





Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 2

DATE: May 19, 2017

TO: Mayor Teresa Jacobs
and the
Board of County Commissioners

THROUGH: Ann Caswell, Manager 
Real Estate Management Division

FROM: Elizabeth Price Jackson, Senior 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 CONSERVATION AND ACCESS EASEMENT BETWEEN LAKE BUENA VISTA INVESTMENTS LLC AND ORANGE COUNTY WITH JOINDER AND CONSENT TO CONSERVATION AND ACCESS EASEMENT FROM TOUCHMARK NATIONAL BANK AND AUTHORIZATION TO RECORD INSTRUMENT

PROJECT: Lake Buena Vista Village DP (CAI-16-07-032)

District 1

PURPOSE: To provide for conservation of wetlands and uplands as a requirement of development.

ITEM: Conservation and Access Easement with Joinder and Consent to Conservation and Access Easement
Cost: Donation
Size: 5.05 acres

APPROVALS: Real Estate Management Division
County Attorney's Office
Environmental Protection Division

REMARKS:

On March 27, 2007, the Board of County Commissioners approved a Conservation Easement ("Existing Easement") between B.C. Muszynski, Individually and as Trustee, Simmerson Properties, Inc. and Orange County in connection with Conservation Area Impact Permit ("CAIP") No. 06-074. A new Conservation and Access Easement is being granted to replace and supersede the Existing Easement as a requirement of CAI-16-07-032 ("Permit") issued by Orange County Environmental Protection Division due to impacts to a portion of the lands encumbered by the Existing Easement.

The County is executing the new easement to show acceptance of the terms and conditions and relinquish all rights and interest in the Existing Easement.

This new easement will assure protection and preservation of the property forever in its existing natural condition and prevent any use that will impair or interfere with the environmental value of the property. Those wetland and upland areas included in the new easement that are to be enhanced, restored, or created pursuant to the Permit shall be retained and maintained in the enhanced, restored, or created conditions required by the Permit.

Access to the new easement is through the parent tract from Winter Garden-Vineland Road to the south.

Grantor to pay all recording fees.

JUN 06 2017

Instrument prepared by and
recorded original returned to:
Real Estate Management Division
Orange County, Florida
400 East South Street, 5th Floor
Orlando, Florida 32801

Project: Lake Buena Vista Village DP (CAI-16-07-032)

Parcel ID No.

portions of: 21-24-28-0000-00-006, 21-24-28-0000-00-020, & 21-24-28-5844-00-320

CONSERVATION AND ACCESS EASEMENT

This CONSERVATION AND ACCESS EASEMENT is made as of the date signed below, by Lake Buena Vista Investments LLC, a Florida limited liability company, whose address is 15941 SW 41st Street, Suite 800, Davie, Florida 33331 ("GRANTOR"), in favor of Orange County, a charter county and political subdivision of the State of Florida, whose address is Post Office Box 1393, Orlando, Florida 32802-1393 ("GRANTEE"), and is being granted to replace and supersede that certain Conservation Easement granted pursuant to Conservation Area Impact Permit No. 06-074, dated February 9, 2007, and recorded in Official Records Book 9196, Page 3039 of the Public Records of Orange County, Florida (the "ORIGINAL EASEMENT").

WITNESSETH:

WHEREAS, GRANTOR solely owns in fee simple certain real property in Orange County, Florida, more particularly described in Exhibit "A" attached hereto and incorporated by this reference (the "PROPERTY"); and

WHEREAS, GRANTOR desires to construct Lake Buena Vista Village at a site in Orange County, more particularly described in Exhibit "B" attached hereto and incorporated by this reference, (the "PROJECT SITE"), which is subject to the regulatory jurisdiction of Orange County; and

WHEREAS, Conservation Area Impact Permit No. CAI-16-07-032 (the "PERMIT") authorizes certain activities that affect waters and wetlands of the County and the State of Florida; and

WHEREAS, the PERMIT requires that GRANTOR preserve, enhance, restore or mitigate

wetlands or uplands under the jurisdiction of Orange County; and

WHEREAS, GRANTOR desires to preserve the PROPERTY in its natural condition, as that may be altered in accordance with the PERMIT, in perpetuity, and

WHEREAS, GRANTOR and GRANTEE agree that the ORIGINAL EASEMENT should terminate upon recording this Conservation and Access Easement in the Public Records of Orange County.

NOW, THEREFORE, in consideration of TEN DOLLARS in hand paid by GRANTEE to GRANTOR, and of the above and the mutual covenants, terms, conditions and restrictions contained herein, the receipt and sufficiency of which is hereby acknowledged, and consistent with the provisions of Section 704.06, Florida Statutes (2016), as it may be amended, GRANTOR hereby voluntarily grants and conveys to GRANTEE a conservation easement in perpetuity over the PROPERTY of the nature and character and to the extent hereinafter set forth (the "CONSERVATION EASEMENT"). In exchange for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, GRANTOR hereby voluntarily grants and conveys to GRANTEE an access easement in perpetuity over the PROJECT SITE to the extent hereinafter set forth (the "ACCESS EASEMENT"). GRANTOR fully warrants title to the PROPERTY and to the PROJECT SITE, and will warrant and defend the same against the lawful claims of all persons whomsoever. Collectively, the CONSERVATION EASEMENT and the ACCESS EASEMENT are referred to as the "CONSERVATION AND ACCESS EASEMENT".

1. **Purpose.** The purpose of this CONSERVATION EASEMENT is to assure that the PROPERTY will be retained forever in its natural condition, as that may be altered in accordance with the PERMIT, and to prevent any use of the PROPERTY that might impair or interfere with the environmental value of the PROPERTY. Those wetland and upland areas included in the CONSERVATION EASEMENT that are to be enhanced, restored, or created pursuant to the PERMIT shall be retained and maintained in the enhanced, restored, or created conditions required by the PERMIT.

2. **Prohibited Uses.** Except for restoration, creation, enhancement, maintenance and monitoring activities, or surface water management improvements, which are specifically authorized or

required by the PERMIT, any activity on or use of the PROPERTY inconsistent with this CONSERVATION EASEMENT's purpose is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited in, under, or on the PROPERTY:

- (a) Constructing or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.
- (b) Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.
- (c) Removing or destroying trees, shrubs, or other vegetation.
- (d) Excavating, dredging or removing loam, peat, gravel, soil, rock, or other material substances in such a manner as to affect the surface.
- (e) Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
- (f) Activities detrimental to drainage, flood controls, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- (g) Acts or uses detrimental to such retention of land or water areas.
- (h) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

3. Reserved Rights in the PROPERTY. GRANTOR reserves unto itself, and its successors and assigns, all rights accruing from its ownership of the PROPERTY, including the right to engage in or permit or invite others to engage in all uses of the PROPERTY, which are not expressly prohibited herein and are not inconsistent with the PERMIT or the purpose of this CONSERVATION EASEMENT.

4. Public Access. No right or access by the general public to any portion of the PROPERTY or the PROJECT SITE is conveyed by this CONSERVATION AND ACCESS EASEMENT.

5. **Rights of GRANTEE.** To accomplish the purposes stated herein, GRANTOR conveys the following rights and easements to GRANTEE:

(a) **ACCESS EASEMENT.** To enter on, over and through the PROJECT SITE for the purpose of vehicular and pedestrian ingress and egress over and across the PROJECT SITE as is necessary for GRANTEE to access the PROPERTY in a reasonable manner and at reasonable times for the purposes granted or conveyed by the CONSERVATION EASEMENT. Upon platting of any portion of the PROJECT SITE, all platted lots shown on any such plat shall be deemed released from the ACCESS EASEMENT, provided that GRANTEE retains access for the purposes stated herein to the CONSERVATION EASEMENT by a platted access easement or public road.

(b) **CONSERVATION EASEMENT.** To enter upon and inspect the PROPERTY in a reasonable manner and at reasonable times to determine if activities and uses thereon are in compliance with this CONSERVATION EASEMENT, and/or to perform, or require to be performed, any restoration, creation, enhancement, maintenance and monitoring activities, or surface water improvements which are specifically authorized or required by the PERMIT.

(c) **CONSERVATION AND ACCESS EASEMENT.** To proceed at law or in equity to enforce the provisions of this CONSERVATION AND ACCESS EASEMENT and/or to prevent the occurrence of any of the prohibited activities set forth herein, and/or to require the restoration of areas or features of the PROPERTY that may be damaged by any activity inconsistent with this CONSERVATION AND ACCESS EASEMENT.

6. **GRANTEE's Discretion.** GRANTEE may enforce the terms of this CONSERVATION AND ACCESS EASEMENT at its discretion, but if GRANTOR breaches any term of this CONSERVATION AND ACCESS EASEMENT and GRANTEE does not exercise its rights under this CONSERVATION AND ACCESS EASEMENT, GRANTEE's forbearance shall not be construed to be a waiver by GRANTEE of such term, or of any subsequent breach of the same, or any other term of this CONSERVATION AND ACCESS EASEMENT, or of any of the GRANTEE's rights under this CONSERVATION AND ACCESS EASEMENT. No delay or omission by GRANTEE in the exercise of

any right or remedy upon any breach by GRANTOR shall impair such right or remedy or be construed as a waiver. GRANTEE shall not be obligated to GRANTOR, or to any other person or entity, to enforce the provisions of this CONSERVATION AND ACCESS EASEMENT.

7. **GRANTEE's Liability.** GRANTOR will assume all liability for any injury or damage to the person or property of third parties that may occur on the PROPERTY and PROJECT SITE. Neither GRANTOR, nor any person or entity claiming by or through GRANTOR, shall hold GRANTEE liable for any damage or injury to person or personal property that may occur on the PROPERTY or PROJECT SITE.

8. **Acts Beyond GRANTOR's Control.** Nothing contained in this CONSERVATION AND ACCESS EASEMENT shall be construed to entitle GRANTEE to bring any action against GRANTOR for any injury to or change in the PROPERTY resulting from natural causes beyond GRANTOR's control, including, without limitation, fire, flood, storm and earth movement, or from any action taken by GRANTOR under emergency conditions to prevent, abate or mitigate significant injury to the PROPERTY resulting from such causes.

9. **Recordation.** GRANTOR shall record this CONSERVATION AND ACCESS EASEMENT in timely fashion in the Public Records of Orange County, Florida, and shall rerecord it at any time GRANTEE may require to preserve its rights. GRANTOR shall pay all recording costs and taxes necessary to record this CONSERVATION AND ACCESS EASEMENT in the public records. GRANTOR will hold GRANTEE harmless from any recording costs or taxes necessary to record this CONSERVATION AND ACCESS EASEMENT in the public records.

10. **Successors.** The covenants, terms, conditions and restrictions of this CONSERVATION AND ACCESS EASEMENT shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the PROPERTY and PROJECT SITE.

11. **Termination of Original Easement.** Upon the recording of this Conservation and Access Easement in accordance with paragraph 9 above, GRANTEE relinquishes all right and interest in the

ORIGINAL EASEMENT, and without further notice the ORIGINAL EASEMENT shall automatically terminate, as a result of which the terms and provisions of the ORIGINAL EASEMENT shall be of no further force or effect.

[SIGNATURES ON FOLLOWING PAGE]

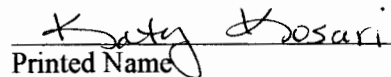
IN WITNESS WHEREOF, the said GRANTOR has caused these presents to be signed in its
name.

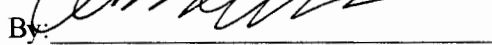
Signed, sealed, and delivered
in the presence of:

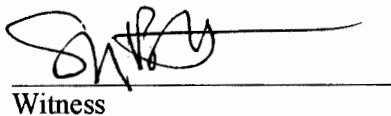
Lake Buena Investments LLC,
a Florida limited liability company

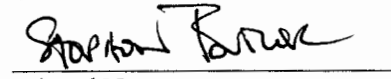

Witness

By: STC Associates, LLC,
a Georgia limited liability company
its Manager


Printed Name

By: 
William J. Evans
its Manager


Witness


Printed Name

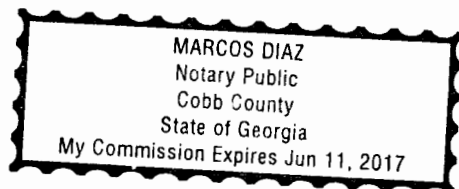
DATE: 5-3-17


(Signature of TWO Witnesses required by Florida Law)

STATE OF Georgia
COUNTY OF Cobb

The foregoing instrument was acknowledged before me this 3rd of MAY, 2017,
by William J. Evans, as Manager of STC Associates, LLC, a Georgia limited liability company, as
Manager of Lake Buena Vista Investments LLC, a Florida limited liability company, on behalf of the
limited liability company. He ☐ is personally known to me or ☒ has produced Driver's License
as identification.

(Notary Seal)




Notary Signature
MARCOS DIAZ
Printed Notary Name

Notary Public in and for the
County and State aforesaid
My commission expires:

IN WITNESS WHEREOF, the said GRANTEE has caused these presents to be executed in its name by its Board, acting by the County Mayor, the day and year as written below.

(Official Seal)



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

BY: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor

DATE: 6.6.17

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

BY: *Lakela Louis*
for Deputy Clerk

Lakela Louis
Printed Name

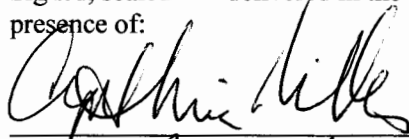
JOINDER AND CONSENT TO CONSERVATION AND ACCESS EASEMENT

The undersigned hereby certifies that it is the holder of the following mortgage, lien or other encumbrance upon the above described Conservation and Access Easement:

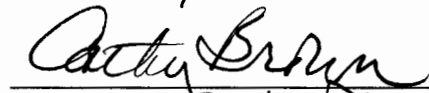
Mortgage and Security Agreement executed by Lake Buena Vista Investments LLC, a Florida limited liability company, in favor of Touchmark National Bank, dated June 15, 2016 and recorded July 11, 2016, as Document #20160352269, together with that certain Assignment of Leases and Rents recorded July 11, 2016, as Document #20160352270, and that certain Financing Statement recorded July 11, 2016 as Document #20160352271, all of the Public Records of Orange County Florida

and that the undersigned hereby joins in and consents to the recording of the above Conservation and Access Easement, and agrees that its mortgage, lien or other encumbrance, as it has been, and as it may be, modified, amended, and assigned from time to time, shall be subordinated to the Conservation and Access Easement, as said easement may be modified, amended and assigned from time to time.

Signed, sealed and delivered in the presence of:

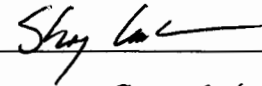


Print Name: Cynthia Walter



Print Name: Cathy Brown

Touchmark National Bank,
a national banking association

By: 

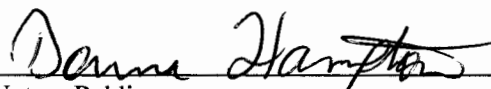
Print Name: Stacy Cooke

Title: Vice President

STATE OF GA
COUNTY OF Cherokee

The foregoing instrument was acknowledged before me this 25 day of April, 2017, by Stacy Cook, the VP of Touchmark National Bank, a national banking association, on behalf of the national association. He/she ☒ is personally known to me, or ☐ has produced _____ as identification.

(NOTARIAL SEAL)


Notary Public
Print Name: DONNA HAMPTON
My Commission Expires: _____

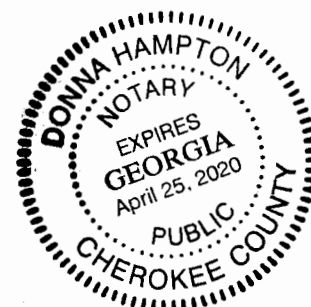


EXHIBIT "A" (PAGE 1 OF 3)

LEGAL DESCRIPTION

SHEET 1 OF 3 DESCRIPTION
SEE SHEET 2 AND 3 OF 3 FOR SKETCH

LEGAL DESCRIPTION

A TRACT OF LAND BEING A PORTION OF THE CONSERVATION EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 9196, PAGE 3039 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND ALSO BEING A PORTION OF LOT 32, MUNGER AND COMPANY, PLAT BOOK E, PAGE 22 AS RECORDED IN THE PUBLIC RECORDS OF SAID COUNTY, LYING IN THE NORTHEAST 1/4 OF SECTION 21, TOWNSHIP 24 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 21, TOWNSHIP 24 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE S00°04'25"W ALONG THE EAST LINE OF SAID NORTHEAST 1/4 OF SECTION 21, A DISTANCE OF 677.51 FEET; THENCE DEPARTING SAID EAST LINE RUN N89°59'58"W A DISTANCE OF 15.00 FEET TO THE SOUTHEAST CORNER OF LOT 1, AND THE NORTHEAST CORNER OF LOT 32, MUNGER AND COMPANY, PLAT BOOK E, PAGE 22 AS RECORDED IN THE PUBLIC RECORDS OF SAID COUNTY, AND THE POINT OF BEGINNING; THENCE S00°04'25"W ALONG THE EAST LINE OF SAID LOT 32, A DISTANCE OF 352.77 FEET; THENCE DEPARTING SAID EAST LINE RUN S24°10'38"W A DISTANCE OF 90.22 FEET; THENCE S31°53'53"W A DISTANCE OF 161.64 FEET; THENCE S02°52'34"E A DISTANCE OF 78.38 FEET; THENCE S68°22'42"W A DISTANCE OF 48.42 FEET; THENCE S41°33'57"E A DISTANCE OF 39.15 FEET; THENCE S00°57'14"E A DISTANCE OF 57.12 FEET; THENCE S50°09'42"W A DISTANCE OF 42.79 FEET; THENCE N90°00'00"W A DISTANCE OF 236.76 FEET TO THE WEST LINE OF THE EAST 3/4 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 21; THENCE N00°13'03"W ALONG SAID WEST LINE, A DISTANCE OF 105.60 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 21; THENCE S89°52'58"E ALONG SAID NORTH LINE, A DISTANCE OF 84.26 FEET TO A POINT ON THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 31 AND THE WEST LINE OF SAID LOT 32 OF SAID MUNGER AND COMPANY; THENCE DEPARTING SAID NORTH LINE RUN N00°01'32"E ALONG SAID SOUTHERLY EXTENSION AND SAID EAST AND WEST LINES, A DISTANCE OF 676.82 FEET TO THE SOUTH LINE OF AFORESAID LOT 1 AND THE NORTH LINE OF SAID LOT 32; THENCE S89°59'58"E ALONG SAID NORTH AND SOUTH LINES, A DISTANCE OF 322.43 FEET TO THE POINT OF BEGINNING.

CONTAINING THEREIN 220,129.90 SQUARE FEET (5.05 ACRES), MORE OR LESS.


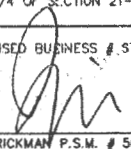
 16 East Plant Street Winter Garden, Florida 34787 • (407) 654 5355	SURVEYOR'S NOTES: THIS IS NOT A SURVEY. THE DELINEATION OF THE LANDS SHOWN HEREON ARE AS PER THE CLIENT'S REQUEST. THIS LEGAL DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. THIS LEGAL DESCRIPTION AND SKETCH HAS BEEN PREPARED WITHOUT THE BENEFIT OF TITLE. BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 21-24-28 ORANGE COUNTY, FLORIDA, BEING S00°04'25"W.		i:\data\20140251\sketches\20140251-ce S00-CE (1)
	JOB NO. 20140251 DATE: 11-10-16 SCALE: N/A FIELD BY: N/A	CALCULATED BY: DH DRAWN BY: DH CHECKED BY: MR	FOR THE LICENSED BUSINESS # 5723 BY:  JAMES L. RICKMAN P.S.M. # 5633

Exhibit "A" (page 2 of 3)

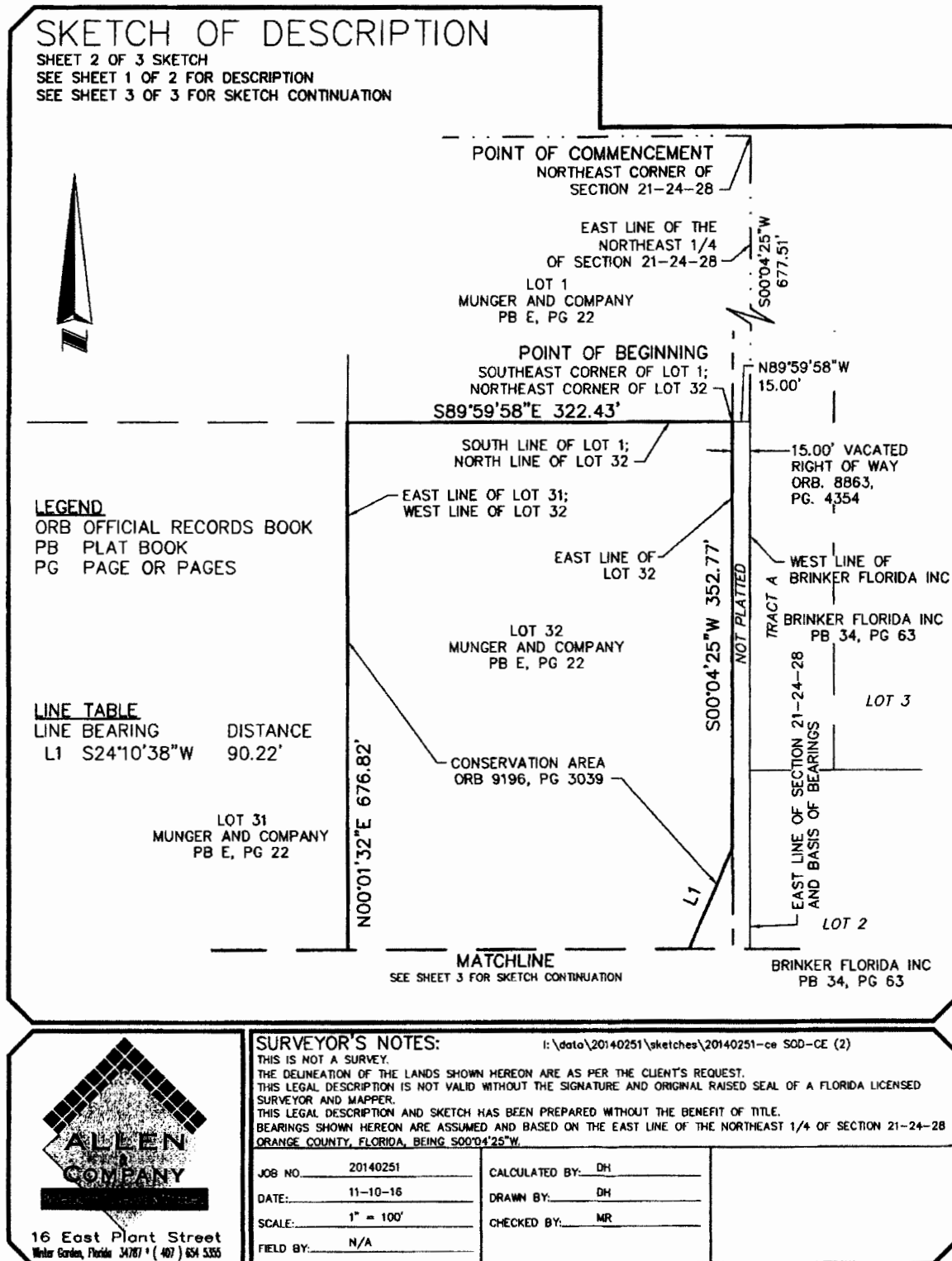


Exhibit "A" (page 3 of 3)

SKETCH OF DESCRIPTION

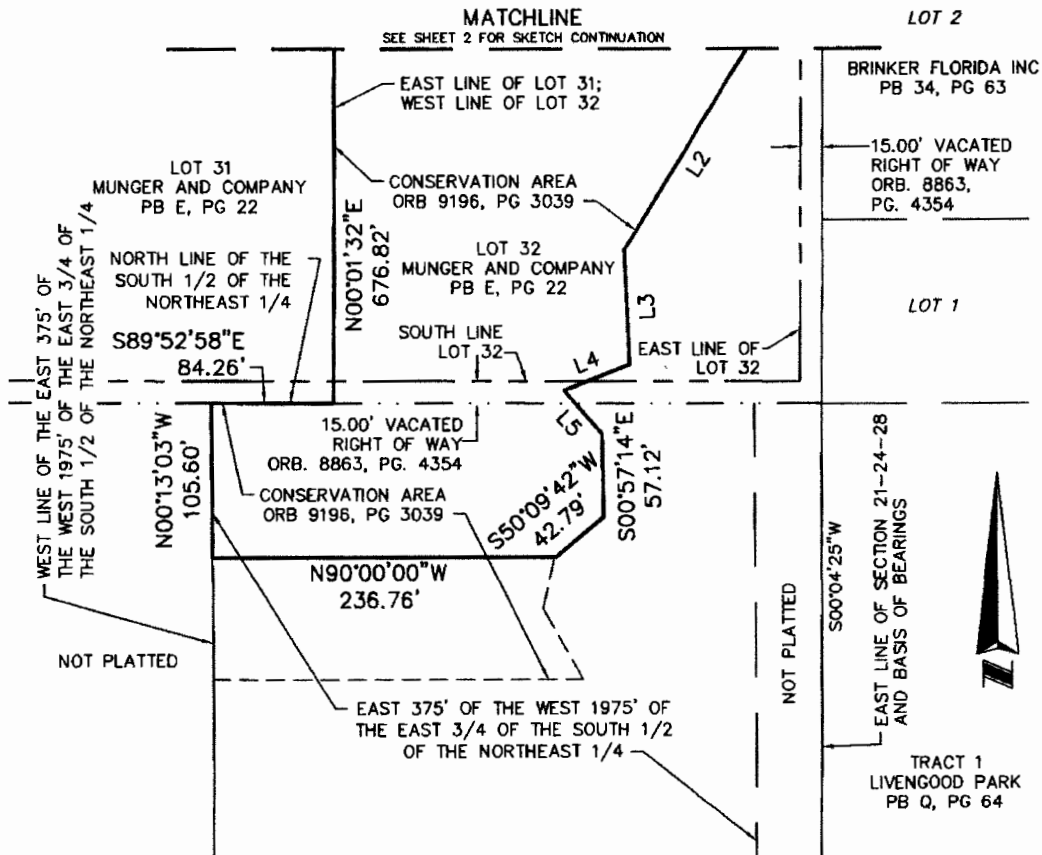
SHEET 3 OF 3 SKETCH
SEE SHEET 1 OF 2 FOR DESCRIPTION
SEE SHEET 2 OF 3 FOR SKETCH CONTINUATION

LEGEND

ORB OFFICIAL RECORDS BOOK
PB PLAT BOOK
PG PAGE OR PAGES

LINE TABLE

LINE	BEARING	DISTANCE
L2	S31°53'53"W	161.64'
L3	S02°52'34"E	78.38'
L4	S68°22'42"W	48.42'
L5	S41°33'57"E	39.15'



16 East Plant Street
Winter Garden, Florida 34787 (407) 654 5335

SURVEYOR'S NOTES:

I:\data\20140251\sketches\20140251-ce S00-CE (3)

THIS IS NOT A SURVEY.
THE DELINEATION OF THE LANDS SHOWN HEREON ARE AS PER THE CLIENT'S REQUEST.
THIS LEGAL DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
THIS LEGAL DESCRIPTION AND SKETCH HAS BEEN PREPARED WITHOUT THE BENEFIT OF TITLE.
BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 21-24-28 ORANGE COUNTY, FLORIDA, BEING S00°04'25"W.

JOB NO. 20140251
DATE: 11-10-16
SCALE: 1" = 100'
FIELD BY: N/A

CALCULATED BY: DH
DRAWN BY: DH
CHECKED BY: MR

Exhibit "B"

Parcel 1:

That part of the East 375 feet of the West 1975 feet of the East $\frac{3}{4}$ of the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 21, Township 24 South, Range 28 East, lying North of the Winter Garden-Vineland Road, Orange County, Florida.

Parcel 2:

That part of the East 43.52 feet of the East $\frac{3}{4}$ of the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 21, Township 24 South, Range 28 East lying North of Winter Garden-Vineland Road, Orange County, Florida.

Parcel 3:

Lot 32 in Section 21, Township 24 South, Range 28 East, MUNGER'S LAND, as recorded in Plat Book "E", Page 22, Public Records of Orange County, Florida.

Parcel 4:

That part of the unnamed platted right of way lying Easterly, Southeasterly and Southerly of Lot 32, MUNGER'S LAND (Section 21, Township 24 South, Range 28 East, Orange County, Florida) according to the Plat thereof as recorded in Plat Book "E", Page 22, Public Records of Orange County, Florida, (as vacation by Resolution recorded September 15, 2006 in Official Records Book 8863, Page 4354, of the Public Records of Orange County, Florida).

LESS AND EXCEPT that portion of the above described Parcels 1 and 2 condemned taken by Orange County, Florida, pursuant to that certain Order of Taking filed with the Circuit of Court of the Ninth Judicial Circuit in and for Orange County, Florida as Case No. CI 95-6235 and recorded March 21, 1996 in Official Records Book 5029, Page 3387, of the Public Records of Orange County, Florida.