

**AGREEMENT REGARDING FURTHER REALIGNMENT OF MOSS PARK ROAD  
(INNOVATION WAY SOUTH INTERCHANGE)**

**THIS AGREEMENT REGARDING FURTHER REALIGNMENT OF MOSS PARK ROAD (INNOVATION WAY SOUTH INTERCHANGE)** (this "Agreement") is made and entered into effective as of the last date of execution below (the "Effective Date"), by and between **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, **THE CITY OF ORLANDO**, a municipal corporation existing under the laws of the State of Florida, for the use and benefit of OUC, ("City") whose address is 400 South Orange Avenue, Orlando, Florida 32801, and **ORANGE COUNTY**, a charter county and political subdivision of the State of Florida ("County") whose address is P.O. Box 1393, Orlando, Florida 32802-1393.

**RECITALS:**

WHEREAS, the City and OUC own certain land in Orange County, Florida by virtue of the instrument recorded in Official Records Book 3491, Page 539, Public Records of Orange County, Florida (the "OUC Right of Way"); and

WHEREAS, the OUC Right of Way is utilized by OUC for numerous purposes of vital importance to OUC operations, including, without limitation:

(i) the operation and maintenance of railroad lines (the "Rail Lines") which are utilized to deliver fuel and materials by rail to the Curtis Stanton Energy Plant (the "Stanton Plant"); and

(ii) the operation and maintenance of a private service road (the "Service Road") which runs parallel to the Rail Lines within the OUC Right of Way and provides OUC with vehicular access to the Rail Lines and other improvements within the OUC Right of Way; and

(iii) the installation and operation of above-ground, grade-level and underground transmission lines, utility lines and related improvements; and

WHEREAS, the City, the County and OUC entered into that certain Agreement Regarding Realignment and Widening of Moss Park Road, dated April 19, 2001 (the "2001 Realignment Agreement"), for the purpose of memorializing their agreements regarding the realignment and widening of Moss Park Road, a County public road, and the installation of a rail crossing within the OUC Right of Way (the "Moss Park Road Crossing"); and

WHEREAS, in accordance with the 2001 Realignment Agreement, and in order to accommodate the Moss Park Road Crossing, OUC and the City conveyed to the County, pursuant to the certain Special Warranty Deed, originally recorded in Official Records Book 6273, Page 4900, and re-recorded, to evidence proper approval and acceptance by the Board of County Commissioners, in Official Records Book 6328, Page 1831, of the Public Records of

Orange County, Florida (collectively, the “2001 Deed”), that certain portion of the OUC Right of Way more particularly described and depicted on Exhibit “A” attached hereto (the “Existing Crossing Area”); and

WHEREAS, in connection with the construction of Innovation Way South, a County public road, and the construction of the Innovation Way South/Moss Park Road intersection, the County has requested that the City and OUC grant an additional parcel of land to the County to allow for the further realignment of Moss Park Road and the Moss Park Road Crossing; and

WHEREAS, attached as Exhibit “B” to this Agreement is a sketch which depicts the additional parcel of land needed for the proposed realignment of Moss Park Road (the “Additional Parcel”); and

WHEREAS, OUC and the City have agreed in principal to convey to the County the Additional Parcel subject to the terms, restrictions, and reservations described in this Agreement, and provided that OUC and the City retain unto themselves a perpetual, non-exclusive right-of-way and easement for the access, use, installation, maintenance, repair, and operations of the Service Road, fencing, Rail Lines and the existing and future utility lines and facilities, including but not limited to the transmission lines and facilities that are currently located in the Existing Crossing Area; and

WHEREAS, OUC and the City have agreed to allow the County to retain ownership of the Existing Crossing Area so that existing non-OUC owned buried and above ground utilities may remain in place, but subject to the County’s agreement that no new permits, licenses, easements, or other property rights will be granted, nor any existing property rights shall be expanded, throughout the Existing Crossing Area, aside from the Realigned Roadway Improvements and other rights granted and detailed herein; and

WHEREAS, OUC and the City acknowledge that because a portion of the Existing Crossing Area will continue to be used as a public right-of-way, the right of reverter contained within the 2001 Deed shall not be triggered by the realignment contemplated herein; and

WHEREAS, public vehicular right-of-way access shall no longer be required through a portion of the Existing Crossing Area that lies outside of the Realigned Crossing Area (as hereinafter defined), as depicted in the sketch hereto attached as Exhibit “C” (the “Remaining Parcel”), upon completion of the further realignment of Moss Park Road and demolition of the Remaining Roadway Improvements (as hereinafter defined), the County shall cease to allow the use of the Remaining Parcel for public vehicular right-of-way purposes; nevertheless, the County shall, as continuing owner of the Existing Crossing Area, have access to existing utility facilities that lie within the Remaining Parcel; and

WHEREAS, in connection with said realignment, the County shall remove all Remaining Roadway Improvements from the Remaining Parcel, but leave intact the present utilities (except for certain non-OUC owned lighting facilities that the County may relocate to, or cause to be relocated within, the Realigned Crossing Area); and

WHEREAS, the conveyance of the Additional Parcel to the County shall allow the Moss Park Road and Moss Park Road Crossing to be realigned and reconfigured as shown and depicted on Exhibit “D” attached hereto (the “Realigned Crossing Area”); and

WHEREAS, the parties desire to enter into this Agreement for the purpose of memorializing their agreements regarding the dedication and conveyance of the Additional Parcel, the further realignment of Moss Park Road and the Moss Park Road Crossing, the construction of rail crossing, roadway and other improvements relating to the realignment of Moss Park Road and the Moss Park Road Crossing, and other related matters.

### **AGREEMENTS:**

**NOW, THEREFORE**, for and in consideration of the mutual covenants contained in this Agreement and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals are true and correct, form a material part of this Agreement and are incorporated herein by this reference.

2. Dedication and Conveyance of Additional Parcel. Within thirty (30) days after the Effective Date of this Agreement the City and OUC shall convey to the County by special warranty deed (the “Deed”) good and marketable fee simple title in and to the Additional Parcel, subject to existing matters of record, but reserving, however, unto the City and OUC a perpetual, non-exclusive right-of-way and easement for (i) the inspection, maintenance, repair, replacement, expansion, operation and use of the Rail Lines and related railroad crossing facilities within the Additional Parcel, (ii) the installation, inspection, maintenance, repair, replacement, expansion, operation and use of the additional rail lines and related railroad crossing facilities within the Additional Parcel, (iii) the inspection, maintenance, repair, replacement, expansion, operation and use of the Service Road, 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 within the Additional Parcel. Moreover, the Deed shall contain: (A) a restrictive covenant which provides that no new property interests (including but not limited to new permits, new licenses, new easements, or specifically new utility easements) may be granted over under or through the Additional Parcel, and except for 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, the Realigned Crossing Area; and (B) a right of reverter in favor of the City and OUC which shall cause fee simple title to the Additional Parcel to automatically revert to the City and OUC in the event (i) the Moss Park Road realignment is not substantially complete on or before the date that is three (3) years after the Effective Date, or (ii) the County ever vacates the Additional Parcel or abandons the use thereof as a vehicular right-of-way. A proposed form of the Deed is attached hereto as Exhibit “E” and incorporated herein by this reference.

3. Grant of Temporary Easements. Simultaneously with the conveyance of the Additional Parcel to the County, the City and OUC shall grant to the County a non-exclusive temporary grading, slope and construction easement that shall encumber a portion of the OUC Right of Way (the "Temporary Construction Easement"). A proposed form of the Temporary Construction Easement is attached hereto as Exhibit "F" and incorporated herein by this reference. The Temporary Construction Easement shall be fifteen (15) feet in width adjacent to either side of the Improvements (as hereinafter defined), as more particularly described and depicted on Exhibit "G" attached hereto (the "Temporary Easement Area"). The Temporary Construction Easement shall contain self-operative termination language which provides that the Temporary Construction Easement shall terminate automatically without further action required by either party upon the earlier to occur of (i) Substantial Completion (as hereinafter defined); or (ii) the third (3rd) anniversary of the Effective Date of this Agreement.

4. Grant of Easement to OUC. Simultaneously with the conveyance of the Additional Parcel to the County, the County shall grant to the City and OUC a non-exclusive access and use easement over all of the Existing Crossing Area (the "OUC Easement") for (i) the inspection, maintenance, repair, replacement, expansion, operation and use of the Rail Lines and related railroad crossing facilities within the Existing Crossing Area, (ii) the installation, inspection, maintenance, repair, replacement, expansion, operation and use of the additional rail lines and related railroad crossing facilities within the Existing Crossing Area, (iii) the inspection, maintenance, repair, replacement, expansion, operation and use of the Service Road, 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 within the Existing Crossing Area. The OUC Easement shall also contain the following covenants and restrictions: (x) all public vehicular right-of-way uses (present and future) in the Remaining Parcel, permitted or caused by the County, shall cease upon completion of the realignment of Moss Park Road, nonetheless, the County shall, as continuing owner of the Existing Crossing Area, have access to its facilities within the Existing Crossing Area as necessary to maintain, replace, and/or repair its facilities located within the same; (y) 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, the Realigned Crossing Area, 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 over under or through the Existing Crossing Area; and (z) no existing rights shall be expanded throughout the Existing Crossing Area. A proposed form of the OUC Easement is attached hereto as Exhibit "H" and incorporated herein by this reference.

5. Construction of Improvements.

(a) Roadway Improvements.

i. Realigned Roadway Improvements. The County shall, at no cost and expense to OUC or the City, cause to be modified, realigned, constructed and installed within the Realigned Crossing Area those public and private roadway improvements

(collectively, the “Realigned Roadway Improvements”) as shown on those certain Construction Plans for Moss Park Road & Innovation Way Intersection prepared by Poulos & Bennett, labeled as Project Number 11-028, dated June 24, 2015, and last revised on the cover page as of July 15, 2015 and including but not limited to the revisions made July 18, 2017 to those certain sheets of said plans related to access road grading and fencing (the “Roadway Plans”) a copy of the cover page to the most recently approved set of Roadway Plans is attached hereto as Exhibit “I”, which Roadway Plans are on file with the Orange County Public Works Department, and are incorporated herein by this reference. The County shall obtain OUC’s prior written approval of any changes to the Roadway Plans applicable to either the Existing Crossing Area or the Realigned Crossing Area, such approval not to be unreasonably withheld, conditioned or delayed (it being understood that any failure to respond to a request for approval within thirty (30) days shall be considered an unreasonable delay). If changes to the Roadway Plans require changes to work under Section 4(b)i or 4(b)ii, the County shall be solely responsible to reimburse OUC for all such additional costs. The Roadway Plans shall also provide for the County’s construction of concrete curb cuts and apron along the intersection of Moss Park Road as realigned and the Service Road, which Roadway Plans specifications shall include, but are not limited to, six (6) inches thick concrete to be poured for all curb cuts and apron, grading from Moss Park Road to the existing level of the Service Road on either side of the Realigned Crossing Area, with a maximum slope of no more than one (1) foot of grade change per horizontal twelve (12) foot segment, installation and construction of fencing and gates along the northerly and southerly boundary of the Realigned Roadway Improvements to connect with the existing Service Road fencing so that the areas surrounding the OUC Right of Way adjacent to the Additional Parcel shall remain closed to the public and other non-OUC individuals, and accessible, via agreed upon gates, to OUC, all of which are to be more fully described within the Roadway Plans.

ii. Remaining Roadway Improvements. The County shall, at no cost and expense to OUC or City, cause to be removed, modified, demolished, constructed and/or installed within the Remaining Parcel those public and private roadway improvements (collectively, the “Remaining Roadway Improvements”; the Realigned Roadway Improvements and the Remaining Roadway Improvements are sometimes collectively referred to herein as the “Roadway Improvements”), which include, without limitation, (A) the restoration and reconstruction of the Service Road within the Remaining Parcel; (B) the installation and construction of fencing and gates along the northerly and southerly boundary of the Remaining Parcel, which fencing and gates shall be connected with and similar to the fencing currently running alongside the Rail Lines; and (C) any other work or demolition, construction, restoration or reconstruction necessary to return the Remaining Parcel to a condition similar to the surrounding OUC Right of Way with respect to grade, composition, ground cover and overall appearance. The County hereby agrees that it shall not remove (X) the existing Rail Lines and any asphalt deposits installed around the existing Rail Lines within the Existing Crossing Area; or (Y) any of the Existing Crossing Improvements which are to be removed by the Contractor, as described herein below.

iii. CSX 25 Foot Requirement. Pursuant to the CSX Transportation Safety Requirements for Outside Contractors, the minimum safe distance for third party contractors conducting work in and around live operating railroad track is twenty five feet of

each side of the Rail Lines' centerline (the "25 Foot Requirement"). Under no circumstances (other than in conformance with the requirements of Subsection 4(a)iv. below), shall the County or its agents, employees, contractors or subcontractors cause or allow any person or equipment to come within 25 feet of each side of the centerline of the Rail Lines. OUC represents and the County acknowledges and understands that any violation of the 25 Foot Requirement would entitle CSX Railroad ("CSX") to require removal of contractors and personnel from the area; and if the Rail Lines become obstructed, CSX may cease rail service to the Stanton Plant, thus leaving OUC without a source of fuel for the Stanton Plant. The County further acknowledges that the Federal Railroad Administration has also codified a rule similar to the 25 Foot Requirement in Chapter 49 of the Code of Federal Regulations, Section 214.336, and thus the 25 Foot Requirement is accepted as the industry standard for safe working distance, and that the County's adherence to the 25 Foot Requirement is a material inducement for the City and OUC to enter into this Agreement. In the event it is necessary for the County or its agents, employees, contractors or subcontractors to have persons or equipment within 25 feet of the centerline of the Rail Lines, the County shall first seek the written approval of OUC (which written approval shall include a specific authorization number obtained from the OUC employee giving the authorization). The County acknowledges that the written authorization requested hereunder must first be obtained by OUC from CSX and that requests for the authorization required hereunder from OUC shall allow OUC a reasonable time within which to obtain the authorization from CSX. The OUC representative from whom the County must obtain the written approval required herein is:

Bob Pollack, OUC  
(407) 434-4312 (work)  
(407) 274-2340 (mobile)

From time to time, OUC may designate in writing and in accordance with the Notice provision below, other persons (and their phone numbers) from whom the required authorization may be obtained.

iv. Flagging. The County shall coordinate all aspects of the Roadway Improvements with OUC, in particular such work that will require prior written approval from OUC and the services of a flagman, including but not limited to any and all work that will: (A) require County contractors to work inside the 25 Foot Requirement; or (B) require County contractors or any equipment to potentially reach within the 25 Foot Requirement. In such event or at any other time as required by OUC, the County shall reimburse OUC (pursuant to Section 7 below) for the services of a flagman at the Moss Park Road Crossing, the Realigned Crossing Area, the Existing Crossing Area, or within any affected portions of the Temporary Easement Area. Any such flagman may be a contractor of OUC or an employee of OUC, at OUC's sole discretion and in accordance with applicable rules and regulations, including but not limited to those of CSX or Florida Department of Transportation. A flagman shall be required to be present and working at all times during such pre-approved work: (A) to occur within the 25 Foot Requirement; and (B) where County contractors or any equipment could potentially reach within the 25 Foot Requirement. In the event of any emergency where the 25 Foot Requirement is

accidentally violated, County contractors shall follow the “Emergency Notification Procedure” as detailed in Exhibit “J”, attached hereto.

v. Special Requirements Regarding Rail Lines. The County acknowledges that its agents, employees, contractors or subcontractors may use trucks carrying fill dirt and other construction materials over the Rail Lines in connection with the Roadway Improvements. The County shall cause any portion of the Rail Lines affected by such activity to be cleaned and swept daily to insure that the track flange-way remains free and clear of sand, dirt, debris or other material and that railroad beds are kept free from obstructions. The County and its contractors shall not traverse the Rail Lines except at designated public crossings.

vi. Incorporation of Terms. The terms of this Section 4(a) shall be incorporated by the County into any contract with contractors (and subcontractors) who will be performing any work relating to the Roadway Improvements.

(b) Crossing Improvements.

i. Realigned Crossing Improvements. All work appurtenant to the new grade crossing of the Rail Lines within the Realigned Crossing Area, including the installation, realignment, or modification of full depth concrete railroad crossing, installation, realignment, or modification of any new or existing crossing gates and signals, and all wiring and circuitry required to complete the work (collectively, the “Realigned Crossing Improvements”) shall be conducted by OUC or its designated contractor (“Contractor”), pursuant to certain Construction Plans prepared by the Contractor (the “Railway Plans”) (the cost estimates for such Railway Plans are attached hereto as Exhibit “K”), and in accordance with the terms and provisions of the then applicable contract between OUC and the Contractor relating to the construction, installation, realignment, or modification of the Realigned Crossing Improvements (the “Railway Contract”). The Contractor shall provide, at the County’s expense, for the construction and installation of a complete “turn-key” Type III and Type IV railroad crossing, including installation of such required signal system, in accordance with OUC’s specifications for track construction, applicable CSX standards and Florida Department of Transportation standards, with the understanding that the existing signal system components and equipment currently used as part of the existing crossing shall be reused, and the same signal system components and equipment shall be relocated from their present location within the Existing Crossing Area to be used as necessary for the Realigned Crossing Improvements. OUC shall obtain County’s prior written approval of any changes to the Railway Plans, such approval not to be unreasonably withheld, conditioned, or delayed (it being understood that any failure to respond to a request for approval within thirty (30) days shall be considered an unreasonable delay). OUC shall also obtain County’s prior written approval of any amendments to the Railway Contract or any modifications of the Railway Contract which shall affect the County’s payment liability thereunder, such approval not to be unreasonably withheld.

ii. Remaining Crossing Improvements. The Contractor shall also perform all work pertaining to the full or partial removal, relocation, or modification of the existing grade crossing, crossing gates, signals, and control equipment from the current grade crossing of the Rail Lines within the Remaining Parcel (the “Remaining Crossing”

Improvements”, and together with the Realigned Crossing Improvements, the “Crossing Improvements”; the Roadway Improvements and the Crossing Improvements are sometimes collectively referred to herein as the “Improvements”), in accordance with the terms and provisions of the then applicable Railway Contract. The County hereby acknowledges that any of the Remaining Crossing Improvements removed by the Contractor and not reused in the Realigned Crossing Improvements may be retained by OUC for re-use and re-installation, at its sole discretion.

iii. Payment of Contractor. The Contractor shall act as an OUC contractor; provided, however, all costs and expenses incurred by the Contractor with respect to the Crossing Improvements shall be paid by OUC, but reimbursed by the County according to Subsection 7 below, or in accordance with any draw schedule as OUC shall approve.

6. Completion of Realigned Roadway Improvements. The date of “Substantial Completion” of the Realigned Roadway Improvements shall be for the purposes of this Agreement defined as the earlier of the date the County accepts the Realigned Roadway Improvements for maintenance, as evidenced by the issuance of a certificate of completion in connection with the Roadway Plans, or three (3) years after the Effective Date (“Substantial Completion”).

7. Maintenance of the Realigned Crossing Improvements. After such time as the Realigned Roadway Improvements and the Realigned Crossing Improvements have been completed such that Moss Park Road is open for vehicular traffic use by the public (the “Public Opening”), OUC shall be solely responsible for performing the continued maintenance of the Realigned Crossing Improvements. Such maintenance will be done in a manner and with construction materials reasonably satisfactory to OUC, however, all expenses incurred in connection therewith shall be borne by the County and reimbursed to OUC, pursuant to Section 7 below. The County shall also pay, or reimburse to OUC (pursuant to Section 7 below), any and all electricity costs or expenses incurred in connection with the operation or maintenance of the Realigned Crossing Improvements.

(a) Stabilization of Rail Lines. The City, OUC, and the County acknowledge that vehicular use of Moss Park Road may cause settling of the Rail Lines and railroad bed within and in the vicinity of Improvements. The parties further acknowledge that any such settling would require periodic stabilization of the Rail Lines and railroad bed for an undetermined period after the Public Opening of the Improvements. During the term of this Agreement, the County shall, reimburse OUC (pursuant to Section 7 below) for the costs incurred by OUC in order to stabilize the Rail Lines and railroad bed within and in the vicinity of the Improvements caused by the vehicular use of the Realigned Crossing Area.

(b) Required Future Enhancements. The County hereby agrees that if, at any time in the future, (i) compliance with new railroad regulations, results in additional maintenance or modifications to the Improvements; or (ii) OUC, CSX, the Florida Department of Transportation or any authorized public authority reasonably determines that public safety requires any additional modifications or enhancements; or (iii) any other further modification is required to meet current code, safety requirements or OUC’s internal regulations with respect to



OUC's transmission lines, utility lines and related improvements, or to the Improvements including, without limitation, the Rail lines, additional or enhanced crossbucks, automated warning devices, or warning signs, then OUC and the City will not be called upon or required to bear any part of the cost, of furnishing, installing or maintaining any such additional modifications or enhancements and any and all work appurtenant thereto. Any such additional modifications or enhancements shall be constructed by OUC or its designee, the cost of which shall be borne either directly or indirectly by the County and reimbursed to OUC pursuant to Section 7 below.

8. Reimbursement to OUC. Any and all expenses incurred by OUC in connection with any such work and/or deliveries described in Sections 2, 3, 4 and 6 shall be borne directly or indirectly by the County. The County shall be obligated, within forty-five (45) days after receipt of an itemized bill from OUC, to reimburse OUC for the cost of any such any services, repairs, stabilizations, upgrades or maintenance work.

9. Access. OUC and the City shall have continuous access to, and the uninterrupted use of, the Rail Lines, Service Road, utility lines and other improvements both within and in the vicinity of the Realigned Crossing Area, the Remaining Parcel and the Temporary Easement Area, throughout the County's construction, installation, realignment and demolition activities described in this Agreement.

10. Costs. County shall pay or cause to be paid when due all of the following: (a) the cost of preparing the legal descriptions for the Temporary Easement Area, the Remaining Parcel and the Additional Parcel; (b) the cost of preparing and recording the OUC Easement and Temporary Construction Easement; (c) the cost of preparing and recording the Deed to the County; (d) the cost of any title searches incurred by the County to examine title to the Additional Parcel; (e) the cost to design, engineer, obtain permits and approvals for, construct and install, maintain and repair, the Improvements, including any costs incurred by the Contractor in connection with the Crossing Improvements; (f) the cost to restore and reconstruct the Service Road and fencing within the Existing Crossing Area; and (g) attorneys' fees incurred by County, City and OUC incidental to the preparation of this Agreement, the conveyance of the Additional Parcel to the County.

11. Permits and Approvals. Except for any permits and approvals to be procured by the Contractor (at the expenses of the County, as provided in Section 7 hereinabove) in connection with the Crossing Improvements, the County shall be responsible for obtaining any and all governmental and private permits and approvals that may be required in connection with the construction, realignment and demolition activities to be performed or procured by County pursuant to this Agreement. The City and OUC agree to cooperate with and support the efforts of County and the Contractor to obtain all of said permits and approvals, including but not limited to joining in or consenting to any applications to applicable governmental agencies and private parties. Such cooperation shall not result in any expense to City or OUC. All work to be performed or procured by County shall be in accordance with the Roadway Plans, permits, and approvals, and applicable law. The County shall be solely responsible for any fees or penalties imposed as a result of noncompliance with any permit or permit condition, required from the County's use of the Temporary Easement Area under this Agreement. The County shall

reimburse OUC and/or the City, as applicable, for any penalties, fees, or other costs or expenses imposed on OUC and/or the City by CSX, the Federal Railroad Administration (“FRA”), the Florida Department of Transportation (“FDOT”), or any other agency with regulatory authority associated with the Rail Lines arising out of or from, or in any way connected to the County’s violation of CSX or FDOT’s specifications, requirements, guidelines, and rules as said may change from time to time.

12. Notices. Whenever this Agreement requires or permits any notice by one party to the other, such notice shall be written and sent to the party to be notified at the address set forth below by any of the following means: (a) hand delivery with written receipt, (b) commercial overnight courier service, or (c) certified United States Mail, return receipt requested. Notice shall be deemed given on the date it is hand delivered, the next business day after it is picked up by the overnight courier, or the second business day after it is deposited in the mail as provided above, whichever is first. Addresses for notices are as follows:

City: Chief Administrative Officer  
City of Orlando  
400 S. Orange Avenue  
Orlando, Florida 32801

With a copy to: City Attorney  
Office of Legal Affairs  
City of Orlando  
400 S. Orange Avenue  
Orlando, Florida 32801

OUC: Kenneth P. Ksionek  
General Manager and Chief Executive Officer  
Orlando Utilities Commission  
100 West Anderson Street  
Orlando, Florida 32801

With a copy to: W. Christopher Browder  
Vice President and General Counsel  
Orlando Utilities Commission  
100 West Anderson Street  
Orlando, Florida 32801

With a copy to: Joseph J. JeBailey, Esq.  
Greenberg Traurig, P.A.  
450 South Orange Avenue, Suite 650  
Orlando, Florida 32801

County: County Administrator  
Orange County, Florida  
201 South Rosalind Avenue, Fifth Floor  
P.O. Box 1393  
Orlando, Florida 32802-1393

With a copy to: Manager, Public Works Engineering Division  
Orange County, Florida  
4200 South John Young Parkway  
Orlando, Florida 32839

Any party may change its address for notices by written notice to the other party designating the new address in accordance with this paragraph.

13. Authority. Each party represents and warrants to each other party that its execution and delivery of this Agreement has been duly authorized by the appropriate official or governing body, it has complied with all applicable requirements of law and it has full power and authority to enter into this Agreement.

14. Construction. Each party hereto hereby acknowledges that all parties hereto participated equally in the negotiating and drafting of this Agreement and that, accordingly, no court construing this Agreement shall construe it more stringently against one party than any other.

15. Amendments. No amendment, modification or other change to this Agreement shall be binding upon the parties hereto unless in writing and executed by all parties hereto.

16. Counterparts. This Agreement may be executed in any number of counterparts, and all of which taken together shall constitute one and the same Agreement.

17. Exhibits. All exhibits referred to in this Agreement are hereby incorporated into this Agreement.

18. Time. Time is of the essence of this Agreement and in the performance of the duties and obligations of the respective parties to this Agreement.

19. Applicable Law. The laws of the State of Florida (excluding its conflicts of laws provisions) shall govern the validity, enforcement and interpretation of this Agreement.

20. Further Documentation. Upon request by any party, the parties shall execute and deliver such further documentation or instruments as may reasonably be necessary to confirm or

effectuate the rights and obligations of the parties under this Agreement and to consummate the transactions contemplated by this Agreement.

21. Limitations on Obligations of the City. The County acknowledges and agrees that the City's obligations under this Agreement are strictly limited to its conveyance of the Temporary Construction Easement and Additional Parcel, under the terms describe herein. The City does not otherwise assume any contractual obligations described in this Agreement and the County so acknowledges and agrees to the same.

22. Limitation on Remedies. The City, OUC and the County expressly agree that the consideration, in part, for each of them entering into this Agreement is the willingness of the other to limit the remedies for actions arising out of a party's failure to perform under this Agreement.

(a) Limitation on County's Remedies. Upon any failure by the City or OUC to perform its obligations under this Agreement, the County shall be limited strictly to only the following remedies: (i) action for specific performance; or (ii) action for injunction; or (iii) action for declaratory judgment regarding the rights and obligations of County; or (iv) any combination of the foregoing. In addition to the foregoing nothing in this Agreement prohibits or estops the County from exercising its power of eminent domain with respect to any portion of the Additional Parcel or the Temporary Easement Area as the County may lawfully elect.

(b) Limitation on City's and OUC's Remedies. Upon any failure by the County to perform its obligations under this Agreement, the City and OUC shall be limited strictly to only the following remedies: (i) action for specific performance; or (ii) action for injunction; or (iii) action for declaratory judgment regarding the rights and obligations of City and OUC; or (iv) any combination of the foregoing. In addition to the foregoing, in the event of a failure by County to perform its obligations under this Agreement, nothing in this Agreement shall be deemed a waiver by the City and OUC of any available rights or defenses in connection with the County's exercise of the power of eminent domain with respect to any portion of the Additional Parcel or the Temporary Easement Area.

All parties expressly waive their respective rights to sue for damages of any type for breach of or default under this Agreement by the other. Venue for any actions initiated under or in connection with this Agreement shall be in the Circuit Court for the Ninth Judicial Circuit of Florida in Orange County.

23. Severability. If any provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefits by any party hereunder or substantially increase the burden of any party hereunder, shall be held invalid or unenforceable to any extent by a court of competent jurisdiction, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.

24. Representations and agreements by the County. The County (and its successors, assigns, agents, contractors, subcontractors, invitees, and employees) shall:

(a) not unreasonably interfere with or prevent the normal use and maintenance by OUC of the OUC Right of Way nor interfere with the use of the OUC Rail Line, except as otherwise agreed to in writing by OUC;

(b) represent and agree that no new easements will be granted, nor any existing easement rights shall be expanded throughout the Existing Crossing Area, except as expressly detailed herein, unless the County obtains the express written consent of the City and OUC; and the County acknowledges and agrees that such covenant is a material inducement for the City and OUC to enter into this Agreement;

(c) comply at all times and in all respects with all present and future local, municipal, county, state and federal environmental and all other applicable laws, statutes, governmental constitutions, ordinances, codes, rules, regulations, resolutions, requirements, standards, applications and directives, as well as all decisions, judgments, writs, injunctions, orders, decrees or demands of courts, administrative bodies and other authorities construing any of the foregoing (collectively, the “Laws”). The County shall also obtain, maintain and comply with all applicable permits in connection with the County’s construction of the Roadway Improvements. The County shall not, by any act or omission, render the OUC liable for any violation thereof. The County shall be solely responsible for any fees or penalties imposed as a result of noncompliance with any permit or permit condition, including any required wetland mitigation, resulting from the County’s activities. the County’s shall promptly deliver to OUC true and accurate copies of all applicable permits upon issuance and shall pay all costs and expenses incurred with respect to compliance with this subparagraph;

(d) reimburse OUC and the City for any penalties, fees, or other costs or expenses imposed by CSX, FDOT, or the Federal Railroad Administration as a result of any slowdowns, delays, or stoppages of rail traffic on the OUC right of way (including, without limitation, any violation of the 25 Foot Requirement, or any requirement that rail traffic on the OUC right of way, when in the vicinity of the OUC railroad tracks, be operated in a “slow track” manner under CSX or the Florida Department of Transportation regulations or guidelines) arising out of or from, or in any way resulting or connected to, the construction, installation, maintenance, repair, or existence of the Roadway Improvements; provided, however, the reimbursement does not extend to any penalties, fees, or other costs or expenses incurred as a result of OUC’s own acts or omissions;

(e) install and construct the Roadway Improvements, and otherwise perform all work related thereto in compliance with all applicable Laws, permits, and all applicable standards and specifications (including, but not limited to, any applicable CSX standards and specifications), in an expeditious and good and workmanlike manner without causing any damage to the Temporary Easement Area or OUC Right of Way, and maintain the appearance of all above-ground improvements and landscaping, if any, in reasonably the same condition as existed upon completion of such initial installation or construction;

(f) operate, maintain, replace, and repair the Roadway Improvements at no cost to OUC or the City, and in compliance with all applicable Laws, permits, all applicable standards and specifications (including, but not limited to, CSX standards and specifications),

and consistent with the terms of this Agreement, in an expeditious and good and workmanlike manner, and maintain the appearance of all above-ground improvements and landscaping, if any, in reasonably the same condition as existed upon completion of any such maintenance or repair;

(g) after completion of any maintenance, repair or replacement work with respect to the Roadway Improvements at no cost to OUC or the City and in a safe, good and workmanlike manner, remove any temporary improvements and equipment placed on the Temporary Easement Area or within the OUC Right of Way, and restore both the ground surface and any grass, irrigation lines and equipment, and landscaping, to reasonably the same original contour, grade and condition which existed immediately prior to the commencement of any such work; and

(h) not act (or fail to act) in a way which permits any lien to be filed against the Temporary Easement Area or the OUC Right of Way for any labor or materials in connection with work of any character performed or claimed to have been performed on the Temporary Easement Area or the OUC Right of Way at the direction or sufferance of the County or its assigns. If any such lien is filed against the Temporary Easement Area or the OUC Right of Way, as a result of the County's actions, and not removed by the County (either by payment or transferred bond) within fifteen (15) days after receipt by the County of written notice from OUC, then OUC shall have the right (but not the obligation) to cause such lien to be released. The County shall pay on demand all of OUC's costs in connection therewith, together with interest thereon accruing from and after the date of such expenditure until OUC's receipt of full payment therefor.

## 25. Indemnification.

(a) To the extent permitted by F.S. 768.28, and without waiving its protections, the County shall defend, hold harmless, and indemnify OUC and the City from all claims, damages, losses, and/or expenses (including any reasonable attorneys' fees and costs) attributable to the County's negligent or intentional acts or omissions, or arising out of or resulting from the negligent performance of the County's obligations and operations under this Agreement. Nothing contained herein shall constitute a waiver by either party of any applicable sovereign immunity as described under the provisions of Section 768.28, Florida Statutes. Nothing contained herein shall constitute a limit on any insurance coverage limits or amounts as set forth below. This provision is not intended to and shall not constitute an agreement by either party to assume liability for the acts or omissions of the other.

## 26. Insurance.

(a) The County, at no cost to OUC or the City, shall maintain for the mutual benefit of the County and OUC and the City, general commercial liability insurance against claims for bodily injury, death, or property damage occurring in or about the Temporary Easement Area, the OUC Right of Way, the Realigned Crossing Area and Existing Crossing Area, throughout the ongoing construction, for at least Five Million and No/100 Dollars (\$5,000,000.00) per occurrence and an aggregate limit of Ten Million and No/100 Dollars (\$10,000,000.00).

(b) During any construction, repair or maintenance of the Roadway Improvements, the County, at no cost to OUC or the City, shall provide and maintain for the mutual benefit of the County and OUC and the City, railroad protective liability insurance for all operations relating to such construction, repair or maintenance. The named insureds shall be: Orlando Utilities Commission, 100 West Anderson St., Orlando, FL 32801, Attention: Risk Management and City of Orlando, 400 South Orange Avenue, Orlando, FL 32801, Attention: Risk Manager.. Such insurance shall be written using the ISO Railroad Protective Form CG 00 35, and with a carrier acceptable to OUC with a combined single coverage limit of not less than Five Million and No/100 Dollars (\$5,000,000.00) per occurrence, and an aggregate limit of Ten Million and No/100 Dollars (\$10,000,000.00). The declarations page of the insurance policy must provide the name and address of any applicable contractors, as well as a description of the construction, repair or maintenance work to be performed, including the specific work site address (i.e., mile marker, bridge, intersection) and project description. The insurance policy providing such railroad protective liability insurance must be reviewed by OUC Risk Management prior to the commencement of any such work and must remain in effect for the duration of the same.

(c) All insurance provided for in this Section shall be effected under valid and enforceable policies, issued by insurers with an A.M. Best Company's rating of A-VII or better and who are licensed to do business in the State of Florida. Not less than thirty (30) days prior to the expiration dates of the expiring policies theretofore furnished pursuant to this Section, originals of the policies (or, in the case of general public liability insurance, certificates of the insurers) bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to the County or OUC, of such payment.

(d) Nothing in this Section shall prevent the County from taking out insurance of the kind and in the amounts provided for under this Section under a blanket insurance policy or policies covering other properties as well as the Temporary Easement Area, the OUC Right of Way, the Realigned Crossing Area and Existing Crossing Area, provided, however, that any such policy or policies of blanket insurance (i) shall specify therein, or the party providing the insurance shall furnish the other with a written statement from the insurers under such policy or policies specifying, the amount of the total insurance allocated to such areas, which amounts shall not be less than the amounts required by subparagraph (b) above, and (ii) such amounts so specified shall be sufficient to prevent any one of the insureds from becoming a co-insurer within the terms of the applicable policy or policies, and provided further, however, that any such policy or policies of blanket insurance shall, as to such areas, otherwise comply as to endorsements and coverage with the provisions of this Section.

(e) Each such policy or certificate therefor issued by the insurer shall, to the extent obtainable, contain an agreement by the insurer that such policy shall not be canceled without at least ten (10) days prior written notice to OUC.

[Signatures Appear on the Following Pages]

**IN WITNESS WHEREOF**, City, OUC and County have executed this Agreement on the dates set forth below, which Agreement is effective as of the Effective Date.

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

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

(MUNICIPAL SEAL)

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_ City Clerk

Date: \_\_\_\_\_, 2017



**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

(COMMISSION SEAL)

Approved by OUC as to  
Legal Description:

\_\_\_\_\_  
OUC

Approved by OUC as to Form  
Other than Legal Description:

\_\_\_\_\_  
OUC  
Attorney

**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

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

(COUNTY SEAL)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Deputy Clerk

Date: \_\_\_\_\_, 2017

**EXHIBIT "A"**

**EXISTING CROSSING AREA**

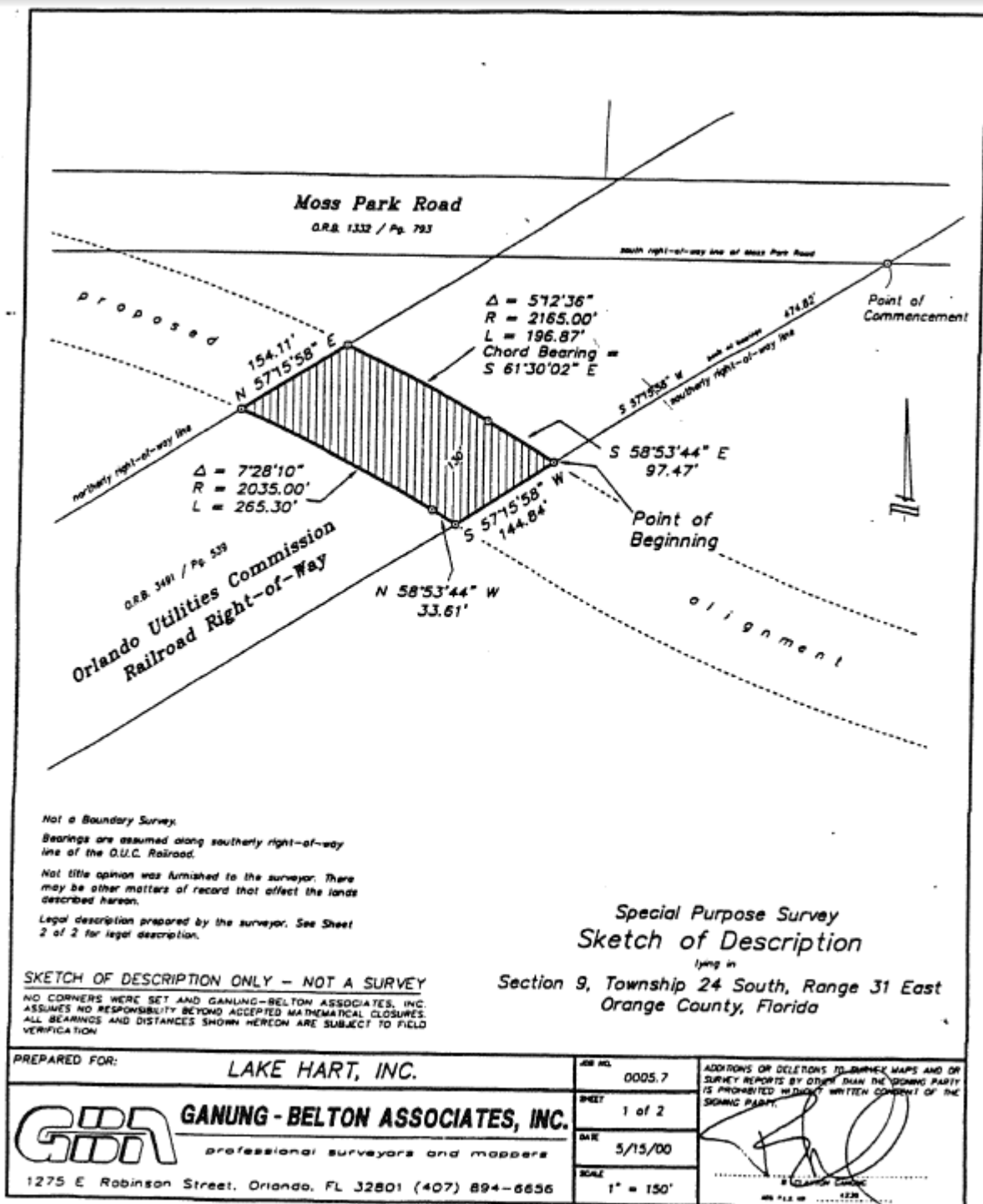
(legal description and sketch)

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 "B"**  
**ADDITIONAL PARCEL**


(legal description and sketch)

**SCHEDULE "A"**  
**LEGAL DESCRIPTION**  
**Parcel 101 B**  
**Estate: Fee Simple**  
**Purpose: Road Right of Way**

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 South right of way line 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, run N89°49'31"W along said South right of way line of Moss Park Road for a distance of 134.74 feet; thence run S57°15'58"W along the Northerly right of way line of an 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 52.74 feet to the Point of Beginning; also being a point lying on a non-tangent curve concave Northeasterly, having a radius of 1,081.00 feet, a chord bearing of S40°01'36"E, a chord distance of 262.09 feet, and a central angle of 13°55'32"; thence run Southeasterly along the arc of said curve for a distance of 262.73 feet to a point lying on the Southerly right of way line of said railroad right of way; thence run S57°15'58"W along said Southerly right of way line for a distance of 53.66 feet to a point lying on the Northeasterly right of way line of Moss Park Road, as described in Official Record Book 6175, page 8643 of the Public Records of Orange County, Florida; thence run Northwesterly along said right of way line N58°53'44"W for a distance of 97.56 feet to a point of curvature of a non-tangent curve concave Southwesterly, having a radius of 2,165.00 feet, a chord bearing of N60°44'13"W, a chord distance of 139.15 feet, and a central angle of 03°40'59"; thence run Northwesterly along the arc of said curve for a distance of 139.17 feet to a point on a non-tangent curve concave Northeasterly, having a radius of 1,211.00 feet, a chord bearing of N34°12'03"W, a chord distance of 49.56 feet, and a central angle of 02°20'42"; thence departing said right of way line, run Northwesterly along the arc of said curve for a distance of 49.56 feet to a point lying on the Northerly right of way line of said Orlando Utilities Commission railroad right of way; thence run N57°15'58"E along said Orlando Utilities Commission railroad right of way line for a distance of 130.00 feet to the Point of Beginning.

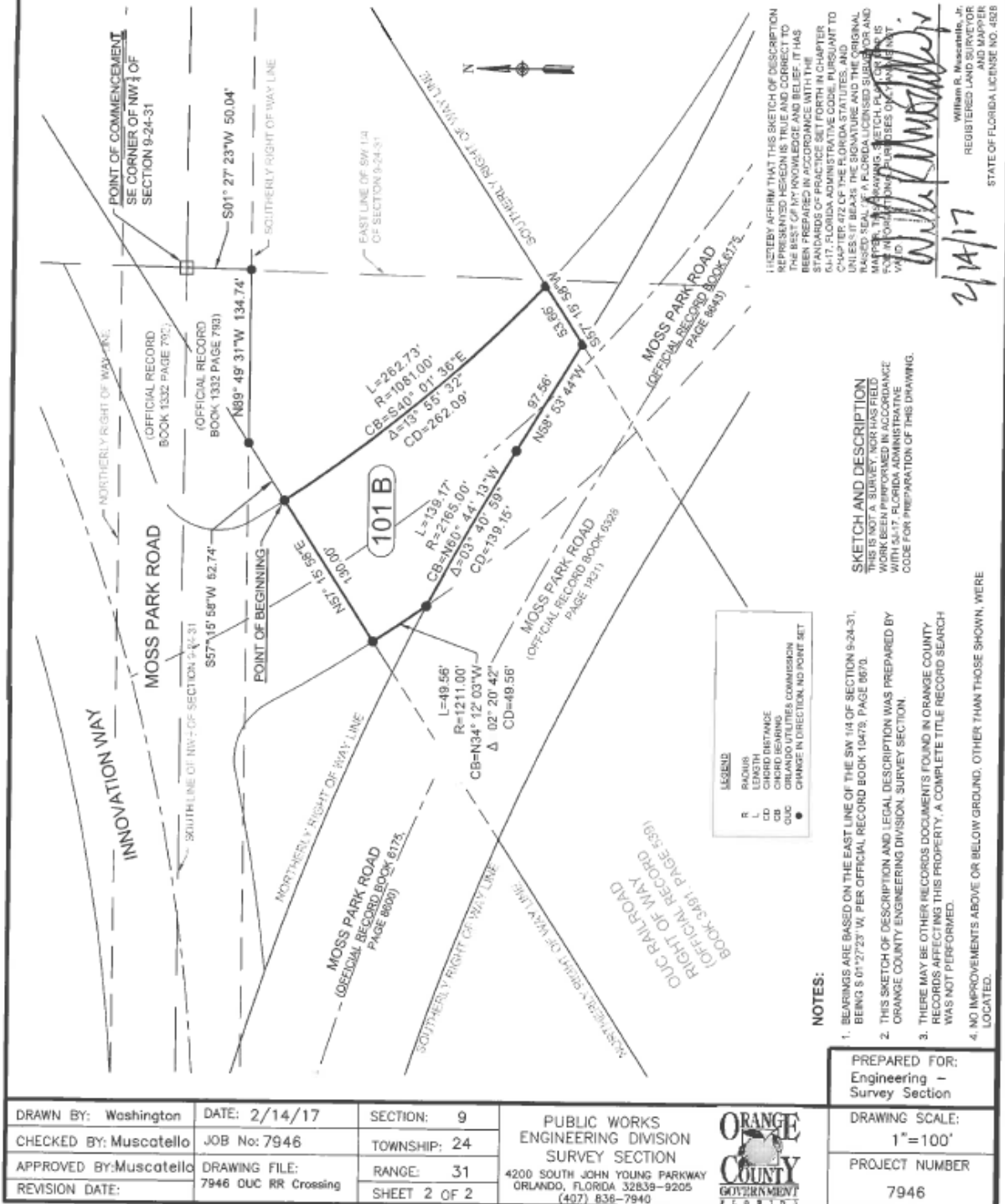
Containing 24,717.33 square feet or 0.57 acres, more or less.

PREPARED FOR: Engineering Design Section		ORANGE COUNTY PUBLIC WORKS ENGINEERING DIVISION			
DRAWN BY: Washington	DATE: 2/14/17	SECTION: 9	<div>SURVEY SECTION</div> <div>4200 SOUTH JOHN YOUNG PARKWAY ORLANDO, FLORIDA 32836-9205 (407) 838-7940</div> <div><div>ORANGE COUNTY GOVERNMENT FLORIDA</div></div>	DRAWING SCALE: NTS	
CHECKED BY: Muscatello	JOB No: 7946	TOWNSHIP: 24		PROJECT NUMBER 7946	
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31			
REVISION DATE:	7946 OUC RR Crossing	SHEET 1 OF 2			

# **SCHEDULE "A"** **SKETCH OF DESCRIPTION**

**Parcel 101 B**

**Estate: Fee Simple Purpose: Road Right of Way**



**EXHIBIT "C"**  
**Remaining Parcel**

(legal description and sketch)

**SCHEDULE "A"**

**LEGAL DESCRIPTION**

**Parcel 101 C**


**Estate: Fee Simple**

**Purpose: Access and Utility**

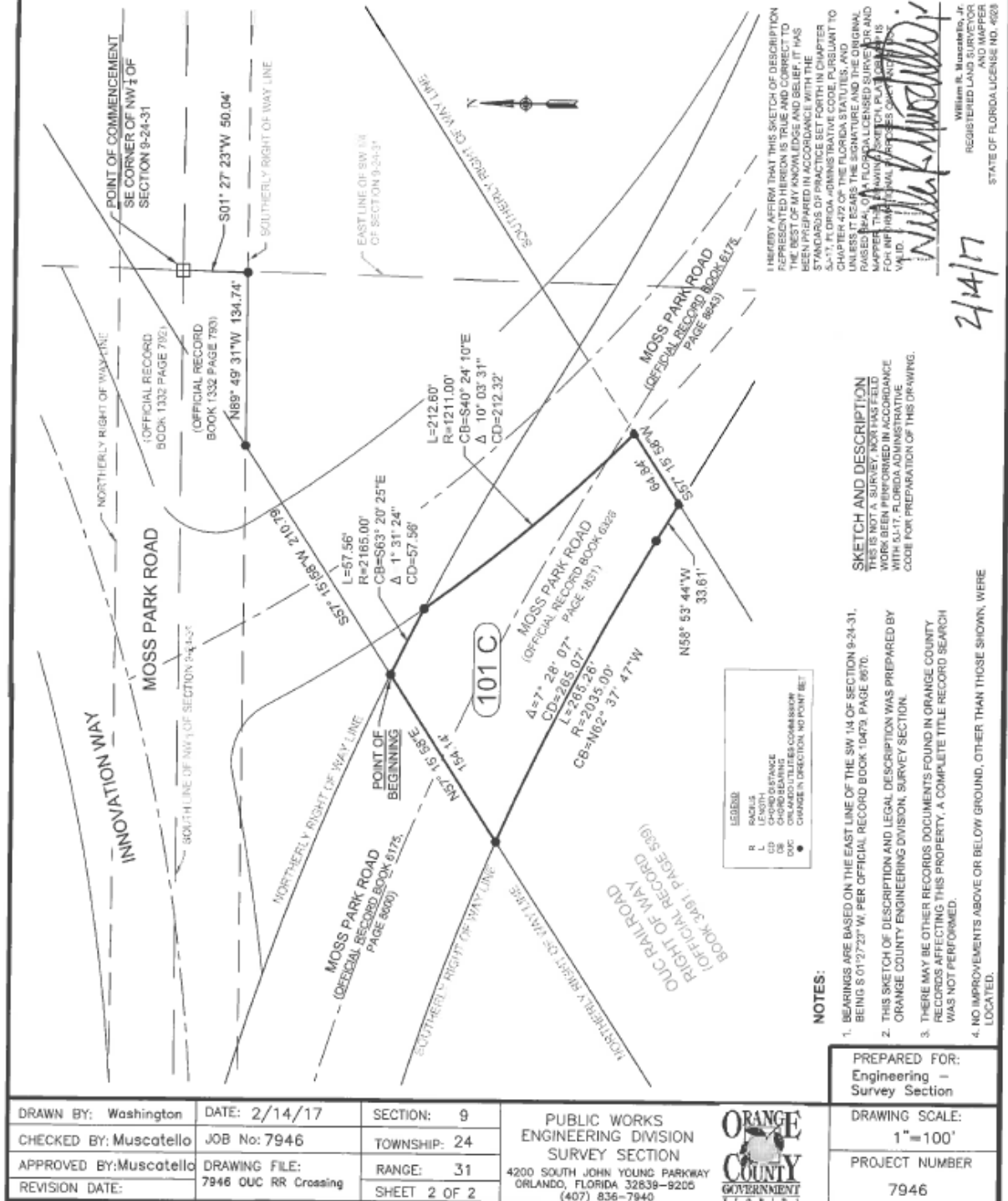
A portion of Section 9, Township 24 South, Range 31 East, Orange County, Florida, being more particularly described as follows:

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	<div style="display: flex; align-items: center;"><div style="flex: 1;"><p><b>SURVEY SECTION</b></p><p>4200 SOUTH JOHN YOUNG PARKWAY ORLANDO, FLORIDA 32839-9205 (407) 836-7940</p></div><div style="flex: 0.5; text-align: center;"></div><div style="flex: 1; font-size: small;"><p>DRAWING SCALE: NTS</p><p>PROJECT NUMBER 7946</p></div></div>
CHECKED BY: Muscatello	JOB No: 7946	TOWNSHIP: 24	
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31	
REVISION DATE:	7946 OUC RR Crossing	SHEET 1 OF 2	

**Estate: Fee Simple    Purpose: Access and Utility**



Agreement Regarding Further Realignment of  
Moss Park Road (Innovation Way South Interchange) – Exhibit C  
ORL 299576788v1



**EXHIBIT "D"**  
**Realigned Crossing Area**

(legal description and sketch)

**SCHEDULE "A"**

**LEGAL DESCRIPTION**

**Parcel 101 D**


**Estate: Fee Simple**

**Purpose: Road Right of Way**

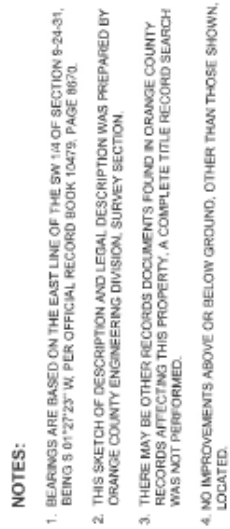
A portion of Section 9, Township 24 South, Range 31 East, Orange County, Florida, being more particularly described as follows:

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 52.74 feet to the Point of Beginning; said point lying on a non-tangent curve concave Northeasterly, having a radius of 1,081.00 feet, a chord bearing of S40°01'36"E, a chord distance of 262.09 feet, and a central angle of 13°55'32"; thence run Southeasterly along the arc of said curve for a distance of 262.73 feet to a point lying on the Southerly right of way line of the aforementioned railroad right of way; thence run S57°15'58"W along said Southerly line of railroad right of way for a distance of 133.67 feet to a point lying on a non-tangent curve concave Northeasterly, having a radius of 1,211.00 feet, a chord bearing of N39°13'49"W, a chord distance of 261.65 feet, and a central angle of 12°24'13"; thence run Northwesterly along the arc of said curve for a distance of 262.16 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 for a distance of 130.00 feet to the Point of Beginning.


Containing 34,117.90 square feet or 0.78 acres, more or less.

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

**Estate: Fee Simple    Purpose: Road Right of Way**



DRAWING SCALE:  
1"=100'  
PROJECT NUMBER  
7946

DRAWN BY: Washington	DATE: 2/14/17	SECTION: 9	PUBLIC WORKS ENGINEERING DIVISION SURVEY SECTION 4200 SOUTH JOHN YOUNG PARKWAY ORLANDO, FLORIDA 32839-9205 (407) 836-7940	 ORANGE COUNTY GOVERNMENT FLORIDA	DRAWING SCALE: 1"=100'
CHECKED BY: Muscatello	JOB No: 7946	TOWNSHIP: 24			PROJECT NUMBER
APPROVED BY: Muscatello	DRAWING FILE: 7946 OUC RR Crossing	RANGE: 31			7946
REVISION DATE:		SHEET 2 OF 2			

Agreement Regarding Further Realignment of  
Moss Park Road (Innovation Way South Interchange) – Exhibit D  
ORL 299576788v1

**EXHIBIT “E”**  
**FORM OF DEED**

PREPARED BY

Joseph J. JeBailey, Esq.  
Greenberg Traurig, LLP  
450 S. Orange Avenue, Suite 650  
Orlando, Florida 32801

AFTER RECORDING RETURN TO

Orange County Real Estate Management Division  
400 East South Street, 5<sup>th</sup> floor  
Orlando, FL 32801

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

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.

**SPECIAL WARRANTY DEED**

**THIS SPECIAL WARRANTY DEED** is made and entered into as of this 29th day of August, 2017, by **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 (hereinafter collectively called the “Grantor”), to **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 “Grantee”).

[Wherever used herein, the terms “grantor” and “grantee” shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.]

**W I T N E S S E T H:**

**THE GRANTOR**, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, all of that certain land situated in Orange County, Florida (the “Property”), as more particularly described as follows:

**SEE EXHIBIT “A” ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.**

**TOGETHER** with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, to have and to hold the same in fee simple, subject to all existing matters of record and the following conditions, reservations and restrictions.

**IT IS** the express intention of Grantor, by delivery of this Special Warranty Deed, to convey to Grantee, the Property for use as a dedicated public right-of-way. In accepting this Deed, Grantee hereby agrees that if and when: (i) the realignment of Moss Park Road is not substantially completed on or before the date that is three (3) years after \_\_\_\_\_, 2017, as such realignment is contemplated by that certain Agreement Regarding Further Realignment of Moss Park Road (Innovation Way South Interchange) made by and between Grantor and Grantee, dated \_\_\_\_\_, 2017; or (ii) the Property is no longer used by the public for vehicular traffic, as a dedicated public right-of-way, then title to the Property shall immediately and automatically revert to Grantor, its successors and assigns, and Grantor shall have the right to immediately repossess the Property. Furthermore, in such event, Grantee hereby agrees to execute any further instrument or document as may be reasonably necessary in order to evidence, effectuate or complete the revision of title to Grantor.

**RESERVING, HOWEVER,** unto Grantor, a perpetual, non-exclusive access and use 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 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 Grantor, in its sole discretion, may in the future require to be located on the 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 Grantor 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 about the Property, as Grantor, in its sole discretion, may deem necessary to locate on the Property. The easement shall at all times remain open and accessible to Grantor, its employees, invitees, licensees, agents, contractors and subcontractors for vehicular or pedestrian access and use. If Grantee should install any fences, walls or other enclosures on the 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.

**SUBJECT, HOWEVER,** to the following restrictive covenant. In accepting this Deed from Grantor, Grantee hereby agrees that the Property shall be subject to the following restrictive covenant. For so long as the Property is used by the public for vehicular traffic, as a dedicated public right-of-way, no new property interest shall be granted over, under, on or through the Property, which property interests include, but are not limited to, permits, licenses, or easements of any kind or for any purpose. The foregoing notwithstanding, there shall be no prohibition against the grant of any easement, license or permit related to certain non-OUC owned lighting facilities that Grantee may relocate through, on or over, or cause to be relocated within, the Property.

**TO HAVE AND TO HOLD** the Property unto Grantee in fee simple, forever.

**AND**, Grantor hereby covenants with Grantee that Grantor is lawfully seized of the Property in fee simple; and that Grantor has good right and lawful authority to sell and convey the Property.

**AND**, Grantor hereby covenants with Grantee that Grantor warrant and will defend the Property against the lawful claims of all persons claiming by, through or under Grantor alone, but against none other.

[Signatures Appear on the Following Pages]

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in its name thereunto duly authorized, the day and year first above written.

WINESES:

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

\_\_\_\_\_  
Print Name:\_\_\_\_\_

By:\_\_\_\_\_

\_\_\_\_\_  
Print Name:\_\_\_\_\_

Name:\_\_\_\_\_

Title:\_\_\_\_\_  
(MUNICIPAL SEAL)

Attest:

\_\_\_\_\_  
Print Name:\_\_\_\_\_

By:\_\_\_\_\_

Name:\_\_\_\_\_

Title: \_\_\_\_\_ City Clerk

\_\_\_\_\_  
Print Name:\_\_\_\_\_

Date: \_\_\_\_\_, 2017

STATE OF FLORIDA       )  
                                      )  
COUNTY OF ORANGE    )       ss:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of August, 2017 by \_\_\_\_\_, the \_\_\_\_\_ of the CITY OF ORLANDO. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

Notary Stamp:

\_\_\_\_\_  
NOTARY PUBLIC

Approved as to form and legality.  
OUC Legal Department.

Date: \_\_\_\_\_, 2017

By: \_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

(COMMISSION SEAL)

STATE OF FLORIDA        )

)

ss:

COUNTY OF ORANGE     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of August, 2017,  
by \_\_\_\_\_, the \_\_\_\_\_ of the  
ORLANDO UTILITIES COMMISSION. He/She [ ] is personally known to me or has  
produced \_\_\_\_\_ as identification.

Notary Stamp:

\_\_\_\_\_  
NOTARY PUBLIC

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

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2017

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**SCHEDULE "A"**  
**LEGAL DESCRIPTION**

**Parcel 101 B**

**Estate: Fee Simple**

**Purpose: Road Right of Way**

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 South right of way line 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, run N89°49'31"W along said South right of way line of Moss Park Road for a distance of 134.74 feet; thence run S57°15'58"W along the Northerly right of way line of an 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 52.74 feet to the Point of Beginning; also being a point lying on a non-tangent curve concave Northeasterly, having a radius of 1,081.00 feet, a chord bearing of S40°01'36"E, a chord distance of 262.09 feet, and a central angle of 13°55'32"; thence run Southeasterly along the arc of said curve for a distance of 262.73 feet to a point lying on the Southerly right of way line of said railroad right of way; thence run S57°15'58"W along said Southerly right of way line for a distance of 53.66 feet to a point lying on the Northeasterly right of way line of Moss Park Road, as described in Official Record Book 6175, page 8643 of the Public Records of Orange County, Florida; thence run Northwesterly along said right of way line N58°53'44"W for a distance of 97.56 feet to a point of curvature of a non-tangent curve concave Southwesterly, having a radius of 2,165.00 feet, a chord bearing of N60°44'13"W, a chord distance of 139.15 feet, and a central angle of 03°40'59"; thence run Northwesterly along the arc of said curve for a distance of 139.17 feet to a point on a non-tangent curve concave Northeasterly, having a radius of 1,211.00 feet, a chord bearing of N34°12'03"W, a chord distance of 49.56 feet, and a central angle of 02°20'42"; thence departing said right of way line, run Northwesterly along the arc of said curve for a distance of 49.56 feet to a point lying on the Northerly right of way line of said Orlando Utilities Commission railroad right of way; thence run N57°15'58"E along said Orlando Utilities Commission railroad right of way line for a distance of 130.00 feet to the Point of Beginning.

Containing 24,717.33 square feet or 0.57 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:	RANGE: 31		
REVISION DATE:	7946 OUC RR Crossing	SHEET 1 OF 2		

Exhibit A



**Estate: Fee Simple    Purpose: Road Right of Way**

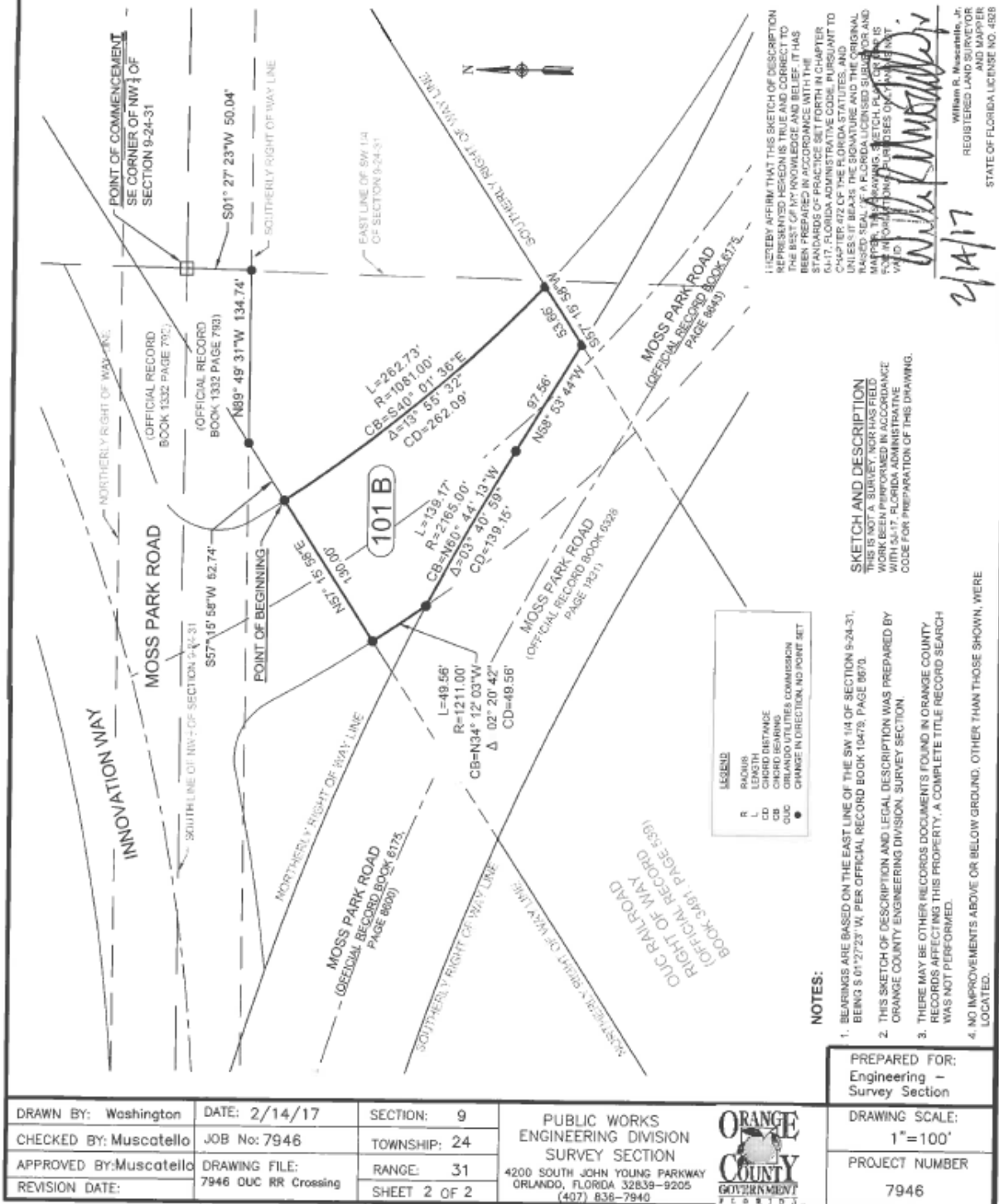


Exhibit B

Special Warranty Deed  
ORL 299476968v2

**EXHIBIT “F”**

**FORM OF TEMPORARY CONSTRUCTION EASEMENT**

**THIS INSTRUMENT WAS PREPARED BY:**

Joseph J. JeBailey, Esq.  
Greenberg Traurig, LLP  
450 S. Orange Avenue, Suite 650  
Orlando, Florida 32801

**AFTER RECORDING RETURN TO:**

Orange County Real Estate Management Division  
400 East South Street, 5<sup>th</sup> floor  
Orlando, FL 32801

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

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.

**TEMPORARY CONSTRUCTION EASEMENT AGREEMENT**

**THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT** (“Easement Agreement”) is made as of the last date signed below (the “Effective Date”) , by and among **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 (hereinafter collectively called the “Grantor”), and **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 “Grantee”).

**WITNESSETH:**

**WHEREAS**, Grantor is the owner of certain land in Orange County, Florida (hereinafter, the “OUC Right of Way”) by virtue of that certain instrument recorded in Official Records Book 3491, Page 539, Public Records of Orange County, Florida, as more fully described in Exhibit “A” attached hereto. The OUC Right of Way is improved by rail lines which are operated by OUC to access and deliver energy producing materials to the Curtis Stanton Energy Plant (the “Stanton Plant”); and

**WHEREAS**, the Grantee is the owner of certain land in Orange County, Florida (hereinafter the “Existing Crossing Area”) by virtue of the instrument originally recorded in Official Records Book 6273, Page 4900, and re-recorded, to evidence proper approval and acceptance by the Board of County Commissioners, in Official Records Book 6328, Page 1831, Public Records of Orange County, Florida, as more fully described in Exhibit “B” attached hereto; and

**WHEREAS**, Grantor and Grantee have entered into that certain unrecorded Agreement Regarding Further Realignment of Moss Park Road (the “Realignment Agreement”), of even date herewith, a copy of which is on file at Grantee’s Public Works Department and at Grantor’s office located at the address shown below in Section 10, whereby, in exchange for certain rights, Grantor shall grant to Grantee a certain parcel of land (the “Additional Parcel”) (as the same term is used in the Realignment Agreement), as more fully described in Exhibit “C” attached hereto; and

**WHEREAS**, pursuant to the Realignment Agreement, Grantee shall, at no cost to Grantor , cause the realignment of Moss Park Road, including the demolition of the existing roadway and railroad crossing improvements located within the Existing Crossing Area, and the construction and installation of the realigned roadway and railroad crossing improvements located within the Realigned Crossing Area (as defined in the Realignment Agreement), along with certain other improvements related thereto (collectively, the “Improvements”); and

**WHEREAS**, in accordance with Section 3 of the Realignment Agreement, Grantee desires to obtain a non-exclusive temporary grading, slope, access and construction easement (the “Easement”) on, over and through a portion of the OUC Right of Way that lies within fifteen (15) feet of either side of the Existing Crossing Area and Additional Parcel (the “Temporary Easement Area”) (as more fully described in Exhibit “D”), for the purpose of access, ingress and egress of motor vehicles, construction vehicles, equipment and personnel to facilitate the site preparation, grading and construction of the Improvements (the “Permitted Use”); and

**WHEREAS**, Grantor has agreed to grant such Easement subject to the terms and conditions herein provided, and the terms and conditions of the Realignment Agreement.

**NOW, THEREFORE**, for and in consideration of the foregoing premises, the mutual agreement of the parties hereto, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

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

**2. Grant, Use and Maintenance of Easement.** Grantor does hereby give, grant and convey unto Grantee (its successors and assigns) the Easement for the Permitted Use, on, over and across the Temporary Easement Area. This Easement shall be used by Grantee (and its successors, assigns, employees, contractors and agents) solely

for the Permitted Use. The respective obligations of the parties relating to the construction and installation of the Improvements, the supplying of materials associated therewith, the timing thereof, the continuing maintenance, and all costs related thereto are set forth in the Realignment Agreement. Notwithstanding the foregoing, Grantee shall not construct any Improvements in the Temporary Easement Area or perform any maintenance work within the Temporary Easement Area without the prior written consent of OUC. This Easement is subject to the terms, conditions, restrictions and limitations set forth herein and in the Realignment Agreement.

(a) Grantee shall coordinate all aspects of the Improvements and use of the Temporary Easement Area with OUC.

(b) Grantee covenants and agrees that it shall comply with the 25 Foot Requirement, as required by the Realignment Agreement.

(c) Grantee covenants and agrees, as required by the Realignment Agreement, to employ the services of a flagman, which flagman shall be a contractor of OUC or an employee of OUC, at OUC's sole discretion, whenever use of the Temporary Easement Area requires Grantee's contractors (i) to work inside the 25 Foot Requirement; or (ii) requires Grantee's contractors or any equipment to potentially reach within the 25 Foot Requirement. Grantee further covenants and agrees to reimburse OUC for the services of a flagman, according to the terms of the Realignment Agreement. Grantee further acknowledges that flagging services will be required on site for the time period which is approximately one-half hour before the arrival of any train until the time the train clears the flagged area on its return trip (which time shall include unloading time at the Stanton Plant). Prior to any construction equipment crossing the railroad track, a flagman shall be in place unless otherwise agreed to by OUC (for instance OUC may, in its sole discretion, so agree when a portable signalization has been installed and is in working condition). Grantee shall notify OUC (in the manner described in the Realignment Agreement to obtain the required authorization) at least four (4) hours prior to any traversal of the railroad track by any "low-boy" type of construction equipment or vehicles.

(d) Grantee acknowledges that it may use trucks carrying fill dirt and other construction materials over the railroad track within and in the vicinity of the Temporary Easement Area. Grantee shall cause the railroad track affected by such activity to be cleaned and swept daily to insure that the track flange-way remains free and clear of sand, dirt, debris or other material and the railroad bed is kept free from obstructions.

**3. Grantor's Reservation of Rights.** Subject to the rights created herein, Grantor expressly reserves (to itself, its successors and assigns) the right to use, or to grant to others the right to use by virtue of additional licenses, right of ways, reservations or easements, any and all portions of the area upon, above, or under the Temporary Easement Area (in Grantor's reasonable discretion) for any purpose whatsoever not

inconsistent with the rights herein granted, including, but not limited to, the right of ingress and egress over and across the Temporary Easement Area onto any adjacent or contiguous property; provided, such right does not unreasonably interfere with Grantee's Permitted Use of the Temporary Easement Area pursuant to the terms hereof.

**4. Limitation of Rights.** The Easement granted herein creates a non-exclusive easement, and, other than such easement right, Grantee does not and shall not (at any time) claim any interest or estate of any kind or extent whatsoever in the Temporary Easement Area.

**5. Covenants of Grantee.** Grantee (and its successors, assigns, agents, invitees and employees) shall:

(a) not interfere with or prevent the normal development, use and maintenance by OUC of the Temporary Easement Area, or City and OUC's adjacent properties, if any, nor interfere with the use by OUC of its rail line(s) within the OUC Right of Way;

(b) not interfere with or prevent any development, construction, improvement, or other activity or use by OUC now or in the future existing on or about the Temporary Easement Area so long as such use does not materially and adversely interfere with Grantee's Permitted Use of the Temporary Easement Area;

(c) not intentionally interfere with any existing license, easement, reservation or right of way upon, above, over, through, under or across the Temporary Easement Area;

(d) not intentionally interfere with any hereafter granted license, easement, reservation or right of way upon, above, over, through, under or across the Temporary Easement Area so long as such license, easement, reservation or right of way does not materially and adversely interfere with Grantee's Permitted Use of the Temporary Easement Area;

(e) exercise diligent good faith efforts to comply at all times and in all respects with all present and future local, municipal, county, state and federal environmental and all other applicable laws, statutes, governmental constitutions, ordinances, codes, rules, regulations, resolutions, requirements, standards, applications and directives, as well as all decisions, judgments, writs, injunctions, orders, decrees or demands of courts, administrative bodies and other authorities construing any of the foregoing (collectively, the "Laws"). Grantee shall also obtain, maintain and comply with all applicable permits in connection with Grantee's use of the Temporary Easement Area. Grantee shall not, by any act or omission, render the Grantor liable for any violation thereof. Grantee shall promptly deliver to OUC true and accurate copies of all applicable

permits upon issuance and shall pay all costs and expenses incurred with respect to compliance with this subparagraph;

(f) to the extent Grantee constructs any improvements within the Temporary Easement Area pursuant to the terms of the Realignment Agreement, construct such improvements in compliance with all applicable Laws and permits, in an expeditious and good and workmanlike manner; and

(g) not act (or fail to act) in a way which permits any lien to be filed in connection with Temporary Easement Area for any labor or materials in connection with work of any character performed or claimed to have been performed on or within the Temporary Easement Area at the direction or sufferance of Grantee or its assigns. If any such lien is filed in connection with the Temporary Easement Area, OUC shall have the right (but not the obligation) to transfer such lien to security as provided in Chapter 713 of the Florida Statutes. Grantee shall pay on demand all of OUC's costs in connection therewith, together with interest thereon at the interest rate set forth in Section 6 hereof accruing from and after the date of such expenditure until OUC's receipt of full payment therefor.

6. **Breach by Grantee.** If Grantee breaches any provision of this Easement Agreement and fails to cure any such breach within thirty (30) days after written notice thereof is given by OUC (unless, with respect to any such breach the nature of which cannot reasonably be cured within such thirty (30) day period, Grantee commences such cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion), in addition to any other right or remedy available to OUC at law or in equity, OUC shall have the right, but not the obligation, to cure any such breach. Grantee shall reimburse OUC for the cost thereof upon demand, together with interest accruing thereon at the highest rate of interest allowable by law, from and after the date of OUC's expenditure thereof, until OUC's receipt of full payment therefor.

7. **Condition of Temporary Easement Area.** Grantee acknowledges that it (i) has physically inspected the Temporary Easement Area, and (ii) accepts the Temporary Easement Area "AS IS" and "WHERE IS" with full knowledge of the conditions thereof and subject to all the terms, conditions, restrictions and limitations applicable thereto. Grantor makes no representations, statements, warranties or agreements to Grantee in connection with this Easement Agreement or the Temporary Easement Area, other than as may be set forth herein or in the Realignment Agreement. Subject to the terms of the Realignment Agreement, Grantee's use of the Temporary Easement Area is at its own risk and Grantor shall have no liability or obligation for or with respect to any loss or damage suffered by Grantee's or related to Grantee's improvements within the Temporary Easement Area.

8. **Termination/Expiration of Easement.** Grantee acknowledges that this Easement Agreement, and Grantee's rights in and to the Easement granted herein, shall

immediately self-terminate, expire and be deemed null and void upon the earlier occurrence of: (i) the date Grantee accepts the Realigned Roadway Improvements (as defined in the Realignment Agreement) for maintenance; or (ii) three (3) years after execution of this Easement Agreement; provided, however, in no event shall the term of this Easement Agreement exceed a period which is more than thirty-six (36) months from the date of this Easement Agreement.

**9. Modifications.** This Easement 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.

**10. Notice.** Any notice required to be given shall be sufficient if it is in writing and sent via certified or registered mail, return receipt requested, postage prepaid to OUC at:

OUC: Kenneth P. Ksionek  
General Manager and Chief Executive Officer  
Orlando Utilities Commission  
100 West Anderson Street  
Orlando, Florida 32801

With copy to: W. Christopher Browder  
Vice President and General Counsel  
Orlando Utilities Commission  
100 West Anderson Street  
Orlando, Florida 32801

With copy to: Joseph J. JeBailey, Esq.  
Greenberg Traurig, P.A.  
450 South Orange Avenue, Suite 650  
Orlando, Florida 32801

Grantee: County Administrator  
Orange County, Florida  
201 South Rosalind Avenue, Fifth Floor  
P.O. Box 1393  
Orlando, Florida 32802-1393

With copy to: Manager, Orange Public Works Engineering Division  
Orange County, Florida  
4200 South John Young Parkway  
Orlando, Florida 32839

**11. Indemnification.** To the extent permitted by F.S. 768.28, and without waiving its protections, Grantee shall defend, hold harmless, and indemnify Grantor from all claims, damages, losses, and/or expenses (including any reasonable attorneys' fees

and costs) attributable to the Grantee's negligent or intentional acts or omissions, or arising out of or resulting from the negligent performance of Grantee's obligations and operations under this Easement Agreement. Nothing contained herein shall constitute a waiver by any party of any applicable sovereign immunity as described under the provisions of Section 768.28, Florida Statutes. Nothing contained herein shall constitute a limit on any insurance coverage limits or amounts as set forth below. This provision is not intended to and shall not constitute an agreement by any party to assume liability for the acts or omissions of another.

**12. Counterparts.** This Easement Agreement may be executed in counterparts; each of which shall be deemed to be an original and all of which shall together constitute one and the same instrument.

**13. Governing Law.** This Easement Agreement shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Florida.

**14. 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 Easement Agreement, or arising out of any matter pertaining to this Easement Agreement, shall be submitted for trial, without jury, before the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida. If the Circuit Court does not have jurisdiction, the matter shall be submitted to the United States District Court for the Middle District of Florida (Orlando Division). If neither of such courts shall have jurisdiction, then submittal shall be 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.

**15. Binding Obligations.** This Easement Agreement shall be binding upon Grantor and Grantee, and inure to the benefit of their respective successors and assigns.

**16. Construction of Agreement.** This Easement Agreement has been fully reviewed and approved by the parties hereto and their respective counsel. Accordingly, in interpreting this Easement Agreement, no weight shall be placed upon which party hereto or its counsel drafted the provisions being interpreted. Section headings are for convenience only and shall not be considered in construing this Easement Agreement.



**17. No Implied Waiver.** No course of dealing between the parties and no delay in exercising any right, power or remedy conferred hereby or now 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. All waivers, if any, of any and all of the foregoing rights, powers or remedies must be in writing.

**18. No Public Rights Created.** Nothing herein shall create or be construed to create any rights in and/or for the benefit of the general public in or to the Temporary Easement Area or the Easement granted hereby.

**19. Severability.** Each paragraph, subparagraph, part, term and/or provision of this Easement Agreement shall be considered severable; and if, for any reason, any paragraph, term and/or provision is herein determined to be invalid or contrary to or in conflict with any existing or future law or regulation of a court or agency having valid jurisdiction, such shall not impair the operation or effect the remaining portions, paragraphs, terms and/or provisions of this Easement Agreement, and the latter will be given full force and effect and will bind the parties hereto; and said invalid paragraphs, terms and/or provisions shall be deemed not to be part of this Easement Agreement.

[Signatures Appear on Following Pages]

**IN WITNESS WHEREOF** the parties hereto have executed this Easement Agreement in duplicate on the dates written below.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_

Print: \_\_\_\_\_

\_\_\_\_\_

Print: \_\_\_\_\_

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

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

(COMMISSION SEAL)

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2017

Approved by OUC as to  
Legal Description:

\_\_\_\_\_  
OUC

Approved by OUC as to Form  
Other than Legal Description:

\_\_\_\_\_  
OUC Attorney

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of August, 2017, by \_\_\_\_\_, as \_\_\_\_\_ of ORLANDO UTILITIES COMMISSION, a statutory commission organized and 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:

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:

**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

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

(COUNTY SEAL)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Deputy Clerk

Date: \_\_\_\_\_, 2017

**Exhibit "A"**  
**Legal Description of the 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°26'08" 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

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 5729.58 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

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



**Exhibit "B" (page 1 of 2)**  
**Legal Description and Sketch of the Existing Crossing Area**

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 B

# Exhibit "B" (page 2 of 2)

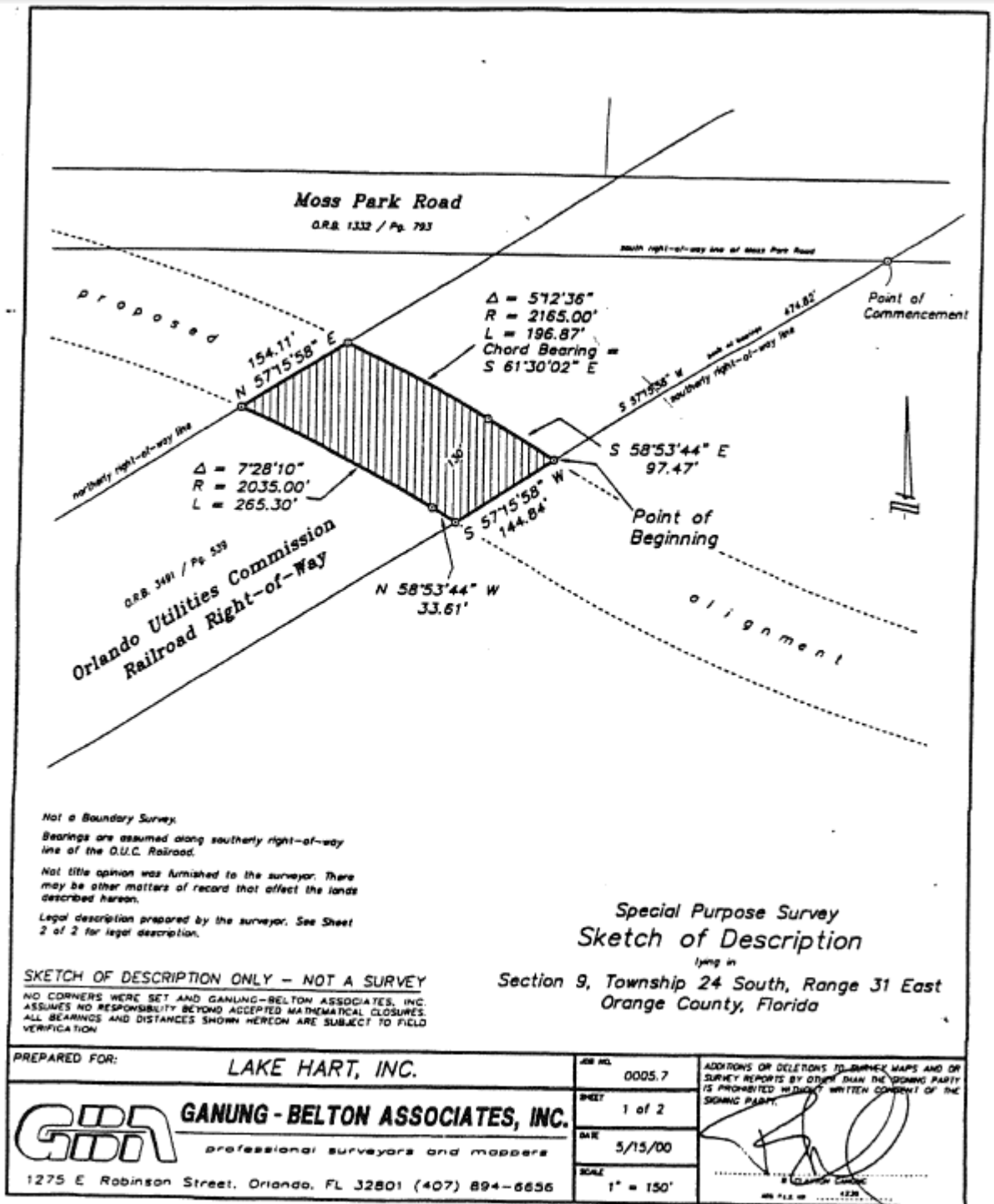


Exhibit B

**Exhibit "C" (page 1 of 2)**  
**Legal Description and Sketch of the Additional Parcel**

**SCHEDULE "A"**  
**LEGAL DESCRIPTION**

**Parcel 101 B**

**Estate: Fee Simple**

**Purpose: Road Right of Way**

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 South right of way line 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, run N89°49'31"W along said South right of way line of Moss Park Road for a distance of 134.74 feet; thence run S57°15'58"W along the Northerly right of way line of an 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 52.74 feet to the Point of Beginning; also being a point lying on a non-tangent curve concave Northeasterly, having a radius of 1,081.00 feet, a chord bearing of S40°01'36"E, a chord distance of 262.09 feet, and a central angle of 13°55'32"; thence run Southeasterly along the arc of said curve for a distance of 262.73 feet to a point lying on the Southerly right of way line of said railroad right of way; thence run S57°15'58"W along said Southerly right of way line for a distance of 53.66 feet to a point lying on the Northeasterly right of way line of Moss Park Road, as described in Official Record Book 6175, page 8643 of the Public Records of Orange County, Florida; thence run Northwesterly along said right of way line N58°53'44"W for a distance of 97.56 feet to a point of curvature of a non-tangent curve concave Southwesterly, having a radius of 2,165.00 feet, a chord bearing of N60°44'13"W, a chord distance of 139.15 feet, and a central angle of 03°40'59"; thence run Northwesterly along the arc of said curve for a distance of 139.17 feet to a point on a non-tangent curve concave Northeasterly, having a radius of 1,211.00 feet, a chord bearing of N34°12'03"W, a chord distance of 49.56 feet, and a central angle of 02°20'42"; thence departing said right of way line, run Northwesterly along the arc of said curve for a distance of 49.56 feet to a point lying on the Northerly right of way line of said Orlando Utilities Commission railroad right of way; thence run N57°15'58"E along said Orlando Utilities Commission railroad right of way line for a distance of 130.00 feet to the Point of Beginning.

Containing 24,717.33 square feet or 0.57 acres, more or less.


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

Exhibit C

# Exhibit "C" (page 2 of 2)

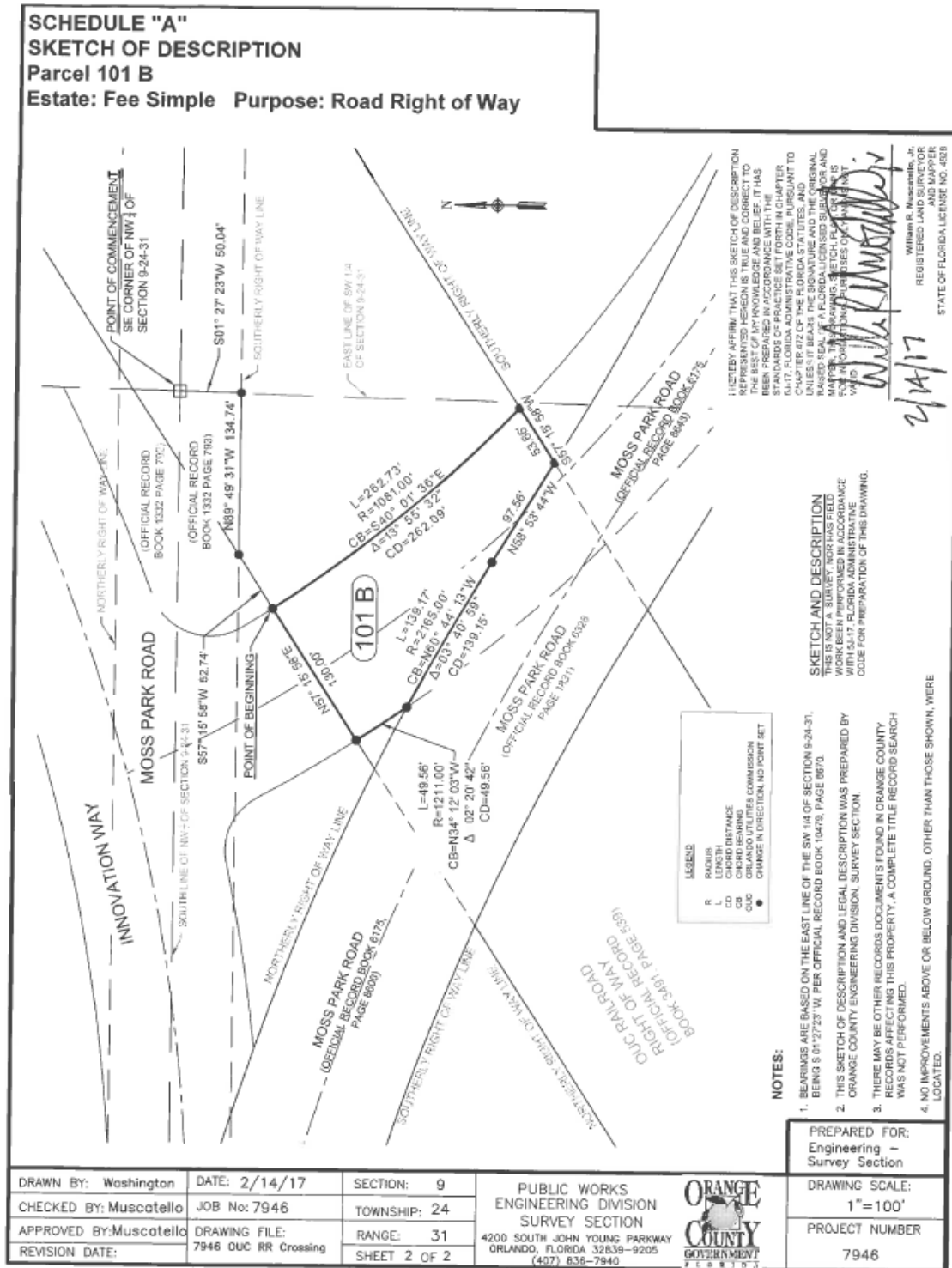


Exhibit C

**Exhibit "D" (page 1 of 2)**  
**Legal Description and Sketch of the Temporary Easement Area**

**SCHEDULE "A"**

**LEGAL DESCRIPTION**

**Parcel 701 G**

**Estate: Temporary Easement**

**Purpose: Temporary Construction**

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 37.74 feet to the Point of Beginning; said point lying on a non-tangent curve concave Northeasterly, having a radius of 1,066.00 feet, a chord bearing of S40°07'53"E, a chord distance of 262.15 feet, and a central angle of 14°07'33"; thence run along the arc of said curve for a distance of 262.82 feet to a point lying on the Southerly right of way line of the aforementioned railroad right of way; thence run S57°15'58"W along said Southerly railroad right of way line for a distance of 230.70 feet; thence departing said Southerly railroad right of way line, run N58°53'44"W for a distance of 26.24 feet to a point of tangency of a curve concave Southwesterly, having a radius of 2,020.00 feet, a chord bearing of N62°46'18"W, a chord distance of 273.09 feet, and a central angle of 07°45'07"; thence run Northwesterly along the arc of said curve for a distance of 273.30 feet to a point lying on said Northerly railroad right of way line; thence run N57°15'58"E along said Northerly railroad right of way line for a distance of 345.22 feet to the Point of Beginning.

Containing 72,363.10 square feet or 1.66 acres, more or less.


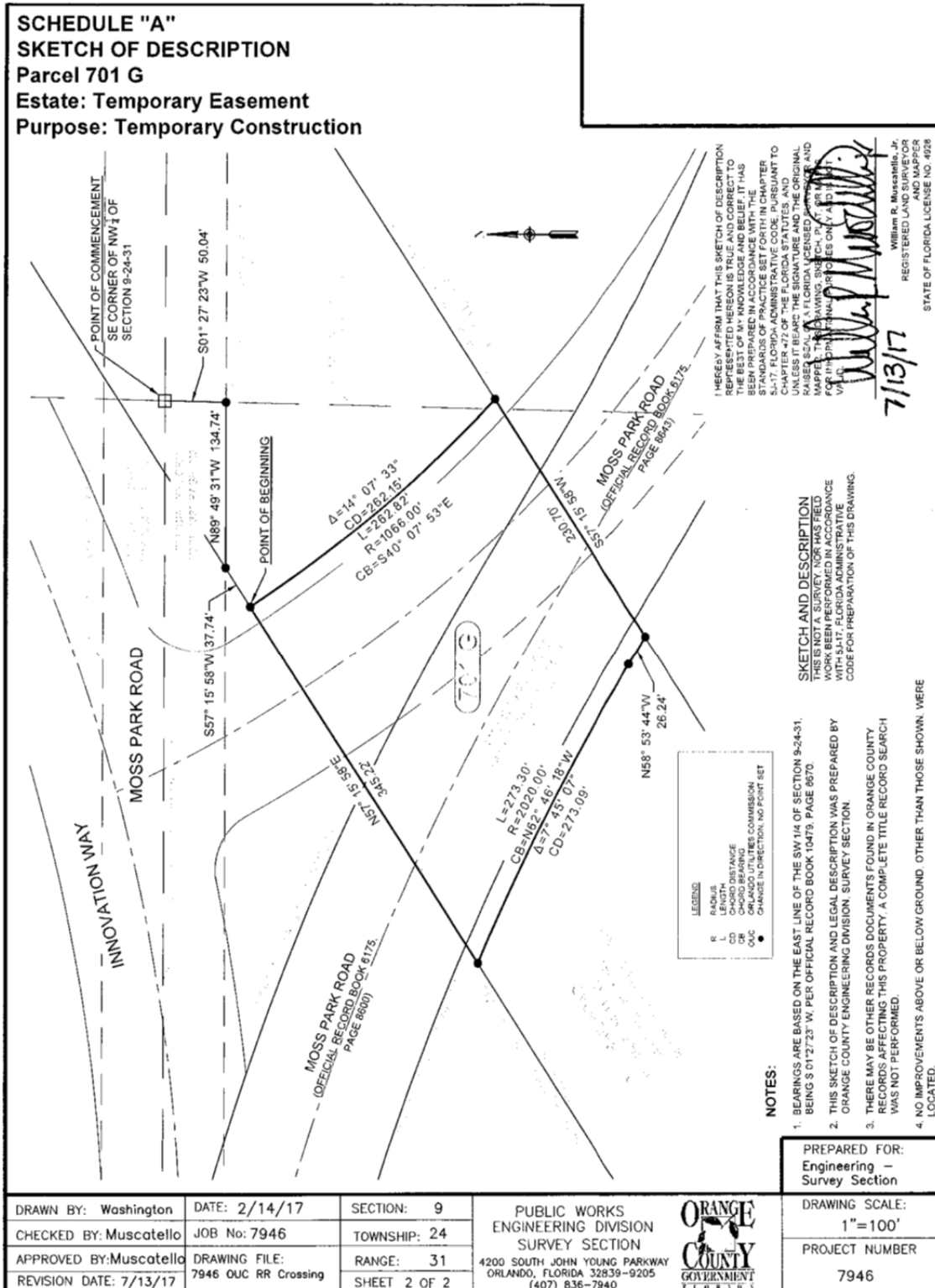
PREPARED FOR: Engineering Design Section		ORANGE COUNTY PUBLIC WORKS ENGINEERING DIVISION		
DRAWN BY: Washington	DATE: 2/14/17	SECTION: 9	<div>SURVEY SECTION</div> <div>4200 SOUTH JOHN YOUNG PARKWAY ORLANDO, FLORIDA 32839-9205 (407) 836-7940</div> <div> ORANGE COUNTY GOVERNMENT FLORIDA</div>	DRAWING SCALE: NTS
CHECKED BY: Muscatello	JOB No: 7946	TOWNSHIP: 24		PROJECT NUMBER
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31		7946
REVISION DATE: 7/13/17	7946 OUC RR Crossing	SHEET 1 OF 2		

Exhibit D

# Exhibit "D" (page 2 of 2)





**EXHIBIT "G" (page 1 of 2)**

**Legal Description and Sketch of Temporary Easement Area**

**SCHEDULE "A"**

**LEGAL DESCRIPTION**

**Parcel 701 G**


**Estate: Temporary Easement**

**Purpose: Temporary Construction**

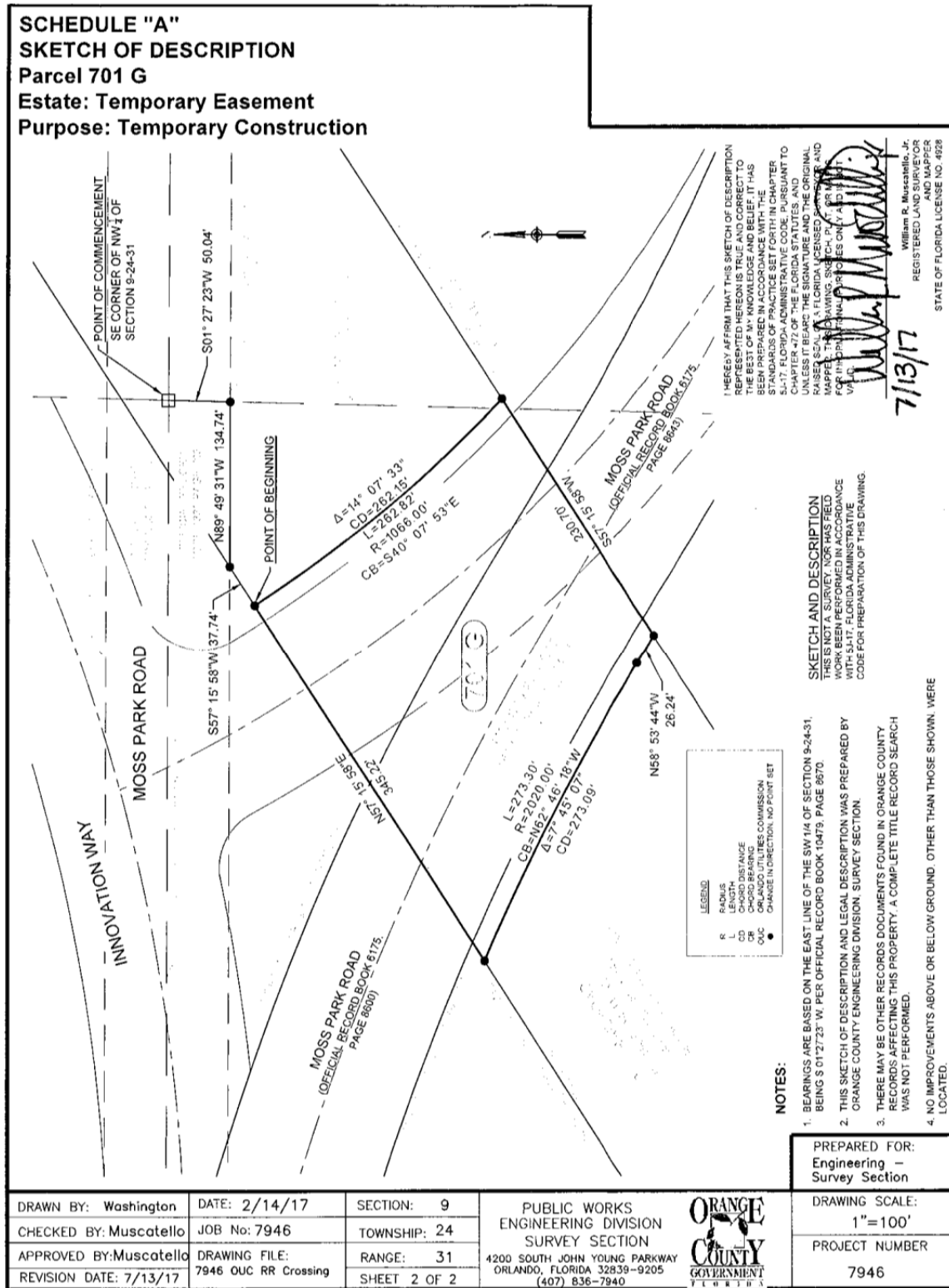
A portion of Section 9, Township 24 South, Range 31 East, Orange County, Florida, being more particularly described as follows:

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 37.74 feet to the Point of Beginning; said point lying on a non-tangent curve concave Northeasterly, having a radius of 1,066.00 feet, a chord bearing of S40°07'53"E, a chord distance of 262.15 feet, and a central angle of 14°07'33"; thence run along the arc of said curve for a distance of 262.82 feet to a point lying on the Southerly right of way line of the aforementioned railroad right of way; thence run S57°15'58"W along said Southerly railroad right of way line for a distance of 230.70 feet; thence departing said Southerly railroad right of way line, run N58°53'44"W for a distance of 26.24 feet to a point of tangency of a curve concave Southwesterly, having a radius of 2,020.00 feet, a chord bearing of N62°46'18"W, a chord distance of 273.09 feet, and a central angle of 07°45'07"; thence run Northwesterly along the arc of said curve for a distance of 273.30 feet to a point lying on said Northerly railroad right of way line; thence run N57°15'58"E along said Northerly railroad right of way line for a distance of 345.22 feet to the Point of Beginning.

Containing 72,363.10 square feet or 1.66 acres, more or less.

PREPARED FOR: Engineering Design Section		ORANGE COUNTY PUBLIC WORKS ENGINEERING DIVISION			
DRAWN BY: Washington	DATE: 2/14/17	SECTION: 9	<div>SURVEY SECTION</div> <div>4200 SOUTH JOHN YOUNG PARKWAY ORLANDO, FLORIDA 32839-9205 (407) 836-7940</div> <div></div>	DRAWING SCALE: NTS	
CHECKED BY: Muscatello	JOB No: 7946	TOWNSHIP: 24		PROJECT NUMBER 7946	
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31			
REVISION DATE: 7/13/17	7946 OUC RR Crossing	SHEET 1 OF 2			

# Exhibit "G" (page 2 of 2)



Agreement Regarding Further Realignment of  
Moss Park Road (Innovation Way South Interchange) – Exhibit G  
ORL 299576788v1



**EXHIBIT "H"**  
**FORM OF OUC EASEMENT**

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

Joseph J. JeBailey, Esq.  
Greenberg Traurig, LLP  
450 S. Orange Avenue, Suite 650  
Orlando, Florida 32801

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

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 (5<sup>th</sup>) 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]

**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

**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)

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: \_\_\_\_\_

(MUNICIPAL SEAL)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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**

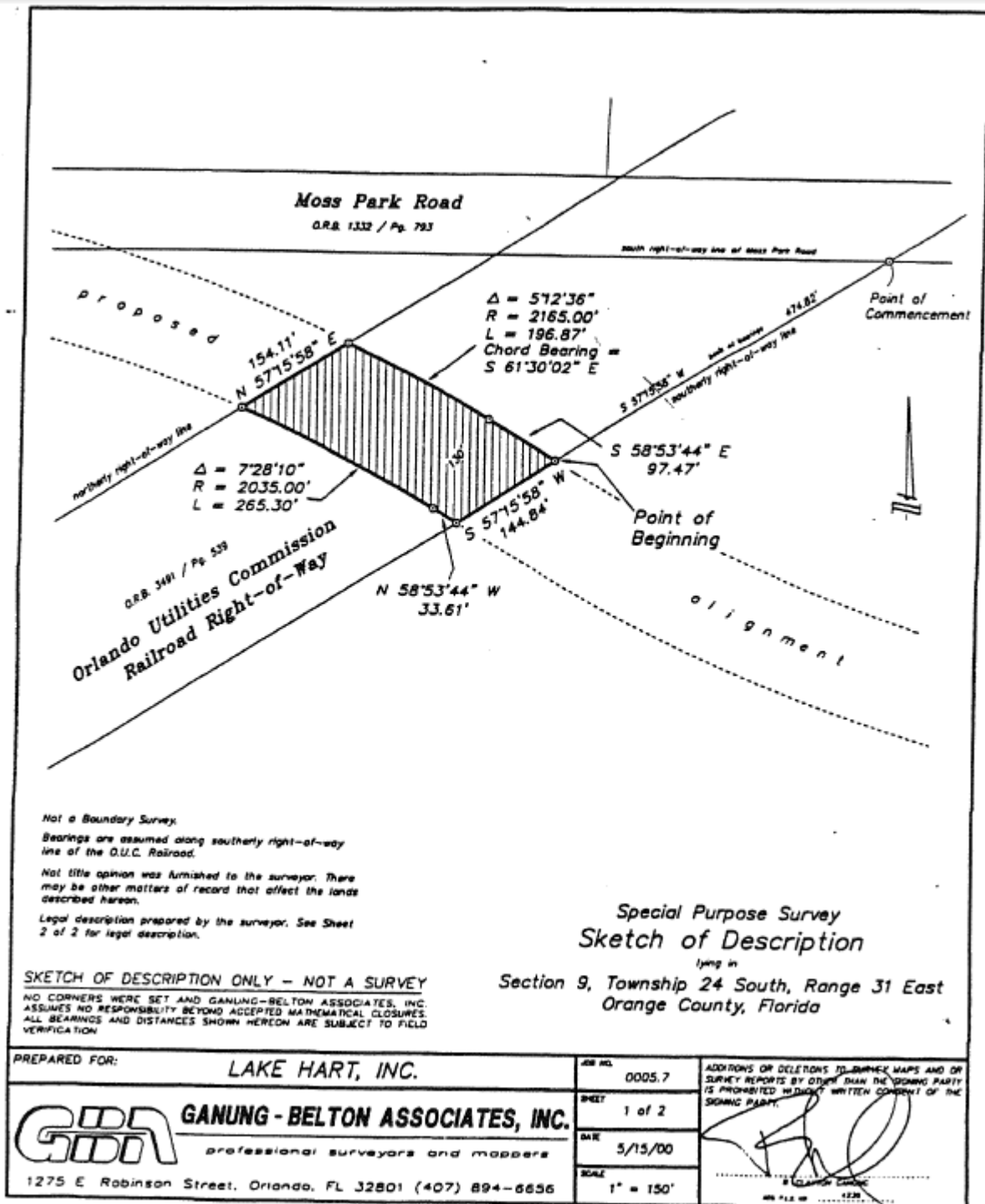
Legal Description

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:

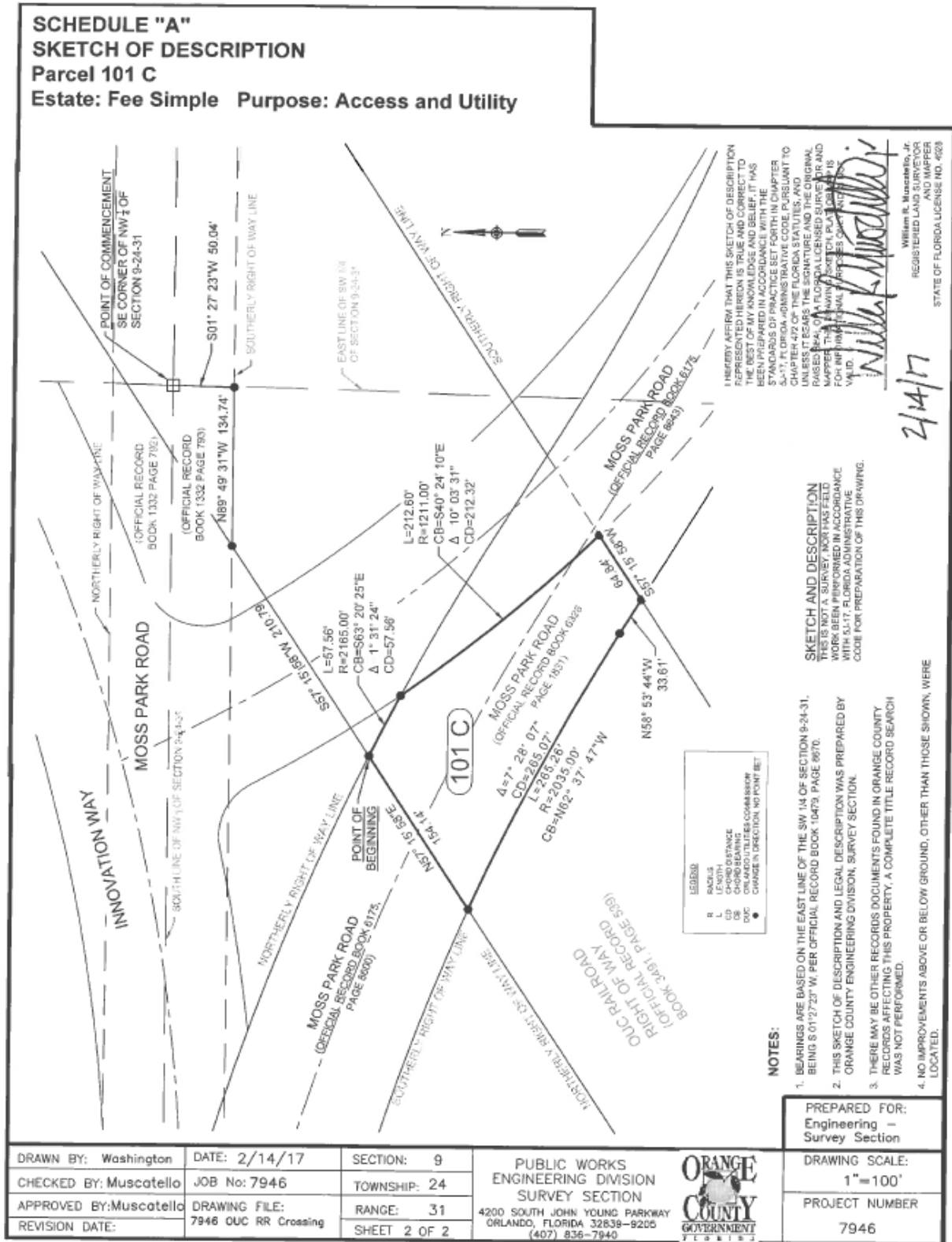
Commence at the Southeast corner of the Northwest 1/4 of Section 9, Township 24 South, Range 31 East, Orange County, Florida, thence run S01°27'23"W along the East line of the Southwest 1/4 of said Section 9 for a distance of 50.04 feet to a point lying on the Southerly right of way of Moss Park Road 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 32838-9205 (407) 836-7940	DRAWING SCALE:	
CHECKED BY: Muscatello	JOB No: 7946	TOWNSHIP: 24		NTS	
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31		PROJECT NUMBER	
REVISION DATE:	7946 OUC RR Crossing	SHEET 1 OF 2		7946	

[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°26'08" 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 1003.19 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 B to Easement Agreement with Covenants and Restrictions Affecting the Land]*

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 5729.58 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.

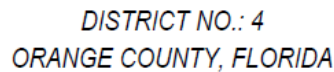
*[Exhibit B to Easement Agreement with Covenants and Restrictions Affecting the Land]*

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.

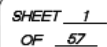
*[Exhibit B to Easement Agreement with Covenants and Restrictions Affecting the Land]*

2/2/2011 1:05 PM [WORLDWIDE@EBC1.COM](mailto:WORLDWIDE@EBC1.COM) & [WWW.IT1103.COM](http://WWW.IT1103.COM)



CONSTRUCTION PLANS WERE PREPARED IN ACCORDANCE WITH THE LATEST MANUAL OF UNIFORM STANDARDS FOR DESIGN, CONSTRUCTION, AND MAINTENANCE FOR STREETS AND HIGHWAYS, FOOT GREEN BOOK, AND THE ORANGE COUNTY REGULATIONS AND SPECIFICATIONS.

DATE: July 30, 2015 ENGINEER: CHRISTINA M. BAXTER  
P.E. NO. 0667947





**EXHIBIT “J”**  
**EMERGENCY NOTIFICATION PROCEDURE**

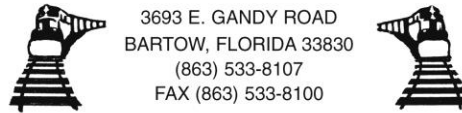
In the event of suspected or actual track damage, security situations, or any other situation that could negatively affect safe train operations, please call one of the following, in order of priority:

<u>Name:</u>	<u>Phone:</u>
Charles Merritt, OUC Contractor President	(863) 581-6525 (cell) after hours only (i.e. after 5:30 pm weekdays, weekends and holidays)
R.W. Summers, OUC contractor	(863) 533-8107 office (business hours only)
Walter Graves	(863) 581-3833 cell
Clint Lalla, OUC Contractor Engineer	(863) 956-7440 cell
Bob Pollack, OUC	(407) 434-4312 office
Bob Pollack, OUC	(407) 274-2340 cell
Lanna Vaughan, OUC	(407) 434-4314 office
Lanna Vaughan, OUC	(321) 332-8186 cell
Mia Torres, OUC	(407) 321-230-6746 cell
Mia Torres, OUC	(407) 434-4313 office
CSX Police	(800) 232-0144

*NOTE: Notification listing is in order of priority. Only one person/company needs to be notified.*

**EXHIBIT "K"**  
**COST ESTIMATES**

R. W. SUMMERS RAILROAD CONTRACTOR, INC.



***www.rwsummers.net***

March 29, 2017

Robert Pollack

Manager, Fuel Services  
Orlando Utilities Commission  
6113 Pershing Avenue  
Orlando, FL 32822

**RE: Moss Park Road Re-Alignment MBM Crossing.**

Dear Mr. Pollack:

We are pleased to submit the following proposal to furnish and install 1 each 120' of MBM Crossing Systems™ at the realigned Moss Park Road.

**MBM Crossing Systems™**

Furnish materials, labor and equipment to install

1 each 120' of MBM Crossing Systems™.

Lump Sum..... \$109,141.00

Proposal includes:

- Mobilization
- Removal of existing track
- Preparation of grade
- Installation of base rock
- Installation of MBM Crossing Systems™ reuse existing rail and weld in.
- Installation of 10' approach ties
- Disposal of debris
- Demobilization

**Remove existing MBM Crossing Systems™**

Furnish materials, labor and equipment to remove

Existing Moss Park Road MBM Crossing Systems™.

Lump Sum..... \$20,995.00

Proposal includes:

- Mobilization
- Sawcut asphalt
- Removal of asphalt
- Removal of existing rails
- Removal and disposal of existing MBM Crossing (140TF)
- Disposal of debris

**Construct Track in area of old crossing**

Furnish materials, labor and equipment to construct

140' of track in area of "old" Moss Park Road crossing.

Lump Sum..... \$21,113.00

Proposal includes:

- Mobilization
- Preparation of grade
- Construction of 140 feet of track using existing rail on new ties
- Installation of granite ballast
- Tamp track
- Clean up and dispose of debris
- Demobilization

**CLARIFICATIONS & EXCEPTIONS:**

Installation of the new MBM Crossing Systems™ will require that the roadway contractor complete the subgrade and base of the realigned Moss Park Road up to the railroad track. This will allow access for crossing installation.

All maintenance of traffic, asphalt paving and concrete curb and sidewalk, BY OTHERS at no additional expense to R.W. Summers Railroad Contractor, Inc.

Any required Signal work will be BY OTHERS at no additional expense to R.W. Summers Railroad Contractor, Inc.

**PAYMENT TERMS:** Net 30 days. Eighteen (18) percent annual interest (1 ½% per month) will be charged on all past due invoices. Collection service and/or attorney fees, if necessary, to be paid by customer.

Our proposal is based upon provision of insurance coverage and limits per attached Exhibit "A".

We are prepared to commence work within 120 calendar days after receipt of a fully executed contract or purchase order. Completion of work to be within 2-3 days (depending on construction sequence) after commencement of work, weather permitting and providing no delays by others. Proposal is valid for 90 days.

We appreciate your business and look forward to serving you. Sincerely,

Clint Lalla  General Manager

**National Signal**  
47433 Ryan Road  
Shelby Township, MI 48317-2870



**Corporate Headquarters**

4743  
3 Ryan Rd.  
Shelby Twp.,  
MI 48317  
Toll Free 1-  
800-468-8644  
Fax 1-586-997-9817  
[www.nationalsignal.com](http://www.nationalsignal.com)

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March 15, 2017

Mr. Bob Pollack  
Orlando Utilities Commission  
6113 Pershing Avenue  
Orlando, FL 32822

**RE:** Price estimate for: Moss Park Relocation Project.

**Estimate # 1430317**

Dear Mr. Pollack:

With reference to the above subject and your recent request for a price estimate, we at National Signal are pleased to supply the following:

**Moss Park Relocation**

Project will consist of removing existing gate assemblies, cantilevers and control house. Project will include new signal foundations, gate mechanizes, AC service and cabling. Existing house circuitry will be reused. Please note the existing train detection equipment is not set up for traffic preempt if required. Underground cables will be direct burial railroad signal cable. Please see attached lists for complete breakdown detail of cost, material, labor and equipment.

**FOB:** Destination

**TERMS:** Net 30 Days 1-1/2% Service charge applied the 15<sup>th</sup> of the following month.

**DELIVERY:** 150 - 180 Days ARO

The attached prices are firm for sixty (60) days and based on the following:

## National Signal

47433 Ryan Road  
Shelby Township, MI 48317-2870

1. Price does not include charges from utility company to provide ac service to location over estimated amount.
2. Price does not include sodding or landscaping.
3. Price is based on install conduit under roadway during track construction should other equipment be needed additional cost will arise.
4. Price is based on furnishing material and labor as indicated on attached lists only.
5. Price is based on using our backhoe, should jackhammers or explosives be required additional cost will arise.
6. Any contingency item not covered within the scope of this proposal may be negotiated as to price when the need arises.
7. Price does not include owner delay, or owner requested training.
8. Price is based on Railroad supplying flag person for on track protection.
9. Owner to provide suitable material storage area that will be secure, and easily accessible by National Signal Employees.

We appreciate this opportunity of quoting on your signal requirements and look forward to being of service. Any Questions concerning this quote should be directed to the number above ext.202.

Sincerely,

National Signal Corp.



Joseph S. Banasiak

[Estimate Continued on the Following Page]

**National Signal**  
47433 Ryan Road  
Shelby Township, MI 48317-2870  
Phone: (800) 468-8644 Fax: (586) 997-9817

## Estimate

Proposal Number:

1430317

Site Name:

MOSSPARK

Location

ORLANDO, FLORIDA

Customer:

**OUC**

5971 PERSHING AVE.  
ORLANDO, FL 32822

Total Material =	\$75,958.75
406.0 Total Hours =	\$32,074.00
Total Equipment =	\$17,355.00
<b>0% Tax On Material =</b>	\$0.00
<hr/>	
Total Price =	\$125,387.75

Notes:

**National Signal**  
47433 Ryan Road  
Shelby Township, MI 48317-2870

Phone: (800) 468-8644

Fax: (586) 997-9817

Proposal Number:**1430317****Material List**Total Material**\$75,958.75****Site Name:**

MOSS PARK

**Location**

ORLANDO, FLORIDA

Quantity:	Product:	Description:	Unit:	Price Per Unit:	Sub Total:
2.00	FM120	5' PIP FOUNDATION		\$2,096.40	\$4,192.80
14.00	NSC006	CONCRETE 1 YARD	YARD	\$127.20	\$1,780.80
4.00	DPS-2	FOUNDATION GATE 5'6"	EACH	\$1,032.00	\$4,128.00
4.00	NSCNBS	NBS	EACH	\$469.20	\$1,876.80
2.00	SBB2721G	SHUNT 6 OHM RAIL HEAD	EACH	\$239.75	\$479.50
25.00	SBS24882	BOND CADWELD 3/16 X 6 1/2	EACH	\$5.41	\$135.25
4.00	SBT BBU4A	BOND 3/16" X 4" BOOTLEG	EACH	\$6.17	\$24.68
4.00	M-10-NSM-32	3597 MECH W/ CWA,WP,ST&F,MAST BKT	EACH	\$7,369.20	\$29,476.80
100.00	206-11-6243	CABLE 3 CONDUCTOR #6	FOOT	\$6.08	\$608.00
1.00	NSCAC	AC SERVICE COMPLETE	EACH	\$5,040.00	\$5,040.00
1,500.00	206-11-624 7	CABLE 7 CONDUCTOR #6	FOOT	\$10.61	\$15,915.00
1,500.00	206-11-6927	CABLE 7 CONDUCTOR #9	FOOT	\$6.84	\$10,260.00
250.00	NSCPC4	CONDUIT 4" PVC	FOOT	\$2.62	\$655.00
12.00	SBGT1181L	CADWELD 1-SHOT (2- BONDSTRAND ENT.)	EACH	\$8.53	\$102.36
12.00	613480	ROD GROUND 3/4" X 8'	EACH	\$22.18	\$266.16
1000	NEG-74	SHEAR PIN BRASS	EACH	\$1.26	\$12.60
25.00	NSCDS	DRESS STONE	YARD	\$40.20	\$1,005.00



**National Signal**  
**47433 Ryan Road**  
**Shelby Township, MI 48317-2870**

Phone: (800) 468-8644

Fax: (586) 997-9817

Proposal Number:  
**1430317**

## Labor List

Total Labor  
**\$32,074.00**

Site Name:  
**MOSS PARK**

Location  
**ORLANDO, FLORIDA**

<u>Quantity:</u>	<u>Code:</u>	<u>Description:</u>	<u>Hours:</u>	<u>Sub Total:</u>
144	T89	TRAVEL TIME (PER HOUR)	1.0	144.0
20	C04	WIRE CASE CIRCUIT	04	8.0
	COS	SET CP HOUSE	20.0	20.0
18	COB	INSTALL BATTERY	0.2	3.6
15	C10	TRENCH SOIL / HAND PER FOOT	04	6.0
250	C11	TRENCH SOIL / BACKHOE PER FOOT	0.1	25.0
150	C22	TERMINATE CABLE PER CONDUCTOR	0.1	15.0
12	C82	INSTALL GROUND ROD	0.3	3.6
4	C83	SEAL CASE	0.3	1.2
4	E28	SET FOUNDATION (S1, S2)	4.0	16.0
2	E29	SET FOUNDATION (S10)	10.0	20.0
25	M20	INSTALL BOND WIRES	0.1	2.5
4	M30	REPAIR TRACK WIRE	0.2	0.8
2	M32	REPLACE TUNED SHUNT	0.3	0.6
2	M34	CHK & ADJ. MOTION SENSOR, PREDICTOR	1.5	3.0
4	ROS	REMOVE FLASHER/GATE MAST	3.0	12.0
2	R09	REMOVE CANTILEVER	5.0	10.0
70	T02	TEST 108 INSULATED RESISTANCE (PER COND.)	0.1	7.0
6	T04	TEST 106 RELAY (PER RELAY)	0.2	1.2
6	T18	TEST 107 GROUND READINGS	0.1	0.6
	T73	TEST 22A FLASHERS, CANTILEVERS & GATES	1.2	1.2
	T77	TEST 22B JOINTED RAIL	1.1	1.1
	T79	TEST 22C CROSSING YEARLY	3.5	3.5
2	T90	QUALITY CONTROL & CLEAN-UP	2.5	5.0
4	X12	INSTALL GATE ARM	14	5.6

**National Signal**  
**47433 Ryan Road**  
**Shelby Township, MI 48317-2870**

Phone: (800) 468-8644

Fax: (586) 997-9817

Proposal Number:**1430317****Labor List**Total Labor**\$32,074.00**Site Name:

MOSS PARK

Location

ORLANDO, FLORIDA

<u>Quantitl:</u>	<u>Code:</u>	<u>Description:</u>	<u>Hours:</u>	<u>Sub Total:</u>
4	X13	INSTALL GATE MECHANISM	4.0	16.0
4	X14	INSTALL GATE MAST & BASE	4.0	16.0
2	X16	INSTALL CANTILEVER	10.0	20.0
8	X37	REPLACE SHEAR PIN	0.2	1.6
4	X40	ADJUST LAMP VOLTAGE (DC)	0.2	0.8
24	X44	FOCUS FLASHER	0.3	7.2
4	X50	REPAIR GATE LIGHT WIRING	0.3	1.2
14	Y91	POUR CONCRETE (PER YARD)	0.8	11.2
6	Y90	INSTALL DOWELL ROD/CONCRETE	0.5	3.0
	Y92	MATERIAL HANDELING	4.5	4.5
8	Y96	MAINTAINER PER HOUR	1.0	8.0

**National Signal**  
**47433 Ryan Road**  
**Shelby Township, MI 48317-2870**

Phone: (800) 468-8644

Fax: (586) 997-9817

**Proposal Number:**  
**1430317**

**Equipment List**

**Total Equipment**  
**\$17,355.00**

**Site Name:**

MOSS PARK

**Location**

ORLANDO , FLORIDA

<u>Quantity:</u>	<u>Product:</u>	<u>Description:</u>	<u>Unit Price:</u>	<u>Sub Total:</u>
27	NSC010	LODGING	\$145.00	\$3,915.00
27	NSC011	MEALS PER MAN	\$20.00	\$540.00
8	NSC013	EQUIPMENT PER DAY	\$850.00	\$6,800.00
	NSCSHP	SHIPPING & HANDLING	\$1,100.00	\$1,100.00
	NSCENG	FIELD ENGINEERING	\$5,000.00	\$5,000.00