



Interoffice Memorandum

AGENDA ITEM

June 18, 2018

TO:

Mayor Teresa Jacobs

-AND-

Board of County Commissioners

FROM:

James E. Harrison, Esq., P.E., Chairman  
Roadway Agreement Committee  
407-836-5313

SUBJECT:

July 10, 2018 – Consent Item  
Right of Way Agreement for Sant Commercial Building, Inc.

The Roadway Agreement Committee has reviewed a Right of Way Agreement ("Agreement") between Sant Commercial Building, Inc. ("Owner") and Orange County for the dedication of right of way for Reams Road. The Owner will receive \$22,500 per acre for the conveyance of 0.15 acres of right of way for Reams Road for a total of \$3,375 in transportation impact fee credits.

The Roadway Agreement Committee approved the Right of Way Agreement on April 18, 2018. The Specific Project Expenditure Report and Relationship Disclosure Forms are on file with the Transportation Planning Division.

**ACTION REQUESTED:** Approval and execution of Right of Way Agreement for Sant Commercial Building, Inc. (Reams Road) by and between Sant Commercial Building, Inc. and Orange County for the dedication of 0.15 acres of right of way for transportation impact fee credits in the amount of \$3,375.  
District 1

JEH/HEGB:am  
Attachment

BCC Mtg. Date: July 10, 2018

Prepared by and after recording return to:

Meenakshi A. Hirani, Esq.  
2265 Lee Road, Suite 109  
Winter Park, FL 32789

Tax Parcel I.D. No. 34-23-27-0000-00-017

## **RIGHT OF WAY AGREEMENT**

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### **FOR SANT COMMERCIAL BUILDING, INC.** **(REAMS ROAD)**

This Right-of-Way Agreement (the "Agreement"), effective as of the latest date of execution (the "Effective Date"), is made and entered into by and between Sant Commercial Building, Inc. ("Owner"), a Florida Corporation, whose mailing address is 1718 Whitney Isles Dr., Windermere, FL 34786-6066, and Orange County, a charter county and political subdivision of the State of Florida ("County"), whose mailing address is c/o Orange County Administrator, Post Office Box 1393, Orlando, Florida 32802-1393.

### **WITNESSETH:**

WHEREAS, Owner is the owner of fee simple title to certain real property, as shown in the project location map identified as Exhibit "A", and as more particularly described on "Exhibit B" (legal description and sketch of description), both of which are attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, Owner is developing the Property as a residential townhome development (the "Project"); and

WHEREAS, Owner is willing to convey to County certain portions of the Property (the "ROW Conveyance") in return for credits against transportation impact fees to be paid in the future in connection with the Project; and

WHEREAS, the Orange County Engineer has declared Reams Road improvement to be impact fee eligible; and

WHEREAS, County and Owner desire to set forth certain terms, conditions, and agreements between the parties as to the conveyance of such land to County.

NOW, THEREFORE, for and in consideration of the above premises, the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and County (the "Parties") agree as follows:

**Section 1. Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2. Conveyance of Land to County by Owner.**

(a) *Conveyed Lands.* Within one hundred twenty (120) days following the Effective Date, Owner shall convey to County marketable fee title to those lands described in the legal description and sketch of description attached hereto as Exhibit "C" and incorporated by this reference (the "Conveyed Lands").

In the event conveyance does not occur within the aforesaid 120 days, the Manager of the Real Estate Management Division, or a designee, may grant an extension of up to 120 days for the conveyance to take place.

(b) *Procedure.* The conveyance of the Conveyed Lands shall be by plat dedication or general warranty deed, free and clear of all liens and encumbrances, except for easements of record acceptable to County, if any. If by plat dedication, the rest of this paragraph and the following paragraphs (c), (e), (f) will not apply. Owner shall pay all costs associated with the conveyance of the Conveyed Lands, including all recording fees and documentary stamps related to such conveyance. Ad valorem taxes in connection with the conveyance of the Conveyed Lands shall be prorated as of the date of transfer of title and said prorated amount shall be paid by Owner to the Orange County Tax Collector, in escrow, pursuant to Section 196.295, Florida Statutes, unless the conveyance occurs between November 1 and December 31 of the year of conveyance, in which case ad valorem taxes shall be paid in full by Owner for the year of conveyance.

(c) *Title Policy.* No less than thirty (30) days prior to conveyance of the Conveyed Lands, Owner shall deliver to County, at Owner's sole cost and expense, a commitment to issue an Owner's Policy of Title Insurance naming County as the insured (the "Title Commitment"). The original Owner's Policy of Title Insurance (the "Title Policy") shall be delivered to County within thirty (30) days of the conveyance of the Conveyed Lands.

(d) *Value of Conveyed Lands.* The value of the land to be conveyed by Owner to County has been determined in accordance with Section 23-95, Orange County Code, as may be amended from time to time.

The Parties hereby agree that the value of the Conveyed Lands to be conveyed by Owner to County, in return for credits against transportation impact fees to be paid in the future in connection with the Project, is three thousand three hundred seventy-five and No/100 U.S. Dollars (\$3,375). This total results from an agreed-upon fair market value of twenty-two

thousand five hundred and No/100 U.S. Dollars (\$22,500.00) per acre, or fraction thereof, and a total acreage of 0.15 acre(s).

(e) *Environmental Audit.* No less than thirty (30) days prior to conveyance, Owner shall submit to County a current (within 6 months of conveyance to County) Phase I environmental audit of the areas encompassed by the Conveyed Lands. The Phase I environmental audit shall be conducted in accordance with the requirements of the All Appropriate Inquiries Final Rule, or with the standards set forth in the American Society for Testing and Materials (ASTM) E-1527-13. In the event the Phase I environmental audit presents a matter of concern, as determined by County, then prior to the conveyance, Owner shall submit to County a Phase II environmental audit. If the Phase II environmental audit is performed and reveals the need for remediation to the Conveyed Lands, one of the following events shall occur: (i) Owner shall remediate the Conveyed Lands to County's satisfaction prior to the conveyance; or (ii) Owner and County shall negotiate and enter into a separate agreement whereby Owner shall pay the full cost of remediation; or (iii) County may terminate this Agreement at its option.

(f) *Compliance with Section 286.23, Florida Statutes.* Owner shall execute and deliver to County the "Disclosure of Beneficial Interests" required pursuant to section 286.23, Florida Statutes.

**Section 3. *Transportation Impact Fee Credits.*** Promptly upon County's approval of any Environmental Assessments and Title Commitment required under Section 2, and upon approval and acceptance of the general warranty deed, or in the case of conveyance by plat dedication, County's acceptance of the plat dedication, County shall credit on its books to the

account of Owner, for purposes of Article IV of Chapter 23 of the Orange County Code and any successor code provisions (the "Impact Fee Ordinance"), the aforementioned amount of transportation impact fee credits to which Owner is entitled under the Impact Fee Ordinance. Such transportation impact fee credits may only be used in transportation impact fee zone four (4). Thereafter, as impact fees become payable from time to time in connection with the Project, and if so instructed by Owner, County shall deduct such amounts payable from Owner's account.

For purposes of the foregoing, County shall make deductions from Owner's account from time to time only upon receipt of written direction from Owner (or from such person or entity to whom Owner expressly may assign this authority, in writing, in the future) to effectuate the particular deduction.

Nothing herein shall prevent Owner from assigning transportation impact fee credits as provided for in Section 23-95(e) of the Orange County Code, as may be amended from time to time.

**Section 4. Utilities.** This agreement does not address utility requirements. Owner shall coordinate with the Orange County Utilities Director, or a designee, with respect to any utility easements necessary to accommodate appropriately-sized wastewater sewer mains or lines, potable water mains or lines, and/or reclaimed water mains or lines.

**Section 5. Notice.** Any notice delivered with respect to this Agreement shall be in writing and shall be deemed to be delivered (whether or not actually received) (i) when hand delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the person at the address set forth opposite the party's name below, or to such other address or to such other

As to Owner: Sant Commercial Building, Inc.  
1718 Whitney Isles Dr., Windermere, FL 34786-6066  
Attention: Anil Sant

With a copy to: Meenakshi A. Hirani, Esq.  
2265 Lee Road, Suite 109  
Winter Park, FL 32789  
Attention: Meenakshi A. Hirani, Esq.

As to County: Orange County Administrator  
P.O. Box 1393  
201 S. Rosalind Ave  
Orlando, FL 32802-1393

With a copy to: Orange County Community, Environmental,  
and Development Services Department  
Manager, Transportation Planning Division  
Orange County Public Works Complex  
4200 S. John Young Parkway  
Orlando, Florida 32839-9205

**Section 6. Covenants Running with the Land.** This Agreement shall run with the Property and shall be binding upon and shall inure to the benefit and burden of the heirs, legal representatives, successors, and assigns of the parties and to any person, firm, corporation, or other entity that may become a successor in interest to the Property. Notwithstanding the foregoing, however, the authority under Section 3 to instruct County to make deductions from Owner's transportation impact fee account shall remain with Owner unless expressly assigned in writing to another by Owner.

**Section 7. Recordation of Agreement.** An executed original of this Agreement shall be recorded, at Owner's expense, in the Public Records of Orange County, Florida within thirty (30) days of the Effective Date.

**Section 8. Applicable Law.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

**Section 8. *Applicable Law.*** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

**Section 9. *Time is of the Essence.*** Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Agreement.

**Section 10. *Further Documentation.*** The Parties agree that at any time following a request therefor by the other party, each shall execute and deliver to the other party such further documents and instruments reasonably necessary to confirm and/or effectuate the obligations of either party hereunder and the consummation of the transactions contemplated hereby.

**Section 11. *Limitation of Remedies.*** County and Owner expressly agree that the consideration, in part, for each of them entering into this Agreement is the willingness of the other to limit the remedies for all actions arising out of or in connection with this Agreement.

(a) ***Limitations on County's remedies.*** Upon any failure by Owner to perform its obligations under this Agreement, County shall be limited strictly to only the following remedies:

- (i) action for specific performance or injunction; or
- (ii) the right to set off, against the amounts of impact fees to be credited in favor of Owner under this Agreement, (A) any amounts due to County from Owner under this Agreement but remaining unpaid and (B) the cost to County of performing any action or actions required to be done under this Agreement by Owner, but which Owner has failed or refused to do when required; or



(iii) the withholding of development permits and other approvals or permits in connection with the Project and/or the Property; or

(iv) any combination of the foregoing.

In addition to the foregoing, nothing in this Agreement prohibits or estops County from exercising its power of eminent domain with respect to the Conveyed Lands or any other portion of the Property as County may lawfully elect.

(b) *Limitations on Owner's remedies.* Upon any failure by County to perform its obligations under this Agreement, Owner shall be limited strictly to only the following remedies:

(i) action for specific performance; or

(ii) action for injunction; or

(iii) action for declaratory judgment regarding the rights and obligations of Owner; or

(iv) any combination of the foregoing.

Both parties expressly waive their respective rights to sue for damages of any type for breach of, or default under, this Agreement by the other. Both parties expressly agree that each party shall bear the cost of its own attorney fees for any action arising out of or in connection with this Agreement. Venue for any actions initiated under or in connection with this Agreement shall be in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida.

**Section 12. Amendment.** This Agreement may be amended only in writing, formally executed in the same manner as this Agreement.

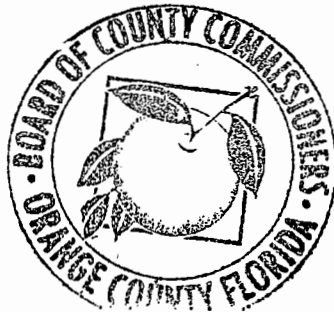
**Section 13. Counterparts.** This Agreement and any amendment(s) may be executed in up to two counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

**Section 14. Termination; Effect of Annexation.** This Agreement shall remain in effect so long as the Property remains in unincorporated Orange County, Florida, unless the Parties terminate it in writing. If any portion of the Property is proposed to be annexed into a neighboring municipality, and out of the unincorporated areas, County may, in its sole discretion, terminate this Agreement upon notice to the Owner.

[Signatures appear on following pages]

IN WITNESS WHEREOF, the Parties 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: *Britt Dalton*

*Teresa Jacobs*  
Teresa Jacobs,  
Orange County Mayor

Date: 7.10.18

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

By: *Katie Smith*  
Deputy Clerk

Printed name: Katie Smith

Sant Commercial Building, Inc.  
a Florida Corporation

By: Anil Sant

Printed name: Anil Sant

Title: President

Date: 5/22/18

WITNESSES:

Lourdes V. Casiano

Printed Name: Lourdes V. Casiano

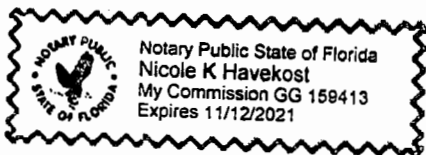
Tara Ricketts

Printed Name: TARA RICKETTS

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by Anil Sant, as President of Sant Commercial Building, Inc, a Florida Corporation, who is known by me to be the person described herein and who executed the foregoing, this 22 day of May, 2018. S/he is personally known to me or has produced \_\_\_\_\_ as identification and did/did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 22 day of May, 2018.



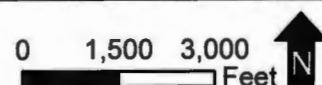
Nicole K. Havekost  
Notary Public

Print Name: Nicole K. Havekost

My Commission Expires: 11/12/2021

**Exhibit "A"**  
**Project Location Map**

[See attached 1 page(s)]



**Exhibit "B"**

**Legal Description for Property**

Commence at the Southeast corner of Section 35, Township 23 South, Range 27 East, Orange County, Florida, an axel, thence North 89 degrees 24 minutes 14 seconds West 2,436.76 feet along the South line of said Section to an iron pin on the East right-of-way of Reams Road, thence Northerly along said right-of-way 6,568.76 feet to an iron pin on said right-of-way, the Point of Beginning of the tract herein described: Thence continue North 00 degrees 30 minutes 30 seconds East along said right of way 220.0 feet to an iron pin on said right-of-way, thence South 89 degrees 29 minutes 30 seconds East 1,000.0 feet to a point thence South 00 degrees 03 minutes 30 seconds West 220.0 feet to a point thence North 89 degrees 29 minutes 30 seconds West 1,000.0 feet to the Point of Beginning, all in Section 34, Township 23 South, Range 27 East, Orange County, Florida.

Parcel Identification Number: 34-23-27-0000-00-017.

**Exhibit "C"**

**Legal Description and Sketch of Description  
for Conveyed Lands**

**[See attached 2 page(s)]**



# LEGAL DESCRIPTION

## THIS IS NOT A SURVEY

LEGAL DESCRIPTION: PARCEL ID 34-23-27-0000-00-017

A STRIP OF LAND, 30.00 FEET IN WIDTH, BEING THE WEST 30.00 FEET OF THE LANDS DESCRIBED IN DOCUMENT NUMBER 20160169294 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF SAID LANDS DESCRIBED IN DOCUMENT NUMBER 20160169294; THENCE RUN NORTH 89°52'49" EAST, ALONG THE NORTH LINE OF SAID LANDS DESCRIBED IN DOCUMENT NUMBER 20160169294, FOR A DISTANCE OF 30.00 FEET; THENCE RUN SOUTH 00°07'11" EAST, DEPARTING SAID NORTH LINE, ALONG A LINE 30.00 FEET EAST OF (PERPENDICULAR MEASURE) AND PARALLEL TO THE EAST RIGHT-OF-WAY LINE OF REAMS ROAD, ACCORDING TO PLAT BOOK 3, PAGE 85 OF SAID PUBLIC RECORDS, FOR A DISTANCE OF 220.00 FEET TO THE SOUTH LINE OF SAID LANDS DESCRIBED IN DOCUMENT NUMBER 20160169294; THENCE RUN SOUTH 89°52'49" WEST, ALONG SAID SOUTH LINE, FOR A DISTANCE OF 30.00 FEET TO A POINT LYING ON SAID EAST RIGHT-OF-WAY LINE; THENCE RUN NORTH 00°07'11" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, FOR A DISTANCE OF 220.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE STRIP OF LAND LIES IN ORANGE COUNTY, FLORIDA AND CONTAINS 6,600 SQUARE FEET MORE OR LESS.

### LEGEND

P.B. PLAT BOOK  
PG. PAGE OR PAGES  
R/W RIGHT-OF-WAY  
DOC# OFFICIAL RECORD DOCUMENT NUMBER  
OF THE PUBLIC RECORDS OF  
ORANGE COUNTY, FLORIDA  
C CENTER LINE

SHEET 1 OF 2



16 EAST PLANT STREET  
Winter Garden, Florida 34787 \* (407) 654-5355

### SURVEYOR'S NOTES:

1. BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON THE EAST RIGHT-OF-WAY LINE OF REAMS ROAD BEING NORTH 00°07'11" WEST.
2. THIS SKETCH IS NOT VALID UNLESS SIGNED AND SEALED WITH AN EMBOSSED SURVEYOR'S SEAL.
3. THIS LEGAL DESCRIPTION AND SKETCH WERE PREPARED WITHOUT BENEFIT OF TIME.
4. THE DELINEATION OF THE LANDS SHOWN HEREON IS AS THE CLIENT'S INSTRUCTIONS.
5. PARCEL OWNER AND RECORDING INFORMATION HEREON WAS OBTAINED FROM THE ORANGE COUNTY PROPERTY APPRAISER'S PUBLIC ACCESS SYSTEM.

JOB NO. 20160059

DATE: 03/16/18

SCALE: 1" = 60 FEET

FIELD BY: N/A

CALCULATED BY: SEJ

DRAWN BY: SEJ/WB

CHECKED BY: MR

FOR THE LICENSED BUSINESS BY:

JAMES L. RICHMAN, P.S.M. #5633

**LEGAL DESCRIPTION**  
**THIS IS NOT A SURVEY**

**POINT OF BEGINNING**  
**NORTHWEST CORNER OF**  
**DOC# 20160169294**

NOT PLATTED

N89°52'49"E 1000.00'

NORTH LINE OF  
LANDS DESCRIBED IN  
DOC# 20160169294

**PARCEL #**  
**34-23-27-0000-00-017**  
**DOC# 20160169294**  
**NOT PLATTED**

SOUTH LINE OF  
LANDS DESCRIBED IN  
DOC# 20160169294

S89°52'49"W 1000.00'

NOT PLATTED

EAST R/W LINE

**LINE TABLE**

LINE	LENGTH	BEARING
L1	30.00'	N89°52'49"E
L2	30.00'	S89°52'49"W

220.00'

S00°07'11"E

220.00'

220.00'

220.00'

220.00'

220.00'

220.00'



16 EAST PLANT STREET  
Winter Garden, Florida 34787 • (407) 654-5355

**SURVEYOR'S NOTES:**

1. BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON THE EAST RIGHT-OF-WAY LINE OF REAMS ROAD BEING NORTH 00°07'11" WEST.
2. THIS SKETCH IS NOT VALID UNLESS SIGNED AND SEALED WITH AN EMBOSSED SURVEYOR'S SEAL.
3. THIS LEGAL DESCRIPTION AND SKETCH WERE PREPARED WITHOUT BENEFIT OF TITLE.
4. THE DELINEATION OF THE LANDS SHOWN HEREON IS AS THE CLIENT'S INSTRUCTIONS.
5. PARCEL OWNER AND RECORDING INFORMATION HEREON WAS OBTAINED FROM THE ORANGE COUNTY PROPERTY APPRAISER'S PUBLIC ACCESS SYSTEM.

JOB NO. 20160059

CALCULATED BY: SEJ

DATE: 03/16/18

DRAWN BY: SEJ/WB

SCALE: 1" = 60 FEET

CHECKED BY: MR

FIELD BY: N/A

**SHEET 2 OF 2**  
**SEE SHEET 1 OF 2**  
**FOR LEGAL DESCRIPTION**  
**AND LEGEND**