



**Interoffice Memorandum**

June 28, 2019

**TO:** Mayor Jerry L. Demings  
and Board of County Commissioners

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

A handwritten signature in black ink, appearing to read "R. Hanson", is written over the "FROM:" field.

**SUBJECT: BCC AGENDA ITEM – Consent Agenda  
July 16, 2019 BCC Meeting  
Utility Line Construction Reimbursement Agreement for Lake  
Nona Boulevard Forcemain Extension  
Contact Person: Andres Salcedo, P. E., Assistant Director  
Utilities Engineering Division  
407-254-9719**

As part of their infrastructure improvements, Orlando Airport Property, LLC and Adventist Health System/Sunbelt, Inc., (collectively known as the "Developer") will be constructing utilities through their development and replacing and extending off-site utilities along Lake Nona Boulevard.

Based on Orange County Utilities' Master Plan, the County requires a 12-inch wastewater forcemain along this route to support the County's regional transmission needs.

To maximize efficiency and coordination, Orange County asked the Developer to extend a 12-inch wastewater forcemain approximately 325 linear feet (LF) and remove and replace approximately 2,915 LF of existing 6-inch wastewater forcemain and approximately 1,363 LF of existing 8-inch wastewater forcemain with a 12-inch wastewater forcemain along their proposed construction route.

The construction costs of the utility improvements to be paid by Orange County under this agreement are limited to a total payment obligation amount of \$1,364,963.

The County Attorney's Office staff has reviewed the agreement and finds it acceptable. Utilities Department staff recommends approval.

**Action Requested: Approval and execution of Utility Line Construction Reimbursement Agreement for Lake Nona Boulevard Forcemain Extension by and among Orange County, Orlando Airport Property, LLC, and Adventist Health System/Sunbelt, Inc. in the total payment obligation amount of \$1,364,963.**

**District 4.**

BCC Mtg. Date: July 16, 2019

## **UTILITY LINE CONSTRUCTION REIMBURSEMENT AGREEMENT FOR LAKE NONA BOULEVARD FORCEMAIN EXTENSION**

**THIS UTILITY LINE CONSTRUCTION REIMBURSEMENT AGREEMENT FOR LAKE NONA BOULEVARD FORCEMAIN EXTENSION** (the “**Agreement**”) is made and entered into as of the date of last execution below (the “**Effective Date**”) by and among ORANGE COUNTY, a charter county and political subdivision of the state of Florida (the “**County**”) whose address is 201 South Rosalind Avenue, Orlando, Florida 32801, ORLANDO AIRPORT PROPERTY, LLC, a Florida limited liability company whose principal address is 529 Versailles Drive, Suite 200, Maitland, Florida 32751 (“**OAP**”) and ADVENTIST HEALTH SYSTEM/SUNBELT, INC., a Florida not-for-profit corporation whose principal address is 900 Hope Way, Altamonte Springs, Florida 32714 (“**Florida Hospital**”), for convenience, OAP and Florida Hospital are sometimes collectively referred to in this Agreement as the “**Developer**,” and the County, OAP, and Florida Hospital may be referred to individually as a “**Party**” or collectively as the “**Parties**.”

### **RECITALS**

**WHEREAS**, OAP is the fee simple owner of certain real property located in unincorporated Orange County, as more particularly described in **Exhibit “A”** attached to and made a part of this Agreement by this reference (the “**OAP Property**”); and

**WHEREAS**, Florida Hospital is the fee simple owner of certain real property located in unincorporated Orange County immediately adjacent to the north boundary of the OAP Property, as more particularly described in **Exhibit “B”** attached to and made a part of this Agreement by this reference (the “**Hospital Property**”); and

**WHEREAS**, for convenience, the OAP Property and the Hospital Property may sometimes be collectively referred to in this Agreement as the “**Developer Property**”; and

**WHEREAS**, OAP and Florida Hospital have entered, or will hereafter enter, into a Joint Development Agreement under the terms and conditions of which OAP and Florida Hospital will share, in the manner provided for therein, the costs and expenses associated with, among other shared development improvements to be constructed thereunder, constructing the sanitary sewer forcemain transmission improvements (collectively, the “**Developer Forcemain Improvements**”) and the sanitary sewer pump station improvements (the “**Pump Station**”) that are (i) required in order to bring sanitary sewer service to the Developer Property with sufficient capacity to serve the Developer’s intended uses for the Developer Property and also the Off Site Flow (as defined below), and (ii) described on the plans and specifications for such construction prepared by the Developer’s engineer; and

**WHEREAS**, the Developer Property is located entirely within the County’s wastewater service territory and, therefore, the County is the appropriate wastewater service provider with jurisdiction over the Developer Property; and

**WHEREAS**, the County's wastewater line (the "**Existing Sewer Line**") in the vicinity of the Developer Property ends at a point on the southerly right-of-way of Lake Nona Boulevard, approximately 325 feet west of its intersection with Boggy Creek Road and, in order to bring sanitary sewer service to the Developer Property, the Existing Sewer Line must be extended approximately 325 feet east, to a point in the westerly right-of-way of Boggy Creek Road at its intersection with Lake Nona Boulevard. Approximately 2,195 linear feet of existing 6-inch wastewater line and approximately 1,363 linear feet of existing 8-inch wastewater line must be removed and replaced with a 12-inch wastewater line. All work must be performed in accordance with, and pursuant to, the Extension Construction Plans as defined in Section 2.1 and as generally depicted on **Exhibit "C"** attached to and made a part of this Agreement by this reference (collectively, the "**County Extension Work**"); and

**WHEREAS**, the County, in order to better serve areas within its wastewater service territory and in the interest of efficiency and economy, is requesting that the Developer, subject to the terms and conditions set forth in this Agreement, constructs the County Extension Work at the County's cost and expense; and

**WHEREAS**, the County, in order to better serve areas within its wastewater service territory and in the interest of efficiency and economy, is also requesting that OAP provide a publically dedicated right-of-way, utility easement, or combination thereof, over, across, under, and through the OAP Property, in form and substance reasonably acceptable to the County (the "**County Sewer Easement**"), affording the County the rights, thereunder, to construct and maintain a wastewater line and related improvements in the County Sewer Easement. The wastewater line and related improvements in the County Sewer Easement will convey wastewater flows that may be generated by the Watkins Property, as defined below, and other properties located outside of the OAP Property (the "**Offsite Flow**") at a rate of up to 100,000 gallons per day of average daily flow (the "**Offsite Flow Rate**") to the Pump Station. The real property located immediately south of the OAP Property will be referred to in the Agreement as the "**Watkins Property.**" The County Sewer Easement will run generally from the Pump Station to a point on the south boundary of the OAP Property that is adjacent to the northwest corner of the Watkins Property. The form of the County Sewer Easement, as generally depicted on **Exhibit "D"** to this Agreement, must be approved by the Orange County Board of County Commissioners and recorded in the Official Records of Orange County prior to approval of the Extension Construction Plans; and

**WHEREAS**, the County, in order to better serve areas within its wastewater service territory and in the interest of efficiency and economy, is requesting that the Developer provides capacity, for the Offsite Flow Rate, in the Pump Station and the Developer Forcemain Improvements (collectively, the "**Developer Wastewater System**"). The County recognizes that the Developer Wastewater System will serve the sanitary sewer needs of the Developer Property and the Off Site Flow, and as such, agrees to own and maintain the Developer Wastewater System provided that the Developer satisfies the terms and conditions of this Agreement; and

**WHEREAS**, the Parties desire to enter into this Agreement for the purpose of setting forth the terms and conditions under which (i) the Developer will cause the County Extension Work to be constructed, and (ii) the County will reimburse the Developer for the cost of the County Extension Work, as more particularly set forth below; and

**WHEREAS**, the County finds the expenditure of funds in the achievement of the objectives of this Agreement to be in the public interest.

**NOW, THEREFORE**, in consideration of the premises of this Agreement, and the mutual covenants set forth herein, the receipt and sufficiency of which is acknowledged by the Parties, the Parties agree as follows:

**SECTION 1. RECITALS INCORPORATED.**

All of the recitals set forth above are true and correct and are incorporated in and made a part of this Agreement by this reference.

**SECTION 2. PREPARATION OF CONSTRUCTION PLANS, BIDS, AND CONTRACT.**

**2.1** The Developer shall cause the preparation of a set of design plans for the County Extension Work based on the preliminary design sketch as depicted in **Exhibit "C."** Such design plans are subject to the County's reasonable review and approval in accordance with County biddable standards. The contract for the design plans must provide that the County is a third-party beneficiary with regard to insurance against the design professional's errors and omissions. The review and approval under this Agreement by the County is in its proprietary capacity as a Party to this Agreement and is in addition to any governmental permitting functions the County may be otherwise obligated to perform. Upon final acceptance of the design plans, the County will provide the Developer with written notification of such acceptance. Once approved by the County, the design plans will be referred to in this Agreement as the "**Extension Construction Plans.**"

**2.2** The Developer will retain an engineering firm of its choice to assist the Developer in obtaining at least two responsive bids from responsible bidders qualified to do utility construction for the County Extension Work based on the Extension Construction Plans. The Developer must obtain itemized bids for the County Extension Work displaying the bid price for each item listed in **Exhibit "E"** attached to and made a part of this Agreement by this reference (the "**Standard Bid Form and Pay Items**").

**2.3** The Developer must select the bid of the lowest responsible bidder and notify the County in writing of such bid selection by providing copies of the itemized bids for the County Extension Work.

**2.4** The County will have 15 business days following receipt of notification from the Developer of the selected bid within which to review and notify the Developer of the County's acceptance of the selected bid, or if such bid is not acceptable to the County, the reasons for rejection of the Developer's selected bid. In the event the County does not accept the Developer's selected bid, the Developer will have 120 days within which to address the rejection of the selected bid. In the event the Parties cannot agree on a selected bid within the 120-day period to cure, either the Developer or the County may terminate this Agreement by notice of termination to the other Parties, and neither the County nor the Developer will be liable for or be entitled to bring any action against the other for damages as a result of such termination.

**2.5** The Developer shall ensure that the construction contract for the County Extension Work that is entered into between the Developer and any bidder whose bid has been accepted by the County and the Developer (the "**Extension Work Contract**") provides for a maintenance guarantee pursuant to Section 7.2 of this Agreement for the work performed, which maintenance guarantee must be in force and effect for a period of one year from the date on which the County accepts ownership and maintenance responsibility for the County Extension Work.

**2.6** The Developer shall ensure that the Extension Work Contract contains a performance bond and a payment bond provision pursuant to Section 7 of this Agreement. Each bond shall be in the amount of the value of the Extension Work Contract. The performance bond shall ensure that the contractor, under the Extension Work Contract, fully, promptly, and faithfully performs the Extension Work Contract and all of its obligations thereunder. The payment bond shall ensure that the contractor shall promptly make payment to all persons supplying services, labor, material, or supplies used directly or indirectly by the contractor, or any subcontractor(s) in the prosecution of the work provided for in the Extension Work Contract.

### **SECTION 3. PERMITS.**

The Developer shall apply for and obtain all necessary governmental permits and approvals for the County Extension Work (collectively, the "**Permits**"). The County agrees to cooperate and assist, if necessary, the Developer in obtaining the Permits. The Developer must deliver to the County copies of all Permits at the time of final approval by the County, prior to commencement of construction of the County Extension Work.

### **SECTION 4. COMMENCEMENT OF WORK.**

After the execution of this Agreement, issuance of the Permits, County approval of the Extension Construction Plans and selected bidder, and the County's receipt of the required items as stated herein, the Developer will cause the contractor, under the Extension Work Contract, to commence the County Extension Work provided for therein, based upon the Extension Construction Plans and Permits for the same.

### **SECTION 5. PAYMENT OF COSTS.**

The Developer and the County agree to pay for the County Extension Work as follows:

**5.1** The Developer shall pay for the design, engineering, surveying, geotechnical engineering, environmental work, permitting, bidding, inspection, construction, construction administration, maintenance guarantee, final testing, certification costs and fees for the County Extension Work. The County shall reimburse the Developer for (1) actual and reasonable engineering costs associated with the County Extension Work in the amount of One Hundred Seventy-One Thousand Nine Hundred Sixty-Three and 00/100 Dollars (\$171,963.00) (the "**Design Cost**"), and (2) the cost actually incurred by the Developer, and approved by the County in its reasonable discretion, for the completed construction of the County Extension Work, including, but without limitation, the cost of the maintenance guarantee referred to in Section 7 of this Agreement and the payment and performance bonds referred to in Sections 2.6 and 7.1 of this Agreement, with such as-built cost being hereafter called the "**Extension Cost.**"

In no case shall the County's reimbursement obligation under this Agreement for the Extension Cost exceed One Million One Hundred Ninety-Three Thousand and 00/100 Dollars (\$1,193,000.00).

**5.2** If the County Extension Work is satisfactorily performed and finally completed in material compliance with the Permits, the Extension Construction Plans, and the terms and conditions set forth in this Agreement, then the Developer hereby authorizes and directs the County to, and the County will, reimburse the Extension Cost and Design Cost to the Developer by paying 57% thereof to Florida Hospital and 43% to OAP (collectively, the "Reimbursement Payments"), after all of the following events have occurred:

A. Receipt by the County of a written reimbursement request executed by authorized representatives of OAP and Florida Hospital. Request document must state the payees' addresses; and

B. Inspection, approval, and acceptance by the County of the completed County Extension Work; and

C. Receipt by the County of the maintenance guarantee and bill of sale as described in Section 7 of this Agreement; and

D. Receipt by the County of copies of such contracts, final release of liens, itemized invoices and other documents evidencing the Extension Cost and the Developer's complete payment thereof, including any retainage; and

E. Receipt by the County of any utility easement(s) in favor of the County required for the County Extension Work as depicted in the Extension Construction Plans; and

F. Receipt by the County of a written payment request from the Developer for the Design Cost with documentation that the Developer has paid all costs and expenses related to the design and engineering associated with the County Extension Work.

**5.3** In the event the County raises any good faith objections to any fee or cost set forth in the reimbursement request or supporting documentation, the disputed amount will be withheld from the Reimbursement Payments and the undisputed amount thereof shall be paid in accordance with this Section 5.

**5.4** OAP and Florida Hospital hereby indemnify the County and agree to hold the County harmless from and against any and all claims, liabilities, damages, costs, penalties, losses, actions, suits, or proceedings at law or in equity, and any other expenses, fees, or charges of any character or nature, which the County may incur or with which the County may be threatened directly or indirectly arising from or in any way connected with payment of the reimbursement request pursuant to Section 5.1 above, except in the case of gross negligence or willful misconduct of the County. In connection therewith, the Developer must, to the extent allowable by law, indemnify the County against any and all reasonable expenses, including reasonable attorney fees (pre-litigation, litigation, and appellate) and the cost of defending or

prosecuting any action, suit, or proceeding or resisting any claim, whether or not litigation is instituted.

**5.5** In the event the County is joined as a party to a lawsuit by virtue of the fact that it is legally responsible for making the Reimbursement Payments, then the County may, at its option, either: (a) tender the funds in an amount sufficient to pay the Reimbursement Payments (the “**Funds**”) into the registry of the appropriate court; or (b) disburse the Funds in accordance with the court’s ultimate disposition of such case. In the event the County tenders the Funds into the registry of the appropriate court and files an action of interpleader naming the Developer and any affected third parties of whom the County has received actual notice, the County must be released and relieved from any and all further obligation and liability hereunder or in connection with the payment of such Funds to the Developer.

**SECTION 6. DISPUTES.**

All claims, disputes and other matters in question between the Parties arising out of, or relating to, this Agreement or its performance or breach (a “**Dispute**”) shall be resolved in the following order: (a) good-faith negotiation, (b) mediation, and then (c) judicial resolution. The process of “good-faith negotiation” requires each Party to set out in writing to the other its reason(s) for adopting a specific conclusion or for selecting a particular course of action, together with the sequence of subordinate facts leading to the conclusion or course of action. The good-faith negotiations shall include at least one meeting of representatives of the Parties. The Party-representative shall have authority to resolve the Dispute.

**SECTION 7. PERFORMANCE AND PAYMENT BONDS; MAINTENANCE GUARANTEE; AND BILL OF SALE.**

**7.1** Prior to commencing the construction of the County Extension Work, the Developer, or its general contractor, shall obtain and deliver to the County a payment bond and a performance bond, as referenced in Section 2.6 of this Agreement, reasonably acceptable to the County, pursuant to Section 255.05, Florida Statutes, as it may be amended. The payment and performance bonds shall name the County as Dual-Obligee and be assignable to the County following its acceptance of the County Extension Work. The surety company issuing the payment bond and the performance bond shall meet the following qualifications:

- Surety must be licensed to do business in the State of Florida, maintain an A-VI or better rating with A.M. Best or an equivalent rating agency and shall comply with the provisions of Section 255.05, Florida Statutes.
- Surety must be listed on the most recent version of the U.S. Department of Treasury Fiscal Service, Bureau of Financial Management, Circular 570 entitled: “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies.”
- All bonds/surety instruments shall be originals and issued by a producing agent with the authority to issue said bonds/surety instruments on behalf of the surety company. Attorneys-in-fact who sign bonds/surety instruments must

attach with each bond/surety instrument a certified and effectively dated copy of their power of attorney. Agents of surety companies must list their name, address, and telephone number on all bonds/surety instruments.

**7.2** The Developer shall provide a maintenance guarantee in the form of an irrevocable letter of credit, cash escrow, or maintenance bond in favor of the County in an amount equal to 10% of the Extension Cost. The purpose of the maintenance guarantee is to guarantee the materials, workmanship, structural integrity, functioning, and maintenance of the County Extension Work. The surety company issuing the maintenance bond shall meet the qualifications set forth in Section 7.1 of this Agreement. If the maintenance guarantee is provided in the form of an irrevocable letter of credit, the letter of credit must be drawn on a financial institution having an office for the letter of credit presentation in either Orange, Seminole, or Osceola counties; and the financial institution must be on the State of Florida approved "qualified public depositories" list for local governments, as identified in Chapter 280, Florida Statutes. The maintenance guarantee shall be in a form acceptable to the County.

**7.3** Prior to the County's issuance of the certificate of completion for the County Extension Work, the Developer must deliver to the County a bill of sale in favor of the County, and the maintenance guarantee provided for above for the County Extension Work, at which time the County will be deemed to have accepted the dedication of and ownership and operational responsibility for the County Extension Work.

## **SECTION 8. INDEMNIFICATION.**

For value received, which is hereby acknowledged, OAP and Florida Hospital severally, and not jointly, agree, on behalf of itself, its agents, contractors, successors and assigns, that it shall, to the fullest extent permitted by law, defend, indemnify, and hold harmless the County, its officials, agents, and employees from and against any and all liabilities, claims, damages, losses, costs and expenses (including attorneys' fees) arising out of or resulting from the performance of the construction activities associated with the County Extension Work, provided that any such liability, claim, damage, loss, cost or expense:

- Is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property (other than the construction activities themselves) including the loss of use resulting therefrom, and
- Is caused in whole, or part, by an act or omission relating to the County Extension Work by the Developer, its agents or employees, or any contractor employed by the Developer, or anyone directly or indirectly employed by the Developer or its contractor(s), their subcontractors, or anyone for whose acts any of them may be liable in accordance with applicable law; excepting those acts or omissions arising, in whole or in part, out of the negligence of the County or any of its employees, agents, or contractors.



**SECTION 9. INSURANCE.**

Prior to commencing any portion of the County Extension Work and throughout the course of construction thereof, the Developer or its agents and contractors, shall procure and maintain insurance limits and terms as follows:

(i) Workers' compensation insurance with statutory workers' compensation limits and no less than One Million and 00/100 Dollars (\$1,000,000.00) for Employer's Liability with a waiver of subrogation in favor of the County, its consultants, agents, employees and officials.

(ii) Commercial general liability insurance for all operations including, but not limited to contractual, products, completed operations, and personal injury with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and an aggregate limit of at least twice the per occurrence limit.

(iii) Business automobile liability insurance for all owned, hired, or non-owned vehicles with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence.

(iv) Professional Liability (errors and omissions) for engineering design in amounts not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence.

The Developer shall be responsible for ensuring that each of its contractors and subcontractors of every tier procure and maintain the insurance specified above and must furnish to the County evidence of such insurance including endorsements prior to commencement of construction. The County must be specifically named (scheduled) as an additional insured on all policies except for workers' compensation coverage.

All coverage must be primary and not contributory with any insurance or self-insurance maintained by the County. The Developer must provide the County notice of any material change, cancellation, or non-renewal of any policy required herein at least 30 days prior to the occurrence thereof.

**SECTION 10. EXCUSE FROM PERFORMANCE BY GOVERNMENTAL ACTS.**

If for any reason during the term of this Agreement, local, regional or state governments or agencies (other than the County) fail to issue necessary permits or fail to grant necessary approvals for the County Extension Work, after the Developer has complied with all conditions precedent to receipt of such permits, to the extent that the requirements necessary to obtain such permits or approvals affect the ability of the Developer or the County to perform any of the terms thereof, then this Agreement will be renegotiated by the Parties to the extent reasonably feasible to cause the County Extension Work to comply with said requirements.

**SECTION 11. TERM; LIMITATION OF LIABILITY.**

**11.1** The term of this Agreement is five years from the Effective Date. In the event the Developer has not, by the second anniversary of the Effective Date, entered into an Extension Work Contract fully complying with the terms and conditions set forth in this

Agreement, then the County may terminate this Agreement upon 30 days' notice to the Developer.

**11.2** The County and the Developer 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 as provided herein. Except as otherwise provided herein, in redress for the failure of either Party to perform its obligations under this Agreement, the Parties have only the following remedies available against each other:

- (i) action for specific performance; or
- (ii) action for injunction; or
- (iii) action for declaratory judgment regarding the rights and obligations of the Developer or the County; or
- (iv) any combination of the foregoing.

All Parties expressly waive their respective rights to sue for damages of any type for breach of or default under this Agreement by the others. All Parties expressly agree that each Party in for any action arising out of or in connection with this Agreement shall bear the cost of its own attorney's fees arising out of or in connection with this Agreement. All Parties waive their respective rights to trial by jury.

**SECTION 12. COMPLIANCE WITH LAWS AND REGULATION.**

In performing pursuant to the Agreement, each Party will abide by the respective statutes, ordinances, rules and regulations pertaining to, or regulating, the acts of such Party.

**SECTION 13. NOTICE.**

Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when (i) hand delivered to the official hereinafter designated, or (ii) three days after the date on which deposited in the United States mail, postage prepaid, certified mail return receipt requested, and addressed to a Party at the address set forth opposite the Party's name below, or such other address as the Party will have specified by written notice to the other Party delivered in accordance herewith.

**If to the County:** Orange County Utilities Department  
9150 Curry Ford Road  
Orlando, Florida 32825-7600  
Attn: Director

**With copy to:** Orange County Administrator's Office  
Orange County Administration Building  
201 S. Rosalind Avenue, 5th Floor  
Orlando, Florida 32801-3527  
Attn: County Administrator

**If to the Developer:**

Orlando Airport Property, LLC  
529 Versailles Drive, Suite 200  
Maitland, Florida 32751-4590  
Attn: Ralph Singleton

**With copy to:**

White & Luczak, P.A.  
655 West Morse Boulevard, Suite 111  
Winter Park, Florida 32789-3745  
Attn: Robert B. White Jr. Esq.

Adventist Health System/Sunbelt, Inc.  
1919 N. Orange Avenue, Suite E  
Orlando, Florida, 32804-5567  
Attn: Lisa H. Barrett, MBA, CPM, Senior Real Estate  
Manager

Gray Robinson, P.A.  
301 East Pine Street, Suite 1400  
Orlando, Florida 32801-2741  
Attn: Borron J. Owen Jr., Esq.

**SECTION 14. ENTIRE AGREEMENT.**

This Agreement constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement and may not be modified or amended except by a written instrument equal in dignity herewith and executed by the Parties to be bound thereby.

**SECTION 15. TIME IS OF THE ESSENCE.**

Time is declared of the essence as to the lawful performance of all duties and obligations set forth in this Agreement.

**SECTION 16. NON-WAIVER.**

No consent or waiver, expressed or implied, by either Party, to or of any breach or default of the other Party, with regard to the performance by said other Party of its obligations under this Agreement shall be deemed or construed to constitute consent or waiver, to or of, any other breach or default in the performance of that Party, of the same or of any other objection of performance incumbent upon that Party. Failure on the part of either Party to complain of any act or failure to act on the part of the other Party in default, irrespective of how long the failure

continues, shall not constitute a waiver by that Party of its rights and any remedies that exist under this Agreement, at law, or in equity.

**SECTION 17. CONSTRUCTION OF AGREEMENT.**

This Agreement may not be construed against either Party on the basis of it being the drafter of the Agreement. The Parties agree that each Party played an equal part in negotiating the terms and conditions of this Agreement. Captions and section headings in this Agreement are provided for convenience only and may not be deemed to explain, modify, amplify, or aid in the interpretation, construction, or meaning of this Agreement.

**SECTION 18. REASONABLE APPROVAL.**

In those instances, in this Agreement, in which a Party's approval, consent or satisfaction is required and a time period is not specified, then it is implied that such action will be exercised in a reasonable manner and within a reasonable time frame.

**SECTION 19. PUBLIC RECORDS.**

The Developer will allow public access to all documents, papers, letters or other materials subject to the provisions of Chapter 119, Florida Statutes, and which have been made or received by the Developer in conjunction with this Agreement. Nothing herein contained requires the Developer to allow public access to any financial information not pertaining specifically to the Extension Construction Plans, or to any proprietary information.

**SECTION 20. RECORDS AND AUDITS.**

OAP and Florida Hospital will maintain in its place of business all books, documents, papers and other evidence pertaining in any way to payments made pursuant to this Agreement. Such records will be available at the place of business of OAP or Florida Hospital at all reasonable times during the term of this Agreement and for four years from the date of final payment under this Agreement for audit or inspection by the County upon five business days' prior written notice.

**SECTION 21. EQUAL OPPORTUNITY EMPLOYMENT.**

OAP and Florida Hospital agree that they will not discriminate and will provide in all contracts that its contractors will not discriminate against any employee or applicant for employment under this Agreement because of race, color, religion, sex, age, or national origin and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, or national origin.

**SECTION 22. SEVERABILITY.**

If any part of this Agreement is found invalid or unenforceable by any court, such validity or unenforceability will not affect the other parts of this Agreement if the rights and obligations of the Parties contained therein are not materially prejudiced and if the intentions of the Parties can continue to be effectuated. To that end, this Agreement is declared severable.

**SECTION 23. ASSIGNMENT.**

The rights and obligations of the Developer hereunder are not covenants running with the land and will only be binding upon and exercisable by the Developer (and not any successor in title to any portion of the Developer Property), unless this Agreement is expressly assigned by the Developer as provided in this Section 23. This Agreement or any of the rights, obligations and responsibilities hereunder, will be in no part assignable by the Developer without the consent or approval of such assignment by the County, provided that the County's approval will not be unreasonably withheld so long as the successor to the Developer is of equal or better economic status and is capable of fulfilling all obligations of the Developer, including but not limited to, the ability to service and maintain the insurance and indemnification obligations of the Developer. Only upon the written acceptance by the County of the successor owner, will the Developer be released from any obligations and responsibilities arising under or attributable to the Agreement and only where the County has received notice of and accepted work performed by the said successor owner.

**SECTION 24. DISCLAIMER OF THIRD PARTY BENEFICIARIES.**

No right or cause of action shall accrue upon or by reason of this Agreement, to or for the benefit of any third party not a formal party hereto. The Parties agree that this Section 24 shall not be applied to provisions of this Agreement to situations where the Parties have authorized one Party to be a third-party beneficiary to the construction, design, or other agreement authorized herein or any assignee under this Agreement.

**SECTION 25. GOVERNING LAW AND VENUE.**

This Agreement shall be governed by and construed in accordance with laws of the State of Florida, without giving effect to any choice of law rules thereof which may direct the application of laws of another jurisdiction. The venue for any mediation or judicial proceedings shall be Orange County, Florida.

**SECTION 26. LAND USE AND OTHER REGULATORY APPROVALS.**

This Agreement may not be construed as granting or assuring or indicating any further grant of any land use, zoning, subdivision, density or development approvals, permissions or rights with respect to the Property. Nor may this Agreement be deemed to reduce, eliminate, derogate from, or otherwise adversely affect any such approvals, permissions, or rights.

**SECTION 27. NON-APPROPRIATION.**

In accordance with the Florida Constitution and other applicable state and local laws, including but not limited to Section 129.07, Florida Statutes, the obligations of the County in this Agreement are subject to sufficient budgeted County funds being available in each County budget year to achieve the purposes of this Agreement.

**SECTION 28.**            **NO PARTNERSHIP OR JOINT VENTURE.**

Nothing in this Agreement is intended to create a partnership or joint venture between the Parties and neither the Developer nor the County shall be construed to be the partner or joint venturer of the other Party for any purpose.

**SECTION 29.**            **FURTHER DOCUMENTATION.**

The Parties agree that from time to time and following a request therefore by a Party, each Party shall properly execute and deliver to the other Party such other documents and instruments reasonably necessary to effectuate the obligations of each Party hereunder.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

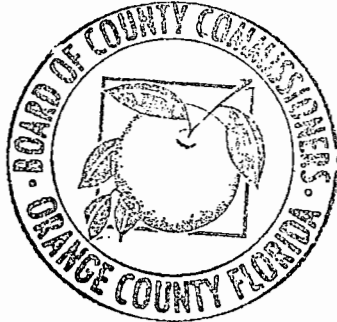
IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed as of the dates indicated below.

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Jerry L. Demings*  
for Jerry L. Demings  
Orange County Mayor

Date: 16 July 2019



ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: *Craig A. Stopyfa*  
for Deputy Clerk  
Print: Craig A. Stopyfa

WITNESSES:

Orlando Airport Property, LLC, a Florida limited liability company

[Signature]  
Print Name: MARK BRADLEY WIZAK II

[Signature]  
Print Name: ANDREW CAIRNS

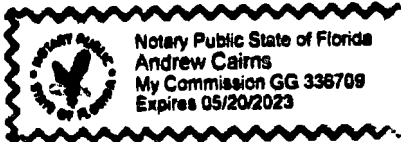
By: [Signature]  
Name: Ralph Singleton  
Title: a Manager  
Date: 6/13/2019

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of JUNE, 2019, by Ralph Singleton acting in his capacity as a manager of Orlando Airport Property, LLC, a Florida limited liability company, who [] is personally known to me or [] has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)

[Signature]  
Notary Public Signature



ANDREW CAIRNS  
(Name typed, printed or stamped)  
Notary Public, State of \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



WITNESSES:

Adventist Health System/Sunbelt, Inc., a Florida not-for-profit corporation

[Signature]  
Print Name: Lisa Barrett

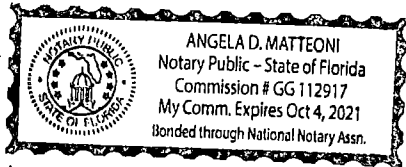
[Signature]  
Print Name: Jessica Diskin

By: 1:13:0  
Name: Tim Burrill  
Title: Senior Vice President  
Date: June 6, 2019

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 6 day of June, 2019 by Tim Burrill, as Senior VP of Adventist Health System/Sunbelt, Inc., a Florida not-for-profit corporation, on behalf of the corporation. Said person (check one)  is personally known to me or  produced n/a as identification.

(NOTARY SEAL)



Angela D. Matteoni  
Notary Public Signature

Angela D. Matteoni  
(Name typed, printed or stamped)  
Notary Public, State of FL  
Commission No.: GG 112917  
My Commission Expires: 10.4.21

**EXHIBIT A**  
**LEGAL DESCRIPTION OF OAP PROPERTY**

THE SOUTH 330 FEET OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 33, TOWNSHIP 24 SOUTH, RANGE 30 EAST, ORANGE COUNTY, FLORIDA, LESS THE ROAD RIGHT OF WAY.

AND

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 33 TOWNSHIP 24 SOUTH RANGE 30 EAST ORANGE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 33 TOWNSHIP 24 SOUTH RANGE 30 EAST; THENCE SOUTH ALONG THE WEST LINE OF THE SOUTHEAST QUARTER TO A POINT 517 FEET NORTH OF THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 33; THENCE EAST 1317.84 FEET; THENCE NORTH 382.8 FEET, THENCE EAST 270 FEET; THENCE NORTH 6 FEET; THENCE EAST 385.53 FEET; THENCE SOUTH 660 FEET; THENCE EAST 630.15 FEET; THENCE SOUTH 621.08 FEET; THENCE WEST 1292.36 FEET; THENCE SOUTH 330 FEET; THENCE WEST 1320; THENCE NORTH 1226.29 FEET TO THE POINT OF BEGINNING.

**EXHIBIT B**  
**LEGAL DESCRIPTION OF HOSPITAL PROPERTY**

**Parcel I**

The South 32 feet of the North 509 feet of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 33, Township 24 South, Range 30 East, Orange County, Florida.

**AND**

Beginning at the Southwest corner of the North 509 feet of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 33, Township 24 South, Range 30 East, thence South 00 degrees 36 minutes 57 seconds East 6 feet, thence South 89 degrees 43 minutes 01 seconds East 270 feet, thence North 00 degrees 36 minutes 57 seconds West 6 feet, thence North 89 degrees 43 minutes 01 seconds West to Point of Beginning, all lying in Orange County, Florida.

**Parcel II**

South  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  of Northeast  $\frac{1}{4}$  and North 477 feet of Northeast  $\frac{1}{4}$  of Southeast  $\frac{1}{4}$  and Northwest  $\frac{1}{4}$  of Southeast  $\frac{1}{4}$ , LESS the South 517 feet of said Northwest  $\frac{1}{4}$  of Southeast  $\frac{1}{4}$  all in Section 33, Township 24 South of Range 30 East, all lying in Orange County, Florida.

**Parcel III**

Southwest  $\frac{1}{4}$  of Northeast  $\frac{1}{4}$  and North  $\frac{1}{2}$  of Southeast  $\frac{1}{4}$  of Northeast  $\frac{1}{4}$  of Section 33, Township 24 South, Range 30 East, all lying in Orange County, Florida.

**Parcel IV**

The South  $\frac{1}{2}$  of Southwest  $\frac{1}{4}$  of Northeast  $\frac{1}{4}$  of Section 33, Township 24 South, Range 30 East, all lying in Orange County, Florida.

**LESS**

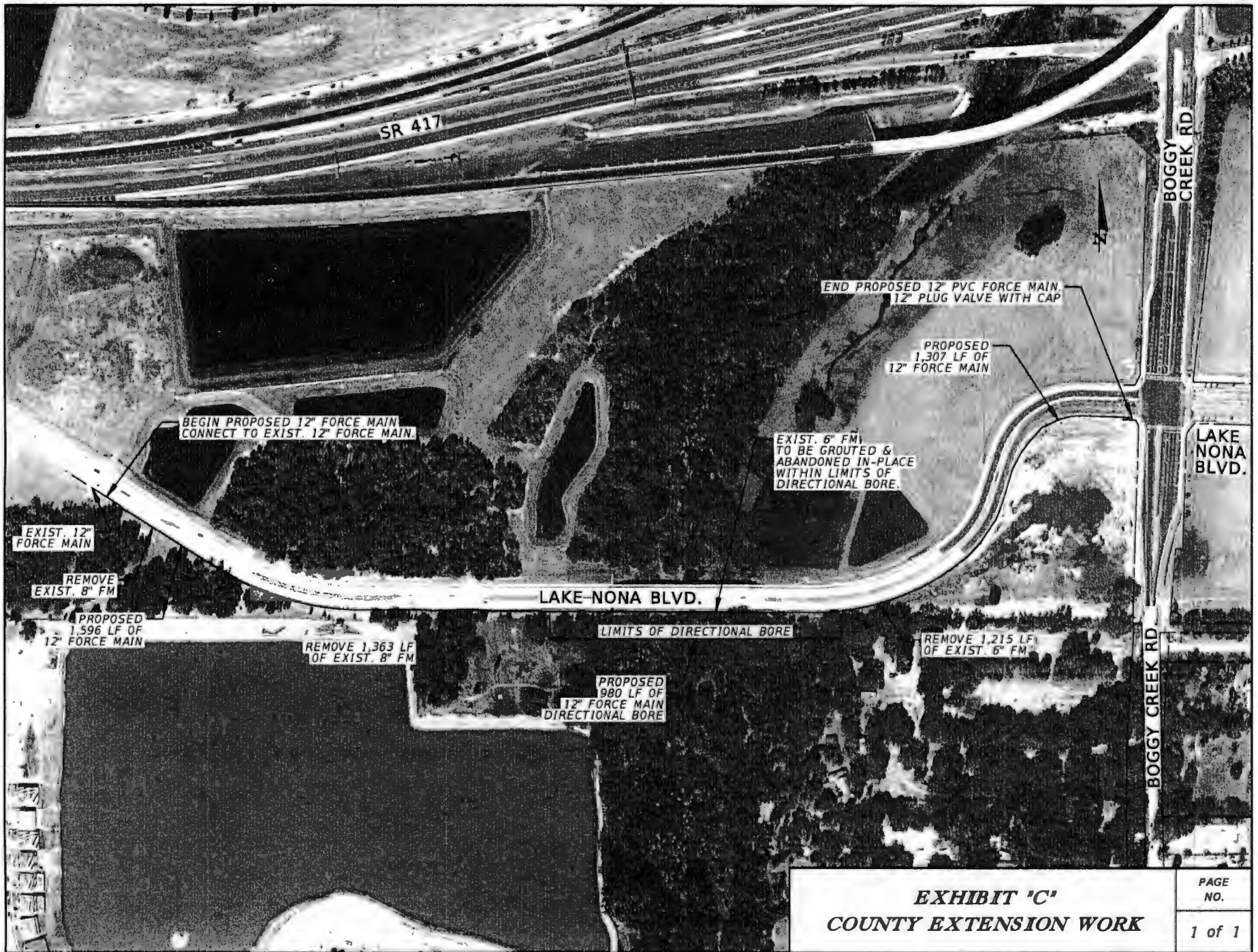
From the Point of Beginning at the Northeast corner of South  $\frac{1}{2}$  of Northeast  $\frac{1}{4}$  of Section 33, Township 24 South, Range 30 East, Orange County, Florida; run West along the North line of said South  $\frac{1}{2}$  of Northeast  $\frac{1}{4}$ , 1106.64 feet; run thence South at right angle of said North line, 17.50 feet; run thence Southeasterly 1143.49 feet; to a point on the East line of said Section 33, lying 279.71 feet South of the Point of Beginning; run thence North along said East line 279.71 feet to the Point of Beginning.

**ALSO LESS**

Any portion thereof lying easterly of the westerly boundary line of the following described lands as conveyed to Orange County in Warranty Deed recorded June 16, 2008 in Official Records Book 9711, Page 8562, Public Records of Orange County, Florida, for right of way for Boggy Creek Road:

A parcel of land lying in Section 33, Township 24 South, Range 30 East, Orange County, Florida, being more particularly described as follows:

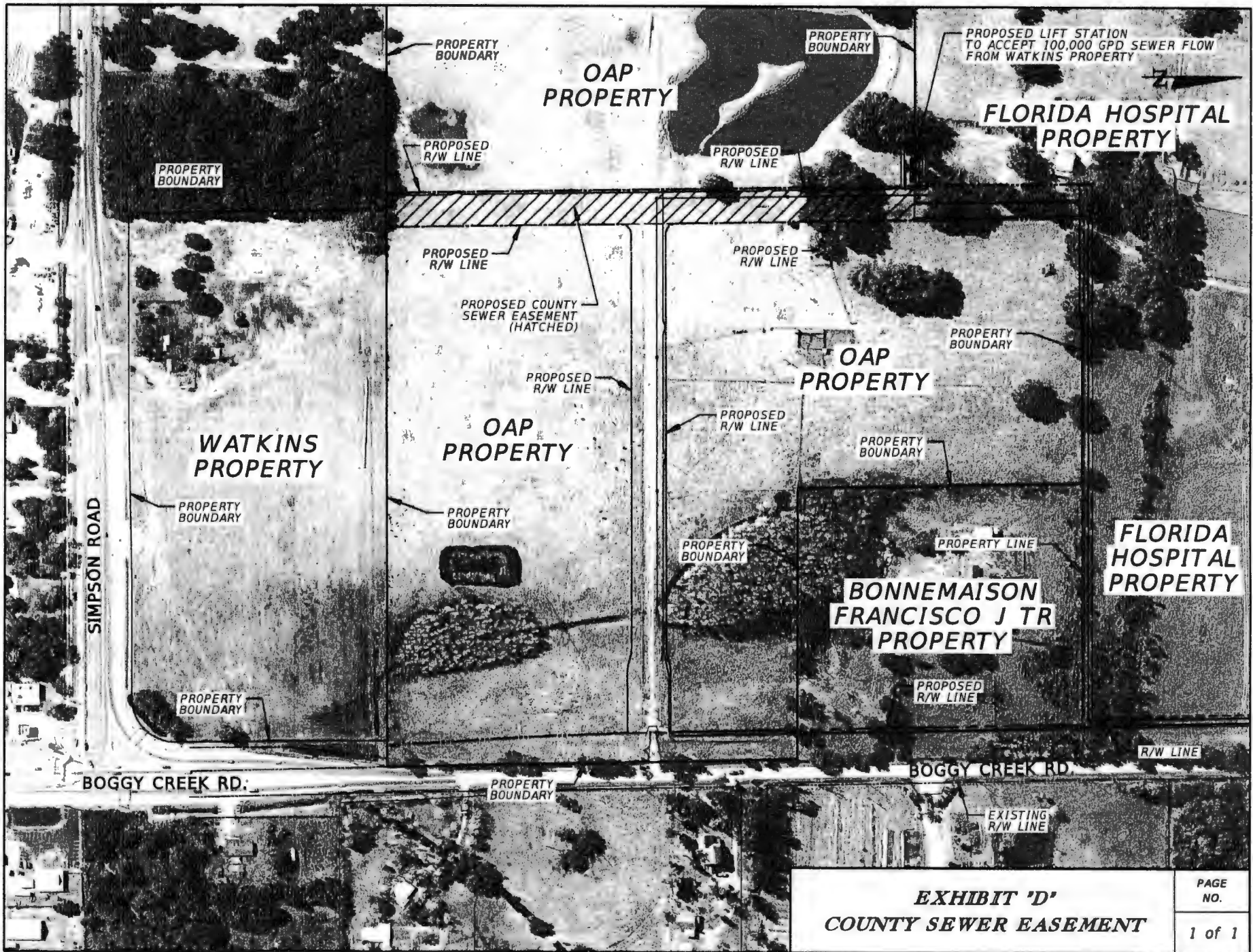
Commencing at the East ¼ corner of Section 33, Township 24 South, Range 30 East, Orange County, Florida, run North 89 degrees 51 minutes 07 seconds West, along the North line of the Southeast ¼ of said Section 33, a distance of 30.01 feet to a point on the West right-of-way line of Boggy Creek Road as recorded in Deed Book 402, Page 397, Public Records of Orange County, Florida, for a Point of Beginning; thence departing said North line run South 00 degrees 57 minutes 51 seconds East, along said West right-of-way line, a distance of 509.10 feet to the Southeast corner of that parcel of land recorded in Official Records Book 8631, Pages 4555 – 4559, Public Records of Orange County, Florida; thence departing said West right-of-way line run North 89 degrees 51 minutes 07 seconds West, along the South line of said parcel, a distance of 60.01 feet; thence departing said South line, run the following two (2) courses 60.00 feet West of and parallel to the aforementioned West right-of-way line of Boggy Creek Road; thence North 00 degrees 57 minutes 51 seconds West, a distance of 509.10 feet to a point on the South line of the Northeast ¼ of said Section 33; thence departing said South line run North 00 degrees 58 minutes 22 seconds West, a distance of 1057.93 feet to a point on the North line of the aforementioned parcel; thence South 76 degrees 31 minutes 24 seconds East, along said North line, a distance of 61.96 feet to the Northeast corner of said parcel, said point being on the aforementioned West right-of-way line of Boggy Creek Road; thence South 00 degrees 58 minutes 22 seconds East, along said West right-of-way, a distance of 1043.64 feet to the Point of Beginning.



**EXHIBIT 'C'**  
**COUNTY EXTENSION WORK**

PAGE  
NO.

1 of 1



**EXHIBIT 'D'**  
**COUNTY SEWER EASEMENT**



# Exhibit E - Standard Bid Form and Pay Items

Project Name: Lake Nona Blvd. Forcemain Extension

ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL
<b>GENERAL CONDITIONS</b>					
1	Mobilization & Demobilization	LS			
2	Indemnification	LS			
3	Project Record Drawings	LS			
4	Maintenance of Traffic	LS			
5	Preconstruction Audio/Visual Documentation and Construction Photographs.	LS			
6	Prevention, Control and Abatement of Erosion and Water Pollution	LS			
7	Geotech Testing	LS			
8	Permits	LS			
9	Bypass Pumping for Sanitary Sewer (6" to 12")	LS			
10	Maintenance Guarantee	LS			
11	Payment and Performance Bond	LS			
<b>1. GENERAL CONDITIONS SUBTOTAL</b>					
<b>WASTEWATER</b>					
12	12" PVC Force Main	LF			
13	12" Certa-Lok Force Main (Installed with Directional Bore)	LF			
14	12" Plug Valve and Box	EA			
15	2" Combination Air Release Valve Assembly	EA			
16	Remove Existing 6" Force Main	LF			
17	Remove Existing 8" Force Main	LF			
18	Connect to Existing OCU 12" Force Main	EA			
19	Concrete Sidewalk Removal and Replacement	SY			
20	Performance Turf (Sod)	SY			
21	Pressure Test FM	LF			
22	Clean Existing Forcemain to be Removed	LF			
23	Grout Existing Forcemain to be Abandoned	LF			
24	R/W & Misc. Grading	SY			
<b>2. WASTEWATER SUBTOTAL</b>					

Notes: 1) Force Main installation price per linear foot includes all installation costs, backfill, pipe fittings, pipe restraints, and compaction and restoration.

2) Unit cost shall include all sales tax.