



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 7

DATE: September 21, 2023

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

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

FROM: Juanita Thomas, Senior Title Examiner *JT/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 Permission to Enter Property (Right of Entry Agreement) General from Orange County Board of County Commissioners to the GHD Services Inc.

PROJECT: WOMU – adjacent property (704 Beulah Rd)

District 1

PURPOSE: To provide access for assessment and any required remediation activities.

ITEMS: Right of Entry Agreement
Size: 4.35 acres
Term: Until a site rehabilitation completion order is issued
Revenue: None

APPROVALS: Real Estate Management Division
County Attorney's Office
Risk Management Division

REMARKS: This action allows GHD Services Inc. access to County property located at 704 Beulah Road, Winter Garden, Florida 34787 (Parcel ID:36-22-27-0000-00-016) for the permissible activities described in Paragraph 3 of the Agreement, limited to Chapter 62-780 or 62-730, Florida Administrative Code.

OCT 10 2023

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PERMISSION TO ENTER PROPERTY (Right of Entry Agreement)

General

1. Parties. The undersigned property owner, Orange County Board of County Commissioners (“County”), hereby gives permission to the GHD Services Inc., a Delaware limited liability company (“GHD”), whose address is 2055 Niagara Falls Boulevard., Suite 3, Niagara Falls, New York, New York 14304 and its agents and contractors, to enter County’s property (the “Right of Entry”) as more specifically described in paragraph 2 below (the “Property”).
2. Property. The land affected by this Right of Entry is located in Orange County, Florida and is more specifically identified as Parcel Number 36-22-27-0000-00-016, in the records of Orange County Property Appraiser’s Office, and also known as 704 Beulah Road, Winter Garden, Florida, 34787, as more particularly described at Exhibit “A.”
3. Permissible Activities. This Right of Entry is specifically limited to the following activities pursuant to Chapter 62-780 or 62-730, Florida Administrative Code, without cost to County, which may be performed by the GHD, its agents or contractors on the Property for purposes of environmental assessment and remediation, the results of which shall be provided to County.

To access and enter in, on, over and across the land described above in paragraph 2, for use by GHD, its representatives, agents, contractors, and assigns, as a work area for environmental investigation, assessment and remediation, as needed. The work to be performed by the GHD may include but is not limited to surveying with a metal detector or other instrument for evidence of the presence of military munitions and munitions debris, digital geophysical mapping of metal anomalies, removal of selected anomalies/munitions, creation of exclusion zones during the performance of the work, and obtaining soil samples. Use of the site also includes the right to store, move, and remove equipment and supplies; and perform other such work which may be necessary and incidental to GHD use for the investigation and associated response on the Property. Additionally, GHD, its agents and contractors may collect soil, groundwater (including the installation of wells), surface water and sediment samples; removal and treatment of contamination on the Property; installation of a treatment system (as necessary); and monitoring of contamination until completion of the remediation.

4. Access Hours. GHD, its agents or contractors may enter the Property during normal business hours as described herein and may also make arrangements to enter the Property at other times after receiving consent for same from County. GHD agrees to give County (through the Points of Contact) a minimum of three (3) business days notice on its intent to enter Property so that the gate can be unlocked.

5. Insurance. During the term of this Entry Agreement, all contractors and subcontractors hired by GHD shall provide and maintain such general liability and automobile insurance with limits of not less than \$1,000,000 per occurrence and workers' compensation insurance or self-insurance as required by Chapter 440, Florida Statutes. All such insurance or self-insurance shall be primary to, and not contribute with, any insurance or self-insurance maintained by County. The County shall be named as an additional insured on all liability policies that cover the ongoing and completed operations of the contractor, its agents or subcontractors.
6. Indemnification. To the extent permitted by law, GHD, its officers, employees and contractor(s) agree to indemnify and hold harmless County and its officers, employees and agents from and against any and all claims, liability, demands, damages, surcharges, expenses, fees, fines, penalties, suits, proceedings, and actions, including damage to property or property rights to the extent caused by the negligence of GHD, its agents, representatives, contractors and subcontractors, arising out of its activities described in paragraph 3 above. The GHD liability under this clause is subject to the availability of appropriations for such payment, and nothing contained in this Entry Agreement may be considered as implying that Congress will at a later date appropriate funds sufficient to meet deficiencies. The provisions of this clause are without prejudice to any rights the County may have to make a claim under applicable laws for any damages other than those provided herein. Neither party shall be liable to the other for any indirect, incidental, special or consequential damages (including but not limited to loss of profits, loss of interest or other financing charges, loss of use, or reputational damages) arising out of this Entry Agreement. Nothing contained herein shall be construed as a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes as may be amended by the Florida legislature.
7. No Admission. The granting of this Right of Entry by the County is not intended, nor should it be construed, as an admission of liability on the part of the County for any contamination discovered on the Property.
8. Compliance with Applicable Laws. The GHD, its agents and contractors agree that any and all work performed on the Property and in association with this Right of Entry shall be performed consistent with that degree of skill and care ordinarily exercised by members of the same profession performing the same or similar work under the same or similar circumstances in the locale where the Property is located, and in accordance with applicable federal and state statutes, rules and regulations.
9. Attorney Fees, Venue, Jury Waiver. 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. Venue for any action, suit, or proceeding brought to recover any sum due

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under, or to enforce compliance with, this Agreement shall lie in the court of competent jurisdiction in and for Orange County, Florida; each party hereby specifically consents to the exclusive personal jurisdiction and exclusive venue of such court. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, venue for those actions shall be in the Orlando Division of the U.S. Middle District of Florida. 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.

10. County Points of Contact.

Primary: Tisha Pence, CHMM, CIE, CES, CESCO
Risk Management, Environmental Loss Prevention
Coordinator
Phone: 407-836-9638
Cell: 321-239-2382
E-mail: Tisha.Pence@ocfl.net

Secondary: Kristin Tobin, Sr. Environmental Specialist
Environmental Protection Division
Petroleum Restoration Program
Phone: 407-836-1528
E-mail: Kristin.Tobin.@ocfl.net

11. Equipment Ownership and Property Restoration. All tools, equipment and other property owned by GHD which is placed upon the Property by GHD shall remain the property of GHD and all such property shall be removed by GHD upon completion of this work. Furthermore, upon completion of the testing the Property shall be returned to the same general condition as it was prior to the activities being taken in accordance with this Right of Entry.

12. Termination. The Right of Entry is granted, without any fee or charge to the GHD, its agents or contractors, for so long as is necessary to assess, remove, monitor and remediate contamination on the Property. Access shall be allowed upon the execution of this Right of Entry. The Right of Entry shall continue until approval of a Site Rehabilitation Completion Order pursuant to Rule 62-780.680, Florida Administrative Code, or low-scored site initiative determination of No Further Action ordered pursuant to Section 376.3071(12)(b), Florida Statutes (“Order”). At such time County shall be provided a copy of the Order and this Right of Entry shall automatically terminate without further action of the parties.

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Accepted by GHD by the following authorized agent:

Signed, sealed, and delivered in the Presence of:

GHD Services Inc., a Delaware limited liability company

Jenna Martin
Witness

By: [Signature]

Jenna Martin
Printed Name

Derek Barry
Printed Name

Sasha Cobb
Witness

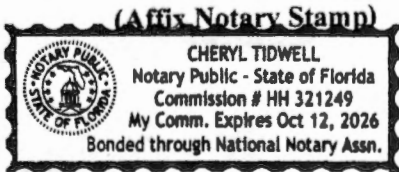
Project Geologist
Title

Sasha Cobb
Printed Name

(Signature of TWO witnesses required by Florida Law)

STATE OF Florida
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 10 of July, 2023, by Derek Barry as representative, of GHD Services Inc., a Delaware limited liability company on behalf of the Company. The individual is personally known to me or has produced: _____ as identification.



[Signature]
Notary Signature

Cheryl Tidwell
Printed Notary Name

Notary Public of:
My Commission Expires: October 12, 2026

This instrument prepared by:
Juanita Thomas, 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

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IN WITNESS WHEREOF, the parties hereto have caused this Permission to Enter Property to be executed by their respective officers and parties thereunto duly authorized.

COUNTY

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners



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

DATE: 10 October 2023

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

BY: *Jennifer Lara-Klimentz*
for Deputy Clerk
Jennifer Lara-Klimentz
Printed Name

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Exhibit "A"

Begin at the Southwest corner of the S $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 36, Township 22 South, Range 27 East, go North 0°29'40" E along the West Section line 330 feet, thence S89°15'10" E to a point at the intersection of the West right-of-way boundary of the road known as Reaves Road; thence SW along the Western boundary of said right-of-way to the intersection of said right-of-way boundary with the South section line of said section, thence West North 89°18'20" West 499.45 feet to the POB, of Orange County, Florida.