

LEGISTAR NO.

120565

IN THE CIRCUIT COURT, EIGHTH
JUDICIAL CIRCUIT IN AND FOR
ALACHUA COUNTY, FLORIDA

CASE NO.: 01-12-CA-4446
DIVISION: K

STATE OF FLORIDA DEPARTMENT
OF TRANSPORTATION,

Petitioner,

vs.

THE ESTATE OF ELIZABETH HILL,
deceased; ALL HEIRS, BENEFICIARIES,
DEVISEES, LEGATEES, SPOUSES,
AND CREDITORS OF ELIZABETH HILL,
deceased; CITY OF GAINESVILLE, a
Florida Municipal Corporation; ALACHUA
COUNTY, FLORIDA; MSNTR
INVESTMENTS, LTD., a Utah Limited
Partnership; PAUL HAYES; and VON
FRASER, Alachua County Tax Collector;

Defendants.

SUMMONS TO SHOW CAUSE AND NOTICE OF HEARING DATE

THE STATE OF FLORIDA

TO ALL AND SINGULAR SHERIFFS OF FLORIDA:

You are hereby commanded to serve this Summons and a copy of the Petition in eminent domain, Declaration of Taking, Lis Pendens, Request for Admissions, Request for Production of Documents and Interrogatories in this action upon the following defendants:

CITY OF GAINESVILLE, a Florida Municipal Corporation
The Honorable Craig Lowe, Mayor of Gainesville, Florida
200 East University Avenue
Gainesville, Florida 32601

ALACHUA COUNTY, FLORIDA

Paula M. DeLaney, as Chair of the Alachua County
Board of County Commissioners
12 SE 1st Street
Gainesville, Florida 32601

PAUL HAYES

107 North Beverly Street
Perry, Florida 32348

VON FRASER

Alachua County Tax Collector
12 SE 1st Street
Gainesville, Florida 32601

This action has been filed to acquire certain property interests in Alachua County, Florida.

Each defendant is required to serve written defenses to the petition on petitioner's attorney, whose name and address are shown below, on or before November 30, 2012, and to file the original of the defenses with the clerk of this court either before service on petitioner's attorney or immediately thereafter, showing what right, title, interest or lien defendant has in or to the property described in the petition and to show cause why that property should not be taken for the uses and purposes set forth in the petition. If any defendant fails to do so, a default will be entered against that defendant for the relief demanded in the petition.

PLEASE TAKE NOTICE that a declaration of taking has been filed in this cause and that petitioner will apply for an order of taking and any other order the court deems proper before the **Honorable VICTOR HULSLANDER**, one of the Judges of this Court, on **February 21, 2013, at 10:30 A.M.**, (30 minutes reserved) in Chambers, Room 301, at the

Alachua County Courthouse, Gainesville, Florida. All defendants to this suit may request a hearing at the time and place designated and be heard. Any defendant failing to file a request for hearing shall waive any right to object to the Order of Taking.

WITNESS MY HAND AND SEAL of this Court on the 29 day of October, 2012.



J.K. BUDDY IRBY
CLERK OF THE CIRCUIT COURT
ALACHUA COUNTY, FLORIDA

By 
Deputy Clerk

Robert E. Case, Jr.
Florida Department of Transportation
1109 S. Marion Avenue, MS 2009
Lake City, Florida 32025-5874
Telephone: 386/758-3727
Facsimile: 386/758-3771
Email: robert.case@dot.state.fl.us
Attorney for Petitioner

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Clerk of the Circuit Court, Alachua County Courthouse, 201 East University Ave., Gainesville, Florida, Telephone: (352) 374-3636, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."

IN THE CIRCUIT COURT, EIGHTH
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ALACHUA COUNTY, FLORIDA.

CASE NO: **01-12-CA-4446**
DIVISION NO.: **K**

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION,

Petitioner,

vs.

Parcel 126

THE ESTATE OF ELIZABETH HILL,
deceased; ALL HEIRS, BENEFICIARIES,
DEWISEES, LEGATEES, SPOUSES,
AND CREDITORS OF ELIZABETH HILL,
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Florida Municipal Corporation; ALACHUA
COUNTY, FLORIDA; MSNTR
INVESTMENTS, LTD., a Utah Limited
Partnership; PAUL HAYES; and VON
FRASER, Alachua County Tax Collector;

Defendants.

PETITION

Petitioner, STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, sues each of the Defendants named herein and alleges:

1. This is an action in eminent domain to condemn certain property in the State of Florida, County of Alachua.

2. The Petitioner is exercising the right of eminent domain by virtue of the authority granted to it by Chapters 334 through 341 and Section 479.15, Florida Statutes, known as the Florida Transportation Code, and Chapters 73 and 74, Florida Statutes, and by resolutions duly and regularly adopted by the Chief Administrative Officer of the District,

true copies of which are attached as Exhibits "A" and "B", to acquire by the exercise of the power of eminent domain as provided by law, all property or property rights, whether public or private, which are necessary to the performance of its duties and the execution of its powers.

3. The property hereinafter described is being sought for public use as a state transportation facility to be used by the public in general. The property and property rights described in the legal descriptions attached hereto as Exhibit "C" and incorporated herein are necessary for the public use and purpose described in the resolutions attached hereto as Exhibits "A" and "B" and are incorporated herein.

4. A description identifying each property sought to be acquired is attached as Exhibit "C".

5. The estate or interest sought to be acquired is set forth in the foregoing legal descriptions attached as Exhibit "C".

6. The Petitioner has made a diligent search and inquiry to discover the names, residences, legal disabilities, and interests in the property of all known and unknown owners, lessees, executors, administrators, trustees, mortgages, judgment creditors, lien holders or persons in possession, and all persons, estates, heirs, successors or assigns having or claiming any right, title or interest in the property. Attached hereto as Exhibit "D" and incorporated herein is a statement of ownerships and encumbrances as to the property. Petitioner has no knowledge of any other persons having any interest in the property.

7. There exists or may exist outstanding real property taxes or other liens due and owing to any governmental entity.

8. The Petitioner has surveyed and located its line or area of construction and intends in good faith to construct the transportation project on or over the property described in this Petition.

9. The Petitioner has complied with all conditions precedent to Petitioner's right to proceed with condemnation of the described property.

10. There are no mobile homes located on the property sought to be acquired which need to be removed.

11. Petitioner reserves its rights under federal and state laws to make any and all claims for environmental damages and/or waste associated with any contaminants, including but not limited to, petroleum products, hazardous waste and medical waste determined to be present on or released onto the subject property.

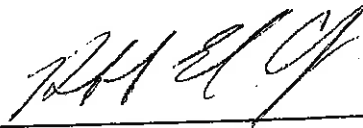
12. In the event that sign relocation can be accomplished but is inconsistent with ordinances of the municipality or county within whose jurisdiction the sign is located pursuant to Section 479.15, Florida Statutes, the local government shall assume the responsibility to provide the owner of the sign just compensation.

WHEREFORE, Petitioner demands:

(A) That the property described in this Petition be condemned and taken by the Petitioner for the uses and purposes set forth in this Petition, and that the interest sought by this Petitioner in each property, as set forth in the Petition, be vested in the Petitioner.

(B) That there be a jury trial, by a jury of 12 persons, of all issues so triable.

- (C) That the jury be required to view the property.
- (D) That Petitioner be granted possession and title in advance of final judgment.



ROBERT E. CASE, JR.
Florida Bar No. 18351
Florida Department of Transportation
1109 South Marion Avenue
Lake City, Florida 32025-5874
Telephone: (386) 758-3731
Facsimile: (386) 758-3771
robert.case@dot.state.fl.us (service address)
nancy.harr@dot.state.fl.us (service address)

Attorney for Petitioner

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Florida Municipal Corporation; ALACHUA
COUNTY, FLORIDA; MSNTR
INVESTMENTS, LTD., a Utah Limited
Partnership; PAUL HAYES; and VON
FRASER, Alachua County Tax Collector;

Defendants.

DECLARATION OF TAKING

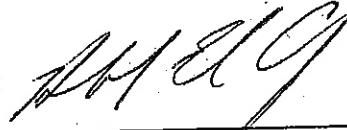
The Petitioner, availing itself of the provisions of Chapter 74, Florida Statutes, to take possession and title in advance of the entry of Final Judgment and having filed a lawsuit in eminent domain for the purpose of condemning lands and other property necessary for the purpose of securing rights of way, borrow pits, drainage ditches, drainage easements, construction easements, and service roads for a transportation facility as set forth in the Petition filed in these proceedings, hereby declares:

1. That the property sought to be appropriated in these proceedings is to be

taken for the uses set forth in the Petition.

2. That an estimate of value, made in good faith and based upon a valid appraisal of each parcel sought to be appropriated in these proceedings is as follows:

Parcel 126 \$ 1,000.00



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Attorney for Petitioner

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deceased; CITY OF GAINESVILLE, a Florida
Municipal Corporation; ALACHUA COUNTY,
FLORIDA; MSNTR INVESTMENTS, LTD., a
Utah Limited Partnership; PAUL HAYES; and
VON FRASER, Alachua County Tax
Collector;

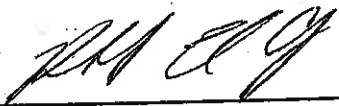
Defendants.

LIS PENDENS

TO ALL DEFENDANTS NAMED AND LISTED IN AN ATTACHMENT HERETO AND TO ALL
OTHERS WHOM IT MAY CONCERN:

You are hereby notified of the filing of a lawsuit by the Petitioner against you seeking to
condemn and acquire by eminent domain proceedings in accordance with Chapters 73 and 74,
Florida Statutes, as amended, the property described herein by attachment. This property is
located in the State of Florida, County of Alachua.

PLEASE BE GOVERNED ACCORDINGLY.


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Florida Department of Transportation
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robert.case@dot.state.fl.us (service address)
nancy.harr@dot.state.fl.us (service address)

Attorney for Petitioner

THE ESTATE OF ELIZABETH HILL, deceased, et al.
Item #4205373
Parcel 126
Depot Avenue – Alachua County

SERVICE LIST

PARCEL 126

**The Estate of Elizabeth Hill, deceased
ALL HEIRS, BENEFICIARIES, DEVISEES, LEGATEES,
SPOUSES, AND CREDITORS OF ELIZABETH HILL, deceased**

CITY OF GAINESVILLE, a Florida Municipal Corporation
The Honorable Craig Lowe, Mayor of Gainesville, Florida
200 East University Avenue
Gainesville, Florida 32601

ALACHUA COUNTY, FLORIDA
Paula M. DeLaney, as Chair of the Alachua County
Board of County Commissioners
12 SE 1st Street
Gainesville, Florida 32601

MSNTR INVESTMENTS, LTD., a Utah Limited Partnership
John R. Stevens, Registered Agent
180 E. 2100 S NO 202
Salt Lake City, Utah 84115

PAUL HAYES
107 North Beverly Street
Perry, Florida 32348

ALL PARCELS

VON FRASER
Alachua County Tax Collector
12 SE 1st Street
Gainesville, Florida 32601

Section No. 26000
F.P. No. 4205373

SW Depot Avenue

Alachua County

Parcel No: 126

Fee Simple

A Part Of Lot 21, Baileys Addition to Gainesville, As Recorded In Plat Book A, Page 20, Of The Public Records Of Alachua County, Florida, In Section 8, Township 10 South, Range 20 East, More Particularly Described As Follows:

COMMENCE At The Northwest Corner of Lot 24, Baileys Addition to Gainesville, As Recorded in Plat Book A, Page 20, Of The Public Records Of Alachua County, Florida, In Section 8, Township 10 South, Range 20 East, Said Alachua County, Florida, Thence South $01^{\circ} 37' 41''$ East, Along The Easterly Existing Right Of Way Line Of Southwest 5TH Street, A Distance Of 144.97 Feet To The Southwesterly Corner Of Said Lot 24, And The Northerly Existing Right Of Way Line Of Southwest Depot Avenue (A Variable Width Right Of Way As Per Florida Department Of Transportation Right Of Way Maps, Section No. 26000, FP No. 4205373); Thence Continue South $01^{\circ} 37' 41''$ East, Departing Said Northerly Existing Right Of Way Line, A Distance Of 22.36 Feet To The Baseline Of Survey Of Southwest Depot Avenue; Thence North $77^{\circ} 34' 12''$ East, Along Said Baseline Of Survey, A Distance Of 118.79 Feet To An Angle Point; Thence North $77^{\circ} 59' 06''$ East, Along Said Baseline Of Survey, A Distance Of 51.66 Feet; Thence North $01^{\circ} 37' 58''$ West, Departing Said Baseline Of Survey, A Distance Of 22.45 Feet To The Northerly Existing Right Of Way Line Of Said Southwest Depot Avenue, Also Being The Southwest Corner Of Lot 21, Of Baileys Addition to Gainesville, Fla., As Recorded In Plat Book A, Page 20, Of The Public Records Of Said Alachua County, Florida And The **POINT OF BEGINNING**; Thence North $01^{\circ} 37' 58''$ West, Departing Said Northerly Existing Right Of Way Line, A Distance Of 7.12 Feet; Thence North $77^{\circ} 39' 58''$ East, A Distance Of 50.82 Feet; Thence South $01^{\circ} 37' 41''$ East, A Distance Of 7.12 Feet To The Northerly Existing Right Of Way Line Of Said Southwest Depot Avenue; Thence South $77^{\circ} 39' 58''$ West, Along Said Northerly Existing Right Of Way Line, A Distance Of 50.82 Feet To The **POINT OF BEGINNING**.

Containing 356 Square Feet, More Or Less.

BEING PART OF TAX PARCEL NO. 13316-000-000