



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 2

DATE: February 18, 2019

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

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

FROM: Robert Halecky, Acquisition Agent *RKB for RH*
Real Estate Management Division

CONTACT PERSON: Paul Sladek, Manager

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

ACTION REQUESTED: Approval and execution of Subordination of Utility Interests (Instrument 1088.4) from Duke Energy Florida, LLC, d/b/a Duke Energy, 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 1088.4)

BUDGET: Account No.: 1004-072-3096-6110

FUNDS: \$52.50 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 1088 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.

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
MAR 12 2019

Instrument: 1088.4

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

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, 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
FROM: JHY Holdings LLC, a Florida limited liability company
Easement filed June 26, 2018
Recorded in Official Records Document No. 20180377790
Public Records of Orange County, Florida

Instrument: 1088.4

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

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: 1088.4

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

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

Signed, sealed and delivered in
the presence of:

By:

Kris Tietig
Kris Tietig, Manager
Land Services – Florida Region

Date: 1/10/2019

SIGNATURE LINE

PRINT/TYPE NAME: JONATHAN KASPER

SIGNATURE LINE

PRINT/TYPE NAME: Emily F. Baver

(Two witnesses required by Florida law)

STATE OF Florida

COUNTY OF Seminole

The foregoing instrument was acknowledged before me this 11th day of January, 2019, by Kris Tietig, Manager of Land Services – Florida Region for Duke Energy Florida, LLC, a Florida limited liability company, d/b/a Duke Energy, on behalf of the limited liability company, who is personally known to me or who has produced _____ as identification.

PRINT/TYPE NAME: Lindsay Oliveri

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

My Commission Expires: 7/25/22

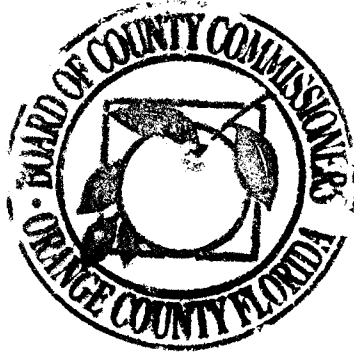
Serial No., if any: GG 241753



Instrument: 1088.4

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

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



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Bryan W. Brooks*
for Jerry L. Demings,
Orange County Mayor

Date: 12 March 2017

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

By: *Katie Smith*
Deputy Clerk

Katie Smith

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.: 1088

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING IN THE NORTHEAST 1/4 OF SECTION 33, TOWNSHIP 21 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SECTION 33, TOWNSHIP 21 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA, BEING A FOUND RAILROAD SPIKE WITH NO IDENTIFICATION; THENCE NORTH 89°54'10" WEST ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 1545.01 FEET TO A POINT; THENCE NORTH 00°24'46" WEST, A DISTANCE OF 35.00 FEET TO A POINT ON THE EXISTING RIGHT OF WAY LINE OF ALL AMERICAN BOULEVARD PER OFFICIAL RECORDS BOOK 3767, PAGE 1572 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE NORTH 89°54'10" WEST ALONG SAID EXISTING RIGHT OF WAY LINE OF ALL AMERICAN BOULEVARD, A DISTANCE OF 30.00 FEET TO A POINT ON THE WEST LINE OF THE EAST 233 FEET OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33; THENCE NORTH 00°24'46" WEST ALONG SAID WEST LINE, A DISTANCE OF 5.18 FEET TO A POINT; THENCE NORTH 89°54'46" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON THE WEST LINE OF THE EAST 203 FEET OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33; THENCE SOUTH 00°24'46" EAST ALONG SAID WEST LINE, A DISTANCE OF 5.28 FEET TO THE POINT OF BEGINNING.

CONTAINING 157 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 DECEMBER 17, 2013, FILE NUMBER 2037-3086628/13.00143, 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 NORTHEAST 1/4 OF SECTION 33, TOWNSHIP 21 SOUTH, RANGE 29 EAST, HAVING A BEARING OF NORTH 89°54'10" WEST, 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 PER COUNTY COMMENTS 9/30/2004.
2. REVISED SKETCH AND LEGAL DESCRIPTION PER COUNTY COMMENTS 4/24/2006.
3. UPDATED SKETCH AND LEGAL DESCRIPTION 3/17/2014.

PAGE 1 OF 2

For: ORANGE COUNTY

Date: SEPTEMBER 2008

Project No.: 004-01

Drawn: PMM Chkd.: HPV

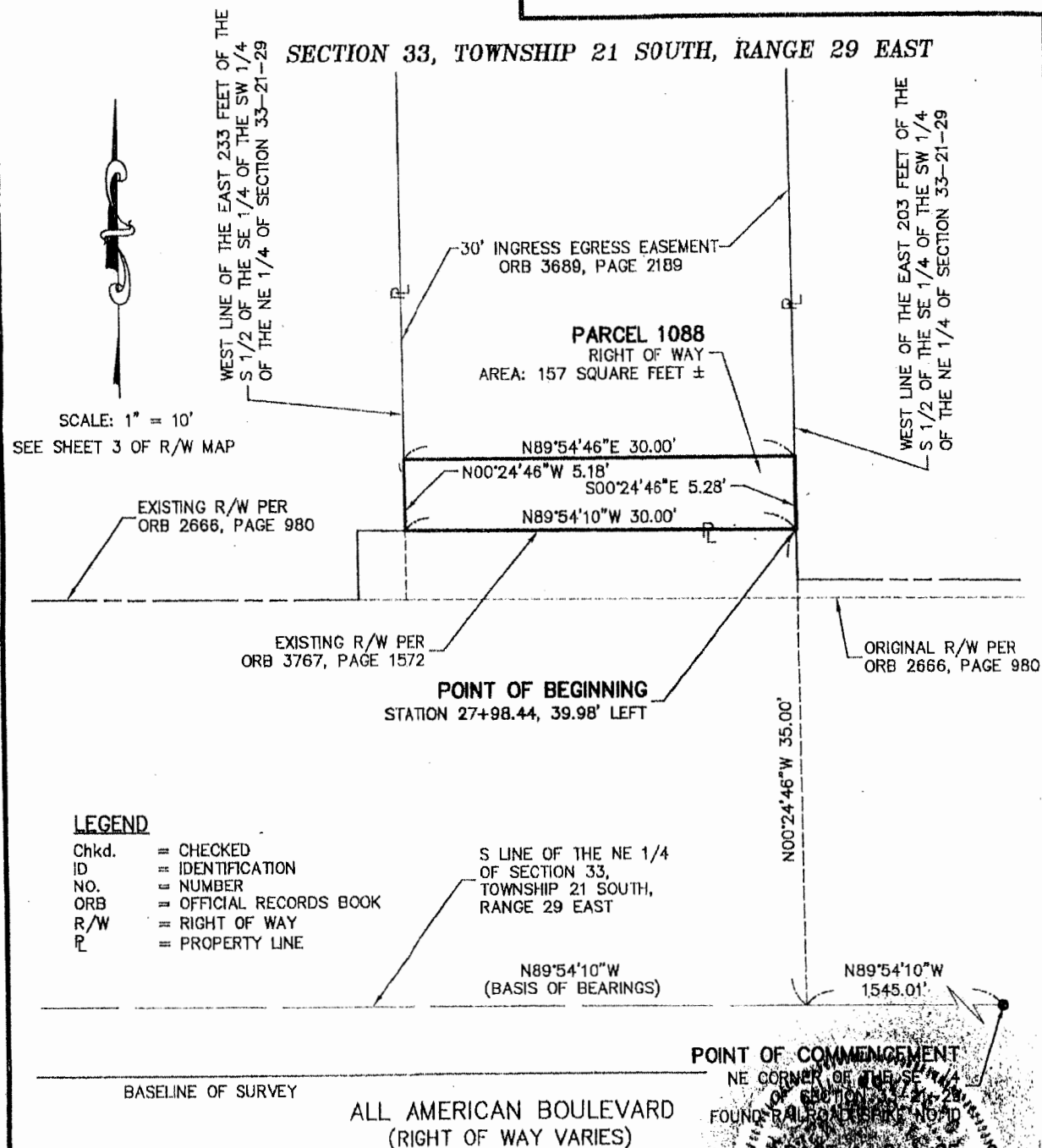
**LEGAL DESCRIPTION
KENNEDY BOULEVARD**



GEODATA CONSULTANTS, INC.
SURVEYING & MAPPING
1340 SOUTH INTERNATIONAL PARKWAY
SUITE 2401
LAKE MARY, FLORIDA 32746
VOICE: (407) 732-6065 FAX: (407) 870-0041
Licensed Surveyor/Mapmaker License No. 0556

SKETCH OF DESCRIPTION

NOT A BOUNDARY SURVEY
KENNEDY BOULEVARD
PARCEL No.: 1088



For: ORANGE COUNTY

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 32748

VOICE: (407) 792-6066 FAX: (407) 878-0041

Land Surveyor License Number No. 6556

I HEREBY CERTIFY THAT THE FOREGOING SURVEY AND SKETCH IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THIS LEGAL DESCRIPTION AND SKETCH ARE THE TRUE AND CORRECT AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 472, FLORIDA STATUTES, AND PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES, I HAVE TOOK THE NECESSARY PRECAUTIONS SHOWN HEREON.

DATE: 9-16-2016

H. Paul deVries, Professional Land Surveyor No. 4990

REQUEST FOR FUNDS FOR LAND ACQUISITION

X Under BCC Approval

Under Ordinance Approval

Date: 1/24/19

Total Amount: \$52.50

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

Parcels: 1088.4

Charge to Account # 1004-072-3096-6110

Controlling Agency Approval Signature _____ Date _____

Printed Name: _____

Fiscal Approval Signature _____ Date _____

Printed Name _____

TYPE TRANSACTION (Check appropriate block{s})
X Pre-Condernnation _____ Post-Condernnation _____ 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 \$52.50

DOCUMENTATION ATTACHED (Check appropriate block{s})

____ Contract/ Agreement
X Copy of Executed Instruments
 ____ Certificate of Value
 ____ Settlement Analysis

Payable to: Orange County Comptroller (\$52.50)

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

Recommended by Robert Halecky
 Robert Halecky, Real Estate Management Division

2/7/19
 Date

Payment Approved Paul Sladek
 Paul Sladek, Manager, Real Estate Management Division

2/7/19
 Date

or
 Payment Approved _____
 Russell Corriveau, Asst. Mgr. Real Estate Management Div.

 Date
 MAR 12 2019

Certified Jennifer Jan-Kenith
 Approved by BCC Deputy Clerk to the Board

 Date

Examined/Approved _____
 Comptroller/Government Grants

 Check No. / Date

REMARKS:

Anticipated Closing Date: As soon as checks are available.

APPROVED
 BY ORANGE COUNTY BOARD
 OF COUNTY COMMISSIONERS
 MAR 12 2019

REQUEST FOR FUNDS FOR LAND ACQUISITION

☒ Under BCC Approval

☐ Under Ordinance Approval

Date: 1/24/19

Total Amount: \$52.50

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

Parcels: 1088A

Charge to Account # 1004-072-3096-6110

Controlling Agency Approval Signature

Raymond L.A. Williams

Printed Name:

Fiscal Approval Signature

Becky Jerge

Printed Name

TYPE TRANSACTION (Check appropriate block(s))

☒ Pre-Condernation ☐ Post-Condernation

☐ N/A District # 2

- ☐ Acquisition at Approved Appraisal
- ☐ Acquisition at Below Approved Appraisal
- ☐ Acquisition at Above Approved Appraisal
- ☒ Advance Payment Requested

Orange County Comptroller
Recording Fee \$52.50

DOCUMENTATION ATTACHED (Check appropriate block(s))

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Payable to: Orange County Comptroller (\$52.50)

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Recommended by Robert Halecky
Robert Halecky, Real Estate Management Division

Date

Payment Approved Paul Sladek
Paul Sladek, Manager, Real Estate Management Division

Date

or
Payment Approved Russell Corriveau
Russell Corriveau, Asst. Mgr. Real Estate Management Div.

Date

Certified Deputy Clerk to the Board
Approved by BCC

Date

Examined/Approved Comptroller/Government Grants

Check No. / Date

REMARKS:

Anticipated Closing Date: As soon as checks are available.