



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 5

**DATE:** August 30, 2018

**TO:** Mayor Teresa Jacobs  
and the  
Board of County Commissioners

**THROUGH:** Paul Sladek, Manager *PS*  
Real Estate Management Division

**FROM:** Robert Halecky, Acquisition Agent *PS*  
Real Estate Management Division *for RHR*

**CONTACT PERSON:** Paul Sladek, Manager

**DIVISION:** Real Estate Management  
Phone: (407) 836-7090

**ACTION REQUESTED:** APPROVAL AND EXECUTION OF SUBORDINATION OF UTILITY INTERESTS (INSTRUMENT: 1069.2) FROM DUKE ENERGY FLORIDA, LLC, D/B/A DUKE ENERGY, F/K/A DUKE ENERGY FLORIDA, INC., F/K/A FLORIDA POWER CORPORATION, TO ORANGE COUNTY AND AUTHORIZATION TO DISBURSE FUNDS TO PAY RECORDING FEES AND RECORD INSTRUMENT

**PROJECT:** Kennedy Boulevard (Forest City Rd to Wymore Rd)  
  
District 2

**PURPOSE:** To provide for access, construction, operation, and maintenance of road-widening improvements.

**ITEM:** Subordination of Utility Interests (Instrument 1069.2)

**BUDGET:** Account No.: 1023-072-3096-6110

**FUNDS:** \$53.50 Payable to Orange County Comptroller  
(recording fees)

**APPROVALS:** Real Estate Management Division  
Public Works Department

**REMARKS:**

This action will subordinate Duke Energy's interest in their existing easement encumbering Parcel 1069 of Orange County's Kennedy Boulevard road widening project. If Orange County should require Duke Energy to alter, adjust, or relocate its facilities located within said lands in connection with this subordination, Orange County shall pay the reasonable cost of such alteration, adjustment, or relocation, including but not limited to the cost of acquiring appropriate easements.

Orange County is executing the Subordination of Utility Interests to show acceptance of the terms and conditions.

# REQUEST FOR FUNDS FOR LAND ACQUISITION

X Under BCC Approval

Under Ordinance Approval

Date: 8/17/18

Amount: \$53.50

Project: Kennedy Boulevard (Forest City Rd to Wymore Rd)

Parcels: 1069.2

Charge to Account # 1023-072-3096-6110

Controlling Agency Approval

Date

Fiscal Approval

Date

TYPE TRANSACTION (Check appropriate block{s})

X Pre-Condernation        Post-Condernation

       N/A District # 2

       Acquisition at Approved Appraisal  
       Acquisition at Below Approved Appraisal  
       Acquisition at Above Approved Appraisal  
X Advance Payment Requested

Orange County Comptroller  
Recording Fee \$53.50

DOCUMENTATION ATTACHED (Check appropriate block{s})

       Contract  
X Copy of Executed Instruments  
       Certificate of Value  
       Settlement Analysis

**Total \$53.50**

Payable to: Orange County Comptroller (\$53.50)

\*\*\*\*\*  
CHECKS ARE TO BE PICKED UP BY THE REAL ESTATE MANAGEMENT DIVISION (DO NOT MAIL)  
\*\*\*\*\*

Recommended by

*Robert Haley*  
Acquisition Agent

Date

8/17/18

Payment Approved

*Paul Sladek*  
Paul Sladek, Manager, Real Estate Management Division

Date

8/22/18

or

Payment Approved

Russell Corriveau, Asst. Mgr. Real Estate Management Div.

Date

Certified

*Lapela Louis*  
Approved by BCC Deputy Clerk to the Board

SEP 11 2018

Date

Examined/Approved

Comptroller/Government Grants

Check No. / Date

REMARKS:

Anticipated Closing Date: As soon as checks are available.

Please Contact Acquisition Agent @ 67093 if you have any questions.

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS  
SEP 11 2018

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Charge to Account # 1023-072-3096-6110

Controlling Agency Approval

Fiscal Approval

Date

Date

TYPE TRANSACTION (Check appropriate block(s))

X Pre-Condensation

Post-Condensation

N/A

District # 2

- Acquisition at Approved Appraisal
- Acquisition at Below Approved Appraisal
- Acquisition at Above Approved Appraisal
- X Advance Payment Requested

DOCUMENTATION ATTACHED (Check appropriate block(s))

- Contract
- X Copy of Executed Instruments
- Certificate of Value
- Settlement Analysis

Orange County Comptroller  
Recording Fee \$53.50

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Recommended by

Acquisition Agent

Date

Payment Approved

Paul Sladek, Manager, Real Estate Management Division

Date

or

Payment Approved

Russell Corriveau, Asst. Mgr. Real Estate Management Div.

Date

Certified

Approved by BCC Deputy Clerk to the Board

Date

Examined/Approved

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APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS  
SEP 11 2018

Instrument: 1069.2

Project: Kennedy Boulevard (Forest City Rd to Wymore Rd) Invest

### SUBORDINATION OF UTILITY INTERESTS

THIS SUBORDINATION, entered into by and between Duke Energy Florida, LLC, a Florida limited liability company, d/b/a Duke Energy, f/k/a Duke Energy Florida, Inc., f/k/a Florida Power Corporation, a Florida corporation, hereinafter called Utility and Orange County, a charter county and political subdivision of the State of Florida, hereinafter called County

### WITNESSETH:

WHEREAS, the Utility presently has an interest in certain lands that have been determined necessary for public road right-of-way purposes; and

WHEREAS, the proposed use of these lands for public road right-of-way purposes will require subordination of the interest claimed in such lands by Utility to County; and

WHEREAS, County is willing to pay to have the Utility's facilities relocated if necessary to prevent conflict between the facilities so that the benefits of each may be retained.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, Utility and County agree as follows:

Utility hereby subordinates to the interest of County, its successors, or assigns, any and all of its interest in the lands as follows, viz:

### SEE ATTACHED SCHEDULE "A"

#### Encumbrance:

Duke Energy Florida, LLC, a Florida limited liability company, d/b/a Duke Energy, f/k/a Duke Energy Florida, Inc. f/k/a Florida Power Corporation, a Florida corporation

FROM: J. & J. Moving & Storage, Inc.

Distribution Easement filed January 26, 1989

Recorded in Official Records Book 4050, Page 4511

Public Records of Orange County, Florida

Instrument: 1069.2

Project: Kennedy Boulevard (Forest City Rd to Wymore Rd) Invest

PROVIDED that the Utility has the following rights:

1. The Utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon the lands described herein in accordance with County's current minimum standards for such facilities as required by Article VI, Chapter 21 of the Orange County Code, as it may be replaced, amended, or superseded from time to time. Any new construction or relocation of facilities within the lands will be subject to prior approval by County. Should County fail to approve any new construction or relocation of facilities by the Utility otherwise authorized under the aforementioned subordinated interest or require the Utility to alter, adjust, or relocate its facilities located within said lands in connection with this subordination, County shall pay the reasonable cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate easements (collectively "Reimbursement Costs").
2. Utility shall provide written notice to County's Director of Public Works (or equivalent in the event of reorganization) of the estimated costs and narrative scope of any alteration, adjustment, relocation, or removal of its facilities or of the acquisition of any additional easements at least 60 days prior to Utility incurring such costs.
3. Notwithstanding any provisions set forth herein, the terms of the utility permits shall supersede any contrary provisions herein, with the exception of the provision herein regarding Reimbursement Costs.
4. The Utility shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of County's facilities.
5. The Utility agrees to indemnify and hold County harmless for, from and against any and all losses, claims or damages incurred by County to the extent arising from Utility's or Utility's Contractor's negligence or failure to exercise reasonable care in the construction, reconstruction, operation or maintenance of Utility's facilities located on the above described easement.

Instrument: 1069.2

Project: Kennedy Boulevard (Forest City Rd to Wymore Rd) Invest

IN WITNESS WHEREOF, the Utility has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year below written.

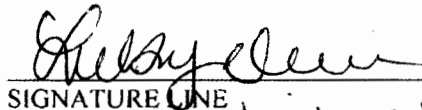
Duke Energy Florida, LLC, a Florida limited liability company,  
d/b/a Duke Energy, f/k/a Duke Energy Florida, Inc., f/k/a  
Florida Power Corporation, a Florida corporation

Signed, sealed and delivered in  
the presence of:



SIGNATURE LINE

PRINT/TYPE NAME: Katen D. Mason



SIGNATURE LINE

PRINT/TYPE NAME: Lindsay Olweri

(Two witnesses required by Florida law)

STATE OF FLORIDA

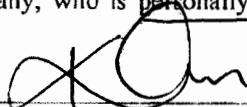
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 3 day of August, 2018, by Kris Tietig, Manager of Land Services – Florida Region for Duke Energy Florida, LLC, a Florida limited liability company, d/b/a Duke Energy, f/k/a Duke Energy Florida, Inc., f/k/a Florida Power Corporation, a Florida corporation, on behalf of the limited liability company, who is personally known to me or who has produced \_\_\_\_\_ as identification.

By:   
Kris Tietig, Manager  
Land Services – Florida Region

Date: 8/3/18

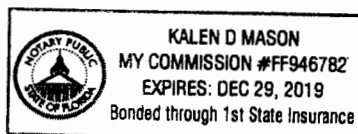
Approved By: Manny Vilarret, Esq.  
7/25/18

  
PRINT/TYPE NAME: Katen D. Mason

Notary Public in and for the  
County and State last aforesaid.

My Commission Expires: 12/29/18

Serial No., if any: FF946782



Instrument: 1069.2

Project: Kennedy Boulevard (Forest City Rd to Wymore Rd) Invest

IN WITNESS WHEREOF, County has executed this Subordination on the day and year below written.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Teresa Jacobs*  
Teresa Jacobs,  
Orange County Mayor

Date: 9.11.18

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

By: *Lakela Louis*  
for Deputy Clerk

Lakela Louis  
Printed Name

**This instrument prepared by:**  
Jeffrey Sponenburg, a staff employee  
in the course of duty with the  
Real Estate Management Division  
of Orange County, Florida



**SCHEDULE "A"**

KENNEDY BOULEVARD

PARCEL No.: 1069

**LEGAL DESCRIPTION**

ALL THAT TRACT OR PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 21 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 21 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA, BEING A FOUND RAILROAD SPIKE WITH NO IDENTIFICATION; THENCE NORTH 89°48'40" EAST ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 34, A DISTANCE OF 1229.73 FEET TO A POINT; THENCE NORTH 02°19'40" WEST, A DISTANCE OF 40.03 FEET TO THE POINT OF INTERSECTION OF THE EXISTING NORTHERLY RIGHT OF WAY LINE OF KENNEDY BOULEVARD, PER ORANGE COUNTY ROAD PLAT BOOK 1, PAGES 88 THROUGH 95 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND THE WEST LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3810, PAGE 1371 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUE NORTH 02°19'40" WEST ALONG SAID WEST LINE, A DISTANCE OF 13.01 FEET TO A POINT; THENCE NORTH 89°48'40" EAST ALONG A LINE 13 FEET NORTH OF AND PARALLEL TO SAID EXISTING NORTHERLY RIGHT OF WAY LINE OF KENNEDY BOULEVARD, A DISTANCE OF 178.69 FEET TO A POINT ON THE EAST LINE OF SAID LANDS; THENCE SOUTH 02°19'40" EAST ALONG SAID EAST LINE, A DISTANCE OF 13.01 FEET TO A POINT ON SAID EXISTING NORTHERLY RIGHT OF WAY LINE OF KENNEDY BOULEVARD; THENCE SOUTH 89°48'40" WEST ALONG SAID EXISTING NORTHERLY RIGHT OF WAY LINE OF KENNEDY BOULEVARD, A DISTANCE OF 178.69 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,323 SQUARE FEET MORE OR LESS.

**GENERAL NOTES:**

1. THE PURPOSE OF THIS SKETCH IS TO DELINEATE THE DESCRIPTION ATTACHED HERETO. THIS DOES NOT REPRESENT A BOUNDARY SURVEY.
2. A CERTIFICATE OF TITLE INFORMATION PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY, DATED FEBRUARY 23, 2016, FILE NUMBER 2037-3512526/18.00018, WAS REVIEWED BY THE SURVEYOR. EXCEPTIONS LISTED THEREIN (IF ANY) WHICH AFFECT THE PARCEL DESCRIBED HEREON, WHICH CAN BE DELINEATED OR NOTED, ARE SHOWN HEREON.
3. THE BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH LINE OF THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 21 SOUTH, RANGE 29 EAST, BEING, NORTH 89°48'40" EAST, AN ASSUMED DATUM.
4. UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS SKETCH IS FOR INFORMATIONAL PURPOSES ONLY.
5. THIS SKETCH MAY HAVE BEEN REDUCED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.
6. ALL RECORDING REFERENCES SHOWN ON THIS SKETCH REFER TO THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, UNLESS OTHERWISE NOTED.
7. THIS SKETCH IS NOT A SURVEY.

**REVISIONS**

1. REVISED SKETCH AND LEGAL DESCRIPTION 9/14/2016.

PAGE 1 OF 2

For: ORANGE COUNTY

Date: SEPTEMBER, 2008Project No.: 004-01Drawn: PMM Chkd.: HPV**LEGAL DESCRIPTION  
KENNEDY BOULEVARD****GEODATA CONSULTANTS, INC.****SURVEYING & MAPPING**

1340 SOUTH INTERNATIONAL PARKWAY

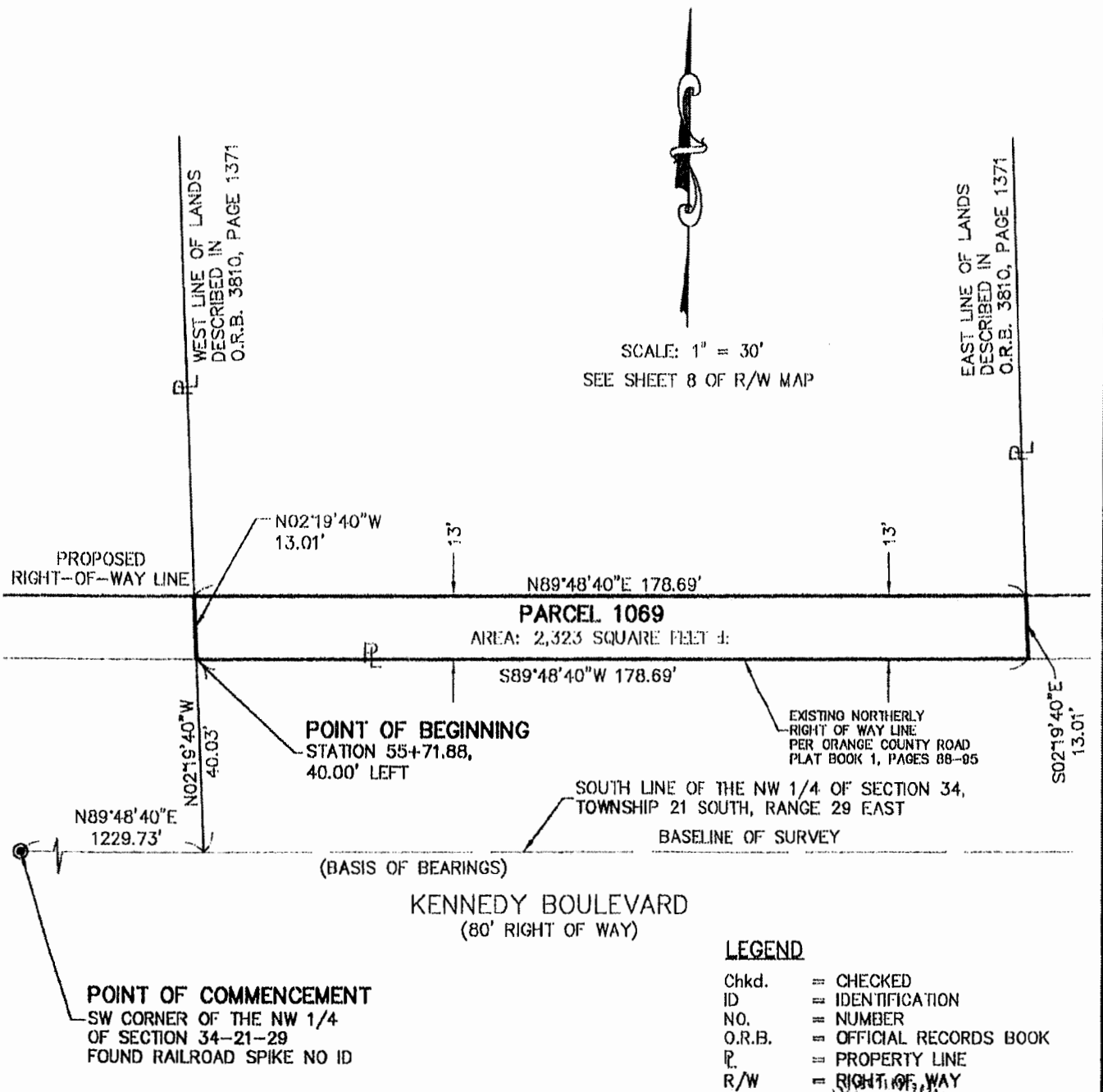
SUITE 2401

LAKE MARY, FLORIDA 32740

VOICE: (407) 732-8066 FAX: (407) 870-0041

Land Surveyor (Professional) License No. 8556

**SKETCH OF DESCRIPTION**  
**NOT A BOUNDARY SURVEY**  
**KENNEDY BOULEVARD**  
**PARCEL No.: 1069**



**LEGEND**

Chkd. = CHECKED  
 ID = IDENTIFICATION  
 NO. = NUMBER  
 O.R.B. = OFFICIAL RECORDS BOOK  
 PL = PROPERTY LINE  
 R/W = RIGHT OF WAY

**SECTION 34, TOWNSHIP 21 SOUTH, RANGE 29 EAST**

Date: **SEPTEMBER, 2008**

Project No.: **004-01**

Drawn: **PMM** Chkd.: **HPV**



**GEODATA CONSULTANTS, INC.**

**SURVEYING & MAPPING**

**1340 SOUTH INTERNATIONAL PARKWAY**

**SUITE 2401**

**LAKE MARY, FLORIDA 32746**

**VOICE: (407) 732-8085 FAX: (407) 878-0841**

**Land Surveyor Business License No. 8558**

I HEREBY CERTIFY THAT THE LEGAL DESCRIPTION AND SKETCH IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS LEGAL DESCRIPTION AND SKETCH MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 472, FLORIDA STATUTES, SUBJECT TO NOTICES AND NOTATIONS SHOWN HEREON.

**H. Paul deViverra, Professional Land Surveyor, No. 4890**

**09/20/2016**

**DATE**