



COUNTY ATTORNEY'S OFFICE  
JEFFREY J. NEWTON, County Attorney

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Reply To: Post Office Box 1393  
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http://www.ocfl.net

AGENDA ITEM

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS

JAN 05 2016 JLK/LC

MEMORANDUM

Deputy County Attorney

Joel D. Prinsell

Senior Assistant County Attorneys

Lila McHenry

Assistant County Attorneys

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Legal Administrative Supervisor

Anna M. Caban

Senior Paralegal  
Kimberly Cundiff

Paralegals  
Cathy Saravanja, CP  
Maria Vargas, ACP

TO: Mayor Teresa Jacobs  
and  
County Commissioners

FROM: Jeffrey J. Newton, County Attorney *JJN*  
Edward M. Chew, Assistant County Attorney *Ed Chew*  
Contact: (407) 836-7320

DATE: December 15, 2015

SUBJECT: Consent Agenda Item for January 5, 2016  
*Orange County v. City of Orlando, et al.*  
Case No. 2014-CA-2437-O  
Parcel 812; (Owners – Greater Orlando Aviation Authority, Orlando  
Utilities Commission and City of Orlando)  
South Service Area/ East Service Area Water Main and Reclaimed  
Water Main Project (Boggy Creek Rd. to Wewahootee Rd.)

This item requests settlement authorization by the Board of County Commissioners (BCC) for the *Orange County v. City of Orlando* eminent domain case brought on behalf of Utilities for the South Service Area/East Service Area Water Main and Reclaimed Water Main Project (Boggy Creek Road to Wewahootee Road), and authority for the County Attorney's Office to execute the proposed Stipulated Final Judgment on behalf of Orange County.

Under separate cover the Board has been provided a Confidential Memorandum dated December 14, 2015, from Jeffrey J. Newton, County Attorney, and Edward Chew, Assistant County Attorney, a Settlement Analysis, and a proposed Stipulated Order of Taking and Final Judgment. These documents will become public records at the conclusion of the litigation pursuant to Section 119.071(1)(d), *Florida Statutes*.

**ACTION REQUESTED:** Approval of the proposed settlement in the case *Orange County v. City of Orlando, et al.*, Case No. 2014-CA-2437-O, Parcel 812; (Owners – Greater Orlando Aviation Authority, Orlando Utilities Commission and City of Orlando) Project: South Service Area/ East Service Area Water Main and Reclaimed Water Main (Boggy Creek Road to Wewahootee Road), and authorization for County Attorney's Office to execute the proposed Stipulated Order of Taking and Final Judgment as to Parcel 812 on behalf of Orange County.

IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND  
FOR ORANGE COUNTY, FLORIDA

CASE NO.: 2014-CA-2437-O  
DIVISION: 35

ORANGE COUNTY, FLORIDA  
a political subdivision of the  
State of Florida,

Petitioner,

vs.

CITY OF ORLANDO, et al.

Respondents.

PARCEL: 812

FILED IN OPEN COURT 2-4-16  
Clerk, Cir. Ct., Orange Co  
By [Signature] C.

STIPULATED ORDER OF TAKING AND FINAL JUDGMENT  
AS TO PARCEL 812

THIS CAUSE having come before the Court upon the Joint Motion for Entry of Stipulated Order of Taking and Final Judgment as to Parcel 812 made by Petitioner, ORANGE COUNTY, a political subdivision of the State of Florida, and GREATER ORLANDO AVIATION AUTHORITY, ("GOAA"), a public body corporate and politic, CITY OF ORLANDO, a municipal corporation, and ORLANDO UTILITIES COMMISSION, a statutory commission ("Respondents"), and it appearing to the Court that the parties are authorized to enter into such Joint Motion, and the Court finding that the taking is necessary for a public purpose, that the compensation to be paid by the Petitioner is full, just and reasonable for all parties concerned, and that proper notice was given to all parties and to all persons having or claiming any equity, lien, title or other interest in Parcel 812, and the Court being otherwise fully advised in the premises, it is therefore

ORDERED AND ADJUDGED as follows:

1. That the Court has jurisdiction over the subject matter and the parties.
2. That the pleadings are sufficient, and that the Petitioner is properly exercising its delegated authority.
3. That the estimate of value in this cause by the Petitioner was made in good faith and based upon a valid appraisal.
4. That the Respondent GREATER ORLANDO AVIATION AUTHORITY does have and recover from the Petitioner, the sum of FOUR HUNDRED NINETEEN THOUSAND FIVE HUNDRED NINETY-FIVE AND NO/100 DOLLARS (\$419,595.00) in full payment for the property taken, for damages resulting to the remainder, and for all other damages of any kind and nature.
5. That the Court awards Respondent GREATER ORLANDO AVIATION AUTHORITY the sum of EIGHTY-SEVEN THOUSAND THREE HUNDRED NINETY-EIGHT AND NO/100 DOLLARS (\$87,398.00), as attorney's fees. There are no expert costs in this matter.
6. That within twenty (20) days of the entry of this Order the Petitioner shall deposit FIVE HUNDRED SIX THOUSAND NINE HUNDRED NINETY-THREE AND NO/100 DOLLARS (\$506,993.00) into the Registry of the Court.
7. That immediately upon the deposit of the aforesaid sum into the Registry of the Court, and without further Order, the Clerk shall pay to the Broad and Cassel Trust Account, c/o Richard N. Milian, P.A., 390 N. Orange Avenue, Suite 1400, P.O. Box 4961, Orlando, Florida 32802-4961, as attorneys for the Respondent, GREATER ORLANDO AVIATION AUTHORITY, a public body corporate and politic, the sum of FIVE HUNDRED SIX

THOUSAND NINE HUNDRED NINETY-THREE AND NO/100 DOLLARS (\$506,993.00) as full compensation for Petitioner's acquisition of Parcel 812 in this case including all attorney's fees.

8. That the Court awards Respondent ORLANDO UTILITIES COMMISSION the sum of TWELVE THOUSAND FIVE HUNDRED TWENTY-FIVE AND 30/100 DOLLARS (\$12,525.30) as attorney's fees and that within thirty (30) days from the entry of this Stipulated Order of Taking and Final Judgment, the Petitioner ORANGE COUNTY shall pay to the Trust Account of GrayRobinson, P.A., c/o Kent L. Hipp, Esq., P.O. Box 3068, Orlando, FL 32802, as attorneys for the Respondent ORLANDO UTILITIES COMMISSION the sum of TWELVE THOUSAND FIVE HUNDRED TWENTY-FIVE AND 30/100 DOLLARS (\$12,525.30) that amount representing the attorneys' fees awarded above. Thereafter Respondent ORLANDO UTILITIES COMMISSION shall take nothing further in this action.

9. Respondent CITY OF ORLANDO, shall take nothing in this action.

10. That by agreement of the parties the Easement identified in Exhibit "1" attached hereto is adopted and incorporated into this Stipulated Order of Taking and Final Judgment and Petitioner's acquisition of Parcel 812 is subject to the terms and conditions of the Easement identified in Exhibit "1" attached hereto. Petitioner, Orange County, Florida, and Respondents, Greater Orlando Aviation Authority, the City of Orlando, and the Orlando Utilities Commission agree to be bound by the terms and conditions of the Easement identified in Exhibit "1" attached hereto.

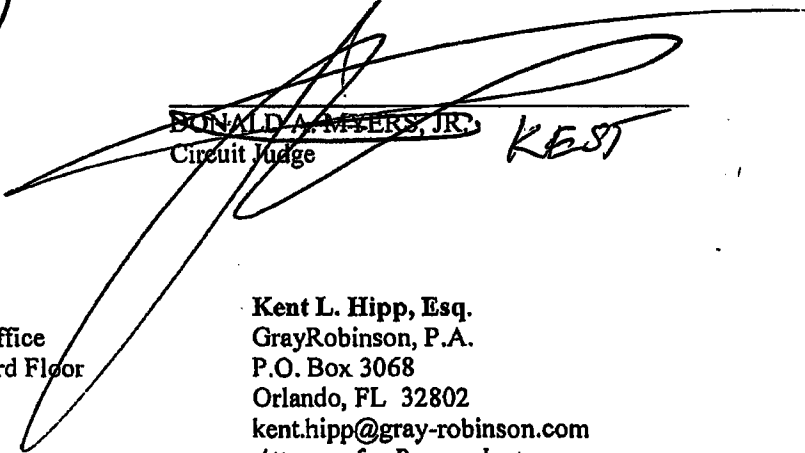
11. Without limiting anything contained herein, it is acknowledged and agreed that the Easement Area shall affect certain wetlands and lands encumbered by that certain Deed of Conservation Easement dated October 26, 1999, by and between the City of Orlando, GOAA,

and the South Florida Water Management District (the "District"), recorded in Official Record Book 5883 at Page 3177 of the Public Records of Orange County, Florida, as amended by that certain Amendment of Conservation Easement dated March 15, 2012, and recorded in Official Record Book 10364 at Page 489 of the Public Records of Orange County, Florida (as amended, hereinafter referred to as the "Conservation Easement"). The County shall be responsible, at its sole expense, for any permitting, modification of the Conservation Easement or mitigation required as a result of the County's acquisition or use of the Easement Area. In the event GOAA suffers any loss, cost, penalties or expense arising out of such impact to the Conservation Easement or the wetlands areas thereon, including, without limitation, any increased costs of development, loss or impairment of development rights or other costs, expenses or damages incurred by GOAA in connection with required modification, relocation or reconfiguration of the Conservation Easement, or mitigation of any impact of this easement on the Conservation Easement or the conservation and wetlands areas thereon GOAA retains all rights to pursue additional compensation and all remedies including the right to claim additional damages as set-out in *Central and Southern Florida Control District v. Wye River Farms, Inc.*, 297 So.2d 323 (Fla. 4th DCA 1974) cert. denied 310 So.2d 745 (Fla. 1975). By agreement of the parties there is no basis for the computation of attorney's fees for non-monetary benefits arising out of the County's commitments in this paragraph, or any other provisions in this Order.

12. That upon the deposit of the aforesaid sum into the Registry of the Court, the right, title or interest specified in the Petition and described in Schedule "A" attached hereto, shall vest in the Petitioner, and Petitioner shall be entitled to possession of the property without further notice or order of this Court.

13. The Court hereby reserves jurisdiction to enforce the terms of this Order.

DONE AND ORDERED at Orange County Courthouse, Orlando, Florida, this 4 day  
of February, 2016.

  
~~DONALD D. MYERS, JR.~~  
Circuit Judge

KESJ

Copies furnished to:

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Orange County, Florida*

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*Attorney for Respondent  
Greater Orlando Aviation Authority*

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*Attorney for Respondent  
Orlando Utilities Commission*

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[tracy.barnes@cityoforlando.net](mailto:tracy.barnes@cityoforlando.net)  
*Attorney for Respondent  
City of Orlando*

  
\_\_\_\_\_  
Judicial Assistant/Attorney

**SOUTH SERVICE AREA / EAST SERVICE AREA  
WATER TRANSMISSION MAINS UTILITY EASEMENT**

Parcel 812 is being acquired by Orange County (hereinafter "GRANTEE") as a permanent non-exclusive easement to construct potable water transmission and reclaimed water transmission pipes, with full authority to enter upon, construct, operate, replace, and maintain potable water transmission and reclaimed water transmission pipes, as the GRANTEE and its assigns may deem necessary, including the construction, operation, and maintenance of a stabilized roadway, over the following lands as described in Schedule "A" and Exhibit "A."

Subject to the terms and conditions set forth in this Easement Agreement, the GRANTEE and its assigns shall have the right:

(1) To construct, operate, replace, and maintain only a single 36-inch diameter potable water main and a single 20-inch diameter reclaimed water main as more particularly depicted in the GRANTEE's Construction Details attached in Exhibit "B," and no more than one (1) additional potable water transmission or reclaimed water transmission pipe not to exceed 36-inches in diameter within the Easement Area pursuant to construction plans provided in advance for review by Greater Orlando Aviation Authority (hereinafter "GRANTOR") (said pipes referred to herein as the "Facilities"). GRANTEE also agrees to provide said construction plans to the Orlando Utilities Commission ("OUC") in advance for review. The Facilities shall be constructed substantially in accordance with the plans provided by GRANTEE to GRANTOR and OUC and upon completion of the construction of the Facilities, GRANTEE shall provide GRANTOR and OUC with an as-built survey depicting the location and depth of such Facilities.

(2) To construct, operate, and maintain stabilized ingress and egress within the granted easement for the purpose of the construction, operation, and maintenance of the Facilities.

(3) To clear and keep clear all trees, undergrowth, and other obstructions that may interfere with normal construction, operation, or maintenance of the Facilities and the stabilized roadway over the granted easement. GRANTEE shall be responsible, at GRANTEE's risk and expense, to maintain the easement area, including any Facilities, stabilized roadway or other improvements constructed by GRANTEE in good order and condition. During construction, GRANTEE will bury the Facilities at a depth provided by GRANTOR at a minimum cover of three (3) feet. At the conclusion of any construction, operation, replacement or maintenance activities by the GRANTEE within the granted easement, the GRANTEE will restore the Easement Area to a condition as good as the preexisting condition. The GRANTEE may not exercise any control over any lands outside the granted easement.

Subject to the terms and conditions set forth herein, GRANTOR and its successors and assigns shall retain all existing rights of title and possession. Subject to

the terms and conditions set forth herein, GRANTOR reserves the right to use the Easement Area for any lawful purposes that do not directly interfere with GRANTEE's acquired rights, including the right to use and enjoy the airspace above, the surface of the Easement Area and the subsurface of the Easement Area for development purposes which will not materially interfere with the GRANTEE'S easement rights granted herein or the safe construction, operation, use, maintenance or repair of the Facilities. GRANTOR's reserved rights shall expressly include, but are not limited to, the following:

- (a) The right to use, and the ingress and egress to use, and enjoy the surface of the Easement Area, the subsurface of the Easement Area and the airspace above the Easement Area for any purposes which do not materially interfere with the easement rights granted herein to GRANTEE.
- (b) The right of suitable access across the Easement Area for ingress to and egress from adjacent properties.
- (c) The right to enclose the Easement Area by fence, subject to the GRANTEE's right of ingress and egress related to the easement granted hereunder to the GRANTEE.
- (d) The right to construct roadways, driveways, walkways, sidewalks, parking lots, transportation facilities (including, without limitation, proposed rail lines and a rail station contemplated for the site) or other uses where paving or concrete are necessary for such uses not otherwise prohibited herein, underground utilities installed perpendicular and/or parallel to the Facilities within the Easement Area, landscaping, irrigation and improvements as may be necessary for GRANTOR's development and enjoyment of GRANTOR's property; provided that GRANTOR shall coordinate with GRANTEE as provided below to minimize conflicts with the Facilities, including the planned third pipeline construction area, if that pipeline has not yet been constructed; and further provided that GRANTOR may not create or maintain any reservoir or water impoundment, maintain any deep-rooted trees, construct nor permit to be constructed any building or structure on the surface of the Easement Area which would materially interfere with GRANTEE's easement rights or the safe operation, maintenance or repair of the Facilities.
- (e) The right to grant easements to third parties for facilities to be located on, through, over, across and/or under the Easement Area, provided said facilities do not materially interfere with GRANTEE's easement rights granted herein including, but not limited to, Orlando Utilities Commission water lines and facilities, provided that GRANTOR coordinates with GRANTEE to verify that such easement will not interfere with GRANTEE's facilities.



GRANTEE will cooperate in good faith with GRANTOR in connection with future planning, development and construction within the Easement Area. Without limiting the foregoing, either upon GRANTOR's request or at GRANTEE's option, GRANTEE shall provide a prior written determination whether any particular exercise of the right to use the Easement Area may materially interfere with the safe exercise of GRANTEE's rights, which determination shall not be arbitrarily or unreasonably withheld, delayed or conditioned.

This Easement Agreement is subject to all federal laws and requirements of the Federal Aviation Administration ("FAA") and all work by GRANTEE or its contractors within the Easement Area shall be in compliance with the requirements of all Federal Aviation Regulations, including, without limitation, 14 CFR Part 77 relating to obstructions to navigable airspace. GRANTEE shall also coordinate with GRANTOR with respect to any work by GRANTEE or its contractors within the Easement Area which requires the use of equipment (such as cranes) or materials that may exceed 45 feet in height or which may interfere with Airport aviation operations and/or the flight, visibility or instrumentation of aircraft using the Airport or which may otherwise interfere with the safe and efficient operation of the Airport.

It is expressly provided that when the pipelines constructed hereunder shall be permanently removed from the premises, the easement granted herein shall become null and void and all rights, title and interest shall revert to GRANTOR or its successor(s) in interest.

The rights, benefits, burdens and obligations acquired or assumed by GRANTEE and GRANTOR herein shall inure to, bind and oblige respectively GRANTOR and GRANTEE, and their respective successors and assigns.

GRANTEE agrees to defend, indemnify and hold harmless GRANTOR, and GRANTOR's officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorney's fees) attributable to its acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions, and/or negligence of the other party.

GRANTEE acknowledges that existing OUC utility facilities and related improvements are located within the Easement Area. GRANTEE therefore makes the following assurances as to OUC:

- (a) GRANTEE agrees to design its Facilities to avoid existing OUC utility facilities. Specifically, GRANTEE will coordinate with OUC any crossing of existing OUC facilities located at the northeast corner of Parcel 812, as illustrated in the survey attached hereto as Exhibit "A." GRANTEE further

agrees construct its Facilities in accordance with all required state and local laws, rules, and regulations, including any required separation distance between existing and future pipes or other facilities.

- (b) GRANTEE assures that the proposed construction and operation of the Facilities will avoid any OUC spillway(s) located adjacent to or within the Easement Area. GRANTEE agrees that if OUC's spillway(s) is damaged during construction, GRANTEE or its agents or contractors will immediately repair the spillway(s) and return the spillway(s) to its original or better condition.
- (c) GRANTEE agrees to defend, indemnify and hold harmless OUC and OUC's officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorney's fees) attributable to its acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from GRANTEE's negligent performance under this agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions, and/or negligence of the other party.

Without waiving its right to sovereign immunity as provided in Section 768.28, Florida Statutes, GRANTEE acknowledges to be self-insured for General Liability and Automobile Liability with coverage limits of as set forth in Section 768.28, Florida Statutes. GRANTEE agrees to maintain commercial insurance or to be self-insured for Workers' Compensation & Employers' Liability in accordance with Florida Statute 440. GRANTEE shall provide an affidavit or Certificate of Insurance evidencing self-insurance commercial insurance or up to sovereign immunity limits, which the GRANTEE agrees to find acceptable for the coverage mentioned above.

GRANTEE shall require all contractors performing work within the easement area to procure and maintain workers' compensation, commercial general liability, business auto liability and contractor's pollution liability coverage. Each party shall be listed as an additional insured on all general liability policies. GRANTEE shall require all contractors performing work within the easement area to provide an affidavit or Certificate of Insurance evidencing the coverages required herein and reflecting GRANTOR as additional insureds as their interests appear.

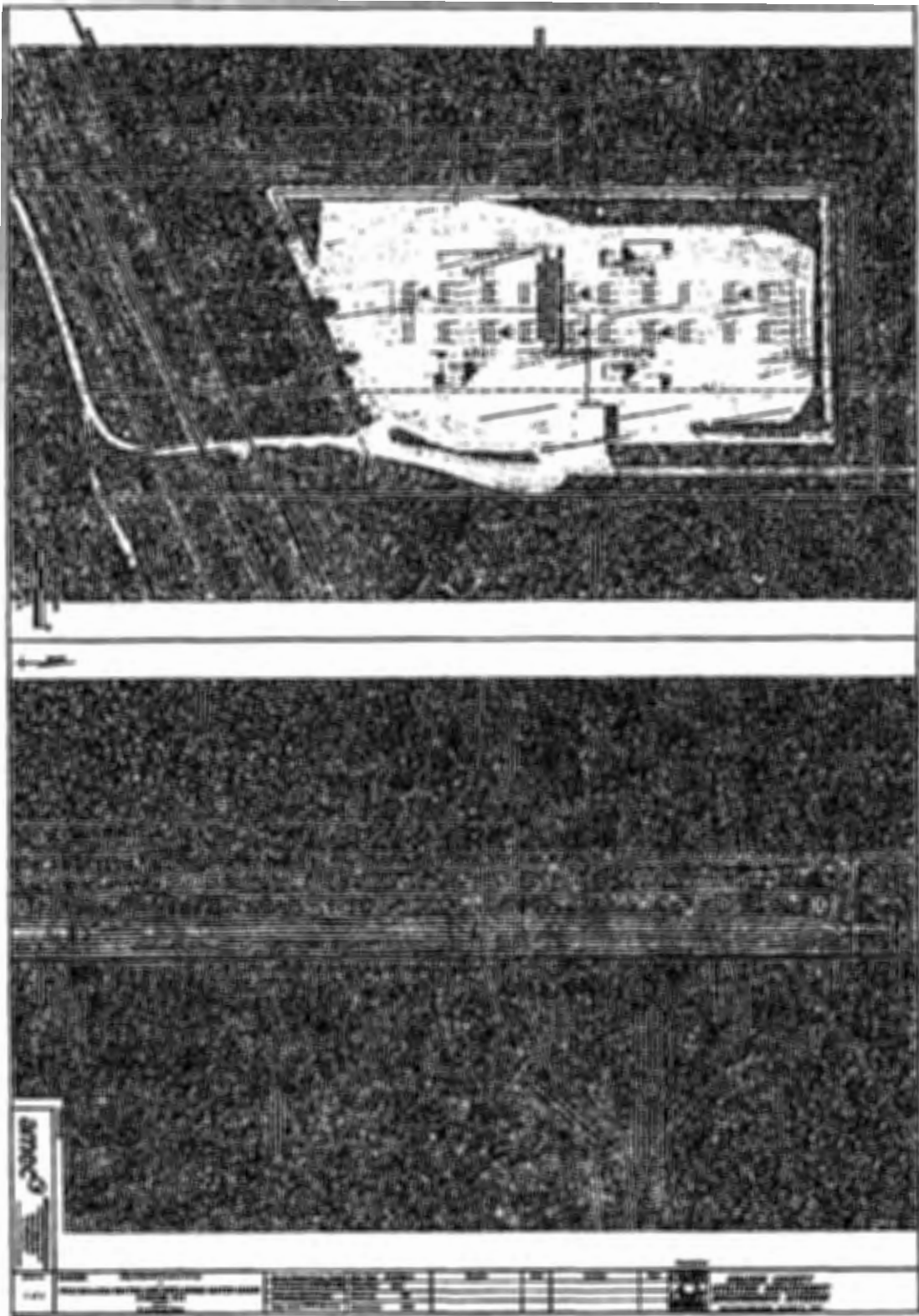
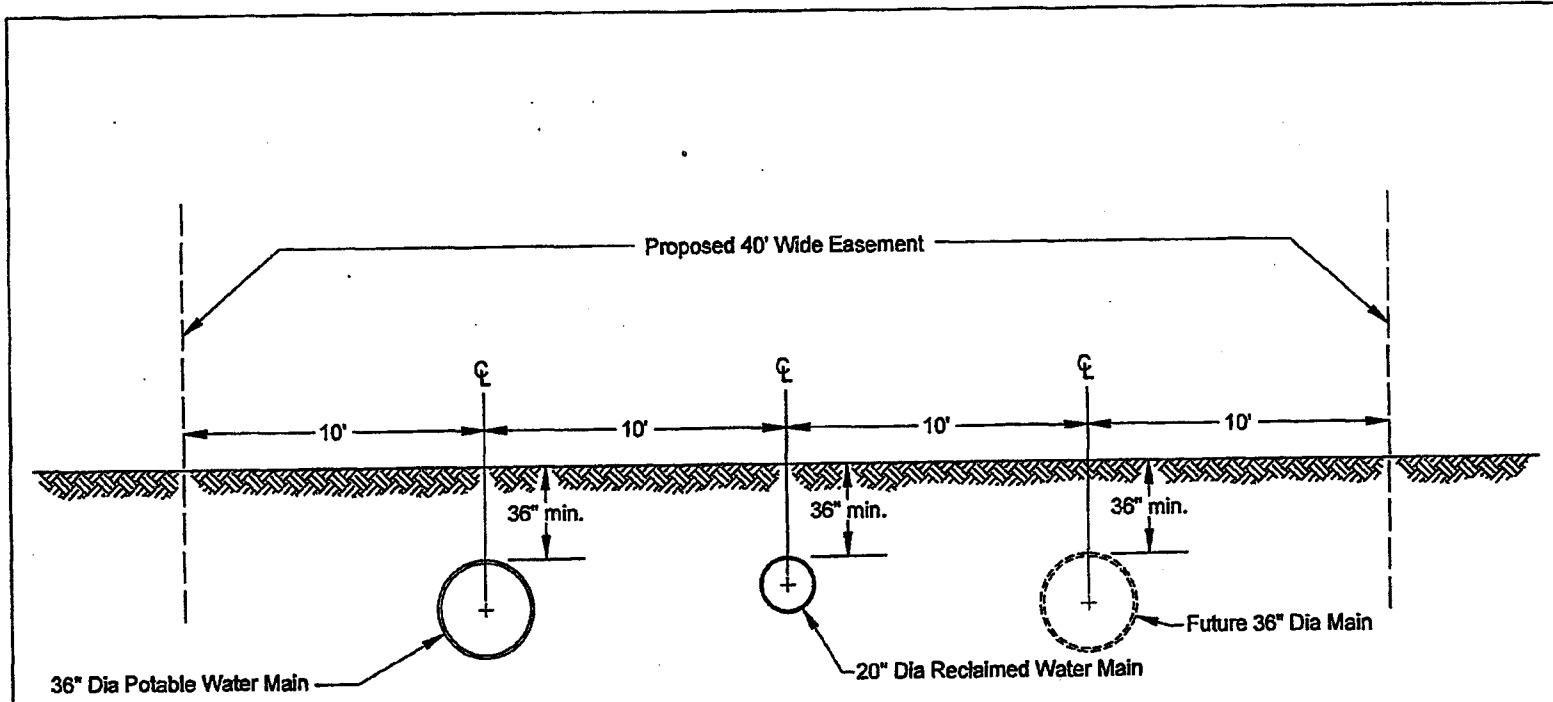


EXHIBIT A

EXHIBIT B



**SECTION - TYPICAL**  
City of Orlando / GOAA Easement  
South Service Area / East Service Area 36" Water Main & 20" Reclaimed Water Main Project  
Scale: 1" = 5'

August 6, 2015

Typical Construction Detail City of Orlando / GOAA Parcel 812 Easement  
South Service Area / East Service Area 36" Water Main & 20" Reclaimed Water Main Project

Exhibit B  
Parcel 812  
Seq# 39265



**SCHEDULE "A"**  
**SKETCH OF DESCRIPTION**  
**PARCEL: 812**  
**ESTATE: PERPETUAL EASEMENT**  
**PURPOSE: WATER LINE**

**PARCEL 812 DESCRIPTION:**

A 40.00 foot wide parcel of land lying in Section 23 & 26, Township 24 South, Range 30 East, Orange County, Florida, being more particularly described as follows:

COMMENCE at the Southwest corner of Tract A, according to plat of LAKE NONA BOULEVARD FIRST ADDITION, as recorded in Plat Book 67, Pages 8 and 9, of the Public Records of Orange County, Florida; thence S 66°42'19" W along the Northerly right-of-way line of an Orlando Utilities Commission Railroad right-of-way, as recorded in Official Records Book 3494, Pages 2564-2567, of the Public Records of Orange County, Florida, 722.05 feet to the East line of a 135.00 foot wide City of Orlando Power Line Easement, as recorded in Official Records Book 1638, Pages 953-959 of said Public Records, said line also being the Westerly line of lands described in official records book 9552, Pages 4293-4299; thence N 00°01'43" W along said East line, 2081.88 feet to the Northwest corner of lands described in official records book 9552, Pages 4293-4299, said point also being the POINT OF BEGINNING; thence S 00°01'43" E along said East line, a distance of 40.00 feet; thence S 89°58'17" W, a distance of 135.00 feet to the West line of aforementioned 135.00 foot wide City of Orlando Power Line Easement; thence S 00°01'43" E along West line of said power line easement, a distance of 1333.05 feet; thence departing said West line S 89°58'17" W, a distance of 265.00 feet; thence S 00°01'43" E, a distance of 350.84 feet; thence S 89°58'17" W, a distance of 75.00 feet; thence S 00°01'43" E, a distance of 562.22 feet to aforementioned Northerly Railroad Right of Way line; thence S 66°42'19" W along said Northerly right of way line, a distance of 43.54 feet to a point lying S 66°42'19" W, 580.59 feet from the westerly line of lands described in official records book 9552, Pages 4293-4299; thence departing said Northerly right of way line N 00°01'43" W, a distance of 619.42 feet; thence N 89°58'17" E, a distance of 75.00 feet; thence N 00°01'43" W, a distance of 350.84 feet; thence N 89°58'17" E, a distance of 265.00 feet; thence N 00°01'43" W, a distance of 1333.05 feet; thence N 89°58'17" E, a distance of 40.00 feet to the West line of aforementioned 135.00 foot wide City of Orlando Power Line Easement; thence continue N 89°58'17" E, a distance of 135.00 feet to the East line of a 135.00 foot wide City of Orlando Power Line Easement and the POINT OF BEGINNING.

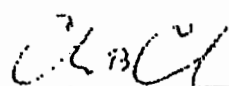
Containing 2.543 acres, more or less.

**Surveyor's Notes:**

1. This Sketch of Description is not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
2. This Sketch of Description has been prepared without the benefit of a title report or abstract and may not reflect all pertinent matters of record, such as easements, ownerships or other instruments of record. Ownership information shown hereon is based upon data provided by the Orange County Property Appraiser Office.
3. Bearings shown hereon are relative to the Florida State Plane Coordinate System, East Zone (0901), North American Datum of 1983/1980 Adjustment, with the grid bearing of the East line of a 135.00 foot wide City of Orlando Power Line Easement, as recorded in Official Records Book 1638, Pages 953-959 of said Public Records being N00°01'43"W.
4. The delineation of lands shown hereon is at the client's request.
5. This Sketch of Description is certified to Orange County Utilities Engineering Division.


**LEGEND**

- RW = RIGHT OF WAY
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- ORB = OFFICIAL RECORDS BOOK
- PG = PAGE
- S-T-R = SECTION - TOWNSHIP - RANGE
- OUC = ORLANDO UTILITIES COMMISSION
- GOAA = GREATER ORLANDO AVIATION AUTHORITY
- RR = RAILROAD



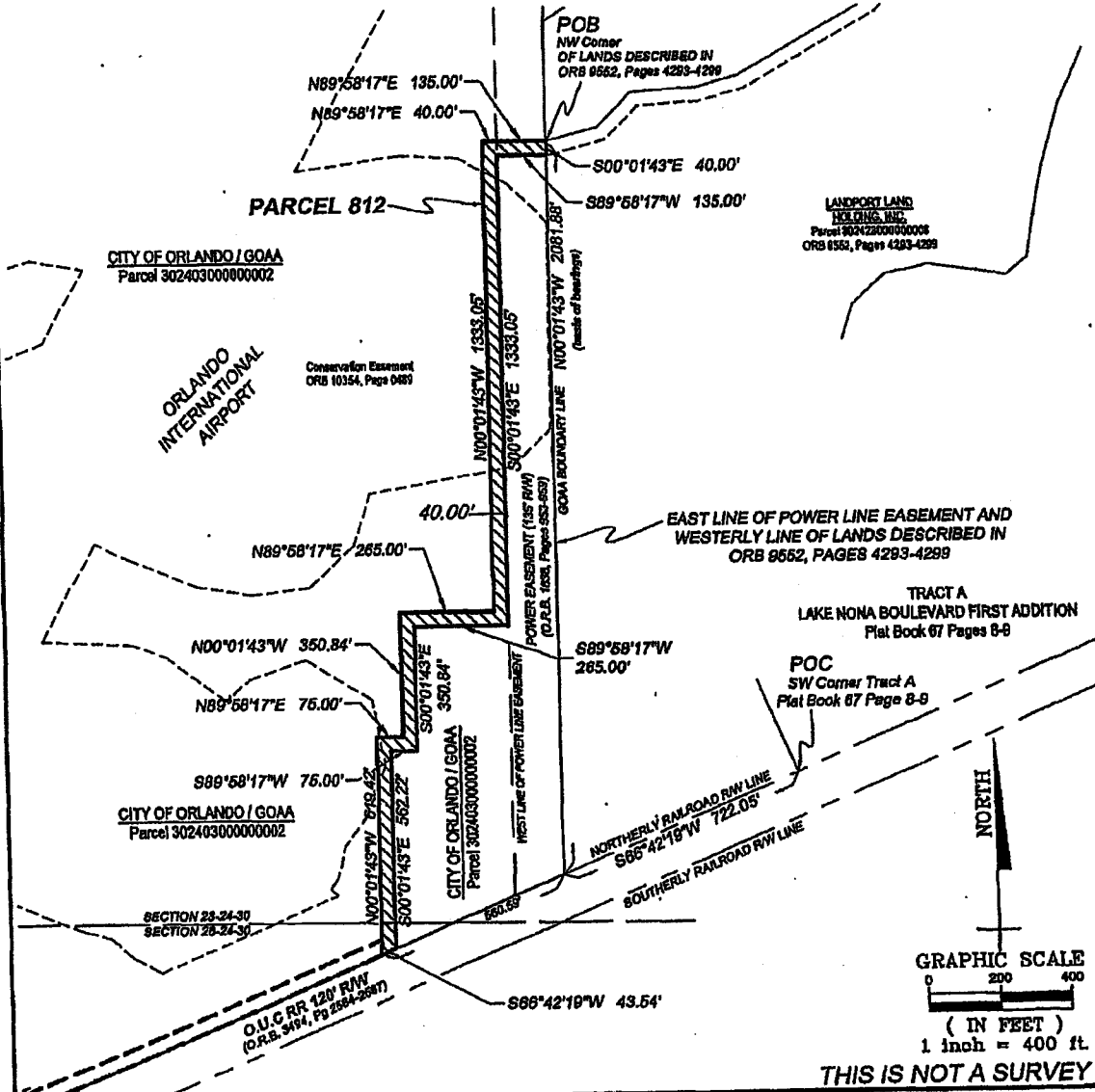
CHARLES B. GARDINER  
 Florida Professional Surveyor and Mapper  
 License No. LS 6046

**THIS IS NOT A SURVEY**

<b>PROJECT TITLE:</b> <b>SSA-ESA Water and Reclaimed Water Mains</b> <b>Sketch of Description</b> <b>Parcel 812 Easement</b>	<b>REVISION</b>	
	DATE	DESCRIPTION
	01/15/2013	MR MODIFIED EASEMENT CONFIGURATION
 <p><b>AMEC Environment &amp; Infrastructure, Inc.</b>          75 East Amelia Street, Suite 200          Orlando, FL 32801 USA          Phone: (407) 622-7570          Fax: (407) 622-7576          Certificate of Authorization Number LB-0007932</p>	DRAWN BY:	CHKD. BY:
	AD.W.	C.B.G.
	DATE: 01/15/2013	DATE: 01/16/2013
	JOB No. 6374.14.0754	SCALE: N/A
DRAWING NAME: OUC SSA ESA Water Mains.dwg		

THIS DOCUMENT IS UNCLASSIFIED DATE 07/20/2011 BY 60322 UCBAW/STP/STP

**SCHEDULE "A"**  
**SKETCH OF DESCRIPTION**  
**PARCEL: 812**  
**ESTATE: PERPETUAL EASEMENT**  
**PURPOSE: WATER LINE**



**PROJECT TITLE:** SSA-ESA Water and Reclaimed Water Mains  
 Sketch of Description  
 Parcel 812 Easement

REVISION	
DATE	DESCRIPTION
2/17/2016	MR
	MODIFIED EASEMENT CONFIGURATION

DRAWN BY: <u>A.D.W.</u>	CHKD. BY: <u>C.B.G.</u>
DATE: <u>01/15/2013</u>	DATE: <u>01/15/2013</u>
JOB No. <u>6374.14.0164</u>	SCALE: <u>1" = 400'</u>
	SHT. <u>2</u>
	OF <u>2</u>

DRAWING NAME: OJC SSA ESA Water Mains.dwg



**AMEC Environment & Infrastructure, Inc.**  
 75 East Amelia Street, Suite 200  
 Orlando, FL 32801 USA  
 Phone: (407) 522-7670  
 Fax: (407) 522-7676  
 Certificate of Authorization Number LB-0007832



COUNTY ATTORNEY'S OFFICE  
JEFFREY J. NEWTON, *County Attorney*

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under F.S. 119.07, and is not for  
copying of distribution.**

**MEMORANDUM**

*Deputy County Attorney*  
Joel D. Prinsell

*Senior Assistant County  
Attorneys*  
Lila McHenry

*Assistant County  
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- Andrea Adibe
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TO: Mayor Teresa Jacobs  
and  
County Commissioners

FROM: Jeffrey J. Newton, County Attorney *JJN*  
Edward M. Chew, Assistant County Attorney *EMC*  
Contact: (407) 836-7320

DATE: December 14, 2015

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Utilities Commission and City of Orlando)  
South Service Area/ East Service Area Water Main and Reclaimed  
Water Main Project (Boggy Creek Rd. to Wewahootee Rd.)

This item requests settlement authorization by the Board of County Commissioners (BCC) for the *Orange County v. City of Orlando* eminent domain case brought on behalf of Utilities for the South Service Area/East Service Area Water Main and Reclaimed Water Main Project (Boggy Creek Road to Wewahootee Road). The County staff recommends settlement of the case in the amount of \$419,595, plus statutory attorneys' fees in the amount of \$87,398 and no experts' fees. In addition County staff recommends payment of attorney's fees to the Orlando Utilities Commission ("OUC") in the amount of \$12,525.30.

**I. The Project**

Residential and commercial development in the Orange County Utilities Department's Eastern Water and Reclaimed Water Service Area has created increased demand for potable water and reclaimed water. This Project will connect proposed water and reclaimed water transmission mains to existing mains at J. Lawson Boulevard and Boggy Creek Road. Approximately 11,250 feet of each type of transmission main will be installed in a utility corridor comprised of easements. The selected route parallels the OUC power transmission easement and railroad corridor where there is currently no significant industrial, commercial,

or residential development and the utilization of this corridor will not adversely affect any proposed development. And there is only limited potential involvement with jurisdictional wetlands along the proposed 40-foot corridor. The costs associated with the selected route were comparable to or better than the other alternatives considered.

## **II. The Lawsuit**

Orange County attempted to negotiate a settlement of the underground pipeline easement across the property owned by the Greater Orlando Aviation Authority ("GOAA"), but the parties were too far apart on values. Orange County relied on an appraisal which used sales of similar properties, but there were no similar sales in the vicinity of GOAA's property. On the other hand, GOAA relied on an appraisal which used Medical City sales which were in the vicinity, but were much different "highest and best uses" than the GOAA property or the sales used by Orange County's appraiser. Once it was clear that a pre-suit settlement could not be reached, Orange County filed an eminent domain action in May 2012 to acquire the easement so the project could proceed.

## **III. Stipulated Easement Agreement**

GOAA does not object to Orange County's acquisition of the pipeline easement, but requested that the parties further refine the parties' rights in the easement area. This proposal was beneficial for both parties in that Orange County made commitments on design matters to avoid interference with GOAA's intended use of the site. This in turn eliminated potentially significant severance damages which GOAA could have claimed would result from Orange County's project. The agreement also reduced the cost that Orange County would have to pay for the easement. Concurrent with the preparation of the easement agreement, Orange County Utilities discovered that part of the proposed easement conflicted with property and improvements owned by OUC. Parcel 812 was modified to avoid that property and improvements.

## **IV. The Settlement**

The parties argued the strengths and weaknesses of each other's cases. GOAA sought \$915,556 as full compensation for the easement (based on a land value of \$400,000/acre with a 90% factor for the value of the easement) while Orange County contended that \$166,160 was full compensation (based on a land value of \$217,800/acre with a 30% factor for the easement). The parties ultimately agreed on compensation in the amount of \$419,595 which represented a land value of \$330,000/acre with a 50% factor for the easement, plus statutory attorneys' fees



in the amount of \$87,398. The proposed settlement is subject to BCC and GOAA board approval.

Parcel 812 crosses an easement owned by the Orlando Utilities Commission ("OUC") for electrical transmission power lines. Orange County coordinated its proposed improvements to accommodate OUC's concerns. As a result OUC has agreed waive any compensation in this case, but the parties tentatively agreed to attorney's fees in the amount of \$12,525.30.

**V. Staff Recommendation**

The County's staff includes Edward Chew, Assistant County Attorney, Gary Morris, Senior Engineer, and Ann Caswell, Division Manager. County staff recommends that the BCC approve the settlement.

Attached is a copy of the Settlement Analysis with the proposed Stipulated Order of Taking and Final Judgment as to Parcel 812.

**ACTION REQUESTED: Approval of the proposed settlement in the case *Orange County v. City of Orlando, et al*, Case No. 2014-CA-2437-O, Parcel 812; (Owners – Greater Orlando Aviation Authority, Orlando Utilities Commission and City of Orlando) Project: South Service Area/ East Service Area Water Main and Reclaimed Water Main (Boggy Creek Road to Wewahootee Road), and authorization for County Attorney's Office to execute the proposed Stipulated Order of Taking and Final Judgment as to Parcel 812 on behalf of Orange County.**

EMC/gs

Attachments

Copy: Ajit Lalchandani, County Administrator  
Anne Caswell, Manager, Real Estate Management Division  
Andres Salcedo, Manager, Utilities Engineering Division  
Anne Kulikowski, Acting Director, Administrative Services Department

**This document is privileged  
under F.S. 119.07, and is not for  
copying or distribution.**

Project: South Service Area/East Service Area Water Main and Reclaimed  
Water Main Project  
Sequence Number: 39265  
Limits: Boggy Creek Road to Wewahootee Road  
Parcel: 812  
Case Name: *Orange County v. City of Orlando, et al.*  
Case No. 2014-CA-2437-O

**SETTLEMENT ANALYSIS**

Land Size

Parent Tract: 10,293 and 51.58 acres  
Parcel 812: 2.543 ac (110,773 sq.ft.)

<b>COMPENSATION VALUES</b>		
	County	Owner
Land	\$4.71 to 5.21/sq.ft. → \$217,800/ac (\$5.00/sq.ft) @ 30% of fee for easement	\$286,113 to 629,480/ac → \$400,000/ac. (\$9.183/sq.ft) @ 90% of fee for easement
Total	166,160	915,556

<b>POTENTIAL COSTS SAVED BY SETTLEMENT</b>	
Owner – Appraiser Fees	30,000
– Engineer Fees	20,000
– Land Planner Fees	20,000
County – Appraiser Fees	20,000
– Engineer Fees	15,000
– Land Planner Fees	15,000
Total	120,000

<b>RECOMMENDED SETTLEMENT</b>	
Compensation	419,595
Expert Fees	0
Attorney Fees & Costs	87,398
Total	506,993
Attorney Fee for OUC	12,525.30

The Parent Tract for these easements is essentially the airport property. For their appraisal of the easements, both appraisers used abbreviated Parent Tracts to identify the economically similar property associated with the easements. Orange County's abbreviated Parent Tract is southeast of the airport and consists generally of the area around Mud Lake. This area is zoned H (Holding) by the City of Orlando and has a land use of Airport Support District which allows for High Intensity uses including a "wide range of commercial, office, warehouse and industrial uses" It is adjacent to the Lake Nona Medical City. The property is still at grade with no infrastructure. There are no roads, utilities, curbing, drainage ponds, and no elevated building pads. There is no improved access.

Both parties used the "comparable sales" approach to value the easements. Orange County's appraiser found four sales which he believed were comparable to the Parent Tract. These sales ranged in size from 14 to 108 acres but were not in the vicinity of the Parent Tract. GOAA's appraiser found two Medical City sales (VA Hospital and Nemours Hospital) ranging from 60 to 65 acres which were very close to the Parent Tract. He also found three "secondary" sales ranging from 23 to 28 acres which remote from the Parent Tract.

GOAA contends that the sales relied on by Orange County's appraiser were not comparable because they were remote from the Parent Tract, and more importantly because Orange County's appraiser made errors in his conclusions about the size of the sales, that two of the sales were distressed sales, and one of the sales was heavily contaminated. GOAA contends that Orange County's value was too low because of these alleged errors made by Orange County's appraiser.

Orange County contends that the two Medical City sales used by GOAA were not comparable because those sites were specifically designated for hospital facilities and those two sales, in addition to the sale for the UCF medical school, used up the entire allotment of acreage which could be used for hospital uses in the DRI. These sales were at much higher prices because there was limited land available for hospital uses. The principles of supply and demand drove the sales prices of these three sales to artificially high values. Further Medical City sales already had infrastructure, roadways and building pads in place. In contrast the Parent Tract could not be used for hospital sites and the land was still in "raw" condition. The two of the three secondary non-Medical City sales used by GOAA's appraiser supported Orange County's value of \$240,000 per acre.

The parties also disagreed on the proper factor to value an easement. The comparable sales discussed above indicated the fee simple value of the land. But since Orange County only acquired an easement, both parties agreed that the County should pay some fraction of the fee simple value of the land for the easements. Orange County contended that in light of the limited nature of the three underground pipes, the fact that they were along the boundary of the GOAA property, and the further limitations in the easement agreement, the proper factor was 30%. GOAA argued that the easement consisted of 90% of the value of the fee.

The parties compromised on the differences between the appraisers and resolved these issues, subject to BCC and GOAA board approval, as follows:

1. Land value: \$330,000 per acre;
2. Easement factor: 50%;
3. Attorney's fees are governed by Chapter 73, *Florida Statutes*, and they are established on a sliding scale based on the benefit the attorney achieved for the client. In this case, statutory attorney's fees are \$87,398;
4. In addition, Orange County, as condemnor, is required to pay reasonable costs of the eminent domain proceeding. In this case, GOAA relied on its experts' reports from Parcel s83 and 804 so there were no additional experts' fees in Parcel 812.
5. Finally, Parcel 812 crosses an easement owned by the Orlando Utilities Commission ("OUC") for electrical transmission power lines. Orange County coordinated its proposed improvements to accommodate OUC's concerns. As a result OUC has agreed waive any compensation in this case, but Orange County proposes to pay OUC's attorney's fees in the amount of \$12,525.30.

A copy of the proposed Stipulated Order of Taking and Final Judgment is attached as Exhibit "A."

IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND  
FOR ORANGE COUNTY, FLORIDA

CASE NO.: 2014-CA-2437-O  
DIVISION: 35

ORANGE COUNTY, FLORIDA  
a political subdivision of the  
State of Florida,

PARCEL: 812

Petitioner,

vs.

CITY OF ORLANDO, et al.

Respondents.

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STIPULATED ORDER OF TAKING AND FINAL JUDGMENT  
AS TO PARCEL 812

THIS CAUSE having come before the Court upon the Joint Motion for Entry of Stipulated Order of Taking and Final Judgment as to Parcel 812 made by Petitioner, ORANGE COUNTY, a political subdivision of the State of Florida, and GREATER ORLANDO AVIATION AUTHORITY, ("GOAA"), a public body corporate and politic, CITY OF ORLANDO, a municipal corporation, and ORLANDO UTILITIES COMMISSION, a statutory commission ("Respondents"), and it appearing to the Court that the parties are authorized to enter into such Joint Motion, and the Court finding that the taking is necessary for a public purpose, that the compensation to be paid by the Petitioner is full, just and reasonable for all parties concerned, and that proper notice was given to all parties and to all persons having or claiming any equity, lien, title or other interest in Parcel 812, and the Court being otherwise fully advised in the premises, it is therefore

Stipulated Order of Taking and Final Judgment; Case No. 2014-CA-2437-O; Page 1 of 6

ORDERED AND ADJUDGED as follows:

1. That the Court has jurisdiction over the subject matter and the parties.
2. That the pleadings are sufficient, and that the Petitioner is properly exercising its delegated authority.
3. That the estimate of value in this cause by the Petitioner was made in good faith and based upon a valid appraisal.
4. That the Respondent GREATER ORLANDO AVIATION AUTHORITY does have and recover from the Petitioner, the sum of FOUR HUNDRED NINETEEN THOUSAND FIVE HUNDRED NINETY-FIVE AND NO/100 DOLLARS (\$419,595.00) in full payment for the property taken, for damages resulting to the remainder, and for all other damages of any kind and nature.
5. That the Court awards Respondent GREATER ORLANDO AVIATION AUTHORITY the sum of EIGHTY-SEVEN THOUSAND THREE HUNDRED NINETY-EIGHT AND NO/100 DOLLARS (\$87,398.00), as attorney's fees. There are no expert costs in this matter.
6. That within twenty (20) days of the entry of this Order the Petitioner shall deposit FIVE HUNDRED SIX THOUSAND NINE HUNDRED NINETY-THREE AND NO/100 DOLLARS (\$506,993.00) into the Registry of the Court.
7. That immediately upon the deposit of the aforesaid sum into the Registry of the Court, and without further Order, the Clerk shall pay to the Broad and Cassel Trust Account, c/o Richard N. Milian, P.A., 390 N. Orange Avenue, Suite 1400, P.O. Box 4961, Orlando, Florida 32802-4961, as attorneys for the Respondent, GREATER ORLANDO AVIATION AUTHORITY, a public body corporate and politic, the sum of FIVE HUNDRED SIX

Stipulated Order of Taking and Final Judgment; Case No. 2014-CA-2437-O; Page 2 of 6

THOUSAND NINE HUNDRED NINETY-THREE AND NO/100 DOLLARS (\$506,993.00) as full compensation for Petitioner's acquisition of Parcel 812 in this case including all attorney's fees.

8. That the Court awards Respondent ORLANDO UTILITIES COMMISSION the sum of TWELVE THOUSAND FIVE HUNDRED TWENTY-FIVE AND 30/100 DOLLARS (\$12,525.30) as attorney's fees and that within thirty (30) days from the entry of this Stipulated Order of Taking and Final Judgment, the Petitioner ORANGE COUNTY shall pay to the Trust Account of GrayRobinson, P.A., c/o Kent L. Hipp, Esq., P.O. Box 3068, Orlando, FL 32802, as attorneys for the Respondent ORLANDO UTILITIES COMMISSION the sum of TWELVE THOUSAND FIVE HUNDRED TWENTY-FIVE AND 30/100 DOLLARS (\$12,525.30) that amount representing the attorneys' fees awarded above. Thereafter Respondent ORLANDO UTILITIES COMMISSION shall take nothing further in this action.

9. Respondent CITY OF ORLANDO, shall take nothing in this action.

10. That by agreement of the parties the Easement identified in Exhibit "1" attached hereto is adopted and incorporated into this Stipulated Order of Taking and Final Judgment and Petitioner's acquisition of Parcel 812 is subject to the terms and conditions of the Easement identified in Exhibit "1" attached hereto. Petitioner, Orange County, Florida, and Respondents, Greater Orlando Aviation Authority, the City of Orlando, and the Orlando Utilities Commission agree to be bound by the terms and conditions of the Easement identified in Exhibit "1" attached hereto.

11. Without limiting anything contained herein, it is acknowledged and agreed that the Easement Area shall affect certain wetlands and lands encumbered by that certain Deed of Conservation Easement dated October 26, 1999, by and between the City of Orlando, GOAA,

and the South Florida Water Management District (the "District"), recorded in Official Record Book 5883 at Page 3177 of the Public Records of Orange County, Florida, as amended by that certain Amendment of Conservation Easement dated March 15, 2012, and recorded in Official Record Book 10364 at Page 489 of the Public Records of Orange County, Florida (as amended, hereinafter referred to as the "Conservation Easement"). The County shall be responsible, at its sole expense, for any permitting, modification of the Conservation Easement or mitigation required as a result of the County's acquisition or use of the Easement Area. In the event GOAA suffers any loss, cost, penalties or expense arising out of such impact to the Conservation Easement or the wetlands areas thereon, including, without limitation, any increased costs of development, loss or impairment of development rights or other costs, expenses or damages incurred by GOAA in connection with required modification, relocation or reconfiguration of the Conservation Easement, or mitigation of any impact of this easement on the Conservation Easement or the conservation and wetlands areas thereon GOAA retains all rights to pursue additional compensation and all remedies including the right to claim additional damages as set-out in *Central and Southern Florida Control District v. Wye River Farms, Inc.*, 297 So.2d 323 (Fla. 4th DCA 1974) cert. denied 310 So.2d 745 (Fla. 1975). By agreement of the parties there is no basis for the computation of attorney's fees for non-monetary benefits arising out of the County's commitments in this paragraph, or any other provisions in this Order.

12. That upon the deposit of the aforesaid sum into the Registry of the Court, the right, title or interest specified in the Petition and described in Schedule "A" attached hereto, shall vest in the Petitioner, and Petitioner shall be entitled to possession of the property without further notice or order of this Court.



13. The Court hereby reserves jurisdiction to enforce the terms of this Order.

DONE AND ORDERED at Orange County Courthouse, Orlando, Florida, this \_\_\_\_ day  
of \_\_\_\_\_, 2015.

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DONALD A. MYERS, JR.  
Circuit Judge

Copies furnished to:

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201 S. Rosalind Avenue, Third Floor  
P. O. Box 1393  
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*Orange County, Florida*

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*Attorney for Respondent*  
*Greater Orlando Aviation Authority*

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*Orlando Utilities Commission*

**Roy K. Payne, Esq.**  
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*Attorney for Respondent*  
*City of Orlando*

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Judicial Assistant/Attorney

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL  
CIRCUIT, IN AND FOR, ORANGE COUNTY, FLORIDA  
CASE NO.: 2014-CA-2437-O  
DIVISION: 35

ORANGE COUNTY, FLORIDA  
a political subdivision of the  
State of Florida,

PARCEL: 812

Petitioner,  
vs.


CITY OF ORLANDO,  
a municipal corporation, et al.

Respondents.

JOINT MOTION FOR ENTRY OF STIPULATED ORDER OF TAKING  
AND FINAL JUDGMENT AS TO PARCEL 812

The parties, individually and by and through their undersigned attorney, hereby move for entry of  
the foregoing Stipulated Order of Taking and Final Judgment as to Parcel 812.

EDWARD MARTIN CHEW  
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Florida Bar No. 242608  
Orange County Attorney's Office  
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*Attorney for Petitioner  
Orange County, Florida*

  
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Attorney for Respondent  
City of Orlando

**SOUTH SERVICE AREA / EAST SERVICE AREA  
WATER TRANSMISSION MAINS UTILITY EASEMENT**

Parcel 812 is being acquired by Orange County (hereinafter "GRANTEE") as a permanent non-exclusive easement to construct potable water transmission and reclaimed water transmission pipes, with full authority to enter upon, construct, operate, replace, and maintain potable water transmission and reclaimed water transmission pipes, as the GRANTEE and its assigns may deem necessary, including the construction, operation, and maintenance of a stabilized roadway, over the following lands as described in Schedule "A" and Exhibit "A."

Subject to the terms and conditions set forth in this Easement Agreement, the GRANTEE and its assigns shall have the right:

(1) To construct, operate, replace, and maintain only a single 36-inch diameter potable water main and a single 20-inch diameter reclaimed water main as more particularly depicted in the GRANTEE's Construction Details attached in Exhibit "B," and no more than one (1) additional potable water transmission or reclaimed water transmission pipe not to exceed 36-inches in diameter within the Easement Area pursuant to construction plans provided in advance for review by Greater Orlando Aviation Authority (hereinafter "GRANTOR") (said pipes referred to herein as the "Facilities"). GRANTEE also agrees to provide said construction plans to the Orlando Utilities Commission ("OUC") in advance for review. The Facilities shall be constructed substantially in accordance with the plans provided by GRANTEE to GRANTOR and OUC and upon completion of the construction of the Facilities, GRANTEE shall provide GRANTOR and OUC with an as-built survey depicting the location and depth of such Facilities.

(2) To construct, operate, and maintain stabilized ingress and egress within the granted easement for the purpose of the construction, operation, and maintenance of the Facilities.

(3) To clear and keep clear all trees, undergrowth, and other obstructions that may interfere with normal construction, operation, or maintenance of the Facilities and the stabilized roadway over the granted easement. GRANTEE shall be responsible, at GRANTEE's risk and expense, to maintain the easement area, including any Facilities, stabilized roadway or other improvements constructed by GRANTEE in good order and condition. During construction, GRANTEE will bury the Facilities at a depth provided by GRANTOR at a minimum cover of three (3) feet. At the conclusion of any construction, operation, replacement or maintenance activities by the GRANTEE within the granted easement, the GRANTEE will restore the Easement Area to a condition as good as the preexisting condition. The GRANTEE may not exercise any control over any lands outside the granted easement.

Subject to the terms and conditions set forth herein, GRANTOR and its successors and assigns shall retain all existing rights of title and possession. Subject to

the terms and conditions set forth herein, GRANTOR reserves the right to use the Easement Area for any lawful purposes that do not directly interfere with GRANTEE's acquired rights, including the right to use and enjoy the airspace above, the surface of the Easement Area and the subsurface of the Easement Area for development purposes which will not materially interfere with the GRANTEE'S easement rights granted herein or the safe construction, operation, use, maintenance or repair of the Facilities. GRANTOR's reserved rights shall expressly include, but are not limited to, the following:

- (a) The right to use, and the ingress and egress to use, and enjoy the surface of the Easement Area, the subsurface of the Easement Area and the airspace above the Easement Area for any purposes which do not materially interfere with the easement rights granted herein to GRANTEE.
- (b) The right of suitable access across the Easement Area for ingress to and egress from adjacent properties.
- (c) The right to enclose the Easement Area by fence, subject to the GRANTEE's right of ingress and egress related to the easement granted hereunder to the GRANTEE.
- (d) The right to construct roadways, driveways, walkways, sidewalks, parking lots, transportation facilities (including, without limitation, proposed rail lines and a rail station contemplated for the site) or other uses where paving or concrete are necessary for such uses not otherwise prohibited herein, underground utilities installed perpendicular and/or parallel to the Facilities within the Easement Area, landscaping, irrigation and improvements as may be necessary for GRANTOR's development and enjoyment of GRANTOR's property; provided that GRANTOR shall coordinate with GRANTEE as provided below to minimize conflicts with the Facilities, including the planned third pipeline construction area, if that pipeline has not yet been constructed; and further provided that GRANTOR may not create or maintain any reservoir or water impoundment, maintain any deep-rooted trees, construct nor permit to be constructed any building or structure on the surface of the Easement Area which would materially interfere with GRANTEE's easement rights or the safe operation, maintenance or repair of the Facilities.
- (e) The right to grant easements to third parties for facilities to be located on, through, over, across and/or under the Easement Area, provided said facilities do not materially interfere with GRANTEE's easement rights granted herein including, but not limited to, Orlando Utilities Commission water lines and facilities, provided that GRANTOR coordinates with GRANTEE to verify that such easement will not interfere with GRANTEE's facilities.

GRANTEE will cooperate in good faith with GRANTOR in connection with future planning, development and construction within the Easement Area. Without limiting the foregoing, either upon GRANTOR's request or at GRANTEE's option, GRANTEE shall provide a prior written determination whether any particular exercise of the right to use the Easement Area may materially interfere with the safe exercise of GRANTEE's rights, which determination shall not be arbitrarily or unreasonably withheld, delayed or conditioned.

This Easement Agreement is subject to all federal laws and requirements of the Federal Aviation Administration ("FAA") and all work by GRANTEE or its contractors within the Easement Area shall be in compliance with the requirements of all Federal Aviation Regulations, including, without limitation, 14 CFR Part 77 relating to obstructions to navigable airspace. GRANTEE shall also coordinate with GRANTOR with respect to any work by GRANTEE or its contractors within the Easement Area which requires the use of equipment (such as cranes) or materials that may exceed 45 feet in height or which may interfere with Airport aviation operations and/or the flight, visibility or instrumentation of aircraft using the Airport or which may otherwise interfere with the safe and efficient operation of the Airport.

It is expressly provided that when the pipelines constructed hereunder shall be permanently removed from the premises, the easement granted herein shall become null and void and all rights, title and interest shall revert to GRANTOR or its successor(s) in interest.

The rights, benefits, burdens and obligations acquired or assumed by GRANTEE and GRANTOR herein shall inure to, bind and oblige respectively GRANTOR and GRANTEE, and their respective successors and assigns.

GRANTEE agrees to defend, indemnify and hold harmless GRANTOR, and GRANTOR's officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorney's fees) attributable to its acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions, and/or negligence of the other party.

GRANTEE acknowledges that existing OUC utility facilities and related improvements are located within the Easement Area. GRANTEE therefore makes the following assurances as to OUC:

- (a) GRANTEE agrees to design its Facilities to avoid existing OUC utility facilities. Specifically, GRANTEE will coordinate with OUC any crossing of existing OUC facilities located at the northeast corner of Parcel 812, as illustrated in the survey attached hereto as Exhibit "A." GRANTEE further

agrees construct its Facilities in accordance with all required state and local laws, rules, and regulations, including any required separation distance between existing and future pipes or other facilities.

- (b) GRANTEE assures that the proposed construction and operation of the Facilities will avoid any OUC spillway(s) located adjacent to or within the Easement Area. GRANTEE agrees that if OUC's spillway(s) is damaged during construction, GRANTEE or its agents or contractors will immediately repair the spillway(s) and return the spillway(s) to its original or better condition.
- (c) GRANTEE agrees to defend, indemnify and hold harmless OUC and OUC's officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorney's fees) attributable to its acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from GRANTEE's negligent performance under this agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions, and/or negligence of the other party.

Without waiving its right to sovereign immunity as provided in Section 768.28, Florida Statutes, GRANTEE acknowledges to be self-insured for General Liability and Automobile Liability with coverage limits of as set forth in Section 768.28, Florida Statutes. GRANTEE agrees to maintain commercial insurance or to be self-insured for Workers' Compensation & Employers' Liability in accordance with Florida Statute 440. GRANTEE shall provide an affidavit or Certificate of Insurance evidencing self-insurance commercial insurance or up to sovereign immunity limits, which the GRANTEE agrees to find acceptable for the coverage mentioned above.

GRANTEE shall require all contractors performing work within the easement area to procure and maintain workers' compensation, commercial general liability, business auto liability and contractor's pollution liability coverage. Each party shall be listed as an additional insured on all general liability policies. GRANTEE shall require all contractors performing work within the easement area to provide an affidavit or Certificate of Insurance evidencing the coverages required herein and reflecting GRANTOR as additional insureds as their interests appear.

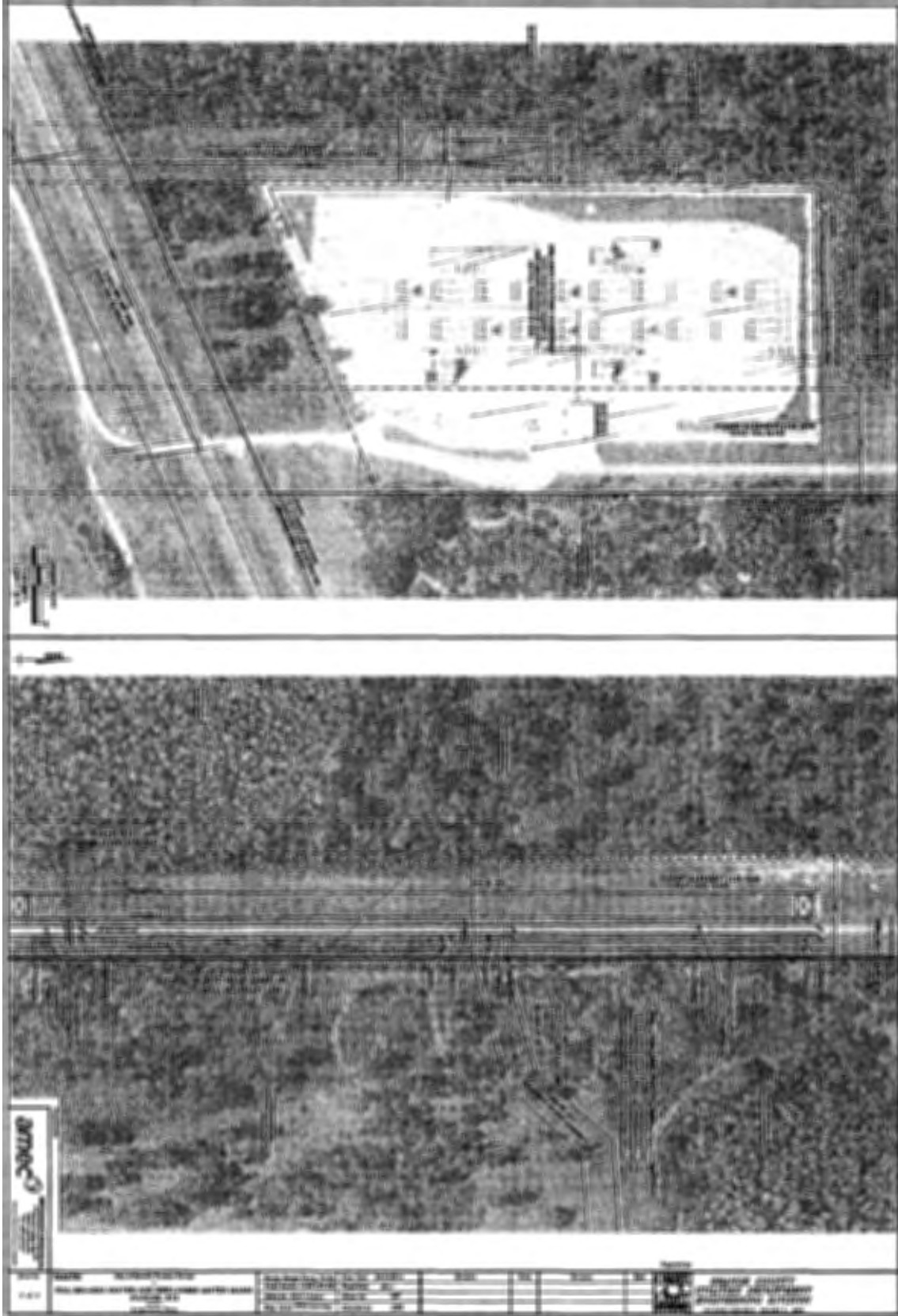
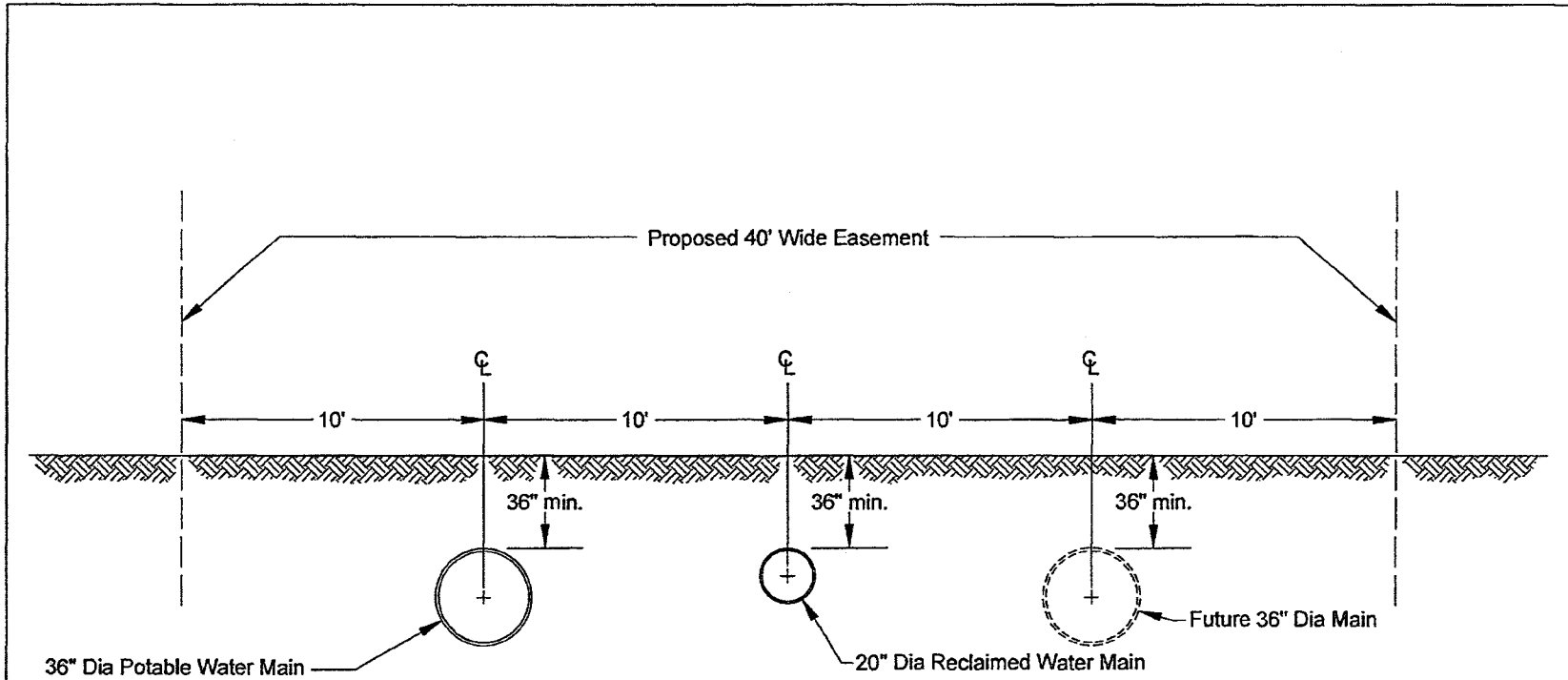


EXHIBIT A

EXHIBIT B



SECTION - TYPICAL  
City of Orlando / GOAA Easement  
South Service Area / East Service Area 36" Water Main & 20" Reclaimed Water Main Project  
Scale: 1" = 5'

August 6, 2015

Typical Construction Detail City of Orlando / GOAA Parcel 812 Easement  
South Service Area / East Service Area 36" Water Main & 20" Reclaimed Water Main Project

Exhibit B  
Parcel 812  
Seq# 39265





**SCHEDULE "A"**  
**SKETCH OF DESCRIPTION**  
**PARCEL: 812**  
**ESTATE: PERPETUAL EASEMENT**  
**PURPOSE: WATER LINE**

**PARCEL 812 DESCRIPTION:**

A 40.00 feet wide parcel of land lying in Section 23 & 26, Township 24 South, Range 30 East, Orange County, Florida, being more particularly described as follows:

COMMENCE at the Southwest corner of Tract A, according to plat of LAKE NONA BOULEVARD FIRST ADDITION, as recorded in Plat Book 67, Pages 8 and 9, of the Public Records of Orange County, Florida; thence S 66°42'19" W along the Northerly right-of-way line of an Orlando Utilities Commission Railroad right-of-way, as recorded in Official Records Book 3494, Pages 2564-2567, of the Public Records of Orange County, Florida, 722.05 feet to the East line of a 135.00 foot wide City of Orlando Power Line Easement, as recorded in Official Records Book 1838, Pages 953-959 of said Public Records, said line also being the Westerly line of lands described in official records book 9552, Pages 4293-4299; thence N 00°01'43" W along said East line, 2081.88 feet to the Northwest corner of lands described in official records book 9552, Pages 4293-4299, said point also being the POINT OF BEGINNING; thence S 00°01'43" E along said East line, a distance of 40.00 feet; thence S 89°58'17" W, a distance of 135.00 feet to the West line of aforementioned 135.00 foot wide City of Orlando Power Line Easement; thence S 00°01'43" E along West line of said power line easement, a distance of 1333.05 feet; thence departing said West line S 89°58'17" W, a distance of 265.00 feet; thence S 00°01'43" E, a distance of 350.84 feet; thence S 89°58'17" W, a distance of 75.00 feet; thence S 00°01'43" E, a distance of 562.22 feet to aforementioned Northerly Railroad Right of Way line; thence S 66°42'19" W along said Northerly right of way line, a distance of 43.54 feet to a point lying S 66°42'19" W, 560.59 feet from the westerly line of lands described in official records book 9552, Pages 4293-4299; thence departing said Northerly right of way line N 00°01'43" W, a distance of 619.42 feet; thence N 89°58'17" E, a distance of 75.00 feet; thence N 00°01'43" W, a distance of 350.84 feet; thence N 89°58'17" E, a distance of 265.00 feet; thence N 00°01'43" W, a distance of 1333.05 feet; thence N 89°58'17" E, a distance of 40.00 feet to the West line of aforementioned 135.00 foot wide City of Orlando Power Line Easement; thence continue N 89°58'17" E, a distance of 135.00 feet to the East line of a 135.00 foot wide City of Orlando Power Line Easement and the POINT OF BEGINNING.

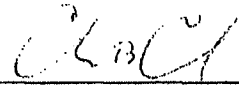
Containing 2.543 acres, more or less.

**Surveyor's Notes:**

1. This Sketch of Description is not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
2. This Sketch of Description has been prepared without the benefit of a title report or abstract and may not reflect all pertinent matters of record, such as easements, ownerships or other Instruments of record. Ownership information shown hereon is based upon data provided by the Orange County Property Appraiser Office.
3. Bearings shown hereon are relative to the Florida State Plane Coordinate System, East Zone (0901), North American Datum of 1983/1990 Adjustment, with the grid bearing of the East line of a 135.00 foot wide City of Orlando Power Line Easement, as recorded in Official Records Book 1838, Pages 953-959 of said Public Records being N00°01'43"W.
4. The delineation of lands shown hereon is at the client's request.
5. This Sketch of Description is certified to Orange County Utilities Engineering Division.


**LEGEND**

- R/W = RIGHT OF WAY
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- ORB = OFFICIAL RECORDS BOOK
- PG = PAGE
- 27-24-30 = SECTION - TOWNSHIP - RANGE
- OUC = ORLANDO UTILITIES COMMISSION
- GOAA = GREATER ORLANDO AVIATION AUTHORITY
- RR = RAILROAD



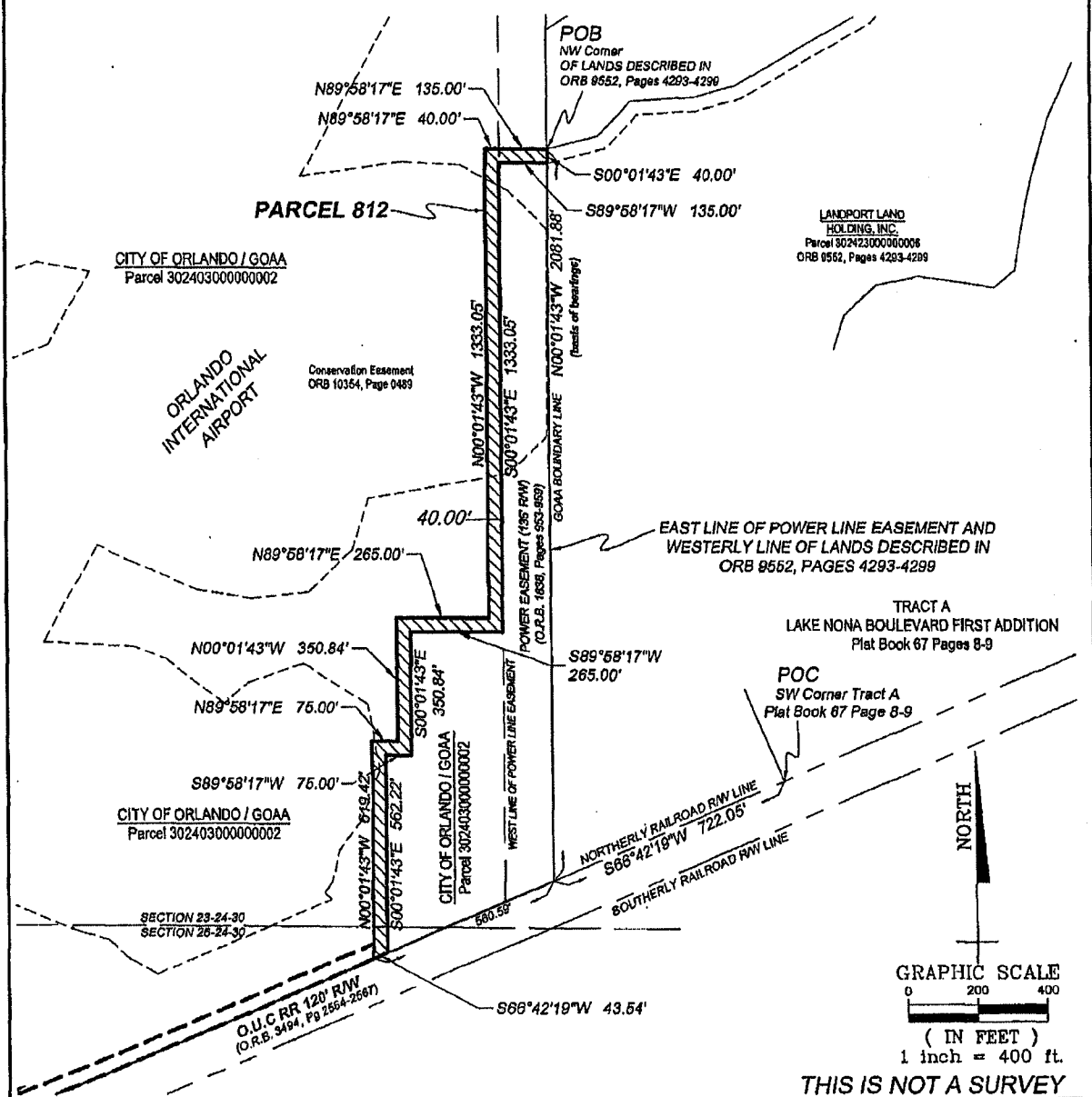
CHARLES B. GARDINER  
 Florida Professional Surveyor and Mapper  
 License No. LS 6046

**THIS IS NOT A SURVEY**

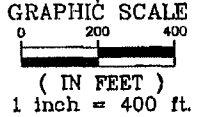
PROJECT TITLE: <b>SSA-ESA Water and Reclaimed Water Mains Sketch of Description Parcel 812 Easement</b>	REVISION				
	DATE	BY	DESCRIPTION		
	2/17/2015	MR	MODIFIED EASEMENT CONFIGURATION		
 <p><b>AMEC Environment &amp; Infrastructure, Inc.</b>          75 East Amelia Street, Suite 200          Orlando, FL 32801 USA          Phone: (407) 522-7570          Fax: (407) 522-7576          Certificate of Authorization Number LB-0007932</p>	DRAWN BY:	AD.W	CHKD. BY:	C.B.G.	
	DATE:	01/15/2013	DATE:	01/15/2013	
	JOB No.	637A.14.075A	SCALE:	N/A	SHT. OF
					1 2
DRAWING NAME: OUC SSA ESA Water Mains.dwg					

111 W. 171 ST. FT. LAUDERDALE, FL 33305 TEL: 305.487.1111 FAX: 305.487.1112  
 111 W. 171 ST. FT. LAUDERDALE, FL 33305 TEL: 305.487.1111 FAX: 305.487.1112  
 111 W. 171 ST. FT. LAUDERDALE, FL 33305 TEL: 305.487.1111 FAX: 305.487.1112

**SCHEDULE "A"**  
**SKETCH OF DESCRIPTION**  
**PARCEL: 812**  
**ESTATE: PERPETUAL EASEMENT**  
**PURPOSE: WATER LINE**



TABS/PLANS/14180/04 - ULU SSA-ESA Parcel 812 Water Mains 2013/05.dwg, 2/23/13 11:11:54 AM, 1:1



**THIS IS NOT A SURVEY**

**PROJECT TITLE: SSA-ESA Water and Reclaimed Water Mains**  
**Sketch of Description**  
**Parcel 812 Easement**



**AMEC Environment & Infrastructure, Inc.**  
 75 East Amelia Street, Suite 200  
 Orlando, FL 32801 USA  
 Phone: (407) 522-7570  
 Fax: (407) 522-7576

Certificate of Authorization Number LB-0007932

REVISION		
DATE	BY	DESCRIPTION
2/17/2015	MR	MODIFIED EASEMENT CONFIGURATION
DRAWN BY: <u>A.D.W.</u>		CHKD. BY: <u>C.B.G.</u>
DATE: <u>01/15/2013</u>		DATE: <u>01/15/2013</u>
JOB No. 6374.14.076A	SCALE: 1" = 400'	SHT. 2 OF 2

DRAWING NAME: OUC SSA ESA Water Mains.dwg