



Interoffice Memorandum

AGENDA ITEM

June 8, 2020

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

FROM: Jon V. Weiss, P.E., Chairman *JW.*
Roadway Agreement Committee

SUBJECT: July 28, 2020 – Consent Item
Transportation Impact Fee Agreement The Registry on Grass Lake
(Added Parcel)
Avalon Road (C.R. 545), 2020
(Related to LUPA-19-08-262)

The Roadway Agreement Committee has reviewed the Transportation Impact Fee Agreement The Registry on Grass Lake (Added Parcel) Avalon Road (C.R. 545), 2020 ("Agreement") by The Registry at Grass Lake, LLC ("Owner") and Orange County for the dedication of right-of-way for Avalon Road/ C.R. 545. Within 120 days of the effective date of this Agreement, The Registry at Grass Lake, LLC shall convey 0.066 acres of right-of-way by general warranty deed. For the dedication of 0.066 acres of right-of-way for Avalon Road/C.R. 545, the Owner will receive a total of \$22,770 in transportation impact fee credits based on agreed-upon fair market value of \$345,000 per acre.

The Roadway Agreement Committee recommended approval of the Agreement on February 5, 2020. The Specific Project Expenditure Report and Relationship Disclosure Forms are on file with the Transportation Planning Division.

ACTION REQUESTED: Approval and execution of Transportation Impact Fee Agreement The Registry on Grass Lake (Added Parcel) Avalon Road (C.R. 545), 2020 by The Registry at Grass Lake, LLC and Orange County for the conveyance of 0.066 acres of right-of-way for \$22,770 in transportation impact fee credits. District 1

JVW/HEGB:fb
Attachment

BCC Mtg. Date: July 28, 2020

Prepared by and after recording return to:

Robert Reese
P.O. Box 478
Winter Park, FL. 32790

Tax Parcel I.D. No 31-24-27- 0000-00-007

**TRANSPORTATION IMPACT FEE
AGREEMENT**

THE REGISTRY ON GRASS LAKE (ADDED PARCEL)

AVALON ROAD (C.R.545), 2020

This Transportation Impact Fee Agreement (the "Agreement"), effective as of the latest date of execution (the "Effective Date"), is made and entered into by The Registry at Grass Lake, LLC, a Florida limited liability company ("Owner"), whose mailing address is 7200 Aloma Avenue, 2nd Floor, Winter Park, FL. 32792, and Orange County, a charter county and political subdivision of the State of Florida ("County"), whose mailing address is c/o Orange County Administrator, Post Office Box 1393, Orlando, Florida 32802-1393.

WITNESSETH:

WHEREAS, Owner is the owner of fee simple title to certain real property, as shown in the project location map identified as Exhibit "A", and as more particularly described on "Exhibit B" (legal description and sketch of description), both of which are attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, Owner is developing the Property as a Multi-Family Development (the "Project"); and

WHEREAS, Owner is willing to convey to County certain portions of the Property (the "ROW Conveyance") in return for credits against transportation impact fees to be paid in the future in connection with the Project; and

WHEREAS, the Orange County Engineer has declared Avalon Road (C.R. 545) to be impact fee eligible; and

WHEREAS, County and Owner desire to set forth certain terms, conditions, and agreements between the parties as to the conveyance of such land to County.

NOW, THEREFORE, for and in consideration of the above premises, the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and County (the "Parties") agree as follows:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Conveyance of Land to County by Owner.

(a) **Conveyed Lands.** Within one hundred twenty (120) days following the Effective Date, Owner shall convey to County marketable fee title to those lands described in the legal description and sketch of description attached hereto as Exhibit "C" and incorporated by this reference (the "Conveyed Lands").

In the event conveyance does not occur within the aforesaid 120 days, the Manager of the Real Estate Management Division, or a designee, may grant an extension of up to 120 days for the conveyance to take place.

(b) **Procedure.** The conveyance of the Conveyed Lands shall be by general warranty deed free and clear of all liens and encumbrances, except for easements of record acceptable to

County, if any. Owner shall pay all costs associated with the conveyance of the Conveyed Lands, including all recording fees and documentary stamps related to such conveyance. Ad valorem taxes in connection with the conveyance of the Conveyed Lands shall be prorated as of the date of transfer of title and said prorated amount shall be paid by Owner to the Orange County Tax Collector, in escrow, pursuant to Section 196.295, Florida Statutes, unless the conveyance occurs between November 1 and December 31 of the year of conveyance, in which case ad valorem taxes shall be paid in full by Owner for the year of conveyance.

(c) *Title Policy.* No less than ninety (90) days prior to conveyance of the Conveyed Lands, Owner shall deliver to County, at Owner's sole cost and expense, a commitment to issue an Owner's Policy of Title Insurance naming County as the insured (the "Title Commitment"). The original Owner's Policy of Title Insurance (the "Title Policy") shall be delivered to County within thirty (30) days of the conveyance of the Conveyed Lands.

(d) *Value of Conveyed Lands.* The Parties hereby agree that the value of the Conveyed Lands, which has been determined in accordance with Section 23-95, Orange County Code, as may be amended from time to time, and for which Owner shall be entitled to credits against transportation impact fees to be paid in the future in connection with the Project, is \$22,770.00. This total results from an agreed-upon fair market value of \$345,000.00 per acre, or fraction thereof, and a total acreage of 0.066 acre(s).

(e) *Environmental Audit.* No less than sixty (60) days prior to conveyance, Owner shall submit to County a current (within 6 months of conveyance to County) Phase I environmental audit of the areas encompassed by the Conveyed Lands. The Phase I environmental audit shall be conducted in accordance with the requirements of the All Appropriate Inquiries Final Rule

(AAIFR), or with the standards set forth in the most current version of the American Society for Testing and Materials (ASTM) E-1527. In the event the Phase I environmental audit presents a matter of concern, as determined by County, then prior to the conveyance, Owner shall submit to County a Phase II environmental audit. The Phase II environmental audit shall be conducted in accordance with AAIFR or with the standards set forth in the most current version of the ASTM E-1903. If the Phase II environmental audit is performed and reveals the need for remediation to the Conveyed Lands, one of the following events shall occur: (i) Owner shall remediate the Conveyed Lands to County's satisfaction prior to the conveyance; or (ii) Owner and County shall negotiate and enter into a separate agreement whereby Owner shall pay the full cost of remediation; or (iii) County may terminate this Agreement at its option.

(f) *Compliance with Section 286.23, Florida Statutes.* Owner shall execute and deliver to County the "Disclosure of Beneficial Interests" required pursuant to section 286.23, Florida Statutes.

Section 3. Transportation Impact Fee Credits. Promptly upon County's approval of any Environmental Assessments and Title Commitment required under Section 2, and upon approval and acceptance of the general warranty deed, County shall credit on its books to the account of Owner, for purposes of Article IV of Chapter 23 of the Orange County Code and any successor code provisions (the "Impact Fee Ordinance"), the aforementioned amount of transportation impact fee credits to which Owner is entitled under the Impact Fee Ordinance. Such transportation impact fee credits may only be used in transportation impact fee zone 4. Thereafter, as impact fees become payable from time to time in connection with the Project, and if so instructed by Owner, County shall deduct such amounts payable from Owner's account.

For purposes of the foregoing, County shall make deductions from Owner's account from time to time only upon receipt of written direction from Owner (or from such person or entity to whom Owner expressly may assign this authority, in writing, in the future) to effectuate the particular deduction.

Nothing herein shall prevent Owner from assigning transportation impact fee credits as provided for in Section 23-95(e) of the Orange County Code, as may be amended from time to time.

Section 4. Utilities. This agreement does not address utility requirements. Owner shall coordinate with the Orange County Utilities Director, or a designee, with respect to any utility easements necessary to accommodate appropriately-sized wastewater sewer mains or lines, potable water mains or lines, and/or reclaimed water mains or lines.

Section 5. Notice. Any notice delivered with respect to this Agreement shall be in writing and shall be deemed to be delivered (whether or not actually received) (i) when hand delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the person at the address set forth opposite the party's name below, or to such other address or to such other person as the party shall have specified by written notice to the other party delivered in accordance herewith.

As to Owner: The Registry at Grass Lake, LLC
 c/o AQRE X, LLC its Authorized Member
 7200 Aloma Avenue, 2nd Floor
 Winter Park, FL 32792

With a copy to: Brossier Avalon Road, LLC
 Robert Reese, Manager
 P.O. Box 478
 Winter Park, FL 32790

As to County: Orange County Administrator
P.O. Box 1393
201 S. Rosalind Ave
Orlando, FL 32802-1393

With a copy to: Orange County Planning, Environmental,
and Development Services Department
Manager, Transportation Planning Division
Orange County Public Works Complex
4200 S. John Young Parkway
Orlando, Florida 32839-9205

Section 6. Covenants Running with the Land. This Agreement shall run with the Property and shall be binding upon and shall inure to the benefit and burden of the heirs, legal representatives, successors, and assigns of the parties and to any person, firm, corporation, or other entity that may become a successor in interest to the Property. Notwithstanding the foregoing, however, the authority under Section 3 to instruct County to make deductions from Owner's transportation impact fee account shall remain with Owner unless expressly assigned in writing to another by Owner.

Section 7. Recordation of Agreement. An executed original of this Agreement shall be recorded, at Owner's expense, in the Public Records of Orange County, Florida within thirty (30) days of the Effective Date.

Section 8. Applicable Law. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

Section 9. Time is of the Essence. Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Agreement.

Section 10. Further Documentation. The Parties agree that at any time following a request therefor by the other party, each shall execute and deliver to the other party such further

documents and instruments reasonably necessary to confirm and/or effectuate the obligations of either party hereunder and the consummation of the transactions contemplated hereby.

Section 11. Limitation of Remedies. County and Owner expressly agree that the consideration, in part, for each of them entering into this Agreement is the willingness of the other to limit the remedies for all actions arising out of or in connection with this Agreement.

(a) *Limitations on County's remedies.* Upon any failure by Owner to perform its obligations under this Agreement, County shall be limited strictly to only the following remedies:

- (i) action for specific performance or injunction; or
- (ii) the right to set off, against the amounts of impact fees to be credited in favor of Owner under this Agreement, (A) any amounts due to County from Owner under this Agreement but remaining unpaid and (B) the cost to County of performing any action or actions required to be done under this Agreement by Owner, but which Owner has failed or refused to do when required; or
- (iii) the withholding of development permits and other approvals or permits in connection with the Project and/or the Property; or
- (iv) any combination of the foregoing.

In addition to the foregoing, nothing in this Agreement prohibits or estops County from exercising its power of eminent domain with respect to the Conveyed Lands or any other portion of the Property as County may lawfully elect.

(b) *Limitations on Owner's remedies.* Upon any failure by County to perform its obligations under this Agreement, Owner shall be limited strictly to only the following remedies:

- (i) action for specific performance; or

- (ii) action for injunction; or
- (iii) action for declaratory judgment regarding the rights and obligations of Owner; or
- (iv) any combination of the foregoing.

Both parties expressly waive their respective rights to sue for damages of any type for breach of, or default under, this Agreement by the other. Both parties expressly agree that each party shall bear the cost of its own attorney and legal fees for any action arising out of or in connection with this Agreement. Venue for any actions initiated under or in connection with this Agreement shall be in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida.

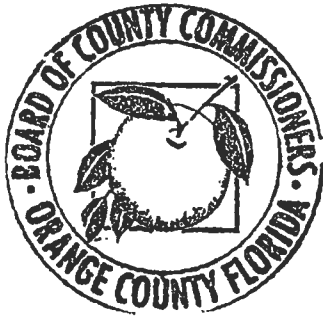
Section 12. Amendment. This Agreement may be amended only in writing, formally executed in the same manner as this Agreement.

Section 13. Counterparts. This Agreement and any amendment(s) may be executed in up to two counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

Section 14. Termination; Effect of Annexation. This Agreement shall remain in effect so long as the Property remains in unincorporated Orange County, Florida, unless the Parties terminate it in writing. If any portion of the Property is proposed to be annexed into a neighboring municipality, and out of the unincorporated areas, County may, in its sole discretion, terminate this Agreement upon notice to the Owner.

[Signatures appear on following pages]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective duly authorized representatives on the dates set forth below.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Jerry L. Demings*

for Jerry L. Demings
Orange County Mayor

Date: JUL 28 2020

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

By: *Katie Smith*
Deputy Clerk

Printed name: Katie Smith

The Registry at Grass Lake, LLC,
a Florida limited liability company

Dino Coppola

By: Dino Coppola, Manager

WITNESSES:

Steve Escobar

Printed Name: Steve Escobar

[Signature]

Printed Name: Alexa Jones

STATE OF ~~FLORIDA~~ New Jersey
COUNTY OF ORANGE *Monmouth*

The foregoing instrument was acknowledged ✓ in person before me or by online notarization by Dino Coppola, as Manager of The Registry at Grass Lake, LLC, a Florida limited liability company, who is known by me to be the person described herein and who executed the foregoing, this 29 day of June, 2020. S/he is personally known to me or has produced Driver's License as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 29 day of June, 2020.

Gravin Pelletier

Notary Public

Print Name: *Gravin Pelletier*

My Commission Expires: 1/3/24

GAVIN PELLETIER
NOTARY PUBLIC OF NEW JERSEY
Comm. # 50096011
My Commission Expires 1/3/2024

Exhibit "A"
Project Location Map

[See attached 1 page(s)]

Exhibit "A"

Project Location Map

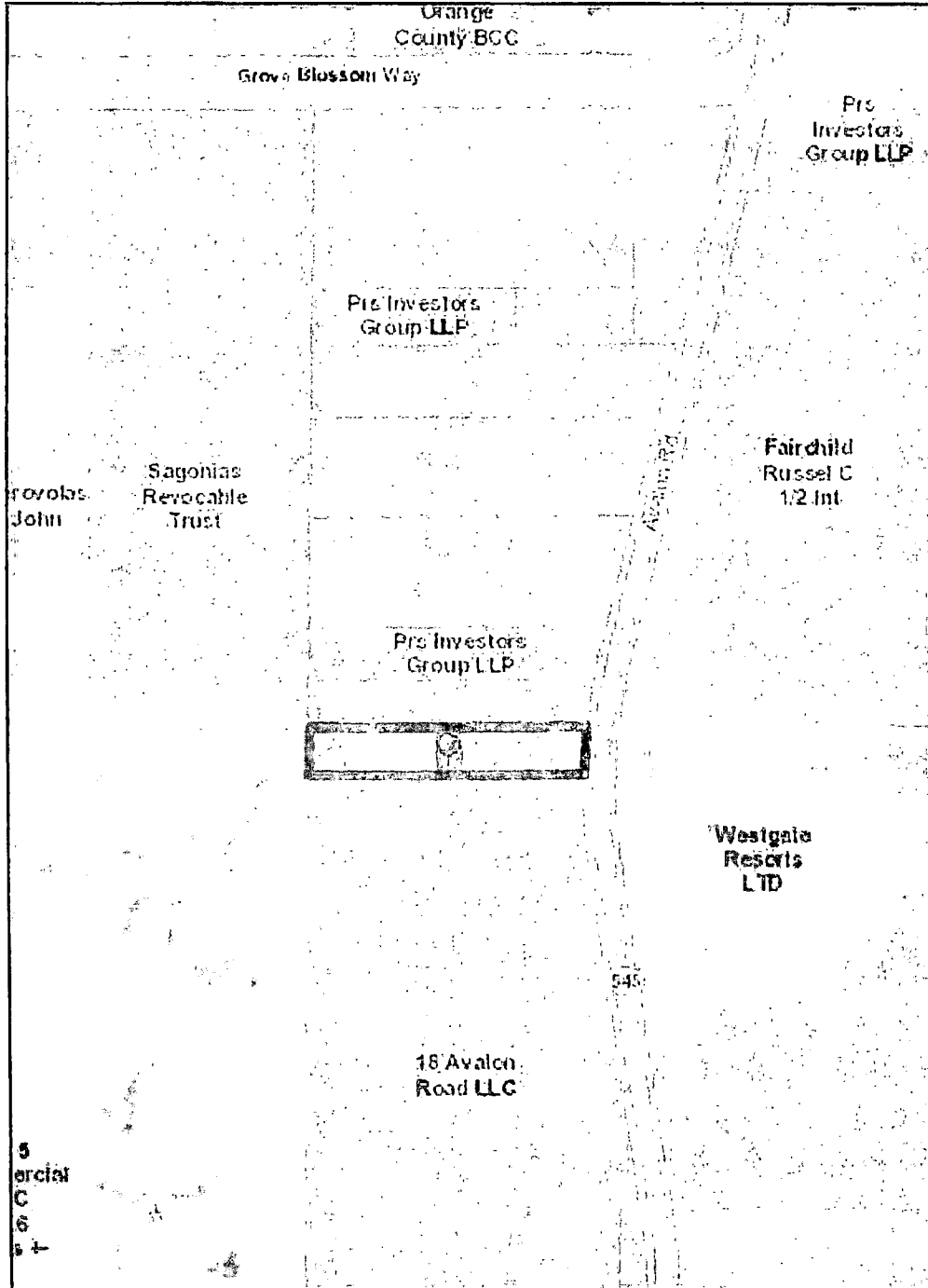


Exhibit "B"

Legal Description and Sketch of Description for Property

[See attached 1 page(s)]

EXHIBIT "B"

SKETCH OF DESCRIPTION

THE NORTH 100.00 FEET OF THE FOLLOWING DESCRIBED PROPERTY;
 ALL THAT PART OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4
 OF SECTION 31, TOWNSHIP 24 SOUTH, RANGE 27 EAST, LYING WEST
 OF STATE ROAD NUMBER 545. ALL LYING IN ORANGE COUNTY,
 FLORIDA.

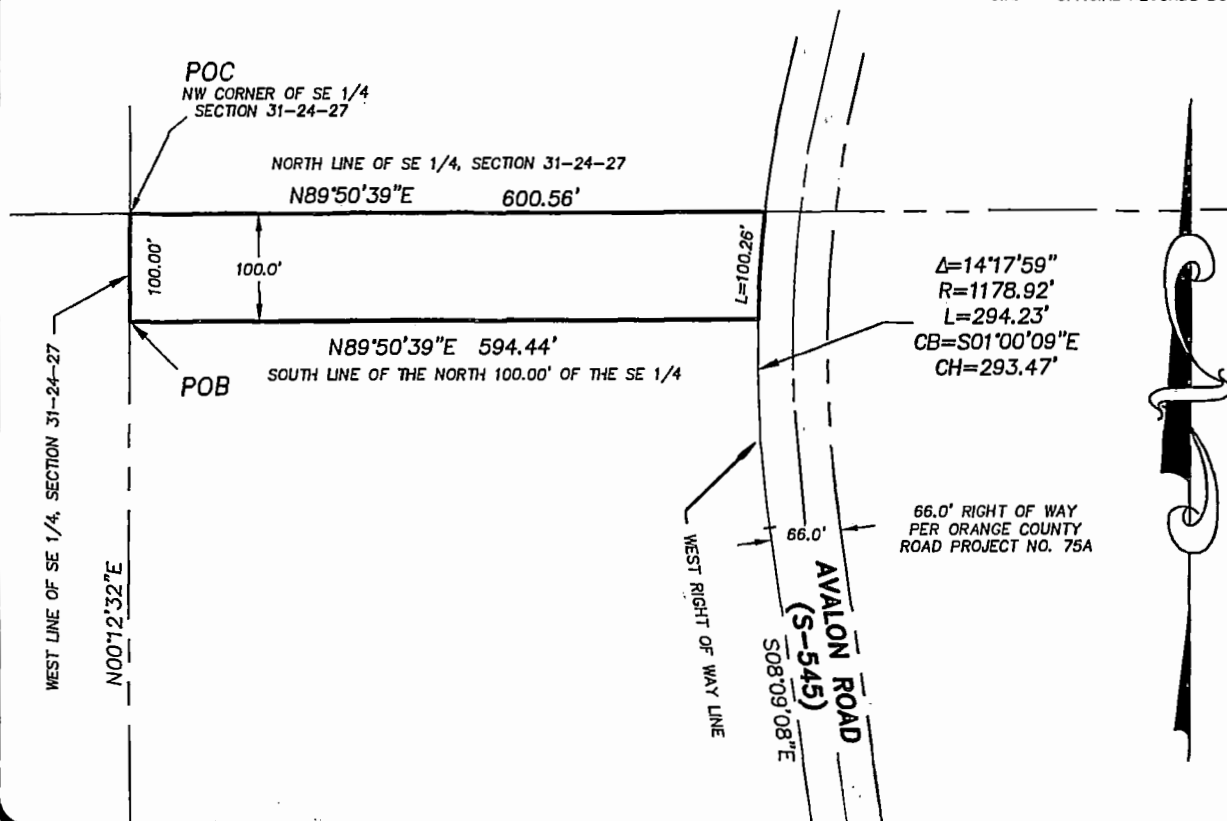
CONTAINING 1.370 ACRES, MORE OR LESS.

SURVEYORS NOTES:

1. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS OF WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD, BY THIS FIRM.
3. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE SE 1/4 OF SECTION 31 AS S89°50'39"W (ASSUMED).
4. THIS IS NOT A BOUNDARY SURVEY.
5. THE DESCRIPTION SHOWN HEREON WAS SUPPLIED BY THE CLIENT, WITH "MORE PARTICULARLY DESCRIBED AS FOLLOWS" WRITTEN BY THE SURVEYOR.

LEGEND:

- R RADIUS
- △ CENTRAL ANGLE
- L LENGTH
- CH CHORD
- CB CHORD BEARING
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- LB LICENSED BUSINESS
- PSM PROFESSIONAL SURVEYOR & MAPPER
- O.R. OFFICIAL RECORDS BOOK



JOB NUMBER: 18176.007

SURVEY DATE: 04/18/2019
 FIELD BY: N/A
 FIELD BOOK: N/A
 PAGES: N/A
 FIELD FILE: N/A

DRAWING FILE: 18176-7B.DWG

Donald W. Bishman
 Digitally signed by Donald W. Bishman
 Date: 2020.01.15 07:46:36 -05'00'

DONALD W. BISHMAN, P.S.M. FLORIDA REGISTRATION NO. 4218



CERTIFICATE OF AUTHORIZATION LB 7274

32 W. PLANT STREET Phone No. 407.905.8877
 WINTER GARDEN, FL 34787 Fax No. 407.905.8875

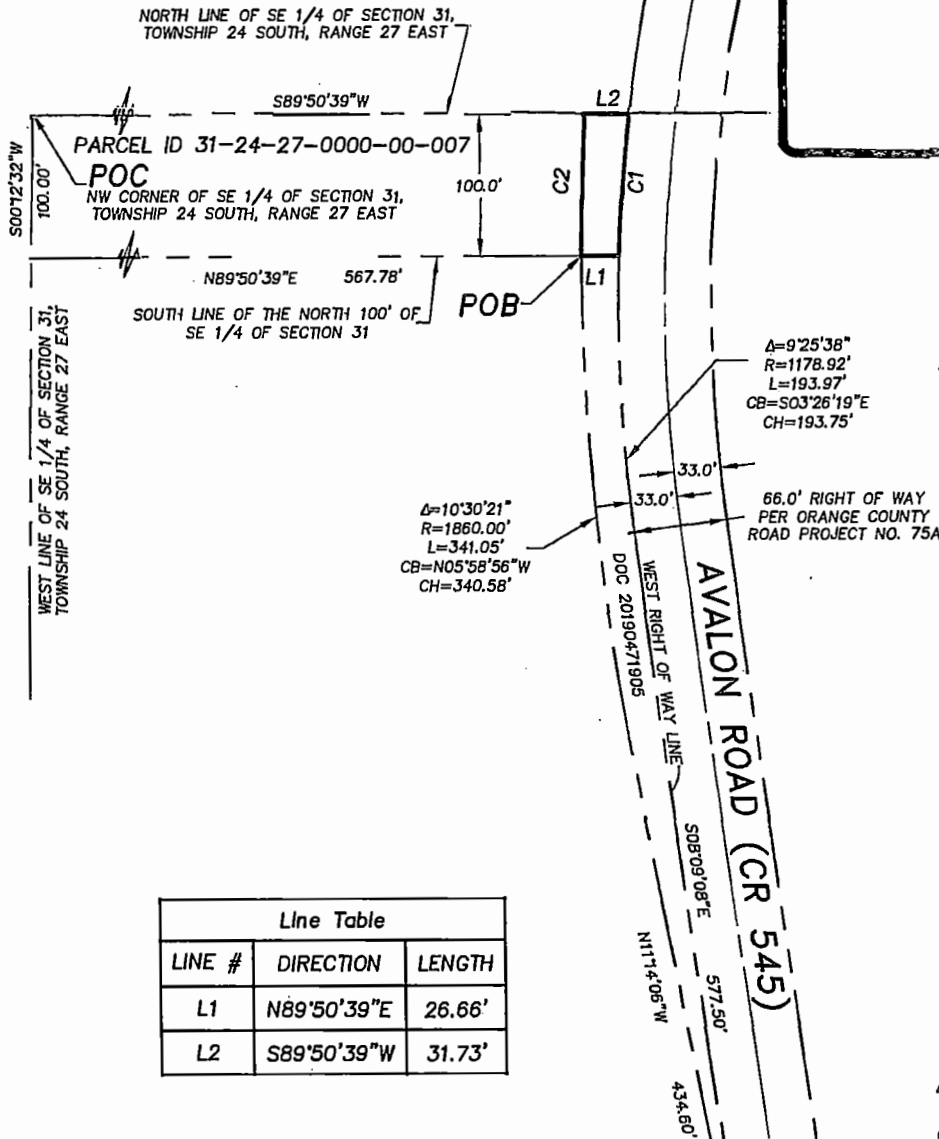
Exhibit "C"

**Legal Description and Sketch of Description
for Conveyed Lands**

[See attached 2 page(s)]

SKETCH OF DESCRIPTION

EXHIBIT "C"



Line Table		
LINE #	DIRECTION	LENGTH
L1	N89°50'39"E	26.66'
L2	S89°50'39"W	31.73'

Curve Table					
CURVE #	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	4°52'21"	1178.92'	100.26'	N03°42'40"E	100.23'
C2	3°04'52"	1860.00'	100.03'	S00°48'41"W	100.01'

LEGEND:

- R RADIUS
- △ CENTRAL ANGLE
- L LENGTH
- CH CHORD
- CB CHORD BEARING
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- LB LICENSED BUSINESS
- PSM PROFESSIONAL SURVEYOR & MAPPER

01/27/2020 - REVISED DESCRIPTION SHEET 1 OF 2

JOB NUMBER: 18176.005

SURVEY DATE: 12/05/2019
 FIELD BY: N/A
 FIELD BOOK: N/A
 PAGES: N/A
 FIELD FILE: N/A

DRAWING FILE: 18176-5.DWG

Digitally signed by
 Donald W. Bishman
 Date: 2020.01.28
 09:33:06 -05'00'

DONALD W. BISHMAN, P.S.M. FLORIDA REGISTRATION NO. 4218



CERTIFICATE OF AUTHORIZATION LB 7274

32 W. PLANT STREET Phone No. 407.905.8877
 WINTER GARDEN, FL 34787 Fax No. 407.905.8875

EXHIBIT "C"

SKETCH OF DESCRIPTION

DESCRIPTION

THAT PART OF THE SOUTHEAST 1/4 OF SECTION 31, TOWNSHIP 24 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SOUTHEAST 1/4 (CENTER SECTION); THENCE RUN S00°12'32"W, ALONG THE WEST LINE OF SAID SOUTHEAST 1/4, 100.00 FEET TO THE SOUTH LINE OF THE NORTH 100.00 FEET OF SAID SOUTHEAST 1/4; THENCE RUN N89°50'39"E, ALONG SAID SOUTH LINE, 567.78 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE N89°50'39"E, ALONG SAID SOUTH LINE, 26.66 FEET, TO THE WEST RIGHT OF WAY LINE OF AVALON ROAD (COUNTY ROAD NO. 545) BEING A NON-TANGENT CURVE CONCAVE EASTERLY; THENCE RUN NORTHERLY ALONG SAID CURVE HAVING A CENTRAL ANGLE OF 04°52'21", A RADIUS OF 1178.92 FEET, AN ARC LENGTH OF 100.26 FEET, A CHORD BEARING OF N03°42'40"E AND A CHORD DISTANCE OF 100.23 FEET, TO THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 31; THENCE RUN S89°50'39"W, ALONG SAID NORTH LINE, 31.73 FEET TO A NON-TANGENT CURVE CONCAVE EASTERLY; THENCE RUN SOUTHERLY ALONG SAID CURVE HAVING A CENTRAL ANGLE OF 03°04'52", A RADIUS OF 1860.00 FEET, AN ARC LENGTH OF 100.03 FEET, A CHORD BEARING OF S00°48'41"W AND A CHORD DISTANCE OF 100.01 FEET, TO THE POINT OF BEGINNING.

CONTAINING 0.066 ACRES, OR 2892.70 SQUARE FEET, MORE OR LESS.

SURVEYORS NOTES:

1. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS OF WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD, BY THIS FIRM.
4. BEARINGS SHOWN HEREON ARE BASED ON THE FOLLOWING: NORTH LINE OF THE SE 1/4, SECTION 31, TOWNSHIP 24 SOUTH, RANGE 27 EAST AS S89°50'39"W (ASSUMED).
5. THE DESCRIPTION SHOWN HEREON WAS PREPARED BY THE SURVEYOR.
6. THIS IS NOT A BOUNDARY SURVEY.
7. THE ELECTRONIC FILE FOR THIS PROJECT IS THE PROPERTY OF BISHMAN SURVEYING AND MAPPING, INC. AND IS NOT THE PROPERTY OF THE CLIENT.



CERTIFICATE OF AUTHORIZATION LB 7274

JOB NUMBER: 18176.005

SURVEY DATE: 12/05/2019
DRAWING FILE: 18176-5.DWG

SHEET 2 OF 2

32 W. PLANT STREET Phone No. 407.905.8877
WINTER GARDEN, FL 34787 Fax No. 407.905.8875