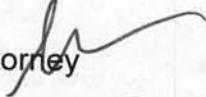


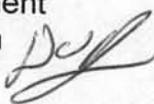


**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney 

FROM: Al Schwarz, Assistant County Attorney *AHS*
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department 
David V. Nichols, P.E./Principal Engineer/Engineering Division 

DATE: August 15, 2005

SUBJECT: Easement Holder:
Florida Power Corporation d/b/a Progress Energy of Florida, Inc.
Lake Drive road improvement project
Parcel Nos. 121/721
Seminole County v. Suero, et al.
Case No. 2004-CA-2045-13-G

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 Distribution Easement interest of Florida Power Corporation d/b/a Progress Energy of Florida, Inc. "PEC", relating to Lake Drive, particularly Parcel Nos. 121/721. The referenced parcels have been acquired by Order of Take.

The BCC adopted Resolution No. 2002-R-70 on April 23, 2002, and Resolution No. 2004-R-75, on April 13, 2004, authorizing the acquisition of parcels involved with Lake Drive and finding that the Lake Drive road improvement project was necessary and serves a public purpose and is in the best interests of the citizens of Seminole County.

PEC has signed and tendered a recordable instrument, entitled Subordination of Utility Interests for filing in the land records. Please see location map attached as Exhibit A and a copy of the Subordination agreement attached as Composite Exhibit B.

PEC's interest in the referenced property is a Distribution Easement for construction, operation and maintenance of overhead and underground electric utility

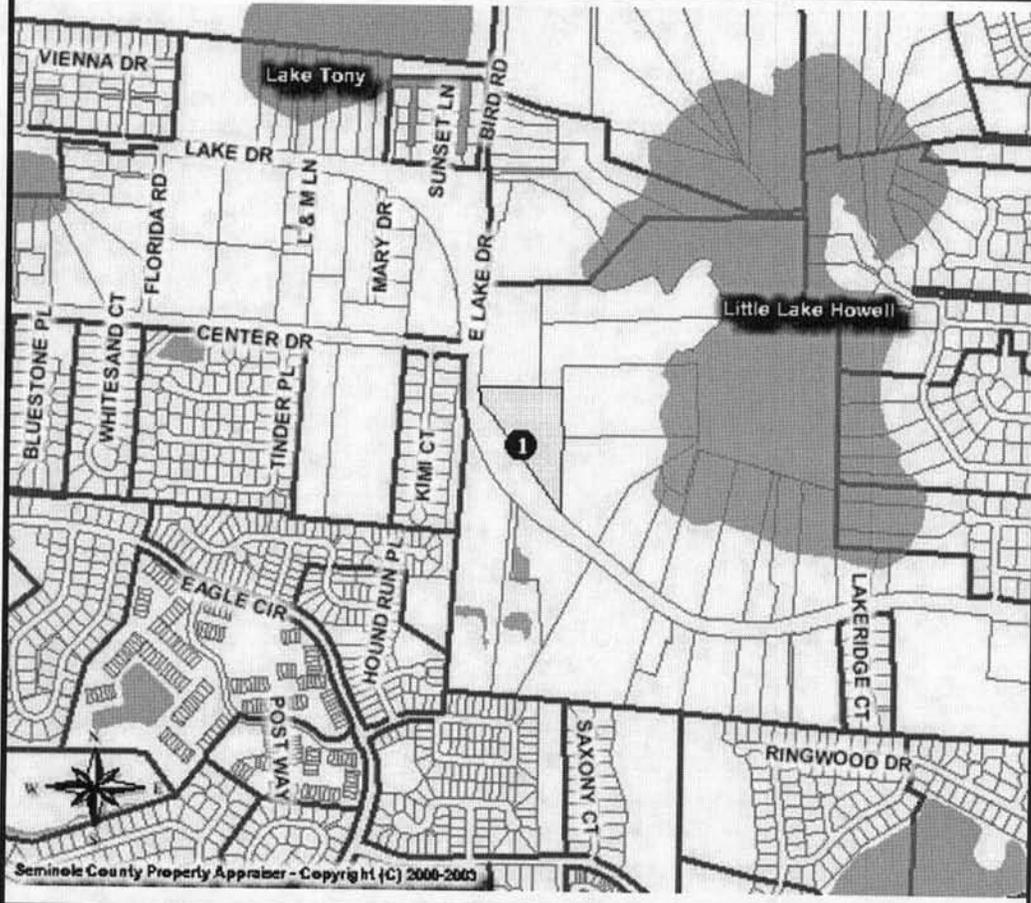
facilities. PEC has agreed to provide the subordination of its easements interests without charge. This will also preclude PEC's involvement in the referenced case.

AHS/dre

Exhibit A - Location Map

Composite Exhibit B - Subordination Agreement

P:\USERS\DEJGEMY DOCUMENTS\MEMVAGENDA ITEM LAKE DRIVE 121 721 PEC SUBORDINATION.DOC



DAVID JOHNSON
PROP APPR
 SEMINOLE COUNTY
 1101 E. I
 SANFORD, FL
 407-661

- Leg**
- Selected
 - County E
 - Streets
 - Hydrolog
 - Subdivisi
 - Parcels

Seminole County Property Appraiser - Copyright (C) 2000-2003

Rec	Parcel	Owner	Owner Addr	City	State
1	142130300001G0000	SUERO ALEX G	4550 E LAKE DR	WINTER SPRINGS	FL

SUBORDINATION OF UTILITY INTERESTS

THIS AGREEMENT, entered into this _____ day of _____, 2005, by and between FLORIDA POWER CORPORATION, d/b/a PROGRESS ENERGY FLORIDA, INC., whose address is 100 Central Avenue, St. Petersburg, Florida 33701, hereinafter referred to as the "COMPANY", 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 COMPANY 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 **Lake Drive**; and

WHEREAS, the proposed use of these lands for use as right-of-way for additional traffic lanes and improved drainage facilities purposes on **Lake Drive** will require subordination of the interest claimed in such lands by the COMPANY to the COUNTY; and

WHEREAS, the COUNTY is willing to pay to have the COMPANY's facilities relocated, if necessary, or to replace COMPANY's easements with new easements encumbering different lands 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 COMPANY and the COUNTY agree as follows:

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

PARCEL NO.: 121
FEE SIMPLE
TAX I.D. NO.: 14-21-30-300-001G-0000

A part of that parcel of land described in Official Record Book 1993, page 375 as recorded in the Public Records of Seminole County, Florida being that portion of Section 14, Township 21 South, Range 30 East of Seminole County, Florida,

described as follows:

Commence at the Northeast corner of Section 14, Township 21 South, Range 30 East; thence N89°16'37"W along the North line of said Section 14 a distance of 1,225.02 feet; thence, departing said section line,

S32°31'21"W a distance of 608.29 feet to the Southeast corner of that parcel of land described in Official Record Book 2190, page 90, Public Records of Seminole County, Florida; thence N89°16'37"W along the South line of said parcel a distance of 585.57 feet to an intersection with the Right of Way line of Lake Drive as recorded in Deed Book 196, page 327, Public Records of Seminole County, Florida; thence S05°01'23"W along said Right of Way line a distance of 530.89 feet to a Point of Curvature of a curve concave to the East and having a radius of 542.96 feet; thence along said curve an arc length of 80.18 feet through a central angle of 08°27'40" to the Northwest corner of that parcel of land described in Official Record Book 1993, page 375, Public Records of Seminole County, Florida, for a Point of Beginning; thence N88°47'22"E along the North line of said parcel a distance of 14.89 feet to a point on a non-tangent curve concave to the East, having a radius of 900.93 feet; thence, from a chord bearing of S04°30'27"E, run along said curve an arc length of 136.00 feet through a central angle of 08°38'58" to a Point of Cusp with the Right of Way line of the aforesaid Lake Drive, said Right of Way line curve concave to the East having a radius of 542.96 feet; thence, from a chord bearing of N10°42'52"W, run along said curve an arc length of 137.91 feet through a central angle of 14°33'10" to the Point of Beginning.

Containing 1,179 square feet, more or less.

TOGETHER WITH

PARCEL NO.: 721
TEMPORARY CONSTRUCTION EASEMENT
TAX I.D. NO.: 14-21-30-300-001G-0000

A part of that parcel of land described in Official Record Book 1993, page 375 as recorded in the Public Records of Seminole County, Florida being that portion of Section 14, Township 21 South, Range 30 East of Seminole County, Florida,

described as follows:

Commence at the Northeast corner of Section 14, Township 21 South, Range 30 East; thence N89°16'37"W along the North line of said Section 14 a distance of 1,225.02 feet; thence, departing said section line, S32°31'21"W a distance of 608.29 feet to the Southeast corner of that parcel of land described in Official Record Book 2190, page 90, Public Records of Seminole County, Florida; thence N89°16'37"W along the South line of said parcel a distance of 585.57 feet to an intersection with the Right of Way line of Lake Drive as recorded in Deed Book 196, page 327, Public Records of Seminole County, Florida; thence S05°01'23"W along said Right of Way line a distance of 530.89 feet to a Point of

Curvature of a curve concave to the East and having a radius of 542.96 feet; thence along said curve an arc length of 80.18 feet through a central angle of 08°27'40" to the Northwest corner of that parcel of land described in Official Record Book 1993, page 375, Public Records of Seminole County, Florida; thence N88°47'22"E along the North line of said parcel a distance of 14.89 feet to a point on a non-tangent curve concave to the East, having a radius of 900.93 feet; thence, from a chord bearing of S02°32'04"E, run along said curve an arc length of 73.95 feet through a central angle of 04°42'11" for a Point of Beginning; thence departing said curve, run N84°22'12"E, a distance of 15.00 feet; thence run S05°35'05"E, a distance of 22.00 feet; thence run S84°21'10"W, a distance of 15.00 feet to a point on aforesaid non-tangent curve having a radius of 900.93 feet; thence, from a chord bearing of N05°35'08"W, run along the arc of said curve an arc length of 22.00 feet through a central angle of 01°23'57" to the Point of Beginning.

Containing 331 square feet, more or less.

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
Distribution Easement	07/18/79	Art A. & Janet G. Olson	Florida Power Corporation	1256/0978-0979

PROVIDED that the COMPANY have the following rights:

1. The COMPANY 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.

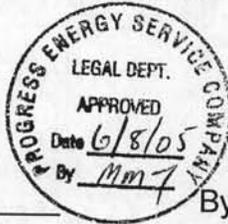
2. The COMPANY shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the COUNTY's facilities.

3. The COMPANY agrees to repair any damage to COUNTY facilities and to indemnify the COUNTY against any loss or damage resulting from the COMPANY exercising its rights outlined in Paragraphs 1 and 2 above.

4. Should the COUNTY require the COMPANY 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, including, but not limited to the cost of acquiring appropriate replacement easements. Any relocation, alteration or removal of COMPANY's facilities not required by the COUNTY shall be performed at COMPANY's sole cost and expense.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

ATTEST:



FLORIDA POWER CORPORATION
d/b/a PROGRESS ENERGY FLORIDA, INC.

Alexander Glenn, Secretary

By: Billy R. Raley Vice, President Secretary

(CORPORATE SEAL)

Date: June 24, 2005 (CORPORATE SEAL)

STATE OF Florida
COUNTY OF Seminole

3300 Exchange Place
Lake Mary, FL 32746

STATE OF
COUNTY OF

I HEREBY CERTIFY that, on this 24th day of June, 2005, I HEREBY CERTIFY that before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Billy R Raley acknowledgments, personally and Uice ~~as~~ President and Secretary, respectively, of Florida Power Corporation d/b/a Progress Energy, Florida, Inc., a corporation organized under the laws of the State of Florida, who are personally known to me or who have produced _____ as identification. They acknowledged before me that they executed the foregoing instrument as such officers in the name and on behalf of the corporation, and that they also affixed thereto the official seal of the corporation.



Jeannie Rodgers
Print Name Jeannie Rodgers
Notary Public in and for the County
and State Aforementioned
My commission expires: June 1, 2007

ATTEST:

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

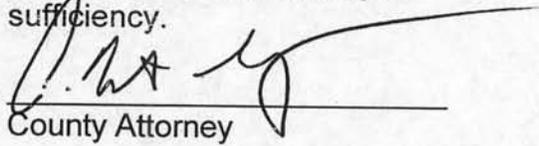
MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

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

AS/dre
05/18/05

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