



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 3

DATE: August 14, 2020

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

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

FROM: Luciana Mino, Sr. Acquisition Agent *LM by PS*
Real Estate Management Division

CONTACT PERSON: Paul Sladek, Manager

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

ACTION REQUESTED: Approval and execution of Hold Harmless and Indemnification Agreement by and between Ashley Rivera Mercado and Orange County and authorization to disburse funds to pay recording fees and record instrument

PROJECT: Conway Acres Wall

District 3

PURPOSE: To provide indemnification of County for County's involvement in the construction of a new subdivision screen wall.

ITEM: Hold Harmless and Indemnification Agreement
Cost: None

BUDGET: Account No.: 1003-072-5056-3148

FUNDS: \$44 Payable to Orange County Comptroller
(recording fees)

APPROVALS: Real Estate Management Division
County Attorney's Office
Highway Construction Division

REMARKS:

On July 11, 2017, the Board approved a Joint Participation Agreement (JPA) with the State of Florida Department of Transportation (FDOT) pursuant to which FDOT agreed to reimburse County up to \$300,000 for the actual costs to construct a new wall (Wall) along the Hoffner Avenue (State Road 15) frontage of the Conway Acres subdivision (Subdivision), which lies on the north side of Hoffner Avenue, just west of Semoran Boulevard (State Road 436). FDOT agreed to provide this funding in connection with FDOT's then ongoing widening of Hoffner Avenue and due to the impact of roadway elevation changes on the Subdivision.

On July 7, 2020, at the request of the Highway Construction Division, the Board approved Hold Harmless and Indemnification Agreements (HHAs) with the owners of 23 single-family residential lots in the Subdivision, (Owners) upon whose lots the Wall will be located, to provide County with a release from liability and indemnification related to the Wall. The HHA's also provided each Owner's acknowledgement as to the construction of the Wall and confirmed each Owner's responsibility to maintain after construction the portion of the Wall located on such Owner's lot.

Before the HHAs could be recorded in the Public Records, ownership of one of the 23 lots changed. This Hold Harmless and Indemnification Agreement has been executed by the new lot owner to provide County with the same release, indemnification, and acknowledgements provided by the HHAs previously approved by the Board.

REQUEST FOR FUNDS FOR LAND ACQUISITION

Under BCC Approval

Under Ordinance Approval

Date: July 20, 2020

Total Amount: \$44.00

Project: Conway Acres Wall

Parcels: 118

Charge to Account # 1003-072-5056-3148

Ghulam Qadir 07/21/2020
Controlling Agency Approval Signature Date

Ghulam Qadir

Printed Name:

Pat Davis 7/21/2020
Fiscal Approval Signature Pat Davis Date

Printed Name

TYPE TRANSACTION (Check appropriate block(s))
 Pre-Condemnation Post-Condemnation

N/A District # 3

- Acquisition at Approved Appraisal
- Acquisition at Below Approved Appraisal
- Acquisition at Above Approved Appraisal
- Advance Payment Requested

Name, Address

Orange County Comptroller
Recording Fees \$44.00

Total \$44.00

DOCUMENTATION ATTACHED (Check appropriate block(s))

- Contract/ Agreement
- Copy of Executed Instruments
- Certificate of Value
- Settlement Analysis

Payable to: Orange County Comptroller

IMPORTANT: CHECKS ARE TO BE PICKED UP BY THE REAL ESTATE MANAGEMENT DIVISION (DO NOT MAIL)

Recommended by Luciana Mino
Luciana Mino, Sr. Acq. Agent, Real Estate Management Division

7/20/2020
Date

Payment Approved Paul Sladek
Paul Sladek, Manager, Real Estate Management Division

7/20/2020
Date

or
Payment Approved _____
William Blackham, Asst. Mgr. Real Estate Management Div.

Date SEP 01 2020

Certified Craig Stopysa
Approved by BCC for Deputy Clerk to the Board

Date

Examined/Approved _____
Comptroller/Government Grants

Check No. / Date

REMARKS:

Anticipated Closing Date: As soon as checks are available.

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
SEP 01 2020

Instrument prepared by and return to:
Orange County Attorney's Office
P.O. Box 1393
Orlando, Florida 32802

**HOLD HARMLESS AND
INDEMNIFICATION AGREEMENT**
Parcel ID: 16-23-30-1637-07-260

This Hold Harmless and Indemnification Agreement ("Agreement") is made by and between Ashley Rivera Mercado, a single woman, whose mailing address is 5942 Swaffield Dr Orlando FL 32812 ("Owner"), and Orange County, a charter county and political subdivision of the State of Florida, whose mailing address is c/o Orange County Administrator, P.O. Box 1393, Orlando, Florida 32802-1393 ("County").

WITNESSETH:

WHEREAS, Hoffner Road ("Road") is a state road currently under construction by the Florida Department of Transportation ("FDOT") to widen the Road from two lanes to four and, upon completion, the Road will be approximately three feet higher than its previous level in some locations; and

WHEREAS, the Conway Acres First Addition subdivision ("Subdivision") wall which abuts the Road, is in disrepair and will be an inadequate height after the completion of the Road at its new elevation; and

WHEREAS, FDOT has offered to transfer funds ("FDOT Funds") towards the costs of constructing a new eight-foot screen wall ("Wall") to mitigate the impacts of the Road widening; and

WHEREAS, FDOT intends to deposit the FDOT Funds with the County and the County has conditionally agreed to hold the FDOT Funds and act as a paying agent to pay the FDOT Funds in installments to be paid jointly to the Conway Acres & Cardinal Park Neighborhood Association, Inc. ("Association") which is acting on behalf of the property owners in the Subdivision and the construction company which will construct the Wall pursuant to a construction contract with the Association ("Contractor"); and

WHEREAS, a portion of the Wall will be constructed on Owner's property which is more specifically described in **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, the Owner understands and agrees that construction of the Wall may inconvenience Owner, disrupt Owner's enjoyment of the Property and that such construction activity could carry certain other risks to Owner and the Property; and

WHEREAS, the Owner understands and agrees that, upon completion of the Wall, Owner shall be responsible for any maintenance, repair and replacement of such portion of the Wall located on Owner's Property in the event of damage or destruction and the County will have no responsibility for such maintenance, repair or replacement; and

WHEREAS, in spite of the risks, and recognizing the execution of this Agreement to be one of the conditions of approval for the County's agreement to hold FDOT Funds and disburse payments to the Association, Owner agrees that County will act solely as a paying agent and that County will have no responsibility for any loss, damage or personal injury which may arise as a result of construction of the Wall by a third party contractor.

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

1. **RECITALS.** The above recitals are true and correct and are hereby incorporated as a material part of this Agreement by this reference.

2. **HOLD HARMLESS AND INDEMNIFICATION.** As between the Owner and the County, the Owner on behalf of itself and its successors, assigns, heirs, grantees, representatives, invitees, and permittees, hereby assumes sole and entire responsibility for any and all damage to the Property, the Wall and any associated injury sustained as a result of, or arising from, the construction of or damage to the Wall. The Owner hereby agrees to release, indemnify, and hold the County, the Orange County Board of County Commissioners ("Board"), the Board members, its officers, employees and agents from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including but not limited to attorney's fees, paralegal's fees, consultant's fees and costs at all administrative, pretrial, trial, and appellate levels) of any kind or nature whatsoever, including without limitation construction defects, injury or damage to persons or property, arising out of or related in any way to the construction, maintenance, repair or replacement of the Wall. The foregoing provision shall not be construed as a waiver by Owner of any right or claim that Owner may have with respect to or against other third parties.

3. **COVENANTS RUNNING WITH THE LAND.** This Agreement shall run with the Property, and shall be binding on all parties having any right, title or interest in the Property or Wall described herein or any portion thereof, their heirs, representatives, successors and assigns.

4. **AMENDMENT/TERMINATION.** This Agreement may be amended or terminated only by express written instrument approved by the Board and the Owner.

5. **APPLICABLE LAW.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

6. **RECORDATION.** The County shall record an executed original of this Agreement, in the Official Records of Orange County, Florida within ten (10) days from the Effective Date of this Agreement.

7. **EFFECTIVE DATE.** This Agreement shall become effective on the date of execution by the County or the date of execution of the Owner, whichever is later ("Effective Date").

IN WITNESS WHEREOF, the parties hereto 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*
Jerry L. Demings
Orange County Mayor

Date: 2 September 2020

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

By: *Craig Stopyra*
for Deputy Clerk

Date: SEP 02 2020



[REMAINING SIGNATURES ON THE FOLLOWING PAGES]

Signed, sealed and delivered in our presence as witnesses:

Signature: [Handwritten Signature]

Printed Name: Ziky Zurita

Signature: [Handwritten Signature]

Printed Name: Karlton Johnson

OWNER:

[Handwritten Signature]
Ashley Rivera Mercado

Date: 7/16/20

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 16th day of July, 2020, by Ashley Rivera Mercado, a single woman, who is personally known to me or who has produced FDL, as identification.



[Handwritten Signature]

Notary Public, State of Florida At Large

Michelle Chanicka-Hagadorn
Notary Printed Name or Stamp

My Commission Expires: 11/27/21

EXHIBIT "A"

Lot 26, Block G, CONWAY ACRES FIRST ADDITION, according to the plat thereof as recorded in Plat Book Y, Page 87, of the Public Records of Orange County, Florida.