



Orange County Government

Orange County
Administration Center
201 S Rosalind Ave.
Orlando, FL 32802-1393

Legislation Text

File #: 24-1662, **Version:** 1

Interoffice Memorandum

DATE: October 29, 2024

TO: Mayor Jerry L. Demings and County Commissioners

THROUGH: Mindy T. Cummings, Manager

FROM: Aly Nazario, Acquisition Agent

CONTACT: Mindy T. Cummings, Manager

PHONE: 407-836-7090

DIVISION: Real Estate Management Division

ACTION REQUESTED:

Approval and execution of Limited Non-Exclusive License Agreement by and between Luis M. Espinal and Orange County, and authorization for the Real Estate Management Division to exercise renewal options, execute termination notices, and furnish notices, required or allowed by the License Agreement as needed for Kennedy Boulevard (Forest City Road to Wymore Road) Parcel 7076. District 2. **(Real Estate Management Division)**

PROJECT: Kennedy Boulevard (Forest City Road to Wymore Road) Parcel 7076

PURPOSE: To provide for temporary access for construction.

ITEM:

License Agreement

Cost: Donation

Term: Seven years

BUDGET: N/A

REVENUE: None

FUNDS: N/A

APPROVALS:

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Real Estate Management Division
Risk Management Division
Public Works Department

REMARKS: The Public Works Department is requesting this temporary access agreement for certain real property, identified as Parcel ID 33-21-29-0899-00-430 (Parcel 7076). This access is needed to facilitate the demolition of the existing concrete wall along Kennedy Boulevard for the Kennedy Boulevard Roadway Project.

This License Agreement will not be recorded.

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

NOV 19 2024

THIS INSTRUMENT PREPARED BY:

Richard Hainkel, a staff employee
in the course of duty with the
Real Estate Management Division of Orange
County, Florida
P.O. Box 1393
Orlando, Florida 32802-1393

Property Appraiser's Parcel Identification Number:
a portion of 33-21-29-0899-00-430

Project: Kennedy Boulevard (Forest City Road to Wymore Road)
Instrument: 7076.1

LIMITED NON-EXCLUSIVE LICENSE AGREEMENT

This Limited Non-Exclusive License Agreement (the "License") is entered into as of the Effective Date (defined below) by and between **LUIS M. ESPINAL**, a single man ("**Owner**") and **ORANGE COUNTY**, a charter county and political subdivision of the State of Florida, ("**County**") for the purposes set forth herein.

RECITALS

A. Owner owns certain real property located in Orange County, Florida, at 33-21-29-0899-00-430 and 2700 Elmhurst Circle, Orlando, Florida 32810-3820 more specifically described in the attached **Exhibit A** (the "**Property**").

B. County has initiated a roadway project for improvements to Kennedy Boulevard for that portion of the roadway between Forest City Road to Wymore Road (the "**Project**").

C. The Property is adjacent to the Project and County has requested a license from the Owner for a right of entry to the Property to perform Work (defined below) on the Property for the benefit of the Owner and the Project.

D. Owner desires to grant this license to County for the performance of the Work within a portion of the Property, more specifically described in the attached **Exhibit B** (the "**Licensed Premises**").

NOW, THEREFORE, in consideration of the foregoing and of the terms and conditions set forth herein, the parties agree as follows:

1. Grant. Owner hereby grants to County, its employees, contractors, subcontractors, consultants, and agents (collectively, the "**Entrants**") a non-exclusive license over, upon, and across the Licensed Premises for the purposes stated below, all subject to the terms, conditions and limitations set forth in this License.

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2. Purpose of License. The purpose of this license is as follows:

a. Allow Entrants to access the Licensed Premises from the adjacent public right of way, known as Kennedy Boulevard.

b. Allow Entrants to enter the Licensed Premises with equipment and machinery as may be necessary to complete the Work. This includes allowing Entrants to stage and store materials and equipment within the Licensed Premises while they are actively performing the Work.

c. Allow the Entrants to demolish the existing concrete wall located within the Licensed Premises and remove the associated debris.

d. Allow the Entrants to restore the Licensed Premises to a safe and sanitary condition in the same or similar condition as the one existing, less and except the concrete wall removed per this License, before the Entrants use of the Licensed Premises.

All of the activities conducted above by the Entrants shall be collectively referred to as the “**Work.**”

3. Term of License.

a. Term. Unless sooner terminated, the term of this License shall begin on the Effective Date and expire upon the completion of the Work or after seven (7) years, whichever occurs first (the “**Term**”).

b. Sale of Property. If Owner sells the Property prior to the expiration of the Term, this License shall automatically terminate.

c. County’s Termination. The grant of this License does not obligate the County to perform the Work. County may terminate its interest in this License by providing written notice to Owner as provided herein.

4. Notice. The parties agree that the following are the designated persons to receive notice for purposes of this License. Any notices which may be permitted or required under this License must be in writing, sent to the appropriate notice address(es) for such party set forth below, and will be deemed delivered, whether or not actually received, when delivered by hand delivery; when deposited in the United State Mail, postage prepaid, registered or certified mail, return receipt requested; or when delivered to a guaranteed overnight delivery service, such as Federal Express, for delivery not later than the next business day. Either party may change the address to which future notices shall be sent by notice given in accordance with this paragraph.

| | |
|---|------------------------|
| As to Owner: | <i>with a copy to:</i> |
| Luis M. Espinal 2700 Elmhurst Circle | |

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| | |
|---|---|
| Orlando, Florida 32810-3820 | |
| | |
| As to County: | <i>with a copy to:</i> |
| Orange County, Florida Real Estate Management Division Attn: Right of Way <u>Physical Address:</u> 400 E. South St., 5th Floor Orlando, Florida 32801 <u>Mailing Address:</u> P.O. Box 1393 Orlando, Florida 32802-1393 | Orange County, Florida Public Works Department Attn: Chief Engineer, Engineering, Right-of-Way 4200 South John Young Parkway Orlando, Florida, 32839-9205 |

5. Indemnification. Each party agrees to defend, indemnify, and hold harmless the other party, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys' fees) arising from the indemnifying party's own negligent acts or omissions, or those negligent acts or omissions of the indemnifying party's officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this License.

County's indemnification is expressly limited to the amounts set forth in Section 768.28(5), Florida Statutes as amended by the Florida State Legislature. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability of any kind for the acts, omissions, and/or negligence of the other party, its officers, officials, employees, agents, or contractors.

6. Insurance. Without waiving its right to sovereign immunity as provided in Section 768.28, Florida Statutes, the County acknowledges to be self-insured for General Liability and Automobile Liability with coverage limits of as set forth in Section 768.28, Florida Statutes. The County agrees to maintain commercial insurance or to be self-insured for Workers' Compensation & Employers' Liability in accordance with Florida Statute 440.

Upon request the County shall provide an affidavit or Certificate of Insurance evidencing self-insurance or commercial insurance up to sovereign immunity limits, which the County agrees to find acceptable for the coverage mentioned above.

The County's failure to request proof of insurance or to identify any deficiency in coverage or compliance with the foregoing requirements shall not relieve the County of its liability and obligations under this License.

The County shall require all contractors performing work within the County right-of-way, easement areas, or Licensed Premises to procure and maintain workers' compensation, commercial

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general liability, business auto liability and contractor's pollution liability coverage. Each party shall be listed as an additional insured on all general liability policies.

7. Miscellaneous.

a. Recitals; Exhibits. The foregoing recitals and referenced Exhibits are true and correct and are incorporated herein by reference.

b. License; No Grant of Easement. This License is intended and will be construed only as a temporary license to enter the Property for purposes of completing the Work, it is expressly stipulated that the License granted herein is for permissive use only and that any activity conducted by the Entrants within the Property pursuant to this License shall not operate to create or vest any easement, possessory interest, or other property right in County or anyone else.

c. Recording. The parties agree that this License shall not be recorded in the Public Records of Orange County, Florida.

d. Effective Date. The effective date of this Agreement (the "Effective Date") shall be the later of: (i) the date this License is executed by Owner; or (ii) the date this License is approved and executed by the Orange County Board of County Commissioners.

e. Delegation of Authority. The Manager of the Orange County Real Estate Management Division is hereby delegated, on behalf of County, the authority to furnish notices as contemplated herein, agree to and execute extensions to the Term of this License or terminate the County's interest in this License.

f. Entire Agreement; Modification. This License contains the entire agreement of the parties with respect to the subject matter hereof, and no representations, inducements, promises, or other agreements, oral, written, or otherwise, between the parties which are not embodied within this License shall be of any force or effect. No amendment to this License shall be binding upon any of the parties hereto unless such amendment is in writing and fully executed by all parties hereto.

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SIGNATURES AND EXHIBITS TO FOLLOW

Project: Kennedy Boulevard (Forest City Road to Wymore Road)
Instrument: 7076.1

IN WITNESS WHEREOF, the parties have executed this Limited Non-Exclusive License Agreement as of the Effective Date.

OWNER:



LUIS M. ESPINAL


STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 30 day of September 2024, by **LUIS M. ESPINAL**, a single man. The individual is personally known to me or has produced FL license as identification.

(Notary Stamp)



YANIRA NAZARIO
Notary Public
State of Florida
Comm# HH479030
Expires 1/9/2028



Notary Signature
Yanira Nazario

Print Notary Name
Notary Public of: Florida

My Commission Expires: 1/9/2028

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COUNTY SIGNATURE AND EXHIBITS TO FOLLOW

Project: Kennedy Boulevard (Forest City Road to Wymore Road)
Instrument: 7076.1



COUNTY:

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

Jerry L. Demings
for Jerry L. Demings
Orange County Mayor

Date:

11/19/2024
(mm/dd/yyyy)

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

BY:

Jennifer Lara Klimetz
for Deputy Clerk
Jennifer Lara Klimetz
Printed Name

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EXHIBIT A

Lot(s) 43, Briarcliff Subdivision Replat, according to the plat thereof, recorded in Plat Book 4, Page(s) 83 - 84, of the Public Records of Orange County, Florida.

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EXHIBIT B

