

This instrument was prepared by
and after recording return to:

DAVID G. SHIELDS
DEPUTY COUNTY ATTORNEY
1101 EAST 1ST STREET
SANFORD, FL 32771
(407) 665-7256

THIS SPACE FOR RECORDER'S USE

**FIRST AMENDMENT TO DRAINAGE EASEMENT
(A. Duda & Sons, Inc. to Seminole County, Florida)**

THIS FIRST AMENDMENT TO DRAINAGE EASEMENT (the "Amendment"), made this ____ day of _____, 2021, by and between **A. Duda & Sons, Inc.**, a Florida corporation, with an address of 1200 Duda Trail, Oviedo, Florida 32765 ("Grantor") and **Seminole County**, a charter county and political subdivision of the State of Florida, with an address of 1101 East 1st Street, Sanford, Florida 32771 ("Grantee").

RECITALS

WHEREAS, Grantor and Grantee entered into that certain exclusive Drainage Easement Agreement dated March 21, 1989 and recorded in Official Records Book 2055, Page 0117, Public Records of Seminole County, Florida (in this Amendment referred to as the "1989 Easement Agreement"); and

WHEREAS, Grantor has requested an exception to the exclusive nature of the 1989 Easement Agreement to allow Grantor to execute a Utility Easement Grant to City of Oviedo, the form of which is attached to this First Amendment as Exhibit A (the "Oviedo Easement"), which Oviedo Easement encompass part of the easement property described in the 1989 Easement Agreement; and

WHEREAS, Grantee is willing to consent to Grantor's request.

NOW THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties amend the Drainage Easement as follows:

1. The foregoing recitals are true and correct and form a material part of this First Amendment upon which the parties have relied.
2. Grantee consents to Grantor executing the Oviedo Easement as an exception to the exclusive nature of the 1989 Easement Agreement on the condition that the Oviedo Easement, as executed, and the City of Oviedo's use of the executed easement does not interfere with Grantee's use of the 1989 Easement Agreement as specified in the 1989 Easement Agreement.

3. Except as expressly modified in this First Amendment, the 1989 Easement Agreement remains unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment to Drainage Easement for the purpose stated above.

WITNESSES:

GRANTOR:

A. Duda & Sons, Inc., a Florida corporation

Becky Mayfield
Signature

By: [Signature]

Becky Mayfield
Print/Type Name

Name: Tracy Duda Chapman

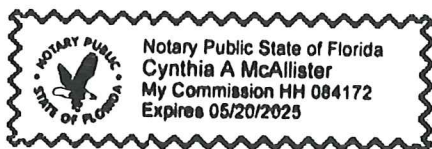
[Signature]
Signature

Title: Senior Vice President, Chief Legal and Administrative Officer

Tamara Quinones
Print/Type Name

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

I HEREBY CERTIFY that, on this 16 day of November, 2021, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared by means of physical presence or online notarization, Tracy Duda Chapman, as Sr. VP, Chief Legal & Admin. Officer of A. Duda & Sons, Inc., a corporation organized under the laws of the State of Florida, who is personally known to me or who has produced _____ as identification. He acknowledged before me that he executed the foregoing instrument as such officer in the name and on behalf of the company.



Cynthia A. McAllister
Print Name Cynthia A. McAllister
Notary Public in and for the County
and State Aforementioned
My commission expires: 05/20/2025

Attachment
Exhibit "A" – Utility Easement Grant to City of Oviedo

AMENDMENT TO DRAINAGE EASEMENT FROM A. DUDA & SONS, INC.

ACCEPTANCE BY SEMINOLE COUNTY:

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

GRANT MALOY
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
BOB DALLARI, Chairman

Date: _____

For the use and reliance of
Seminole County only.

As authorized for execution by the Board of
County Commissioners at its _____,
2021, regular meeting.

Approved as to form and
legal sufficiency.



County Attorney

DGS/dre
11/29/21

T:\Users\Legal Secretary CSB\Public Works\Instruments\2021\Duda\Amendment to Duda Drainage Easement.docx

EXHIBIT A

This Instrument Prepared By
And To Be Returned To:
Vicki L. Berman, Esquire
DEAN, MEAD, EGERTON, BLOODWORTH,
CAPOUANO & BOZARTH, P.A.
Post Office Box 2346
Orlando, Florida 32802-2346
(407) 841-1200

UTILITY EASEMENT AGREEMENT

THIS UTILITY EASEMENT AGREEMENT (the "Agreement") is made the _____ day of _____, 2021, by and between A. Duda & Sons, Inc., a Florida corporation, with an address of 1200 Duda Trail, Oviedo, Florida 32765 ("Grantor") and City of Oviedo, Florida, a municipal corporation, with an address of 400 Alexandria Boulevard, Oviedo, Florida 32765 ("Grantee").

W I T N E S S E T H :

A. Grantor owns and holds fee simple title to that certain real property situated in Seminole County, Florida, more particularly described in Exhibit "A" attached hereto and made a part hereof, (the "Duda Property");

B. Grantor has requested from Grantee, and Grantee has agreed to provide, utilities to and for the benefit of the Duda Property.

C. Grantee and Grantor desire to create easement rights across a certain portion of the Duda Property, more particularly described in Exhibit "B" attached hereto and made a part hereof, and more particularly depicted on Exhibit "C" attached hereto and made a part hereof (the "Easement Area"), to provide utilities to and for the benefit of the Duda Property, subject to the terms, provisions, conditions and agreements set forth hereinbelow.

NOW, THEREFORE, for and in consideration of the premises, the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. Recitals; Certain Defined Terms. The foregoing recital clauses are true and correct in all material respects and form an integral part of this Agreement, the same as if they were set forth in the numbered paragraphs hereof.

2. Grant of Easement. Grantor does hereby declare, create, grant, reserve and establish for the benefit and use of the Duda Property, and as an appurtenance thereto, a perpetual, non-exclusive easement over, under, upon, across and through the Easement Area for purposes of operating, transmitting, and conveying utilities with associated equipment, improvements and infrastructure to service the Duda Property, together with the reasonable rights of access, ingress and egress over and upon the Easement Area to effectuate the intent or purpose of this Agreement.

3. Construction by Grantor. Grantor is responsible for the initial construction of all of the utility equipment, improvements and infrastructure to be located within the Easement Area. Grantor shall be solely responsible for obtaining all necessary approvals for any purposes of construction, reconstruction, installation, maintenance, replacement, repair and cleaning of any utility equipment, improvements and

infrastructure and for the compliance with such approvals and all governmental regulations and code requirements pertaining to such work.

4. Maintenance by Grantor. Grantor covenants and agrees that Grantor will promptly repair any and all damage or injury caused, directly or indirectly, by Grantor to the Easement Area or the property of Grantor located adjacent to the Easement Area and any improvements thereon; provided, that Grantee shall be responsible for any and all damage or injury caused, directly or indirectly, by Grantee to the Easement Area or the property of Grantor located adjacent to the Easement Area and any improvements thereon. Grantor further covenants and agrees to keep all utility equipment, improvements and infrastructure constructed by either Grantor or Grantee (after initial construction by Grantor), as the case may be, within the Easement Area in good condition and repair.

5. Relocation of Easement Area. In the event that Grantor determines, in its sole discretion, that it is necessary and/or desirable to relocate the Easement Area, the parties agree that Grantor shall have the right, upon prior written notice to Grantee, to relocate the Easement Area to such location as Grantor may determine is necessary or desirable so long as (i) the Easement Area, as so relocated, does not materially and adversely affect Grantee's right to use the Easement, (ii) the Easement Area as so relocated is of a width and character comparable to the width and character of the Easement Area immediately prior to its relocation, (iii) the utility equipment, improvements and infrastructure located within the Easement Area are relocated to be within the relocated Easement Area, and (iv) all fees, costs and expenses related to the relocation of the Easement Area, including the utility equipment, improvements and infrastructure that are relocated, are borne and paid by Grantor.

In the event that Grantor determines to so relocate all or a portion of the Easement Area as aforesaid, Grantor shall prepare and furnish to Grantee an instrument (the "Amended Easement Agreement"), in recordable form, amending this Agreement to confirm relocation of the Easement Area as aforesaid and to confirm release from the operation and effect of this instrument of so much of the real property described in Exhibit "B" as is not included within the relocated Easement Area. At the time of delivery to Grantee of the proposed Amended Easement Agreement, Grantor shall likewise furnish to Grantee a surveyor's description and sketch locating, depicting and describing the proposed relocated Easement Area. Grantee shall, within twenty-one (21) days following receipt of the Amended Easement Agreement, surveyor's description and sketch, execute, acknowledge and deliver the Amended Easement Agreement to Grantor.

6. Non-Exclusive Easements. The easements granted in this Agreement over the Easement Area are non-exclusive, and Grantor reserves unto itself and its assigns and successors in interest and/or title the right to utilize the Easement Area for any purpose whatsoever provided such use is in recognition of, and not in derogation of, and does not materially and unreasonably interfere with the exercise of, the rights granted hereunder by Grantor to the Grantee. Each party agrees to utilize its rights granted and reserved hereunder with due regard to the rights of the other party to use and enjoy the Easement Area for their intended purposes.

7. County Easement. The parties hereby acknowledge the existence of that certain Drainage Easement Agreement by and between Grantor and Seminole County, Florida (the "County") dated March 21, 1989 and recorded in Official Records Book 2055, Page 0117, Public Records of Seminole County, Florida, as amended by that certain First Amendment to Drainage Easement dated _____ and recorded in Official Records Book _____, Page _____, Public Records of Seminole County, Florida (collectively, the "County Easement"). Grantor and Grantee agree that the use of the instant Easement by either party must not interfere with the County's use of the County Easement as specified by the County Easement. Neither Grantor nor Grantee is permitted to install any above ground structures on the area encompassed by the County Easement. Any change to the use of the Easement Area requires advance written notice to and advance written approval of County.

8. Assignability. Grantor may at any time assign any or all of its rights and obligations and duties hereunder, as they may arise, to a property owners' association, and the property owners' association shall accept such assignment and be deemed to have assumed and agreed to perform and be bound by the obligations of Grantor hereunder and shall thereafter have such rights and be subject to such obligations as are so assigned by Grantor. Upon such assignment, Grantor shall be released from all obligations hereunder which shall arise thereafter, but not from obligations arising prior to such assignment unless specifically released by the property owners' association. Upon an assignment of Grantor's rights and obligations and duties, all references herein to Grantor shall be deemed to refer to the property owners' association.

9. Indemnification. Each party shall indemnify and hold harmless the other party from and against all claims, demands, disputes, damages, costs, expenses (to include attorney's fees whether or not litigation is necessary and, if necessary, both at trial and on appeal, incurred in enforcing or ensuring compliance with the terms and conditions of this Agreement) and/or expenditures incurred by the indemnified party as a result, directly or indirectly, of the use or development of the Duda Property by Grantor, or of the use of the easement area by the Grantee or by third parties. Each party further agrees that nothing contained herein will be construed or interpreted as denying to any party any remedy or defense available to such parties under the laws of the State of Florida, nor as a waiver of sovereign immunity of the Grantee beyond the waiver provided for in Section 768.28, Florida Statutes, as this statute may be amended from time to time. Thus, Grantee's maximum liability under this paragraph for all claims, including contract claims, shall be the limits of liability set forth in Section 768.28(5), Florida Statutes, regardless of the type or basis of claim, loss, judgment, injury, or demand at issue. It is specifically understood that the Grantee is not guaranteeing the appropriateness, efficiency, quality or legality of the use or development of the subject property, including, but not limited to, drainage or sewer plans, fire safety, or quality of construction, whether or not inspected, approved, or permitted by the Grantee.

10. Covenants Running With the Land. The rights, agreements, duties, obligations and easements set forth in this Agreement shall run with the land and shall be binding upon and benefit the Grantor as herein specified and its successors, assigns, legal representatives and successors-in-title. Any transferee of any portion of the Duda Property shall automatically be deemed, by acceptance of the title to said property, to have assumed all obligations of this Agreement relating thereto to the extent of its interest in said property, and the transferor shall upon the completion of such transfer be relieved of all further liability under this Agreement with respect to the property so conveyed except liability with respect to matters that may have arisen during its period of ownership of the property so conveyed.

11. Modifications. This Agreement may be amended only by a written instrument executed and acknowledged by the holders of all easement or easements, or rights or duties related thereto, being modified in any way by such amendment and the owners of all parcels burdened by the easement or easements, or rights or duties related thereto, being modified in any way by such amendment.

12. Attorneys' Fees. In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs (including attorneys' fees incurred at or before the trial level and in any appellate, bankruptcy or administrative proceeding).

13. Venue. The venue of any litigation arising out of the Agreement shall be in Seminole County, Florida.

14. Governing Law. The laws of the State of Florida shall govern this Agreement. Any provisions of this Agreement which shall prove to be invalid, void or illegal, shall in no way affect, impair or invalidate any other provisions hereof.

15. No Right of Termination. No breach of this Agreement will entitle the non-breaching party to cancel, rescind or otherwise terminate this Agreement. The foregoing limitation will not affect, in any way, any other right or remedy which the non-breaching party might have by reason of any breach of this Agreement.

[The balance of this page is intentionally left blank.]

IN WITNESS WHEREOF, Grantor and Grantee have caused this Agreement to be executed under seal by their duly authorized representatives as of the day and year first above written.

GRANTOR:

A. DUDA & SONS, INC.,
a Florida corporation

Print Name: _____

Print Name: _____

By: _____

Name: _____

Title: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this ___ day of _____, 2021,
by _____, as _____ of A. DUDA &
SONS, INC., a Florida corporation, on behalf of the corporation. Said person (check one) is personally
known to me, produced a driver's license (issued by a state of the United States within the last five (5)
years) as identification, or produced other identification, to wit: _____.

Print Name: _____

Notary Public, State of Florida

Commission No.: _____

My Commission Expires: _____

GRANTEE:

CITY OF OVIEDO, FLORIDA

BY: _____
MEGAN SLADEK
MAYOR

ATTEST:

ELIANNE RIVERA
CITY CLERK

Approved as to form and legal sufficiency:

DAVID W. HALL
ASST. CITY ATTORNEY

EXHIBIT "A"

Legal Description of Duda Property

The land referred to herein below is situated in the County of Seminole, State of Florida, and described as follows:

A parcel of land lying in Section 21, Township 21 South, Range 31 East, being a portion of Lots 22, 123, 125, 128 and all of Lot 127, and the un-named vacated rights-of-way lying adjacent to said lots within the following described land, all as depicted on the plat of The Slavia Colony Company Subdivision, as recorded in Plat Book 2, Page 71, Public Records of Seminole County, Florida, said parcel of land being described as follows:

Commence at Southwest corner of the Northwest Quarter of said Section 21 for a point of reference; thence run North 89°43'00" East, along the South line of the Northwest Quarter of said Section 21, a distance of 1332.81 feet to the Southwest corner of the Southeast Quarter of the Northwest Quarter of said Section 21, said corner lying on the Southerly extension of the West line of the aforesaid Lot 128; thence run North 00°53'18" West, along the West line of said Lot 128, and the Southerly extension thereof, 25.00 feet to the Point of Beginning; thence run North 00°53'18" West, along the West line of said Lot 128, a distance of 642.54 feet to the Southeast corner of aforesaid Lot 125; thence run South 89°40'23" West, along the South line of said Lot 125, a distance of 668.38 feet to the Southeast corner of the Southwest Quarter of said Lot 125; thence run North 01°03'32" West, along the East line of the Southwest Quarter of said Lot 125, a distance of 326.03 feet to the Northeast corner of the Southwest Quarter of said Lot 125; thence run South 89°39'05" West, along the North line of the Southwest Quarter of said Lot 125, a distance of 623.09 feet to a point lying on the Easterly right-of-way line of State Road 426 (Aloma Avenue), as per Florida Department of Transportation (FDOT) Right-of-Way Map, Section No. 77060-2518; thence, along said Easterly right-of-way line, as depicted on said Right-of-Way Map, and as described in that certain Warranty Deed recorded in Official Records Book 3887, Page 1107, Public Records of Seminole County, Florida run the following courses: North 23°20'45" East, 324.71 feet; North 58°43'20" East, 25.78 feet; North 89°05'48" East, 85.83 feet; North 00°53'50" West, 65.62 feet; South 89°05'48" West, 46.29 feet; North 35°36'54" West, 28.05 feet; North 23°20'45" East, 289.39 feet; South 66°39'15" East, 39.27 feet; North 23°23'38" East, 36.15 feet to a point lying on the North line of the South Half of aforesaid Lot 22; thence, departing said Easterly right-of-way line of State Road 426 (Aloma Avenue), run North 89°36'29" East, along the North line of the South Half of said Lot 22 and the North line of the South Half of aforesaid Lot 123, a distance of 943.88 feet to a point lying on the East line of said Lot 123; thence run South 00°53'18" East, along the East line of said Lot 123 and the Southerly extension thereof, a distance of 356.27 feet to the Northwest corner of Lot 127 of the aforesaid plat; thence run North 89°37'47" East, along the North line of said Lot 127, a distance of 662.82 feet to the Northeast corner of said Lot 127; thence run South 00°43'06" East, along the East line of said Lot 127 and also along the East line of aforesaid Lot 128, a distance of 1296.05 feet; thence run South 89°43'00" West, 658.98 feet to the Point of Beginning.

EXHIBIT "B"

Legal Description of Easement Area

LEGAL DESCRIPTION

LEGAL DESCRIPTION

A STRIP OF LAND LYING IN SECTION 21, TOWNSHIP 21 SOUTH, RANGE 31 EAST, BEING A PORTION OF LOTS 127, 130, 131, 140 AND A PORTION OF THE UN-NAMED VACATED RIGHTS-OF-WAY LYING INTERIOR TO THE FOLLOWING DESCRIBED LAND, ALL AS DEPICTED ON THE PLAT OF THE SLAMA COLONY COMPANY'S SUBDIVISION, AS RECORDED IN PLAT BOOK 2, PAGE 71, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA, SAID STRIP OF LAND BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTH QUARTER CORNER OF SAID SECTION 21 FOR A POINT OF REFERENCE; THENCE RUN SOUTH 89°32'37" WEST, ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 21, A DISTANCE OF 633.42 FEET; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH 00°27'23" EAST, 198.50 FEET TO A POINT LYING 12.50 FEET WEST OF PERPENDICULAR MEASURED THE EAST LINE OF A 60.00' WIDE DRAINAGE EASEMENT, AS RECORDED IN OFFICIAL RECORDS BOOK 2055, PAGE 117 OF SAID PUBLIC RECORDS AND THE SOUTH RIGHT-OF-WAY LINE OF MITCHELL HAMMOCK ROAD, SAID POINT BEING THE POINT OF BEGINNING; THENCE RUN NORTH 89°32'37" EAST, ALONG SAID SOUTH RIGHT-OF-WAY LINE, 25.00 FEET THENCE DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, RUN SOUTH 00°43'06" EAST, PARALLEL WITH THE EAST LINE OF SAID DRAINAGE EASEMENT, 1182.68 FEET; THENCE RUN SOUTH 89°37'47" WEST, 588.89 FEET; THENCE RUN SOUTH 00°53'18" EAST, 202.68 FEET; THENCE RUN SOUTH 38°43'40" WEST, 134.49 FEET; THENCE RUN NORTH 51°18'20" WEST, 15.00 FEET; THENCE RUN SOUTH 38°43'40" WEST, 30.00 FEET; THENCE RUN NORTH 51°18'20" WEST, 15.00 FEET; THENCE RUN NORTH 38°43'40" EAST, 153.68 FEET; THENCE RUN NORTH 00°53'18" WEST, 222.15 FEET TO A POINT LYING ON THE NORTH LINE OF LOT 127 OF SAID PLAT OF SLAMA COLONY COMPANY'S SUBDIVISION, SAID POINT ALSO LIES ON THE SOUTH LINE OF THE LANDS DESCRIBED IN THAT CERTAIN OUIT CLAIM DEED, AS RECORDED IN DEED BOOK 85, PAGE 80 OF SAID PUBLIC RECORDS; THENCE RUN NORTH 89°37'47" EAST, ALONG THE NORTH LINE OF SAID LOT 127 AND THE NORTH LINE OF LOT 130, A DISTANCE OF 594.08 FEET; THENCE RUN NORTH 00°43'06" WEST, 1152.62 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED STRIP OF LAND LIES IN THE CITY OF OVIEDO, SEMINOLE COUNTY, FLORIDA AND CONTAINS 1.323 ACRES MORE OR LESS.

SURVEYOR'S NOTES:

- (1) THIS LEGAL DESCRIPTION IS NOT VALID UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER IDENTIFIED BELOW.
(2) NO ABSTRACT FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP OR OTHER INSTRUMENTS OF RECORD HAVE BEEN PROVIDED TO THIS FIRM.
(3) BEARINGS SHOWN HEREON ARE ASSUMED RELATIVE TO THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 SOUTH, RANGE 31 EAST, BEING SOUTH 89°32'37" WEST.
(4) THE "LEGAL DESCRIPTION" HEREON HAS BEEN PREPARED BY THE SURVEYOR AT THE CLIENT'S REQUEST.
(5) THIS SKETCH DOES NOT REPRESENT A FIELD SURVEY, AS SUCH.
(6) THE DELINEATION OF LANDS SHOWN HEREON IS AS PER THE CLIENT'S INSTRUCTIONS.

REVISIONS:
REVISED SKETCH AND DESCRIPTION (11-17-2020) (J.L.M.)

(THIS IS NOT A SURVEY)

SEE SHEET 1 OF 3 FOR LEGAL DESCRIPTION AND SURVEYOR'S NOTES
SEE SHEETS 2 AND 3 FOR SKETCH OF DESCRIPTION

Digitally signed
by David A
White
Date: 2020.11.11

11:38:05'00"
SHEET 1 OF 3

PEC SURVEYING AND MAPPING, LLC
CERTIFICATE OF AUTHORIZATION NUMBER LB 7808

2100 Alofaya Trail, Suite 203 • Oviedo, Florida 32765 • 407-842-4987

WWW.PECONLINE.COM

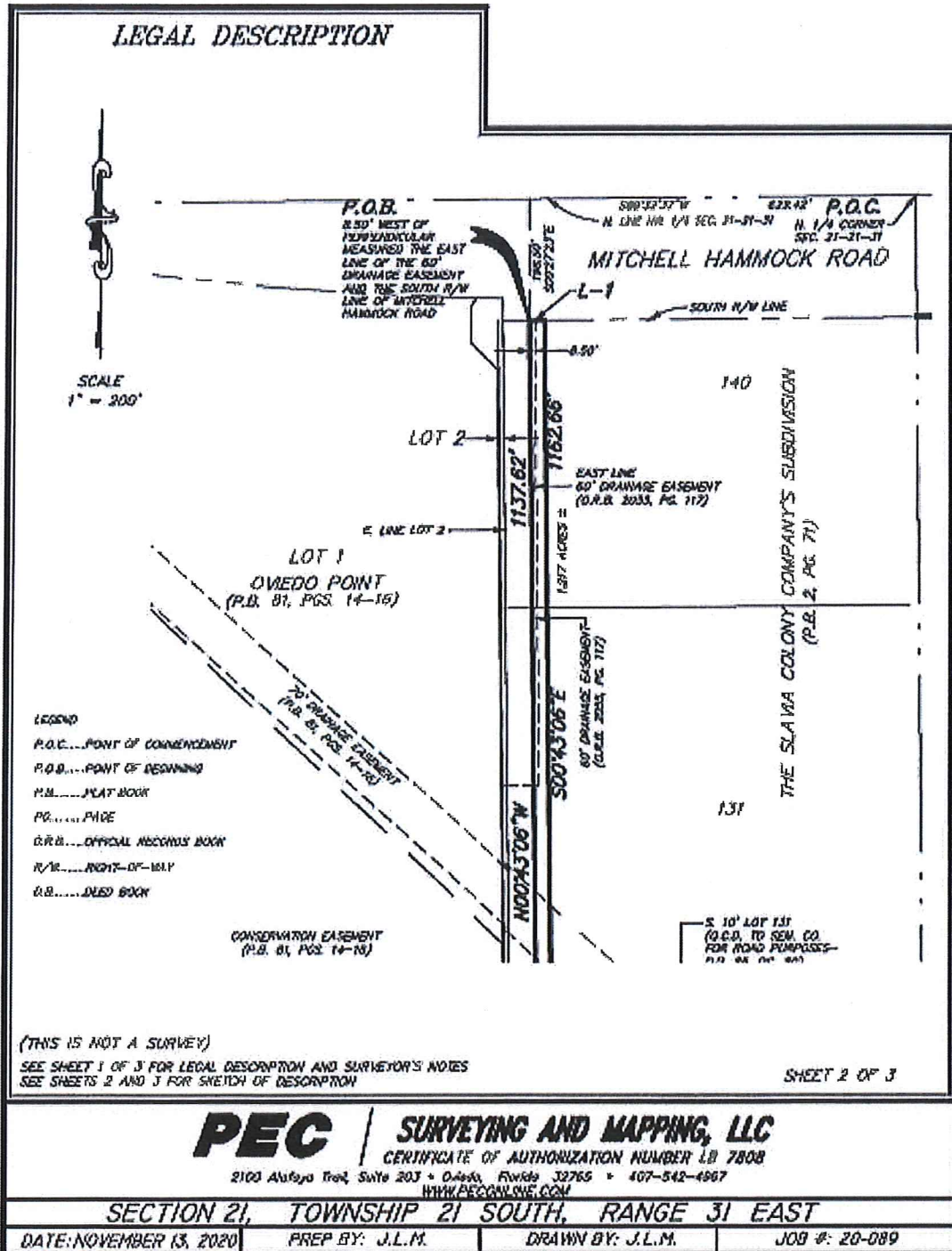
SECTION 21, TOWNSHIP 21 SOUTH, RANGE 31 EAST

DATE: NOVEMBER 13, 2020 PREP BY: J.L.M. DRAWN BY: J.L.M. JOB #: 20-089

Nov 17, 2020 - 10:57am
C:\20-089 Duda Borings\20-089 UTILITY EASEMENT.dwg

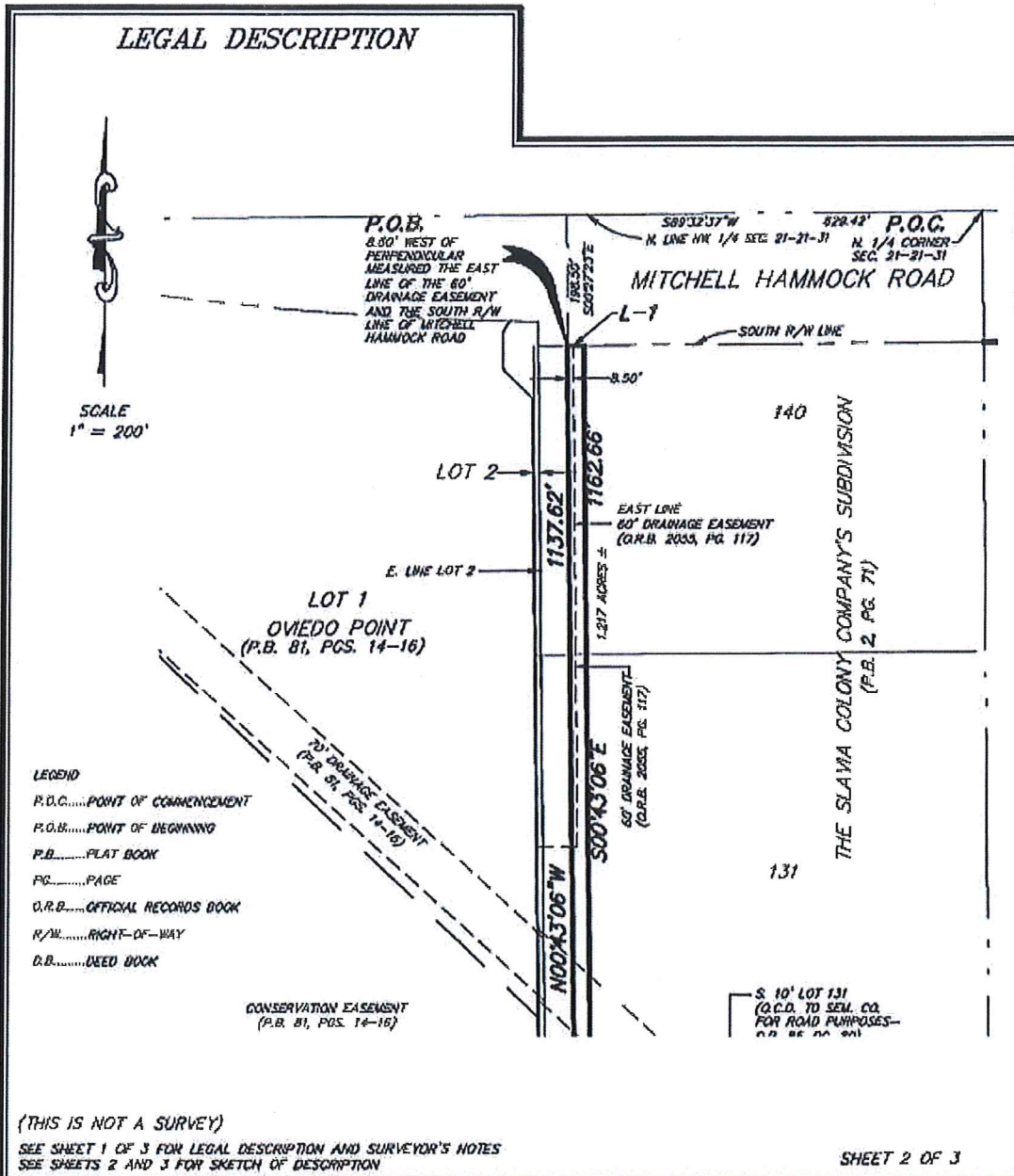
EXHIBIT "C"

Depiction of Easement Area



O:\20-089 Data Borings\20-089 UTILITY EASEMENT - C30.dwg Nov 05, 2021 - 1:25pm

LEGAL DESCRIPTION



PEC SURVEYING AND MAPPING, LLC
 CERTIFICATE OF AUTHORIZATION NUMBER LB 7808
 2100 Alafaya Trail, Suite 203 • Oviedo, Florida 32765 • 407-542-4987
 WWW.PECONLINE.COM

SECTION 21, TOWNSHIP 21 SOUTH, RANGE 31 EAST

DATE: NOVEMBER 13, 2020 PREP BY: J.L.M. DRAWN BY: J.L.M. JOB #: 20-089

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