

RESOLUTION 2012-12-483

A RESOLUTION OF THE CITY OF MASCOTTE, FLORIDA, APPROVING AND ACCEPTING AN INTERLOCAL AGREEMENT WITH THE CITY OF LEESBURG FOR PROVISION OF WASTEWATER SERVICES; AUTHORIZING MAYOR TO EXECUTE THE AGREEMENT; PROVIDING DIRECTIONS TO CITY MANAGER; PROVIDING FOR CONFLICTS AND SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Mascotte and the City of Leesburg have negotiated terms of an interlocal agreement whereby the City of Leesburg will accept and treat wastewater generated within the jurisdictional limits of Mascotte.

NOW THEREFORE, BE IT RESOLVED THAT:

Section 1. The City Council of Mascotte hereby accepts and approves of the Interlocal Agreement, a copy of which is attached to this Resolution. The Mayor is authorized to execute two originals of the Interlocal Agreement on behalf of the City of Mascotte.

Section 2. Directions to City Manager. After the Mayor of Mascotte executes two originals of the Interlocal Agreement, the City Manager or designee is hereby directed to send the two originals to the City Manager of the City of Leesburg for approval and execution by the City.

Section 3. Conflicting Resolutions. All resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Severability. If any section, sentence, clause or phrase of this resolution or Interlocal Agreement is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding in no way affect the remaining portion of this resolution or Interlocal Agreement.

Section 5. Term of Agreement and Effective Date. The Initial Term of the Interlocal Agreement shall be five (5) years from the effective date of the Agreement. This Agreement shall be effective upon final adoption of an ordinance or resolution by both Leesburg and Mascotte. The Effective Date shall be the date of final adoption by the last party.

PASSED AND ADOPTED by the City Council of the City of Mascotte, Lake County, Florida, at a regular Council meeting, this 3rd day of December, 2012.

CITY OF MASCOTTE

BY: _____
Tony Rosado, Mayor

ATTEST:

Michelle Hawkins, CMC, City Clerk

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF LEESBURG AND
THE CITY OF MASCOTTE FOR PROVISION
OF WASTEWATER SERVICES**

THIS AGREEMENT is entered into between the **CITY OF LEESBURG, FLORIDA** (hereafter referred to as "Leesburg"), and **THE CITY OF MASCOTTE, FLORIDA** (hereafter referred to as "Mascotte").

WHEREAS, Leesburg and Mascotte have agreed to enter into an Interlocal Agreement for the purpose of specifying the terms and conditions under which Leesburg will accept from Mascotte wastewater from Mascotte's wastewater system, and treat that wastewater in Leesburg's wastewater treatment plants, and

WHEREAS, Chapter 163, Part I of the Laws of Florida provides for and directs the cooperation between local governments to engage in joint efforts that results in the welfare of their citizenry, and

WHEREAS, the City of Leesburg maintains wastewater treatment plants for the benefit of its own citizens which have the capacity to treat a certain quantity of wastewater from Mascotte, and

WHEREAS, the acceptance and treatment by Leesburg of wastewater generated within the municipal limits of Mascotte will benefit the citizens of Mascotte and the public at large by providing a method of wastewater disposal other than septic tanks, thereby reducing environmental pollution;

NOW THEREFORE, the parties do hereby agree as set forth below:

1. The recitals above are true and correct and are incorporated into this Agreement as an integral part.

2. Subject to the terms, conditions and limitations contained in this Agreement, Leesburg shall accept wastewater from Mascotte for treatment and disposal at Leesburg's wastewater treatment plants. Leesburg shall not be obligated to accept from Mascotte any more than 125,000 gallons per day of wastewater. Acceptance by Leesburg of wastewater in excess of this limitation shall not constitute an amendment to this Agreement, shall not obligate Leesburg to continue accepting wastewater in excess of this limitation, and shall not act as a waiver of Leesburg's right to enforce this limitation at any time, regardless of the length of time during which Leesburg may accept wastewater exceeding the limit imposed by this Agreement.

3. Mascotte shall pay to Leesburg, in the manner specified in this Agreement, the sum of \$4.71 per 1,000 gallons of wastewater accepted by Leesburg from Mascotte for treatment and disposal. This is an "Intergovernmental Rate" which is exclusive to Mascotte, based on conditions that are unique and specific to Mascotte. No other person or entity (whether public or private) from whom or which Leesburg accepts wastewater shall be eligible for this

Intergovernmental Rate nor shall it be considered to have established any standard or precedent for rates Leesburg may charge to other persons or entities desiring that Leesburg accept their wastewater for treatment. Furthermore, the assent by Leesburg to accept wastewater from Mascotte shall not be construed to obligate Leesburg to accept, or consider accepting, wastewater from other sources.

4. The Intergovernmental Rate shall be subject to adjustment on an annual basis by Leesburg. Written notice of each rate change shall be given by Leesburg to Mascotte by no later than March 31 each year, for implementation effective the following October 1 in each year. The first rate change notice shall be given on or before March 31, 2013. The adjustment shall be based upon the gross domestic implicit price deflator index published for the third quarter of each calendar year. In no case shall the rate be reduced.

5. Mascotte shall, at its sole expense, construct or cause to be constructed by developers or other third parties, the sanitary sewer force main to transmit wastewater from Mascotte's collection system to Leesburg's existing force main at the location shown as "Point B" on Exhibit "A" attached and incorporated herein. Mascotte shall also, at its sole expense, construct or cause to be constructed by developers or other third parties, the collection system to collect and transmit wastewater from individual homes, businesses and other customers of Mascotte, to the force main which will in turn transmit the wastewater to Leesburg's existing force main.

6. Mascotte shall submit to Leesburg all development plans within the City of Mascotte which involve connection to the Leesburg-owned sewer system for review and approval prior to approval by Mascotte. All sewer design plans and systems constructed by or under the direction of Mascotte which will fall under Leesburg's operation and maintenance jurisdiction must meet all the standards and requirements of Leesburg and other governmental agencies with jurisdiction, and must be inspected and approved by Leesburg before connection to Leesburg's own system.

7. The parties agree on a "Demarcation Point" as illustrated and described as "Point A" on Exhibit "A" attached and incorporated herein. Mascotte shall be responsible, financially and otherwise, for operation and maintenance of the wastewater system on its side of the Demarcation Point. Leesburg shall be responsible, financially and otherwise, for operation and maintenance of the wastewater system on its side of the Demarcation Point.

8. Each customer of Mascotte connecting to the wastewater system must pay a wastewater impact fee to Leesburg, in the same amount as a comparable customer of Leesburg would have to pay to connect to its system. Such impact fees shall be collected by Mascotte and submitted to Leesburg no later than the 30th day of the month when the impact fees are collected. Mascotte may impose an additional administrative fee from payors of impact fees and retain such fee prior to submittal of impact fees to Leesburg. The amount of the impact fees may be adjusted annually by Leesburg. Adjustments shall take effect ninety (90) days after formal notification to Mascotte from Leesburg of the adjustment. The amount, time of payment and other aspects of the impact fee shall be governed by Leesburg's ordinances on that subject, as they may be amended from time to time, however no customer of Mascotte shall be required to pay an impact fee in excess of the fee Leesburg imposes on its own customers.

9. Should the collection of impact fees on behalf of the City of Leesburg result in any demand, claim, or enforcement action against Mascotte, whether or not such action results in formal or informal mediation, arbitration, or commencement of litigation, Leesburg shall defend and hold harmless the City of Mascotte, including payment of any costs, expenses, and attorney fees. However, Leesburg shall not hold Mascotte harmless for the collection of any administrative fees associated with impact fees which are imposed by Mascotte.

10. Leesburg's permit for its wastewater treatment plants requires that it adopt an Industrial Pretreatment program and an Oil and Grease Management program applicable to its customers. All customers of Mascotte shall be subject to these same standards and requirements. Leesburg also has a Sewer Use Ordinance which will apply to Mascotte's customers. Mascotte shall consider adopting similar ordinances applicable to Mascotte customers which shall be no less stringent than Leesburg's Industrial Pretreatment and Oil and Grease Management programs and Sewer Use Ordinance. Mascotte shall not be permitted to make final connection to the Leesburg sewer system unless or until Mascotte has adopted a Sewer Use Ordinance acceptable to Leesburg, which Ordinance shall include regulations regarding Industrial Pretreatment and Oil and Grease Management. If or when Mascotte adopts its own ordinances, or amends such ordinances in the future, it shall notify Leesburg within thirty (30) days of adoption. Mascotte shall cooperate with Leesburg in enforcing all standards and requirements imposed by Leesburg on wastewater from its own customers. In the event that Mascotte adopts its own ordinances which are substantially similar to those of Leesburg, Mascotte shall initiate enforcement action as specified by Leesburg if any customer violates these requirements and standards. Mascotte shall initiate enforcement action no more than five (5) business days after written notice from Leesburg to Mascotte of the existence or occurrence of the violation.

11. In the event that Leesburg proposes to amend its Industrial Pretreatment program, Oil and Grease Management program, or Sewer Use Ordinance, or adopt or amend any other resolutions or ordinance affecting wastewater treatment service to Mascotte, Leesburg shall notify Mascotte at least thirty (30) days in advance of adoption of the proposed ordinance or resolution. Mascotte agrees to implement such requirement contained therein at least thirty (30) days of the notice.

12. Mascotte shall be responsible for notifying sewer customers within the City of Mascotte of any rate changes as required by general law. This requirement also relates to sewer system improvements, connection and impact fees, rate changes, and other related items.

13. Mascotte agrees to work with Leesburg in establishing a system whereby messages and notifications may be delivered to sewer customers within the City of Mascotte.

14. Leesburg will invoice Mascotte on a monthly basis for the amount due for treatment and disposal of Mascotte's wastewater. The amount to be billed shall be based on Mascotte's billed water consumption for each of its water customers who are connected to the wastewater system, and Mascotte will be billed based on aggregate billed water consumption for all of its wastewater customers. Mascotte shall furnish billed water consumption for its wastewater customers to Leesburg on a monthly basis and on the same schedule that Mascotte issues bills for the water consumption to its customers. Payment will be due to Leesburg no later than twenty (20) days after the invoice is rendered, regardless of whether Mascotte has collected

the amounts due for wastewater service from each of its customers. Payment will be considered delinquent, and Mascotte will be considered in default under this Agreement, if payment is not received by Leesburg by the twentieth (20th) day after the invoice is rendered. Leesburg shall be paid first from amounts collected by Mascotte for wastewater service from its customers, before such revenues are utilized for any other purpose whatsoever.

15. If Mascotte defaults in payment under the standards specified in Paragraph 14 above, Leesburg may exercise any one or more of the following remedies:

A. Submit an invoice to Mascotte for interest at the rate of 10% of the delinquent amount from the date of default;

B. Terminate further acceptance of wastewater from Mascotte until all sums owed to Leesburg have been paid in full, with interest at the rate of 10% per year from the date of default through the date of payment;

C. Subject to paragraph 19 herein, file suit against Mascotte in a court of competent jurisdiction in Lake County, Florida, to collect the past due amount with interest as stated above, together with all court costs and reasonable attorneys' fees incurred in the collection process, both before and after suit is filed;

D. Commence billing Mascotte's customers directly for wastewater services in months subsequent to the default, and retain all such revenues until the entire amount due Leesburg, with interest, has been paid in full, and thereafter retaining all such revenues up to the amount due Leesburg each month, remitting any excess to Mascotte once Leesburg is paid in full;

E. Require Mascotte to post a surety bond, cash deposit or letter of credit in favor of Leesburg, equal to the average of the amounts billed to Mascotte by Leesburg over the six (6) month period preceding the default (or if the default occurs before there have been six (6) months of bills rendered, an average of all bills through the date of default). If Leesburg elects to require a bond, deposit or letter of credit, such surety shall remain in effect for a period of not less than twelve months after Mascotte has paid all past due amounts to Leesburg in full.

16. Both parties to this Agreement agree not to discriminate against any person on the basis of race, religion, national origin, age, sex, disability, or marital status in the use of facilities pursuant to this Interlocal Agreement.

17. The Initial Term of this Agreement shall be five (5) years from the effective date of this Agreement. This Agreement shall be effective upon final adoption of an ordinance or resolution (as each may require) by both Leesburg and Mascotte. The Effective Date shall be the date of final adoption by the last party.

18. This Agreement may not be terminated by either party prior to its expiration, unless an amendment to the Agreement is approved by both Leesburg and Mascotte, in writing, or if one party is in breach of any of the terms and conditions of this agreement and fails to

correct it within thirty (30) days after written notice unless it requires more than thirty (30) days to make such corrections, and in such case the breach shall be cured within a reasonable time.

19. In the event of any dispute related to this Agreement, the parties agree to resolve the dispute consistent with the conflict resolution procedures established in Chapter 164, *Florida Statutes*. If there is a failure to resolve the conflict, no later than 30 days following the conclusion of the procedures established in chapter 164, a party may file an action in circuit court.

20. All notices, consents, approvals, waivers, and elections that either party requests or gives under this Agreement must be in writing and shall be given only by hand delivery, or by certified mail, prepaid with confirmation of delivery requested. Notices shall be delivered or mailed to the addresses and parties set forth below or as any party may otherwise designate in writing.

<u>City of Leesburg:</u>	City Manager Post Office Box 490630 Leesburg, Florida 34749
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<u>City of Mascotte:</u>	City Manager 100 East Myers Boulevard Mascotte, Florida 34753
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21. This Agreement is solely for the benefit of the parties hereto, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party. Nothing in this Agreement, either expressed or implied, is intended or shall be construed to confer upon or give any person, corporation or governmental entity other than the parties any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof, and all the provisions, representations, covenants, and conditions herein contained shall insure to the sole benefit of and shall be binding upon the parties, and their respective representatives, successors and assigns. In particular, and without limiting the generality of the foregoing, individual customers of Mascotte are not intended as third party beneficiaries of this Agreement, and shall have no standing to enforce this Agreement or to assert any claim against Leesburg which arises out of or is related any way to this Agreement or the services provided by Leesburg under this Agreement.

22. Each represents and warrants for the benefit and reliance of the other its respective authority to enter into this Agreement, and acknowledges the validity and enforceability of this Agreement. The parties hereby represent, warrant and covenant this Agreement constitutes a legal, valid and binding contract enforceable by the parties in accordance with its terms and conditions, and that the enforceability is not subject to any impairment by the applicability of any public policy or police powers.

23. This Agreement sets forth the entire understanding of the parties with regard to its subject matter. It supersedes and takes precedence over any and all prior negotiations, representations and agreements, oral or written, all of which are deemed to have merged into this Agreement and to have been extinguished except to the extent specifically set forth herein. This Agreement may not be amended orally, by implication, by course of conduct, or in any other

manner whatsoever than by way of a written instrument signed by both parties hereto or their lawful successors. This Agreement shall be construed in accordance with the laws of Florida and venue for any action or proceeding arising out of this Agreement shall be in Lake County, Florida. This Agreement shall be binding on the parties hereto, as well as on their lawful successors and assigns. Each party represents for the benefit of the other that it has not entered into this Agreement in reliance on, or on the basis of, any promise, negotiation, representation, undertaking or agreement of the other party, oral or written, which is not specifically set forth within this Agreement.

24. If any portion of this Agreement is declared invalid or unenforceable, then to the extent it is possible to do so without destroying the overall intent and effect of this Agreement, the portion deemed invalid or unenforceable shall be severed here from and the remainder of this Agreement shall continue in full force and effect as if it were enacted without including the portion found to be invalid or unenforceable.

25. This Agreement shall be recorded in the Public Records of Lake County, Florida, as required by applicable Florida Statutes.

IN WITNESS WHEREOF, each of the parties has caused its duly authorized representatives to set their hands to this Agreement on the dates indicated below.

THE CITY OF LEESBURG, FLORIDA

BY: _____
SANNA HENDERSON, Mayor

ATTEST: _____
BETTY RICHARDSON, City Clerk

APPROVED AS TO FORM AND CONTENT:

CITY ATTORNEY

Witnesses:

Print Name: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by Sanna Henderson, as Mayor of the City of Leesburg, Florida, who executed the foregoing instrument and acknowledged before me that he executed the same for the uses and purposes therein expressed, and who is personally known to me.

Notary Public

SEAL

Type or Print Name

My Commission Expires:

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THE CITY OF MASCOTTE, FLORIDA

BY: _____
TONY ROSADO, Mayor

ATTEST: _____
MICHELLE HAWKINS, CMC,
City Clerk

Witnesses:

Print Name: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by Tony Rosado, as Mayor of the City of Mascotte, Florida, who executed the foregoing instrument and acknowledged before me that he executed the same for the uses and purposes therein expressed, and who is personally known to me.

Notary Public

SEAL

Type or Print Name

My Commission Expires:

EXHIBIT "A"

DESCRIPTION : POINT "A"

A POINT LYING ON THE NORTHERLY BOUNDARY LINE OF THE CITY OF MASCOTTE UTILITIES SERVICE DISTRICT AS DESCRIBED IN ORDINANCE No. 203-01-332 CITY OF MASCOTTE, LAKE COUNTY, FLORIDA. SAID POINT BEING LOCATED AT THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 33, (C.R. 33) ON THE NORTH LINE OF SECTION 10, TOWNSHIP 21 SOUTH, RANGE 24 EAST.

ALSO DESCRIBED AS:

BEGIN AT THE NORTHEAST CORNER OF SECTION 10, TOWNSHIP 21 SOUTH, RANGE 24 EAST, AND RUN WEST ALONG THE NORTH LINE OF SAID SECTION, TO THE EASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 33 (C.R. 33), AS DEPICTED IN THE FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP, SECTION 11020, DATED 12-21-1981, A DISTANCE OF 2,393 FEET MORE OR LESS, TO POINT "A" AND THE END OF THIS DESCRIPTION.

DESCRIPTION : POINT "B"

A POINT BEING LOCATED AT THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 33, (C.R. 33) AND THE NORTH LINE OF THE 170 FOOT WIDE FLORIDA POWER EASEMENT LYING IN THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 24 EAST.

ALSO DESCRIBED AS:

BEGIN AT THE SOUTHEAST CORNER OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 24 EAST, AND RUN WEST ALONG THE SOUTH LINE OF SAID SECTION, TO THE EASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 33 (C.R. 33), AS DEPICTED IN THE FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP, SECTION 11020, DATED 12-21-1981, A DISTANCE OF 2,603 FEET MORE OR LESS; THENCE RUN NORTH ALONG SAID EASTERLY RIGHT-OF-WAY LINE, TO THE NORTHERLY LINE OF THE 170' FOOT WIDE FLORIDA POWER EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 297, PAGE 209, A DISTANCE OF 1,777 FEET MORE OR LESS, TO POINT "B" AND THE END OF THIS DESCRIPTION.

GENERAL NOTES

- 1: This is NOT A BOUNDARY SURVEY.
- 2: This sketch is to show existing site information and improvements for the sole purpose of conceptual design.
- 3: This sketch was prepared for the City of Leesburg and its assign's as there interests may appear. Use of this sketch by any other parties is Strictly forbidden.
- 4: Use of this sketch shown on sheet 2 for any other purpose than that stated in note (2) is the sole responsibility of the user. The City of Leesburg assumes no liability for the misuse of this information.
- 5: All information outside the labeled limits of this site is for general reference purposes only. Assumption of correctness outside of said site boundary is the liability of the user.
- 6: The Bearings, shown hereon, are relative to assumed datum and are Based on the Description as described in the City of Mascotte, Ordinance No. 2003-01-322, creating "The City of Mascotte Utilities Service District", Lake County, Florida.
- 7: This sketch was prepared by the City of Leesburg, Public works Department, Engineering Division, under the direction of Adrian Parker, CPM / Development Review Coordinator, for the City of Leesburg.
- 8: This sketch contains 2 sheets in which NONE are valid without all remaining sheets.

I Ray Sharp HAVE REQUESTED THE INFORMATION DEPICTED HERON AND ACKNOWLEDGE RECEIPT OF THE INFORMATION AND IT IS SATISFACTORY FOR MY NEEDS AS OF THE DATE OF THIS SIGNATURE.

NAME: _____ DATE: _____

Department Director, Environmental Service, for the City of Leesburg.

SECTION: 22-20-24



CITY OF LEESBURG
PUBLIC WORKS DEPT.
ENGINEERING DIVISION
650 S. 14th ST. - P.O. BOX 490630
LEESBURG, FLORIDA 34749
PHONE (352) 728-9755
FAX (352) 728-9879

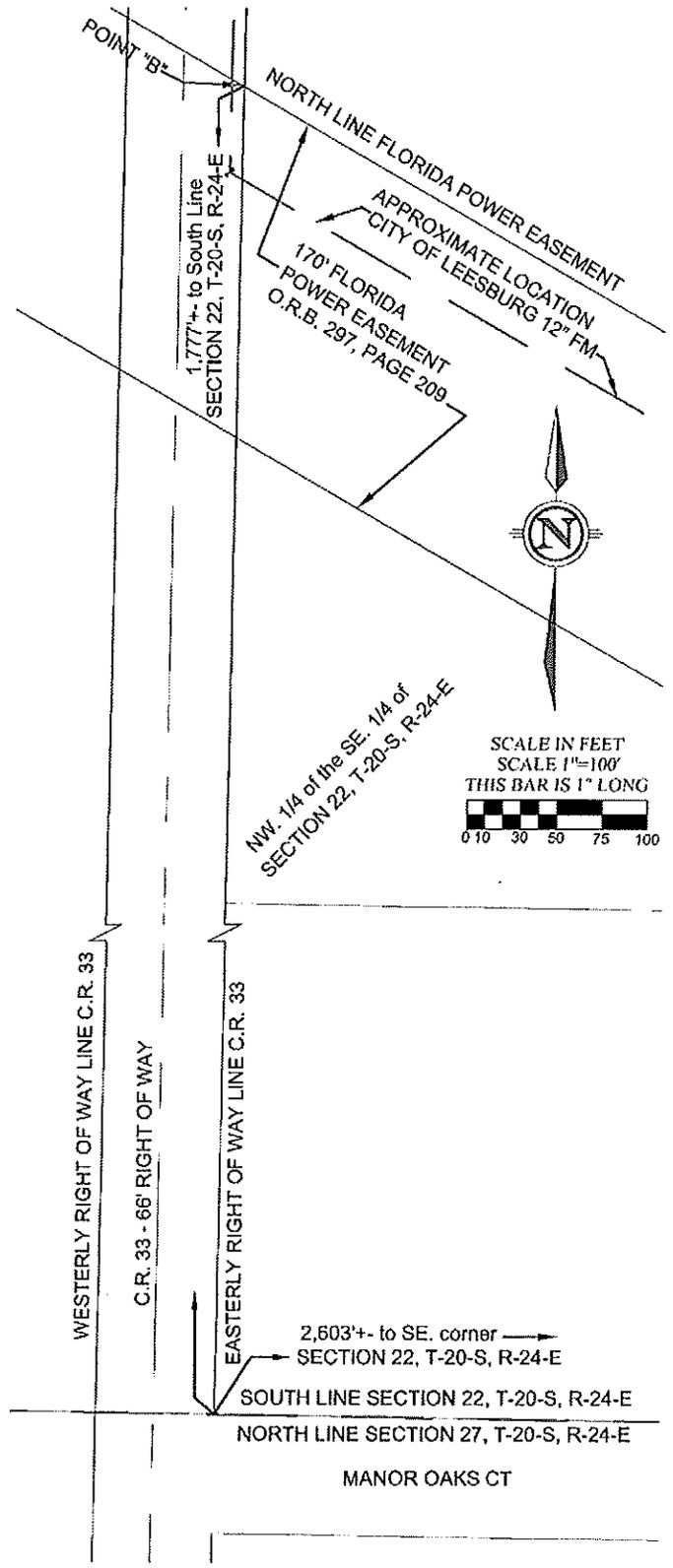
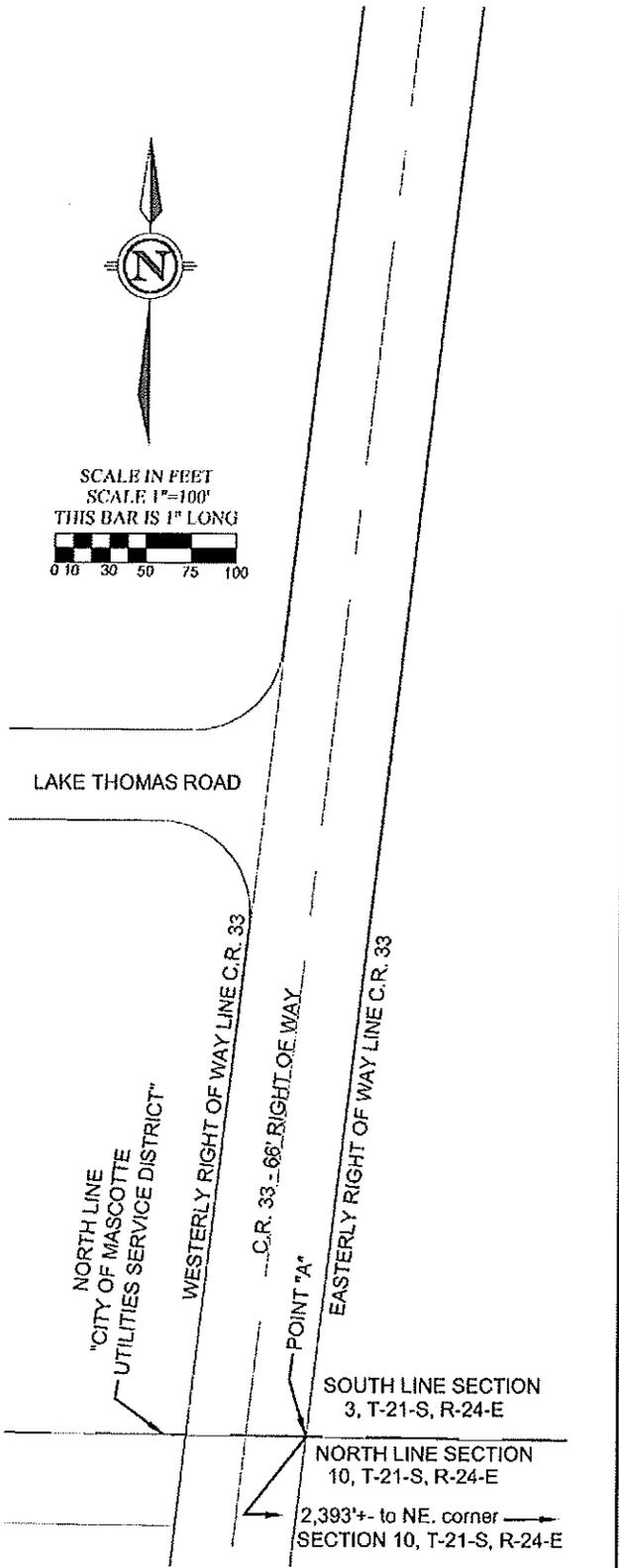
SKETCH OF DESCRIPTION

MASCOTTE UTILITIES SERVICE DISTRICT
and the CITY OF LEESBURG

DATE: 06/07/2012
DRAWN: DDF
CHECKED: AP
APPROVED: RS
SCALE: NTS
FILE NO.: LE12002

SHEET
NUMBER
1
OF
2

EXHIBIT "A"



CITY OF LEESBURG
PUBLIC WORKS DEPT.
ENGINEERING DIVISION
550 S. 14th ST. - P.O. BOX 450620
LEESBURG, FLORIDA 34749
PHONE (352) 728-9755
FAX (352) 728-9879

SKETCH OF DESCRIPTION

MASCOFFE UTILITIES SERVICE DISTRICT
and the CITY OF LEESBURG

DATE: 06/07/2012
DRAWN: DDF
CHECKED: AP
APPROVED: RS
SCALE: 1" = 100'
FILE NO.: LE12002

SHEET NUMBER
2
OF
2