

Meeting Date  
**July 12, 2016**



AGENDA	
Section	Consent
Item No.	<i>II. A. 1</i>

**AGENDA REPORT**  
**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

SUBJECT:	Memorial Medical Center Parcel (Parcel ID 21-35-28-00-00760.0-0000.00) – No Further Action with Conditions (Deed Restriction)
DEPT/OFFICE:	Natural Resources Management Department (NRM)

Requested Action:

It is requested that the Board of County Commissioners: 1) Approve the placement of a deed restriction on the referenced Memorial Medical Center parcel (Parcel) upon final review by the Florida Department of Environmental Protection (FDEP) Office of General Council, County Attorney's Office, and Risk Management; 2) Allow legal advertisement of the proposal to establish the restrictions; and 3) Authorize the Chairman to execute the final agreement between FDEP and Brevard County.

Summary Explanation & Background:

In 2008, Brevard County acquired the Parcel for a stormwater expansion project at the Chain of Lakes Regional Park (Park). During the due diligence process prior to purchase, it was discovered that the Parcel was historically surrounded by, and contained, orange groves. A Phase II Environmental Assessment revealed impacts to soil by legally applied agricultural chemicals, but no impacts to groundwater. Arsenic impacted soils were excavated and properly disposed of at the County landfill at the time of the construction of the expansion pond. The remaining impacted areas occur within the onsite wetlands, which are in conservation easements as mitigation for the stormwater expansion project and entrance road to the Park.

It was determined through negotiation with FDEP that the best course of action for the County is to deed restrict the usage of the Parcel to non-residential uses only. This restriction limits the risk of exposure to the public and defers expensive clean-up costs. Additional prohibited uses include agriculture, hotel, recreational development, educational facilities, day care or alteration of stormwater. If the County should decide to develop the Parcel, the County will be required to consult with FDEP to determine if the change of use would require further investigation and possible remediation measures. Likewise, if the County decides to sell the Parcel, the new owner would be required to consult with FDEP to determine if the change of use would require further investigation and possible remediation measures.

**Fiscal Impact:** FY 15-16 No Fiscal Impact  
FY 16-17 No Fiscal Impact

**Contact:** Virginia Barker (x52435) or Susan Gosselin (x52438)

Clerk to the Board instruction:

Exhibits Attached:

- |   |   |
|---|---|
| Attachment A – Exhibit A, Legal Description | Attachment D – Draft Restrictive Covenant               |
| Attachment B – Exhibit B, Legal Description | Attachment E – Draft Notice of Institutional Control    |
| Attachment C – Location Map                 | Attachment F – As-Built Survey Chain of Lakes Expansion |

Contract /Agreement (If attached): Reviewed by County Attorney    Yes         No     PR

County Manager <i>[Signature]</i> Stockton Whitten	Assistant County Manager <i>[Signature]</i>	Department Director/Extension <i>[Signature]</i> Virginia Barker/x52435 <i>[Signature]</i> Jack Masson/52046
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# BREVARD County

BOARD OF COUNTY COMMISSIONERS

FLORIDA'S SPACE COAST

Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us



July 13, 2016

## MEMORANDUM

TO: Virginia Barker, Natural Resources Management Director

RE: Item II.A.1., Approval of Memorial Medical Center Parcel – No Further Action with Conditions (Parcel ID: 21-35-28-00-00760.0-0000.00) (Deed Restriction)

The Board of Commissioners, in regular session on July 12, 2016, approved the placement of a deed restriction on the referenced Memorial Medical Center parcel upon final review by the Florida Department of Environmental Protection (FDEP) Office of General Council, County Attorney's Office, and Risk Management; approved allowing legal advertisement of the proposal to establish the restrictions; and authorized the Chairman to execute the final agreement between FDEP and Brevard County.

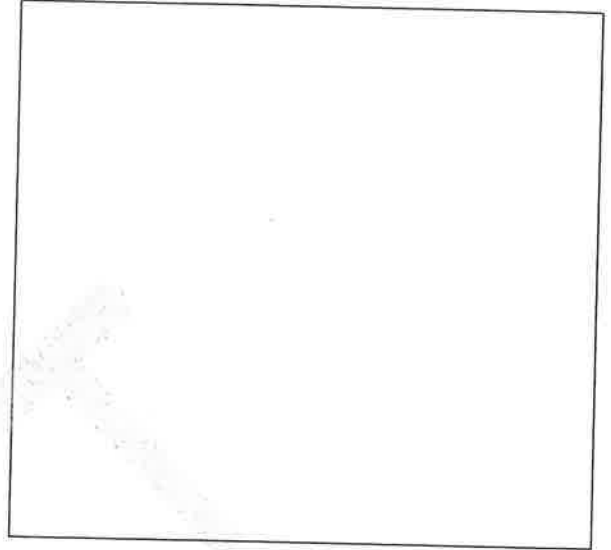
Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

cc: Parks and Recreation Director



This instrument prepared by:

Christine Lepore, Esq.  
Office of the Brevard County Attorney  
2725 Judge Fran Jamieson Way, Bldg. C  
Viera, Florida 32940

## DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT (hereinafter "Declaration") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by BREVARD COUNTY, a political subdivision of the State of Florida (hereinafter "GRANTOR") and the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter "FDEP").

### RECITALS

- A. GRANTOR is the fee simple owner of that certain real property situated in the County of Brevard, State of Florida, more particularly described in **Exhibit "A"** attached hereto and made a part of hereof (hereinafter the "Restricted Property");
- B. The FDEP Facility Identification Number for the Restricted Property is COM\_307019. The facility name at the time of this Declaration is Medical Memorial Property. This Declaration addresses the

discovery of arsenic contamination from prior agricultural activities that was reported to FDEP on July 5, 2011.

C. The discovery of arsenic on the Restricted Property is documented in the following reports that are incorporated by reference:

1. Interim Data Package- Medical Memorial Property Arsenic Investigation and Development of Alternative Soil Cleanup Target Level, November 9, 2011, Submitted by Seavy and Associates, Inc.; and
2. Site Assessment Report for Medical Memorial Center Property, June 2013, Submitted by Seavy and Associates, Inc.; and
3. Soils Disposal Report for Memorial Medical Center, October 2013, Submitted by Brevard County Natural Resources Management Office; and
4. Final Site Assessment Report (SAR) for Memorial Medical Center Property, Revision 2, January 2014, Seavy and Associates, Inc.

D. The Reports noted in Recital C set forth the nature and extent of arsenic contamination located on the Restricted Property. These reports confirm that contaminated soil, as defined by Chapter 62-780, Florida Administrative Code (F.A.C.), exists on the Restricted Property. Also, these reports document that the groundwater is not contaminated.

E. The criteria for direct exposure of contamination the soil was based on an average soil contaminant concentration calculated using a 95% Upper Confidence Limit (UCL) approach with an exposure unit (EU) of 16 acres pursuant to Rule 62-780.680, F.A.C. Therefore, the Restricted Property may not be subdivided into parcels smaller than 16 acres without prior written approval from FDEP's Division of Waste Management.

F. It is the intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure of users or occupants of the Restricted Property and the environment to the contaminants and to reduce or eliminate the threat of migration of the contaminants.

G. GRANTOR deems it desirable and in the best interest of all present and future owners of the Restricted Property that an Order be obtained and that the Restricted Property be held subject to certain restrictions all of which are more particularly hereinafter set forth.

H. FDEP has agreed to issue a Site Rehabilitation Order with Conditions (hereinafter "Order") upon recordation of this Declaration. FDEP can unilaterally revoke this Order if the conditions of this Declaration it of the Order are not met. Additionally, if concentrations of arsenic increase above the levels approved by the Order, or if a subsequent discharge occurs at the Restricted Property, FDEP may require site rehabilitation to reduce concentrations of contamination to the levels allowed by applicable FDEP rules. The Order relating to FDEP Facility No. COM\_307019, can be found by contacting the appropriate FDEP district office or Tallahassee program area.

**NOW, THEREFORE**, to induce FDEP to issue the Order and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the undersigned properties, GRANTOR agrees as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. GRANTOR hereby imposes the following restrictions:
  - a. The portion of the property depicted and more particularly described in Exhibit "B" as the "Restricted Area", attached hereto and made a part hereof, is hereby designated as a restricted trail for recreational purposes only and as a stormwater management system, in accordance with the criteria for establishing the alternative soil cleanup criteria for the Restricted Property as set forth in the SAR. Residential use of the Restricted Area is prohibited. Excavation, landscaping, the installation of lighting, and maintenance activities within the Restricted Area may only be performed by GRANTOR, its successors and assigns. For any dewatering activities, a plan approved by FDEP's Division of Waste Management must be in place to address and ensure the appropriate handling, treatment, and disposal of any extracted groundwater.
  - b. There shall be no use of groundwater on the Restricted Area. There shall be no drilling for water conducted within the Restricted Area nor shall any wells be installed, other than monitoring wells pre-approved in writing by FDEP'S Division of Waste Management, in addition to any authorizations required by the Division of Water Resource Management and the Water Management Districts. There shall be no additional stormwater swales, stormwater detention or retention facilities or ditches constructed within the Restricted Area beyond those already approved, without prior approval of FDEP.
  - c. The following uses of the Restricted Property are prohibited: agricultural use of the land including forestry, fishing and mining; hotels or lodging; recreational uses including amusement parks, parks, camps, museums, zoos, or gardens; residential uses, and educational uses such as elementary or secondary schools, or day care services. These prohibited uses are specifically defined by using the North American Industry Classification System, United States, 2012 (NAICS), Executive Office of the President, Office of Management and Budget. The prohibited uses by code are: Sector 11 Agriculture, Forestry, Fishing and Hunting; Subsector 212 Mining (except Oil and Gas); Code 512132 Drive-In Motion Picture Theaters; Code 51912 Libraries and Archives; Code 53111 Lessors of Residential Buildings and Dwellings; Subsector 6111 Elementary and Secondary Schools; Subsector 623 Nursing and Residential Care Facilities; Subsector 624 Social Assistance; Subsector 711 Performing Arts, Spectator Sports and Related Industries; Subsector 712 Museums, Historical Sites, and Similar Institutions; Subsector 713 Amusement, Gambling, and Recreation Industries; Subsector 721 Accommodation (hotels, motels, RV parks, etc.); Subsector 813 Religious, Grantmaking, Civic, Professional, and Similar Organizations; and Subsector 814 Private Households.

3. In the remaining paragraphs, all references to "GRANTOR" and "FDEP" shall also mean and refer to their respective successors and assigns.
4. For the purpose of monitoring the restrictions contained herein, FDEP is hereby granted a right of entry upon and access to the Restricted Area. The Restricted Area may be accessed through the Public Right of Way of Oak Grove Road.
5. It is the intention of GRANTOR that this Declaration shall touch and concern the Restricted Property, run with the land and with the title to the Restricted Property, and shall apply to and be binding upon and inure to the benefit for GRANTOR and FDEP, and to any and all parties hereafter having any right, title or interest in the Restricted Property or any part hereof. FDEP may enforce the terms and conditions of this Declaration by injunctive relief and other appropriate available legal remedies. Any forbearance on behalf of FDEP to exercise its right in the event of failure of the GRANTOR to comply with the provisions of this Declaration shall not be deemed or construed to be a waiver of FDEP's rights hereunder. This Declaration shall continue on in perpetuity, unless otherwise modified in writing by GRANTOR and FDEP as provided in paragraph 7 hereof. Notwithstanding anything in the foregoing provisions of this Declaration to the contrary, no party shall have any duties, responsibilities or liabilities hereunder after such party has conveyed title to its property or its rights under the Declaration to a third party, except for any duties, responsibilities or liabilities that may have arisen prior to such conveyance. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation, or governmental agency that is substantially benefited by these restrictions. If the GRANTOR does not or will not be able to comply with any or all of the provisions of this Declaration, the GRANTOR shall notify FDEP thirty (30) calendar days prior to any conveyance or sale, granting or transferring the Restricted Property or portion thereof, to any heirs, successors, assigns, or grantees, including, without limitation, the conveyance of any security interest in said Restricted Property.
6. In order to ensure the perpetual nature of these restrictions, GRANTOR shall reference these restrictions in any subsequent lease or deed of conveyance concerning the Restricted Property, including the recording book and page of record of this Declaration. Furthermore, prior to the entry into a landlord-tenant relationship with respect to the Restricted Property, the GRANTOR agrees to notify in writing all proposed tenants of the Restricted Property of the existence and contents of this Declaration.
7. This Declaration is binding until a release of covenant is executed by FDEP Secretary (or Designee) and is recorded in the public records of the county in which the Restricted Property is located. To receive prior approval from FDEP to remove any requirement herein, cleanup target levels established pursuant to Florida Statutes and FDEP rules must have been achieved. This Declaration may be modified in writing only. Any subsequent amendments must be executed by both GRANTOR and FDEP and be recorded by the real property owner as an amendment hereto.
8. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of that provision shall not affect the validity of any other provisions of the Declaration. All such other provisions shall continue unimpaired in full force and effect.

9. GRANTOR covenants and represents that on the date of execution of this Declaration that GRANTOR is seized of the Restricted Property in fee simple and has good right to create, establish, and impose this restricted covenant on the use of the Rest. GRANTOR also covenants and warrants that the Restricted Property are free and clear of any and all liens, mortgages, or encumbrances that could impair GRANTOR's rights to impose the restrictive covenant described in this Declaration or that is superior to the restrictive covenant described in this Declaration, unless a joinder and consent, and subordination of such interests, as applicable, is made part hereof or is attached hereto.

**[Remainder of Page Intentionally Blank – Signatures begin on following page]**

DRAFT


IN WITNESS WHEREOF, Brevard County has executed this instrument, this 12 day of JULY, 2016.

ATTEST:

  
\_\_\_\_\_  
SCOTT ELLIS, CLERK



GRANTOR  
Brevard County Board of County Commissioners

By:   
\_\_\_\_\_  
Jim Barfield, Chairman  
Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, FL 32940  
Approved by the Board 7/12/16

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Witness

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_  
Witness

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

State of Florida  
County of Brevard County

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_.  
Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_.  
Type of Identification Produced \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public

Attachment A  
**EXHIBIT A**

**LEGAL DESCRIPTION**

SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST

PARENT PARCEL ID NUMBER:  
 21-35-28-00-00759.0-0000.00

THIS IS NOT  
 A SURVEY

**SHEET 1 OF 2**  
 NOT VALID WITHOUT  
 SHEET 2 OF 2

**LEGAL DESCRIPTION:**

(BREVARD COUNTY OWNERSHIP)

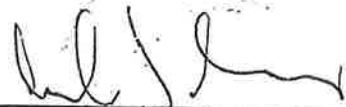
A PORTION OF GOVERNMENT LOT 4, SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF LOT 4, SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST; THENCE RUN NORTH WITH THE INDIAN RIVER FOR A DISTANCE FOR 260 YARDS (780 FEET); THENCE IN A SOUTHWESTERLY DIRECTION TO A POINT ON THE WEST LINE OF LOT 4; 180 YARDS (540 FEET) NORTH OF THE SOUTHWEST CORNER OF SAID LOT 4; THENCE RUN SOUTH TO THE SOUTHWEST CORNER OF LOT 4; THENCE RUN EAST ALONG THE SOUTH LINE OF SAID LOT 4 TO THE INDIAN RIVER AT THE PLACE OF BEGINNING, LESS ROAD RIGHT OF WAY AND LESS RIGHT OF WAY FOR FLORIDA EAST COAST RAILROAD AND LESS THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 5757, PAGE 9467, OF THE PUBLIC RECORDS OF BREVARD COUNTY FLORIDA.

**ABBREVIATIONS**

FECR = FLORIDA EAST COAST RAILWAY  
 ID = IDENTIFICATION  
 N/F = NOW OR FORMERLY  
 ORB = OFFICIAL RECORDS BOOK  
 (P) = PER PLAT  
 PB = PLAT BOOK  
 PG = PAGE  
 R/W = RIGHT OF WAY  
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**SURVEYOR'S NOTES:**

1. THIS IS NOT A SURVEY, BUT ONLY A GRAPHICAL DEPICTION OF THE LAND DESCRIBED HEREIN.
2. COORDINATES AND BEARINGS SHOWN HEREON ARE BASED THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE 0901, NORTH AMERICAN DATUM OF 1983 AND READJUSTED IN 2011(NAD83(2011)), REFERENCED TO NATIONAL GEODETIC SURVEY CONTROL STATION "TITUSVILLE SE BASE", DESCRIBED AS FOLLOWS:
  - a. TOP OF CGS BRASS DISK SET IN CONCRETE MONUMENT STAMPED "TITUSVILLE SE BASE". PID# = "AK0912". LATITUDE = 28°37'28.11047"(N). LONGITUDE = 080°49'22.33951"(W). NORTHING = 1,559,789.83. EASTING = 712,991.22.
  - b. THE SCALE FACTOR IS 0.99994488. THE COMBINED FACTOR IS 0.99994805 AND THE CONVERGENCE IS +0°05'05.5".
  - c. DISTANCES AS SHOWN HEREON ARE GROUND DISTANCES.
3. BEARINGS SHOWN HEREON ARE BASED ON GRID NORTH, FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE 0901, NORTH AMERICAN DATUM OF 1983 AND READJUSTED IN 2011(NAD83(2011)) AND SPECIFICALLY REFERENCED TO THE MONUMENTED SOUTH RIGHT OF WAY LINE OF OAK GROVE ROAD AS BEING NORTH 80° 52' 36" EAST AS DETERMINED BY THEIR COORDINATE VALUES AND AS SHOWN ON THE SPECIFIC PURPOSE SURVEY OF CHAIN OF LAKES - PAK GROVE ROAD, PROJECT NO. 14-11-002 PREPARED BY BREVARD COUNTY SURVEYING AND MAPPING, DATED 12/11/13.
4. LEGAL DESCRIPTION FOR THE BREVARD COUNTY OWNERSHIP; AND ENCUMBRANCES SUCH AS EASEMENTS, RIGHTS OF WAY, COVENANTS, AGREEMENTS, AND RESTRICTIONS PROVIDED PER THE OWNERSHIP AND ENCUMBRANCE CERTIFICATE, CUSTOMER FILE NO. 14-1446 BY B & B TITLE SERVICES, INC.



MICHAEL J. SWEENEY, PSM NO. 4870  
 NOT VALID UNLESS SIGNED AND SEALED

PREPARED FOR:  
 BREVARD COUNTY DEPARTMENT OF NATURAL RESOURCE  
 SUE GOSSELIN: ENVIRONMENTAL SCIENTIST

PREPARED BY: BREVARD COUNTY PUBLIC WORKS SURVEYING & MAPPING DIVISION  
 ADDRESS: 2725 JUDGE FRAN JAMIESON WAY BUILDING A, SUITE A220 VIERA, FL. 32940  
 PHONE: (321) 633-2080, FAX: (321) 633-2083, E-MAIL: mike.sweeney@brevardcounty.us

DRAWN BY: M. CORNELL

CHECKED BY: M. J. SWEENEY

DRAWING NO. 14-08-032-1(A)

SECTION 28

DATE: 10-30-14

SHEET 1 OF 2

PROJ. FOLDER 1408032-1

TOWNSHIP 21 SOUTH

REVISIONS \_\_\_\_\_

RANGE 35 EAST

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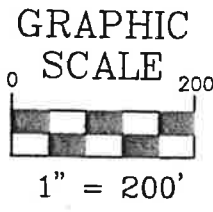
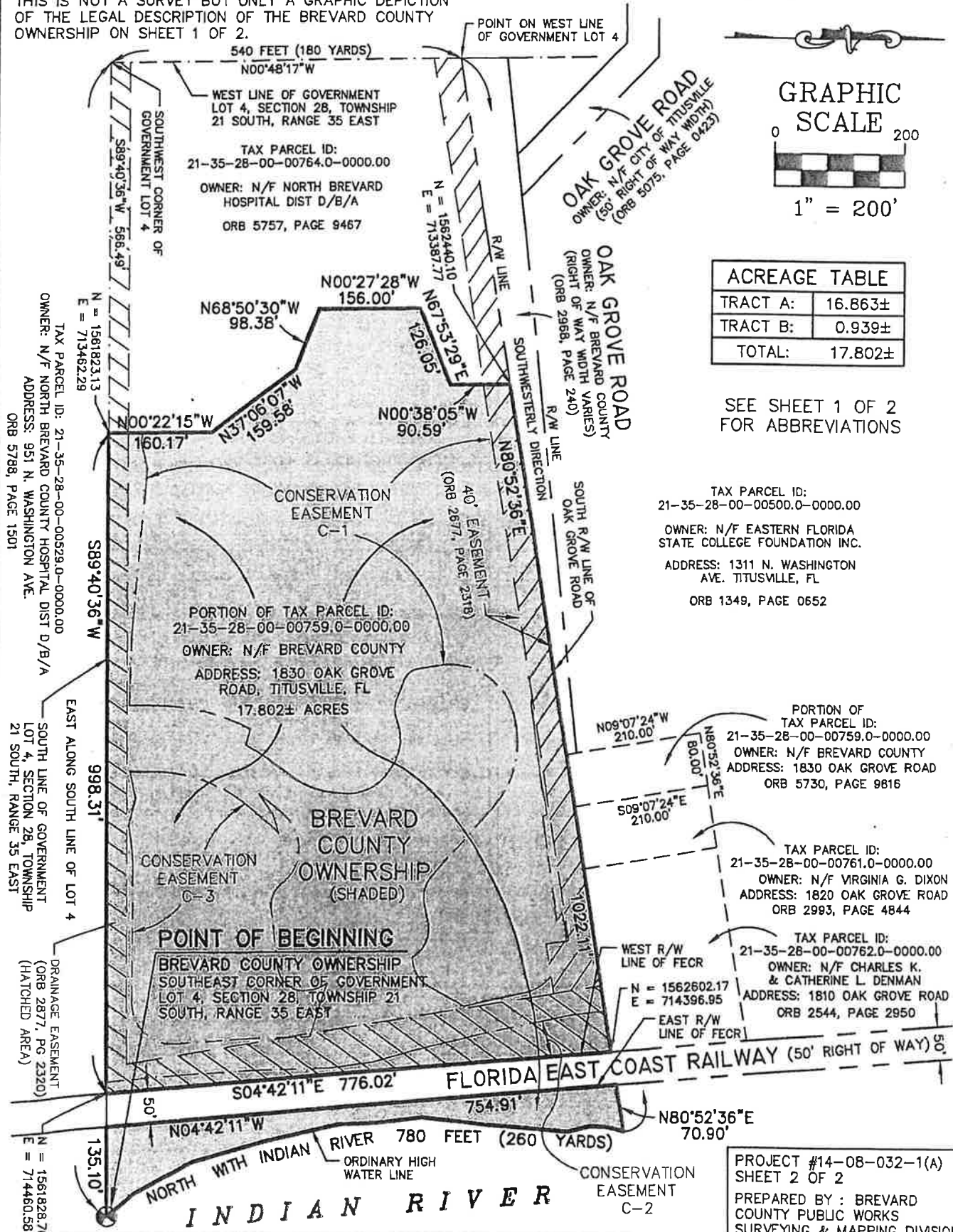
Attachment A  
EXHIBIT A

SKETCH OF DESCRIPTION

SHEET 2 OF 2

SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST.  
THIS IS NOT A SURVEY BUT ONLY A GRAPHIC DEPICTION  
OF THE LEGAL DESCRIPTION OF THE BREVARD COUNTY  
OWNERSHIP ON SHEET 1 OF 2.

THIS SKETCH IS NOT VALID  
WITHOUT SHEET 1 OF 2



ACREAGE TABLE	
TRACT A:	16.863±
TRACT B:	0.939±
TOTAL:	17.802±

SEE SHEET 1 OF 2  
FOR ABBREVIATIONS

TAX PARCEL ID:  
21-35-28-00-00500.0-0000.00  
OWNER: N/F EASTERN FLORIDA  
STATE COLLEGE FOUNDATION INC.  
ADDRESS: 1311 N. WASHINGTON  
AVE. TITUSVILLE, FL  
ORB 1349, PAGE 0652

PORTION OF  
TAX PARCEL ID:  
21-35-28-00-00759.0-0000.00  
OWNER: N/F BREVARD COUNTY  
ADDRESS: 1830 OAK GROVE ROAD  
ORB 5730, PAGE 9816

TAX PARCEL ID:  
21-35-28-00-00761.0-0000.00  
OWNER: N/F VIRGINIA G. DIXON  
& CATHERINE L. DENMAN  
ADDRESS: 1820 OAK GROVE ROAD  
ORB 2993, PAGE 4844

TAX PARCEL ID:  
21-35-28-00-00762.0-0000.00  
OWNER: N/F CHARLES K.  
& CATHERINE L. DENMAN  
ADDRESS: 1810 OAK GROVE ROAD  
ORB 2544, PAGE 2950

PROJECT #14-08-032-1(A)  
SHEET 2 OF 2  
PREPARED BY : BREVARD  
COUNTY PUBLIC WORKS  
SURVEYING & MAPPING DIVISION

C:\Civil 3D Projects 2014\213528\_SK\_1408032-1\_OAK-GROVE-RD\dwg\14-08-032-1.dwg, 11/12/2014 10:10:21 AM, \\gcad\c01\p\WDSURPRNC280

EXHIBIT B

LEGAL DESCRIPTION

SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST

PARENT PARCEL ID NUMBER:  
21-35-28-00-00759.0-0000.00

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SHEET 1 OF 2  
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SHEET 2 OF 2

**SURVEYOR'S NOTES:**

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  - a. TOP OF CGS BRASS DISK SET IN CONCRETE MONUMENT STAMPED "TITUSVILLE SE BASE". PID# = "AK0912". LATITUDE = 28°37'28.11047"(N). LONGITUDE = 080°49'22.33951"(W). NORTHING = 1,559,789.83. EASTING = 712,991.22.
  - b. THE SCALE FACTOR IS 0.99994488. THE COMBINED FACTOR IS 0.99994805 AND THE CONVERGENCE IS +0°05'05.5".
  - c. DISTANCES AS SHOWN HEREON ARE GROUND DISTANCES.
3. BEARINGS SHOWN HEREON ARE BASED ON GRID NORTH, FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE 0901, NORTH AMERICAN DATUM OF 1983 AND READJUSTED IN 2011(NAD83(2011)) AND SPECIFICALLY REFERENCED TO THE MONUMENTED SOUTH RIGHT OF WAY LINE OF OAK GROVE ROAD AS BEING NORTH 80° 52' 36" EAST AS DETERMINED BY THEIR COORDINATE VALUES AND AS SHOWN ON THE SPECIFIC PURPOSE SURVEY OF CHAIN OF LAKES - PAK GROVE ROAD, PROJECT NO. 14-11-002 PREPARED BY BREVARD COUNTY SURVEYING AND MAPPING, DATED 12/11/13.
4. LEGAL DESCRIPTION FOR THE BREVARD COUNTY OWNERSHIP; AND ENCUMBRANCES SUCH AS EASEMENTS, RIGHTS OF WAY, COVENANTS, AGREEMENTS, AND RESTRICTIONS PROVIDED PER THE OWNERSHIP AND ENCUMBRANCE CERTIFICATE, CUSTOMER FILE NO. 14-1446 BY B & B TITLE SERVICES, INC.

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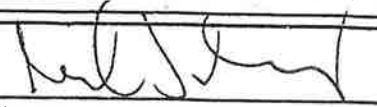
**LEGAL DESCRIPTION:**

(RESTRICTED AREA)

A PARCEL OF LAND BEING A PORTION OF GOVERNMENT LOT 4, SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 5757, PAGE 9467, SAID POINT BEING A POINT ON THE SOUTH LINE OF SAID GOVERNMENT LOT 4; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 00°22'15" WEST FOR A DISTANCE OF 160.17 FEET; THENCE NORTH 37°06'07" WEST FOR A DISTANCE OF 159.58 FEET; THENCE NORTH 68°50'30" WEST FOR A DISTANCE OF 98.38 FEET; THENCE NORTH 00°27'28" WEST FOR A DISTANCE OF 156.00 FEET; THENCE NORTH 67°53'29" EAST FOR A DISTANCE OF 126.05 FEET; THENCE NORTH 00°38'05" WEST FOR A DISTANCE OF 90.59 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF OAK GROVE ROAD (HAVING A VARIABLE RIGHT OF WAY) AS RECORDED IN OFFICIAL RECORDS BOOK 2968 PAGE 0240; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE, RUN NORTH 80°52'36" EAST FOR A DISTANCE OF 133.69 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE, RUN SOUTH 82°56'36" EAST FOR A DISTANCE OF 57.27 FEET; THENCE NORTH 83°56'38" EAST FOR A DISTANCE OF 210.56 FEET; THENCE NORTH 85°38'17" EAST FOR A DISTANCE OF 45.18 FEET; THENCE NORTH 83°25'16" EAST FOR A DISTANCE OF 35.91 FEET; THENCE NORTH 81°06'15" EAST FOR A DISTANCE OF 68.76 FEET; THENCE NORTH 79°49'22" EAST FOR A DISTANCE OF 232.59 FEET; THENCE SOUTH 79°04'04" EAST FOR A DISTANCE OF 31.61 FEET; THENCE SOUTH 65°49'07" EAST FOR A DISTANCE OF 42.85 FEET; THENCE SOUTH 09°14'56" EAST FOR A DISTANCE OF 12.06 FEET; THENCE NORTH 80°52'41" EAST FOR A DISTANCE OF 75.56 FEET; THENCE NORTH 09°13'54" WEST FOR A DISTANCE OF 75.00 FEET; THENCE NORTH 80°52'36" EAST FOR A DISTANCE OF 100.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF FLORIDA EAST COAST RAILWAY; THENCE ALONG SAID WEST RIGHT OF WAY LINE, RUN SOUTH 04°42'11" EAST FOR A DISTANCE OF 776.02 FEET TO A POINT ON THE SOUTH LINE OF SAID GOVERNMENT LOT 4; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, RUN SOUTH 89°40'36" WEST ALONG SAID SOUTH LINE FOR A DISTANCE OF 998.31 FEET TO THE POINT OF BEGINNING, CONTAINING 16.282 ACRES, MORE OR LESS.

ALL RECORDED DOCUMENTS AND PUBLIC RECORDS REFER TO THE PUBLIC RECORDS OF BREVARD COUNTY FLORIDA.

  
 MICHAEL J. SWEENEY, PSM NO. 4870  
 NOT VALID UNLESS SIGNED AND SEALED

PREPARED FOR:  
 BREVARD COUNTY DEPARTMENT OF NATURAL RESOURCE  
 SUE GOSSELIN; ENVIRONMENTAL SCIENTIST

PREPARED BY: BREVARD COUNTY PUBLIC WORKS SURVEYING & MAPPING DIVISION  
 ADDRESS: 2725 JUDGE FRAN JAMIESON WAY BUILDING A, SUITE A220 VIERA, FL. 32940  
 PHONE: (321) 633-2080, FAX: (321) 633-2083, E-MAIL: mike.sweeney@brevardcounty.us

DRAWN BY: M. CORNELL

CHECKED BY: M. J. SWEENEY

DRAWING NO. 14-08-032-1(B)

SECTION 28

DATE: 10-30-14

SHEET 1 OF 2

PROJ. FOLDER 1408032-1

TOWNSHIP 21 SOUTH

REVISIONS \_\_\_\_\_

RANGE 35 EAST

C:\Civil 3D Projects 2014\213528\_SK\_1408032-1\_OAK-GROVE-RD\dwg\14-08-032-1.dwg, 11/12/2014 9:54:36 AM, \\gacad01\PWDSURPRNC280

EXHIBIT B

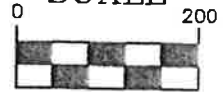
SKETCH OF DESCRIPTION

SHEET 2 OF 2

SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST.  
THIS IS NOT A SURVEY BUT ONLY A GRAPHIC DEPICTION OF THE LEGAL DESCRIPTION OF THE RESTRICTED AREA ON SHEET 1 OF 2.

THIS SKETCH IS NOT VALID WITHOUT SHEET 1 OF 2

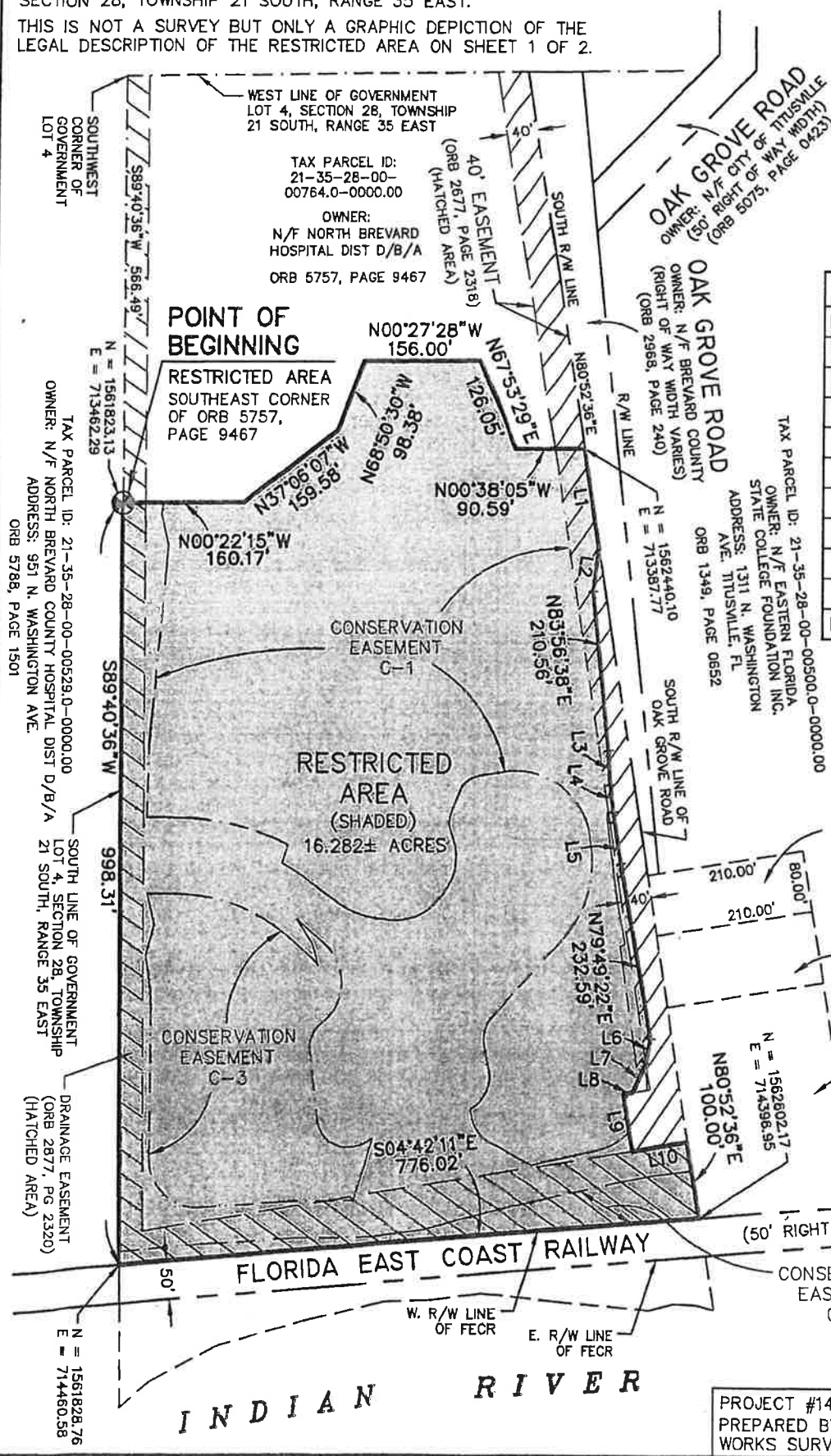
GRAPHIC SCALE



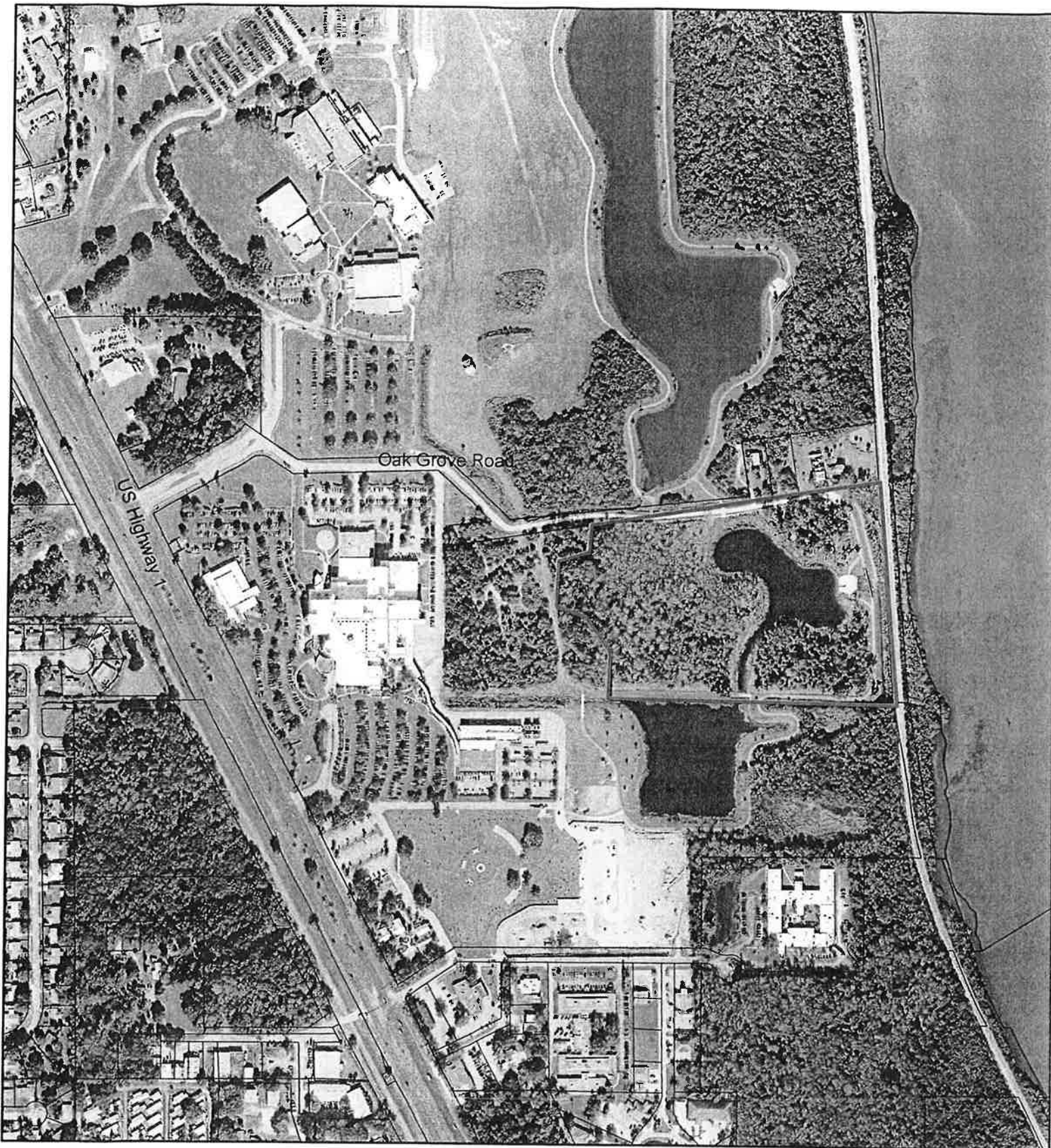
1" = 200'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N80°52'36"E	133.69'
L2	S82°56'36"E	57.27'
L3	N85°38'17"E	45.18'
L4	N83°25'16"E	35.91'
L5	N81°06'15"E	68.76'
L6	S79°04'04"E	31.61'
L7	S65°49'07"E	42.85'
L8	S09°14'56"E	12.06'
L9	N80°52'41"E	75.56'
L10	N09°13'54"W	75.00'

SEE SHEET 1 OF 2 FOR ABBREVIATIONS




C:\Civil 3D Projects 2014\213528\_SK\_1408032-1\_OAK-GROVE-RD\dwg\14-08-032-1.dwg, 11/12/2014 9:54:57 AM, \\gcad\01\PWDSURPRNC280



**Location**  
**Memorial Medical Center Parcel**  
**FDEP ID: COM-307019**  
**NFA with Conditions**

Attachment C

 Feguer Parcel



0 200 400 800  
Feet



## NOTICE OF INTENT TO APPROVE USE OF INSTITUTIONAL CONTROL

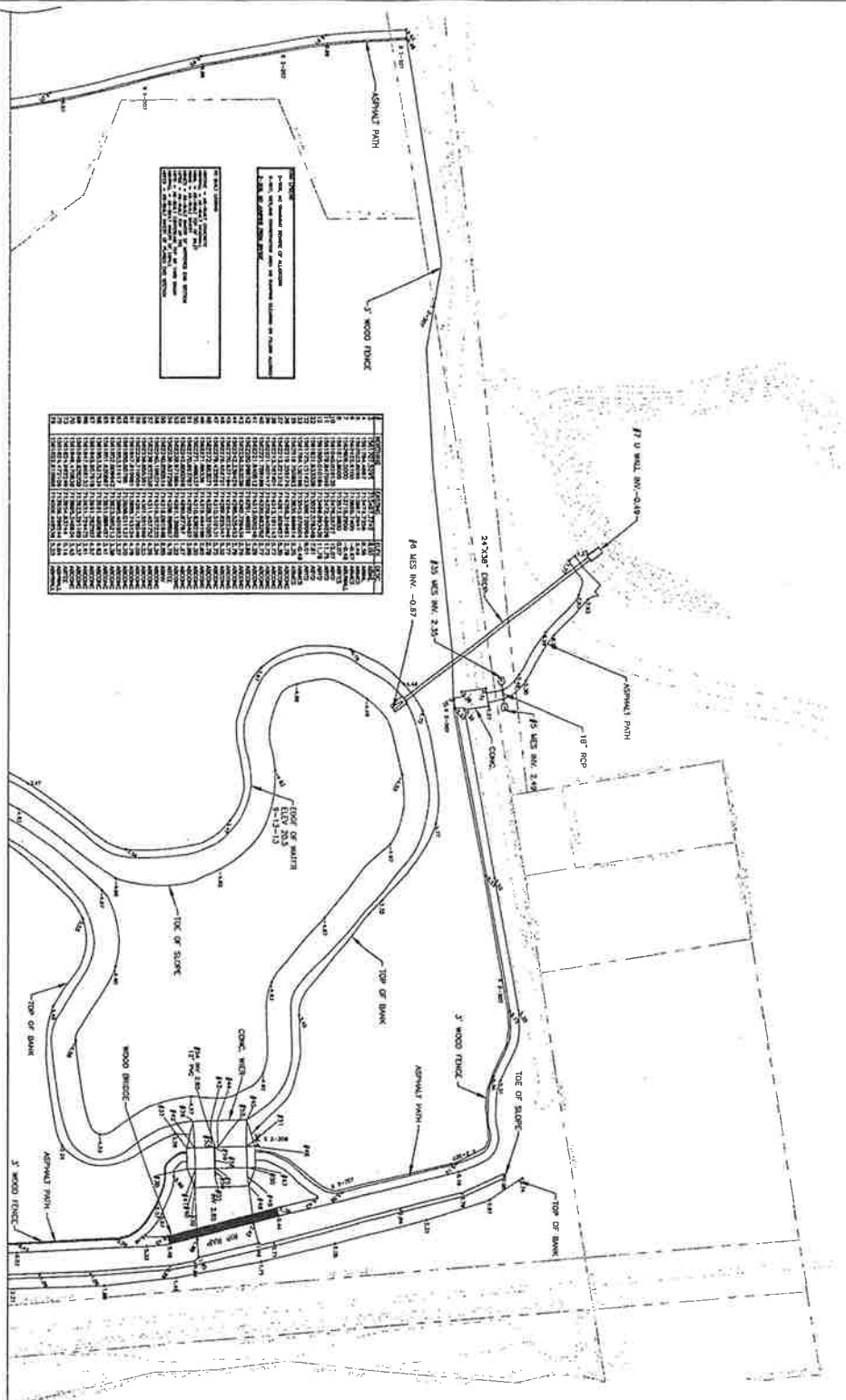
STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NOTICE OF PROPOSED AGENCY ACTION

The Florida Department of Environmental Protection (FDEP) gives notice that it proposes to approve a No Further Action Proposal with Institutional Controls or with Engineering and Institutional Controls and issue a Site Rehabilitation Completion Order with controls for a contaminated site. Brevard County, Florida, a political subdivision of the State of Florida (County), is seeking this order in reference to FDEP Site ID # COM\_307019, Memorial Medical Property, 1830 Oak Grove Road, Titusville Florida and intends to restrict exposure to contamination in the following manner:

Use is restricted to trail for recreational purposes only and as a stormwater management system, in accordance with the criteria for establishing the alternative soil cleanup criteria for the Restricted Property as set forth in the Final Site Assessment Report. Residential use of the Restricted Property is prohibited. Excavation, landscaping, the installation of lighting, and maintenance activities within the Restricted Property may only be performed by the County, its successors and assigns. For any dewatering activities, a plan approved by FDEP's Division of Waste Management must be in place to address and ensure the appropriate handling, treatment, and disposal of any extracted groundwater. There shall be no use of groundwater on the Restricted Property. There shall be no drilling for water conducted on the Restricted Property nor shall any wells be installed, other than monitoring wells pre-approved in writing by FDEP'S Division of Waste Management, in addition to any authorizations required by the Division of Water Resource Management and the Water Management Districts. There shall be no additional stormwater swales, stormwater detention or retention facilities or ditches constructed on the Restricted Property beyond those already approved, without prior approval of FDEP.

Complete copies of the No Further Action Proposal, the draft restrictive covenant, and the FDEP's preliminary evaluation are available for public inspection during normal business hours 8:00 a.m. to 5:00 p.m. Monday through Friday, except legal holidays at FDEP Central District, 3319 Maguire Blvd, Suite 232, Orlando, FL 32803

Local governments with jurisdiction over the property subject to the Institutional Control, real property owner(s) of any property subject to the Institutional Control, and residents of any property subject to the Institutional Control have 30 days from publication of this notice to provide comments to the FDEP. Such comments must be sent to Mary Ann Kraus, FDEP, Central District 3319 Maguire Blvd, Suite 232, Orlando, FL 32803 or email: [Mary.kraus@dep.state.fl.us](mailto:Mary.kraus@dep.state.fl.us).



SHEET 2 OF 2

CHAIN OF LAKES SOUTHERN EXPANSION

AS-BUILT SURVEY

PREPARED FOR: WAL-ROSE, INC.

SCALE: 1"=50'

DATE OF FIELD WORK: 12-05-13

MATCH LINE SEE SHEET 1 OF 2

**SURVEYOR'S CERTIFICATION**

I HEREBY CERTIFY THAT THE INFORMATION IS CORRECT AND ACCORDING TO RECORDS AND FIELD NOTES AND THAT I AM A LICENSED SURVEYOR AND AM NOT PROVIDING ANY SERVICE OR OPINION THAT IS UNLAWFUL OR UNETHICAL.

DATE: 12/05/13

BY: [Signature]

**REVISIONS:**

1. THE PURPOSE OF THIS AS-BUILT SURVEY IS TO SHOW THE EXISTING CONDITIONS SHOWN HEREON AND RELATE TO THE PROPOSED PROJECT. THIS SURVEY IS NOT TO BE USED FOR ANY OTHER PURPOSE.

2. THE SURVEYOR'S RESPONSIBILITY IS TO SHOW THE EXISTING CONDITIONS SHOWN HEREON AND RELATE TO THE PROPOSED PROJECT. THIS SURVEY IS NOT TO BE USED FOR ANY OTHER PURPOSE.

3. THE SURVEYOR'S RESPONSIBILITY IS TO SHOW THE EXISTING CONDITIONS SHOWN HEREON AND RELATE TO THE PROPOSED PROJECT. THIS SURVEY IS NOT TO BE USED FOR ANY OTHER PURPOSE.





Approved as to form and content by the Florida Department of Environmental Protection, Office of General Counsel, \_\_\_\_\_.

IN WITNESS WEHREOF, the Florida Department of Environmental Protection has executed this instrument, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

\_\_\_\_\_  
Jeff Prather, Director  
Central District Office  
3319 Maguire Blvd, Suite 232  
Orlando, Florida 32803

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Date: \_\_\_\_\_  
Witness

Print Name: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_  
Witness

Print Name: \_\_\_\_\_

State of Florida  
County of Brevard County

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_.  
Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

July 13, 2016

MEMORANDUM

TO: Virginia Barker, Natural Resources Management Director

RE: Item II.A.1., Approval of Memorial Medical Center Parcel – No Further Action with Conditions (Parcel ID: 21-35-28-00-00760.0-0000.00) (Deed Restriction)

The Board of Commissioners, in regular session on July 12, 2016, approved the placement of a deed restriction on the referenced Memorial Medical Center parcel upon final review by the Florida Department of Environmental Protection (FDEP) Office of General Council, County Attorney's Office, and Risk Management; approved allowing legal advertisement of the proposal to establish the restrictions; and authorized the Chairman to execute the final agreement between FDEP and Brevard County.

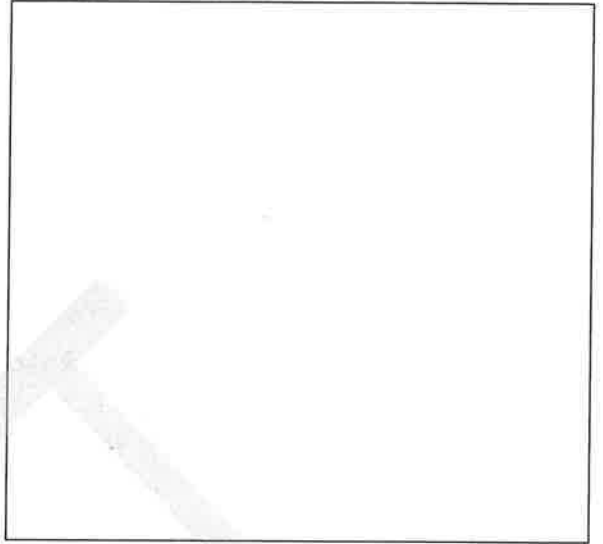
Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

cc: Parks and Recreation Director



This instrument prepared by:

Christine Lepore, Esq.  
Office of the Brevard County Attorney  
2725 Judge Fran Jamieson Way, Bldg. C  
Viera, Florida 32940

## DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT (hereinafter "Declaration") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by BREVARD COUNTY, a political subdivision of the State of Florida (hereinafter "GRANTOR") and the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter "FDEP").

### RECITALS

- A. GRANTOR is the fee simple owner of that certain real property situated in the County of Brevard, State of Florida, more particularly described in **Exhibit "A"** attached hereto and made a part of hereof (hereinafter the "Restricted Property");
- B. The FDEP Facility Identification Number for the Restricted Property is COM\_307019. The facility name at the time of this Declaration is Medical Memorial Property. This Declaration addresses the

discovery of arsenic contamination from prior agricultural activities that was reported to FDEP on July 5, 2011.

C. The discovery of arsenic on the Restricted Property is documented in the following reports that are incorporated by reference:

1. Interim Data Package- Medical Memorial Property Arsenic Investigation and Development of Alternative Soil Cleanup Target Level, November 9, 2011, Submitted by Seavy and Associates, Inc.; and
2. Site Assessment Report for Medical Memorial Center Property, June 2013, Submitted by Seavy and Associates, Inc.; and
3. Soils Disposal Report for Memorial Medical Center, October 2013, Submitted by Brevard County Natural Resources Management Office; and
4. Final Site Assessment Report (SAR) for Memorial Medical Center Property, Revision 2, January 2014, Seavy and Associates, Inc.

D. The Reports noted in Recital C set forth the nature and extent of arsenic contamination located on the Restricted Property. These reports confirm that contaminated soil, as defined by Chapter 62-780, Florida Administrative Code (F.A.C.), exists on the Restricted Property. Also, these reports document that the groundwater is not contaminated.

E. The criteria for direct exposure of contamination the soil was based on an average soil contaminant concentration calculated using a 95% Upper Confidence Limit (UCL) approach with an exposure unit (EU) of 16 acres pursuant to Rule 62-780.680, F.A.C. Therefore, the Restricted Property may not be subdivided into parcels smaller than 16 acres without prior written approval from FDEP's Division of Waste Management.

F. It is the intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure of users or occupants of the Restricted Property and the environment to the contaminants and to reduce or eliminate the threat of migration of the contaminants.

G. GRANTOR deems it desirable and in the best interest of all present and future owners of the Restricted Property that an Order be obtained and that the Restricted Property be held subject to certain restrictions all of which are more particularly hereinafter set forth.

H. FDEP has agreed to issue a Site Rehabilitation Order with Conditions (hereinafter "Order") upon recordation of this Declaration. FDEP can unilaterally revoke this Order if the conditions of this Declaration or of the Order are not met. Additionally, if concentrations of arsenic increase above the levels approved by the Order, or if a subsequent discharge occurs at the Restricted Property, FDEP may require site rehabilitation to reduce concentrations of contamination to the levels allowed by applicable FDEP rules. The Order relating to FDEP Facility No. COM\_307019, can be found by contacting the appropriate FDEP district office or Tallahassee program area.

**NOW, THEREFORE**, to induce FDEP to issue the Order and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the undersigned properties, GRANTOR agrees as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. GRANTOR hereby imposes the following restrictions:
  - a. The portion of the property depicted and more particularly described in Exhibit "B" as the "Restricted Area", attached hereto and made a part hereof, is hereby designated as a restricted trail for recreational purposes only and as a stormwater management system, in accordance with the criteria for establishing the alternative soil cleanup criteria for the Restricted Property as set forth in the SAR. Residential use of the Restricted Area is prohibited. Excavation, landscaping, the installation of lighting, and maintenance activities within the Restricted Area may only be performed by GRANTOR, its successors and assigns. For any dewatering activities, a plan approved by FDEP's Division of Waste Management must be in place to address and ensure the appropriate handling, treatment, and disposal of any extracted groundwater.
  - b. There shall be no use of groundwater on the Restricted Area. There shall be no drilling for water conducted within the Restricted Area nor shall any wells be installed, other than monitoring wells pre-approved in writing by FDEP'S Division of Waste Management, in addition to any authorizations required by the Division of Water Resource Management and the Water Management Districts. There shall be no additional stormwater swales, stormwater detention or retention facilities or ditches constructed within the Restricted Area beyond those already approved, without prior approval of FDEP.
  - c. The following uses of the Restricted Property are prohibited: agricultural use of the land including forestry, fishing and mining; hotels or lodging; recreational uses including amusement parks, parks, camps, museums, zoos, or gardens; residential uses, and educational uses such as elementary or secondary schools, or day care services. These prohibited uses are specifically defined by using the North American Industry Classification System, United States, 2012 (NAICS), Executive Office of the President, Office of Management and Budget. The prohibited uses by code are: Sector 11 Agriculture, Forestry, Fishing and Hunting; Subsector 212 Mining (except Oil and Gas); Code 512132 Drive-In Motion Picture Theaters; Code 51912 Libraries and Archives; Code 53111 Lessors of Residential Buildings and Dwellings; Subsector 6111 Elementary and Secondary Schools; Subsector 623 Nursing and Residential Care Facilities; Subsector 624 Social Assistance; Subsector 711 Performing Arts, Spectator Sports and Related Industries; Subsector 712 Museums, Historical Sites, and Similar Institutions; Subsector 713 Amusement, Gambling, and Recreation Industries; Subsector 721 Accommodation (hotels, motels, RV parks, etc.); Subsector 813 Religious, Grantmaking, Civic, Professional, and Similar Organizations; and Subsector 814 Private Households.

3. In the remaining paragraphs, all references to "GRANTOR" and "FDEP" shall also mean and refer to their respective successors and assigns.
4. For the purpose of monitoring the restrictions contained herein, FDEP is hereby granted a right of entry upon and access to the Restricted Area. The Restricted Area may be accessed through the Public Right of Way of Oak Grove Road.
5. It is the intention of GRANTOR that this Declaration shall touch and concern the Restricted Property, run with the land and with the title to the Restricted Property, and shall apply to and be binding upon and inure to the benefit for GRANTOR and FDEP, and to any and all parties hereafter having any right, title or interest in the Restricted Property or any part hereof. FDEP may enforce the terms and conditions of this Declaration by injunctive relief and other appropriate available legal remedies. Any forbearance on behalf of FDEP to exercise its right in the event of failure of the GRANTOR to comply with the provisions of this Declaration shall not be deemed or construed to be a waiver of FDEP's rights hereunder. This Declaration shall continue on in perpetuity, unless otherwise modified in writing by GRANTOR and FDEP as provided in paragraph 7 hereof. Notwithstanding anything in the foregoing provisions of this Declaration to the contrary, no party shall have any duties, responsibilities or liabilities hereunder after such party has conveyed title to its property or its rights under the Declaration to a third party, except for any duties, responsibilities or liabilities that may have arisen prior to such conveyance. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation, or governmental agency that is substantially benefited by these restrictions. If the GRANTOR does not or will not be able to comply with any or all of the provisions of this Declaration, the GRANTOR shall notify FDEP thirty (30) calendar days prior to any conveyance or sale, granting or transferring the Restricted Property or portion thereof, to any heirs, successors, assigns, or grantees, including, without limitation, the conveyance of any security interest in said Restricted Property.
6. In order to ensure the perpetual nature of these restrictions, GRANTOR shall reference these restrictions in any subsequent lease or deed of conveyance concerning the Restricted Property, including the recording book and page of record of this Declaration. Furthermore, prior to the entry into a landlord-tenant relationship with respect to the Restricted Property, the GRANTOR agrees to notify in writing all proposed tenants of the Restricted Property of the existence and contents of this Declaration.
7. This Declaration is binding until a release of covenant is executed by FDEP Secretary (or Designee) and is recorded in the public records of the county in which the Restricted Property is located. To receive prior approval from FDEP to remove any requirement herein, cleanup target levels established pursuant to Florida Statutes and FDEP rules must have been achieved. This Declaration may be modified in writing only. Any subsequent amendments must be executed by both GRANTOR and FDEP and be recorded by the real property owner as an amendment hereto.
8. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of that provision shall not affect the validity of any other provisions of the Declaration. All such other provisions shall continue unimpaired in full force and effect.

9. GRANTOR covenants and represents that on the date of execution of this Declaration that GRANTOR is seized of the Restricted Property in fee simple and has good right to create, establish, and impose this restricted covenant on the use of the Rest. GRANTOR also covenants and warrants that the Restricted Property are free and clear of any and all liens, mortgages, or encumbrances that could impair GRANTOR's rights to impose the restrictive covenant described in this Declaration or that is superior to the restrictive covenant described in this Declaration, unless a joinder and consent, and subordination of such interests, as applicable, is made part hereof or is attached hereto.

**[Remainder of Page Intentionally Blank – Signatures begin on following page]**

DRAFT

IN WITNESS WHEREOF, Brevard County has executed this instrument, this 12 day of JULY, 2016.

ATTEST:

  
\_\_\_\_\_  
SCOTT ELLIS, CLERK

GRANTOR  
Brevard County Board of County Commissioners

By:   
\_\_\_\_\_  
Jim Barfield, Chairman  
Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, FL 32940  
Approved by the Board 7/12/16

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Witness

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_  
Witness

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

State of Florida  
County of Brevard County

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_.  
Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_.  
Type of Identification Produced \_\_\_\_\_.

\_\_\_\_\_

Signature of Notary Public

Attachment A  
**EXHIBIT A**

**LEGAL DESCRIPTION**

SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST  
 PARENT PARCEL ID NUMBER:  
 21-35-28-00-00759.0-0000.00

THIS IS NOT  
 A SURVEY

**SHEET 1 OF 2**  
 NOT VALID WITHOUT  
 SHEET 2 OF 2

**LEGAL DESCRIPTION:**

(BREVARD COUNTY OWNERSHIP)

A PORTION OF GOVERNMENT LOT 4, SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF LOT 4, SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST; THENCE RUN NORTH WITH THE INDIAN RIVER FOR A DISTANCE FOR 260 YARDS (780 FEET); THENCE IN A SOUTHWESTERLY DIRECTION TO A POINT ON THE WEST LINE OF LOT 4; 180 YARDS (540 FEET) NORTH OF THE SOUTHWEST CORNER OF SAID LOT 4; THENCE RUN SOUTH TO THE SOUTHWEST CORNER OF LOT 4; THENCE RUN EAST ALONG THE SOUTH LINE OF SAID LOT 4 TO THE INDIAN RIVER AT THE PLACE OF BEGINNING, LESS ROAD RIGHT OF WAY AND LESS RIGHT OF WAY FOR FLORIDA EAST COAST RAILROAD AND LESS THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 5757, PAGE 9467, OF THE PUBLIC RECORDS OF BREVARD COUNTY FLORIDA.

**ABBREVIATIONS**

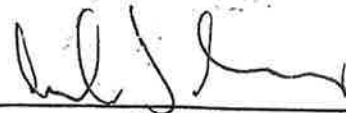
FECR = FLORIDA EAST COAST RAILWAY  
 ID = IDENTIFICATION  
 N/F = NOW OR FORMERLY  
 ORB = OFFICIAL RECORDS BOOK  
 (P) = PER PLAT  
 PB = PLAT BOOK  
 PG = PAGE  
 R/W = RIGHT OF WAY  
 SF = SQUARE FEET

**SURVEYOR'S NOTES:**

1. THIS IS NOT A SURVEY, BUT ONLY A GRAPHICAL DEPICTION OF THE LAND DESCRIBED HEREIN.
2. COORDINATES AND BEARINGS SHOWN HEREON ARE BASED THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE 0901, NORTH AMERICAN DATUM OF 1983 AND READJUSTED IN 2011(NAD83(2011)), REFERENCED TO NATIONAL GEODETIC SURVEY CONTROL STATION "TITUSVILLE SE BASE", DESCRIBED AS FOLLOWS:
  - a. TOP OF CGS BRASS DISK SET IN CONCRETE MONUMENT STAMPED "TITUSVILLE SE BASE". PID# = "AK0912". LATITUDE = 28°37'28.11047"(N). LONGITUDE = 080°49'22.33951"(W). NORTHING = 1,559,789.83. EASTING = 712,991.22.
  - b. THE SCALE FACTOR IS 0.99994488. THE COMBINED FACTOR IS 0.99994805 AND THE CONVERGENCE IS +0°05'05.5".
  - c. DISTANCES AS SHOWN HEREON ARE GROUND DISTANCES.
3. BEARINGS SHOWN HEREON ARE BASED ON GRID NORTH, FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE 0901, NORTH AMERICAN DATUM, OF 1983 AND READJUSTED IN 2011(NAD83(2011)) AND SPECIFICALLY REFERENCED TO THE MONUMENTED SOUTH RIGHT OF WAY LINE OF OAK GROVE ROAD AS BEING NORTH 80° 52' 36" EAST AS DETERMINED BY THEIR COORDINATE VALUES AND AS SHOWN ON THE SPECIFIC PURPOSE SURVEY OF CHAIN OF LAKES - PAK GROVE ROAD, PROJECT NO. 14-11-002 PREPARED BY BREVARD COUNTY SURVEYING AND MAPPING, DATED 12/11/13.
4. LEGAL DESCRIPTION FOR THE BREVARD COUNTY OWNERSHIP; AND ENCUMBRANCES SUCH AS EASEMENTS, RIGHTS OF WAY, COVENANTS, AGREEMENTS, AND RESTRICTIONS PROVIDED PER THE OWNERSHIP AND ENCUMBRANCE CERTIFICATE, CUSTOMER FILE NO. 14-1446 BY B & B TITLE SERVICES, INC.

**PREPARED FOR:**

BREVARD COUNTY DEPARTMENT OF NATURAL RESOURCE  
 SUE GOSSELIN: ENVIRONMENTAL SCIENTIST



MICHAEL J. SWEENEY, PSM NO. 4870  
 NOT VALID UNLESS SIGNED AND SEALED

**PREPARED BY:** BREVARD COUNTY PUBLIC WORKS SURVEYING & MAPPING DIVISION

ADDRESS: 2725 JUDGE FRAN JAMIESON WAY BUILDING A, SUITE A220 VIERA, FL. 32940

PHONE: (321) 633-2080, FAX: (321) 633-2083, E-MAIL: mike.sweeney@brevardcounty.us

**DRAWN BY:** M. CORNELL

**CHECKED BY:** M. J. SWEENEY

**DRAWING NO.** 14-08-032-1(A)

**SECTION** 28

**DATE:** 10-30-14

**SHEET** 1 **OF** 2

**PROJ. FOLDER** 1408032-1

**TOWNSHIP** 21 SOUTH

**REVISIONS**

**RANGE** 35 EAST

C:\Civil 3D Projects 2014\213528\_SK\_1408032-1\_OAK-GROVE-RD\dwg\14-08-032-1.dwg, 11/12/2014 10:10:09 AM, \gacdc01\PWDSURPRNC280

Attachment A  
EXHIBIT A

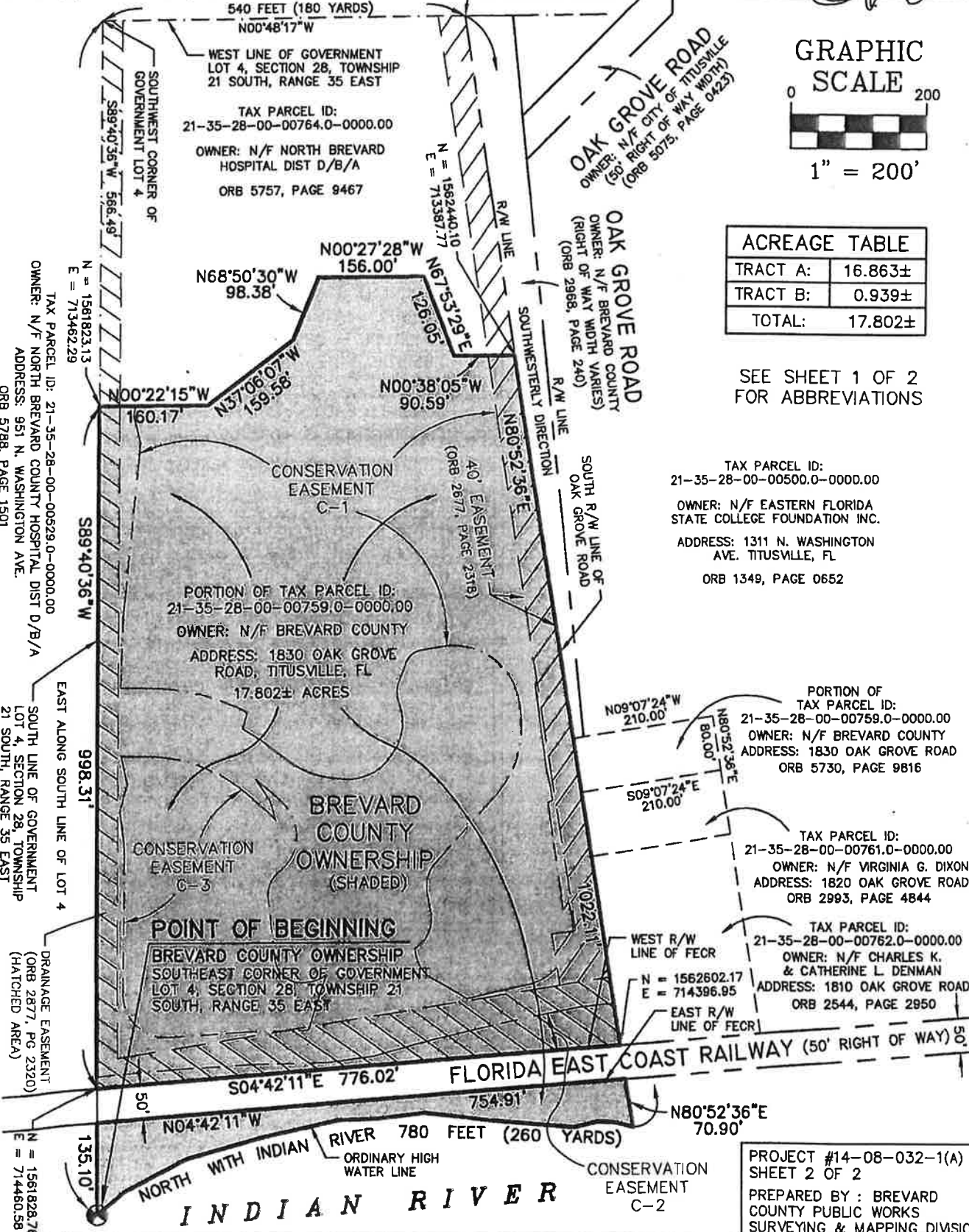
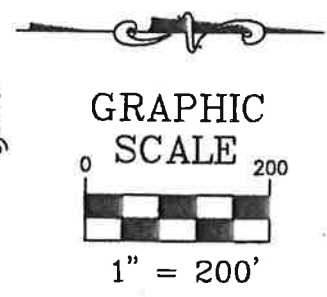
SKETCH OF DESCRIPTION

SHEET 2 OF 2

THIS SKETCH IS NOT VALID  
WITHOUT SHEET 1 OF 2

SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST.

THIS IS NOT A SURVEY BUT ONLY A GRAPHIC DEPICTION  
OF THE LEGAL DESCRIPTION OF THE BREVARD COUNTY  
OWNERSHIP ON SHEET 1 OF 2.



ACREAGE TABLE	
TRACT A:	16.863±
TRACT B:	0.939±
TOTAL:	17.802±

SEE SHEET 1 OF 2  
FOR ABBREVIATIONS

TAX PARCEL ID:  
21-35-28-00-00500.0-0000.00  
OWNER: N/F EASTERN FLORIDA STATE COLLEGE FOUNDATION INC.  
ADDRESS: 1311 N. WASHINGTON AVE. TITUSVILLE, FL  
ORB 1349, PAGE 0652

PORTION OF TAX PARCEL ID:  
21-35-28-00-00759.0-0000.00  
OWNER: N/F BREVARD COUNTY  
ADDRESS: 1830 OAK GROVE ROAD  
ORB 5730, PAGE 9816

TAX PARCEL ID:  
21-35-28-00-00761.0-0000.00  
OWNER: N/F VIRGINIA G. DIXON  
ADDRESS: 1820 OAK GROVE ROAD  
ORB 2993, PAGE 4844

TAX PARCEL ID:  
21-35-28-00-00762.0-0000.00  
OWNER: N/F CHARLES K. & CATHERINE L. DENMAN  
ADDRESS: 1810 OAK GROVE ROAD  
ORB 2544, PAGE 2950

PROJECT #14-08-032-1(A)  
SHEET 2 OF 2  
PREPARED BY : BREVARD COUNTY PUBLIC WORKS SURVEYING & MAPPING DIVISION

C:\Civil 3D Projects 2014\213528\_SK\_1408032-1\_OAK-GROVE-RD\dwg\14-08-032-1.dwg, 11/12/2014 10:10:21 AM, \gacad01\PWDSURPRNC280

EXHIBIT B

LEGAL DESCRIPTION

SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST

PARENT PARCEL ID NUMBER:  
21-35-28-00-00759.0-0000.00

THIS IS NOT  
A SURVEY

SHEET 1 OF 2  
NOT VALID WITHOUT  
SHEET 2 OF 2

SURVEYOR'S NOTES:

1. THIS IS NOT A SURVEY, BUT ONLY A GRAPHICAL DEPICTION OF THE LAND DESCRIBED HEREIN.
2. COORDINATES AND BEARINGS SHOWN HEREON ARE BASED THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE 0901, NORTH AMERICAN DATUM OF 1983 AND READJUSTED IN 2011(NAD83(2011)), REFERENCED TO NATIONAL GEODETIC SURVEY CONTROL STATION "TITUSVILLE SE BASE", DESCRIBED AS FOLLOWS:
  - a. TOP OF CGS BRASS DISK SET IN CONCRETE MONUMENT STAMPED "TITUSVILLE SE BASE". PID# = "AK0912". LATITUDE = 28°37'28.11047"(N). LONGITUDE = 080°49'22.33951"(W). NORTHING = 1,559,789.83. EASTING = 712,991.22.
  - b. THE SCALE FACTOR IS 0.99994488. THE COMBINED FACTOR IS 0.99994805 AND THE CONVERGENCE IS +0°05'05.5".
  - c. DISTANCES AS SHOWN HEREON ARE GROUND DISTANCES.
3. BEARINGS SHOWN HEREON ARE BASED ON GRID NORTH, FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE 0901, NORTH AMERICAN DATUM OF 1983 AND READJUSTED IN 2011(NAD83(2011)) AND SPECIFICALLY REFERENCED TO THE MONUMENTED SOUTH RIGHT OF WAY LINE OF OAK GROVE ROAD AS BEING NORTH 80° 52' 36" EAST AS DETERMINED BY THEIR COORDINATE VALUES AND AS SHOWN ON THE SPECIFIC PURPOSE SURVEY OF CHAIN OF LAKES - PAK GROVE ROAD, PROJECT NO. 14-11-002 PREPARED BY BREVARD COUNTY SURVEYING AND MAPPING, DATED 12/11/13.
4. LEGAL DESCRIPTION FOR THE BREVARD COUNTY OWNERSHIP; AND ENCUMBRANCES SUCH AS EASEMENTS, RIGHTS OF WAY, COVENANTS, AGREEMENTS, AND RESTRICTIONS PROVIDED PER THE OWNERSHIP AND ENCUMBRANCE CERTIFICATE, CUSTOMER FILE NO. 14-1446 BY B & B TITLE SERVICES, INC.

ABBREVIATIONS

FECR = FLORIDA EAST COAST RAILWAY  
 ID = IDENTIFICATION  
 N/F = NOW OR FORMERLY  
 ORB = OFFICIAL RECORDS BOOK  
 (P) = PER PLAT  
 PB = PLAT BOOK  
 PG = PAGE  
 R/W = RIGHT OF WAY  
 SF = SQUARE FEET

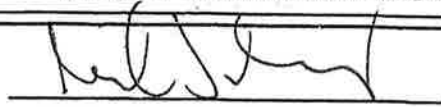
LEGAL DESCRIPTION:

(RESTRICTED AREA)

A PARCEL OF LAND BEING A PORTION OF GOVERNMENT LOT 4, SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 5757, PAGE 9467, SAID POINT BEING A POINT ON THE SOUTH LINE OF SAID GOVERNMENT LOT 4; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 00°22'15" WEST FOR A DISTANCE OF 160.17 FEET; THENCE NORTH 37°06'07" WEST FOR A DISTANCE OF 159.58 FEET; THENCE NORTH 68°50'30" WEST FOR A DISTANCE OF 98.38 FEET; THENCE NORTH 00°27'28" WEST FOR A DISTANCE OF 156.00 FEET; THENCE NORTH 67°53'29" EAST FOR A DISTANCE OF 126.05 FEET; THENCE NORTH 00°38'05" WEST FOR A DISTANCE OF 90.59 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF OAK GROVE ROAD (HAVING A VARIABLE RIGHT OF WAY) AS RECORDED IN OFFICIAL RECORDS BOOK 2868 PAGE 0240; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE, RUN NORTH 80°52'36" EAST FOR A DISTANCE OF 133.69 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE, RUN SOUTH 82°56'36" EAST FOR A DISTANCE OF 57.27 FEET; THENCE NORTH 83°56'38" EAST FOR A DISTANCE OF 210.56 FEET; THENCE NORTH 85°38'17" EAST FOR A DISTANCE OF 45.18 FEET; THENCE NORTH 83°25'16" EAST FOR A DISTANCE OF 35.91 FEET; THENCE NORTH 81°06'15" EAST FOR A DISTANCE OF 68.76 FEET; THENCE NORTH 79°49'22" EAST FOR A DISTANCE OF 232.59 FEET; THENCE SOUTH 79°04'04" EAST FOR A DISTANCE OF 31.61 FEET; THENCE SOUTH 65°49'07" EAST FOR A DISTANCE OF 42.85 FEET; THENCE SOUTH 09°14'56" EAST FOR A DISTANCE OF 12.06 FEET; THENCE NORTH 80°52'41" EAST FOR A DISTANCE OF 75.56 FEET; THENCE NORTH 09°13'54" WEST FOR A DISTANCE OF 75.00 FEET; THENCE NORTH 80°52'36" EAST FOR A DISTANCE OF 100.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF FLORIDA EAST COAST RAILWAY; THENCE ALONG SAID WEST RIGHT OF WAY LINE, RUN SOUTH 04°42'11" EAST FOR A DISTANCE OF 776.02 FEET TO A POINT ON THE SOUTH LINE OF SAID GOVERNMENT LOT 4; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, RUN SOUTH 89°40'36" WEST ALONG SAID SOUTH LINE FOR A DISTANCE OF 998.31 FEET TO THE POINT OF BEGINNING, CONTAINING 16.282 ACRES, MORE OR LESS.

ALL RECORDED DOCUMENTS AND PUBLIC RECORDS REFER TO THE PUBLIC RECORDS OF BREVARD COUNTY FLORIDA.



MICHAEL J. SWEENEY, PSM NO. 4870  
NOT VALID UNLESS SIGNED AND SEALED

PREPARED FOR:  
BREVARD COUNTY DEPARTMENT OF NATURAL RESOURCE  
SUE GOSELIN: ENVIRONMENTAL SCIENTIST

PREPARED BY: BREVARD COUNTY PUBLIC WORKS SURVEYING & MAPPING DIVISION  
 ADDRESS: 2725 JUDGE FRAN JAMIESON WAY BUILDING A, SUITE A220 VIERA, FL. 32940  
 PHONE: (321) 633-2080, FAX: (321) 633-2083, E-MAIL: mike.sweeney@brevardcounty.us

DRAWN BY: <u>M. CORNELL</u>	CHECKED BY: <u>M. J. SWEENEY</u>	DRAWING NO. <u>14-08-032-1(B)</u>	SECTION <u>28</u>
DATE: <u>10-30-14</u>	SHEET <u>1</u> OF <u>2</u>	PROJ. FOLDER <u>1408032-1</u>	TOWNSHIP <u>21</u> SOUTH
		REVISIONS _____	RANGE <u>35</u> EAST

C:\Civil 3D Projects 2014\213528\_SK\_1408032-1\_OAK-GROVE-RD\dwg\14-08-032-1.dwg, 11/12/2014 9:54:36 AM, \\gcad01\PWDSURPRNC280





**Location**  
**Memorial Medical Center Parcel**  
**FDEP ID: COM-307019**  
**NFA with Conditions**

Attachment C

 Feguer Parcel



0 200 400 800  
Feet



## NOTICE OF INTENT TO APPROVE USE OF INSTITUTIONAL CONTROL

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NOTICE OF PROPOSED AGENCY ACTION

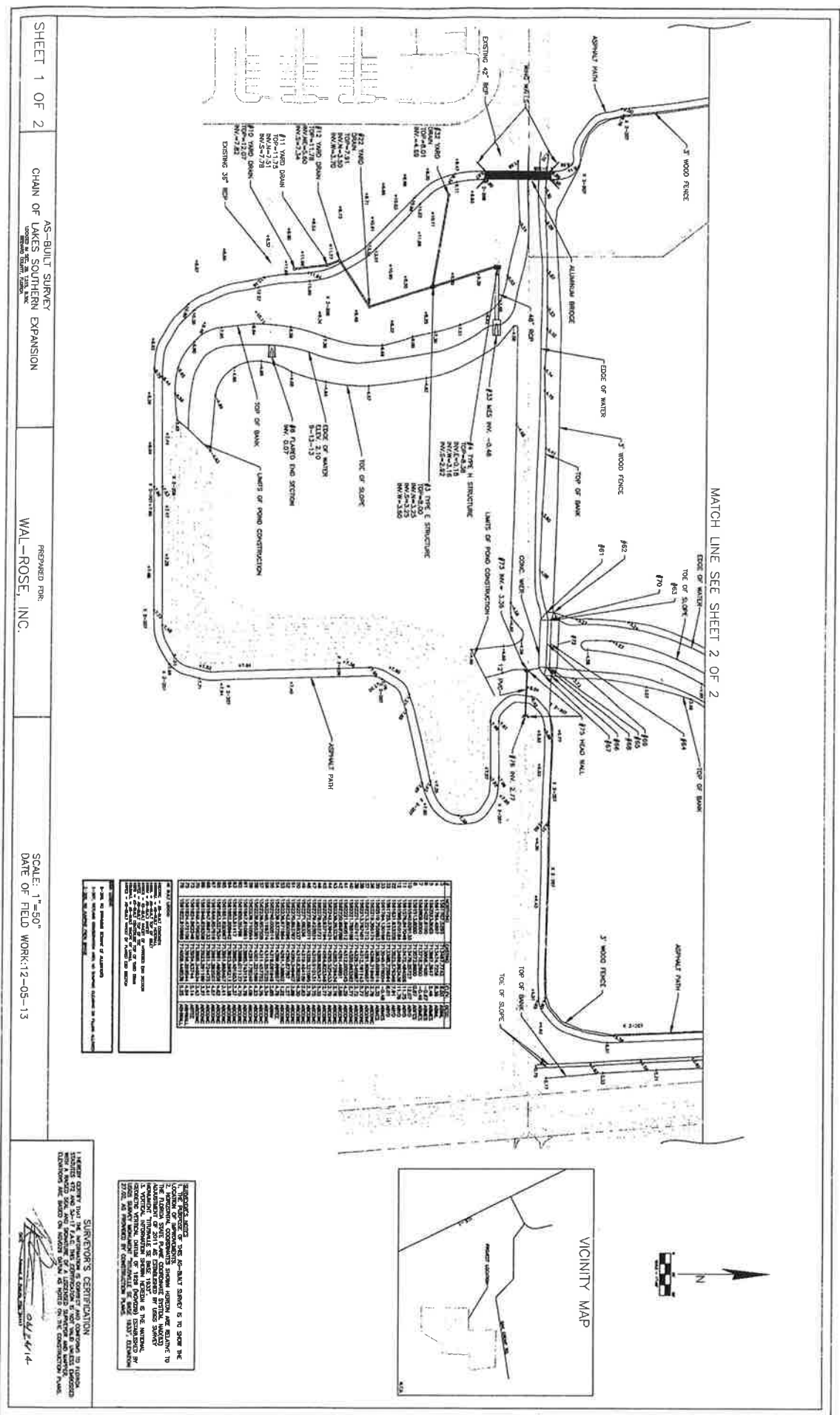
The Florida Department of Environmental Protection (FDEP) gives notice that it proposes to approve a No Further Action Proposal with Institutional Controls or with Engineering and Institutional Controls and issue a Site Rehabilitation Completion Order with controls for a contaminated site. Brevard County, Florida, a political subdivision of the State of Florida (County), is seeking this order in reference to FDEP Site ID # COM\_307019, Memorial Medical Property, 1830 Oak Grove Road, Titusville Florida and intends to restrict exposure to contamination in the following manner:

Use is restricted to trail for recreational purposes only and as a stormwater management system, in accordance with the criteria for establishing the alternative soil cleanup criteria for the Restricted Property as set forth in the Final Site Assessment Report. Residential use of the Restricted Property is prohibited. Excavation, landscaping, the installation of lighting, and maintenance activities within the Restricted Property may only be performed by the County, its successors and assigns. For any dewatering activities, a plan approved by FDEP's Division of Waste Management must be in place to address and ensure the appropriate handling, treatment, and disposal of any extracted groundwater. There shall be no use of groundwater on the Restricted Property. There shall be no drilling for water conducted on the Restricted Property nor shall any wells be installed, other than monitoring wells pre-approved in writing by FDEP'S Division of Waste Management, in addition to any authorizations required by the Division of Water Resource Management and the Water Management Districts. There shall be no additional stormwater swales, stormwater detention or retention facilities or ditches constructed on the Restricted Property beyond those already approved, without prior approval of FDEP.

Complete copies of the No Further Action Proposal, the draft restrictive covenant, and the FDEP's preliminary evaluation are available for public inspection during normal business hours 8:00 a.m. to 5:00 p.m. Monday through Friday, except legal holidays at FDEP Central District, 3319 Maguire Blvd, Suite 232, Orlando, FL 32803

Local governments with jurisdiction over the property subject to the Institutional Control, real property owner(s) of any property subject to the Institutional Control, and residents of any property subject to the Institutional Control have 30 days from publication of this notice to provide comments to the FDEP. Such comments must be sent to Mary Ann Kraus, FDEP, Central District 3319 Maguire Blvd, Suite 232, Orlando, FL 32803 or email: [Mary.kraus@dep.state.fl.us](mailto:Mary.kraus@dep.state.fl.us).





MATCH LINE SEE SHEET 2 OF 2

SHEET 1 OF 2

AS-BUILT SURVEY  
CHAIN OF LAKES SOUTHERN EXPANSION

PREPARED FOR:  
WAL-ROSE, INC.

SCALE: 1"=50'  
DATE OF FIELD WORK: 12-05-13

NO.	DESCRIPTION	DATE	BY
1	AS-BUILT SURVEY	12-05-13	J. W. ROSE
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**SURVEYOR'S CERTIFICATION**  
I, J. W. ROSE, being duly sworn, depose and say that I am a duly Licensed Professional Surveyor in the State of North Carolina, License No. 10000, and that I am the author of the above and foregoing plat, and that the same is a true and correct copy of the original as the same appears in my files.

DATE: 12/14/14