



Interoffice Memorandum

November 20, 2018

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:" line.

**SUBJECT: BCC AGENDA ITEM – Consent Agenda
December 4, 2018 BCC Meeting
Release of All Property Damage Claims with Duke Energy
Florida, March 15, 2013
Contact Person: Tim Armstrong, Assistant Director
Utilities Department
407-254-9745**

Orange County Utilities (OCU) periodically incurs third party underground line damage through no fault of its own. In an attempt to improve collections of these third party damage claims, OCU will soon partner with the Risk Management Division (RM) to handle the processing, release, and collection of future third party damage claims. Under this partnership, RM will use its expertise and experience related to third party claims, and will sign releases for payment of claims under its existing authority as delegated by the Board.

Presently, three pending releases totaling \$53,430.38 require Board approval. Duke Energy Florida, one of the three pending releases, has provided a release in the amount of \$21,238.20 for damages incurred to OCU's infrastructure by Duke Energy Florida on March 15, 2013.

The County Attorney's Office and RM staff reviewed this release of all property damage claims from Duke Energy Florida and finds it legally sufficient. OCU staff recommends approval.

Action Requested: Approval and execution of General Release in the amount of \$21,238.20 with Duke Energy Florida for damages incurred to Orange County Utilities' infrastructure by Duke Energy Florida on March 15, 2013.

All Districts.

GENERAL RELEASE

That the undersigned, being of lawful age, for **Twenty One Thousand, Two Hundred Thirty Eight and 20/100 Dollars** (\$21,238.20), in hand paid, receipt of which is hereby acknowledged, and for their heirs, executors, administrators, and assigns do hereby release and forever discharge and hold harmless **Duke Energy Corporation.**, its successors and assigns, heirs, executors, administrators, employees, officers, directors, agents, contractors and attorneys (the "Released Party"), of any and all claims, demands, rights, actions, damages, costs, loss of services, expenses, attorney's fees, compensation, and causes of action of whatsoever kind and nature arising from, and by reason of the matters involved with and as a consequence of _damaged sewer lateral at **Universal Blvd** and **Via Mercado** Orlando, Florida. _____, happening on or about **March 15, 2013**, and for which the undersigned claims the said Released Party to be legally liable, which liability is hereby expressly denied.

It is understood and agreed that this settlement is the compromise of a doubtful and disputed claim and that the payment made is not to be construed as an admission of liability on the part of the Released Party and that the Released Party denies liability therefore and intend merely to avoid further litigation.

The undersigned hereby declares and represents that no promise, inducement or agreement not herein expressed has been made to them and that the terms of this Release are contractual and not a mere recital.

The undersigned further represents and warrants that there are no outstanding claims or liens against them or claims which could be made by subrogation or otherwise against Released Party for any sums they have received or will receive, resulting from or in any way related to the aforementioned incident, including claims related to legal services, insurance payments, lost income; subrogation interests or interests of another claiming an ownership right in said property and in the event there are or there become any claims, liens or subrogation rights, the undersigned further

agrees to hold harmless and indemnify the Released Party from and against any and all liability, costs, damages, attorneys fees and expenses of whatever kind or nature which the Released Party may sustain or incur by reason of or in consequence of any of the said claims or liens of whatever nature. The undersigned further stipulates that he has represented to the Released Party that they are the sole owners of said claim and that in the event that such representation is false, the undersigned agrees to make full compensation to the Released Party for any costs incurred, including legal fees and damages, arising directly or indirectly from the misrepresentation.

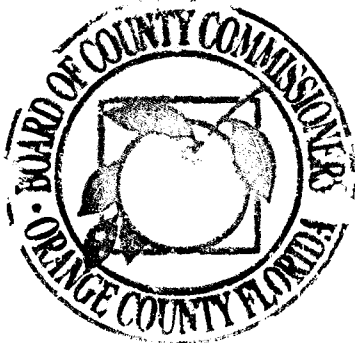
RELEASOR and RELEASEE acknowledge and agree that this settlement is confidential. The RELEASOR and RELEASEE agree not to divulge and/or discuss the terms and amount of this settlement with any individual(s), groups or clubs, commission, government official or representative, entity, publisher, representative of the media, journals and/or periodicals in the absence of a court order compelling them to do so. RELEASEE may also divulge the contents of this release to any governmental body with a regulatory interest in the subject matter of this release. If a court orders disclosure of the terms of the settlement, the party required to make disclosure agrees to seek protective measures from the court to prevent disclosure to individuals not included within the intended scope of the court's order (such as a party in litigation with RELEASOR). RELEASOR further agrees not to make oral or written comments to the media or in a public forum which demean the reputation of RELEASEE, including, but not limited to, any comments criticizing or questioning the business practices and operations of RELEASEE. In any event of any violation of this paragraph by the RELEASOR and/or RELEASEE, the aggrieved party or parties shall have the right to obtain injunctive relief, attorney's fees, costs and damages. The RELEASOR and RELEASEE agree and understand that violations of this paragraph by any person acting as an agent, serving as a representative, and/or related by family will be considered a violation by the RELEASOR or RELEASEE as the case may be.

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND FULLY UNDERSTANDS IT.

DEC 04 2018

IN WITNESS WHEREOF, I have hereunto set my **hand** and seal this _____ day of

_____, 2018.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

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

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

By: *Noelia Perez*
Noelia Perez
Deputy Clerk

Noelia Perez
Printed Name