





Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 10

DATE: June 2, 2017

TO: Mayor Teresa Jacobs
and the
Board of County Commissioners

THROUGH: Ann Caswell, Manager 
Real Estate Management Division

FROM: Erica L. Guidroz, Acquisition Agent 
Real Estate Management Division

CONTACT PERSON: Ann Caswell, Manager

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

ACTION REQUESTED: APPROVAL OF NON-EXCLUSIVE DRAINAGE EASEMENT FROM OCOEE BUSINESS PARK, L.L.C. TO ORANGE COUNTY WITH MORTGAGEE JOINDER AND CONSENT TO NON-EXCLUSIVE DRAINAGE EASEMENT FROM JTB INVESTMENTS, LLC AND AUTHORIZATION TO DISBURSE FUNDS TO PAY ALL RECORDING FEES AND RECORD INSTRUMENT

PROJECT: Dunbar Avenue Drainage Easement Acquisition

District 1

PURPOSE: To provide for access, construction, operation, and maintenance of drainage facilities.

ITEM: Non-Exclusive Drainage Easement with Mortgagee Joinder and Consent to Non-Exclusive Drainage Easement (Instrument 801.1)
Cost: Donation
Size: 6,525 square feet

BUDGET: Account No.: 1002-072-2906-6110

FUNDS: \$61.70 Payable to Orange County Comptroller
(all recording fees)

APPROVALS: Real Estate Management Division
County Attorney's Office
Roads and Drainage Division
Risk Management Division

REMARKS: This Non-Exclusive Drainage Easement ("DE") is needed to alleviate flooding problems on the subject property and adjacent lands. This instrument is subject and subordinate to any and all conservation easements, and any amendments or modification thereof, in favor of the St. Johns River Water Management District, whether executed or recorded prior to or after execution of the DE.

Instrument: 801.1

Project: Dunbar Avenue Drainage Easement Acquisition

APPROVED

BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

JUN 20 2017

NON-EXCLUSIVE DRAINAGE EASEMENT

THIS INDENTURE, Made this 8th day of March, A.D. 2017, between Ocoee Business Park, L.L.C., a Florida limited liability company, whose address is 1216 Edgewater Drive, Orlando, FL 32804, 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 \$10.00 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 non-exclusive drainage easement for drainage purposes solely from real property owned by GRANTEE, with full authority to enter upon, construct, and maintain, as the GRANTEE and its assigns may deem necessary, but in all events subject to and in compliance with all applicable conservation easements, laws, ordinances, rules and regulations, and without interfering with GRANTOR'S ownership and retained rights, a drainage ditch, pipe, or facility over, under, and upon the following described lands situate in Orange County aforesaid to-wit (the "Easement Area"):

SEE ATTACHED EXHIBIT "A"

Property Appraiser's Parcel Identification Number:
a portion of 18-22-28-0000-00-088

TO HAVE AND TO HOLD said 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 drainage ditch, pipe, or facility, out of and away from the Easement Area, and the GRANTOR, 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 Easement Area that may unreasonably interfere with the normal operation or maintenance of the drainage ditch, pipe, or facility; provided, GRANTOR and its affiliated entities shall retain the right to transmit to and retain and detain on the Easement Area any surface water originating from adjacent real property owned by GRANTOR or its affiliated entities, both before and after the development of such adjacent real property. Any and all rights of the GRANTEE arising hereunder are expressly subject and subordinate to any and all conservation easements, and any amendments or modifications thereof, in favor of the St. Johns River Water Management District, whether executed or recorded prior to or after the date hereof, and GRANTEE shall at all times comply with all of the terms and conditions of any such conservation easements, and any amendments or modifications thereof.

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WITHIN THE LIMITS provided in Section 768.28, Florida Statutes, and without otherwise waiving GRANTEE'S sovereign immunity, GRANTEE agrees to defend, indemnify, and hold harmless the GRANTOR, its officers, managers, members, owners, principals, officials, and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs, and expenses (including attorney's fees and costs) attributable to its actions or omissions in the exercise of its rights and obligations arising hereunder, its negligent acts or omissions, or those of its officials, employees, and agents, or arising out of or resulting from the indemnifying party's negligent performance under this agreement. The GRANTEE shall not allow any liens or other encumbrances for work done or materials provided or otherwise to attach to or be enforced against the Easement Area and shall promptly discharge any such liens or encumbrances.

WITHOUT WAIVING its right to sovereign immunity as provided in Section 768.28, Florida Statutes, the GRANTEE acknowledges to be self-insured for General Liability and Automobile Liability with coverage limits of as set forth in Section 768.28, Florida Statutes.

THE GRANTEE agrees to maintain commercial insurance or to be self-insured for Workers' Compensation & Employers' Liability in accordance with Florida Statute Chapter 440.

UPON REQUEST, the GRANTEE shall provide an affidavit or Certificate of Insurance evidencing self-insurance or commercial insurance up to sovereign immunity limits, which the GRANTOR agrees to find acceptable for the coverage mentioned above.

THE GRANTOR'S failure to request proof of insurance or to identify any deficiency in coverage or compliance with the foregoing requirements shall not relieve the GRANTEE of its liability and obligations under this agreement.

THE GRANTEE shall require all contractors performing work within the GRANTOR'S right-of-way or easement areas to procure and maintain workers' compensation, commercial general liability, business auto liability, and contractor's pollution liability coverage. Each party shall be listed as an additional insured on all general liability policies.

THE GRANTOR reserves all rights associated with its fee simple ownership of the Easement Area and the right to use the Easement Area, at any and all times for any and all purposes which do not unreasonably interfere with the exercise and use of the easement rights granted to GRANTEE herein or the requirements of any conservation easements. The GRANTOR'S reservation shall include, without limiting the generality of the foregoing, the right and privilege at any time and from time to time to make grants, easements, licenses, and privileges to any person, firm, corporation, or other entity, over, under, upon and with respect to said Easement Area, for any purpose or use that will not interfere with the normal operation or maintenance of GRANTEE'S drainage rights. Specifically, but not by way of limitation, the parties agree that the GRANTOR shall retain the right to transmit to and retain and detain on the Easement Area any surface water originating from adjacent real property owned by GRANTOR or its affiliated entities, both before and after the development of such adjacent real property, subject to any requirements of any conservation easements, and subject to GRANTOR'S compliance with St. Johns River Water Management District water quantity and quality regulations.

The rights and obligations granted or created hereby shall be enforceable by the GRANTOR or the GRANTEE by injunction or by specific performance, or the parties hereto may seek monetary damages, if appropriate. If any legal action or other proceeding or action is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection

Instrument: 801.1
Project: Dunbar Avenue Drainage Easement Acquisition

with any provision of this Agreement, each party shall bear its own attorneys' fees, court costs, and all other expenses (including, without limitation, all such fees, costs, and expenses incident to arbitration, appellate, bankruptcy, and post-judgment proceedings), incurred in that action or proceeding or any appeal, in addition to any other relief to which the party or parties may be entitled.

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

Signed, sealed and delivered
in the presence of:

[Signature]

Witness

SUSAN HEITNER

Printed Name

Amy Windmiller

Witness

Amy Windmiller

Printed Name

(Signature of TWO witnesses
required by Florida law)

Ocoee Business Park, L.L.C.,
a Florida limited liability company

BY: [Signature]

C. Bruce Gordy, Manager

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 8th day of March, 2017,
by C. Bruce Gordy, as Manager of Ocoee Business Park, L.L.C., a Florida limited liability company, on
behalf of the company. He ☒ is personally known to me or ☐ has produced _____
as identification.

Witness my hand and official seal this 8th day of March, 2017.

(Notary Seal)



This instrument prepared by:

E. Price Jackson, a staff employee
in the course of duty with the
Real Estate Management Division
of Orange County, Florida

[Signature]
Notary Signature

Printed Notary Name

Notary Public in and for
the County and State aforesaid

My commission expires:

BOUNDARY SURVEY
of
A PROPOSED 40 FOOT DRAINAGE EASEMENT

Prepared for & Certified to:
ORANGE COUNTY PUBLIC WORKS
ENGINEERING DEPARTMENT

LEGAL DESCRIPTION (PREPARED BY SURVEYOR)

ALL THAT TRACT OR PARCEL OF LAND LYING IN SECTION 18, TOWNSHIP 22 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; BEING A PORTION OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 7778, PAGE 588, AS RECORDED IN THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 18, TOWNSHIP 22 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, SAID POINT BEING A FOUND 4"X4" CONCRETE MONUMENT WITH 3/8" IRON ROD (NO IDENTIFICATION); THENCE NORTH 00°01'57" WEST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 18, A DISTANCE OF 645.50 FEET TO THE NORTHWEST CORNER OF A 20 FEET WIDE DRAINAGE EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 2675, PAGE 78, AS RECORDED IN THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°01'57" WEST ALONG SAID WEST LINE, A DISTANCE OF 148.96 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF CSX RAILROAD; THENCE NORTH 54°05'03" EAST ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE A DISTANCE OF 49.37 FEET TO A POINT; THENCE SOUTH 00°01'57" EAST ALONG A LINE 40 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 18, A DISTANCE OF 177.31 FEET TO THE NORTHEAST CORNER OF A 20 FOOT WIDE DRAINAGE EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 2765, PAGE 492, AS RECORDED IN THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE SOUTH 89°08'11" WEST ALONG THE NORTH LINE OF SAID 20 FOOT WIDE DRAINAGE EASEMENT AND ALONG THE NORTH LINE OF SAID 20 FOOT WIDE DRAINAGE EASEMENT, DESCRIBED IN OFFICIAL RECORDS BOOK 2675, PAGE 78, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,525 SQUARE FEET MORE OR LESS.

GENERAL NOTES:

1. THE PURPOSE OF THIS SURVEY IS TO ESTABLISH THE BOUNDARY OF A PROPOSED 40 FOOT DRAINAGE EASEMENT.
2. THE SURVEYOR HAS NOT ABSTRACTED THE LANDS SHOWN HEREON FOR EASEMENTS AND/OR RIGHT-OF-WAY RECORDS. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
3. THE BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 18, TOWNSHIP 22 SOUTH, RANGE 28 EAST, BEING N00°01'57"W, RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983/1990 ADJUSTMENT (NAD83/90) EAST ZONE.
4. UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT, OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.
5. THIS SKETCH MAY HAVE BEEN REDUCED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.
6. ACCORDING TO THE FLOOD INSURANCE RATE MAP (FIRM), DATED SEPTEMBER 25, 2009 THE EXISTING SITE APPEARS TO LIE IN FLOOD ZONE "X", LOCATED ON COMMUNITY PANEL NO. 120179-0210-F, MAP NUMBER 12095C0210F.
7. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED.

REVISIONS:

1. UPDATED EXISTING OFFICIAL RECORDS BOOK AND PAGE IN LEGAL DESCRIPTION AND SKETCH (JUNE 13, 2011)

PAGE 1 OF 2

For: Orange County Public Works

Date: October 27, 2010

Project No.: R06-04

Drawn: RJH Chkd.: HPV

BOUNDARY SURVEY
OF A PROPOSED
40 FOOT DRAINAGE EASEMENT



GEODATA CONSULTANTS, INC.

SURVEYING & MAPPING

2700 WESTHALL LANE

SUITE 137

MAITLAND, FLORIDA 32751

VOICE: (407) 660-2322 FAX: 660-8223

Land Surveyor Business License No. 6556

MORTGAGEE JOINDER AND CONSENT TO NON-EXCLUSIVE DRAINAGE EASEMENT

THIS MORTGAGEE JOINDER AND CONSENT TO NON-EXCLUSIVE DRAINAGE EASEMENT (the "Consent") is made and executed this 11 day of May, 2017 by **JTB INVESTMENTS, LLC, a Florida limited liability company** (the "Mortgagee"), with a mailing address of 2231 West CR-44, Eustis, Florida 32727.

WITNESSETH:

WHEREAS, Ocoee Business Park, L.L.C., a Florida limited liability company ("OBP") previously executed and delivered to the Mortgagee that certain Consolidated and Renewal Promissory Note dated September 26, 2014 in the principal amount of One Million Seven Hundred Twenty-Five Thousand Dollars (\$1,725,000.00) (the "Note"), together with certain predecessor promissory notes in favor of the Mortgagee's predecessors in interest;

WHEREAS, in order to secure the payment of the aforementioned Note, OPB, as mortgagor, executed and delivered in favor of the Mortgagee, as mortgagee, that certain Mortgage and Note Modification, Consolidation, and Renewal Agreement dated September 29, 2014 ("Consolidated Mortgage") and recorded October 6, 2014 in Official Records Book 10815, Page 3448, in the Public Records of Orange County, Florida, which Consolidated Mortgage modified, consolidated and amended certain predecessor mortgages and other security instruments, and operated to place a mortgage lien and encumbrance on the real property more particularly described in such Consolidated Mortgage (the "Mortgaged Property"); and

WHEREAS, OBP has executed in favor of Orange County, a charter county and political subdivision of the state of Florida ("County"), that certain Non-Exclusive Drainage Easement (the "Easement") to which this Consent is attached, which Easement is placed on a portion of the Mortgaged Property more particularly described in the Easement, and the Grantee and the County have requested, and the Lender has agreed, to join in and consent to the Easement and to subordinate the lien and operation of the Consolidated Mortgage to the Easement.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Lender does hereby agree as follows:

Section 1. Subordination of Mortgage. The Lender does hereby join in and consent to the Easement and absolutely and unconditionally subordinates the lien and operation of the Consolidated Mortgage, and all assignments, financing statements and other security instruments executed in connection with the Note, Consolidated Mortgage and all other predecessor or successor notes, mortgages, modifications, assignments, financing statements, and all of the Lender's rights or interests arising thereunder, to the Easement.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK -
SIGNATURE AND NOTARY CERTIFICATION ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Mortgage Joinder and Consent to Non-Exclusive Drainage Easement to be executed as of the date first set forth above.

WITNESSES:

LENDER

JTB INVESTMENTS, LLC, a Florida limited liability company

Victoria Morales
WITNESS SIGNATURE

Victoria Morales
WITNESS NAME PRINTED

[Signature]
WITNESS SIGNATURE

Tristan Robinson
WITNESS NAME PRINTED

By: [Signature]
Jerry P. Brown
As its Manager

STATE OF FLORIDA
COUNTY OF ORANGE

I HEREBY CERTIFY, as an officer duly authorized to take acknowledgments and oaths in the State and County aforesaid, that at the execution of this instrument on the date set forth below, Jerry P. Brown personally appeared before me, as Manager of JTB Investments, LLC, a Florida limited liability company, and executed or acknowledged her previous execution of this instrument. I HEREBY FURTHER CERTIFY, that Jerry P. Brown, is the same person either executing or acknowledging execution of the foregoing instrument because: ☐ I personally know him/her/them OR ☐ I have satisfactory evidence of same based upon a ☒ Florida driver's license or ☐ Other identification: P-2/DL. WITNESS my hand and official seal in the State and County aforesaid this 11 day of May, 2017.

[Signature]
Notary Public Signature
(PLACE NOTARY NAME & SEAL IMMEDIATELY BELOW)



Under Ordinance Approval

Amount: \$61.70

Parcels: 801

Date

Date _____

District # 1

Total \$61.70

Request for Check-First American Title 9/11/06

REQUEST FOR FUNDS FOR LAND ACQUISITION

☒ Under BCC Approval

☐ Under Ordinance Approval

Date: 6-1-2017

Amount: \$61.70

Project: Dunbar Avenue Drainage Easement Acquisition

Parcels: 801

Charge to Account # 1002-072-2906-6110

Controlling Agency Approval

Date

Fiscal Approval

Date

TYPE TRANSACTION (Check appropriate block(s))

☐ Pre-Condemnation ☐ Post-Condemnation

☒ N/A

District # 1

- ☐ Acquisition at Approved Appraisal
- ☐ Acquisition at Below Approved Appraisal
- ☐ Acquisition at Above Approved Appraisal
- ☒ Advance Payment Requested (all recording fees)

Orange County Comptroller
All Recording Fees \$61.70

Total \$61.70

DOCUMENTATION ATTACHED (Check appropriate block(s))

- ☐ Contract
- ☒ Copy of Executed Instrument
- ☐ Certificate of Value
- ☒ Settlement Analysis

Payable to: Orange County Comptroller (\$61.70)

CHECKS ARE TO BE PICKED UP BY THE REAL ESTATE MANAGEMENT DIVISION (DO NOT MAIL)

Recommended by Erica Guidroz
Erica Guidroz, Acquisition Agent

Date

Payment Approved Ann Caswell
Ann Caswell, Manager, Real Estate Management Division

Date

Certified _____
Approved by BCC Deputy Clerk to the Board

Date

Examined/Approved _____
Comptroller/Government Grants

Check No. / Date

REMARKS:

Anticipated Closing Date: To be recorded as soon as possible after BCC approval

Project: Dunbar Avenue Drainage Easement Acquisition

Parcel: 801.1

N/A_ Pre-Condemnation

N/A_ Post-Condemnation

SETTLEMENT ANALYSIS

***This is a Donation**

Land:

Drainage Easement: 6,525 S.F.

\$-0-

EXPLANATION OF RECOMMENDED SETTLEMENT

The subject property is along Dunbar Avenue and Christopher Street. The Drainage Easement consists of 6,525 square feet and will be used to maintain the drainage facilities. The owner has agreed to this donation.

Recommended by Erica Guidroz Date 5-25-2017
Erica Guidroz, Senior Acquisition Agent, Real Estate Management Division

Approved by Mary Ann Keller Date 5/30/17
Mary Ann Keller, Assistant Manager, Real Estate Management Division

Approved by Ann Caswell Date 5-31-17
Ann Caswell, Manager, Real Estate Management Division