



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 5

DATE: April 14, 2023

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

THROUGH: Mindy T. Cummings, Manager *WTC*
Real Estate Management Division

FROM: Elizabeth Price Jackson, Senior Title Examiner *EPJ/MTC*
Real Estate Management Division

CONTACT PERSON: **Mindy T. Cummings, Manager**

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

ACTION REQUESTED: Approval and execution of Shared Use Pond Easement Agreement by and between Crockett Development Property, LLC and Orange County, and authorization for the Real Estate Management Division to record instrument and perform all actions necessary and incidental to closing.

PROJECT: Boggy Creek Road Bridge Agreement (RAC)

District 4

PURPOSE: To provide for access, construction, operation, and maintenance of shared use drainage facilities, as a requirement of a Developer's Agreement.

ITEM: Shared Use Pond Easement Agreement
Cost: Donation
Size: 3.239 acres

APPROVALS: Real Estate Management Division
County Attorney's Office
Public Works Department

REMARKS: On May 11, 2010, the Board approved a Drainage Easement (Easement), granted as a requirement of the Developer's Agreement for Road and Bridge Improvements to Boggy Creek Road. The language of the Easement allowed Crockett Development Property, LLC (Grantor) joint use upon entry into a Joint Use Pond Agreement. This action provides the agreement for Grantor and Orange County to jointly use the existing pond area.

Grantor to pay all recording fees.

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

MAY 02 2023

This Document Prepared by:

Robyn L. Noren, FRP
Tavistock Development Company
6900 Tavistock Lakes Boulevard, Suite 200
Orlando, FL 32827

Return this Document to:
Orange County Real Estate Management Division
400 E. South St., 5th Floor
Orlando, FL 32801

Project: Boggy Creek Road Bridge Agreement (RAC)
Parcel Id No(s): ~~21-24-30-3127-00-032~~ ✓

SHARED USE POND EASEMENT AGREEMENT

THIS SHARED USE POND EASEMENT AGREEMENT (the “**Agreement**”), effective as of the latest day of execution (the “**Effective Date**”), is entered into by and between CROCKETT DEVELOPMENT PROPERTY, LLC, a Florida limited liability company, with its principal place of business at 6900 Tavistock Lakes Boulevard, Suite 200, Orlando, Florida 32827 (“**Owner**”) and ORANGE COUNTY, a charter county and political subdivision of the State of Florida, whose mailing address is P. O. Box 1393, Orlando, Florida 32802-1393 (“**County**”) (Owner and County may hereinafter be collectively referred to individually as a “**Party**” and collectively as the “**Parties**”).

RECITALS:

In connection with the Airport South PD (the “**Development**”), and as generally depicted on **Exhibit “A”** attached hereto and made a part hereof, Owner has constructed a storm water retention pond and associated drainage facilities and outfall structures (collectively, the “**Pond Improvements**”) on Owner’s real property, which real property is located in Orange County and more particularly described in the attached and incorporated **Exhibit “B”** (the “**Owner’s Property**”).

Owner and County are parties to that certain Developer’s Agreement recorded November 29, 2007 at Official Record Book 9518, Page 1636, in the Public Records of Orange County, Florida (as such has been amended and supplemented, the “**Developers Agreement**”).

Pursuant to the Agreement, a certain public roadway improvement known as Boggy Creek Road (the “**Roadway**”) has been constructed in the same general area as the Development.

Owner has requested that the Pond Improvements shall be used to serve both the Development and the Roadway, subject to the grant by Owner of certain rights to County, including certain easement interests, and to certain terms and conditions of such shared use, as set forth herein. Owner and County are also parties to that certain Drainage Easement recorded May 19, 2010 at Instrument Number 20100283768 (the “**Original Drainage Easement**”), which Original Drainage Easement contemplated joint use of the stormwater pond that is the subject of this Agreement.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration and the covenants and promises of the parties hereto, the receipt and sufficiency of which are hereby acknowledged by the Parties hereto, it is thereupon understood and agreed as follows:

AGREEMENT

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.
2. Drainage Easement to County. Owner hereby grants to County a perpetual, non-exclusive easement for drainage purposes (the “**Drainage Easement**”) on, over, under, upon, through, and across the real property more particularly described in **Exhibit “C”** attached hereto and incorporated herein (the “**Drainage Easement Area**”). Nothing in this Agreement or the Original Drainage Easement shall be interpreted to preclude use of the Pond Improvements or Drainage Easement Area by Owner and its designated successors and/or assigns, to the extent such use is consistent with County’s rights under the Drainage Easement.
3. Construction of Pond Improvements. Owner has designed, engineered, permitted, and constructed the Pond Improvements, or has caused same to occur, within the Drainage Easement Area at no cost or expense to County. Owner has constructed the Pond Improvements to County standards and in compliance with all applicable local, state, and federal laws, rules, permits, and regulatory standards and requirements in a manner sufficient to adequately receive and process the anticipated capacity from both the Development and the Roadway. Owner and its heirs, successors, and assigns agree not to build, construct, or create, or permit others to build, construct, or create any building(s) or other structure(s) that may interfere with the normal operation or maintenance of the Pond Improvements. Notwithstanding the foregoing, the Parties agree that Owner shall be allowed to install landscaping, hardscaping, grass, sodding,

shrubbery, plants, flowers, bushes, trees, mulch, plantings, ground cover, and utility lines within the Drainage Easement Area.

4. Maintenance of the Pond Improvements. Owner hereby agrees, at no cost or expense to County, to inspect, maintain, repair, and replace, as necessary, all portions of the Pond Improvements (the “**Pond Maintenance**”), in perpetuity, to County’s satisfaction, in accordance with County standards and in compliance with all applicable local, state, and federal laws, rules, permits, and regulatory standards and requirements.

5. Failure to maintain. In the event Owner fails or refuses to perform the Pond Maintenance to County’s satisfaction, County may deliver a notice to Owner setting forth the maintenance deficiencies, whereupon Owner shall have a period of thirty (30) days to remedy the deficiencies, or forty-eight (48) hours, in case of emergency. In the event the deficiencies are not remedied in a reasonable fashion within such thirty (30) day period, or within such forty-eight (48) hour period in case of emergency, County shall have the right, but not the obligation, to enter upon Owner’s Property and perform such maintenance as County deems necessary, at Owner’s expense. Owner hereby grants perpetual access on, over, upon, under, across, and through the Owner’s Property as reasonably necessary for County to exercise its right to perform such maintenance (the “**Pond Access Easement**”).

6. Permits and compliance; hazardous substances. Owner shall perform all the Pond Maintenance in strict compliance with all applicable local, state, and federal laws, rules, permits, and regulatory standards and requirements and shall ensure that all storm water discharges which are the subject of this Agreement shall comply with all applicable local, state, and federal codes, laws, statutes, rules, regulations, and/or requirements. Furthermore, Owner shall not cause or expressly allow any hazardous or toxic substance or other contaminant regulated under any local, state, or federal code, law, statute, rule, regulation, and/or requirement to be discharged and/or released from the Owner’s Property into or upon the Pond Improvements. In the event of any discharge and/or release not in compliance, as noted herein, Owner shall have thirty (30) days after the discovery of such, whether by Owner, County, or another person or entity, to remedy such non-compliance. If the non-compliance is not remedied within such 30-day period, County may, but shall not be obligated to, enter upon Owner’s Property to remedy the non-compliance, or cause same to occur, at Owner’s expense.

7. Modification, reconfiguration, or relocation of Pond Improvements and/or Drainage Easement Area. Owner may, upon thirty (30) days prior notice to County and with prior written County consent (which consent shall not be unreasonably withheld, conditioned or delayed), modify, reconfigure, and/or relocate the Pond Improvements and/or Drainage Easement Area. Any such modification, reconfiguration, and/or

relocation shall be documented and memorialized by formal amendment to this Agreement executed and recorded with equal formality.

8. Costs for Owner failure to maintain or remedy non-compliance. In the event County exercises its rights in response to Owner's failure or refusal to (i) perform the Pond Maintenance to County's satisfaction, as contemplated by Sections 3 and 4 herein, and/or (ii) remedy a non-compliance as contemplated by Section 5 herein, County may assess any and all out of pocket costs and expenses incurred by County against Owner. Owner shall pay all such amounts, including fines and penalties, if any, to County no later than sixty (60) days after the date of a written demand by County, which written demand shall be delivered as provided herein together with reasonable supporting documentation evidencing the costs and expenses incurred.

9. Covenants running with the land. All of the covenants, obligations, terms, agreements, and restriction set forth herein are intended to be, and shall be construed as, covenants running with the Owner's Property; shall be binding and inure to the benefit and burden of the heirs, legal representatives, successors, and assigns of the Parties; and shall be binding upon the successors and assigns of the Owner and upon any person, firm, corporation, or entity who may become a successor in interest to the Owner's Property.

10. Continuing lien; delinquent payments. This Agreement shall serve as a continuing lien against the Owner's Property to secure payment to County of any out of pocket costs incurred by County in exercising its rights to perform any actions which Owner has failed or refused to perform, including without limitation as contemplated by Sections 3, 4, 5, and 8, herein. In the event Owner fails to remit timely any undisputed payment to County pursuant to County's written demand by the due date thereof: (i) the amount of the undisputed payment shall bear interest until paid at the legal rate set by the State of Florida, and (ii) County may, but shall not be obligated to, record a notice of lien in the Public Records of Orange County, Florida, to provide additional public notice of the lien and of Owner's asserted delinquency.

11. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the transactions contemplated herein, and it supersedes all prior understandings or agreements between the Parties.

12. Notices. Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given, whether or not actually received, as of the date and time the same are personally delivered; within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or

certified mail, return receipt requested; or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained; and addressed as follows:

OWNER: Crockett Development Property, LLC
6900 Tavistock Lakes Boulevard, Suite 200
Orlando, FL 32827
Attention: Nicholas F. Beucher, III, President

With a copy to: Crockett Development Property, LLC
6900 Tavistock Lakes Boulevard, Suite 200
Orlando, FL 32827
Attention: Michelle R. Rencoret, Esq., Vice President and
General Counsel

County: ORANGE COUNTY FLORIDA
P.O. Box 1393
Orlando, FL 32802-1393
Attn: County Administrator

With a copy to: Orange County Public Works Department
4200 S. John Young Parkway
Orlando, FL 32839
Attn: Dale V. Mudrak, P.E., Manager -Development
Engineering Division, Public Works Department

13. Recordation. Within thirty (30) days of Owner's receipt of the fully executed original of this Agreement, Owner shall record same in the Public Records of Orange County, Florida, at no cost to County.

14. Modification of Agreement. This Agreement may not be amended, modified, altered, or changed in any respect whatsoever, except by a further agreement in writing duly executed by the Parties hereto and with equal formality herewith.

[Signatures on the following pages]

IN WITNESS WHEREOF, the Parties have signed and sealed these presents effective as of the day and year written below each signature.



“COUNTY”

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Jerry L. Demings*

Jerry L. Demings

Orange County Mayor

Date: *2 May 2023*

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

By: *Gloria Hernandez*
Deputy Clerk

WITNESSES:

[Signature]

Print Name: Joseph G. [Signature]

[Signature]

Print Name: FRANDY YANEZ

“OWNER”

**CROCKETT DEVELOPMENT
PROPERTY, LLC**, a Florida limited
liability company

By: [Signature]

Print Name: R. Chad Tinetti

Title: Vice President

Date: 5/17/2022

**STATE OF FLORIDA
COUNTY OF ORANGE**

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 17 day of May, 2022, by R. Chad Tinetti, as Vice President of Crockett Development Property, LLC, a Florida limited liability company, who is known by me to be the person described herein and who executed the foregoing. He is personally known to me or has produced _____ (type of identification) as identification and did/did not (circle one) take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 17 day of May, 2022.

[Signature]
NOTARY PUBLIC

Print Name: Adele Todisco

My Commission Expires: _____

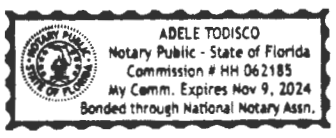
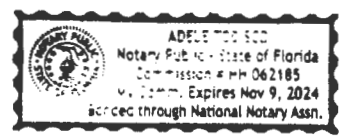
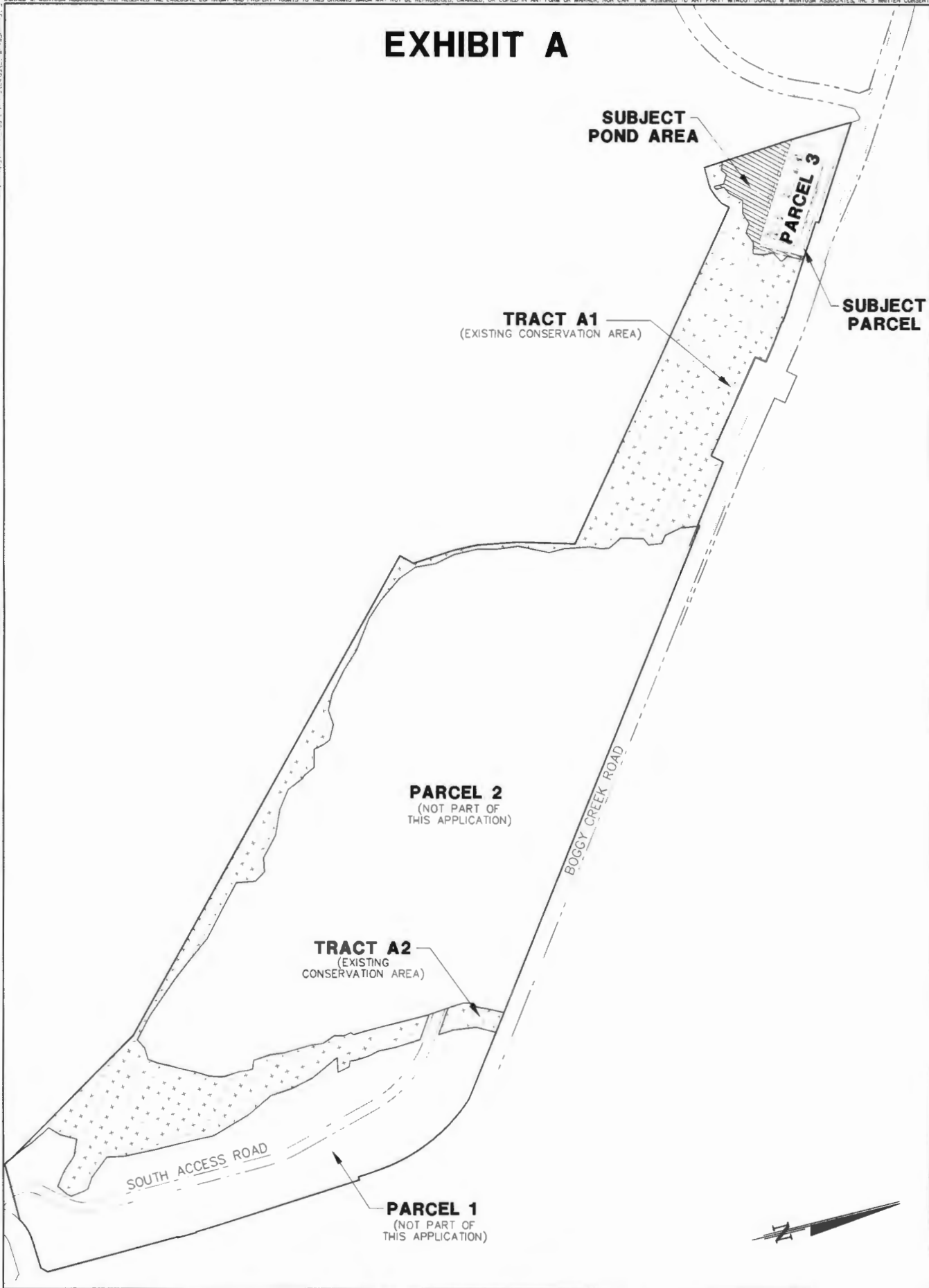


Exhibit "A"

See attached 1 page

Airport South PD / Parcel 3 – Lake Nona Logistics Center DP
Overall Site Plan prepared by Donald W. McIntosh Associates, Inc.

EXHIBIT A



AIRPORT SOUTH PD/PARCEL 3 -
LAKE NONA LOGISTICS CENTER DP
ORANGE COUNTY, FLORIDA
OVERALL SITE PLAN



**DONALD W. MCINTOSH
ASSOCIATES, INC.**
3800 PARK AVENUE NORTH
VENTNER PARK, FL 32788 407.844.4068

ENGINEERS
PLANNERS
SURVEYORS

DRAWN BY	DESIGNED BY	CHECKED BY	DATE	SCALE	JOB NUMBER

REVISION	DATE	BY	DESCRIPTION

Exhibit "B"
Owner's Property

**CROCKETT DEVELOPMENT PROPERTY, LLC
AIRPORT SOUTH PD – LOT 3 (PARCEL 3)
(PORTION OF GINN – AIRPORT LOT 3)**

DESCRIPTION:

That part of Lot 3, GINN-AIRPORT, according to the plat thereof, as recorded in Plat Book 55, Pages 44 through 49, of the Public Records of Orange County, Florida, described as follows:

BEGIN at the Northernmost corner of said Lot 3; thence $S00^{\circ}40'40''W$ along the West line of said Lot 3 for a distance of 387.95 feet; thence $S01^{\circ}01'49''E$ along said West line, 441.44 feet to the Conservation Easement described in Official Records Book 10435, Page 717, of the Public Records of Orange County, Florida; thence departing said West line run the following courses and distances along said Conservation Easement: $S68^{\circ}33'37''E$, 40.42 feet; $S52^{\circ}05'14''E$, 11.57 feet; $N53^{\circ}04'43''E$, 42.01 feet; $S57^{\circ}27'46''E$, 62.40 feet; $S02^{\circ}07'48''W$, 57.97 feet; $S57^{\circ}27'46''E$, 5.82 feet; $N72^{\circ}13'16''E$, 15.94 feet; $N02^{\circ}07'48''E$, 53.18 feet; $N72^{\circ}13'16''E$, 16.19 feet; $N65^{\circ}48'46''E$, 31.70 feet; $N44^{\circ}44'13''E$, 94.68 feet; $S74^{\circ}02'36''E$, 80.02 feet; $N73^{\circ}40'55''E$, 69.87 feet; $S55^{\circ}42'56''E$, 62.50 feet; $N69^{\circ}31'21''E$, 74.17 feet; $S72^{\circ}34'33''E$, 68.21 feet; $N34^{\circ}21'41''E$, 7.92 feet; $N20^{\circ}44'14''E$, 55.18 feet; $N06^{\circ}50'14''E$, 62.09 feet; $N64^{\circ}00'49''E$, 61.11 feet; $N42^{\circ}55'25''E$, 12.54 feet; $N24^{\circ}07'59''W$, 46.72 feet; $N29^{\circ}45'25''E$, 99.46 feet the Southerly right-of-way line of Boggy Creek Road, described as Parcel RW1 in Official Records Book 10046, Page 4180, of the Public Records of Orange County, Florida; thence departing said Conservation Easement run $N55^{\circ}15'25''W$ along said Southerly right-of-way line, 89.02 feet; thence $N55^{\circ}15'53''W$ along said Southerly right-of-way line, 156.97 feet; thence $N34^{\circ}44'07''E$ along said Southerly right-of-way line, 19.50 feet to the Northerly line of aforesaid Lot 3; thence departing said Southerly right-of-way run $N55^{\circ}15'54''W$ along said Northerly line, 646.71 feet to the POINT OF BEGINNING.

Exhibit “C”

Legal description and sketch of description
Of Drainage Easement Area

See attached 2 pages

Sketch of Description CS#09-173, prepared by Donald W. McIntosh Associates, Inc.

SKETCH OF DESCRIPTION

(SEE SHEET 2 FOR SKETCH)

DRAINAGE EASEMENT #1

DESCRIPTION:

That part of Lot 3, of the plat of GINN-AIRPORT, said plat as recorded in Plat Book 55, Pages 44 through 49, of the Public Records of Orange County, Florida, described as follows:

BEGIN at a point on the West line of said Lot 3 being the Northwest corner of the Northwest 1/4 of Section 21, Township 24 South, Range 30 East, Orange County, Florida; thence S01°30'17"E along the West line of said Lot 3, for a distance of 441.44 feet; thence, departing said West line of said Lot 3, run S69°02'05"E, 40.42 feet; thence S52°33'42"E, 11.57 feet; thence N52°36'15"E, 42.01 feet; thence S57°56'14"E, 62.40 feet; thence S01°39'20"W, 57.97 feet; thence S57°56'14"E, 5.82 feet; thence N71°44'48"E, 15.94 feet; thence N01°39'20"E, 53.18 feet; thence N71°44'48"E, 16.19 feet; thence N65°20'18"E, 31.70 feet; thence N44°15'45"E, 94.68 feet; thence S74°31'04"E, 80.02 feet; thence N73°12'27"E, 69.87 feet; thence S56°11'24"E, 62.50 feet; thence N69°02'53"E, 74.17 feet; thence S73°03'01"E, 34.75 feet; thence N29°16'57"E, 316.44 feet to a point being distant 19.50 feet Southwesterly from the Westerly right-of-way line of Boggy Creek Road as dedicated by the aforementioned plat of GINN-AIRPORT; thence N55°43'53"W along a line being distant 19.50 feet Southwesterly from by perpendicular measure and parallel with said Westerly right-of-way line, 20.08 feet; thence, departing said parallel line, S29°16'57"W, 280.88 feet; thence N71°51'18"W, 50.80 feet; thence N55°54'43"W, 635.03 feet to the aforesaid West line of Lot 3; thence S00°12'12"W along said West line, 7.31 feet to the POINT OF BEGINNING.

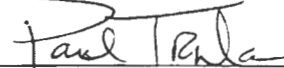
Containing 3.239 acres more or less and being subject to any rights-of-way, restrictions and easements of record.

SURVEYOR'S NOTES:

- This is not a boundary survey.
- Bearings based on the West line of the Northwest 1/4 of Section 21-24-30, Orange County, Florida, being N01°30'17"E, an assumed meridian.
- Lands shown hereon were not abstracted for rights-of-way, easements, ownership or other instruments of record by this firm.
- Existing Right-of-way line of Boggy Creek Road based on a survey by Donald W. McIntosh and Associates, Inc, dated 05/07/08 (drawing cs#08-204).

I hereby certify that this sketch, subject to the surveyor's notes contained hereon, meets the applicable "Minimum Technical Standards" set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 61G17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

DONALD W. McINTOSH ASSOCIATES, INC.



PAUL TRNKA
Florida Registered Surveyor and Mapper
Certificate No. 5244

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



DONALD W. McINTOSH
ASSOCIATES, INC.
ENGINEERS PLANNERS SURVEYORS

2200 PARK AVENUE NORTH, WINTER PARK, FLORIDA 32789 (407) 644-4068
CERTIFICATE OF AUTHORIZATION NO. LB68

PREPARED FOR: **CROCKETT DEVELOPMENT**
PROPERTY, LLC

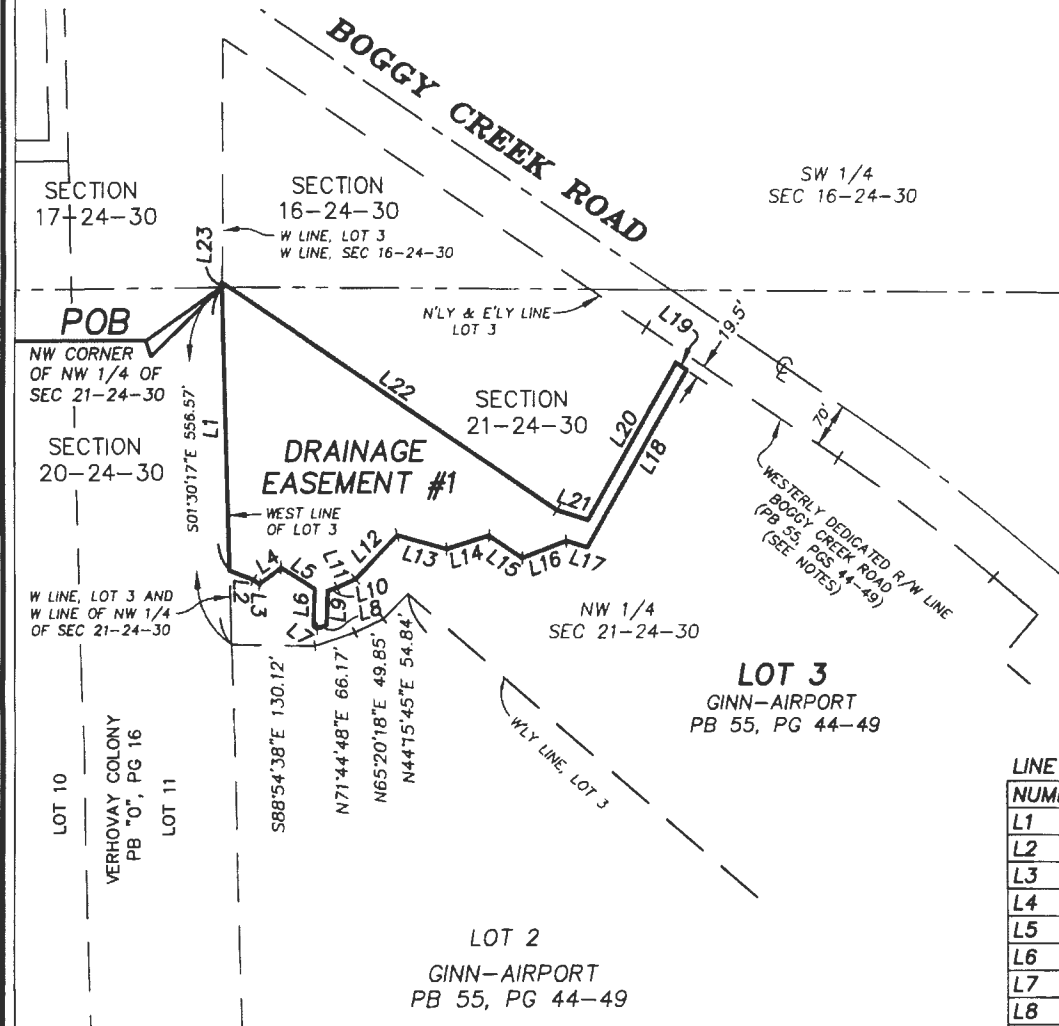
AIRPORT SOUTH PD - DRAINAGE EASEMENT #1

REVISIONS:
02/02/10 REVISED DESCRIPTION AND SKETCH;

DRAWN BY: <u>P.T.</u>	CHECKED BY: <u>P.T.</u>	JOB NO. <u>281070285</u>	SCALE <u>1"=300'</u>	SHEET <u>1</u>	DWG NO. <u>CS#09-173</u>
DATE: <u>03/23/09</u>	DATE: <u>03/24/09</u>			OF <u>2</u>	

SKETCH OF DESCRIPTION

(SEE SHEET 1 FOR DESCRIPTION)

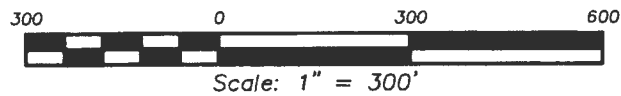


LEGEND

- | | | | |
|--------------|--------------------------|-------|-----------------------|
| C | CENTERLINE | PB | PLAT BOOK |
| Δ | CENTRAL ANGLE | PG(S) | PAGE(S) |
| R | RADIUS | POB | POINT OF BEGINNING |
| L | ARC LENGTH | POC | POINT OF COMMENCEMENT |
| CB | CHORD BEARING | PC | POINT OF CURVATURE |
| CH | CHORD DISTANCE | PT | POINT OF TANGENCY |
| L1 | LINE NUMBER | NT | NON-TANGENT |
| C1 | CURVE NUMBER | LB | LICENSED BUSINESS |
| SEC 21-24-30 | SECTION, TOWNSHIP, RANGE | R/W | RIGHT-OF-WAY |
| BLVD | BOULEVARD | SR | STATE ROAD |
| DB | DEED BOOK | E'LY | EASTERLY |
| NO | NUMBER | N'LY | NORTHERLY |
| ORB | OFFICIAL RECORDS BOOK | W'LY | WESTERLY |

LINE TABLE:

NUMBER	BEARING	DISTANCE
L1	S01°30'17"E	441.44'
L2	S69°02'05"E	40.42'
L3	S52°33'42"E	11.57'
L4	N52°36'15"E	42.01'
L5	S57°56'14"E	62.40'
L6	S01°39'20"W	57.97'
L7	S57°56'14"E	5.82'
L8	N71°44'48"E	15.94'
L9	N01°39'20"E	53.18'
L10	N71°44'48"E	16.19'
L11	N65°20'18"E	31.70'
L12	N44°15'45"E	94.68'
L13	S74°31'04"E	80.02'
L14	N73°12'27"E	69.87'
L15	S56°11'24"E	62.50'
L16	N69°02'53"E	74.17'
L17	S73°03'01"E	34.75'
L18	N29°16'57"E	316.44'
L19	N55°43'53"W	20.08'
L20	S29°16'57"W	280.88'
L21	N71°51'18"W	50.80'
L22	N55°54'43"W	635.03'
L23	S00°12'12"W	7.31'



DONALD W. McINTOSH
ASSOCIATES, INC.
ENGINEERS PLANNERS SURVEYORS

2200 PARK AVENUE NORTH, WINTER PARK, FLORIDA 32789 (407) 644-4068
 CERTIFICATE OF AUTHORIZATION NO. LB68

DRAWN BY: <u>P.T.</u>	CHECKED BY: <u>P.T.</u>	JOB NO. <u>281070285</u>	SCALE <u>1"=300'</u>
DATE: <u>03/23/09</u>	DATE: <u>03/24/09</u>		

PREPARED FOR: **CROCKETT DEVELOPMENT PROPERTY, LLC**

AIRPORT SOUTH PD - DRAINAGE EASEMENT #1

REVISIONS:
 02/02/10 REVISED DESCRIPTION AND SKETCH;

SHEET <u>2</u>	DWG NO. <u>CS#09-173</u>
OF <u>2</u>	