



## Interoffice Memorandum

March 27, 2017

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

**FROM:** Raymond E. Hanson, P. E., Director  
Utilities Department



*for Raymond Hanson*

**SUBJECT: BCC AGENDA ITEM – Consent Agenda  
April 11, 2017 BCC Meeting  
Hold Harmless and Indemnification Agreement for Spring Isle  
PD  
Contact Person: Andres Salcedo, P. E., Assistant Director  
Utilities Department  
407-254-9719**

The developer, Spring Isle C, LLC, has submitted a proposed Land Use Plan Amendment to construct future office/commercial building(s) and related vertical infrastructure on property that also has an existing 30-inch diameter wastewater force main and water main.

Due to the increased likelihood of damage to the water main and force main, the developer's improvements, or associated assets, the Development Review Committee conditionally approved the Land Use Plan Amendment upon the completion of a hold harmless and indemnification agreement.

The agreement prevents the developer from constructing the building foundations closer than 18 feet to the water main or force main and provides that the developer will assume sole responsibility for any damage that occurs, including defending the County against any legal claims.

The Orange County Attorney's Office and Risk Management staff reviewed the hold harmless and indemnification agreement and find it acceptable. Utilities Department staff recommends approval.

**Action Requested: Approval and execution of Hold Harmless and Indemnification Agreement Parcel ID: 30-22-32-0000-00-019, 30-22-32-0000-00-046, and 30-22-32-0000-00-051 by and between Spring Isle C, LLC and Orange County.**

**District 4.**

BCC Mtg. Date: April 11, 2017

Instrument prepared by:  
Donald J. Curotto, Esq.  
Shutts & Bowen LLP  
300 S. Orange Avenue, Suite 1000  
Orlando, Florida 32801

Return to:  
Orange County Attorney's Office  
P.O. Box 1393  
Orlando, Florida 32802

**HOLD HARMLESS AND  
INDEMNIFICATION AGREEMENT**  
**Parcel ID: 30-22-32-0000-00-019**  
**30-22-32-0000-00-046**  
**30-22-32-0000-00-051**

This Hold Harmless and Indemnification Agreement ("**Agreement**") is made by and between Spring Isle C, LLC, a Florida limited liability company, its successors in interest, and/or its assigns, whose current mailing address is 401 Ferguson Drive, Orlando, Florida 32805 (the "**Owner**"), and Orange County, a charter county and political subdivision of the State of Florida, whose mailing address is c/o Orange County Administrator, P.O. Box 1393, Orlando, Florida 32802-1393 (the "**County**").

**WITNESSETH:**

**WHEREAS**, the County has installed and operates a thirty-inch diameter water main and thirty-inch diameter wastewater force main (the "**Transmission Lines**") within an easement granted by Group 142 Orlando, Ltd., a Florida limited partnership, pursuant to a Utility Easement dated August 3, 2000, and recorded October 17, 2000, at Official Records Book 6110 Page 2248 of the Public Records of Orange County, Florida (the "**Easement**"); and

**WHEREAS**, the Easement is situated within the property recently acquired by the Owner pursuant to a Special Warranty Deed from Group 142 Orlando, Ltd., a Florida

limited partnership, which is more specifically described in **Exhibit “A”** attached hereto and incorporated herein by this reference (the “**Easement Property**”); and

**WHEREAS**, the Owner has submitted to the County for approval that certain **Spring Isle Land Use Plan Amendment –last revised October 18, 2016** (the “**Spring Isle PD Amendment**”) to, among other things, add land designated as Parcel H on the Spring Isle PD Plan Amendment, which includes the Easement Property, to the Spring Isle Planned Development (the “**Spring Isle PD**”), and thereby allow future development of Parcel H, more particularly described in **Exhibit “B”** and incorporated herein, which future development will include construction of improvements (the “**Future Improvements**”) in proximity to the Transmission Lines; and

**WHEREAS**, the Spring Isle Land Use Plan Amendment, last revised **October 18, 2016**, and on file with the County, which identifies Parcel H, is incorporated herein by reference; and

**WHEREAS**, the Owner understands and agrees that placing the Future Improvements within eighteen feet of the Transmission Lines may significantly increase the likelihood of damage to the Transmission Lines, the Future Improvements, or associated assets; and

**WHEREAS**, in spite of the risks, and recognizing the execution of this Agreement to be one of the conditions of approval for the PD Amendment, as set forth by the County during its Development Review Committee (“**DRC**”) meeting of December 16, 2015; and

**WHEREAS**, because this Agreement will be executed and recorded in the Official Records of Orange County, this Agreement serves as notice that the building

foundations for the Future Improvements shall be constructed no closer than eighteen feet from the Transmission Lines as measured from the point of the Transmission Lines closest to the building foundation as a condition of the County's approval for the Spring Isle PD Amendment.

**NOW, THEREFORE**, in consideration of these 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 Owner and the County hereby agree as follows:

1.     **RECITALS.** The above recitals are true and correct and are hereby incorporated as a material part of this Agreement by this reference.

2.     **HOLD HARMLESS AND INDEMNIFICATION.** To the fullest extent permitted by law, the Owner, on behalf of itself and its successors, assigns, heirs, grantees, representatives, invitees, and permittees, hereby assumes sole and entire responsibility for (a) bodily injury (including death), and/or (b) any and all damage to Parcel H, including the Easement Property, the Future Improvements, and any associated assets sustained in the event of the County's future approval of plans and specifications for the construction of the Future Improvements closer than eighteen feet of the Transmission Lines. To the fullest extent permitted by law, the Owner on behalf of itself and its successors, assigns, heirs, grantees, representatives, invitees, and permittees, hereby agrees to release, indemnify, defend (with legal counsel acceptable to the County), and hold the County, the Orange County Board of County Commissioners ("**Board**"), the Board members, and the County's officers, employees, contractors, and agents from and against any and all claims, suits, judgments, demands, liabilities,

damages, costs, and expenses (including but not limited to attorneys' fees, paralegals' fees, consultants' fees and costs at all administrative, pretrial, trial, and appellate levels) of any kind or nature whatsoever, including without limitation bodily injury to persons (including death) or damage to property, arising out of or related in any way to the future failures of one or both of the Transmission Lines to the extent that any future improvements are placed closer than eighteen feet of the Transmission Lines. Under no circumstances shall this Agreement be construed as authorizing construction within eighteen feet of the centerline of the Transmission Lines.

3. **NOTICES.** Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed given and received: (i) on the same day it is personally delivered to the intended recipient at the address set forth below; (ii) the next business day if sent by reputable overnight courier to the intended recipient at the address set forth below; or (iii) three business days after it is deposited in the United States registered or certified mail, postage prepaid, return receipt requested, to the address set forth below:

|                   |   |
|-------------------|---|
| If to the Owner:  | Spring Isle C, LLC<br>Post Office Box 1015<br>Windermere, Florida 34786<br>Attn: Frank H. Cawthon, Jr.              |
| If to the County: | Orange County Utilities Department<br>9150 Curry Ford Road<br>Orlando, Florida 32825<br>Attn: Director of Utilities |
| With copy to:     | Orange County Administrator<br>P.O. Box 1393<br>Orlando, Florida 32802-1393   |

4. **COVENANTS RUNNING WITH THE LAND.** This Agreement shall run with Parcel H, and shall be binding on all parties during the time period that such party has a right, title or interest in the Parcel H or Future Improvements described herein or any portion thereof, their heirs, representatives, and their successors and assigns.

5. **AMENDMENT/TERMINATION.** This Agreement may be amended or terminated only by express written instrument approved by the Board and the Owner.

6. **APPLICABLE LAW.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, without giving effect to any choice of law rules thereof which may direct the application of the laws of another jurisdiction.

7. **VENUE; JURISDICTION.** Any legal proceeding of any nature brought by either party against the other to enforce any right or obligation under this Agreement, or arising out of any matter pertaining to this Agreement, shall be exclusively submitted for trial before the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida; or, if the Circuit Court does not have jurisdiction, then before the United States District Court for the Middle District of Florida (Orlando Division). The parties consent and submit to the exclusive jurisdiction of any such court and expressly waive all rights to trial by jury for any matters arising under this Agreement.

8. **ENTIRE AGREEMENT.** This Agreement embodies the entire understanding of the parties hereto, and supersedes all prior discussions and agreements between the parties hereto, and there are no further or other agreements or understanding, written or oral, in effect between the parties relating to the subject matter hereof.

9. **RECORDATION.** Owner shall record an executed original of this Agreement at the Owner's expense, in the Official Records of Orange County, Florida within ten days from the Effective Date of this Agreement.

10. **EFFECTIVE DATE.** This Agreement shall become effective on the date of execution by the County or the date of execution of the Owner, whichever is later ("Effective Date").

**IN WITNESS WHEREOF,** the parties hereto 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: *Teresa Jacobs*  
Teresa Jacobs  
County Mayor

Date: 4.11.17

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

By: *Katie Smith*  
Deputy Clerk

Date: APR 11 2017

[REMAINING SIGNATURES ON THE FOLLOWING PAGES]

Signed, sealed and delivered in our presence as witnesses:

Signature: [Signature]

Printed Name: Loree Williams

Signature: [Signature]

Printed Name: Emily B. Lewis

OWNER:

**SPRING ISLE C, LLC,**  
**a Florida limited liability company**

By: [Signature]  
Frank H. Cawthon, Jr.  
Manager

Date: 2/15/17

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of February, 2017, by Frank H. Cawthon, Jr., as Manager of Spring Isle C, LLC, a Florida limited liability company, on behalf of the company. He is personally known to me or who has produced Drivers License, as identification.



JULIE ANNE SCHILLING  
MY COMMISSION # FF 155630  
EXPIRES: August 28, 2018  
Bonded Thru Budget Notary Services

[Signature]  
Notary Public, State of Florida At Large

Julie Anne Schilling  
Notary Printed Name or Stamp

My Commission Expires: \_\_\_\_\_



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

Former **Parcel ID: 30-22-32-0000-00-051**, as described below,  
now contained within and being part of

**Parcel ID: 30-22-32-0000-00-019**

**30-22-32-0000-00-046**

**30-22-32-0000-00-051**

SPRING ISLE C, LLC  
Fee Purchase Parcel from Group 142 Orlando, LTD.

DESCRIPTION (Prepared by Donald W. McIntosh Associates, Inc. based on Official Records Book 9935, Page 2499):

That part of Section 30, Township 22 South, Range 32 East, Orange County, Florida, being more particularly described as follows:

Commence at the East 1/4 corner of Section 30, Township 22 South, Range 32 East, Orange County, Florida; thence run S89°02'22"W, along the North line of the Southeast 1/4 of said Section 30 for a distance of 1919.71 feet to the Northwest corner of the East 1/2 of the Northwest 1/4 of the Southeast 1/4 of said Section 30; thence S00°53'27"E along the West line of said East 1/2 of the Northwest 1/4 of the Southeast 1/4 for a distance of 30.00 feet to a point on the South Right-of-Way line of Sunflower Trail and the POINT OF BEGINNING; thence continue S00°53'27"E, along said West line of the East 1/2 of the Northwest 1/4 of the Southeast 1/4 for a distance of 1358.68 feet; thence departing said West line, run S89°03'40"W along a line parallel with and 50.00 feet south of, when measured perpendicular to, the South line of the Northwest 1/4 of the Southeast 1/4 of said Section 30 a distance of 425.57 feet; thence S01°13'04"E along a line parallel with and 50.00 feet east of, when measured perpendicular to, the West line of lands described in Official Records Book 9935, Page 2499 of the Public Records of Orange County, Florida, a distance of 585.58 feet to a point on the Northeasterly right-of-way line of Avalon Park Boulevard (a 100.00 foot wide right-of-way as described in Official Records Book 6389, Page 5234 of said Public Records) and the beginning of a non-tangent curve concave Southwesterly having a radius of 2550.00 feet and a chord bearing of N44°12'09"W; thence run Northwesterly along the arc of said curve and said Northeasterly right-of-way line, through a central angle of 01°38'52", for a distance of 73.34 feet to a point of non-tangency on the West line of said lands described in Official Records Book 9935, Page 2499; thence N01°13'04"W along said West line for a distance of 582.18 feet; thence N89°03'40"E along the South line of the Northwest 1/4 of the Southeast 1/4 of said Section 30 and said West line 376.78 feet; thence N00°54'13"W along said West line for a distance of 1308.64 feet to the South right-of-way line of Sunflower Trail; thence N89°02'22"E, along said South right of way line a distance of 99.37 feet to the POINT OF BEGINNING;

Containing 4.168 acres, more or less, and being subject to any rights-of-way, easements, or restrictions of record.

**EXHIBIT "B"**

**LEGAL DESCRIPTION**

**Parcel ID: 30-22-32-0000-00-019**

**30-22-32-0000-00-046**

**30-22-32-0000-00-051**

(taken together comprise all of Parcel H described below)

SPRING ISLE C, LLC  
PARCEL H  
EAST OF GOLDEN ISLE BLVD

DESCRIPTION (Prepared by Donald W. McIntosh Associates, Inc.)

That part of Section 30, Township 22 South, Range 32 East, Orange County, Florida, being more particularly described as follows:

Commence at the East 1/4 corner of Section 30, Township 22 South, Range 32 East, Orange County, Florida; thence run S89°20'43"W, along the North line of the Southeast 1/4 of said Section 30, for a distance of 1919.71 feet to the Northwest corner of the East 1/2 of the Northwest 1/4 of the Southeast 1/4 of said Section 30; thence S00°35'06"E along the West line of said East 1/2 of the Northwest 1/4 of the Southeast 1/4 for a distance of 30.00 feet to a point on the South Right-of-Way line of Sunflower Trail, as described in Official Records Book 2766, Page 1559 of the Public Records of Orange County, Florida and the POINT OF BEGINNING; thence continue S00°35'06"E, along said West line of the East 1/2 of the Northwest 1/4 of the Southeast 1/4 for a distance of 1358.68 feet; thence departing said West line, run S89°22'01"W along a line parallel with and 50.00 feet south of, when measured perpendicular to, the South line of the Northwest 1/4 of the Southeast 1/4 of said Section 30, a distance of 425.57 feet; thence S00°54'43"E along the East line of lands described in Official Records Book 10897, Page 7578 of the Public Records of Orange County, Florida, a distance of 585.20 feet to a point on the Northeasterly right-of-way line of Avalon Park Boulevard, as described in Official Records Book 6389, Page 5234 of said Public Records and a point on a non-tangent curve concave Southwesterly having a radius of 2550.00 feet and a chord bearing of N50°27'02"W; thence run Northwesterly along the arc of said curve and said Northeasterly right-of-way line as described in said Official Records Book 6389, Page 5234 and the Northeasterly right-of-way line as described in Official Records Book 6389, Page 5256 of said Public Records, through a central angle of 14°44'06", for a distance of 655.80 feet to a non-tangent point on the Easterly right-of-way line of Golden Isle Boulevard, as described in Official Records Book 10612, Page 5582 of said Public Records; thence along said Easterly right-of-way line the following courses: thence N30°37'51"E, 359.08 feet; thence N58°45'43"W, 19.99 feet; thence N33°08'48"E, 236.09 feet to the point of curvature of a curve concave Northwesterly having a radius of 360.00 feet and a chord bearing of N16°47'04"E; thence Northeasterly along the arc of said curve through a central angle of 32°43'28", for a distance of 205.61 feet to the point of tangency; thence N00°25'19"E, 93.53 feet to the point of curvature of a curve concave Westerly having a radius of 1030.00 feet and a chord bearing of N03°39'56"W; thence Northerly along the arc of said curve through a central angle of 08°10'31", for a distance of 146.97 feet to the point of tangency; thence N07°45'12"W, 245.54 feet to the point of curvature of a curve concave Easterly having a radius of 440.00 feet and a chord bearing of N03°46'28"W; thence Northerly along the arc of said curve through a central angle of 07°57'29", for a distance of 61.11 feet to the point of tangency; thence N00°12'17"E, 89.65 feet to the Southwest corner of a Northeast Retention Pond Tract,

as described in said Official Records Book 10612, Page 5582; thence departing said Easterly right-of-way line, N89°20'43"E along the South line of said Tract, 500.78 feet to the Southeast corner thereof; thence N00°35'13"W along the East line of said Tract, 180.00 feet to the Northeast corner thereof and a point on the aforementioned South right-of-way line of Sunflower Trail; thence N89°20'43"E along said South right-of-way line, 99.73 feet to the POINT OF BEGINNING.

Containing 21.159 acres, more or less, and being subject to any rights-of-way, easements, or restrictions of record.