



Interoffice Memorandum

APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS

BCC Mtg. Date: November 15, 2016

REAL ESTATE MANAGEMENT ITEM 4

DATE: October 28, 2016

TO: Mayor Teresa Jacobs
and the
Board of County Commissioners

THROUGH: Ann Caswell, Manager *AC*
Real Estate Management Division *as per*

FROM: Madelyn Johnson, Title Examiner
Real Estate Management Division

CONTACT PERSON: Ann Caswell, Manager

DIVISION: Real Estate Management
Phone: (407) 836-7082

ACTION REQUESTED: APPROVAL OF UTILITY EASEMENT BETWEEN AVISTA PROPERTIES IX, LLC AND ORANGE COUNTY, SUBORDINATION OF ENCUMBRANCES TO PROPERTY RIGHTS TO ORANGE COUNTY FROM BANK OF AMERICA, N.A. AND AUTHORIZATION TO RECORD INSTRUMENTS

PROJECT: Hyatt Place @ Lake Buena Vista/Sitework
Permit: B13904210 OCU File #: 75825

District 1

PURPOSE: To provide for access, construction, operation, and maintenance of utility facilities as a requirement of development.

ITEMS: Utility Easement
Cost: Donation
Size: 525 square feet

Subordination of Encumbrances to Property Rights to Orange County

APPROVALS: Real Estate Management Division
Utilities Department

REMARKS: Grantor to pay all recording fees.

A file labeled “BCC Agenda Backup” containing a copy of this agenda item and all supporting documentation is in the top drawer of the BCC file cabinet in the supply room adjacent to Commissioner Thompson’s office.

NOV 15 2016

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UTILITY EASEMENT

THIS INDENTURE, Made this 23 day of September, A.D. 2016, between Avista Properties IX, LLC, a Florida limited liability company, having its principal place of business in the city of Orlando, county of Orange, whose address is 5353 Conroy Road, Suite 200, Orlando, Florida 32811, GRANTOR, and Orange County, a charter county and political subdivision of the state of Florida, whose address is P.O. Box 1393, Orlando, Florida 32802-1393, GRANTEE.

WITNESSETH, That the GRANTOR, in consideration of the sum of \$1.00 and other valuable considerations, paid by the GRANTEE, the receipt whereof is hereby acknowledged, does hereby give and grant to the GRANTEE and its assigns, a right-of-way and easement for utility purposes, with full authority to enter upon, excavate, construct and maintain, as the GRANTEE and its assigns may deem necessary, water lines, wastewater lines, reclaimed water lines, and any other utility facilities over, under and upon the following described lands situate in Orange County aforesaid, to-wit:

SEE ATTACHED EXHIBIT "A"

Property Appraiser's Parcel Identification Number:

a portion of

22-24-28-8915-00-020

TO HAVE AND TO HOLD said right-of-way and easement unto said GRANTEE and its assigns forever.

THE GRANTEE herein and its assigns shall have the right to clear and keep clear all trees, undergrowth and other obstructions that may interfere with normal operation or maintenance of the utilities and any facilities placed thereon by the GRANTEE and its assigns, out of and away from the herein granted right-of-way, and the GRANTOR, its successors and assigns, agree not to build, construct, or create, nor permit others to build, construct, or create any buildings or other structures on the herein granted right-of-way that may interfere with the normal operation or maintenance of the utility facilities installed thereon.

GRANTEE may at any time increase its use of the easement, change the location of pipelines or other facilities within the boundaries of the easement right-of-way, or modify the size of existing pipelines or other improvements as it may determine in its sole discretion from time to time without paying any additional compensation to GRANTOR or GRANTOR'S heirs, successors, or assigns, provided GRANTEE does not expand its use of the easement beyond the easement boundaries described above.

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GRANTEE'S obligation to restore landscaping shall be limited to an obligation to restore to Orange County landscaping standards for Orange County right-of-way and shall not include an obligation to restore to exotic or enhanced landscaping standards.

IN WITNESS WHEREOF, the GRANTOR has caused these presents to be executed in its name.

Signed, sealed and delivered
in the presence of:

[Signature]
Witness

DMITRY PROKUBKO
Printed Name

[Signature]
Witness

Sheila Pillay
Printed Name

(Signature of TWO witnesses required by Florida law)

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 20th day of Sept, 2016, by Anil Valbh as Managing Member of Avista Properties IX, LLC, a Florida limited liability company, on behalf of the limited partnership. He/she [☒] is personally known to me, or [] has produced _____ as identification.

Witness my hand and official seal this 20th day of September, 2016.

(Notary Seal)

[Signature]
Notary Signature

Vicki L Achenbach
Printed Notary Name

Notary Public in and for
the County and State aforesaid

My commission expires: 9/24/19



Vicki L. Achenbach
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF921338
Expires 9/24/2019

This instrument prepared by:
Madelyn Johnson, a staff employee
in the course of duty with the
Real Estate Management Division
of Orange County, Florida

SKETCH OF DESCRIPTION
HYATT PLACE LAKE BUENA VISTA
PERMIT NUMBER B13904210

EXHIBIT A

DESCRIPTION:

A portion of Lot 2, VISTA CENTRE REPLAT, according to the Plat thereof in Plat Book 18, Pages 117 through 121, Public Records of Orange County, Florida, being a portion of Section 22, Township 24 South, Range 28 East, Orange County, Florida, being more particularly described as follows:

Commence at the Southwest corner of said Lot 2 thence N89°50'45"E, along the South line of said Lot 2 a distance of 354.96 feet; thence departing said South line N00°09'15"W, a distance of 220.30 feet; thence S89°59'52"E a distance of 135.00 feet; thence N00°00'08"E, a distance of 339.00 feet to the South line of that certain 31.00 foot wide landscape easement as shown on the plat of said Vista Centre Replat and the Point of Beginning; thence N89°59'30"W, a distance of 35.00 feet along said South line; thence departing said South line N00°00'08"E, a distance of 15.00 feet to a point on the South line of a 16 foot utility and drainage easement as shown on the plat of said Vista Centre Replat; Thence S89°59'30"E a distance of 35.00 feet along said South line; thence departing said South line S00°00'08"W, a distance of 15.00 feet to the Point of Beginning.

Containing .525 square feet, more or less.

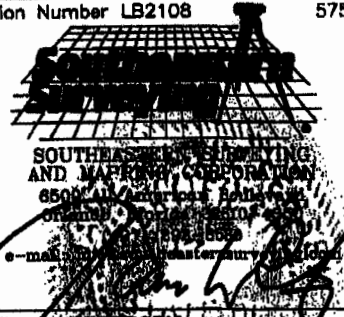
LEGEND:

ORB = OFFICIAL RECORDS BOOK
PG = PAGE
R = RADIUS
L = ARC LENGTH
Δ = DELTA

SURVEYOR'S REPORT:

1. Bearings shown hereon are based on the South line of Lot 2, Vista Centre Replat having a bearing of N89°50'45"E.
2. I hereby certify that the "Sketch of Description" of the above described property is true and correct to the best of my knowledge and belief as recently drawn under my direction and that it meets the Standards of Practice for Land Surveying Chapter 5J-17 requirements.

Revised 07/19/16 per Orange County comments SMF

Sketch of Description	Date: July 5, 2016 SMF		Certification Number LB2108 57538005
	Job Number: 57538 Scale: 1" = 30'		 SOUTHEASTERN SURVEYING AND MAPPING CORPORATION 6500 W. American Parkway Orlando, Florida 32817 e-mail: jls@semsurvey.com JAMES L. HENDERSON REGISTERED LAND SURVEYOR Number 4791
	Chapter 5J-17, Florida Administrative Code requires that a legal description drawing bear the notation that THIS IS NOT A SURVEY.		
	SHEET 1 OF 2 SEE SHEET 2 FOR SKETCH		
FOR Avista Properties IX, LLC			

SKETCH OF DESCRIPTION
HYATT PLACE LAKE BUENA VISTA
PERMIT NUMBER B13904210

CENTERLINE

PALM PARKWAY
RIGHT OF WAY VARIES
PLAT BOOK 18, PAGES 117-121

R = 1403.40'
Δ = 10°00'00"
L = 244.94'

N 79°59'52" W
33.82'

N 89°59'30" W 237.82'

16' UTILITY AND DRAINAGE EASEMENT
(PER PLAT) AND ORB 4901, PG. 4585

SOUTH LINE OF 16' UTILITY AND LANDSCAPE EASEMENT

31' LANDSCAPE EASEMENT
(PER PLAT)

SOUTH LINE OF 31' LANDSCAPE EASEMENT

16' UTILITY AND DRAINAGE
EASEMENT
(PER PLAT) AND ORB
4901, PG. 4585

31' LANDSCAPE EASEMENT
(PER PLAT)

POINT OF
BEGINNING

RECIPROCAL ACCESS EASEMENT
AGREEMENT, ORB 3901, PG. 518

A PORTION OF LOT 2
VISTA CENTRE REPLAT
PLAT BOOK 18, PAGES
117 THROUGH 121

10' WIDE EASEMENT FOR ELECTRIC AND COMMUNICATION
SERVICES; ORB 3970, PG. 3427

10' WIDE EASEMENT FOR ELECTRIC
AND COMMUNICATION SERVICES
ORB 3970, PG. 3427

N 00°00'08" E 370.00'

REMAINDER
OF LOT 2

LINE TABLE		
LINE #	BEARING	LENGTH
L1	N89°59'30"W	35.00'
L2	N00°00'08"E	15.00'
L3	S89°59'30"E	35.00'
L4	S00°00'08"W	15.00'

PORTION OF
TRACT 4

S 00°14'27" W 178.23'
S 00°24'42" W 200.67'

POINT OF
COMMENCEMENT
SOUTHWEST
CORNER OF
LOT 2

SOUTH LINE OF LOT 2

N 89°50'45" E

354.96'

(NOT PLATTED)

S 89°59'52" E 135.00'

N 00°09'15" W 220.30'

REMAINDER OF LOT 2

1" = 30'
GRAPHIC SCALE
0 30'



SOUTHEASTERN SURVEYING
AND MAPPING CORPORATION
6500 All American Boulevard
Orlando, Florida 32810-4350
(407) 292-8580
Certification Number LB2108

e-mail: info@southeasternsurveying.com

Revised 07/19/16 per Orange County comments SMF

Drawing No. 57538005

Job No. 57538

Date: JULY 5, 2016

SHEET 2 OF 2

See Sheet 1 for Description

THIS IS NOT A SURVEY.
NOT VALID WITHOUT SHEET 1 THROUGH 2

NOV 15 2016

Project: Hyatt Place @ Lake Buena Vista/Sitework
Permit: B13904210 OCU File #: 75825

SUBORDINATION OF ENCUMBRANCES TO PROPERTY RIGHTS TO ORANGE COUNTY

KNOW ALL MEN BY THESE PRESENTS: That Whereas, it is proposed by Orange County, a charter county and political subdivision of the state of Florida, whose address is P.O. Box 1393, Orlando, Florida 32802-1393, to locate, construct, maintain, and/or improve a utility easement in Orange County, Florida; and,

WHEREAS, A portion of the lands involved and necessary to said project is subject to a Mortgage, Assignment of Rents, Security Agreement and Fixture Filing; and Financing Statement held by the undersigned; and,

WHEREAS, On behalf of Orange County, a request has been made for the undersigned to subordinate said encumbrances to the property rights of Orange County in and to the portion of the premises hereinafter described.

NOW, THEREFORE, WITNESSETH: That for and in consideration of the premises and One Dollar and other good and valuable considerations paid, receipt of which is hereby acknowledged, the undersigned subordinates said encumbrances as they have been or as may be modified and amended from time to time to the property rights of Orange County to locate, construct, maintain, and/or improve said project over, through, upon, and/or across the following described lands, being a portion of the encumbered premises in Orange County, Florida, to-wit:

SEE ATTACHED EXHIBIT "A"

Encumbrances:

Bank of America, N.A.

FROM: Avista Properties IX, LLC

Mortgage, Assignment of Rents, Security Agreement and Fixture Filing
filed February 7, 2014

Recorded in Official Records Book 10701, Page 4089

Financing Statement filed February 7, 2014

Recorded in Official Records Book 10701, Page 4119

All in the Public Records of Orange County, Florida

Project: Hyatt Place @ Lake Buena Vista/Sitework
Permit: B13904210 OCU File #: 75825

PROVIDED ALWAYS, NEVERTHELESS, and it is expressly understood and agreed that this instrument subordinates said encumbrances insofar as same affects the rights and privileges of Orange County, in its use of the land specifically above described for utility easement purposes only, and that nothing herein contained shall in any way affect, alter, impair, minimize, or diminish the effect of said encumbrances or the remedies at law or in equity for recovering thereon, or against the parties charged thereby, the full amount of all sums secured by and/or due under the same. It is further understood and agreed that in the event said above described premises are abandoned by Orange County and cease to be used for utility easement purposes that in such event the subordination of said encumbrances shall become of the same status with reference to such abandoned portion as if the subordination had never been made.

IN WITNESS WHEREOF, the said holder of said encumbrances has duly executed this instrument this 21st day of September, A.D. 20 16.

Signed, sealed, and delivered
in the presence of:

Melissa Reynolds
Witness

Melissa Reynolds
Printed Name

David Choe
Witness

David Choe
Printed Name

Bank of America, N.A.,
a national banking association

BY: [Signature]

KAT SEA
Printed Name

VICE PRESIDENT
Title

(Corporate Seal)

ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of Orange)

On September 21, 2016 before me, Marilyn R. Smith, Notary Public, personally appeared Kat Sea, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Marilyn R. Smith
(Signature)

(Seal)

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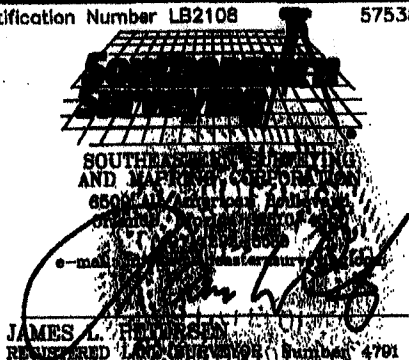
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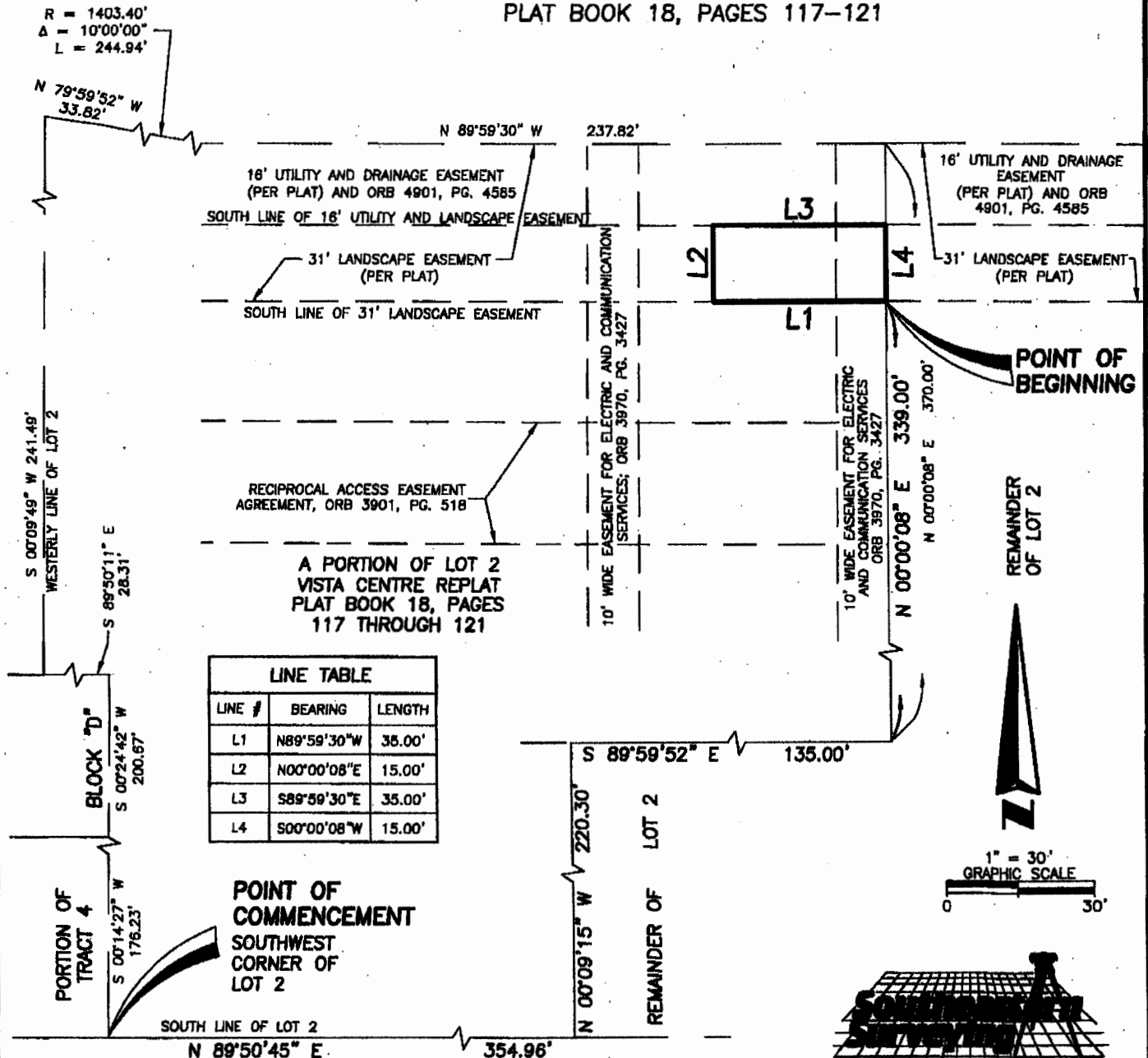
Revised 07/19/16 per Orange County comments SMF

Sketch of Description FOR Avista Properties IX, LLC	Date: July 5, 2016 SMF		Certification Number LB2108 57538005
	Job Number: 57538	Scale: 1" = 30'	 SOUTHERN SURVEYING AND MAPPING CORPORATION 650 N. ALA. AVE. SUITE 200 ORANGE, FL 32668 e-mail: jason@ssmcorp.com JAMES L. HENNINGSON REGISTERED LAND SURVEYOR (Number 4701)
	Chapter 5J-17, Florida Administrative Code requires that a legal description drawing bear the notation that THIS IS NOT A SURVEY.		
	SHEET 1 OF 2 SEE SHEET 2 FOR SKETCH		

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PERMIT NUMBER B13904210

CENTERLINE

PALM PARKWAY
RIGHT OF WAY VARIES
PLAT BOOK 18, PAGES 117-121



(NOT PLATTED)

Revised 07/19/16 per Orange County comments SMF

Drawing No. 57538005

Job No. 57538

Date: JULY 5, 2016

SHEET 2 OF 2

See Sheet 1 for Description

THIS IS NOT A SURVEY.

NOT VALID WITHOUT SHEET 1 THROUGH 2

SOUTHEASTERN SURVEYING
AND MAPPING CORPORATION
8500 All American Boulevard
Orlando, Florida 32810-4360
(407) 292-8580
Certification Number LB2108
e-mail: info@southeasternsurveying.com