TABLE HEREON. CONSTRUCTION AND MATERIALS SHALL BE IN ACCORDANCE WITH THE NORTHERN PALM BEACH AND CONSTRUCTION STANDARDS. (MINIMUM DESIGN)

CALL 2 WORKING DAYS BEFORE YOU DIG  
 DIAL 811  
 Know what's below. Call before you dig.  
 800-4-A-DIG

OFFSITE WATER MAIN PLANS  
 PREPARED FOR  
 PALM BEACH PARK OF  
 COMMERCE ASSOCIATION, INC.

**WATER LINE  
 EXHIBIT B**

KHA PROJECT  
 042095001  
 DATE  
 OCT. 2020  
 SCALE AS SHOWN  
 DESIGNED BY TCJ  
 DRAWN BY LKS

LICENSED PROFESSIONAL  
 TOM JENSEN, P.E.  
 FLORIDA LICENSE NUMBER  
 37290

**Kimley»Horn**  
 © 2019 KIMLEY-HORN AND ASSOCIATES, INC.  
 1615 S CONGRESS AVE, SUITE 201, DELRAY BEACH, FL 33445  
 PHONE: 561-330-2345 FAX: 561-883-8175  
 WWW.KIMLEY-HORN.COM CA 00000596

SHEET NUMBER  
**EX-B**

Exhibit C

