

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: October 3, 2017 [] Consent [X] Regular
 [] Ordinance [] Public Hearing

Department: Engineering and Public Works Department
Submitted By: Engineering and Public Works Department
Submitted For: Roadway Production Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) accept a perpetual easement for a drainage pond necessary for the construction of roadway improvements on Silver Beach Road from east of Congress Avenue to east of Old Dixie Highway / President Barack Obama Highway (Project).
- B) approve payment of \$1,600,000 for said perpetual easement.

SUMMARY: Approval of the negotiated amount will allow the Engineering Department to acquire a 4.252 acre perpetual easement to be used to construct a drainage retention pond for the project. The project includes the reconstruction of Silver Beach Road to a three-lane undivided roadway with a four foot wide bike lane and a six foot wide sidewalk on both sides of the roadway. Two appraisals were obtained with an average fair market value of \$1,434,700. The property owner's original counter-offer was \$1,844,600, not including fees and costs. To avoid the additional costs normally associated with an eminent domain filing, the Engineering Department staff negotiated a purchase amount of \$1,600,000 inclusive of the property owner's attorney fees, engineering fees, and appraisal costs in the amount of \$76,770.50. After fees and costs are subtracted, the purchase represents approximately 107% of the average of the two appraisals. However, pursuant to Palm Beach County Administrative Code Section 2, 305.08.1, regarding the negotiated purchase amount, BCC approval is required when the purchase amount exceeds \$250,000. In accordance with Palm Beach County ordinance (2009-052), a supermajority vote (5 votes) is required by the BCC for all purchases of real property that require BCC approval. The construction budget is \$5.4 million. District 1 (LBH)

Background and Justification: On March 14, 2017, the Engineering Department was granted blanket approval to appraise and acquire land for projects identified on the Five Year Road Program. Silver Beach Road, within the project limits, is currently a two lane undivided paved road. This project will widen the existing road to three lanes, add new sidewalks and provide shoulders to improve the overall safety for motorists, bicyclists and pedestrians. In the best interest of public health, safety, and welfare, the Engineering Department recommends approval of the negotiated purchase amount for a perpetual easement.

- Attachments:**
1. Location Map
 2. Perpetual Easement with Exhibits "A" and "B"

Recommended by: *David J. Hill*
 Department Director
Date: 18 SEP 2017

Approved By: *Corey Johnson*
 Assistant County Administrator
Date: 9/27/17

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures	<u>\$1,600,000</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>
NET FISCAL IMPACT	<u>\$1,600,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes X No

Budget Account No:

Fund 3501 Dept 361 Unit 0994 Object 6120

Recommended Sources of Funds/Summary of Fiscal Impact:

Road Impact Fee Fund - Zone 1
Silver Beach Rd/E of Congress to Old Dixie Hwy

Permanent Easement \$1,600,000.00

C. Departmental Fiscal Review:

Alii Kooalamani

III. REVIEW COMMENTS

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

J. H. L. 9/18/17
OFMB, JET 9/18
READ 9/18

Joe J. Jan 9/27/17
Contract Dev. and Control 7/17

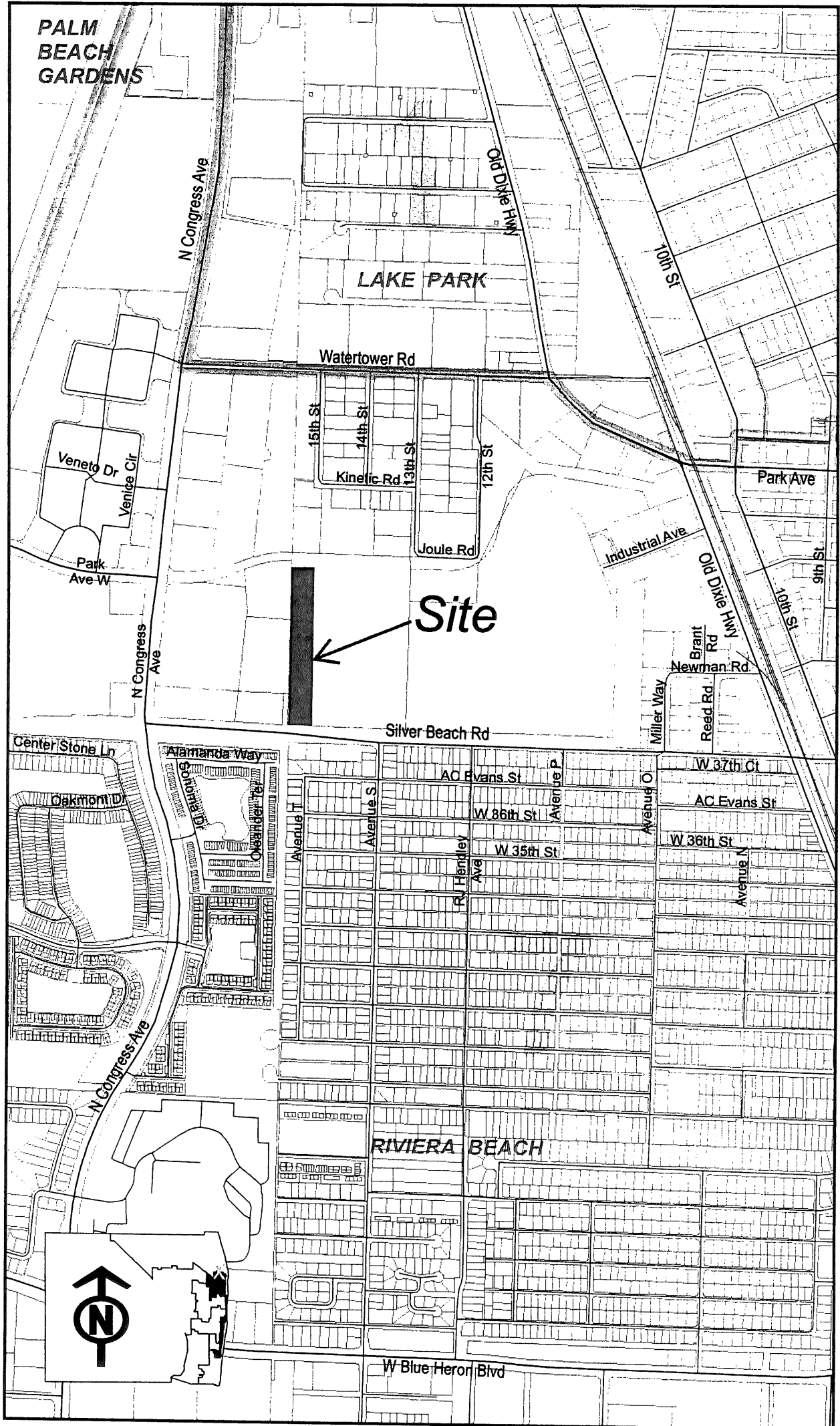
B. Approved as to Form and Legal Sufficiency:

M. K. Leman
Assistant County Attorney
9/27/17

C. Other Department Review:

Department Director

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



Location Map

Return to:
Right-of-Way Acquisition Section
Palm Beach County, Engineering & Public Works Department
Post Office Box 21229
West Palm Beach, Florida 33416-1229
Attn.: Toni Sharp, Right-of-Way Specialist
Acct. No.: 1010 W/C BOX 1066

Portion of Property Control Number: 36-43-42-20-00-000-7430

NOT TO BE RECORDED WITHOUT BOARD OF COUNTY COMMISSIONERS ACCEPTANCE DATE

SPACE ABOVE THIS LINE FOR PROCESSING DATA

PROJECT NO.: 2003514
ROAD NAME: Silver Beach Road
PARCEL NO.: Drainage Pond

PERPETUAL EASEMENT

THIS PERPETUAL EASEMENT ("EASEMENT") is made this ____ day of _____, 20____, by **K INDUSTRIES, L.L.C.**, a Florida limited liability company, whose post office address is 1640 Australian Avenue, Riviera Beach, Florida 33404, ("Grantor"), to **PALM BEACH COUNTY**, a political subdivision of the State of Florida, whose post office address is Post Office Box 21229, West Palm Beach, Florida 33416-1229, ("Grantee").

WITNESSETH: That Grantor, for and in consideration of the sum of ONE (\$1.00) dollar and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, and conveys unto Grantee, its successors and assigns, upon the conditions set forth herein for a perpetual easement over, upon, under, through and across the following described land, situate in Palm Beach County, Florida: Property more particularly described in **Exhibit "A"** attached hereto and made a part hereof ("Easement Premises").

This Easement shall be used to permanently construct, install, operate, relocate, repair, replace, improve, inspect and maintain, a drainage pond ("County Pond") and related facilities as depicted on **Exhibit "B"** attached hereto and made a part hereof (collectively "Facilities"). Facilities shall include earth embankment fill, drainage facilities for transporting water, both above ground (swales) and buried (pipes and structures) to or from water retention areas; fences; including the right at any time to install, bore, alter, improve, enlarge, add to, change the nature or physical characteristics of, or replace, remove, relocate, maintain or perform any other related activities as required by Grantee, its agents, successors or assigns. This Easement shall be non-exclusive, provided, however, that Grantor, its successors and assigns, shall be permanently prohibited from hindering, obstructing, removing, or interfering with the operation, functioning, maintenance, or repair of, any of the Facilities. If Grantor, its successors or assigns hinder, interfere with or obstruct the operation, functioning, maintenance, or repair of any of the Facilities, Grantor, its successors and assigns shall be liable for any and all damages, claims, and expenses, including reasonable attorneys' fees, arising out of and related to the hindrance, interference and obstruction.

Notwithstanding the foregoing and subject to all Federal, State and local governmental regulations and conditions, including but not limited to 25 year, 3 day peak elevation requirements of the Palm Beach County Thoroughfare Road Design Procedures, as amended, Grantor, its successors and assigns, may use the County Pond to accommodate the future needs for water quality and quantity of the Grantor's, its successors' or assigns' property.

Grantor further understands and agrees that any modification or expansion of the County Pond by Grantor, its successors and assigns, will require corresponding modification or expansion of the Easement Premises and amendment of this Easement, and Grantor will assume maintenance of said modified or expanded portions of the County Pond.

Grantee, its agents, successors and assigns, shall have the right, but not the obligation, to remove and use any or all of the soil and/or subsoil, in accordance with current and future construction plans, within the Easement Premises.

In the event Grantor fails or refuses to perform any term, covenant, or condition of this Easement for which a specific remedy is not set forth in this Easement, Grantee shall, in addition to any other remedies provided at law or in equity, have the right of specific performance and injunctive relief.

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.

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

Any amendment or modification to this Easement shall be effective if the same is in writing, signed, and recorded in the public records of Palm Beach County.

TO HAVE AND TO HOLD THE SAME unto Grantee, its successors and assigns forever.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the date first above written.

Signed, sealed and delivered in the presence of:

**(Signature of two witnesses
required by Florida law)**

Grantor:

K Industries, L.L.C.
a Florida limited liability company

Witness Signature (Required)

By: _____
Carl L.C. Kah, III, Managing Member

Witness Name Printed or Typed

Witness Signature (Required)

Witness Name Printed or Typed

STATE OF _____

COUNTY OF _____

Before me personally appeared Carl L.C. Kah, III, Managing Member, who is (*circle one*) personally known to me, or has produced _____ as identification, and who executed the foregoing instrument as Managing Member of K Industries, L.L.C., a Florida limited liability company, and severally acknowledged to and before me that he executed such instrument as such officer of said company, and that said instrument is the free act and deed of said company.

Witness my hand and official seal this _____ day of _____, 20____.

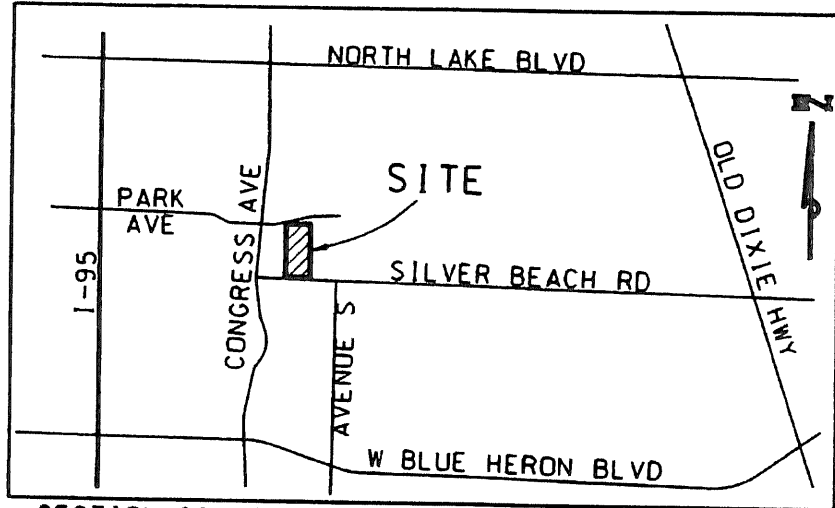
(Stamp/Seal)

Notary Signature
Notary Public, State of _____

Print Notary Name

Commission Number
My Commission Expires: _____

EXHIBIT "A"



SECTION 20, TOWNSHIP 42 SOUTH, RANGE 43 EAST
LOCATION SKETCH
 (N.T.S.)

LEGAL DESCRIPTION DETENTION POND ALTERNATE NO. 1

A PARCEL OF LAND FOR DETENTION POND PURPOSES, LYING IN THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE QUARTER OF SECTION 20, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 20; THENCE NORTH 01°21'10" EAST, ALONG THE WEST LINE OF SAID SECTION 20, A DISTANCE OF 108.03 FEET TO THE INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF SILVER BEACH ROAD, ACCORDING TO THE SPECIAL WARRANTY DEED, AS RECORDED IN OFFICIAL RECORDS BOOK 10644, PAGE 971, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND BEING THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL;

THENCE CONTINUE NORTH 01°21'10" EAST, ALONG SAID WEST LINE OF SECTION 20, A DISTANCE OF 1157.70 FEET; THENCE SOUTH 88°29'42" EAST A DISTANCE OF 159.56 FEET; THENCE SOUTH 01°18'44" WEST A DISTANCE OF 1157.69 FEET TO THE INTERSECTION WITH THE SAID NORTH RIGHT-OF-WAY LINE OF SILVER BEACH ROAD; THENCE WESTERLY, ALONG THE SAID NORTH RIGHT-OF-WAY LINE OF SILVER BEACH ROAD, BY THE FOLLOWING TWO COURSES AND DISTANCES; THENCE NORTH 88°30'32" WEST A DISTANCE OF 159.00 FEET; THENCE NORTH 87°18'53" WEST A DISTANCE OF 1.39 FEET TO THE POINT OF BEGINNING.

CONTAINING 185,199 SQUARE FEET, OR 4.252 ACRES, MORE OR LESS.

SHEET: 1
 OF: 3
 PROJECT NO. 2003514

PROJECT: SILVER BEACH ROAD DETENTION POND ALTERNATE #1	
DESIGN FILE NAME S-1-16-3768.DGN	DRAWING NO. S-1-16-3768

DATE: 08/31/16 DRAWN:	SCALE: 1" = 200' APPROVED: R.W.B. DRAWN: W.D.S. CHECKED: C.W.M.	NO.	REVISION	BY	DATE
(Empty revision table)					

PALM BEACH COUNTY
ENGINEERING AND PUBLIC WORKS

ROADWAY PRODUCTION

2300 NORTH JOG ROAD
WEST PALM BEACH, FL 33411

LEGEND

P.B.C. = PALM BEACH COUNTY
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
P.C.N. = PARCEL CONTROL NUMBER
PB = PLAT BOOK
PG = PAGE NUMBER
R/W = RIGHT OF WAY
AC = ACRES
ORB = OFFICIAL RECORD BOOK
QTR = QUARTER
TWP = TOWNSHIP
RGE = RANGE

SURVEYOR'S NOTES

1. THIS IS NOT A BOUNDARY SURVEY, BUT A GRAPHIC DEPICTION OF THE ATTACHED LEGAL DESCRIPTION. THERE HAS BEEN NO FIELD WORK, VIEWING OF THE SUBJECT PROPERTY, OR MONUMENTS SET IN CONJUNCTION WITH THE PREPARATION OF THIS LEGAL DESCRIPTION AND SKETCH. THE INFORMATION SHOWN HEREON IS BASED ON PUBLIC RECORDS AND INFORMATION IN THE PALM BEACH COUNTY ENGINEERING DEPARTMENT.
 2. THE BEARINGS SHOWN HEREON ARE BASED ON A GRID (NAD 83, 1990) BEARING OF NORTH 88°30'32" WEST, RELATIVE TO THE SOUTH LINE OF SECTION 20, TOWNSHIP 42 SOUTH, RANGE 43 EAST. UTILIZING PALM BEACH COUNTY PUBLISHED POSITIONS, AS SHOWN ON THIS SURVEY AND ALL OTHER BEARINGS ARE RELATIVE THERETO.
 3. NO SEARCH OF THE PUBLIC RECORDS HAS BEEN MADE BY THE SIGNING SURVEYOR.
 4. IT IS POSSIBLE THAT THERE ARE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS, OR OTHER INSTRUMENTS, THAT COULD AFFECT THE SUBJECT PROPERTY, WHICH ARE UNKNOWN TO THE SIGNING SURVEYOR.
 5. COORDINATES SHOWN ARE GRID
DATUM = NAD 83, 1990 ADJUSTMENT
ZONE = FLORIDA EAST
LINEAR UNITS = US SURVEY FOOT
COORDINATE SYSTEM 1983 STATE PLANE TRANSVERSE MERCATOR PROJECTION
ALL DISTANCES ARE GROUND.
PROJECT SCALE FACTOR = 1.000043896.
GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE
 6. THE INTENDED PLOT SCALE OF THIS DRAWING IS 1" = 200', ON AN 8.5" X 11.0" SHEET.
- THIS INSTRUMENT PREPARED BY RICHARD W. BUSSELL, P.S.M., IN THE OFFICE SHEET OF THE COUNTY ENGINEER, VISTA CENTER 2300 NORTH JOG ROAD, WEST PALM BEACH, FLORIDA 33411-2745.

SURVEYOR'S CERTIFICATION

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A
FLORIDA LICENSED SURVEYOR AND MAPPER

I HEREBY CERTIFY THAT THE LEGAL DESCRIPTION AND SKETCH SHOWN HEREON WAS MADE UNDER MY RESPONSIBLE DIRECTION AND SUPERVISION AND MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS, AS SET FORTH IN RULE 5J-17.050-052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, OF THE FLORIDA STATUTES.

Richard W. Busnell
RICHARD W. BUSSELL, P.S.M.
FLORIDA CERTIFICATE NO. 3858

9/1/16
DATE

NW QTR CORNER OF SECTION 20 TWP 42 SOUTH RGE 43 EAST
 P.B.C. POSITION:
 N: 897857.76
 E: 955550.89

PCN:
 36434220230000100



SCALE: 1" = 200'

N01°21'10"E
 2701.60'
 1350.80'

PCN:
 36434219000005070

PCN:
 36434219010000010

N R/W LINE PER ORB
 25373, PG 1249

SILVER BEACH RD

S R/W LINE
 PER PB 21, PG 3)

ALAMANDA WAY

TRACK "A"

N01°21'10"E 1157.70'
 P.B.C. DETENTION
 POND ALTERNATE # 1
 185.199 SQ FT
 S01°18'44"W 1157.69'

N: 896418.099
 E: 955676.488

S01°22'36"W
 29.99'

S88°29'36"E
 3.34'

P.O.B.
 108.03'

P.O.C.
 SW CORNER OF SECTION 20

K INDUSTRIES LLC
 PCN: 36434220000007430
 PER ORB 12063, PG 1842

SOUTH QUARTER CORNER OF SECTION 20, TWP 42 SOUTH, RGE 43 EAST
 P.B.C. POSITION:
 N: 895087.57
 E: 958151.41

N88°30'32"W
 159.00'

N R/W LINE
 PER ORB 10644, PG 971

N88°30'32"W 848.57'

S. LINE OF SW QTR OF SECTION 20
 N88°30'32"W 2665.22'

S R/W LINE
 PER ORB 10644, PG 975

BLOCK 14

P.O.C. SW CORNER OF SECTION 20.

TWP 42 SOUTH, RGE 43 EAST

P.B.C. POSITION:
 N: 895156.91
 E: 955487.10

AVENUE S

S01°18'42"W 12.12.54'

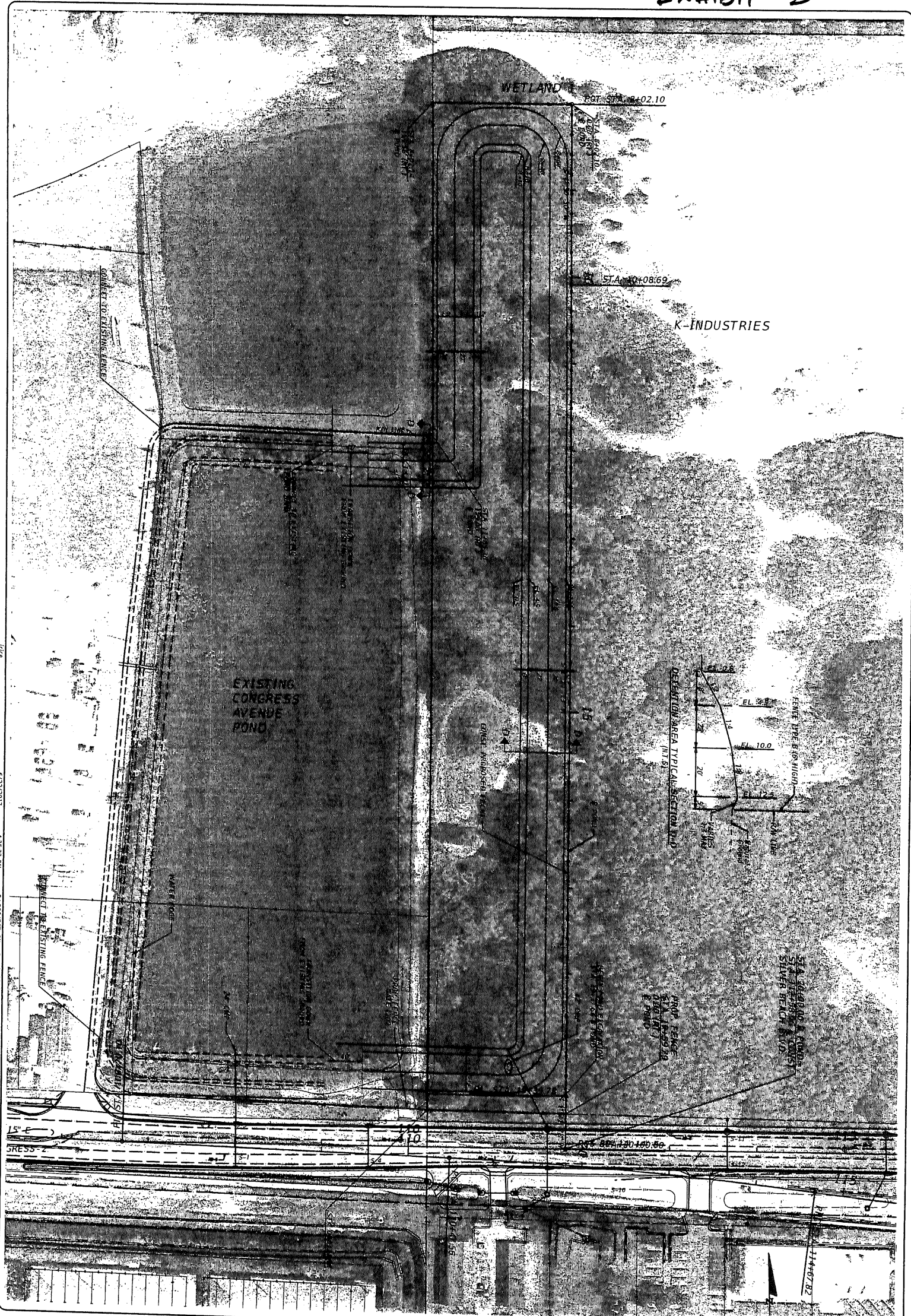
PCN:
 36434220000007450

PROJECT NO. 2003514

DRAWING NO. S-1-16-3768

PROJECT: SILVER BEACH ROAD DETENTION POND ALTERNATE #1

SHEET: 3 OF 3



DATE 02/22/2017 4:55:32 PM PROJECT Silver Beach 02164800 - (Roadway, DOR) R001.dgn

SHEET 85 OF PROJECT NO 2003514

SILVER BEACH RD.

DESIGN FILE NAME: **DETENTION AREA DETAILS**

DRAWING NO.:

C. BRIAN FULLER
P.E. LICENSE #55524

METRIC ENGINEERING, INC.
MEMBER OF METRIC GROUP

415 CRESCENT EXECUTIVE COURT, STE. 524
LAKE HAWY, FLORIDA - 33746
CERTIFICATE OF AUTHORIZATION NO. 2294

SCALE: 80'

APPROVED: _____

DRAWN: _____

CHECKED: _____

DATE: _____

NO.	REVISION	BY	DATE

FIELD BOOK NO.:

PALM BEACH COUNTY
ENGINEERING AND PUBLIC WORKS

ROADWAY PRODUCTION

2300 N. JOG ROAD
WEST PALM BEACH, FLORIDA 33411-2745