



Interoffice Memorandum

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS  
OCT 20 2015 *JKbs*

October 5, 2015

TO: Mayor Teresa Jacobs  
and Board of County Commissioners

FROM: Raymond E. Hanson, P. E., Director  
Utilities Department

A handwritten signature in cursive script, likely belonging to Raymond E. Hanson, the Director of the Utilities Department.

SUBJECT: **BCC AGENDA ITEM – Consent Agenda  
October 20, 2015 BCC Meeting  
Vista Community Church Water and Wastewater Capacity  
Adjustment Agreement  
Contact Person: Andres Salcedo, P. E., Assistant Director  
Utilities Development Engineering Division  
407-254-9719**

Orange County Code, Chapter 37, Section 37-5, describes the methodology by which Utilities Department staff calculates capital charges and also includes a means for property owners to appeal Orange County Utilities' capital charge calculation methodologies. Appeals are made to the Utilities Capital Charge Appeal Board (UCCAB).

On May 18, 2015 the UCCAB heard an appeal of the capital charges associated with Vista Community Church located at 4200 S. Chickasaw Trail, Orlando, Florida 32829. The appeal was made by David Eddy of Advance Design and Contractor's Inc. Based upon seven years of historical water consumption and school enrollment records, the UCCAB approved reducing the capital charge from \$43,643.95 to \$22,006.91, a reduction in the amount of \$21,637.04. The reduction is contingent on a five year monitoring agreement.

The agreement stipulates the terms under which the capacity reduction amount will be refunded at the end of the monitoring period.

Orange County Attorney's Office staff has reviewed the agreement and finds it acceptable as to form and content. Utilities Department staff recommends approval.

**Action Requested: Approval of Vista Community Church Water and Wastewater Capacity Adjustment Agreement by and between Vista Community Church, Inc. and Orange County, reducing capital fees by \$21,637.04.**

**District 3.**

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS  
OCT 20 2015 SK/BS

**VISTA COMMUNITY CHURCH  
WATER AND WASTEWATER CAPACITY ADJUSTMENT AGREEMENT**

This Vista Community Church Water and Wastewater Capacity Adjustment Agreement (the "Agreement") is made and entered into as of the date later executed below by and between **Vista Community Church, Inc.**, a Florida not-for-profit corporation, whose address is 4200 S. Chickasaw Trail, Orlando, Florida 32829 (the "Owner"), and **Orange County**, a charter county and political subdivision of the state of Florida whose address is 201 South Rosalind Avenue, Orlando, Florida 32801 (the "County").

**RECITALS**

**WHEREAS**, the County has enacted Orange County Code Section 37-5, which provides a means for non-residential property owners within the County's water and wastewater service territory to appeal the capital charge calculations by demonstrating long-term flow reductions; and

**WHEREAS**, the Owner owns a property located at 4200 S. Chickasaw Trail, Orlando, Florida 32829, called Vista Community Church, and such property is more particularly described in **Exhibit "A"** attached hereto and incorporated herein (the "Property"); and

**WHEREAS**, the Property is located within the County's water and wastewater service territories and, therefore, the County is the appropriate provider of water and wastewater services with jurisdiction over the Property; and

**WHEREAS**, a building on the Property houses Vista Community Church and a school, Trace Academy, which provides instruction to students from kindergarten through eighth grade; and

**WHEREAS**, the Owner has submitted to the County construction plans for a new facility for Trace Academy, which will be located on the Property and occupied by no more than the same number of students and staff that populate the school presently; and

**WHEREAS**, the capital charges paid by the Owner to the County for water and wastewater usage associated with the existing facility were based on 252 church seats,

and represent 4.284 Equivalent Residential Units (“ERUs”) and 4.284 Equivalent Residential Connections (“ERCs”); and

**WHEREAS**, in accordance with Chapter 37, Orange County Code, an additional 4.212 ERUs and ERCs are associated with the water and wastewater demands produced by Trace Academy; and

**WHEREAS**, the Owner has paid the additional capital charges associated with the water and wastewater demands of the new school building; and

**WHEREAS**, the Owner has submitted to the County documentation demonstrating that expected water and wastewater demands associated with the new school facility will be the same as those associated with the existing facility; and

**WHEREAS**, the Property's water and wastewater demands are less than eighty percent (80%) of the ERC and ERU usage assigned to the Property pursuant to the applicable provisions of Chapter 37, Orange County Code, and the Owner has paid appropriate application fees; and

**WHEREAS**, the Utilities Capital Charge Appeal Board (“UCCAB”) has reviewed the study submitted by the Owner and has accepted the ERC/ERU reduction.

**NOW, THEREFORE**, and in consideration of fees and charges specified in this Agreement, the covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the County and the Owner agree as follows:

1. **Recitals.** The above Recitals are true and incorporated herein and form a material part of this Agreement.
2. **Capital Charge Payments Remain with the Property.** Pursuant to Orange County Code Chapter 37, wastewater capacity may only be purchased on behalf of a land parcel, and may not be transferred to another parcel. Therefore, any and all wastewater capacity purchased by the Tenant is purchased on behalf of the Property, runs with the Property, and may not be transferred to any other property.
3. **Adjustment to Capacity and Capital Charges.** The UCCAB has reduced the capacity associated with the Building from 8.496 ERUs/ERCs (the “Normal Capacity”) to 4.284 (the “Adjusted Capacity”), a difference of 4.212 ERUs/ERCs, thereby reducing the Building’s capital charges by \$21,637.04. The Adjusted Capacity equates to 1,178 gallons per day (gpd) water and 964 gpd wastewater. Once this agreement is fully executed, and the Owner has complied with the provisions of Section 4 of this Agreement for the 5-year term of the agreement, the Owner may apply for a refund or credit adjustment, in accordance with the applicable provisions of the County Code at the time of the request, for any capital charges paid over the final Adjusted Capacity.

**4. Metering, Fees and Compliance.**

- a. The Owner shall maintain a reduced water consumption for continued eligibility of the Adjusted Capacity and reduced capital charges.
- b. The Property's water and wastewater consumption is measured by an existing meter, which has been placed in a location accessible to the County. The meter is owned, read, and maintained by the County.
- c. Owner shall allow the County access to the Property to inspect the meter, water and wastewater plumbing, and conduct monitoring tests, including, but not limited to tests of usage and flows.
- d. A monthly monitoring fee shall be assessed and billed directly to the Owner by the County through the current monthly billing process.
- e. No changes in the building, building use, water and wastewater plumbing, or utility mains shall be made by the Owner without prior review, inspection, and written approval of the County. County approval shall not be unreasonably withheld, conditioned, or delayed.
- f. Water consumption will be monitored by the County based upon a six (6) month rolling average for the term of the Agreement. Water and wastewater flow capacity (ERC/ERU) will be calculated by taking the billed water consumption readings, dividing by the number of days in that billing period and dividing by 275 gallons per ERC/ERU per day (the "Billing Period Capacity").
  - i. If any Billing Period Capacity exceeds the Adjusted Capacity, the County may issue a written warning to the Owner notifying them of the reading.
  - ii. If at any time the six (6) month average Billing Period Capacity exceeds the Adjusted Capacity, but is less than eighty percent (80%) of the Normal Capacity, the Adjusted Capacity shall be increased to be equal to the six (6) month average Billing Period Capacity.
  - iii. If additional capacity is required, as described in paragraph ii above, and at a later date a six (6) month average Billing Period Capacity exceeds the Adjusted Capacity, the County shall again increase the Adjusted Capacity to be equal to the six (6) month average.
  - iv. If at any time the six (6) month average Billing Period Capacity exceeds eighty percent (80%) of the Normal Capacity; the County will retain the entire Normal Capacity capital charges paid, and this Agreement shall terminate.

**5. Indemnification of the County.** Owner shall indemnify and hold the County harmless for any and all claims and losses for personal injury, property damage,

or financial loss arising at any time from any aspect of this Agreement, other than claims and losses arising from the sole negligence of the County, its employees or agents.

6. **Term of Agreement.** This Agreement shall continue in full force and effect for a period of five (5) years, unless sooner terminated as set forth herein.
7. **Sale of Land.** Owner's right to sell or transfer the Property shall not be restricted by this Agreement provided, however, that County is provided with sixty (60) days prior notice of such sale or transfer. And provided further that at the time of the closing of the sale or transfer of all or any portion of the Property, the successor party(s) in ownership shall execute an acknowledgment and agreement whereby such party acknowledges the existence of this Agreement and agrees to be bound by the terms of this Agreement. Such Agreement and acknowledgment signed by such successor party must be delivered to the County within thirty (30) days after the date of such sale or transfer. If successor party does not provide acknowledgement binding the successor party to the terms of this Agreement as specified above, this Agreement shall terminate immediately and the County shall retain the entire Normal Capacity fees paid. Capital charges run with the land, as outlined in paragraph 2.
8. **Termination.**
  - a. This Agreement may be terminated upon written mutual consent of both Parties. Termination by mutual consent must address the eligibility of any refunds for unused paid capacity charges.
  - b. The County may terminate this Agreement if (i) Owner changes or modifies the water or wastewater plumbing, the nature of the business, the utility infrastructure, or the building structures without prior approval of the County; or (ii) Owner or Tenant fails or refuses to allow County access to the Property; or (iii) as otherwise provided in this Agreement. Prior to Agreement termination, the County shall provide written notification to the Owner providing 30 days to cure non-compliance with any terms of this Agreement.
  - c. The entitlement to Adjusted Capacity (reduced capital charges) will be terminated if the actual six (6) month rolling average water or wastewater usage is more than 80% of the Normal Capacity, as described above in paragraph 4.
9. **Notice.** Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when: (a) hand-delivered to the official hereinafter designated; (b) deposited with Federal Express or other nationally recognized overnight courier service for delivery; or (c) received when such notice is deposited in the United States mail, postage prepaid, certified mail,

return receipt requested, addressed to a party at the address set forth opposite the party's name below, or such other address as the party shall have specified by written notice to the other party delivered in accordance therewith.

If to the County:       Orange County Utilities Department  
                                  9150 Curry Ford Road  
                                  Orlando, Florida 32825  
                                  Attention: Engineering Manager

If to the Owner:        Vista Community Church, Inc.  
                                  4200 S. Chickasaw Trail  
                                  Orlando, FL 32829  
                                  Attention: Greg Bond, Treasurer

10. **Governing Law.** This Agreement and provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida and venue shall lie in Orange County, Florida, for any action arising out of or related to this Agreement.
11. **Headings.** The headings or captions of sections and descriptive headings in this Agreement are inserted for convenience only, and shall not affect the construction or interpretation hereof.
12. **Severability.** If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties and if the intention of the parties can continue to be effective. To that end, this Agreement is declared severable.
13. **No Third Party Beneficiaries.** This Agreement is solely for the benefit of the formal parties hereto and no rights or cause of action shall accrue upon or by reason hereof, to or for the benefit of, any third party not a formal party hereto.
14. **Entire Agreement.** This instrument constitutes the entire Agreement between the parties and supersedes all previous discussions, understandings, and agreements between the parties relating to the subject matter of this Agreement.
15. **Amendment.** This Agreement shall not be amended unless the amendment is in writing and approved by both the County and the Owner.

DONE AND EXECUTED this \_\_\_\_\_ day of OCT 20 2015, 2015.

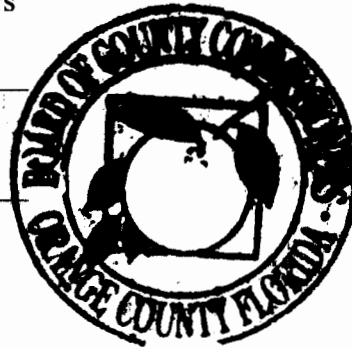
**ORANGE COUNTY, FLORIDA**  
By: Board of County Commissioners

By: *Teresa Jacobs*  
Teresa Jacobs  
for Orange County Mayor

ATTEST: Martha O. Haynie, County Comptroller  
As Clerk of the Board of County Commissioners

By: *Martha O. Haynie*  
for Deputy Clerk

Date: OCT 20 2015



[REMAINING SIGNATURES ON THE FOLLOWING PAGES]

Vista Community Church, Inc.  
By: [Signature]  
Print Name: GREG BOND  
Title: Treasurer

Witness: [Signature]  
Print Name: Colin Osterbridge  
Witness: [Signature]  
Print Name: Deborah L Fielden

STATE OF Florida  
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 6th day of August, 2015, by Greg Bond as treasurer of Vista Community Church, Inc., a Florida Corporation, on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
Notary Public  
My Commission Expires: 1-30-2019

(SEAL)





**EXHIBIT "A"**

**LEGAL SKETCH AND DESCRIPTION**

**Legal Sketch and Description to be  
provided by the Owner**

NOTES:

- CONTRACTOR SHALL IMMEDIATELY NOTIFY THE OWNER'S REPRESENTATIVE OF ANY DISCREPANCIES FOUND BETWEEN THESE PLANS, THE ARCHITECTURAL PLANS, AND/OR FIELD CONDITIONS PRIOR TO CONSTRUCTION.
- ALL WORK SHALL BE ACCOMPLISHED IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS CONTAINED HEREIN AND/OR OTHERWISE REQUIRED BY APPLICABLE FEDERAL, STATE AND LOCAL CODES, ORDINANCES AND REGULATIONS. IN THE EVENT OF A CONFLICT BETWEEN THE REQUIREMENTS, THE MOST STRINGENT SHALL APPLY AS DETERMINED BY THE OWNER'S REPRESENTATIVE.
- CONTRACTOR SHALL COMPLY WITH ALL PERMIT CONDITIONS DURING CONSTRUCTION.
- DIMENSIONS SHOWN ARE MEASURED TO/FROM THE FACE OF CURB, PROPERTY LINE, PROPERTY CORNER, OR FACE OF BUILDING. BASELINE SHALL BE THE RIGHT OF WAY LINE ADJACENT TO CHICKASAW TRAIL WITH THE BEARING OF S 02°47'42"E.
- CONTRACTOR SHALL STAKE ALL IMPROVEMENTS USING THE DIMENSION BASELINE AND OFFSETS PROVIDED ON THIS SHEET. IT IS THE CONTRACTOR'S SOLE RESPONSIBILITY TO COMPLETELY STAKE AND CHECK ALL IMPROVEMENTS TO INSURE ADEQUATE POSITIONING BOTH HORIZONTAL AND VERTICAL, INCLUDING MINIMUM BUILDING SETBACKS, PRIOR TO THE INSTALLATION OF ANY IMPROVEMENTS.
- LOCATIONS OF THE PROPOSED BUILDING SHOWN ON THIS PLAN ARE MEANT AS A REFERENCE FOR CONSTRUCTING SITE IMPROVEMENTS. THE ACTUAL LOCATIONS AND DIMENSIONS OF PROPOSED BUILDING IMPROVEMENTS SHALL BE DETERMINED FROM THE ARCHITECTURAL PLANS.
- ALL DISTURBED AREAS WITHIN RIGHT OF WAY ARE TO BE SODED.
- ALL PAVING STRIPING AND TRAFFIC ARROWS TO BE WHITE PAINT. STOPBARS AND CROSSWALKS TO BE THERMOPLASTIC MATERIAL. CERTIFICATION SHALL BE REQUIRED FOR ALL PAINT AND THERMOPLASTIC STRIPING SAID MATERIALS DO NOT CONTAIN LEAD.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RESTORATION OF ANY TRAFFIC EQUIPMENT INCLUDING BUT NOT LIMITED TO FIBER, LOOP SENSORS, PULL BOXES, CONDUIT, TRAFFIC SIGNALS, AND CABINETS. ANY ITEMS DAMAGED BY THE CONTRACTOR WILL BE RESTORED TO THEIR ORIGINAL CONDITIONS UNLESS OTHERWISE AGREED UPON BY THE COUNTY ENGINEER.
- CONTRACTOR TO INSTALL THE MINIMUM REQUIREMENTS FOR VERTICAL SEPARATION WHEREVER PROPOSED SEWER MAINS AND FORCE MAIN ARE TO CROSS UNDER PROPOSED WATER MAINS.

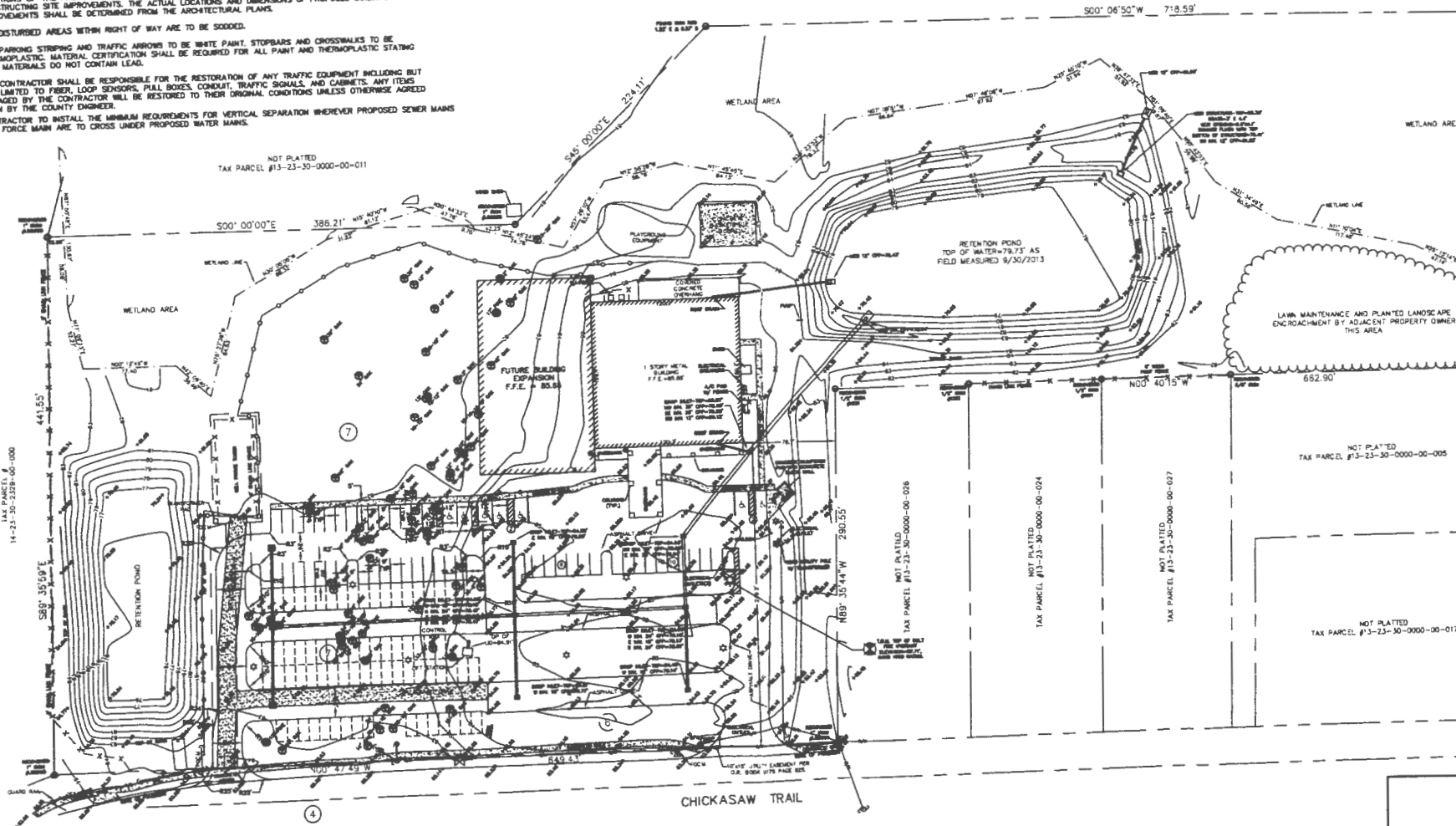
LEGEND:

PT	X	Y
1	10,000.00	10,000.00
2	10,290.54	9,997.95
3	9,904.58	10,209.75
4	9,880.70	10,189.95
5	9,857.46	10,045.91
6	9,891.51	10,004.45
7	9,932.02	10,000.99

(R-1) ORANGE COUNTY ZONING



SCALE: 1"=40'



**KCG**  
 KELLY, COLLINS & GENTRY, INC.  
 1000 N. GARDEN ST. SUITE 100  
 GAITHERSBURG, MD 20878  
 (301) 948-1000

NO.	DATE	REVISION

PREPARED FOR:  
**ADVANCE DESIGN & CONTRACTORS, INC.**

VISTA COMMUNITY CHURCH  
 4200 CHICKASAW TRAIL

**DIMENSION PLAN**

DATE: 12/20/08
SHEET: C-2

## Legal Description

THAT PART OF THE N.W. 1/4 OF SECTION 13, TOWNSHIP 23 SOUTH, RANGE 30 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE N.E. CORNER OF THE N.W. 1/4 OF SAID SECTION 13, THENCE N 89°35'29" W, 319.10 FEET ALONG THE NORTH LINE OF THE N.W. 1/4 OF SAID SECTION 13 TO THE N.W. CORNER OF THE EAST 1/2 OF THE N.E. 1/4 OF THE N.E. 1/4 OF THE N.W. 1/4 OF SAID SECTION 13 FOR A POINT-OF-BEGINNING; THENCE CONTINUE N 89°35'29" W, 290.90 FEET TO THE EASTERLY LINE OF EAST ORLANDO SECTION THREE RECORDED IN PLAT BOOK "Y", PAGE 51, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE S 00°24'10" W, 50.00 FEET ALONG SAID EASTERLY LINE; THENCE LEAVING SAID EAST ORLANDO SECTION THREE, RUN S 00°06'50" W; 718.59 FEET; THENCE S 45°00'00" E, 224.11 FEET; THENCE SOUTH, 386.21 FEET; THENCE S 89°35'59" E, 441.55 FEET PARALLEL WITH AND 13.47 FEET NORTH OF THE SOUTH LINE OF THE NORTH 1/2 OF THE N.W. 1/4 OF SAID SECTION 13 TO THE WEST RIGHT-OF-WAY LINE OF CHICKASAW TRAIL; THENCE N 00°47'49" W, 649.43 FEET ALONG SAID WEST RIGHT-OF-WAY TO THE SOUTH LINE OF THE EAST 1/2 OF THE N.E. 1/4 OF THE N.E. 1/4 OF THE N.W. 1/4 OF SAID SECTION 13; THENCE N 89°35'44" W, 290.55 FEET ALONG SAID SOUTH LINE TO THE WEST LINE OF THE EAST 1/2 OF THE N.E. 1/4 OF THE N.E. 1/4 OF THE N.W. 1/4 OF SAID SECTION 13; THENCE N 00°40'15" W, 662.90 FEET ALONG SAID WEST LINE TO THE POINT -OF- BEGINNING.

CONTAINING 508,965 SQ. FT. = 11.6842 ACRES