

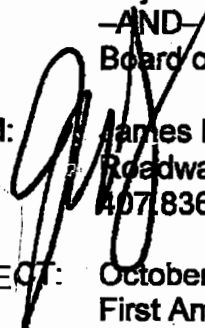


Interoffice Memorandum

AGENDA ITEM

September 24, 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: October 16, 2018 – Consent Item
First Amendment to the Transportation Agreement for Sunbridge
Parkway (From Dowden Road to Osceola County Line)

The Roadway Agreement Committee has reviewed a First Amendment to Transportation Agreement for Sunbridge Parkway ("First Amendment") by and among Tavistock East Holdings, LLC ("Owner") and Orange County. The Transportation Agreement ("Agreement") was approved by the Board on April 25, 2017, and recorded as Document Number 20170253449. The First Amendment adds the costs for a railroad-highway grade crossing for Orlando Utilities Commission to the list of improvements for which the applicant is responsible. Additionally, the First Amendment adjusts the right-of-way widths for Sunbridge Parkway to be consistent with the approved Preliminary Design Study and changes the timing for conveyance to connect the conveyance of right-of-way to the completion of a segment or portion of Sunbridge Parkway.

The Roadway Agreement Committee approved the First Amendment to the Agreement on June 20, 2018. The Specific Project Expenditure Report and Relationship Disclosure Forms are on file with the Transportation Planning Division.

ACTION REQUESTED: Approval and execution of First Amendment to the Transportation Agreement for Sunbridge Parkway (From Dowden Road to Osceola County Line) by and among Tavistock East Holdings, LLC and Orange County to adjust the right-of-way widths, change the timing for conveyance for portions of Sunbridge Parkway, and provide for costs of the Orlando Utilities Commission railroad grade crossing to be included in the roadway improvements. District 4

Attachments
JEH|HEGB:am

BCC Mtg. Date: October 16, 2018

This instrument prepared by and after
recording return to:

Linda Loomis Shelley
Buchanan Ingersoll & Rooney PC
101 N Monroe Street, Suite 1090
Tallahassee, FL 32301

Project: Sunbridge PD

Tax Parcel I.D. No(s):

10-24-32-0000-00-004, 06-24-32-0000-00-001, 25-23-31-0000-00-001,
36-23-31-3849-00-060, 36-23-31-0000-00-007, 36-23-31-3849-08-000,
36-23-31-3849-09-000, 36-23-31-3849-07-000, 36-23-31-3849-05-000,
36-23-31-3849-00-010, 36-23-31-3849-02-000, 36-23-31-0000-00-003,
36-23-31-0000-00-006, 36-23-31-3849-00-040, 36-23-31-3849-00-050,
36-23-31-3849-00-020, 31-23-32-0000-00-002, 31-23-32-0000-00-005,
36-23-31-3849-06-000, 36-23-31-0000-00-002, 06-24-32-0000-00-017,
31-23-32-3859-00-008, 36-23-31-3849-00-030, 32-23-32-0000-00-001,
25-23-31-0000-00-003, 18-24-32-0000-00-004, 06-24-32-0000-00-019.

**FIRST AMENDMENT TO THE TRANSPORTATION AGREEMENT
FOR SUNBRIDGE PARKWAY
(From Dowden Road to Osceola County Line)**

**THIS FIRST AMENDMENT TO THE TRANSPORTATION
AGREEMENT FOR SUNBRIDGE PARKWAY** (the “**First Amendment**”),
effective as of the latest date of execution (“**Effective Date**”), is made and entered
into by and among **TAVISTOCK EAST HOLDINGS, LLC** (“**Applicant**”), a
Florida limited liability company, 6900 Tavistock Lakes Blvd, Suite 200, Orlando,
FL 32827, on behalf of all owners of real property which is subject to this
Agreement, 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**”).

SUBURBAN LAND RESERVE, INC., a Utah Corporation, 79 S. Main Street, Suite 500, Salt Lake City UT 84111, individually and as the duly authorized representative of other owners of real property within the Sunbridge Planned Development, hereby consents to and joins in this First Amendment, and is referred to collectively herein as the “Owners.”

RECITALS:

WHEREAS, on April 25, 2017, the Board of County Commissioners approved a Transportation Agreement between the County and the Applicant, with an Effective Date of May 1, 2017, and recorded in Document Number 20170253449, in the Public Records of Orange County, Florida (the “Agreement”); and

WHEREAS, pursuant to the Agreement, the Applicant has been conducting a Preliminary Design Study (“PDS”) which has more specifically defined the minimum width of road rights of way to be conveyed to the County for certain segments of Sunbridge Parkway; and

WHEREAS, as a result of the PDS, County and Applicant desire to amend certain terms and provisions of the Agreement as set forth below; and

WHEREAS, Applicant desires to clarify that the cost of constructing a railroad-highway grade crossing within Segment 2 is included within the Improvements for which Applicant is responsible; and

WHEREAS, in all other respects, the original terms of the Agreement shall remain unchanged and in full force and effect.

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, Applicant and County (the "Parties") agree as follows:

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

2. Section 7 of the Agreement is amended, as follows:

Section 7. Construction of the Improvements. Applicant shall be responsible for construction of the Improvements.

A. For each construction contract for any one or more of the Segments, Applicant shall obtain at least three (3) bids from qualified contractors acceptable to County. County must approve the awarding of each bid.

B. Each scope of the construction work shall be substantially consistent with the outcome of the PDS.

Applicant shall be responsible to obtain all applicable permits, except that County at its election may be a co-applicant where reasonable and preferable to County.

C. Each construction contract shall be subject to County review and approval.

i. Each construction contract shall clearly identify Applicant's project manager ("PM"), who shall serve as the primary point of contact for, and be required to coordinate with, County staff throughout the construction process. The PM shall be solely responsible for all communications to and coordination with any and all contractors and sub-contractors.

ii. County shall be designated as a 3rd party beneficiary to each contract.

iii. Prior to commencement of construction of any Segment(s), Applicant shall provide payment and performance bonds satisfactory to County for the costs of the Improvements to be made in such Segment(s), together with a rider to such bonds identifying County as a dual-obligee.

D. Any required temporary construction easements, right-of-way utilization permits, and/or rights of entry shall be the responsibility of Applicant.

E. The cost of constructing a railroad-highway grade crossing within Segment 2, with automated railroad grade crossing warning devices including Type III, Class III flashing lights and gates, is included within the Improvements for which Applicant is responsible.

3. Subsections 11A and 11B of the Agreement are amended, as follows:

Section 11. Conveyance of ROW&E to County by Applicant.

A. ***ROW&E Defined.*** For purposes of this Agreement, “**Road ROW**” shall include lands necessary for construction of Sunbridge Parkway, as follows: Segments 1, 2, 3a, and part of 3b as four lane urban roads, calculated as a minimum of 133 feet in width, and part of Segment 3b and Segment 4 as four lane rural roads, calculated as a minimum of 160 feet in width (regardless if the actual right-of-way required for the Segments is less wide). Segments 2, 3a and part of Segment 3b will include the conveyances of a 16’ trail and utility easement to Orange County adjacent to the western right-of-way. A part of Segment 3b and Segment 4 will include the conveyances of an 18’ trail easement to Orange County adjacent to the western road right-of-way. The maintenance of the trail and landscaping located within the trail and utility easements shall be responsibility of the Applicant or other entity acceptable to the County. For purposes of this Agreement, “**Ponds**” shall include lands necessary for the detention, retention and

treatment of stormwater from Sunbridge Parkway, as such lands are identified by the DEP Work. For purposes of this Agreement, “**Easements**” shall include all easements necessary for the construction, maintenance and/or operation of Sunbridge Parkway, as identified by the DEP Work, including without limitation temporary and permanent easements for construction, conveyance, drainage, landscaping, shared Ponds if any, and other multi-purpose uses including trail and utility easements, as needed. For purposes of this Agreement, “**ROW&E**” shall include Road ROW, Ponds and Easements.

B. *Timing for conveyance.* No later than one hundred eighty (180) days after Substantial Completion of a Segment or a portion of a Segment of the Sunbridge Parkway, Applicant shall convey or cause the conveyance to County of marketable fee title to Road ROW included within the Segment or portion thereof, and easement interests in all Easements, and Ponds in fee or by easement at County’s election, related to or included within the Segment or portion thereof. Any segment or portion thereof that is open to the public prior to conveyance to County of said Segment or portion thereof shall be at the sole risk and expense of the Applicant and any successors and assigns. Applicant shall defend, indemnify, and hold harmless the County its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, fines, costs, and

expenses (including attorney's fees prior to and upon appeal) of any kind or nature whatsoever related to the public's use of the Segment or portion thereof to the extent arising out of or to the extent caused by any act or omission of Applicant, its directors, officers, employees, agents, contractors or their subcontractors, anyone employed by them, or anyone for whose acts or omissions any of them may be liable until such time that the Segment or portion thereof has been fully conveyed to the County. This provision shall survive termination of this Amendment and the original Agreement. For purposes of this Agreement, "Substantial Completion" shall mean that the County has issued a certificate of completion or its equivalent for a Segment, or portion thereof.

4. Defined Terms. Any capitalized terms not defined herein shall have the same definition as in the Agreement.

5. Notice. Any notice delivered with respect to this First Amendment or the 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 person as the party shall have specified by written notice to the other party delivered in accordance herewith.

COUNTY: Orange County
County Administrator
Post Office Box 1393
Orlando, Florida 32802-1393

With copies to: Orange County
Community, Environmental, and Development
Services Department Manager, Planning Division
Post Office Box 1393
Orlando, Florida 32802-1393

Orange County
Community, Environmental, and Development
Services Department Manager, Transportation
Planning Division
Orange County Public Works Complex
4200 S. John Young Parkway
Orlando, Florida 32839-8070

Orange County
Utilities Department, Director of Utilities
9150 Curry Ford Road
Orlando, Florida 32825

APPLICANT: Tavistock East Holdings, LLC
6900 Tavistock Lakes Blvd, Suite 200
Orlando, FL 32827
Attn: James Zboril, President

With copies to: Suburban Land Reserve, Inc.
Attention: R. Steven Romney
79 South Main St., Suite 500
Salt Lake City, UT 84111

And: Central Property Holdings 100, LLC
Central Property Holdings 200, LLC
Attn: E. Erik Johnson
79 South Main St., Suite 1000
Salt Lake City, UT 84111

Vivien Monaco
Burr & Forman, LLP
200 South Orange Ave., Suite 800
Orlando, FL 32801

Loyal Hulme
Kirton McConkie
50 East South Temple, Suite 400
Salt Lake City, UT 84111

Farmland Reserve, Inc.
Attn: E. Erik Johnson
79 South Main St., Suite 1000
Salt Lake City, UT 84111

6. Recordation of First Amendment. An executed original of this First Amendment shall be recorded, at Applicant's expense, in the Public Records of Orange County, Florida within thirty (30) days of the Effective Date.

6. Applicable Law. This First Amendment and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

7. Time is of the Essence. Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this First Amendment and in the Agreement.

8. 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.

9. Limitation of Remedies. County and Applicant expressly agree that the consideration, in part, for each of them entering into this First Amendment is the willingness of the other to limit the remedies for all actions arising out of or in connection with this First Amendment. Accordingly, the remedies available to each party shall be as stated in the Agreement.

10. Amendments. No amendment, modification, or other change to this First Amendment or the Agreement shall be binding upon the parties unless in writing and executed by all the parties hereto.

11. Counterparts. This First Amendment may be executed in up to three (3) counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have caused this First Amendment to the Transportation Agreement for Sunbridge Parkway to be duly executed by their respective duly authorized representatives on the dates set forth below, but effective as of the Effective Date.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor

Date: 10.16.18

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

By: *Lakela Louis*
for Deputy Clerk

Printed name: Lakela Louis

WITNESSES:

“APPLICANT”

TAVISTOCK EAST HOLDINGS, LLC

By: _____

James Zboril, President

Date: _____

July 9, 2018

Print Name: Mitch Heidrich

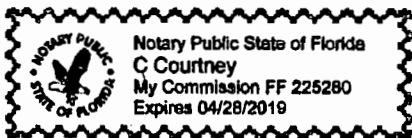
Print Name: Clint Beaty

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged before me by James Zboril, the President of Tavistock East Holdings, LLC, on behalf of the company, who is known by me to be the person described in herein and who executed the foregoing, this 9th day of July, 2018. He/she 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 9th day of July, 2018.



Notary Public

Print Name: _____

My Commission Expires: 04/28/19

JOINDER AND CONSENT OF SUBURBAN LAND RESERVE, INC.

Suburban Land Reserve, Inc., a Utah corporation, for itself and on behalf of all other owners of real property within the Sunbridge Planned Development, hereby joins in and consents to the First Amendment to the Transportation Agreement for Sunbridge Parkway as a "joinder" party for the express purpose of acknowledging and agreeing to the terms contained in this First Amendment to said Agreement.

Signed, witnessed, executed and acknowledged on this 7 day of July, 2018.

WITNESSES:

SUBURBAN LAND RESERVE, INC.
A Utah Corporation

David Cannon
Print Name: David Cannon

Eric Robinson
Print Name: Eric Robinson

By: R. Steven Romney
Name: R. Steven Romney
Title: President
Date: _____

STATE OF UTAH
COUNTY OF SALT LAKE

The foregoing instrument was acknowledged before me by R. Steven Romney, the President of Suburban Land Reserve, Inc., on behalf of the corporation, who is known by me to be the person described in herein and who executed the foregoing, this 7 day of July, 2018. He/she 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 7 day of July, 2018.



Marilyn F. Nielson
Notary Public
Print Name: Marilyn F. Nielson
My Commission Expires: 8/9/2021

ACKNOWLEDGMENT, JOINDER, AND CONSENT

THIS ACKNOWLEDGMENT, JOINDER, AND CONSENT ("Acknowledgment") dated as of the Effective Date (the "Effective Date" is the date of the last signature hereto), is made by CENTRAL FLORIDA PROPERTY HOLDINGS 100, LLC, a Florida limited liability company ("CFPH 100"); CENTRAL FLORIDA PROPERTY HOLDINGS 200, LLC, a Florida limited liability company ("CFPH 200") (collectively, "CFPH 100 and 200"); FARMLAND RESERVE, INC., a Utah non-profit corporation ("FRI"); and SUBURBAN LAND RESERVE, INC., a Utah corporation ("SLR"), in favor of ORANGE COUNTY, a charter county and political subdivision of the State of Florida (the "County").

This Acknowledgment is made with reference to the following facts:

A. FRI is the current fee simple owner, but not the developer, of a majority of that certain real property located in Orange County, Florida commonly referred to as Innovation Way East (the "FRI IWE Property"), and that certain real property commonly referred to as Camino Reale South (the "Camino South Property"). FRI is not in the land development business and is not a developer.

B. CFPH 100 and 200 are the current fee simple owners, but not the developer, of the southwest portion of that certain real property located in Orange County, Florida commonly referred to as Innovation Way East (the "CFPH 100 and 200 IWE Property").

C. SLR is the current fee simple owner of certain real property located in Orange County, Florida, commonly referred to as ICP ("SLR ICP Property"). Collectively, the FRI IWE Property, the Camino South Property, the CFPH 100 and

200 IWE Property, and the SLR ICP Property are referred to herein as the "Property."

D. Pursuant to a purchase and sale agreement, SLR has obtained the rights to purchase the FRI IWE Property, the Camino South Property, and the CFPH 100 and 200 IWE Property, and the rights to perform any actions necessary to entitle and develop such property, subject to the fulfillment of certain conditions.

E. SLR does hereby state that SLR has granted to Tavistock East Holdings, LLC, a Florida limited liability company ("Tavistock"), its rights to purchase, entitle, and develop the Property, including the FRI IWE Property and the CFPH 100 and 200 IWE Property, pursuant to a separate agreement between Tavistock and SLR.

F. FRI and CFPH 100 and 200 understand and SLR does hereby state that, under certain conditions being met, including those set forth in a separate written agreement between SLR and Tavistock, SLR (i) will grant to Tavistock its rights to purchase the Property, and (ii) has authorized Tavistock to perform certain actions necessary to entitle, encumber, and develop the Property pursuant to a separate agreement between Tavistock and SLR.

G. FRI and CFPH 100 and 200 understand and acknowledge that Tavistock and/or SLR will be required to enter into certain agreements with the County to entitle, encumber, and obtain approvals to develop the FRI IWE Property, the Camino South Property, and the CFPH 100 and 200 IWE Property, respectively, prior to Tavistock's purchase of such properties, and that such agreements, including the Transportation Agreement for Sunbridge PD ("Transportation Agreement"),

may apply to and affect the Property while FRI and CFPH 100 and 200 are the fee simple owners of their respective properties.

H. SLR understands and acknowledges that the authorization that SLR has granted to Tavistock to entitle, encumber, and develop the Property, pursuant to a separate agreement between Tavistock and SLR, has required or will require Tavistock to enter into agreements with the County, and pursuant to that authorization, Tavistock entered into that certain Transportation Agreement between Tavistock and the County approved by the County on April 25, 2017, with an Effective Date of May 1, 2017, and recorded as Document Number 20170253449 in the Public Records of Orange County, Florida (the "Agreement").

I. SLR understands and acknowledges that the authorization that SLR has granted to Tavistock to entitle, encumber, and develop the Property, pursuant to that separate agreement between Tavistock and SLR, may require Tavistock to enter into further agreements or amendments to existing agreements with the County, including the First Amendment to the Transportation Agreement for Sunbridge Parkway (From Dowden Road to Osceola County Line) (the "First Amendment"), and that such agreements or amendments may apply to and affect the SLR ICP Property, the FRI IWE Property, the Camino South Property, and the CFPH 100 and 200 IWE Property while SLR, FRI, and CFPH 100 and 200 are the respective fee simple owners of such property, including, but not limited to the requirement to convey easements over certain designated portions of such property necessary for construction of Sunbridge Parkway (the "ROW&E") and other roads at certain designated times.

J. Due to FRI, CFPH 100 and 200, and SLR's current ownership of and existing rights in the Property, the County desires that SLR, CFPH 100 and 200, and FRI acknowledge, join in, and consent to the First Amendment between the County and Tavistock.

NOW THEREFORE SLR, CFPH 100 and 200, and FRI, as applicable, hereby state the following:

1. FRI and CFPH 100 and 200 Acknowledgment, Joinder, and Consent. FRI and CFPH 100 and 200 acknowledge that SLR has a current and existing right to purchase, develop, and pursue entitlements on the FRI IWE Property, the Camino South Property, and the CFPH 100 and 200 IWE Property, respectively, which includes the right to pursue and finalize the First Amendment, which will apply to and affect such properties. FRI and CFPH 100 and 200 join and consent to the First Amendment solely for the purposes of (i) consenting to have the First Amendment recorded in the Public Records of Orange County, Florida upon their respective properties, such that it will encumber, run with title to, and create a servitude upon the Property, and (ii) agreeing to convey any ROW&E located within the FRI IWE Property, the Camino South Property, and the CFPH 100 and 200 IWE Property to the applicable governing entity, SLR or its successor in title prior to the time such conveyances are required pursuant to the Agreement as amended by the First Amendment so that SLR or Tavistock, or their respective successors in title, can perform under the Agreement as amended by the First Amendment, which conveyance(s) will be consistent with the rights obtained by SLR, or its successor in title, from FRI and CFPH 100 and 200 referenced herein in Recital D.

2. SLR Acknowledgment, Joinder, and Consent. SLR acknowledges that Tavistock has conditionally obtained from SLR its current and existing right to purchase, develop, and pursue entitlements on the Property, which includes the right to pursue and finalize the First Amendment, and agrees to convey any ROW&E to the applicable governing entity, Tavistock, or its successor in title, or to the County, as may be applicable, prior to the time such conveyances are required under the Agreement as amended by the First Amendment, which conveyance(s) will be consistent with the rights obtained by Tavistock from SLR referenced herein in Recital E. SLR consents to having the First Amendment recorded in the Public Records of Orange County, Florida upon its respective properties, such that it will encumber, run with title to, and create a servitude upon the Property.

[SIGNATURES ON FOLLOWING PAGES]

Signed, witnessed, executed, and acknowledged by the parties as set forth below.

FARMLAND RESERVE, INC.,
a Utah non-profit corporation

By: [Signature]
Name (Print): K. Erik Jacobsen
Its: Pres

Date: 7/9/18

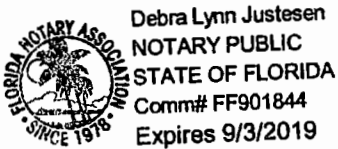
STATE OF Florida

COUNTY OF Osceola

The foregoing instrument was acknowledged before me this 9th day of July, 2018, by K. Erik Jacobsen, as President of Farmland Reserve, Inc., a Utah non-profit corporation, on behalf of the corporation. He is ☒ personally known to me or ☐ produced _____ as identification.

WITNESS my hand and official seal in the State and County last aforesaid this 9th day of July, 2018.

[Affix Notary Seal]



Debra Lynn Justesen
Signature of Notary

SUBURBAN LAND RESERVE, INC.,
a Utah corporation

By: R. Steven Romney
Name (Print): R. Steven Romney
Its: President

Date: July 7, 2018

STATE OF UTAH

COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me this 7 day of July, 2018, by R. Steven Romney, President of Suburban Land Reserve, Inc., a Utah corporation, on behalf of the corporation. He is ☒ personally known to me or ☐ produced Valid Passport as identification.

WITNESS my hand and official seal in the State and County last aforesaid this 7 day of July, 2018.

[Affix Notary Seal]



Marilyn F. Nielson
Signature of Notary

CENTRAL FLORIDA PROPERTY
HOLDINGS 100, LLC
a Florida limited liability company

By: [Signature]
Name (Print): K. Erik Justesen
Its: Exec Mgr

Date: 7/9/18

STATE OF FLORIDA

COUNTY OF Osceola

The foregoing instrument was acknowledged before me this 9th day of July, 2018, by K. Erik Justesen, as Manager of Central Florida Property Holdings 100, LLC, a Florida limited liability company, on behalf of the company. He is ✓ personally known to me or produced as identification.

WITNESS my hand and official seal in the State and County last aforesaid this 9th day of July, 2018.

[Affix Notary Seal]



Debra Lynn Justesen
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF901844
Expires 9/3/2019

Debra Lynn Justesen
Signature of Notary

CENTRAL FLORIDA PROPERTY
HOLDINGS 200, LLC

a Florida limited liability company

By: [Signature]
Name (Print): K. Erik Jacobsen
Its: Manager
Date: 7/9/18

STATE OF FLORIDA

COUNTY OF Duval

The foregoing instrument was acknowledged before me this 9th day of July, 2018, by K. Erik Jacobsen, as Manager of Central Florida Property Holdings 200, LLC, a Florida limited liability company, on behalf of the company. He is ☒ personally known to me or ☐ produced as identification.

WITNESS my hand and official seal in the State and County last aforesaid this 9th day of July, 2018.

[Affix Notary Seal]



Debra Lynn Justesen
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF901844
Expires 9/3/2019

Debra Lynn Justesen
Signature of Notary