



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 2

**DATE:** March 4, 2020

**TO:** Mayor Jerry L. Demings  
and the  
Board of County Commissioners

**FROM:** Paul Sladek, Manager *PS*  
Real Estate Management Division

**CONTACT PERSON:** Paul Sladek, Manager

**DIVISION:** Real Estate Management  
Phone: (407) 836-7090

**ACTION REQUESTED:** Approval and execution of Written Consent to Restrictive Covenant Pursuant to Declaration of Restrictive Covenants by Orange County, Florida and authorization to record instrument

**PROJECT:** Pulse Museum TDT Funding  
  
District 6

**PURPOSE:** To provide written consent to further encumbrance of lands upon which County holds restrictive covenants.

**ITEM:** Written Consent to Restrictive Covenant Pursuant to Declaration of Restrictive Covenants

**APPROVALS:** Real Estate Management Division  
Fiscal and Business Services Division

**REMARKS:**

Using TDT funds made available by a funding agreement (Agreement) approved by the Board on October 30, 2018, OnePULSE Foundation, Inc. (Foundation) acquired land on September 13, 2019 at 438 West Kaley Street in Orlando (Site) as the future home of the Pulse Museum. At the time of purchase, and as required by the Agreement, Foundation recorded a Declaration of Restrictive Covenants (Declaration) encumbering the Site in favor of County.

Subsequent to Foundation's purchase of the Site, Foundation was awarded a Cultural Facilities Grant (Grant) by the State of Florida (State) for use in connection with the construction of the Pulse Museum and other purposes and efforts associated with the Pulse Museum. The terms of the Grant require Foundation to record a Restrictive Covenant (State Covenants) encumbering the Site in favor of the State. Foundation's recording of the State Covenants could conflict with a provision of the Declaration that prohibits Foundation, in many instances, from further encumbering the Site without the written consent of County.

Foundation has requested that County execute a written consent to Foundation's recording of the State Covenants. The Written Consent to Restrictive Covenant Pursuant to Declaration of Restrictive Covenants presented in this item would grant Foundation's request. Staff has reviewed the request and believes that the State Covenants are compatible with the Agreement and the Declaration, and that Foundation's acceptance of the Grant furthers the intents and purposes of the Agreement and the Declaration that the Site be developed, operated, and maintained by Foundation as the Pulse Museum.

Foundation to pay recording fees.

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS

MAR 24 2020

THIS INSTRUMENT PREPARED BY  
AND AFTER RECORDING RETURN TO:

ORANGE COUNTY REAL ESTATE MGMT. DIV.  
ATTN: PAUL BRYAN SLADEK, ESQ.  
400 E. SOUTH ST.  
5TH FLOOR  
ORLANDO, FL 32801

Property Appraisers Parcel Identification Number:

02-23-29-1092-00-051

Project: Pulse Museum TDT Funding

SPACE ABOVE THIS LINE FOR RECORDING DATA

**WRITTEN CONSENT TO RESTRICTIVE COVENANT  
PURSUANT TO DECLARATION OF RESTRICTIVE COVENANTS**

THIS WRITTEN CONSENT TO RESTRICTIVE COVENANT PURSUANT TO DECLARATION OF RESTRICTIVE COVENANTS (this “**Consent**”) is made as of the date this Consent is approved by the Orange County Board of County Commissioners (the “**Effective Date**”) by ORANGE COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida (“**County**”).

**RECITALS**

A. County and OnePULSE Foundation, Inc., a Florida not-for-profit corporation, (“**Foundation**”) are parties to that certain “Agreement between Orange County, Florida and OnePULSE Foundation, Inc. regarding Pulse Museum TDT Funding” approved by the Orange County Board of County Commissioners (the “**Board**”) on October 30, 2018 (the “**TDT Funding Agreement**”).

B. Upon the terms and conditions more specifically set forth in the TDT Funding Agreement, County provided Foundation with County Acquisition Funding (as defined in the TDT Funding Agreement) to purchase that certain parcel of real property located at 438 West Kaley Street in incorporated City of Orlando, Orange County, Florida, 32806, currently bearing Orange County Property Appraiser’s Parcel Identification Number 02-23-29-1092-00-051, and being legally described on Exhibit “A” attached hereto (the “**Property**”).

C. In connection with Foundation’s acquisition of the Property, and as required by the TDT Funding Agreement, Foundation recorded that certain “Declaration of Restrictive Covenants” dated September 13, 2019, and recorded September 13, 2019, as Document No. 20190568209 of the Official Records of Orange County, Florida (the “**Declaration**”).

D. The Declaration encumbers and imposes upon the Property certain covenants and restrictions that run to and for the benefit of County in perpetuity including, but not limited to, a

restriction that the Property shall be used solely for a Museum (as defined in the Declaration) where visitors will learn the history of the June 12, 2016 mass shooting at the Pulse nightclub in downtown Orlando, Florida (the “**Pulse Museum**”).

E. Section 5 of the Declaration provides, in part:

*Foundation shall not ... without the prior written consent of County ... create, place, record, or consent to (nor permit to be created, placed, recorded, or exist) on, against, or applicable to the Property ... any further monetary or a non-monetary liens, pledges, encumbrances, mortgages, security interests, easements, restrictions, leases, agreements, or other instruments whatsoever (“Unpermitted Encumbrances”)...*

F. Foundation was approved in 2019 to receive a Cultural Facilities Grant in the amount of \$500,000.00 (the “**Grant**”) from the State of Florida, Department of State, Division of Cultural Affairs (the “**State**”) to be used in connection with the construction of the Pulse Museum and other purposes and efforts associated with the Pulse Museum.

G. In order to comply with the terms of the Grant, Foundation was required by the State to record that certain “Restrictive Covenant” dated November 5, 2019, and recorded January 15, 2020, as Document No. 20200030091 of the Official Records of Orange County, Florida (the “**State Covenants**”).

H. The State Covenants encumber and impose upon the Property certain covenants and restrictions that run to and for the benefit of the State for a period of ten (10) years including, but not limited to, a restriction that Foundation shall maintain the Property as a “cultural facility” (as defined in the State Covenants).

I. The Board has determined that the Grant and the State Covenants are compatible with the TDT Funding Agreement and the Declaration, and that Foundation’s acceptance of the Grant furthers the intents and purposes of the TDT Funding Agreement and the Declaration that the Property be developed, operated, and maintained by Foundation as the Pulse Museum.

J. Upon the request of Foundation, County has agreed to provide, pursuant to Section 5 of the Declaration, its written consent to the recording of State Covenants to avoid any doubt as to whether or not the State Covenants constitute Unpermitted Encumbrances (as defined in the Declaration).

**NOW, THEREFORE,** County hereby declares as follows:

1. Consent. Pursuant to Section 5 of the Declaration, County hereby provides its written consent to the recording of the State Covenants and the encumbrance upon the Property created thereby.
2. Recording. The original of this Consent shall be provided to Foundation for recording in the Official Records of Orange County, Florida.

*[signature page and exhibit follow]*

IN WITNESS WHEREOF, County has caused this Consent to be duly executed as of the Effective Date.

“COUNTY”

ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

BY: Jerry L. Demings

for Jerry L. Demings  
Orange County Mayor

DATE: MAR 24 2020

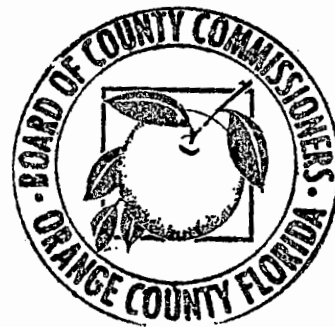
ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

BY: Katie Smith

Deputy Clerk

**Katie Smith**

Printed Name



## EXHIBIT "A"

That part of Lot 5, John W. Burke's Subdivision, as recorded in Miscellaneous Book 4, Page 135, Public Records of Orange County, Florida, being described as follows:

From the Northeast corner of Lot 14, Block B, Lake Holden Industrial Park, as recorded in Plat Book Y, Page 15, Public Records of Orange County, Florida, said Northeast corner being marked by a cross-cut in a concrete curb and gutter, run North  $89^{\circ}25'23''$  East 79.99 feet, along the Easterly prolongation of the North boundary of said Lot 14, to a point on the East right-of-way line of Division Street, said East right-of-way line being described and recorded in Official Records Book 1360, Page 77, Public Records of Orange County, Florida; run thence North  $00^{\circ}04'24''$  West 453.21 feet, along said East right-of-way line, to an iron bar with cap, stamped "#1585 and #1819", for the Point of Beginning, said Point of Beginning being a point on a line parallel with and 10.00 feet South of, when measured at right angles to, the South face of the South wall line of an existing concrete block commercial building; thence run North  $89^{\circ}39'01''$  East 327.50 feet, along said parallel line, to the beginning of a non-tangent curve concave Southerly and having a radius of 418.65 feet; thence from a tangent bearing to the North  $88^{\circ}53'34''$  East, run Easterly 71.76 feet, along the arc of said curve through a central angle of  $09^{\circ}49'15''$ , to a point on a line parallel with and 0.33 feet West of, when measured at right angles, to the West face of the West wall of an existing concrete block storage bend; thence run North  $00^{\circ}33'14''$  West 199.93 feet, along said parallel line, to a point on the Southerly right-of-way line of Kaley Avenue, as described and recorded in Official Record Book 1382, Page 552, Public Records of Orange County, Florida, said Southerly right-of-way line being a non-tangent curve concave Northerly and having a radius of 9,583.30 feet; thence from a tangent bearing of North  $88^{\circ}27'33''$  West, run Westerly 34.67 feet, along the arc of said curve and said Southerly right-of-way line through a central angle of  $00^{\circ}12'26''$ , to the end of said curve; thence run North  $88^{\circ}15'06''$  West 10.48 feet, along said Southerly right-of-way line, to the beginning of a tangent curve concave Southerly and having a radius of 9,515.30 feet; thence run Westerly 319.25 feet, along the arc of said curve and said Southerly right-of-way line through a central angle of  $01^{\circ}55'21''$ ; thence run South  $44^{\circ}50'44''$  West 46.74 feet, along said Southerly right-of-way line to a point on the aforesaid East right-of-way line of Division Street; thence run South  $00^{\circ}04'24''$  East 169.73 feet to the Point of Beginning.