



Interoffice Memorandum


APPROVED BY ORANGE  
COUNTY BOARD OF COUNTY  
COMMISSIONERS


BCC Mtg. Date: November 1, 2016

REAL ESTATE MANAGEMENT ITEM 4

**DATE:** October 14, 2016

**TO:** Mayor Teresa Jacobs  
and the  
Board of County Commissioners

**THROUGH:** Ann Caswell, Manager   
Real Estate Management Division

**FROM:** Kim Heim, Title Examiner   
Real Estate Management Division

**CONTACT PERSON:** Ann Caswell, Manager

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

**ACTION REQUESTED:** APPROVAL AND EXECUTION OF NON-EXCLUSIVE DRAINAGE EASEMENT AND JOINT UTILIZATION AGREEMENT MODIFICATION BETWEEN KB HOME ORLANDO, LLC AND ORANGE COUNTY AND AUTHORIZATION TO RECORD INSTRUMENT

**PROJECT:** Sawgrass Pointe Phase 2  
  
District 4

**PURPOSE:** To modify an existing non-exclusive drainage easement area as a requirement of development.

**ITEM:** Non-Exclusive Drainage Easement and Joint Utilization Agreement Modification  
Cost/Revenue: None  
Size of released easement area: 1.87 acres  
Size of modified easement area: 1.99 acres

**APPROVALS:** Real Estate Management Division  
Public Works Department  
Environmental Protection Division  
County Attorney's Office

**REMARKS:**

On January 28, 2003, the Board of County Commissioners (BCC) approved the Wetherbee Road – Phase II Right-of-Way Dedication between Orange County and SunTrust Bank, as Trustee (Agreement). On February 13, 2007, the BCC approved the Non-Exclusive Drainage Easement and Joint Utilization Agreement (Easement) required by the Agreement which allowed for future modification.

KB Home Orlando, LLC successor in title to the Easement has requested modification of the easement area. Orange County is executing the Non-Exclusive Drainage Easement and Joint Utilization Agreement Modification to release the original easement area and accept the modified easement area to replace it. The new easement area drains into an existing conservation tract which has been reviewed and approved by the Environment Protection Division. All other terms and conditions of the Easement remain the same.

Grantor to pay 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 01 2016

Project: Sawgrass Pointe Phase 2

**NON-EXCLUSIVE DRAINAGE EASEMENT AND  
JOINT UTILIZATION AGREEMENT MODIFICATION**

**THIS NON-EXCLUSIVE DRAINAGE EASEMENT AND JOINT UTILIZATION AGREEMENT MODIFICATION ("Modification")** is made and entered into this 22<sup>nd</sup> day of July, 2016 by and between KB Home Orlando, LLC, a Delaware limited liability company, whose mailing address is 4102 Southpark Center Loop #100 Orlando, FL 32819 ("**Developer**"), 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**").

WHEREAS, County and Developer's predecessor in interest, SunTrust Bank, a Georgia corporation, as Trustee of that certain land trust for the benefit of Airport Industrial Investment Company, LLC ("SunTrust") entered into that certain Wetherbee Road – Phase II Right-of-Way Dedication Agreement Between Orange County and SunTrust Bank, as Trustee, as recorded in Official Records Book 6810, Page 1756, of the Public Records of Orange County, Florida (the "**Right-of-Way Agreement**"); and

WHEREAS, the Right-of-Way Agreement required that SunTrust provide an easement in favor of County for the drainage purposes necessary to accommodate the road right of way contemplated therein; and

WHEREAS, in accordance with the Right-of-Way Agreement's terms, Kathie E. Yates, Tommy E. Yates, Gary C. Yates, and Glenn L. Yates, in their individual capacities, as personal representatives of the Estate of Eloise Yates, deceased, and as personal representatives of the Estate of Claude L. Yates, deceased ("Yates"), and a successor-in-interest to SunTrust, executed that certain Non-Exclusive Drainage Easement and Joint Utilization Agreement, in favor of County dated October 24, 2006, and recorded on February 20, 2007 in Official Records Book 9121, Page 1168, of the Public Records of Orange County, Florida (the "**Drainage Easement**") for the purposes of access, construction, and drainage over and upon the real property described therein (the "**Easement Area**"); and

WHEREAS, pursuant to the terms of the Right-of-Way Agreement, Developer has the right to reasonably relocate or expand any part or all of the Easement Area; and

WHEREAS, Developer has requested, and County has agreed, to release its easement interest in the Easement Area as is more particularly set forth on Exhibit "A" attached hereto and incorporated herein by this reference (the "**Released Easement Area**"), in consideration of Developer's grant and conveyance to County of an alternate stormwater drainage easement over, upon, under, and within the real property more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference (the "**Modified Easement Area**"); and

WHEREAS, the parties wish to enter into this Modification in order to effectuate the replacement of the Released Easement Area with the Modified Easement Area.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. RECITALS. The recitals set forth above are true and correct and form an integral component of this Modification.

2. EASEMENT MODIFICATION. Pursuant to the terms of the Right-of-Way Agreement, the parties agree as follows:

(a) The County hereby releases all of its right, title, and interest in the Released Easement Area as more particularly described in Exhibit "A".

(b) Developer hereby grants and conveys to County a perpetual, nonexclusive easement for the collection and treatment of stormwater from Wetherbee Road and related improvements, with full authority to enter upon, construct, and maintain, as County and its assigns may deem necessary, a drainage ditch, pipe, or facility over, under, and upon the Modified Easement Area described on Exhibit "B." Additionally, County shall have the right, but not the obligation, to clear and keep clear all trees, undergrowth, and other obstructions that may interfere with normal operation or maintenance of the drainage ditch, pipe, or facility, out of and away from the Modified Easement Area, and Developer, its heirs, 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 Modified Easement Area that may interfere with the normal operation or maintenance of the drainage ditch, pipe, or facility.

3. EXHIBITS. The following exhibits are attached to this Modification and for all purposes and references in this Modification are deemed to be incorporated:

Exhibit A Released Easement Area

Exhibit B Modified Easement Area

**[Signature blocks appear on following pages.]**

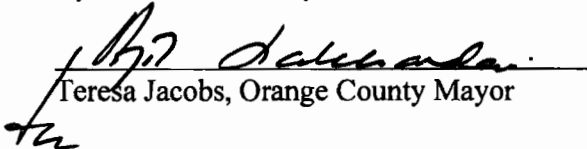
IN WITNESS WHEREOF, parties have caused these presents to be signed as of the date and year first above written.

**"COUNTY"**



Orange County, Florida

By: Board of County Commissioners

  
Teresa Jacobs, Orange County Mayor

Date: 11.1.16

Attest: Martha O. Haynie, Orange County  
Comptroller, as Clerk to the Board of  
County Commissioners

By:   
Deputy Clerk

Date: NOV 01 2016

**"DEVELOPER"**

**WITNESSES:**

Courtney Dean

Print Name: Courtney Dean

David Henning

Print name: David Henning

KB Home Orlando, LLC,  
a Delaware limited liability company

By: Daniel Edwards

Daniel Edwards

Printed Name

Director Land Acq / Planning

Title

(corporate seal)

STATE OF FLORIDA  
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of July, 2016, by Daniel Edwards, as Director Land Acq / Planning of KB Home Orlando, LLC, a Delaware limited liability company, on behalf of the company, and who has acknowledged that he/she has executed the same on behalf of the corporation and that he/she was authorized to do so. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

(Notary Seal)



Courtney Dean

Notary Signature

Courtney Dean

Printed Notary Name

Notary Public in and for  
the county and state aforesaid.

My commission expires: August 26, 2017

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

## RELEASED EASEMENT AREA

## Legal Description

A portion of Section 19, Township 24 South, Range 30 East, Orange County, Florida, being more particularly described as follows:

Commence at the northwest corner of said Section 19; thence run S 00°32'46" E, along the west line of the Northwest 1/4 of said Section 19, a distance of 1550.85 feet; thence, departing said west line, run N 89°27'14" E, a distance of 5.00 feet for the POINT OF BEGINNING; said point being a point on a non-tangent curve, concave southeasterly, having a radius of 45.00 feet and a central angle of 58°22'49"; thence on a chord bearing of N 28°38'38" E, run 45.85 feet along the arc of said curve to the point of tangency thereof; thence run N 57°50'03" E, a distance of 29.08 feet to a point of curvature of a curve, concave southwesterly, having a radius of 35.00 feet and a central angle of 78°45'40"; thence run easterly, along the arc of said curve, a distance of 48.11 feet to the point of tangency thereof; thence run S 43°24'18" E, a distance of 143.09 feet to a point of curvature of a curve, concave southwesterly, having a radius of 135.00 feet and a central angle of 42°33'44"; thence run southeasterly, along the arc of said curve, a distance of 100.28 feet to the point of tangency thereof; thence run S 00°50'34" E, a distance of 24.27 feet to a point of curvature of a curve, concave northeasterly, having a radius of 265.00 feet and a central angle of 27°04'30"; thence run southeasterly, along the arc of said curve, a distance of 125.23 feet to the point of reverse curvature with a curve, concave northwesterly, having a radius of 35.00 feet and a central angle of 82°08'42"; thence run southwesterly, along the arc of said curve, a distance of 50.18 feet to the point of tangency thereof; thence run S 54°13'39" W, a distance of 45.96 feet to a point of curvature of a curve, concave northwesterly, having a radius of 35.00 feet and a central angle of 52°37'14"; thence run southwesterly, along the arc of said curve, a distance of 32.14 feet to the point of tangency thereof; thence run N 73°09'07" W, a distance of 130.97 feet; thence run S 16°33'16" W, a distance of 49.89 feet; thence run N 73°26'44" W, a distance of 20.00 feet; thence run N 16°33'16" E, a distance of 50.01 feet to a point on a non-tangent curve, concave northeasterly, having a radius of 45.00 feet and a central angle of 70°46'45"; thence on a chord bearing of N 35°56'09" W, run 55.59 feet along the arc of said curve to the point of tangency thereof; said point being a point lying 5.00 feet easterly of (when measured perpendicular to) the aforesaid west line of the Northwest 1/4 of said Section 19; thence run N 00°32'46" W, parallel with said west line, a distance of 281.54 feet to the POINT OF BEGINNING.

Containing 1.87 acres, more or less.

## Surveyor's Notes:

Lands shown hereon were not abstracted for easements, rights of way, ownership or other matters by this firm.

The legal description was prepared by the Surveyor.

See Sheet 2 of 2 for sketch of description.

Bearings are based on an assumed bearing of N 00°32'46" W, along the west line of the Northwest 1/4 of Section 19, Township 24 South, Range 30 East, Orange County, Florida.


Lines shown hereon are radial unless noted NR (non-radial).

## SKETCH OF DESCRIPTION ONLY - NOT A SURVEY

NO CORNERS WERE SET AND GANUNG-BELTON ASSOCIATES, INC. ASSUMES NO RESPONSIBILITY BEYOND ACCEPTED MATHEMATICAL CLOSURES. ALL BEARINGS AND DISTANCES SHOWN HEREON ARE SUBJECT TO FIELD VERIFICATION.

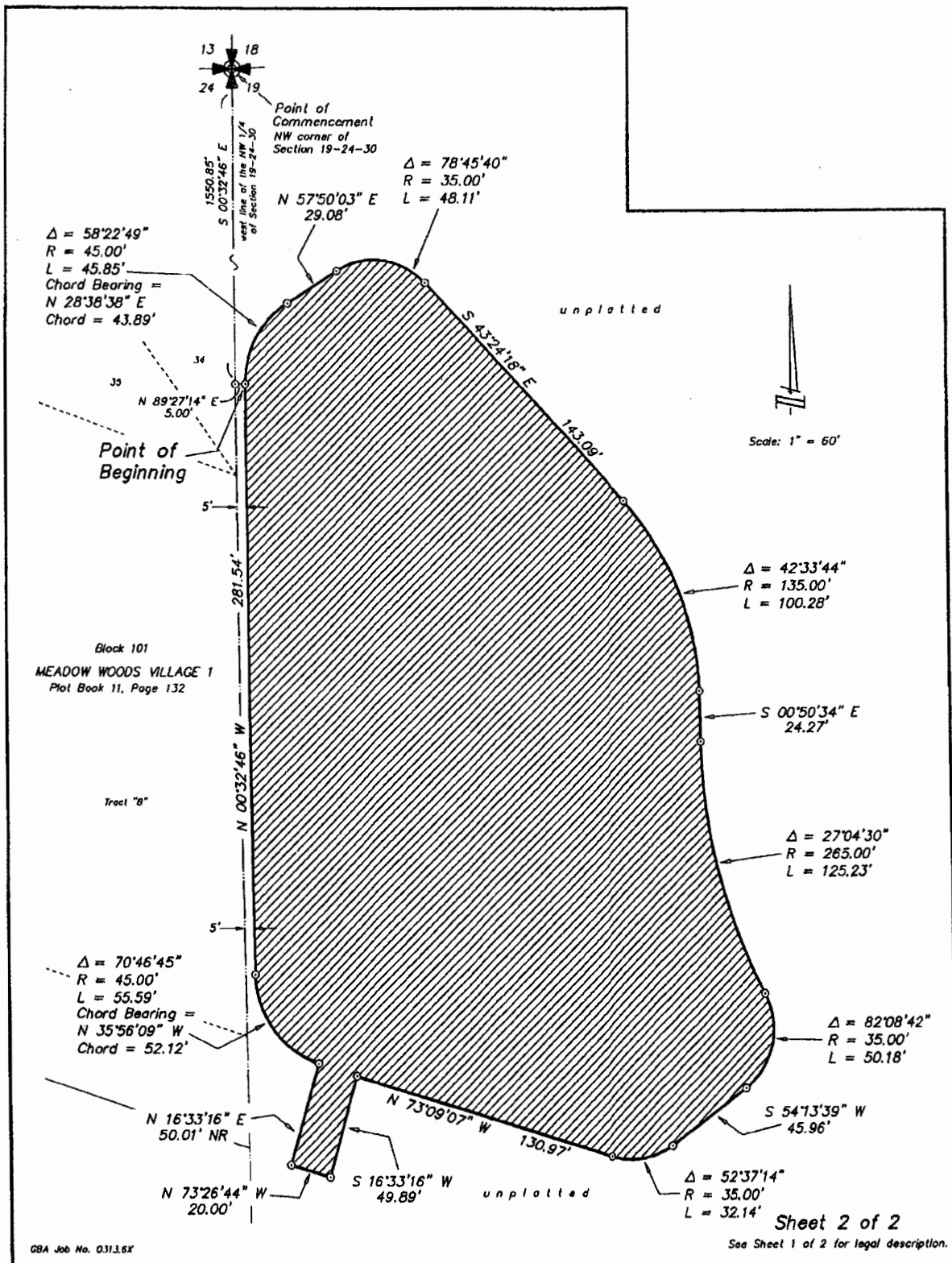
Sketch of Description  
of a  
Drainage Easement

lying in  
Section 19, Township 24 South, Range 30 East  
Orange County, Florida

PREPARED FOR:	Titan Properties, Inc.	JOB NO.	0313.6X	SURVEY NOT VALID WITHOUT ORIGINAL RAISED SEAL AND SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER. ADDITIONS OR OMISSIONS TO SURVEY MADE AND OR SURVEY REPORTS BY ANY OTHER THAN THE SIGNING PARTY IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY.
 <b>GANUNG-BELTON ASSOCIATES, INC.</b> professional surveyors and mappers 1275 E. Robinson Street, Orlando, FL 32801 (407) 894-6656	SHEET	1 of 2		
	DATE	7/12/06		
	SCALE	1" = 60'		



RELEASED EASEMENT AREA



## MODIFIED EASEMENT AREA

**DESCRIPTION:**

TRACT K, SAWGRASS POINTE, PHASE 2

**LEGAL DESCRIPTION**

A PORTION OF A NON-EXCLUSIVE DRAINAGE EASEMENT AND JOINT UTILIZATION EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 9121, PAGE 1168, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, LYING WITHIN SECTION 19, TOWNSHIP 24 SOUTH, RANGE 30 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 19; THENCE SOUTH 00°32'46" EAST ALONG THE WEST LINE OF SAID SECTION 19, A DISTANCE OF 1,517.05 FEET FOR A POINT OF BEGINNING; THENCE CONTINUE SOUTH 00°32'46" EAST ALONG SAID WEST LINE, A DISTANCE OF 356.76 FEET TO A POINT ON THE NORTH LINE OF TRACT E, SAWGRASS POINTE, PHASE 1, AS RECORDED IN PLAT BOOK 84, PAGES 103 THROUGH 110 OF SAID PUBLIC RECORDS; THENCE SOUTH 76°31'10" EAST ALONG SAID NORTH LINE OF TRACT E, A DISTANCE OF 34.01 FEET; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH 16°33'16" WEST, A DISTANCE OF 42.55 FEET; THENCE SOUTH 73°26'44" EAST, A DISTANCE OF 20.00 FEET; THENCE NORTH 16°33'16" EAST, A DISTANCE OF 43.62 FEET TO A POINT ON SAID NORTH LINE OF TRACT E; THENCE SOUTH 76°31'10" EAST ALONG SAID NORTH LINE OF TRACT E, A DISTANCE OF 41.92 FEET; THENCE SOUTH 71°53'41" EAST ALONG SAID NORTH LINE, A DISTANCE OF 109.23 FEET; THENCE DEPARTING SAID NORTH LINE, RUN NORTH 54°13'39" EAST, A DISTANCE OF 93.72 FEET TO A POINT ON A CURVE TO THE RIGHT, CONCAVE EASTERLY, HAVING A RADIUS OF 270.00 FEET, A CENTRAL ANGLE OF 34°55'48", A CHORD THAT BEARS NORTH 18°18'27" WEST, A DISTANCE OF 162.07 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 164.60 FEET TO A POINT OF TANGENCY; THENCE NORTH 00°50'34" WEST, A DISTANCE OF 24.27 FEET TO A POINT ON A CURVE TO THE LEFT, CONCAVE WESTERLY, HAVING A RADIUS OF 130.00 FEET, A CENTRAL ANGLE OF 42°33'44", A CHORD THAT BEARS NORTH 22°07'26" WEST, A DISTANCE OF 94.37 FEET; THENCE RUN NORTHERLY, ALONG THE ARC OF SAID CURVE A DISTANCE OF 96.57 FEET TO A POINT OF TANGENCY; THENCE NORTH 43°24'18" WEST, A DISTANCE OF 162.62 FEET; THENCE NORTH 57°50'03" EAST, A DISTANCE OF 123.24 FEET TO A POINT ON A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 04°35'49", A CHORD THAT BEARS NORTH 36°18'47" WEST, A DISTANCE OF 20.05 FEET; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 20.06 FEET TO A POINT ON SAID CURVE; THENCE DEPARTING SAID CURVE, RUN SOUTH 57°50'03" WEST, A DISTANCE OF 201.34 FEET TO THE POINT OF BEGINNING.

CONTAINING 86,679 SQUARE FEET OR 1.990 ACRES; MORE OR LESS.

SHEET 1 OF 2  
SEE SHEET 2 OF 2 FOR SKETCH  
NOT VALID OR COMPLETE WITHOUT BOTH

**SKETCH OF  
DESCRIPTION**

OF  
TRACT K  
SAWGRASS POINTE, PHASE 2  
SECTION 19-24-30 ORANGE COUNTY, FLORIDA

DATE: 11/4/15  
SCALE: N/A  
APPROVED BY: DRH  
DRAWN BY: TKC  
JOB NO. 5122302 SAWGRASS  
POINTE TRACT K SOD.dwg

REVISED:  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ASM**

AMERICAN  
SURVEYING  
& MAPPING INC.

CERTIFICATION OF AUTHORIZATION NUMBER LB#6393  
3191 MAGUIRE BOULEVARD, SUITE 200  
ORLANDO, FLORIDA 32803  
(407) 426-7979  
WWW.AMERICANSURVEYINGANDMAPPING.COM

THIS IS A SKETCH AND  
DESCRIPTION AND IS NOT  
A SURVEY AS SUCH  
AND IS NOT VALID WITHOUT THE SIGNATURE  
AND THE ORIGINAL RAISED SEAL OF A  
FLORIDA LICENSED SURVEYOR AND MAPPER.

STATE OF  
FLORIDA  
DANIEL RAY HOLD, PSM#5775  
DATE: 11/4/15

## MODIFIED EASEMENT AREA

