

ORIGINAL

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ATTORNEYS AT LAW

REPLY TO:

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*BOARD CERTIFIED REAL ESTATE LAWYER

MEMORANDUM

OF COUNSEL
DAVID B. ERWIN
A.J. JIM SPALLA

TO: Blanca Bayo
Records and Recording
Florida Public Service Commission

FROM: Roy C. Young *RCY/swp*

DATE: April 8, 2003

SUBJECT: Joint Petition and Addendum
Orlando Utilities Commission & Florida Progress

RECEIVED FPSC
APR - 8 AM 11:18
COMMISSION CLERK

Enclosed find original and fifteen copies of the following for filing:

- 1. Joint Petition
- 2. Addendum to 1995 Territorial Agreement

Thank you for your assistance.

RCY:swp
Enclosures

sparrett\ouc\blanca bayo re Joint Petition & Addendum OUC - FPC.Apr. 8, 2003

RECEIVED & FILED
Th
FPSC-BUREAU OF RECORDS

ADDENDUM
DOCUMENT NUMBER-DATE
03281 APR-8 8
FPSC-COMMISSION CLERK

PETITION + Attachment
DOCUMENT NUMBER-DATE 1 + 2
03280 APR-8 8
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition of Orlando Utilities Commission and Progress Energy Florida for approval of modifications to their territorial boundary line in Orange County, Florida.

Docket No. 030331-EU
Filed: March, 2003
Apeit

JOINT PETITION

Joint Petitioners, Orlando Utilities Commission ("OUC") and Progress Energy Florida, Inc., formerly known as Florida Power Corporation, ("Progress Energy") pursuant to Section 366.04(2)(d), Florida Statutes, and Rule 25-6.0440, Florida Administrative Code, hereby petition the Florida Public Service Commission ("Commission") for approval of an Addendum to the Joint Petitioners' Commission-approved territorial agreement that would modify the territorial boundary line in certain areas of Orange County, Florida. In support hereof, Joint Petitioners state as follows:

- 1. All notices and pleadings in this matter should be served on the following:

For OUC:
Roy C. Young
David B. Erwin
Young, van Assenderp, Varnadoe & Anderson, P.A.
225 South Adams Street-Suite 200
Tallahassee, FL 32301

For PROGRESS:
James A. McGee
Associate General Counsel
Progress Energy Service Co., LLC
P. O. Box 14042
St. Petersburg, FL 33733-4042

Thomas B. Tart, Esquire
General Counsel
Orlando Utilities Commission
P. O Box 3193
Orlando, FL 32802-3193

2. Joint Petitioners are electric utilities as defined in Section 366.02(2), Florida Statutes, and are subject to jurisdiction of the Commission with respect to territorial agreements and territorial disputes pursuant to Section 366.04(2)(d) and (e), Florida Statutes. OUC's principal offices are located at 500 South Orange Avenue, Orlando,

DOCUMENT NUMBER-DATE
03280 APR-08
FPSC-COMMISSION CLERK

Florida 32801. Progress Energy's principal offices are located at 100 Central Avenue, St. Petersburg, Florida 33701.

3. The territorial agreement currently in effect between the Joint Petitioners was approved by Commission Order No. PSC-95-0440-FOF-EU, issued April 5, 1995 in Docket No. 940656-EU ("the 1995 Territorial Agreement"). By its terms and attached maps, the 1995 Territorial Agreement establishes the respective service territories of OUC and Progress Energy in Orange County and elsewhere, as delineated by a territorial boundary line.

4. By this Joint Petition, OUC and Progress Energy seek approval of an Addendum to the 1995 Territorial Agreement dated March 31, 2003 ("the Addendum"), which is appended hereto as Attachment 1. The Addendum provides for five specific modifications to the territorial boundary line in Orange County, the general location of which is shown on the County Highway map appended hereto as Attachment 2. Each individual boundary line modification is shown separately on detailed maps attached to the Addendum as Exhibits A through E. The effectiveness of the Addendum is expressly contingent upon approval in its entirety by the Commission.

5. The need for the territorial boundary line modifications subject to this Joint Petition arises because of the reconfiguration, consolidation and other changes in the layout of properties over a period of almost 30 years since the existing boundary line was established in 1974 by a predecessor agreement to the 1995 Territorial Agreement. As a result, the territorial boundary line now bisects the five properties described in the Addendum, which are all subject to immediate or near-term development. This, in turn, has resulted in uncertainty and the potential for disputes as to which of the Joint Petitioners should serve the developed properties, as well as design and construction problems on the

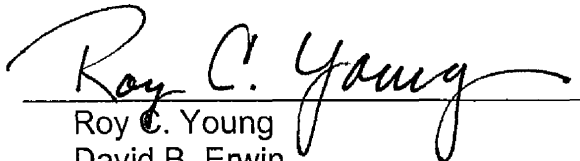
part of the properties' developers due to the uncertainty of their electric supplier, or worse, the possibility of two electric suppliers to their development.

6. The Addendum reflects the agreement negotiated by the Joint Petitioners to resolve the problematic situation by relocating the territorial boundary line to go around, rather than through, the five properties in question. As modified, the territorial boundary line will place three of the previously bisected properties in the service territory of OUC and two of the properties in Progress Energy's service territory.

7. By transferring the properties in this manner, the Joint Petitioners believe and therefore represent that the Addendum will result in service being provided by the most appropriate Party under the circumstances presented; that operational safety and efficiency will be promoted; that the developers and future occupants of these properties will benefit by having a single electric service provider; that the uneconomic duplication of facilities and the occurrence of undesirable and costly territorial disputes will be avoided; and, therefore, that approval of the Addendum by the Commission will be in the public interest.

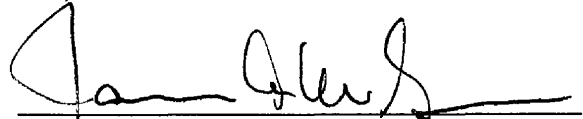
WHEREFORE, Joint Petitioners, OUC and Progress Energy, request that the Commission approve the modifications to the territorial boundary line set forth in the Addendum to the 1995 Territorial Agreement.

Respectfully submitted this 7th day of ~~March~~^{APRIL}, 2003.



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Attorney for
Progress Energy Florida, Inc.

ADDENDUM TO 1995 TERRITORIAL AGREEMENT

THIS ADDENDUM to their 1995 Territorial Agreement, made and entered into this 31 day of March, 2003, by and between ORLANDO UTILITIES COMMISSION (herein called "OUC") and PROGRESS ENERGY FLORIDA, INC., formerly known as Florida Power Corporation, (herein called "Progress Energy"), which entities are herein collectively called the "PARTIES".

WITNESSETH:

WHEREAS, each of the Parties is authorized by its charter and the Laws of the State of Florida to furnish, and do furnish, retail electric service to persons within their respective service areas; and

WHEREAS, the current service areas of each of the Parties were established pursuant to a territorial agreement between the Parties approved by the Florida Public Service Commission (herein called "FPSC") in Order No. PSC-95-0440-FOF-EU, issued April 5, 1995 in Docket No. 940656-EU (herein called the "1995 Territorial Agreement"); and

WHEREAS, there are presently several properties subject to immediate or near-term development that are bisected by the territorial boundary line set forth in the 1995 Territorial Agreement, resulting in uncertainty and potential disputes as to which of the Parties should serve the developed properties; and

WHEREAS, the FPSC has jurisdiction to resolve territorial disputes and approve territorial agreements; and

WHEREAS, the Parties desire to settle their potential disputes through agreement, instead of through adversarial territorial dispute proceedings before the FPSC, in an effort to minimize costs to their respective ratepayers, avoid uneconomic duplication of facilities, and quickly resolve these service issues.

NOW THEREFORE, in consideration of the premises aforesaid and the mutual covenants and agreements herein set forth, the Parties hereby agree to modify their 1995 Territorial Agreement, as follows:

Section 1. For the reasons set forth below, the service territories of the Parties shall be reallocated and the territorial boundary line shall be realigned in the following manner:

- A. Lake Nona Planned Urban Development (PUD). Progress Energy shall transfer to OUC certain territory in Section 18, Township 24 South, Range 31 East, as shown on and described in Exhibit A attached hereto and made a part hereof.
- B. Vista Lakes PUD. OUC shall transfer to Progress Energy certain territory in Section 25, Township 23 South, Range 30 East, as shown on and described in Exhibit B, attached hereto and made a part hereof.
- C. Hyatt Hotel. Progress Energy shall transfer to OUC certain territory in the vicinity of International Drive in Section 36, Township 23 South, Range 28 East and Section 1, Township 24 South, Range 28 East, as shown on and described in Exhibit C, attached hereto and made a part hereof.
- D. Rosen Golf Resort. Progress Energy shall transfer to OUC certain territory in Section 32, Township 23 South, Range 29 East, and Section 5, Township 24 South, Range 29 East, as shown on and described in Exhibit D, attached hereto and made a part hereof.
- E. University Boulevard (Republic Boulevard). OUC shall transfer to Progress Energy certain territory in Section 36, Township 23 South, Range 28 East, as shown on and described in Exhibit E, attached hereto and made a part hereof.

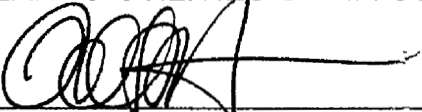
The Parties agree that the transfer of the properties as specified in paragraphs A through E above will result in service being provided by the most appropriate Party under the circumstances; that operational safety and efficiency will be promoted; that the developers and occupants of these properties will benefit by having a single electric service provider; and that the transfer will avoid the uneconomic duplication of facilities and prevent the occurrence of undesirable and costly territorial disputes.

Section 2. Except as modified herein, all other terms and conditions of the 1995 Territorial Agreement shall remain in full force and effect.

Section 3. The effectiveness of this Addendum is expressly conditioned upon and subject to approval in its entirety through a final order issued by the FPSC.

IN WITNESS WHEREOF, the Parties have caused this Addendum to be executed in duplicate in their respective names and their corporate seals affixed by their duly authorized officers on the day and year first above written.

ORLANDO UTILITIES COMMISSION

By: 
Its: Gen. Mgr. & CEO

ATTEST:

Billy J. Perrow
Asst. Secretary

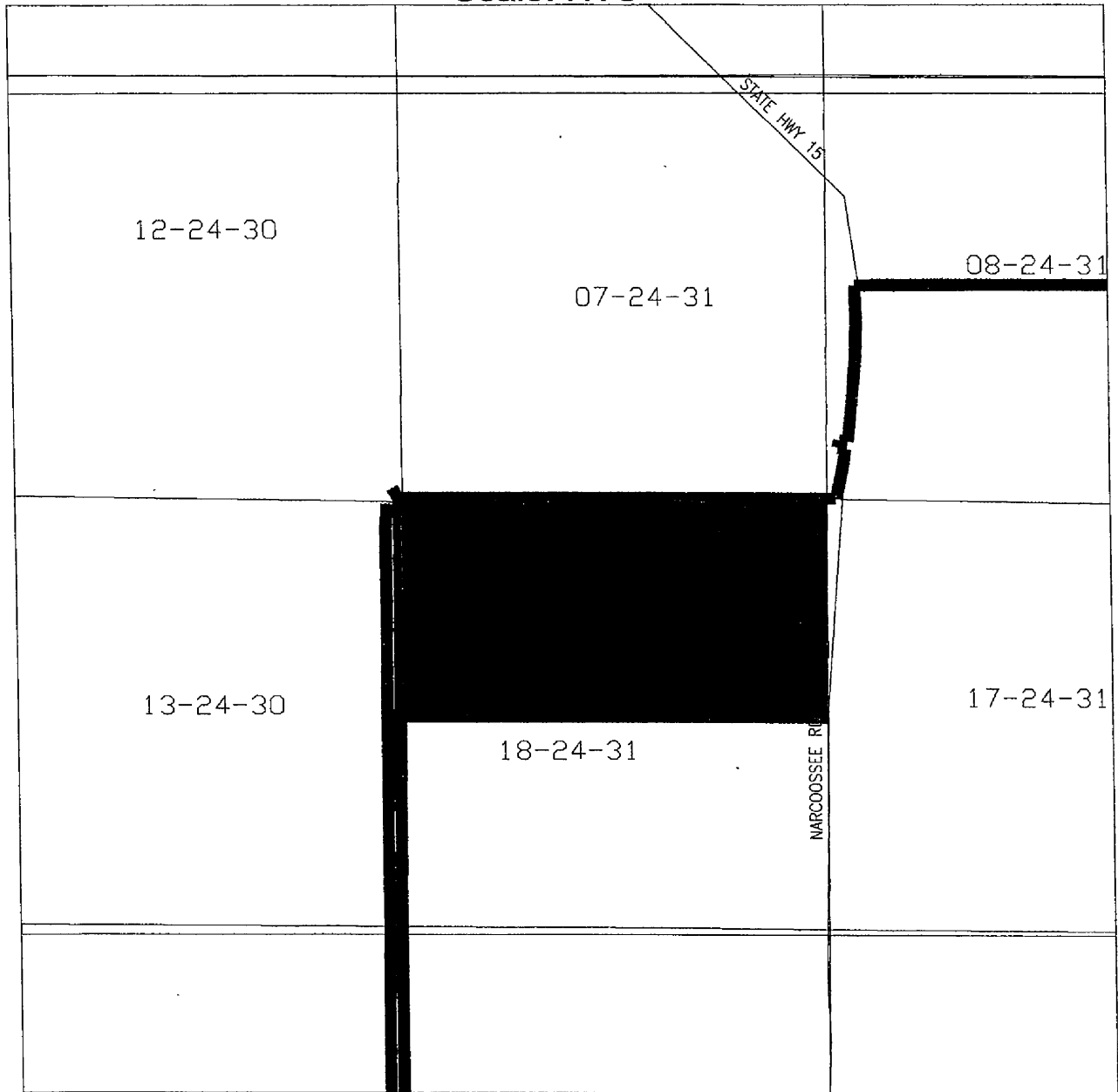
PROGRESS ENERGY FLORIDA, INC.
formerly known as Florida Power Corporation

By: 
Its: VICE PRESIDENT

ATTEST:

R. A. C. [Signature]
Asst. Secretary

Scale: NTS



Territorial Agreement

 = New to OUC

 = Current OUC/FPC Service Boundary

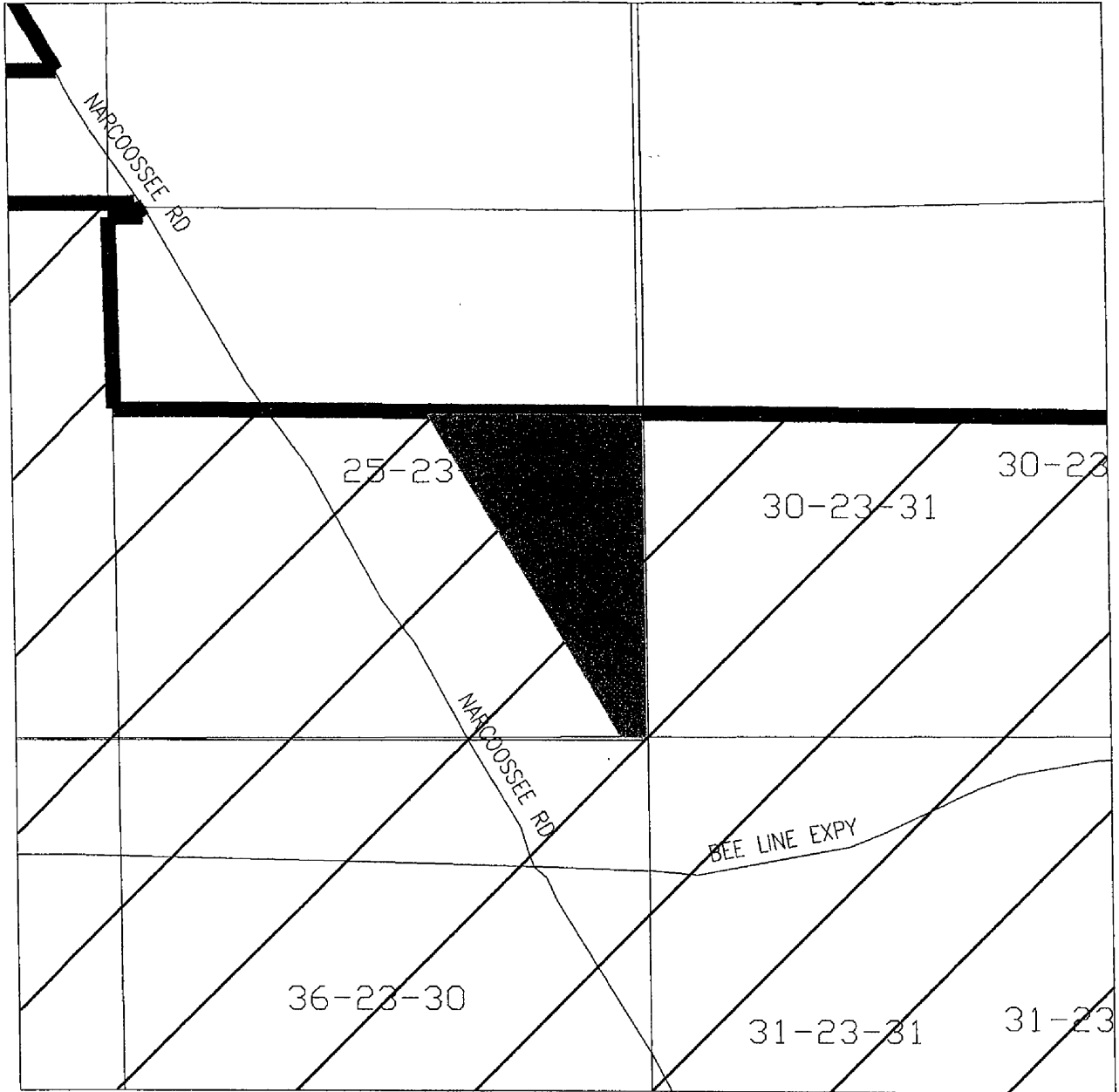
Between
Orlando Utilities Commission and Florida Power Corporation
Exhibit "A" **Lake Nona PUD**

Lake Nona PUD



Exhibit A




The north 1/2 of Section 18, Township 24 South, Range 31 East lying west of Narcoossee Road (SR 15).

Scale: NTS



Territorial Agreement

 = OUC
 = FPC

 = New to FPC
 = New to OUC
 = Current OUC/FPC Service Boundary

Between
Orlando Utilities Commission and Florida Power Corporation
Exhibit "B" **Vista Lakes PUD**

Vista Lakes PUD
Exhibit B



A portion of Parcels 25-23-30-0000-008 and 24-23-30-0000-00-018 being more particularly described as follows:




BEGIN at the Northeast corner of the Southeast 1/4 of Section 25, Township 23 South, Range 30 East; thence run South along the East line of the Southeast 1/4 of Section 25 to the Southeast corner of the Southeast 1/4 of said Section 25; thence run West \pm 347.00 feet along the South line of the Southeast 1/4 of Section 25; thence run N30°08'53"W to the North line of the Southeast 1/4 of Section 25; thence run East along the North line of the Southeast 1/4 of Section 25 to the Northeast corner of the Southeast 1/4 of Section 25, also being the POINT OF BEGINNING.

Scale: NTS



Territorial Agreement

 = OUC
 = FPC

 = New to FPC
 = New to OUC
 = Current OUC/FPC Service Boundary

Between
Orlando Utilities Commission and Florida Power Corporation
Exhibit "C" **Hyatt Area**

Hyatt Area

Exhibit C



Starting at the Southwest corner of Lot 2, OVERSTREET REPUBLIC DRIVE PROPERTY, according to the plat thereof; as recorded in Plat Book 31, Page 69, of the Public Records of Orange County, Florida, run $S89^{\circ}22'54''W$ for a distance of 167.17 feet to the West line of the East 1/2 of said Section 36, Township 23 South, Range 28 East; thence run $SOO^{\circ}07'59''E$ along said West line for a distance of 280.55 feet to the Westerly projection of the North line of lands described in Official Records Book 5638, Page 3517, of said Public Records; thence run $N89^{\circ}04'41''E$ along said Westerly projection and said North line for a distance of 501.03 feet; thence run $S47^{\circ}46'37''E$ along said North line for a distance of 394.51 feet; thence run $S42^{\circ}13'23''W$ along said North line for a distance of 366.84 feet to the point of curvature of a curve concave Easterly having a radius of 832.00 feet; thence run Southerly along the arc of said curve through a central angle of $42^{\circ}58'08''$ for a distance of 623.96 feet to a non-tangent line; thence, departing said North line, run $N90^{\circ}00'00''W$ to the West line of the East 1/2 of Section 36, Township 23 South, Range 28 East, being the Point of Beginning; thence run $N90^{\circ}00'00''W$ to the Easterly right-of-way line of Universal Boulevard (formerly known as Republic Drive) and to a point on a non-tangent curve concave Southeasterly having a radius of 3256.07 feet and a chord bearing of $S17^{\circ}35'27''W$; thence run Southwesterly along said right-of-way line and along the arc of said curve through a central angle of $06^{\circ}17'01''$ for a distance of 357.10 feet to a point of compound curvature of a curve concave Easterly having a radius of 2732.50 feet and a central angle of $22^{\circ}14'20''$; thence run Southerly along the arc of said curve and said right-of-way line for a distance of 1060.60 feet to the point of reverse curvature of a curve concave Westerly having a radius of 3191.80 feet and a central angle of $06^{\circ}17'27''$; thence run Southerly along the arc of said curve and said right-of-way line for a distance of 350.45 feet to a point of non-tangency; thence run the following four (4) courses and distances along the boundary lines of Block C, PLAZA INTERNA



TIONAL UNIT TEN, according to the plat thereof as recorded in Plat Book 17, Pages 63 and 64, of said Public Records: N88°30'00"E, 24.31 feet; S01°32'03"E, 94.70 feet; S05°26'35"E, 25.90 feet; S85°19'22"W, 28.37 feet to a point on a non-tangent curve concave Northwesterly having a radius of 6067.50 feet, a central angle of 22°41'52" and a chord bearing of S11°39'04"W; thence run Southwesterly along the arc of said curve and said Easterly right-of-way line for a distance of 2403.66 feet to the point of tangency; thence run S22°59'57"W along said Easterly right-of-way line for a distance of 304.06 feet; thence, departing said Easterly right-of-way line, run S67°24'38"E along the South line of Lot 1, USI- SOUTH CAMPUS UNIT ONE, according to the plat thereof as recorded on Plat Book 46, Pages 13 through 16, of the Public Records of Orange County, Florida, for a distance of 381.50 feet to a point on a non-tangent curve concave Southeasterly having a radius of 795.00 feet and a chord bearing of N49°26'26"E; thence run Northeasterly along said South line of Lot 1 and along the arc of said curve through a central angle of 53°42'14" for a distance of 745.16 feet to a non-tangent line; thence run S19°33'30"E for a distance of 181.32 feet to the West line of the East 1/2 of the Section 1, Township 24 South, Range 28 East; thence run north along the West line of the East 1/2 of Section 1 and the West line of the East 1/2 of Section 36, Township 23 South, Range 28 East to the Point of Beginning.

Scale: NTS



Territorial Agreement

 = OUC
 = FPC

 = New to FPC
 = New to OUC

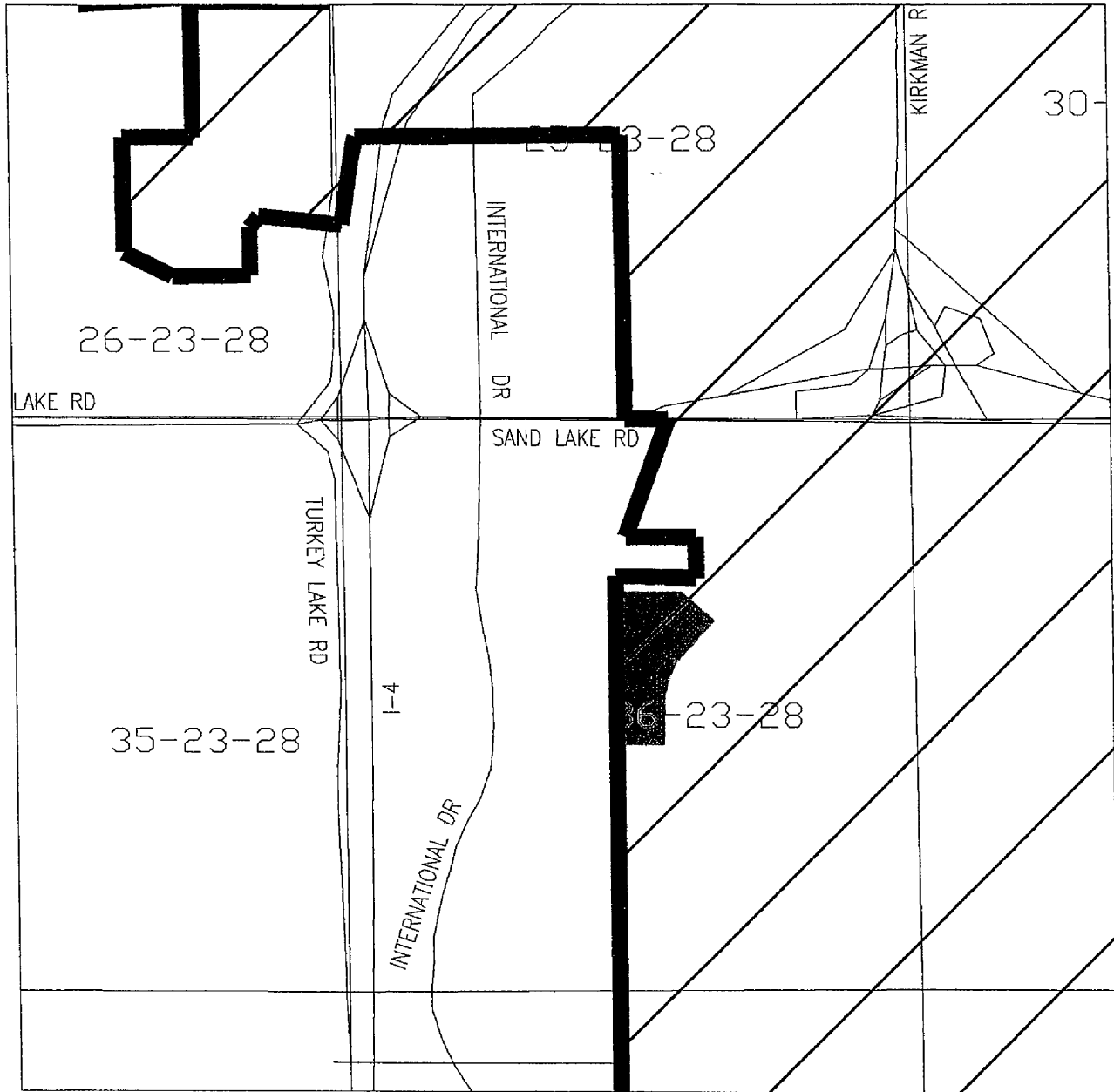
 = Current OUC/FPC Service Boundary

Between
Orlando Utilities Commission and Florida Power Corporation
Exhibit "D" Rosen Golf Resort



Exhibit D



Begin at the Southeast corner of the Southwest 1/4 of Section 5, Township 24 South, Range 29 East; thence run N89°27'31 "E along the South line of the Southeast 1/4 of said Section 5 for a distance of 384.88 feet; thence, departing said South line, run NOO°26'39"W for a distance of 292.07 feet; thence run N44°39'12"W for a distance of 69.94 feet; thence run N68°23'29"W for a distance of 179.21 feet; thence run N22°27'15"E for a distance of 172.34 feet to the Southeast corner of lands described in Official Records Book 6262, Page 4996, of said Public Records; thence run the following eighteen (18) courses and distances along the East line of said lands: N22°27'15"E, 388.98 feet; N20°10'28"E, 264.53 feet; N16°55'58"E, 430.96 feet; N091°3'41"E, 215.50 feet; NO7°35'20"W, 185.98 feet; N05°30'41"W, 126.34 feet; N15°50'12"W, 304.44 feet; N05°05'48"W, 244.77 feet; N05°27'06"E, 200.88 feet; N04°39'51"E 575.62 feet; N0411'5.3"W, 195.55 feet; NOO°54'01"W 120.58 feet; N11°01'08"E, 346.07 feet; N22°08'10"E, 110.52 feet; N02°55'27"E, 56.49 feet; N18°43'11"W 78.69 feet; N33°40'59"W, 592.88 feet; N25°52'34"W, 255.92 feet to the Northernmost corner of said lands; thence run N25°52'34"W for a distance of 529.92 feet to the East line of the West 1/2 of the aforesaid Section 32, Township 23 South, Range 29 East; thence run south along the East line of the West 1/2 of said Section 32; thence continue south along the East line of the West 1/2 of said Section 5 to the Point of Beginning.

Scale: NTS



Territorial Agreement

 = OUC
 = FPC

 = New to FPC
 = New to OUC

 = Current OUC/FPC Service Boundary

Between
Orlando Utilities Commission and Florida Power Corporation
Exhibit "E" Universal Boulevard Area
(Formerly Republic Drive Area)

Universal Boulevard Area

(previously Republic Drive)

Exhibit E

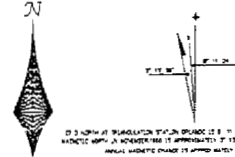
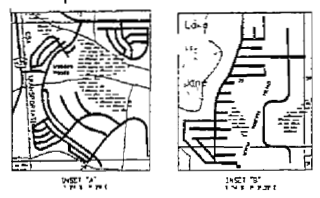
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GENERAL HIGHWAY MAP ORANGE COUNTY FLORIDA

PREPARED BY THE
SURVEYING AND MAPPING OFFICE
FOR THE
DIVISION OF TRANSPORTATION PLANNING
STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
A CORPORATION WITH THE
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

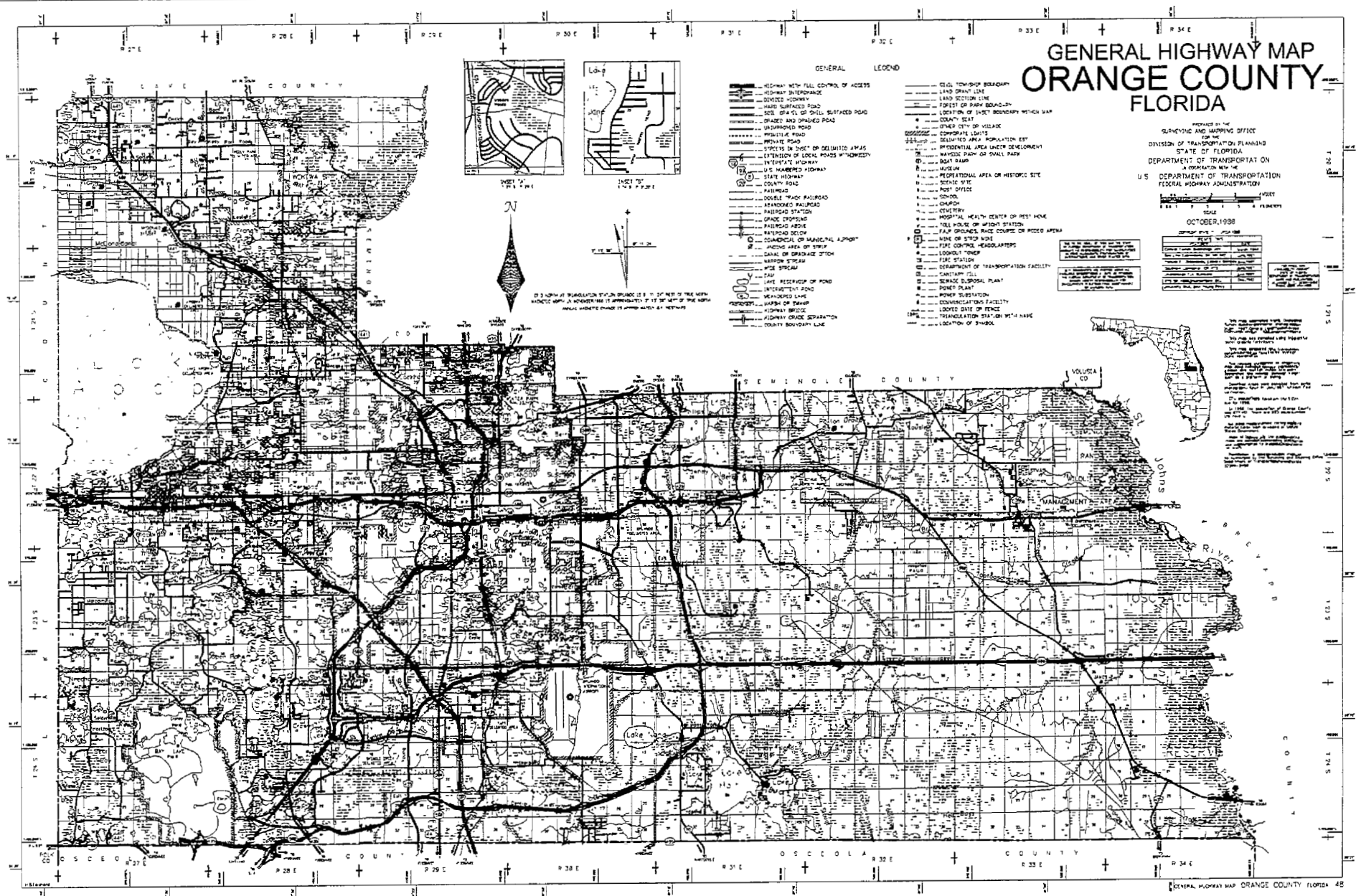
DATE
OCTOBER, 1958

- GENERAL LEGEND**
- HIGHWAY WITH FULL CONTROL OF ACCESS
 - HIGHWAY INTERCHANGE
 - DIVIDED HIGHWAY
 - PAVED SURFACED ROAD
 - SOLE GRAVEL OR SMALL SURFACED ROAD
 - GRAVEL AND SPINDED ROAD
 - UNIMPROVED ROAD
 - PRIVATE ROAD
 - SYSTEMS IN USE* OF DELIMITED AREAS
 - EXTENSION OF LOCAL ROADS UNIMPROVED
 - INTEREST HIGHWAY
 - U.S. NUMBERED HIGHWAY
 - STATE HIGHWAY
 - COUNTY ROAD
 - RAILROAD
 - DOUBLE TRACK RAILROAD
 - RAILROAD STATION
 - GRADE CROSSING
 - RAILROAD BRIDGE
 - RAILROAD SECTION
 - COMMERCIAL OR MARITIME AIRPORT
 - LANDING AREA OR STRIP
 - BANK OF GRADEWAY STRIP
 - NARROW STREAM
 - PIPE STREAM
 - DAM
 - LAKE RESERVOIR OF POND
 - INTERESTING ROAD
 - MEADOWS LAKE
 - POND
 - LAKE OF SWAMP
 - HIGHWAY BRIDGE
 - HIGHWAY GRADE SEPARATION
 - COUNTY BOUNDARY LINE
 - CIVIL TOWNSHIP BOUNDARY
 - LAND GRANT LINE
 - LAND SECTION LINE
 - FOREST OR PARK BOUNDARY
 - LOCATION OF INTER BOUNDARY WITHIN MAP COUNTY SEAT
 - OTHER CITY OR VILLAGE
 - CORPORATE LIMITS
 - DELIMITED AREA POPULATION EST.
 - RESIDENTIAL AREA UNDER DEVELOPMENT
 - WAREHOUSE ZONE OF SMALL PARS
 - BOAT RAMP
 - MUSEUM
 - RECREATIONAL AREA OR HISTORIC SITE
 - SCENIC SITE
 - POST OFFICE
 - SCHOOL
 - CHURCH
 - CEMETERY
 - HOSPITAL HEALTH CENTER OR REST HOME
 - FILL HOUSE OR WINDMILL STATION
 - FAIR GROUND RACE COURSE OR POODS ARENA
 - WARE OF STOD KIDS
 - FIRE CONTROL HEADQUARTERS
 - LOOKOUT TOWER
 - FIRE STATION
 - DEPARTMENT OF TRANSPORTATION FACILITY
 - CANTONMENT TILL
 - SLUDGE DISPOSAL PLANT
 - POWER PLANT
 - POWER SUBSTATION
 - COMMUNICATION FACILITY
 - LOCKED GATE OR FENCE
 - TRANSDATION STATION WITH NAME
 - LOCATION OF BRIDGE



NOTES

1. This map was prepared from the best available data and is not a guarantee of accuracy.
2. No responsibility is assumed for errors or omissions.
3. The State of Florida is not responsible for any errors or omissions.
4. The Department of Transportation is not responsible for any errors or omissions.
5. The Federal Highway Administration is not responsible for any errors or omissions.
6. The map is not to be used for any purpose other than that for which it was prepared.
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Attachment 2 to Joint Petition