



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 5

DATE: July 10, 2023

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

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

FROM: Sara Solomon, Senior Title Examiner *SS/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 License Agreement by and between Orange County and HGR Construction, Inc.

PROJECT: Mahogany Pointe – 6021 Conway Road
District 3

PURPOSE: To provide access for grading for drainage.

ITEMS: License Agreement
Size: N/A
Term: 30 days

APPROVALS: Real Estate Management Division
County Attorney's Office
Risk Management Division
Facilities Management Division
UF/IFAS Extension Orange County

REMARKS: Orange County owns the property at 6021 Conway Road, Parcel ID: 20-23-30-1752-01-000 (Property) where the UF/IFAS Orange County Extension Education Center is located. The adjacent landowner is constructing a building on their property (Parcel ID: 21-23-30-5450-01-000 and 21-23-30-5450-02-000 formerly identified as 20-23-30-0000-00-045) and is requesting a temporary access license to the Property to grade and reseed an area approximately 15' X 475' in size along the Property line. This License Agreement grants the adjacent landowner's contractor, HGR Construction, Inc., a temporary license for these purposes.

The County is executing the License Agreement to show acceptance of the terms and conditions.

JUL 25 2023

Project: Mahogany Pointe – 6021 Conway Road

LICENSE AGREEMENT

This License Agreement (“Agreement”) is made and entered into as of the last date signed below, (“Effective Date”) by and between 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 (hereinafter referred to as the “County”), and HGR Construction, Inc., whose address is 499 Montgomery Place, Altamonte Springs, Florida, 32714 (hereinafter referred to as “Contractor”).

RECITALS:

WHEREAS, County owns in fee simple that certain real property, having Orange County Parcel Identification Number 20-23-30-1752-01-000 (the “County Property”); and

WHEREAS, Contractor has requested access to the County Property to grade an area of 15’ x 475’ for grading along the property line and reseeding of the area, as shown on Exhibit A; and

WHEREAS, Contractor will access and have path of travel to the County Property via Parcels 21-23-30-5450-01-000 and 21-23-30-5450-02-000, formerly identified as Parcel 20-23-30-0000-00-045, as shown on Exhibit A; and

WHEREAS, County is willing to let the Contractor access the area pursuant to the terms, conditions and provisions contained herein.

NOW THEREFORE, in consideration of use of the County Property, and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Recitals. The above referenced recitals are true and correct and hereby incorporated into this Agreement.

2. Term. The Term of this Agreement shall commence on the Effective Date and end thirty days after the Effective Date (the “Term”). Notwithstanding anything contained herein, the Term and this Agreement may be terminated early with fifteen (15) days’ notice in writing from either party to the other.

3. Use. During the Term of this Agreement, Contractor shall have access to the County Property as shown on Exhibit A, for grading and reseeding of the area. There is no fee for the Contractor’s use of the County Property during the Term. The Contractor will be responsible for all necessary Federal, State, and local permitting that may be needed for the work on the adjacent property. Contractor shall observe and comply with all applicable Federal, State, and local rules, orders, laws, and regulations pertaining to the use of the County Property.

4. Possession. Contractor shall have, hold, and enjoy non-exclusive use of the County Property and all rights granted the County by this Agreement. County reserves the right to use the County Property for all other purposes. Upon termination of the Term of this Agreement,

Contractor agrees to cease use of the County Property and remove all equipment. This Agreement does not convey any easement or other property rights to the Contractor, but merely grants a permissive license for access during the Term of this Agreement.

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 Agreement. The 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. Contractor shall procure and maintain, for the duration of this Agreement, insurance of the types and limits specified below. Insurance carriers furnishing these coverages must be authorized to do business in the State of Florida, and must possess a minimum, current rating of A-Class VIII in the most recent edition of "Best's Key Rating Guide."

a. Workers' Compensation - covering its employees with statutory workers' compensation limits, and no less than \$500,000.00 for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the County and its agents, employees and officials.

b. Commercial General Liability - covering all operations including, but not limited to, Contractual, Products and Completed Operations and Personal Injury. The limits shall be not less than \$1,000,000.00 per occurrence and an aggregate limit of at least \$2,000,000.00. The County shall be specifically named as an additional insured on all liability policies.

c. Business Automobile Liability - covering all owned, non-owned and hired vehicles with limits of not less than \$1,000,000.00 per occurrence, Combined Single Limits (CSL) or its equivalent per occurrence.

d. Pollution Legal Liability – Pollution Legal Liability with a limit of not less than one million dollars (\$1,000,000.00) per occurrence on a per-project basis.

Prior to entering upon the County Property, and during the duration of the Agreement, Contractor shall file with the County current certificates of all required insurance on forms acceptable to the County and thirty (30) days prior written notice of cancellation or reduction in coverage, except ten (10) days prior written notice is allowed for cancellation due to non-payment of premium. The certificates shall be accompanied by the additional insured and waiver of subrogation endorsements for each policy that applies.

Failure of the County to demand such certificates or other evidence of full compliance with these insurance requirements or failure of the County to identify a deficiency from evidence provided will not be construed as a waiver of Contractor's obligation to maintain such insurance. It shall be the responsibility of Contractor to ensure that all its subcontractors maintain adequate insurance. Failure of Contractor to maintain adequate insurance coverage for itself or for any other persons or entities for which it is responsible, or to ensure that its subcontractors maintain adequate

coverage, shall not relieve Contractor of any contractual responsibility or obligation or liability.

7. Hazardous Waste and Materials. Contractor, its employees, agents, contractors, subcontractors, vendors and suppliers shall not discharge any hazardous or toxic materials or waste on the County Property. Contractor shall indemnify, defend, and hold harmless the County from and against any claims including without limitation third party claims for personal injury or property damage, actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, taxes, assessments, liabilities, settlement amounts, interest or losses, including reasonable attorney's fees and expenses, consultant fees, expert fees, and all other costs and expenses of any kind or nature that arise directly or indirectly in connection with the presence, release or threatened release of any hazardous substances by, through, or at the direction of Contractor, its employees, agents, subcontractors, vendors or suppliers, including but not limited to known contaminants in or into the air, soil, groundwater, surface water or improvements at, on, about, under or within the County Property, or any portion thereof, or elsewhere in connection with the transportation of hazardous substances to or from the County Property by, through, or at the direction of Contractor, its employees, agents, subcontractors, vendors or suppliers. Provided however, Contractor shall not be required to indemnify, defend or hold harmless the County from any claims resulting from the negligent or willful misconduct of the County, or its employees, contractors, vendors, or other agents, or resulting from any environmental condition existing on the County Property or elsewhere which is not caused, disturbed or exacerbated by Contractor or its employees, agents, subcontractors, vendors or suppliers. The indemnification provisions contained herein shall survive the termination of this Agreement.

8. Default and Assignment. It is agreed between the parties hereto that if Contractor shall default and breach any other covenant or provision of this Agreement, then the County, after giving Contractor twenty (20) days prior written notice of such default and an opportunity to cure, may terminate this Agreement and thereafter the Contractor will cease use of the County Property. Neither party may assign its rights hereunder, or as hereinafter granted pursuant to the provisions hereof, in whole or in part, without the prior written consent of the other party.

9. Attorneys' Fees. The parties expressly agree that each party shall bear the cost of its own attorney and legal fees in connection with any dispute arising out of this Agreement, or the breach, enforcement, or interpretation of this Agreement, regardless of whether such dispute results in mediation, arbitration, litigation, all or none of the above, and regardless of whether such attorney and legal fees are incurred at trial, retrial, on appeal, at hearings or rehearings, or in administrative, bankruptcy, or reorganization proceedings.

10. Notices. Any notice or demand to be given or that may be given hereunder shall be in writing and shall be (i) delivered by hand, or (ii) delivered through United States mail, postage prepaid, certified, return receipt requested and U.S. First Class Mail; addressed to the parties at the address shown on Page 1 of this Agreement. Any notice or demand that may be given hereunder shall be deemed complete (i) three (3) days after mailing of such notice or demand in the United States mail with proper postage affixed thereto, certified, return receipt requested and U.S. First Class Mail, or (ii) upon hand-delivery to the appropriate address as follows:

As to County: Orange County Administrator
P.O. Box 1393
Orlando, Florida 32802-1393

Project: Mahogany Pointe – 6021 Conway Road

With Copy to: Orange County
Orange County Cooperative Extension Services
6021 Conway Road,
Orlando, Florida 32802
Attn: Kevin Camm
Email: kcamm@ufl.edu

As to Contractor: HGR Construction, Inc
M. Louie Akel, Senior Vice President/Partner
499 Montgomery Place
Altamonte Springs, Florida 32714
Louie@hgrconstruction.com

11. Applicable Law. The laws of the State of Florida shall govern the validity, performance, and enforcement of this Agreement. The parties to this Agreement further agree that any and all litigation arising from the terms of this Agreement and the subject matter contained herein shall be filed and heard in a court of competent jurisdiction located in Orange County, Florida. The invalidity or unenforceability of any provision of this Agreement shall not affect or impair any other provision. THE PARTIES HERETO WAIVE A TRIAL BY JURY OF ANY AND ALL ISSUES ARISING IN ANY ACTION OR PROCEEDING BETWEEN THEM OR THEIR SUCCESSORS UNDER OR CONNECTED WITH THIS AGREEMENT OR ANY OF ITS PROVISIONS AND ANY NEGOTIATIONS IN CONNECTION HEREWITH.

IN WITNESS WHEREOF, the County and City have hereunto set their hands and seals as of the dates written below.

“COUNTY”



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

BY: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

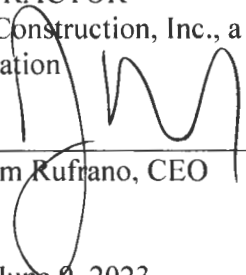
DATE: 25 July 2023

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

BY: *Craig Stopyka*
for Deputy Clerk

Craig Stopyka
Printed Name

CONTRACTOR
HGR Construction, Inc., a Florida profit
corporation

BY: 

Jim Ruffano, CEO

Date: June 9, 2023

