

THIS INSTRUMENT PREPARED BY:

Lila I. McHenry

ORANGE COUNTY ATTORNEY'S OFFICE

201 S. Rosalind Ave., Third Floor

Orlando, FL 32801

(407) 836-7320

Barber Park Addition

**MODIFIED
RECREATIONAL EASEMENT**

This Modified Easement ("Easement") by and between the City of Orlando, a Florida municipal corporation ("Grantor") and Orange County, Florida, a charter county and political subdivision of the State of Florida ("Grantee") is made and given as of the date set forth below.

WITNESSETH:

WHEREAS, the Grantee owns and operates a 66 acre park in the Conway area known as Barber Park; and

WHEREAS, Grantor owns a 36-acre site adjacent to Barber Park, and which Grantor intended to preserve and develop as a park facility (the "Property"); and

WHEREAS, pursuant to the Contribution Agreement between Orange County and the City of Orlando dated June 17, 2005 and recorded in Official Records Book 8027, Page 1232 of the Public Records of Orange County, Florida (the "Contribution Agreement"), the Grantee contributed one half of the purchase price of the Property to the City (the "Grantee's Contribution"), and the Grantor agreed to use the Property only for a public purpose consisting of a park, recreational facility or community center; and

WHEREAS, in consideration of Grantee's Contribution, Grantor conveyed to Grantee that certain Recreational Easement dated June 14, 2005 and recorded in Official Records Book 8027, Page 1235 of the Public Records of Orange County, Florida (the "Original Easement"); and

WHEREAS, the Original Easement provided for the use of the Property only for a public purpose consisting of a park, recreational facility or community center but did not grant to the Grantee the right to construct such facilities; and

Barber Park Addition

WHEREAS, the parties now wish to modify the Original Easement to include the right to construct recreational and associated facilities and reduce the size of the easement area by substituting the legal description in the Original Easement with a new area more particularly described in **Exhibit “A”** attached hereto and incorporated herein by this reference and hereafter termed the “Modified Easement Area”; and

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged; the parties hereto agree as follows:

1. **Modified Easement Area.** The parties hereby agree that the area described in “**Exhibit A**” shall constitute the Modified Easement Area on which Grantee shall have the rights and obligations set forth herein. Grantee relinquishes all previously granted easement rights with respect to such portion of the Property not included in such “**Exhibit A.**”
2. **Use of Easement Area.** Grantor hereby gives, grants and conveys unto Grantee full authority to enter any and all portions of the Modified Easement Area, and construct, repair and maintain thereon, as the Grantee may deem necessary, recreational and associated facilities including soccer and multi-purpose recreational fields, parking and related facilities (the “Facilities”). Grantee shall have the right to clear and keep clear all trees, undergrowth and other obstructions that may interfere with normal operation or maintenance of the Facilities. Grantee shall further have the right to construct fencing along the boundary of the Modified Easement Area to separate the Modified Easement Area from the remaining portion of the Property. The Modified Easement Area shall be identified and used as a combined City/County Park.
3. **Facilities.** Grantee shall have the right to construct, at Grantee’s sole expense, the Facilities in accordance with the plans attached hereto as “**Exhibit B**”.
4. **Indemnification.** Neither Grantor nor Grantee shall act in any manner which would impute any cost or expense to the other. Within the limitations of F.S. §768.28, the Grantee shall defend, indemnify and hold Grantor, its agents, employees, and officials harmless from and against any and all actions, causes of action, claims, demands, liabilities, judgment, costs, and expenses arising out of or as a result of exercise by Grantee or anyone acting under its employment of its rights and obligations set forth in this Modified Easement. Nothing contained in this Modified Easement shall be deemed or interpreted to operate as a waiver of Grantee’s sovereign immunity as the same may be legally applicable or available to Grantee. Grantee shall have no responsibility for environmental remediation of any environmental condition in the Modified Easement Area which pre-existed the grant of this Modified Easement.
5. **Insurance.** Without waiving its right to sovereign immunity as provided in Section 768.28, Florida Statutes, the Grantee acknowledges it shall commercially purchase or maintain a certified self-insurance program for General Liability and Automobile Liability with coverage limits of not less than the limited sovereign immunity waiver

Barber Park Addition

as set forth in Section 768.28, Florida Statutes. The Grantee agrees to maintain Workers' Compensation & Employers' Liability covering its employees and officials in accordance with Florida Statutes Chapter 440.

Grantee shall require its contractors (if any) to provide and maintain, such general liability, automobile liability, and workers' compensation insurance or self-insurance as required as may be necessary to protect Grantee and Grantor from losses that may arise out of or be related in any way to this Modified Easement. All such insurance or self-insurance shall be primary to, and not contribute with, any insurance or self-insurance maintained by Grantor. Upon request of Grantor, Grantee shall promptly furnish evidence of such insurance or self-insurance to Grantor. Grantor shall be listed as an additional insured on all general liability policies or programs of self-insurance. The workers' compensation coverage shall include a waiver of subrogation in favor of the Grantor.

- 6. Utilities, Operation and Maintenance.** Grantee shall be responsible for all utilities installed in and supplied to the Modified Easement Area. Grantee shall maintain the Modified Easement Area, Facilities and all improvements thereon and shall be responsible for all related operating expenses of the recreational facilities and associated facilities constructed or installed thereon.
- 7. Grantor's Reservation of Rights.** Grantor hereby reserves the rights of ingress, egress, and use of the Modified Easement Area at any time for any public purpose which will not interfere with the rights conferred upon Grantee hereunder, provided that the Grantee's Facilities within the Modified Easement Area shall be restored by Grantor to the extent such restoration is reasonably possible.
- 8. Security.** Grantee shall be solely responsible for maintaining the safety and security of all persons and personal property while on or within the Modified Easement Area. City shall have no responsibility for any acts, occurrences or omissions within the Modified Easement Area.
- 9. Signage.** All signage within the Modified Easement Area shall state that it is a City/County Park and a joint effort sponsored by both the City and County. At all times wherever signage is posted within the Modified Easement Area identifying the park, the signage shall state that the Park and Facilities have been provided by both the City and County with equal prominence in all such signage given to both parties.
- 10. Modification of Recreational Easement.** The terms, set forth in the Original Easement are hereby modified by the terms of this Modified Recreational Easement.

Barber Park Addition

IN WITNESS WHEREOF, the parties have caused this instrument to be executed as of the date and year set forth below their signatures.

CITY OF ORLANDO, FLORIDA

BY: _____
Mayor Buddy Dyer

DATE: _____

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA, ONLY.

_____, 2015.
ASSISTANT CITY ATTORNEY

[SIGNATURE OF GRANTEE ON NEXT PAGE]

Barber Park Addition

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: _____

Teresa Jacobs
County Mayor

DATE: _____

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

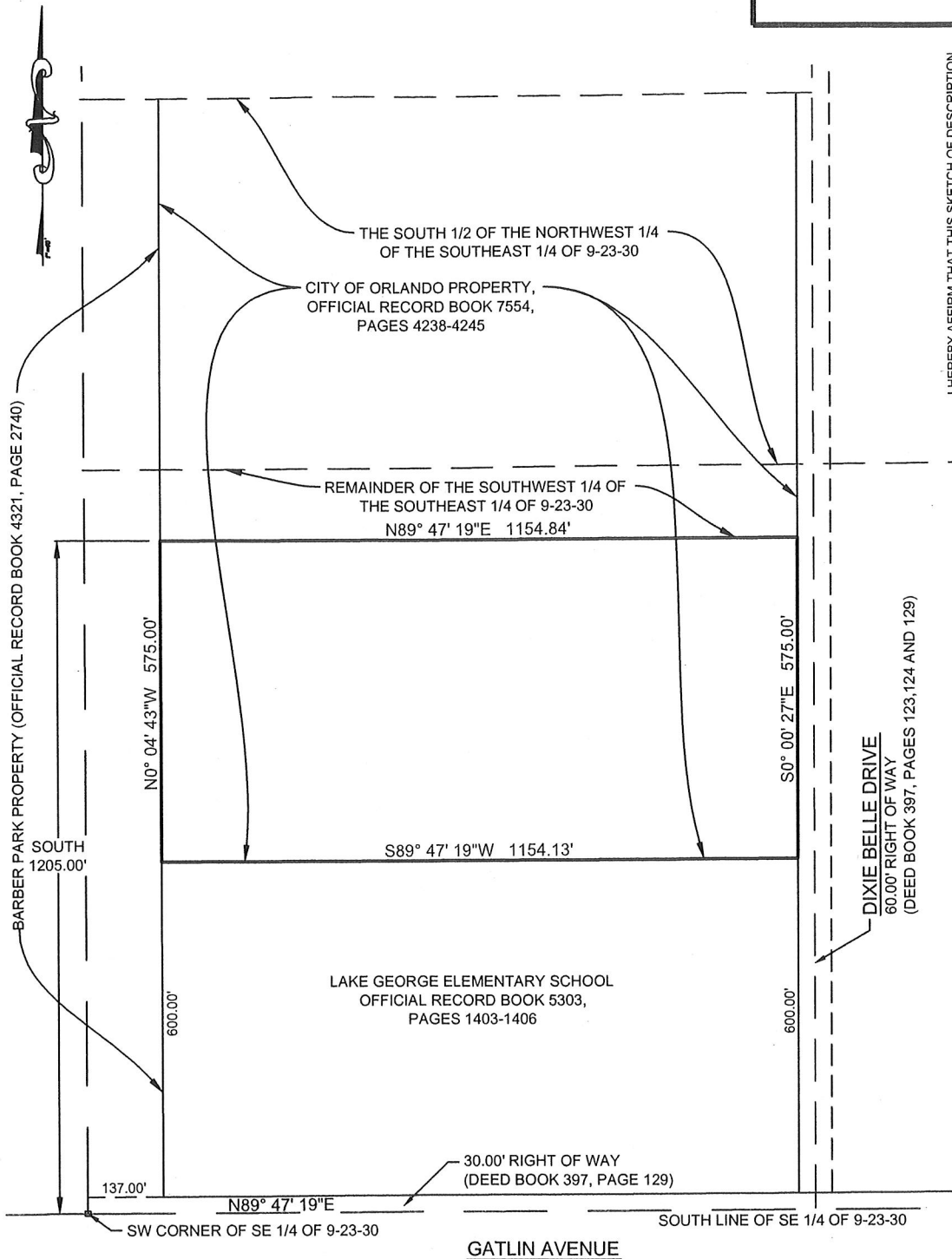
By: _____

Deputy Clerk

SCHEDULE "A"

Parcel 801, Estate: Perpetual Easement
Purpose: Recreational Easement

EXHIBIT "A"



I HEREBY AFFIRM THAT THIS SKETCH OF DESCRIPTION REPRESENTED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. IT HAS BEEN PREPARED IN ACCORDANCE WITH THE STANDARD SURVEYING PRACTICES AND THE FLORIDA STATUTES AND UNLESS IT BE THE SIGNATURE AND THE ORIGINAL RACED SCALP OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAN, OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.

DATE: 1/8/15

Mark A. Daynes
REGISTERED LAND SURVEYOR
AND MAPPER
STATE OF FLORIDA LICENSE NO. 5479

SKETCH AND DESCRIPTION
THIS IS NOT A SURVEY. NOR HAS FIELD WORK BEEN PERFORMED IN ACCORDANCE WITH 5J-17, FLORIDA ADMINISTRATIVE CODE FOR PREPARATION OF THIS DRAWING.

NOTES:

1. BEARINGS ARE BASED ON THE SOUTH LINE THE SE 1/4 OF SECTION 9, BEING N 89° 47' 19" E.
2. THIS SKETCH OF DESCRIPTION AND LEGAL DESCRIPTION WAS PREPARED BY ORANGE COUNTY ENGINEERING DIVISION, SURVEY SECTION.
3. THERE MAY BE OTHER RECORDS DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY. A COMPLETE TITLE RECORD SEARCH WAS NOT PERFORMED.
4. THE PURPOSE OF THIS LEGAL DESCRIPTION AND SKETCH IS TO REVISE THE LIMITS OF THE RECREATIONAL EASEMENT AS RECORDED IN OFFICIAL RECORD BOOK 8027, PAGES 1235-1237 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

LEGAL DESCRIPTION

THE NORTH 575.00 FEET OF THE SOUTH 1,205.00 FEET OF THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 23 SOUTH, RANGE 30 EAST, ORANGE COUNTY, FLORIDA, LESS THE WEST 137.00 FEET THEREOF AND LESS RIGHT OF WAY FOR DIXIE BELLE DRIVE.

CONTAINING 15.239 ACRES, MORE OR LESS, AND BEING SUBJECT TO ANY RIGHTS OF WAY, RESTRICTIONS, AND EASEMENTS OF RECORD.

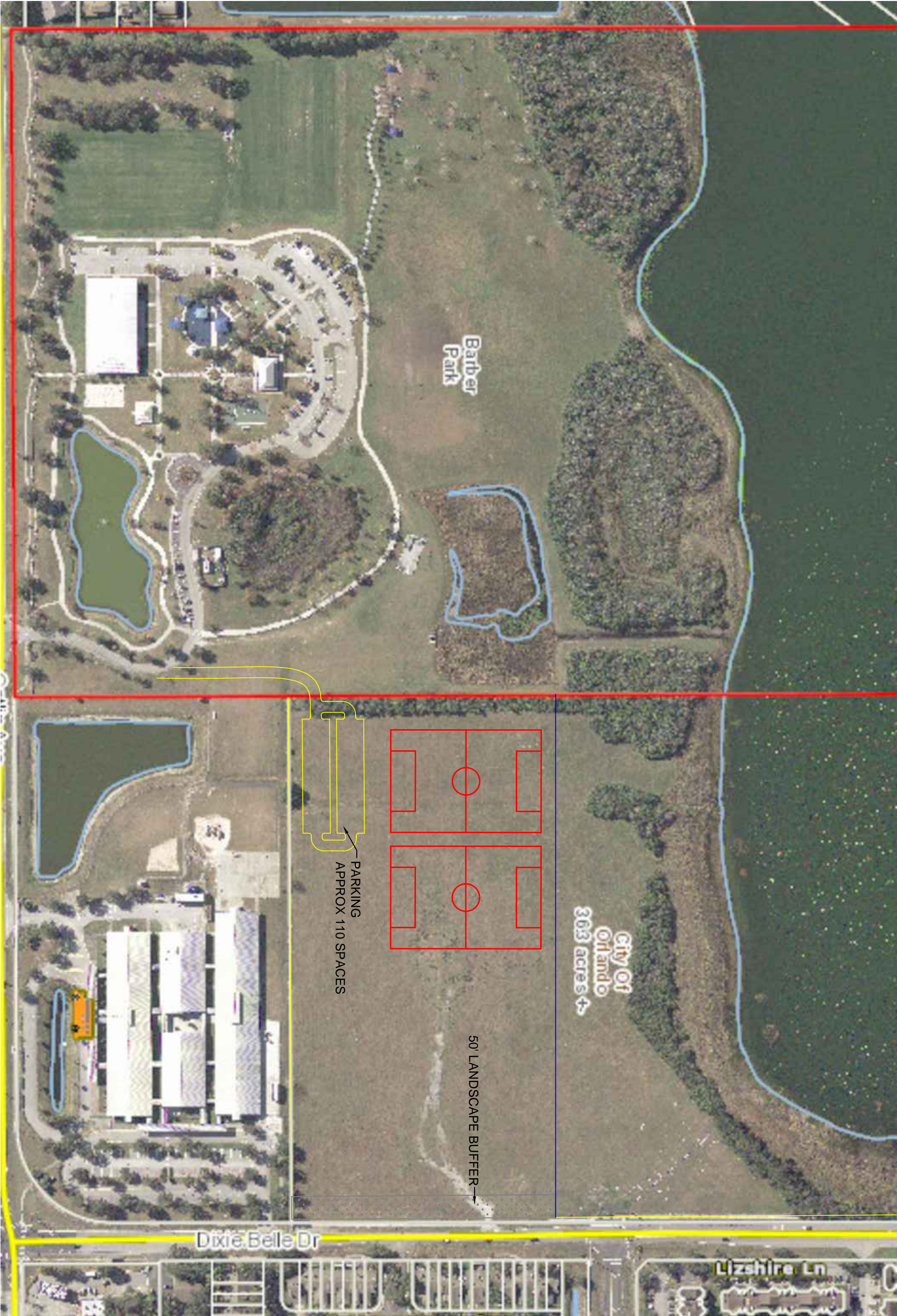
PREPARED FOR:
Engineering -
Right of Way Section

DRAWN BY: Washington	DATE: 12/29/14	SECTION: 9
CHECKED BY: Daynes	JOB No: 7603	TOWNSHIP: 23
APPROVED BY: Daynes	DRAWING FILE: 7603 Barber Park Property	RANGE: 30
REVISION DATE: 1/8/15		SHEET 1 OF 1

PUBLIC WORKS
ENGINEERING DIVISION
SURVEY SECTION
4200 SOUTH JOHN YOUNG PARKWAY
ORLANDO, FLORIDA 32839-9205
(407) 836-7940



DRAWING SCALE:
1"=300'
PROJECT NUMBER
7603



BARBER PARK

MULTI-PURPOSE FIELDS

Date: 12/30/2014

Scale: 1"=200'

Drawn By: CKS

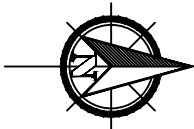


Exhibit B