

Project: Agreement Regarding Further Realignment of Moss Park Road
(Innovation Way South Interchange)

**THIS INSTRUMENT WAS PREPARED BY
AND SHOULD BE RETURNED TO:**

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450 S. Orange Avenue, Suite 650
Orlando, Florida 32801

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This document constitutes a conveyance from a state agency or instrumentality to an agency of the state and is not subject to documentary stamp tax. Department of Revenue Rules 12B-4.0114(10), F.A.C.

**EASEMENT AGREEMENT WITH COVENANTS AND RESTRICTIONS
AFFECTING THE LAND**

THIS EASEMENT AGREEMENT WITH COVENANTS AND RESTRICTIONS AFFECTING THE LAND (this "Agreement") is made as of the last date signed below (the "Effective Date"), by and among **ORANGE COUNTY**, a charter county and political subdivision of the State of Florida whose address is P.O. Box 1393, Orlando, Florida 32802-1393 (the "County"), **ORLANDO UTILITIES COMMISSION**, a statutory commission organized and existing under the laws of the State of Florida ("OUC") whose address is 100 West Anderson Street, Orlando, Florida 32801, and **THE CITY OF ORLANDO**, a municipal corporation existing under the laws of the State of Florida, whose address is 400 South Orange Avenue, Orlando, Florida 32801 (the "City").

W I T N E S S E T H:

WHEREAS, the County is the fee owner of certain real property located in Orange County, Florida, being more particularly described on Exhibit "A-1" (the "County Property"), of which a certain portion located thereon is more commonly referred to as the Remaining Parcel, as more particularly described on Exhibit "A-2" (the "Remaining Parcel"), both of which Exhibits are attached hereto and made a part hereof; and

WHEREAS, OUC and the City are owners of certain real property located in Orange County, Florida (the "OUC Right of Way"), being more particularly described on Exhibit "B" attached hereto and made a part hereof; and

WHEREAS, the County and OUC desire that the County Property should be subject to a certain perpetual, non-exclusive access and use easement for ingress and egress over and across all of the County Property, for the benefit of OUC and the OUC Right of Way, subject to the

terms and conditions set forth below, and that the County Property should be subject to the covenants, conditions, and restrictions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby mutually agree as follows:

1. **RECITATIONS.** The above recitations are true and correct and are incorporated herein by this reference.

2. **GRANT AND USE OF EASEMENT.** The County does hereby give, grant and convey to the City and OUC for the benefit of OUC, its successors and assigns, and the OUC Right of Way, a perpetual, non-exclusive access and use easement (the "Easement") for: (i) the inspection, maintenance, repair, replacement, expansion, operation and use of the rail lines and related railroad crossing facilities, components and equipment located on the County Property; (ii) the installation, inspection, maintenance, repair, replacement, expansion, operation and use of any additional rail lines and related railroad crossing facilities, components and equipment that OUC, in its sole discretion, may in the future require to be located on the County Property; (iii) the inspection, maintenance, repair, replacement, expansion, operation and use of the existing service road that runs parallel to the rail line and provides OUC with access to the rail lines and associated improvements; and (iv) the installation, inspection, maintenance, repair, replacement, expansion, operation and use of current and future above-ground, grade-level and underground electrical transmission lines, electrical distribution lines, potable water or waste water distribution and/or transmission lines, and any other type of utility lines and related improvements on, under or through the County Property, as OUC, in its sole discretion, may deem necessary to locate on, under or through the County Property. The Easement shall at all times remain open and accessible to OUC, its employees, invitees, licensees, agents, contractors and subcontractors for vehicular or pedestrian access to and from the OUC Right of Way. If the County installs any fences, walls or other enclosures on the County Property, such shall be installed so as to allow ready access to the OUC service road, and provide an opening of at least twenty-five (25) feet.

3. **MAINTENANCE OF EASEMENT AREA.** The County agrees that it shall at all times be solely responsible for the routine maintenance and, if necessary, the repair of the County Property. Nothing in this statement is intended to, nor shall it, obligate County to perform or pay for repairs due to a third party's actions.

4. **AGREEMENTS AND RESTRICTIONS.** The County hereby agrees that: (i) all public vehicular right-of-way use (present and future) of the Remaining Parcel, permitted or caused by the County, shall cease upon completion of the realignment of Moss Park Road as such realignment is contemplated by that certain unrecorded Agreement Regarding Further Realignment of Moss Park Road (Innovation Way South Interchange) made by and among the County, OUC, and the City of Orlando, dated _____, 2017, a copy of which is on file at the County's Public Works Department and at OUC's office located at the address shown below

in Section 9, nonetheless, the County shall, as owner of the County Property, have access to its facilities within the County Property as necessary to maintain, replace, and/or repair its facilities located within the same; (ii) no new property interests (including new permits, new licenses, or new easements of any kind, with the express exception of any easement, license or permit related to certain non-OUC owned lighting facilities that the County may relocate to, or cause to be relocated within that portion of the County Property that is not lying within the Remaining Parcel, so long as said lighting facilities do not unreasonably interfere with OUC facilities, including but not limited to any OUC transmission lines) will be granted in any manner in connection with the County Property and (iii) no existing property rights shall be expanded throughout the County Property.

5. **THE COUNTY'S RESERVATION OF RIGHTS.** Subject to the rights created herein, the County expressly reserves to itself, its successors and assigns, the right to use any portion of the County Property for any such purpose that is not inconsistent with the rights granted herein and which do not interfere with OUC's reasonable access and permitted use of the Easement pursuant to the terms hereof.

6. **REPRESENTATION BY THE COUNTY.** The County, for itself, its successors, assigns, and invitees, does hereby represent that the County has good right and title to the County Property, and has full power and authority to grant the Easement and the easement rights set forth therein. The execution of this Agreement and the grant of the Easement contained herein have been duly authorized by all necessary action on the part of the County, and the person executing this Agreement on behalf of the County is duly authorized to do so.

7. **COVENANTS RUNNING WITH THE LAND.** All of the covenants, terms, agreements and restrictions set forth in this Agreement are intended to be, and are construed as, covenants running with the land, and shall be binding upon, and inure to the benefit of, the County Property and the OUC Right of Way and each of the owners thereof, and their respective successors, assigns, heirs and devisees.

8. **ENTIRE AGREEMENT.** This Agreement embodies the entire understanding, and supersedes all prior discussions and agreements between the parties hereto, and there are no further or other agreements or understanding, written or oral, in effect between the parties relating to the subject matter hereof. This Agreement shall not be modified or amended in any respect except by a written agreement executed by or on behalf of the parties hereto, in the same manner as executed herein.

9. **NOTICES.** All notices and other communications given pursuant to this Agreement to be served, given or delivered upon either party shall be in writing and shall be sent by registered mail, return receipt requested, or by a national overnight receipted delivery service (e.g. Federal Express). Such notices shall be deemed served, given and delivered on the earlier of the following: (i) the fifth (5th) business day after any registered or certified notice was deposited in a sealed envelope in the United States mail, postage prepaid; or (ii) the next business day after any notice was delivered (on a business day) to a receipted overnight delivery

service (regardless of whether the recipient of said notice accepted same). All notices shall be addressed as hereinbelow set forth, or to such other address as the County or OUC shall hereafter give notice to the other in writing:

If to the County:	County Administrator Orange County, Florida 201 South Rosalind Avenue, Fifth Floor P.O. Box 1393 Orlando, Florida 32802-1393
With a copy to:	Director, Orange County Public Works Department 4200 South John Young Parkway Orlando, Florida 32839
If to OUC:	Orlando Utilities Commission 100 West Anderson Street Orlando, Florida 32801 Attn: Office of the General Manager/CEO
With a copy to:	Joseph J. JeBailey, Esq. Greenberg Traurig, P.A. 450 South Orange Avenue, Suite 650 Orlando, Florida 32801

10. **COUNTERPARTS.** This Agreement may be executed in up to three (3) counterparts, each of which shall be deemed to be an original and all of which shall together constitute one and the same instrument.

11. **GOVERNING LAW.** This Agreement shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Florida.

12. **WAIVER OF JURY TRIAL; JURISDICTION.** Any legal proceeding of any nature brought by either party against the other to enforce any right or obligation under this Agreement, or arising out of any matter pertaining to this Agreement, shall be submitted for trial, without jury, before the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida or before any other court sitting in Orange County, Florida, having subject matter jurisdiction. The parties consent and submit to the exclusive jurisdiction of any such court and agree to accept service of process outside the State of Florida in any matter to be submitted to any such court pursuant hereto, and expressly waive all rights to trial by jury regarding any such matter.

13. **CONSTRUCTION OF AGREEMENT.** This Agreement has been fully reviewed and approved by the parties hereto and their respective counsel. Accordingly, in interpreting this Agreement, no weight shall be placed upon which party hereto or its counsel drafted the provisions being interpreted.

14. **NO IMPLIED WAIVER.** No course of dealing between the parties and no delay in exercising any right, power or remedy conferred hereby or now or hereafter existing at law, in equity, by statute or otherwise shall operate as a waiver of, or otherwise prejudice, any such right, power or remedy.

15. **CAPTIONS.** The captions for each paragraph of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, or the intent of any provision hereof.

[Remainder of the Page Intentionally Left Blank]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates written below.

ORANGE COUNTY, a charter county and political subdivision of the State of Florida

By: Board of County Commissioners

By: _____

Name: Teresa Jacobs

Title: Orange County Mayor

Date: _____, 2017

(COUNTY SEAL)

Attest: Phil Diamond, CPA, , Orange County Comptroller, as Clerk of the Board of County Commissioners

By: _____

Name: _____

Title: Deputy Clerk

Date: _____, 2017

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WITNESSES:

Print Name

Print Name

(COMMISSION SEAL)

ORLANDO UTILITIES COMMISSION, a
statutory commission organized and existing
under the laws of the State of Florida

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

Date: _____, 2017

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of August, 2017,
by _____, as _____ of
_____, on behalf of the same, who is personally
known to me or have produced _____ as identification and who did/did not take
an oath.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

(NOTARY SEAL)

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Signed, sealed and delivered
in the presence of:

CITY OF ORLANDO, a municipal
corporation existing under the laws of the
State of Florida

Print: _____

Print: _____

By: _____

Name: _____

Title: _____

(MUNICIPAL SEAL)

Attest:

By: _____

Name: _____

Title: _____

Date: _____, 2017

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of August, 2017, by _____, as _____ of the CITY OF ORLANDO, a municipal corporation existing under the laws of the State of Florida, on behalf of the same, who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC:

Sign: _____

Print: _____

State of Florida at Large (Seal)

My Commission Expires:

Exhibit "A-1" (page 1 of 2)
Legal Description and Sketch of the County Property

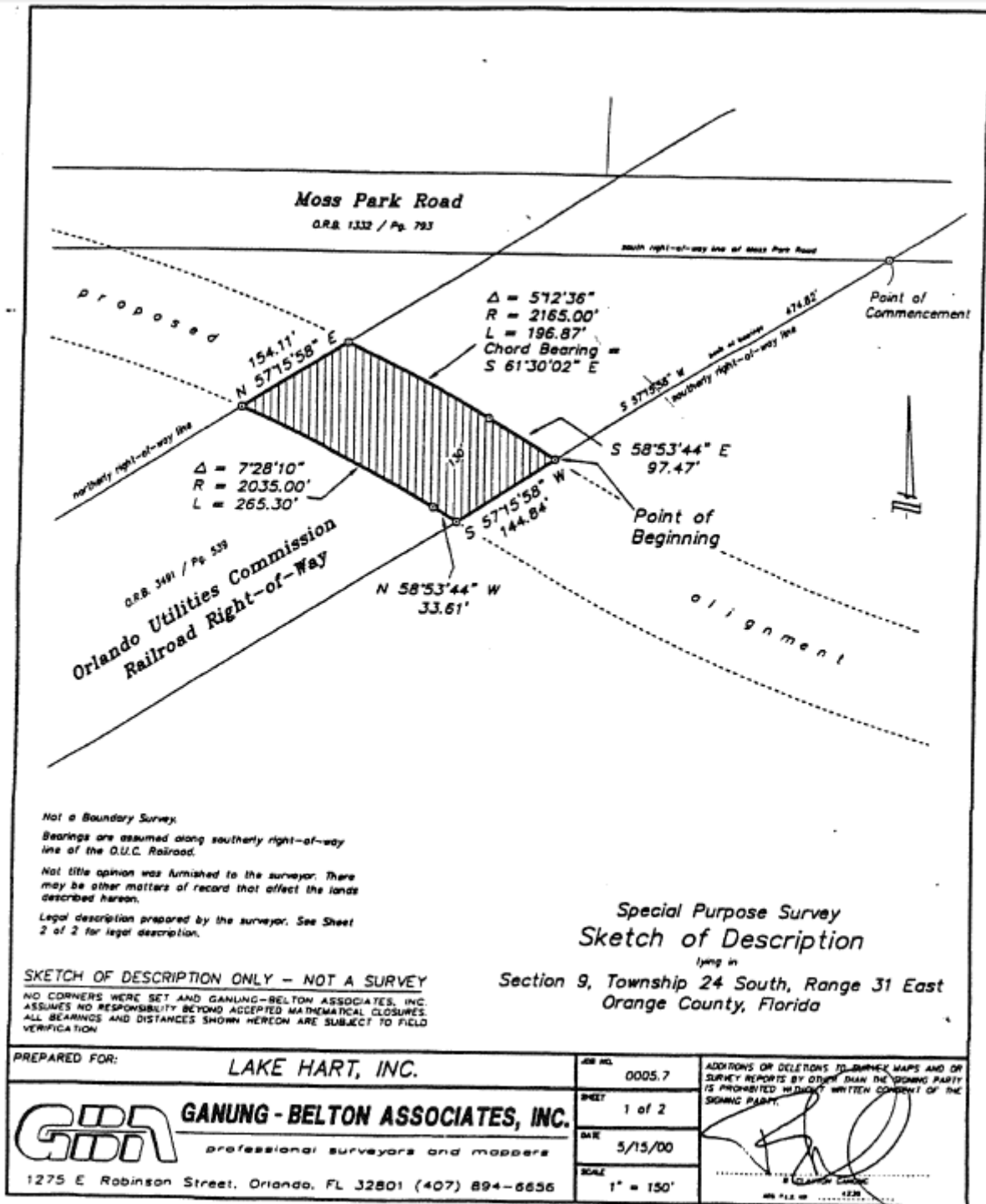
Legal Description

A portion of Section 9, Township 24 South, Range 31 East, Orange County, Florida, being more particularly described as follows:

Commence at the intersection of the south right-of-way line of Moss Park Road as recorded in Official Records Book 1332, Page 793, Public Records of Orange County, Florida with the southerly right-of-way line of the Orlando Utilities Commission Railroad as recorded in Official Records Book 3491, Page 539, Public Records of Orange County, Florida; thence run S 57°15'58" W, a distance of 474.82 feet for the **POINT OF BEGINNING**; thence continue S 57°15'58" W, a distance of 144.84 feet; thence run N 58°53'44" W, a distance of 33.61 feet to a point of curvature of a curve, concave southwesterly, having a radius of 2035.00 feet and a central angle of 07°28'10"; thence run northwesterly, along the arc of said curve, a distance of 265.30 feet to a point; thence run N 57°15'58" E, a distance of 154.11 feet to a point on a non-tangent curve, concave southwesterly, having a radius of 2165.00 feet and a central angle of 05°12'36"; thence, on a chord bearing of S 61°30'02" E, run 196.87 feet along the arc of said curve to the point of tangency thereof; thence run S 58°53'44" E, a distance of 97.47 feet to the **POINT OF BEGINNING**.

Containing 0.88 acres, more or less.

Exhibit "A-1" (page 2 of 2)



[Exhibit A to Easement Agreement with Covenants and Restrictions Affecting the Land]


Exhibit "A-2" (page 1 of 2)
Description and Sketch of the Remaining Parcel

SCHEDULE "A"
LEGAL DESCRIPTION
Parcel 101 C
Estate: Fee Simple
Purpose: Access and Utility

A portion of Section 9, Township 24 South, Range 31 East, Orange County, Florida, being more particularly described as follows:

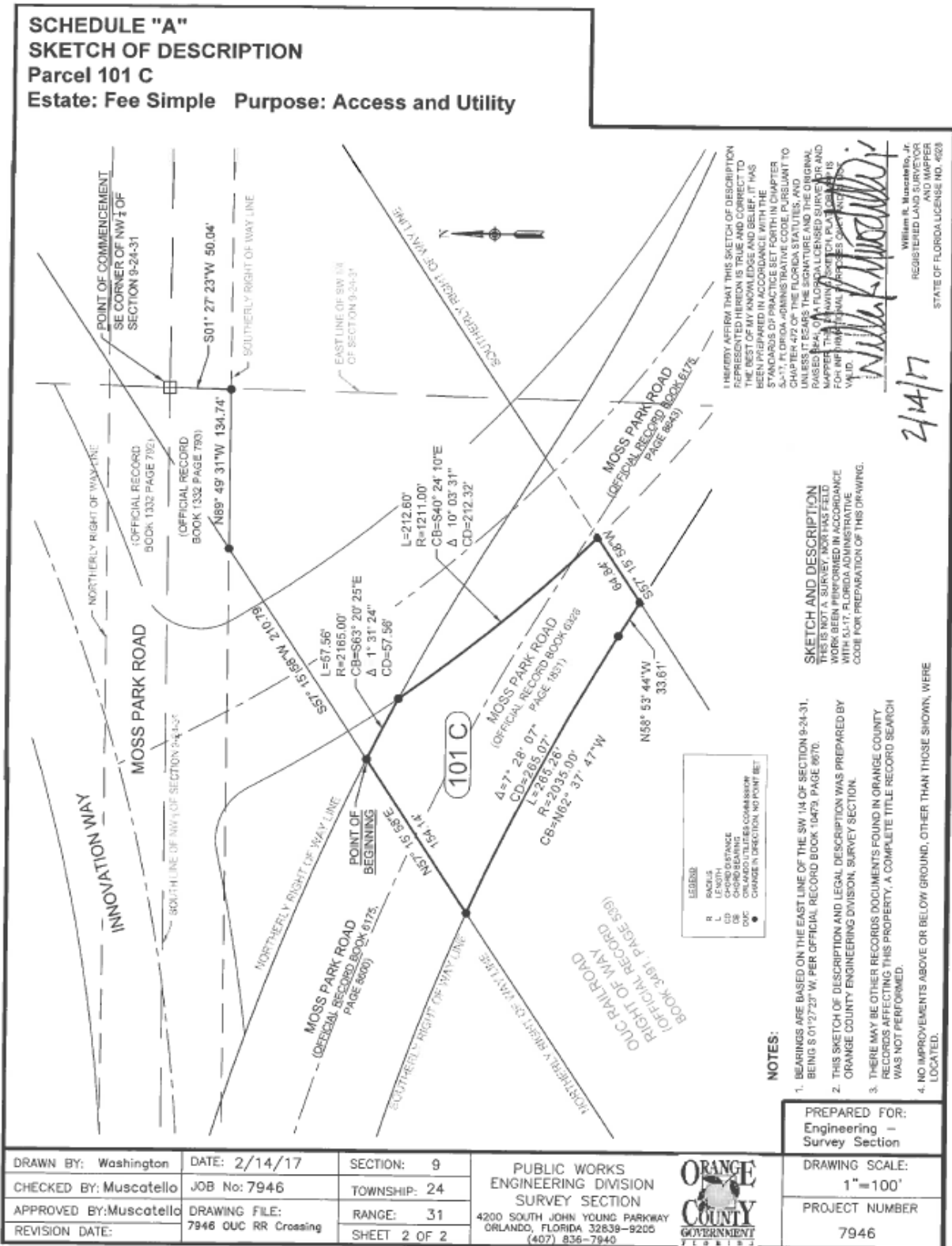
Commence at the Southeast corner of the Northwest 1/4 of Section 9, Township 24 South, Range 31 East, Orange County, Florida, thence run S01°27'23"W along the East line of the Southwest 1/4 of said Section 9 for a distance of 50.04 feet to a point lying on the Southerly right of way of Moss Park Road as described in Official Record Book 1332, page 793 of the Public Records of Orange County, Florida; thence departing said East line of said Section 9, run N89°49'31"W along the Southerly line of the described Moss Park Road right of way for a distance of 134.74 feet; thence run S57°15'58"W along the Northerly right of way line of the Orlando Utilities Commission railroad right of way as described in Official Record Book 3491, page 539 of the Public Records of Orange County, Florida, for a distance of 210.79 feet to the Point of Beginning; said point being on a non-tangent curve concave Southwesterly, lying on the Northerly right of way line of Moss Park Road, as described in Official Record Book 6175, page 8600 of the Public Records of Orange County, Florida; said point also being the Northernmost corner of the portion of Moss Park Road as described in Official Record Book 6328, page 1831 of the Public Records of Orange County, Florida; said curve having a radius of 2,165.00 feet, a chord bearing of S63°20'25"E, a chord distance of 57.56 feet, and a central angle of 01°31'24"; thence run Southeasterly along the arc of said curve and along the Northerly right of way line of said Moss Park Road for a distance of 57.56 feet to a point lying on a non-tangent curve concave Northeasterly, having a radius of 1,211.00 feet, a chord bearing of S40°24'10"E, a chord distance of 212.32 feet, and a central angle of 10°03'31"; thence run Southeasterly along the arc of said curve for a distance of 212.60 feet to a point lying on the Southerly right of way line aforementioned railroad right of way; thence run S57°15'58"W along said Southerly railroad right of way line for a distance of 64.84 feet; thence departing said line, run N58°53'44"W for a distance of 33.61 feet to a point of curvature of a tangent curve concave Southwesterly, having a radius of 2,035.00 feet, a chord bearing of N62°37'47"W, a chord distance of 265.07 feet, and a central angle of 07°28'07"; thence run Northwesterly along the arc of said curve for a distance of 265.26 feet to a point lying on the Northerly right of way line of the aforementioned railroad right of way; thence run N57°15'58"E along said Northerly right of way line of Orlando Utilities Commission railroad right of way for a distance of 154.14 feet to the Point of Beginning.

Containing 29,132.99 square feet or 0.67 acres, more or less.

PREPARED FOR: Engineering Design Section		ORANGE COUNTY PUBLIC WORKS ENGINEERING DIVISION		
DRAWN BY: Washington	DATE: 2/14/17	SECTION: 9	 SURVEY SECTION 4200 SOUTH JOHN YOUNG PARKWAY ORLANDO, FLORIDA 32839-9205 (407) 836-7940	DRAWING SCALE: NTS
CHECKED BY: Muscatello	JOB No: 7946	TOWNSHIP: 24		PROJECT NUMBER 7946
APPROVED BY: Muscatello	DRAWING FILE: 7946 OUC RR Crossing	RANGE: 31 SHEET 1 OF 2		
REVISION DATE:				

[Exhibit A to Easement Agreement with Covenants and Restrictions Affecting the Land]

Exhibit "A-2" (page 2 of 2)



[Exhibit A to Easement Agreement with Covenants and Restrictions Affecting the Land]

EXHIBIT "B"

LEGAL DESCRIPTION OF OUC RIGHT OF WAY

PARCEL 8A

From the Northeast corner of the Northeast 1/4 of Section 11, Township 24 South, Range 31 East, Orange County, Florida, run S 88°48'58" W 1321.20 feet along the North boundary of said Northeast 1/4 to the Northeast corner of the West 1/2 of said Northeast 1/4; thence run S 00°15'39" W 30.01 feet along the East boundary of said West 1/2 for the POINT OF BEGINNING; thence continue S 00°15'39" W 281.61 feet along said East boundary; thence run West 7415.30 feet; thence run S 73°38'03" W 979.87 feet; thence run S 57°16'06" W 1140.50 feet to a point on the West boundary of the Northwest 1/4 of Section 10, Township 24 South, Range 31 East, said point being S 01°26'06" W 1210.93 feet from the Northwest corner of said Northwest 1/4 of Section 10; thence continue S 57°16'06" W 712.10 feet to a point in the center line of the existing grade of Wewahootee Road; thence run N 21°21'51" E 277.04 feet along said center line to the South boundary of the Northeast 1/4 of the Northeast 1/4 of Section 9, Township 24 South, Range 31 East; thence run N 89°49'15" W 179.51 feet along said South boundary; thence run N 57°16'06" E 814.88 feet to a point on the aforesaid West boundary of the Northwest 1/4 of Section 10; thence continue N 57°16'06" E 964.45 feet to the beginning of a curve, concave Southeasterly, having a radius of 2100.00 feet and an intersection angle of 33°04'20"; thence run Northeasterly 1212.16 feet along the arc of said curve to the end of said curve, said point being on a line parallel with and 30.00 feet South of, when measured at right angles to, the North boundary of the aforesaid Northwest 1/4 of Section 10; thence run S 89°39'34" E 698.95 feet along said parallel line; thence run N 39°57'15" E 2677.80 feet parallel with and 30.00 feet South of, when measured at right angles to, the North boundary of the Northeast 1/4 of said Section 10; thence run S 89°34'09" E 2651.76 feet parallel with and 30.00 feet South of, when measured at right angles to, the North boundary of the Northwest 1/4 of the aforesaid Section 11; thence run N 88°48'58" E 1320.87 feet parallel with and 30.00 feet South of, when measured at right angles to, the aforesaid North boundary of the Northeast 1/4 of Section 11 to the point of beginning. The bearings referenced herein are grid bearings based on the Florida State Plane Coordinate System, Zone East.

PARCEL 8B

From the Southeast corner of the Northeast 1/4 of Section 9, Township 24 South, Range 31 East, Orange County, Florida, run N 89°49'15" W 1327.86 feet to the Southeast corner of the Southwest 1/4 of said Northeast 1/4; thence run N 01°26'54" E 596.30 feet along the East boundary of said Southwest 1/4 of the Northeast 1/4 for the POINT OF BEGINNING; thence run S 57°16'06" W 1005.19 feet to the North right-of-way line of Moss Park Road as described and recorded in Official Record Book 1332, Page 793, Public Records of Orange County, Florida; thence run N 89°49'15" W 473.53 feet along said North right-of-way line; thence run N 57°16'06" E 1583.49 feet to the aforesaid East boundary of the SW 1/4 of the NE 1/4; thence run S 01°26'54" W 314.28 feet to the point of beginning. The bearings referenced herein are grid bearings based on the Florida State Plane Coordinate System, Zone East.

[Exhibit A to Easement Agreement with Covenants and Restrictions Affecting the Land]

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PARCEL 8C

From the Northeast corner of the Southeast 1/4 of Section 9, Township 24 South, Range 31 East, Orange County, Florida, run N 89°49'15" W 2655.72 feet to the Northwest corner of said Southeast 1/4; thence run S 01°27'41" W 50.02 feet along the West boundary of said Southeast 1/4 for the POINT OF BEGINNING, said point being on the South right-of-way line of Moss Park Road as described and recorded in Official Record Book 1332, Page 793, Public Records of Orange County, Florida; thence run S 89°49'15" E 343.79 feet along said South right-of-way line; thence run S 57°16'06" W 1580.25 feet; thence run S 65°22'20" W 1904.06 feet to a point on the East boundary of the Southeast 1/4 of Section 8, Township 23 South, Range 31 East, said point being N 00°29'45" E 1009.42 feet from the Southeast corner of said SE 1/4; thence continue S 65°22'20" W 2397.83 feet to a point on the North boundary of the Northeast 1/4 of Section 17, Township 24 South, Range 31 East, said point being S 89°43'54" E 467.54 feet from the Northwest corner of said Northeast 1/4; thence continue S 65°22'20" W 3399.32 feet to a point on a non-tangent curve, concave Easterly, and having a radius of 8561.84 feet, said point being on the East right-of-way line of State Road #15 (Narcoossee Road) as described and recorded in Deed Book 338, Page 39, Public Records of Orange County, Florida; thence from a tangent bearing of N 00°43'15" E run Northerly 290.08 feet along the arc of said curve and said East right-of-way line through a central angle of 01°56'28"; thence run N 65°22'20" E 2709.64 feet to a point on the North boundary of the Northwest 1/4 of the aforesaid Section 17; said point being N 89°51'58" W 150.85 feet from the Northeast corner of said NW 1/4; thence continue N 65°22'20" E 3080.83 feet to the aforesaid East boundary of the Southeast 1/4 of Section 8; thence continue N 65°22'20" E 1357.85 feet to the beginning of a curve, concave Northwesterly, having a radius of 5729.38 feet and an intersection angle of 08°06'14"; thence run Northeasterly 310.40 feet along the arc of said curve to the end of said curve; thence run N 57°16'06" E 754.22 feet to the South right-of-way line of Moss Park Road as described and recorded in Official Record Book 1332, Page 793, Public Records of Orange County, Florida; thence run S 89°49'15" E 134.74 feet along said right-of-way line to the point of beginning. The bearings referenced herein are grid bearings based on the Florida State Plane Coordinate System, Zone East.

PARCEL 8D

From the Southwest corner of the Southwest 1/4 of Section 18, Township 24 South, Range 31 East, Orange County, Florida, run S 89°37'58" E 1783.53 feet along the South boundary of said Southwest 1/4 for the POINT OF BEGINNING; thence run N 36°06'09" E 4081.45 feet to the beginning of a curve, concave Southeasterly, having a radius of 2000.00 feet and an intersection angle of 29°16'11"; thence run Northeasterly 1021.71 feet along the arc of said curve to the end of said curve; thence run N 65°22'20" E 358.68 feet to a point on a non-tangent curve, concave Easterly, and having a radius of 8627.85 feet, said point being on the West right-of-way line of State Road #15 (Narcoossee Road) as described and recorded in Deed Book 338, Page 39, Public Records of Orange County, Florida; thence from a tangent bearing of S 02°26'10" W run Southerly 289.54 feet along the arc of said curve and said West right-of-way line through a central angle of 01°55'22"; thence run S 65°22'20" W 178.19 feet; thence run S 50°44'15" W 982.02 feet; thence run S 36°06'09" W 3841.27 feet to a point on the aforesaid South boundary of the Southwest 1/4; thence run N 89°37'58" W 320.31 feet along said South boundary to the point of beginning.

[Exhibit A to Easement Agreement with Covenants and Restrictions Affecting the Land]

Project: Agreement Regarding Further Realignment of Moss Park Road
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PARCEL 8E

From the Northwest corner of the Northwest 1/4 of Section 19, Township 24 South, Range 31 East, Orange County, Florida, run S 89°37'58" E 1783.53 feet along the North boundary of said Northwest 1/4 for the POINT OF BEGINNING; thence run S 36°06'09" W 1942.35 feet to the beginning of a curve, concave Northwesterly, having a radius of 1870.00 feet; thence run Southwesterly 856.80 feet along the arc of said curve through a central angle of 26°15'07" to a point on the West boundary of the aforesaid Northwest 1/4, said point being S 00°06'47" W 2135.43 feet from the aforesaid Northwest corner of the Northwest 1/4; thence run S 00°06'47" W 289.19 feet along said West boundary; thence run N 66°42'00" E 555.87 feet; thence run N 36°06'09" E 2712.07 feet to a point on the aforesaid North boundary of the Northwest 1/4; thence run N 89°37'58" W 320.31 feet along said North boundary to the point of beginning.

[Exhibit A to Easement Agreement with Covenants and Restrictions Affecting the Land]