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COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney

FROM: Henry M. Brown, Assistant County Attorney *HMB*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
Kathleen Myer, Principal Engineer/Engineering Division *KM*

DATE: February 28, 2005

RE: Easement Holder: City of Sanford
Owner: Seminole County
Airport Boulevard Phase II
Parcel Nos: 108
Seminole County v. TWC Ninety-Five, LTD.
Case No. 02-CA-2627-13-K

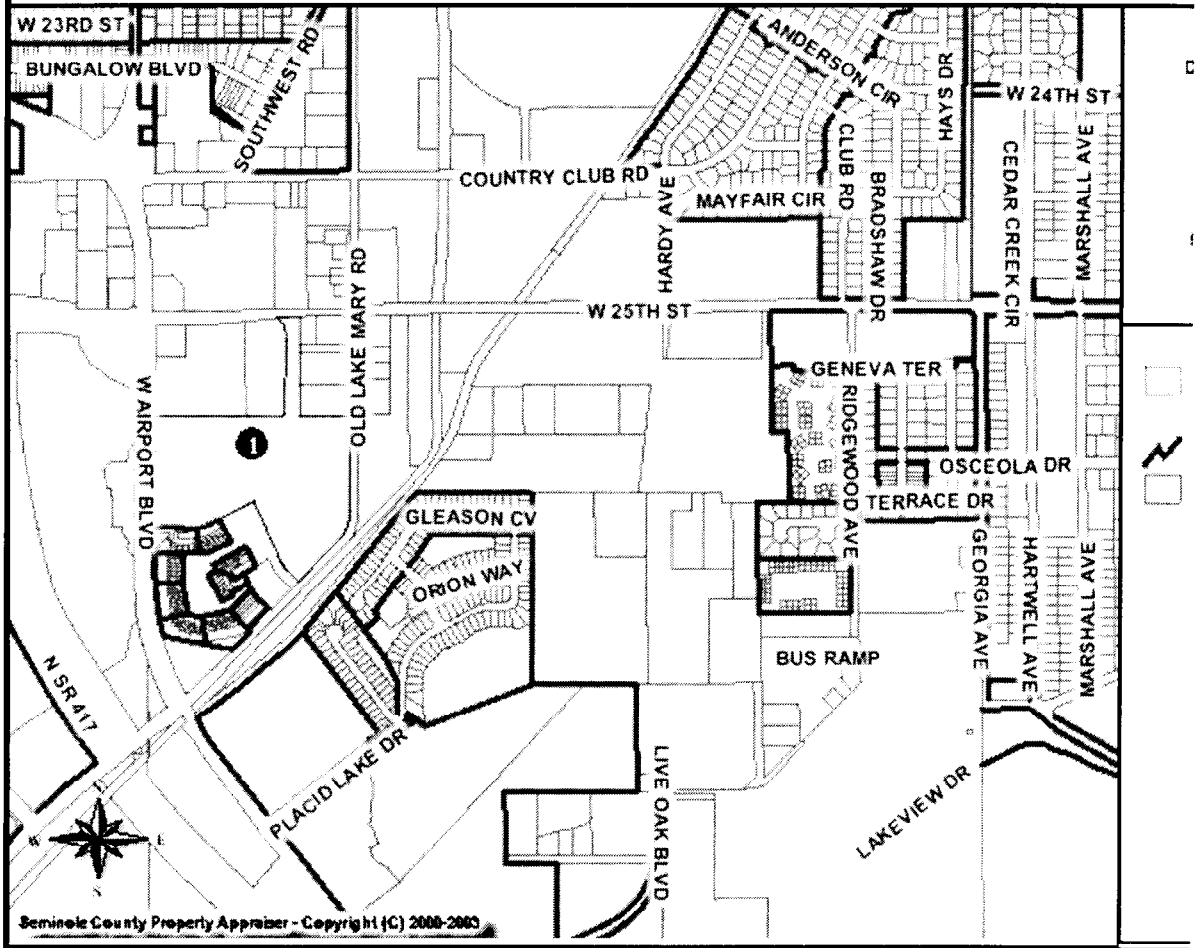
This Memorandum requests approval by the Board of County Commissioners (BCC) and execution by the Chairman of a Subordination Of Utility Interests agreement with respect to the easement interests of the City of Sanford ("the CITY") in property that was previously acquired in fee by Seminole County as Parcel No. 108. The County acquired Parcel No. 108, a partial acquisitions in fee, from the parent tract's western boundary in which the CITY has a Grant Of Easement And Right Of Use Agreement Please see location map attached as Exhibit A.

The BCC adopted Resolution No. 2001-R-29 on February 13, 2001, authorizing the acquisition of parcels involved with Airport Boulevard Phase II, and finding that the Airport Boulevard Phase II road improvement project is necessary and serves a public purpose and is in the best interests of the citizens of Seminole County.

The CITY has signed and tendered a recordable instrument, entitled Subordination of Utility Interests, prepared by the County Attorney's Office, a copy of which is attached as Exhibit B. County staff asks that the BCC accept this Subordination of Utility Interests for filing in the land records.

The land area of the fee acquired is 3,592. The Grant of Easement And Right Of Use Agreement allows the CITY entry to the property for utility purposes. The CITY has agreed to provide the subordination of its easement interests without charge. This will also settle the CITY's involvement in the above-referenced litigation.

HMB\dre
Exhibit A - Location Map
Exhibit B - Copy of Subordination Agreement
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Seminole County Property Appraiser - Copyright (C) 2000-2003

| Rec | Parcel | Owner | Owner Addr | City | State |
|-----|-------------------|---------------------|-------------------------|-------|-------|
| 1 | 022030300031D0000 | TWC NINETY-FIVE LTD | 655 N FRANKLIN ST #2200 | TAMPA | FL |

SUBORDINATION OF UTILITY INTERESTS

THIS AGREEMENT, entered into this ____ day of _____, 2005, by and between **THE CITY OF SANFORD**, a Florida municipal corporation, whose address is 300 North Park Avenue, Sanford, Florida 32771, hereinafter referred to as "CITY," and **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as the "COUNTY."

WITNESSETH:

WHEREAS, the CITY presently has an interest in certain lands that have been determined necessary for use as right-of-way for additional traffic lanes and improved drainage facilities on Airport Boulevard, Phase II; and

WHEREAS, the proposed use of these lands for use as right-of-way for additional traffic lanes and improved drainage facilities purposes on Airport Boulevard, Phase II, will require subordination of the interest claimed in such lands by the CITY to the COUNTY; and

WHEREAS, the COUNTY is willing to pay to have the CITY'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, the CITY and the COUNTY agree as follows:

THE CITY subordinates any and all of its interest in the lands described as follows:

AIRPORT BOULEVARD PHASE II

PARCEL NO. 108

FEE SIMPLE

(See, legal description attached Exhibit 1)

Parcel I.D. No. 02-20-30-300-031D-0000

to the interest of the COUNTY, its successors, or assigns, for the purpose of constructing, improving, maintaining and operating a road, including drainage facilities, over, through, upon, and/or across such lands, including, but not limited to, the claim of interest based on the following:

| NATURE OF ENCUMBRANCE | DATE | FROM OR AGAINST | IN FAVOR OF | RECORDED BOOK/PAGE |
|--|---------|-----------------------|-----------------|--------------------|
| Grant of Easement And Right of Use Agreement | 6/18/77 | TWC Ninety-Five, Ltd. | City of Sanford | 3288/1579 |

PROVIDED that the CITY has the following rights:

1. The CITY shall have the right to construct, operate, maintain, remove, and relocate facilities on, within, and upon the lands described herein. Any new construction or relocation of facilities within the lands will be subject to prior approval by the COUNTY's Engineer.


2. The CITY 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 the COUNTY's facilities.

3. The CITY agrees to repair any damage to COUNTY facilities resulting from the CITY exercising its rights outlined in Paragraphs 1 and 2 above.

4. Should the COUNTY require the CITY to alter, adjust, or relocate its facilities located within said lands, the COUNTY hereby agrees to pay the cost of such alteration, adjustment or relocation.

ATTEST:

CITY OF SANFORD




JANET R. DOUGHERTY
City Clerk

By: 

BRADY LESSARD, MAYOR

Approved as to form and
Legal sufficiency.



City Attorney

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON D. HENLEY, Chairman

Date: _____

For the use and reliance of
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board
of County Commissioners at its _____,
2005, regular meeting


County Attorney

HMB/dre
02/25/05

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R/W PARCEL NO. 108
TAX I.D. NUMBER: 02-20-30-300-0310-0000

LEGAL DESCRIPTION

That portion of lands described in O.R. Book 1552, Page 2, Public Records of Seminole County, Florida and O.R. Book 2832, Page 260, Public Records of Seminole County, Florida;

Being more particularly described as follows:

A portion of Section 2, Township 20 South, Range 30 East, Seminole County, Florida, more particularly described as follows:

Commence at the Northwest corner of said Section 2; thence S.00°13'13"E. along the West line of the Northwest 1/4 of said Section 2 a distance of 666.61 feet to the South line of the North 666.60 feet of said Northwest 1/4; thence N.89°53'57"E. along said South line, 40.00 feet to the East right-of-way line of Airport Boulevard and the POINT OF BEGINNING; thence continue N.89°53'57"E. along said South line, 10.00 feet; thence S.00°13'13"E., 359.15 feet; thence S.89°46'47"W., 10.00 feet to aforesaid East right-of-way line of Airport Boulevard; thence N.00°13'13"W along said East right-of-way line, 359.17 feet to the POINT OF BEGINNING.

Containing 3592 square feet, more or less.

Certification date of surveyor August 21, 1997