

CITY COUNCIL RESOLUTION NO. 2020-148

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE CITY, FLORIDA AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH GULF POWER COMPANY CONVEYING A UTILITY EASEMENT TO GULF POWER COMPANY TO INCLUDE 0.039 ACRES OF REAL PROPERTY AND CONCLUDING EMINENT DOMAIN LITIGATION.

WHEREAS, Gulf Power Company (“Gulf Power”) filed an eminent domain action in the Circuit Court in and for Columbia County, Florida; and

WHEREAS, the City of Lake City, Florida (hereinafter the “City”) is a named defendant in said action; and

WHEREAS, through the action, Gulf Power seeks an overhead easement across a small parcel (0.039 acres), of a City utility easement; and

WHEREAS, the City and Gulf Power have reached a proposed agreement whereby Gulf Power’s taking will be limited and Gulf Power will pay the City the sum of five thousand dollars and zero cents (\$5,000.00) in accordance with the terms and conditions of the “*Stipulated Order of Taking and Final Judgement as to the City of Lake City’s interest in Tract CO.-53.110*”, a copy of which is attached hereto as Exhibit A; and

WHEREAS, it is in the best interest of the citizens of the City to consummate said agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE CITY, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are all true and accurate and are incorporated herein and made a part of this resolution.

Section 2. The City administration and Mayor are hereby authorized to execute documents to conclude the foregoing litigation at no additional cost to the City.

Section 3. This resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED at a meeting of the City Council this ____ day of
December, 2020.

CITY OF LAKE CITY, FLORIDA

By: _____
Stephen M. Witt, Mayor

ATTEST:

APPROVED AS TO FORM AND
LEGALITY:

By: _____
Audrey E. Sikes, City Clerk

By: _____
Frederick L. Koberlein, Jr.,
City Attorney

IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT
IN AND FOR COLUMBIA COUNTY, FLORIDA

GULF POWER COMPANY, a
Florida corporation,

CASE NO.: 2020-CA-000059

Petitioner,

vs.

TRACT NO.: CO-53.110

JONATHAN R. AKINS, et al.,

Respondents.

STIPULATED ORDER OF TAKING AND FINAL JUDGMENT
AS TO CITY OF LAKE CITY'S INTEREST IN TRACT CO-53.110
(With Disbursement Instructions to the Clerk of the Court)

This matter came before the Court upon the stipulation and joint motion of Petitioner, Gulf Power Company ("Gulf Power"), and Respondent, City of Lake City, Florida, a municipal corporation ("Respondent"), for entry of an order of taking and final judgment ("Stipulated Order of Taking and Final Judgment") as to the Respondent's interest in Tract CO-53.110.

The Court being fully advised in the premises, it is ORDERED and ADJUDGED that:

1. The Court has jurisdiction over the subject matter and the parties to this cause, including all persons and entities claiming any equity, lien, title, or other interest in or to the property described as Tract CO-53.110 ("Subject Tract") in the Amended Petition in Eminent Domain filed by Gulf Power. The easement rights to be acquired as to the Subject Tract are set forth in **Exhibit A** attached hereto, and the legal description for the Subject Tract acquired herein is attached hereto as **Exhibit B**.

2. Gulf Power has complied with sections 73.031 and 74.041, Florida Statutes, and has properly served the Respondent and all other persons and entities claiming any equity, lien, title, or other interest in or to the Subject Tract with a Summons, Amended Petition in Eminent

Domain, Amended Notice of Lis Pendens, Amended Declaration of Taking, and Notice of Filing Affidavit in Support of Constructive Service, the originals of which have been filed by Gulf Power with the Clerk of Court. The pleadings in this cause are sufficient and Gulf Power is properly exercising its delegated power of eminent domain for a proper purpose. The Amended Declaration of Taking filed in this cause as to the Subject Tract was made in good faith and based upon a valid appraisal.

3. The Respondent and Gulf Power have reached a settlement which provides full compensation for the interests in the property taken as to the Respondent's interest, including, but not limited to claimed damages to the remainder property, as well as any and all other claims for damages, compensation, interest, attorneys' fees pursuant to Section 73.092, Florida Statutes, and expert fees and costs pursuant to Section 73.091, Florida Statutes, with respect to Respondent's interest in the Subject Tract.

4. By virtue of this Stipulated Order of Taking and Final Judgment and the payment required hereunder, the easement rights in favor of Gulf Power as to the Respondent's interest, as set forth in Exhibits A and B, in the Subject Tract are hereby condemned, transferred, conveyed, ratified, confirmed and approved.

5. Upon entry of this Stipulated Order of Taking and Final Judgment and the timely deposit of the sum set forth in paragraph 6 below, any and all claims for full compensation for property taken as to the Respondent's interest, including, but not limited to, claimed damages to the remainder property, interest, attorney's fees under Section 73.092, Florida Statutes, and expert fees and costs under Section 73.091, Florida Statutes, shall be resolved with respect to Respondent's interest in the Subject Tract.

6. Gulf Power is required to deposit as to the Respondent's interest in Tract CO-53.110, the following sum into the Registry of the Court: Five Thousand Dollars and No Cents (\$5,000.00), which is two times Gulf Power's good faith estimate of value, in compliance with Section 74.051(2) of the Florida Statutes.

7. Said sum shall be deposited in the Registry of this Court within twenty (20) days from the date of this Stipulated Order of Taking and Final Judgment, and upon making such deposit, Gulf Power shall be entitled to enter into possession of Tract CO-53.110 to the extent of the interest acquired by Gulf Power as described in Exhibits A and B.

8. Upon deposit into the Registry of the Court of the sum set forth in paragraph 6 above, the Clerk of the Court shall immediately, and without further Order, issue a check in said amount of Five Thousand Dollars and No Cents (\$5,000.00) to the Koberlein Law Offices Trust Account, c/o Fred Koberlein, Sr., Esq., 855 SW Baya Drive, Lake City, FL 32025.

9. The Court retains jurisdiction of this case and the parties to this cause in order to enforce the terms of this Stipulated Order of Taking and Final Judgment.

DONE and ORDERED in Chambers at Columbia County, Florida, this ____ day of October, 2020.

Honorable Darren K. Jackson
Circuit Court Judge, Third Judicial Circuit

Copies to all parties on the attached Service List:

SERVICE LIST

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|---|--|
| <p>John W. Little III, Esq. Kenneth B. Bell, Esq. Juan M. Muniz, Esq. Gregory S. Rix, Esq. S. Kaitlin Guerin, Esq. GUNSTER, YOAKLEY & STEWART, P.A. 215 South Monroe Street, Suite 601 Tallahassee, Florida 32301 Phone: (850) 521-1980 Fax: (850) 799-5998 jlittle@gunster.com kbell@gunster.com jmuniz@gunster.com grix@gunster.com kguerin@gunster.com Secondary: aalfaro@gunster.com Secondary: tfleming@gunster.com Secondary: eservice@gunster.com Attorneys for Petitioner</p> | <p>Fred Koberlein, Sr., Esq. Koberlein Law Offices 855 SW Baya Drive Lake City, FL 32025 Primary: fredsr@klolaw.com Secondary: alysha@klolaw.com Phone: (386) 269 9802 Fax: (888) 908 8699 Attorney for Respondent, City of Lake City, Florida, a municipal corporation (CO-53.110)</p> |
| <p>Bonnie Green, Esq. DARBY, PEELE & GREEN 1241 S. Marion Ave Lake City, FL 32025 Phone: (386) 752-4120 bonniegreen@darbypeelee.com loretta@darbypeelee.com Counsel for Respondent, Green Maintenance and Cleaning, Inc. (CO-53.110)</p> | <p>Cazenovia Creek Funding II LLC Serve Registered Agent Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808</p> |
| <p>ATCF II Florida – A LLC, a Florida limited liability company Serve Registered Agent 150 S. Pine Island Rd., Suite 430 Plantation, FL 33324</p> | <p>DMAC of Lake City, Inc., a Florida corporation Serve Registered Agent David E. Mangrum 532 SW Vista Terrace Lake City, FL 32024</p> |

**North Florida Resiliency Connection (“NFRC”)
Transmission Line Project**

Easement Rights To Be Acquired

Tract (a/k/a Parcel) CO-53.110 (Permanent Easement) A perpetual, non-exclusive easement for the Company, and its agents, successors and assigns, to be used for the construction, operation and maintenance of electric transmission lines supported by one linear series of monopoles, with all rights necessary and convenient for the full use thereof, including wires, one pole, pads, conduits, communication lines to be used for the operation and maintenance of the transmission lines, and all necessary appurtenant equipment (collectively, the “Electrical Facilities”), in, on, over, under, upon and across the lands located in Columbia County, Florida described as Tract CO-53.110 in Exhibit B to the Stipulated Order of Taking and Final Judgment and incorporated herein by this reference (the “Right-of-Way” or “Transmission Easement Area”), together with the rights to repair, reconstruct, inspect, alter, improve, change the voltage (not to exceed a nominal voltage of 230kV), as well as the size of, and replace, remove or relocate such Electrical Facilities in, on, over, under, upon and across the Right-of-Way, with all rights necessary or convenient for the full enjoyment or use thereof for the above-mentioned purposes, including the right to construct, operate and maintain improved access, install pads, fill, culverts or other drainage facilities, lay temporary mats, and install gates to existing or future fences, all to facilitate ingress and egress for personnel, vehicles, materials, supplies, and equipment of the Company, and its agents, successors and assigns, and to cut, trim or keep clear all trees and undergrowth and other obstructions within the Right-of-Way that may interfere with the proper construction, operation and maintenance of said Electrical Facilities;

provided that, no poles, or other surface structures shall be placed within an existing road or driveway, and that the Company shall not restrict vehicular access through, or otherwise enclose, the Right-of-Way;

provided that, subject to the Company’s acquired easement rights herein, to the extent the Company’s use of the Right-of-Way results in damage to the City of Lake City’s improvements with the Right-of-Way, the Company will immediately notify the City of Lake City of such damage and shall fully reimburse the City for all reasonable repairs or replacements caused by the Company’s use of the Right of Way; and

provided that, subject to the foregoing, the following shall be reserved to the owner(s) of said property, and its agents, successors, assigns, including the City of Lake City as an easement holder (the “Owner”): the right and privilege to use Tract CO-53.110 as described in Exhibit B to the Stipulated Order of Taking and Final Judgment for all other purposes permitted, except as herein stated, or as might interfere or be inconsistent with the Company’s use, occupation, maintenance or enjoyment thereof; and

provided that no building or structures, other than fences, driveways, entry roads, surface parking, sidewalks, landscaping under fourteen (14) feet, signs under fourteen (14) feet, or facilities needed to support the City of Lake

City utility system not exceeding fourteen (14) feet which do not interfere with the Company's use of said Tract, will be located or constructed by the Owner on said Tract of land; and

provided further that the Owner shall not excavate any portion of the Right-of-Way without written permission of the Company, which permission shall not be unreasonably withheld or conditioned by the Company, except that the City of lake City may conduct construction and maintenance of its underground utility system as long as any excavation is greater than ten (10) feet distant from the monopole.

TRACT NUMBER CO-53.110

BEING A PORTION OF A TRACT OF LAND HENCEFORTH KNOWN AS TRACT NO. CO-53.110 AND DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 1340, PAGE 1346, OF THE PUBLIC RECORDS OF COLUMBIA COUNTY, FLORIDA LOCATED IN SECTION 7, TOWNSHIP 4 SOUTH, RANGE 17 EAST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND 4X4-INCH CONCRETE MONUMENT MARKING THE NORTHEAST CORNER OF SAID CO-53.110, SAME POINT ALSO BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 41, A 200 FEET WIDTH RIGHT-OF-WAY PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP, SECTION 29030-2506, SAID POINT ALSO BEING THE BEGINNING OF A CURVE TO THE LEFT, HAVING A RADIUS OF 2964.93 FEET, A CENTRAL ANGLE OF 02 DEGREES 11 MINUTES 19 SECONDS, AND A CHORD THAT BEARS SOUTH 24 DEGREES 56 MINUTES 55 SECONDS EAST, A DISTANCE OF 113.25 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE ALSO BEING ALONG SAID WESTERLY RIGHT-OF-WAY, AN ARC DISTANCE OF 113.26 FEET TO A 4X4-INCH CONCRETE MONUMENT, SAME POINT BEING THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY NO.41 AND THE SOUTHERLY LINE OF SAID CO-53.110;

THENCE SOUTH 85 DEGREES 42 MINUTES 53 SECONDS WEST, ALONG SAID SOUTHERLY LINE, A DISTANCE OF 16.14 FEET TO A SET 5/8-INCH IRON ROD WITH "LB7908" CAP, SAID POINT BEING THE BEGINNING OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 2979.93 FEET, A CENTRAL ANGLE OF 02 DEGREES 10 MINUTES 31 SECONDS, AND A CHORD THAT BEARS NORTH 24 DEGREES 50 MINUTES 25 SECONDS WEST, A DISTANCE OF 113.12 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 113.13 FEET, ACROSS SAID CO-53.110 FIFTEEN FEET FROM AND PARALLEL WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY NO. 41, TO A SET 5/8-INCH IRON ROD WITH CAP STAMPED "LB7908" ON THE NORTHERLY LINE OF SAID CO-53.110;

THENCE NORTH 85 DEGREES 32 MINUTES 57 SECONDS EAST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 15.90 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,698 SQUARE FEET OR 0.039 OF AN ACRE OF LAND, MORE OR LESS.