



Interoffice Memorandum

AGENDA ITEM

February 13, 2020

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

FROM: Jon V. Weiss P.E., Chairman
Roadway Agreement Committee
(407) 836-5393

A handwritten signature in black ink, appearing to read "J. Weiss", is written over the printed name and title of the sender.

SUBJECT: March 10, 2020 – Consent Item
Adequate Public Facilities Agreement for Horizon West Village I
Serenade at Ovation PD
(Related to LUP-18-10-354)

The Roadway Agreement Committee has reviewed an Adequate Public Facilities Agreement for Horizon West Village I Serenade at Ovation PD ("Agreement") by and between Spring Grove, LLC, BB Groves, LLC, ("Owner") and Orange County for the dedication of right-of-way for Avalon Road expansion. Under the terms of the Agreement, the Owner shall convey to Orange County a total of 1.15 acres of right-of-way for Avalon Road. The dedication of right-of-way shall serve to partially satisfy the Adequate Public Facilities requirement under the APF/TDR Ordinance, which requires 7.48 acres of public facilities lands to be provided from this property. The APF deficit of 6.33 acres will be satisfied with a transfer from the APF Credit Holders, Village I Columnar Partnership Holding I, LLC and Withers, LLC. with this Agreement. The APF Credit Holders have or will have an approximate surplus of 34.13 APF acreage. The Owner will receive \$22,500 per acre for the conveyance of 1.15 acres of right-of-way for Avalon Road for a total of \$25,875 in transportation impact fee credits.

The Roadway Agreement Committee recommended approval of the Agreement on November 13, 2019. The Specific Project Expenditure Report and Relationship Disclosure Forms are on file with the Transportation Planning Division.

ACTION REQUESTED: Approval and execution of an Adequate Public Facilities Agreement for Horizon West Village I Serenade at Ovation PD by and between Spring Grove, LLC, BB Groves, LLC, and Orange County conveying 1.15 acres of APF Land and providing \$25,875 in transportation impact fee credits. District 1

JVW|HEGB
Attachments

BCC Mtg. Date: March 10, 2020

This instrument prepared by and after
recording return to:

Christopher P. Roper, Esq.
Akerman LLP
420 South Orange Avenue, Suite 1200
Orlando, Florida 32801

Tax Parcel I.D. No(s): 30-24-27-0000-00-003 (A portion of)
30-24-27-0000-00-028 (A portion of)

**ADEQUATE PUBLIC FACILITIES AGREEMENT
FOR HORIZON WEST VILLAGE I
SERENADE AT OVATION PD**

THIS ADEQUATE PUBLIC FACILITIES AGREEMENT FOR HORIZON WEST VILLAGE I SERENADE AT OVATION PD (the “**Agreement**”), effective as of the latest date of execution (the “**Effective Date**”), is made and entered into by and between **Spring Grove, LLC**, a Delaware limited liability company, whose mailing address is 5956 Sherry Lane, Suite 1000, Dallas, TX 75225 (“**Spring Grove**”), and **BB Groves, LLC**, a Delaware limited liability company, registered to do business in the State of Florida as B Bank Groves, LLC, whose mailing address is 5956 Sherry Lane, Suite 1000, Dallas, TX 75225 (“**BB Groves**”) (Spring Grove and BB Groves are sometimes hereinafter referred to individually as an “**Owner**” and collectively as the “**Owners**”) and **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 (“**County**”).

RECITALS:

A. Owners are the fee simple owners of certain real property located in Orange County, Florida, as generally depicted in **Exhibit “A”** and as more particularly described in **Exhibit “B,”** both of which exhibits are attached hereto and made a part hereof by this reference (The “**PD Property**”).

B. The PD Property, also known as the Serenade at Ovation PD, is identified in the Orange County Comprehensive Plan 2010 - 2030 (the “**Comprehensive Plan**”) Future Land Use Map with the “Village” land use designation and constitutes a portion of Village I, in Horizon West, as same is described and depicted in the Village I Specific Area Plan approved by the Board of County Commissioners of Orange County, Florida (the “**BCC**”) on June 10, 2008 (the “**Village I SAP**”).

C. The PD Property is included in the Horizon West Village Land Use Classification Area. The BCC adopted the Horizon West Village Land Use Classification Comprehensive Policy Plan (“**CPP**”) amendment on June 5, 1995. The Horizon West Village Land Use Classification was the result of a public-private partnership between the BCC and Horizon West,

Inc. The partnership conducted an extensive visioning and community consensus building process that was summarized in the Horizon West Study Report issued February 7, 1995.

D. The Horizon West Village I Serenade at Ovation PD (the “**Serenade at Ovation PD**”) has relied on the prior approvals of the Horizon West Study and the Village I SAP, and on the Village I SAP approvals and studies included in the SAP.

E. The Village I SAP contemplates certain residential and public facility uses within the PD Property.

F. Owners desire to develop the PD Property in accordance with the Serenade at Ovation PD Land Use Plan, submitted by Owners to County, and with the PD zoning application on file with County (the “**Project**”).

G. The Goals, Objectives, and Policies contained in the Future Land Use Element of the Comprehensive Plan have been implemented through Chapter 30, Article XIV of the Orange County Code (“**APF/TDR Ordinance**”) adopted by the BCC on May 20, 1997, as amended.

H. Division 2 of the APF/TDR Ordinance requires, in Section 30-712(b), that Owners enter into a developer’s agreement identifying required adequate public facilities within the development and addressing the conveyance to the County of adequate public facilities lands prior to or in conjunction with PD approval, unless otherwise addressed in such agreement pursuant to Section 30-714(c).

I. The parties have agreed that this Agreement constitutes the aforementioned developer’s agreement referenced in Division 2 of the APF/TDR Ordinance.

J. If Owners are unable to convey sufficient adequate public facilities lands to County, the APF/TDR Ordinance, at Sections 30-712(b) and 30-714(d), states that Owners may make payment of an adequate public facility lands fee to County. Additionally, the APF/TDR Ordinance, at Section 30-714(g), allows for application of APF acreage credits to satisfy an APF deficit.

K. It is the intent of the parties that County will consider approval of the Serenade at Ovation PD with its consideration of this Agreement.

L. The PD Property contains approximately 54.20 acres of **net** developable land, and both the Village I SAP and Section 30-714 of the APF/TDR Ordinance require 1 acre of public facilities acreage for every 7.25 acres of net developable land (the “**APF Ratio**”).

M. When applied to the PD Property, the APF Ratio equals approximately 7.48 acres of public facilities lands.

N. As shown on the Land Use Plan for the Serenade at Ovation PD, and as described in this Agreement, Owners are providing 1.15 acre(s) of adequate public facilities land (the “**APF Land**”) to County, thereby creating an APF deficit of 6.33 acres.

NOW THEREFORE, for and in consideration of the above 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 parties hereby agree as follows:

AGREEMENT

1. Recitals. The above recitals are true and correct and are hereby incorporated as material provisions of this Agreement by this reference.

2. Conveyance of APF Land by Owners. Owners shall convey APF Land as follows:

Right(s)- of- way for the following transportation improvements/roads (depicted as APF Road ROW Expansion on the Serenade at Ovation PD Land Use Plan):

Avalon Road ROW Expansion Approximately 1.15 acres

It is contemplated that wider right(s)-of-way may be required in some locations, such as at intersections, to facilitate traffic movement.

The Owner of the APF Land immediately prior to its conveyance to the County as described herein may hereinafter referred to as a “**Conveying Owner.**”

3. APF Deficit. The Serenade at Ovation PD APF Ratio requires that Owners convey to County approximately **7.48** acres of APF land. This Agreement provides for conveyance of approximately **1.15** acres of APF land, thereby creating a **6.33**-acre APF deficit.

4. APF Acreage Credits. Columnar Partnership Holding I, LLC and Withers, LLC (collectively, the “**APF Credit Holders**”) are owners of land within Village I and have obtained or will obtain approximately **34.13** surplus APF acreage credits within Village I. The Owners and the APF Credit Holders have asked County to apply a portion of these credits toward the APF deficit for the Serenade at Ovation PD. The County hereby approves the transfer of **6.33** APF acreage credits to the PD Property, which satisfies or will satisfy the APF deficit for the Serenade

at Ovation PD. The APF Credit Holders have executed joinders attached to this Agreement acknowledging the foregoing transfer of APF acreage credits to the PD Property.

5. Conveyance Procedure.

a) *APF Land.* The conveyance of the APF Land shall be by plat dedication or general warranty deed, free and clear of all liens and encumbrances, except for easements of record acceptable to County, if any. If by plat dedication, the rest of this paragraph and the following paragraphs b), c), and d) shall not apply. The Conveying Owner shall pay all costs associated with the conveyance of the APF Land owned by such Conveying Owner, including all recording fees and documentary stamps related to such conveyance. Ad valorem taxes in connection with the conveyance of the APF Land shall be prorated as of the date of transfer of title and said prorated amount shall be paid by the Conveying Owner to Orange County, 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 the Conveying Owner for the year of conveyance.

b) *Title Policy.* No less than ninety (90) days prior to conveyance, the Conveying Owner of the applicable APF Land shall deliver to County, at such Owner's sole cost and expense, an updated 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 after the conveyance of the APF Land.

c) *Environmental Audit.* No less than sixty (60) days prior to conveyance, the Conveying Owner shall submit to County a current (within 6 months of conveyance to County) Phase I environmental audit of the areas encompassed by the APF Land that is the subject of such conveyance. The Phase I environmental audit shall be conducted in accordance with the requirements of the All Appropriate Inquiries Final Rule (AAIFR) and with the standards set forth in the American Society for Testing and Materials (ASTM) E-1527-13. In the event the Phase I environmental audit presents a matter of concern, as determined by County, then prior to the conveyance, the Conveying Owner shall submit to County a Phase II environmental audit. The Phase II environmental audit shall be conducted in accordance with the requirements of the AAIFR and ASTM E-1903-11. If the Phase II environmental audit is performed and reveals the need for remediation to the subject APF Land, one of the following events shall occur: (i) the Conveying Owner shall remediate the APF Land to County's satisfaction prior to the conveyance; or (ii) the Conveying Owner and County shall negotiate and enter into a separate agreement whereby the Conveying Owner shall pay the full cost of remediation; or (iii) County may terminate this Agreement at its option.

d) *Compliance with Section 286.23, Florida Statutes.* The Conveying Owner shall execute and deliver to County the “Disclosure of Beneficial Interests” required pursuant to section 286.23, Florida Statutes.

e) *Value of APF Land.* The parties agree that the value of the APF Land, as determined in accordance with Chapter 23 of the Orange County Code, as amended, is \$25,875. This total results from an agreed-upon fair market value of \$22,500 per acre, or fraction thereof, and a total acreage of 1.15 acre(s). Promptly upon County’s final acceptance of conveyance of the APF Land, County shall credit on its books to the account of Owner, for purposes of Chapter 23 of the Orange County Code, as amended, transportation impact fee credits in the amount of such aforementioned value of the APF Land.

6. Refinement of Size and Location of APF Land. The size and location of all APF Land as depicted on the Serenade at Ovation PD Land Use Plan are approximate, although the final size and location shall be substantially similar to those shown on the Serenade at Ovation PD Land Use Plan. The dimensions and location(s) for a particular component of the APF Land shall be finalized by County and Owners prior to County approval of the Preliminary Subdivision Plan or Development Plan (“PSP/DP”) that includes the particular APF Land, and shall be in full compliance with this Agreement. **County and Owners agree that the legal descriptions used to convey the APF Land to County may be revised based upon final engineering.**

7. Award of Impact Fee Credits.

a) Promptly upon the County’s approval and acceptance of a General Warranty Deed conveying APF Land, or in the case of conveyance by plat dedication, the County’s acceptance of the plat dedication, the County shall credit on its book to the account of the Conveying Owner of such APF Land, for purposes of Chapter 23 of the Orange County Code (or any successor code provisions) (the “**Impact Fee Ordinance**”), the aforementioned amount of impact fee credits to which the Conveying Owner is entitled for each type of dedication. Thereafter, as impact fees become due and payable from time to time in connection with the Serenade at Ovation PD, and if so instructed by such Conveying Owner, the County shall deduct such amounts payable from the Conveying Owner’s impact fee credit account that is applicable to the particular impact fee payment. For example, transportation impact fee credits may only be used to satisfy obligations for payment of transportation impact fees.

b) For purposes of the foregoing, County shall make deductions from the Conveying Owner’s various impact fee credit accounts from time to time only upon receipt of written direction from such Conveying Owner (or from such person or entity to whom the Conveying Owner expressly may assign this authority, in writing, in the future), to effect the particular deduction.

c) Nothing herein shall prevent the Conveying Owner from assigning impact fee credits as provided for in the Impact Fee Ordinance as it may be amended from time to time.

d) The parties acknowledge that the County is in the process of finalizing a road network agreement (“**Road Network Agreement**”) with other property owners in the Village I SAP that addresses, among other things, the widening of County Road 545 through the Village, as contemplated by that certain Horizon West Village I Term Sheet initially accepted by the County Board of County Commissioners on November 13, 2018. Therefore, to the extent the Project becomes subject to the Road Network Agreement and there exists a conflict between this Agreement and the Road Network Agreement as it pertains to the timing or manner of conveyance of the APF Land to the County or to the timing or manner in which transportation impact fee credits are awarded in connection therewith, the parties hereby agree that the Road Network Agreement shall control to the extent of such conflict.

8. Option on Conveyance. As an alternative to conveyance prior to or in connection with Planned Development approval, Owners have elected to convey at a later time, as contemplated by Sec. 30-714 of the APF/TDR Ordinance. Conveyance shall be defined as submittal of all conveyance documents, approval by the BCC, and recordation of the deed(s).

The parties agree that, prior to conveyance to County, Owner shall have the reasonable right to grade and to import or export fill material upon the APF Land, subject to and in accordance with an approved grading permit and/or excavation fill permit. Further, the Conveying Owner agrees to relinquish control of the APF Land and convey such APF Land to County, within 120 days after demand by County. If conveyance does not occur within such 120-day period, the Manager of County’s Real Estate Management Division may grant one extension of up to 120 days to complete the conveyance.

Owners acknowledge and agree that any development in connection with the PD Property shall not proceed with obtaining building permits beyond five percent (5%) of the PD Property’s entitlements prior to conveyance of the APF Land to the County or to the Village Escrow Agent under the Road Network Agreement or payment of any required APF Fee in lieu of conveyance. For the purposes of this Agreement, the parties agree that 5% of the development is defined as 15 residential units (attached or detached). Until such time as the conveyance process begins, Owner may continue to use the APF Land in a manner consistent with County’s intended use.

With respect to the APF Land, the Conveying Owner shall continue to be responsible for any and all risk of injury and property damage attributable to the acts or omissions of its officers and employees and agrees to defend, indemnify, and hold harmless County and its officers, employees, and agents from and against all claims, actions, losses, judgments, fines, liabilities, costs, and expenses in connection therewith. More specifically, to the extent permitted by law, the Conveying Owner shall indemnify and hold harmless County, its officers, agents, and employees

from and against any all claims, liability, demands, damages, surcharges, expenses, fees, fines, penalties, suits, proceedings, and actions (including, without limitation, reasonable paralegal, attorney, and other legal fees and expenses, whether in court, out of court, in administrative proceedings, or on appeal), including damage to property or property rights that may arise and which are proximately caused by the acts, errors, or omissions of the Conveying Owner, its agents, and/or representatives, arising out of its activities related to the APF Land. In addition, without limiting the foregoing, in the event that any act or omission of the Conveying Owner, its agents, and/or representatives, arising from or related to this Agreement, results in any spill or release of hazardous materials or other pollutants, as those terms are defined in federal and state environmental laws and regulations including, without limitation, any petroleum-based substances, then, to the extent permitted by law, the Conveying Owner shall indemnify and hold harmless County, its officers, agents, and employees from and against any and all claims, liability, demands, damages, surcharges, expenses, fees, fines, penalties, suits, proceedings, and actions, including, without limitation, all reasonable actual cleanup and/or remediation costs and expenses expended by County at the direction of any federal or state agency having jurisdiction, and further including, without limitation, reasonable paralegal, attorney, and other legal fees and expenses, whether in court, out of court, in administrative proceedings, or on appeal. Each Owner shall be responsible for the immediate notification to County of any environmental condition, spill, or release, or any other condition or occurrence of which it becomes aware that may result in a claim for damages, or that occurs as a result of such Owner's activities related to the APF Land.

In the event that any of the above occurs, County may refuse to accept conveyance of the APF Land and County may require that such Owner (i) pay an APF Fee in lieu of conveyance and/or (ii) convey alternative adequate public facilities land(s) acceptable to County.

9. Recording. Within thirty (30) days after the Effective Date, this Agreement shall be recorded in the Public Records of Orange County, Florida, at Owners' expense.

10. Limitation of Remedies. County and Owners expressly agree that the consideration, in part, for each of them entering 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 an 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 against such Owner; or
 - (ii) the right to set off, against the amount(s) of any impact fees to be credited in favor of such Owner under this Agreement, (A) any amount(s) due to County from such 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 such Owner, but which such Owner has failed or refused to do when required; or
- (iii) the withholding of development permits and other approvals and/or permits in connection with such Owner's property located within the Project and/or the PD 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 APF Land and/or any portion of the PD Property as County may lawfully elect.

b) Limitations on Owners' Remedies. Upon any failure by County to perform its obligations under this Agreement, Owners 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 Owners; 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. 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.

11. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit and burden of the parties hereto and their respective heirs, successors, and assigns and shall run with title to the PD Property and be binding upon any person, firm, corporation, or other entity acquiring any interest in all or any portion of the PD Property.

Additionally, notwithstanding the foregoing to the contrary, this Agreement shall not run with the land or be binding upon a single family residential end user or homeowner of an attached or detached dwelling ("Homeowner"). The right to amend this Agreement gets "severed" as to a Homeowner, and stays with the Owners unless the Owners assign all of their rights, title, and interest in and to this Agreement, and notify the County of such assignment.

12. Severability. If any provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefits by any party hereunder nor substantially increase the burden of any party hereunder, shall be held to be invalid or unenforceable to any

extent by a court of competent jurisdiction, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.

13. Notices. 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.

County: Orange County, Florida, c/o County Administrator
Post Office Box 1393
Orlando, Florida 32802-1393
Telephone: 407. 836.7370

With copies to: Orange County Planning, Environmental,
and Development Services Department
Manager, Planning Division
Post Office Box 1393
Orlando, Florida 32802-1393
Telephone: 407.836.5600

Orange County Planning, Environmental,
and Development Services Department
Manager, Transportation Planning Division
Orange County Public Works Complex
4200 S. John Young Parkway
Orlando, Florida 32839-8070
Telephone: 407.836.8070

Owners: Spring Grove, LLC
5956 Sherry Lane, Suite 1000
Dallas, Texas 75225-8021
Attention: Daniel Traylor

BB Groves, LLC
5956 Sherry Lane, Suite 1000
Dallas, Texas 75225-8021
Attention: Daniel Traylor

With copy to: James H. McNeil, Jr.
Akerman LLP
420 South Orange Avenue, Suite 1200
Orlando, Florida 32801-4904

14. Disclaimer of Third Party Beneficiaries. This Agreement is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party not a formal party hereto. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity any right, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof, other than the parties hereto and their respective representatives, heirs, successors, and assigns.

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

16. Interpretation. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that all parties have contributed substantially and materially to the preparation hereof. Captions and section headings in this Agreement are provided for convenience only and shall not be deemed to explain, modify, amplify, or aid in the interpretation, construction, or meaning of this Agreement.

17. Attorney Fees. Each party to this Agreement agrees to bear its own attorney and other legal fees and costs in connection with all actions to be undertaken in compliance with, and enforcement of, this Agreement.

18. Survival. The obligations of this Agreement shall survive the conveyance of the APF Land to County.

19. Amendments. No amendment, modification, or other change to this Agreement shall be binding upon the parties unless in writing and formally executed in the same manner as this Agreement.

20. Entire Agreement. This Agreement embodies and constitutes the entire understanding of the parties with respect to the subject matter addressed herein, and all prior or contemporaneous agreement, understandings, representations, and statements, oral or written, are merged into this Agreement.

21. Counterparts. This Agreement may be executed in up to three (3) counterparts, both of which taken together shall constitute one and the same instrument and any party or signatory hereto may execute this Agreement by signing either such counterpart.

22. Authority to Contract. The execution of this Agreement has been duly authorized by the appropriate body or official of each party hereto.

23. Termination; Effect of Annexation. This Agreement shall remain in effect so long as the PD Property remains in unincorporated Orange County, Florida, unless the parties terminate it, in writing, with the same formality as its execution. If any portion of the PD Property is proposed to be annexed into a neighboring municipality, County may, in its sole discretion, terminate this Agreement upon notice to Owners.

[SIGNATURES APPEAR ON THE 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: 12 March 2020

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

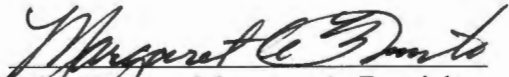
By: Jennifer Klimetz
for Deputy Clerk

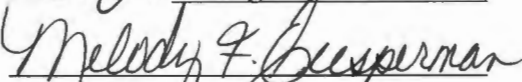
Printed Name: Jennifer Klimetz

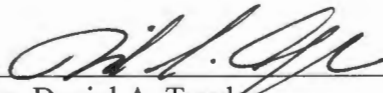
SPRING GROVE, LLC, a Delaware limited liability company

WITNESSES:

By: CH II SPRING GROVE, LLC, a Delaware limited liability company, as its sole Manager


Print Name: Margaret A. Bernick



Print/Name: Melody F. Ellsperman

By: 
Name: Daniel A. Traylor
Title: Manager
Date: 12/16/2019

STATE OF INDIANA
COUNTY OF VANDERBURGH

The foregoing instrument was acknowledged before me this 16th day of December, 2019 by Daniel A. Traylor, as Manager of CH II SPRING GROVE, LLC, a Delaware limited liability company, the sole Manager of SPRING GROVE, LLC, a Delaware limited liability company, on behalf of such company, who [X] is personally known to me or [] has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 16th day of December, 2019.


Notary Public
Print Name: Donna M. Bush

My Commission Expires: 01/20/2024

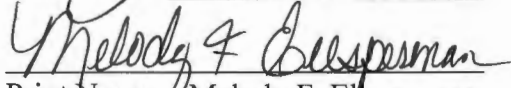
Commission No. 677213

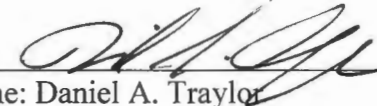


BB GROVES, LLC, a Delaware limited liability company, registered to do business in the State of Florida as B Bank Groves, LLC, a Delaware limited liability company

WITNESSES:


Print Name: Margaret A. Bernick



Print Name: Melody F. Ellsperman

By: 
Name: Daniel A. Traylor
Title: Manager
Date: 12/16/2019

STATE OF INDIANA
COUNTY OF VANDERBURGH

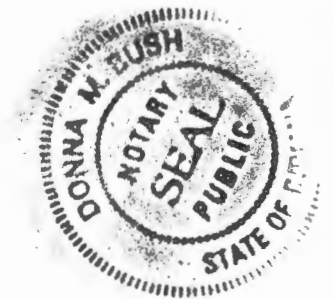
The foregoing instrument was acknowledged before me this 16th day of December, 2019, by Daniel A. Traylor, as Manager of BB Groves, LLC, a Delaware limited liability, registered to do business in the State of Florida as B Bank Groves, LLC, a Delaware limited liability company, on behalf of such company, who [X] is personally known to me or [] has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 16th day of December, 2019.


Notary Public
Print Name: Donna M. Bush

My Commission Expires: 01/20/2024

Commission No. 677213



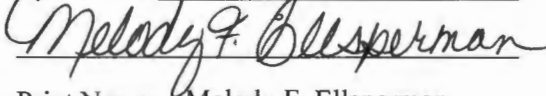
JOINDER AND CONSENT BY WITHERS, LLC

Withers, LLC, hereby joins in and consents to this Agreement as co-owner of the surplus APF acreage credits being transferred to the PD Property in accordance with Section 4 of this Agreement, for the sole and limited purpose of consenting to such transfer.

WITNESS:



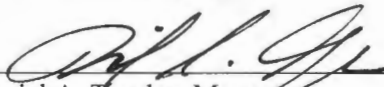
Print Name: Margaret A. Bernick



Print Name: Melody F. Ellsperman

Withers, LLC, a Delaware limited liability company, registered to do business in the State of Florida as Withers Properties, LLC

By: CH II Withers, LLC, a Delaware limited liability company, its sole Manager

By: 
Daniel A. Traylor, Manager

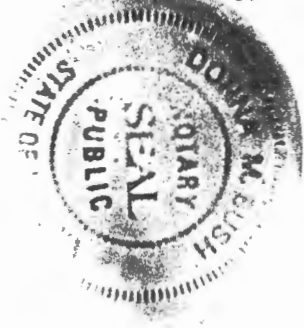
This 16th day of December, 2019.

STATE OF INDIANA

COUNTY OF VANDERBURGH

The foregoing instrument was acknowledged before me this 16th day of December, 2019 by Daniel A. Traylor, as Manager of CH II Withers, LLC, a Delaware limited liability company, the sole Manager of Withers, LLC, a Delaware limited liability company, registered to do business in the State of Florida as Withers Properties, LLC, on behalf of the company, who [] is personally known to me or [] has produced _____ as identification.

(Notary Stamp)





Signature of Notary Public

Print Name: Donna M. Bush

Notary Public, State of Indiana


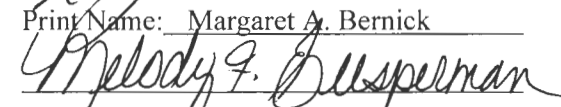
Commission Expires: 01/20/2024

Commission No. 677213

JOINDER AND CONSENT BY COLUMNAR PARTNERSHIP HOLDING I, LLC

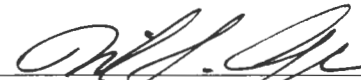
Columnar Partnership Holding I, LLC, hereby joins in and consents to this Agreement as co-owner of the surplus APF acreage credits being transferred to the PD Property in accordance with Section 4 of this Agreement, for the sole and limited purpose of consenting to such transfer.

WITNESS:


Print Name: Margaret A. Bernick

Print Name: Melody F. Ellsperman

Columnar Partnership Holding I, LLC, an
Indiana limited liability company

By: Columnar Holdings, LLC, an Indiana
limited liability company, its sole
Member

By: 
Daniel A. Traylor, President

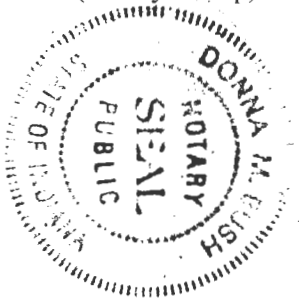
This 16th day of December, 2019.

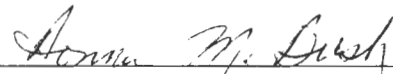
STATE OF INDIANA

COUNTY OF VANDERBURGH

The foregoing instrument was acknowledged before me this 16th day of December, 2019 by Daniel A. Traylor, as President of Columnar Holdings, LLC, an Indiana limited liability company, sole Member of Columnar Partnership Holding I, LLC, an Indiana limited liability company, on behalf of such company, who is personally known to me or has produced _____ as identification.

(Notary Stamp)





Signature of Notary Public

Print Name: Donna M. Bush

Notary Public, State of Indiana

Commission Expires: 01/20/2024

Commission No. 677213

Exhibit "A"
Project Area Location Map
for the PD Property

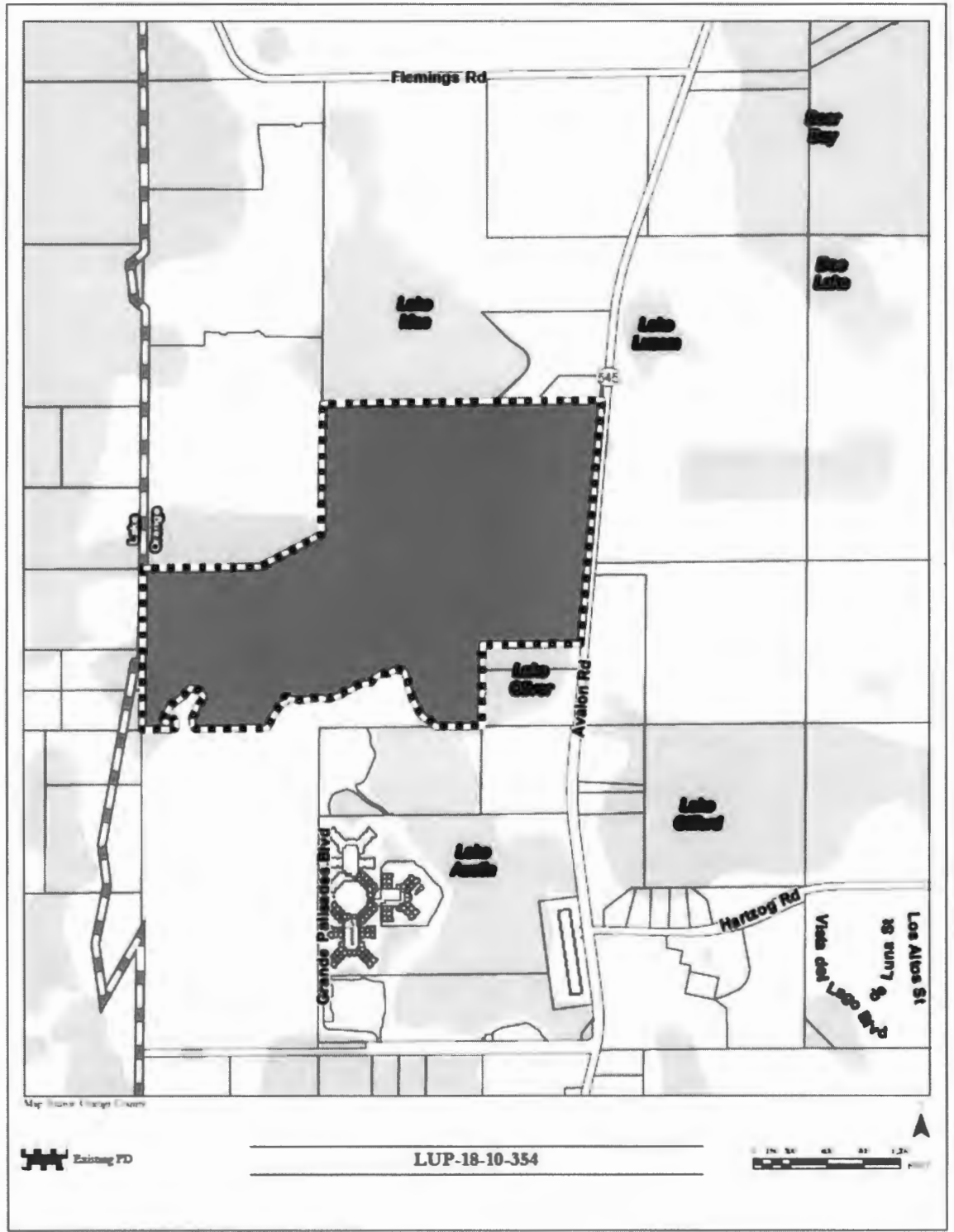


Exhibit "B"

Legal Description

The land referred to herein below is situated in the County of Orange, State of Florida, and described as follows:

A portion of Section 30, Township 24 South, Range 27 East, Orange County, Florida, described as follows:

BEGIN at the northwest corner of the Northwest 1/4 of the Southwest 1/4 of said Section 30; thence run N 89°23'20" E, along the north line of the Northwest 1/4 of the Southwest 1/4 of said Section 30, a distance of 954.16 feet; thence run N 62°24'56" E, a distance of 571.06 feet to a point on the west line of the Southeast 1/4 of the Northwest 1/4 of said Section 30; thence run N 00°33'20" E, along said west line, a distance of 1,064.00 feet to a point on the north line of the Southeast 1/4 of the Northwest 1/4 of said Section 30; thence run N 89°13'11" E, along said north line, a distance of 1,332.88 feet to a point on the north line of the Southwest 1/4 of the Northeast 1/4 of said Section 30; thence run N 89°23'35" E, along said north line, a distance of 956.82 feet to a point on the westerly right-of-way line of Avalon Road; thence run S 05°01'29" W, along said westerly right-of-way, a distance of 1,998.26 feet to a point on the south line of the North 1/2 of the Northwest 1/4 of the Southeast 1/4 of said Section 30; thence run S 89°24'45" W, along said south line, a distance of 803.61 feet to a point on the east line of the Northeast 1/4 of the Southwest 1/4 of said Section 30; thence run S 00°37'43" W, along said east line, a distance of 661.75 feet to a point on the south line of the Northeast 1/4 of the Southwest 1/4 of said Section 30; thence run S 89°26'23" W, along said south line, a distance of 379.35 feet; thence, departing said south line, run N 37°02'21" W, a distance of 23.56 feet; thence run N 49°17'19" W, a distance of 47.16 feet; thence run N 60°35'13" W, a distance of 50.75 feet; thence run N 44°13'20" W, a distance of 55.70 feet; thence run N 23°06'04" W, a distance of 59.87 feet; thence run N 32°39'40" W, a distance of 53.54 feet; thence run N 18°59'12" W, a distance of 40.76 feet; thence run N 22°24'27" W, a distance of 63.40 feet; thence run N 05°07'47" W, a distance of 62.38 feet; thence run N 18°36'57" W, a distance of 81.53 feet; thence run N 76°53'59" W, a distance of 72.44 feet; thence run S 61°25'16" W, a distance of 74.34 feet; thence run S 89°07'56" W, a distance of 61.67 feet; thence run S 56°45'48" W, a distance of 53.34 feet; thence run S 33°19'21" W, a distance of 51.38 feet; thence run S 82°01'13" W, a distance of 94.02 feet; thence run S 63°53'23" W, a distance of 45.75 feet; thence run S 52°30'07" W, a distance of 40.51 feet; thence run S 74°16'24" W, a distance of 53.33 feet; thence run S 50°19'15" W, a distance of 33.13 feet; thence run S 62°12'46" W, a distance of 45.60 feet; thence run S 73°22'57" W, a distance of 71.21 feet; thence run N 78°31'55" W, a distance of 57.08 feet; thence run S 85°48'48" W, a distance of 89.59 feet; thence run S 78°27'11" W, a distance of 47.05 feet; thence run S 84°52'30" W, a distance of 52.37 feet; thence run N 77°56'31" W, a distance of 52.48 feet; thence run S 86°02'11" W, a distance of 22.19 feet; thence run N 43°02'30" W, a distance of 33.50 feet; thence run S 57°40'16" W, a distance of 24.15 feet; thence run S 22°12'29" E, a distance of 38.60 feet; thence run S 71°10'42" W, a distance of 36.65 feet; thence run S 39°58'07" W, a distance of 51.47 feet; thence run S 32°03'09" W, a distance of 70.85 feet; thence run S 24°37'07" W, a distance of 41.33 feet; thence run S 28°42'53" W, a distance of 50.69 feet; thence run S 23°06'00" W, a distance of 21.61 feet to a point on the south line of the Northwest 1/4 of the

Southwest 1/4 of said Section 30; thence run S 89°26'23" W, along said south line, a distance of 588.73 feet; thence, departing said south line, run N 36°17'57" W, a distance of 33.26 feet; thence run N 11°16'10" W, a distance of 61.20 feet; thence run N 26°27'40" E, a distance of 52.60 feet; thence run N 20°25'28" E, a distance of 49.99 feet; thence run N 35°40'41" E, a distance of 74.87 feet; thence run N 33°54'12" E, a distance of 32.97 feet; thence run N 45°41'20" W, a distance of 35.31 feet; thence run N 34°20'41" W, a distance of 26.86 feet; thence run N 76°36'17" W, a distance of 34.51 feet; thence run N 60°17'32" W, a distance of 38.07 feet; thence run S 40°13'50" W, a distance of 38.18 feet; thence run S 40°46'30" W, a distance of 59.35 feet; thence run S 53°06'24" W, a distance of 80.02 feet; thence run S 58°40'33" W, a distance of 49.45 feet; thence run S 26°54'16" W, a distance of 73.80 feet; thence run S 22°53'46" W, a distance of 61.98 feet; thence run S 42°27'46" E, a distance of 29.14 feet; thence run N 60°54'59" E, a distance of 78.88 feet; thence run S 26°39'56" E, a distance of 54.51 feet; thence run S 23°04'16" W, a distance of 45.29 feet to a point on the aforesaid south line of the Northwest 1/4 of the Southwest 1/4 of said Section 30; thence run S 89°26'23" W, along said south line, a distance of 269.50 feet to a point on the west line of the Northwest 1/4 of the Southwest 1/4 of said Section 30; thence run N 00°22'05" E, along said west line, a distance of 1,320.92 feet to the POINT OF BEGINNING.