



Interoffice Memorandum

APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS

BCC Mtg. Date: August 23, 2016

REAL ESTATE MANAGEMENT ITEM 2

DATE: August 5, 2016

TO: Mayor Teresa Jacobs
and the
Board of County Commissioners

THROUGH: Ann Caswell, Manager *A*
Real Estate Management Division *A for EJ*

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 FIRST AMENDMENT TO CONSERVATION AND ACCESS EASEMENT BETWEEN ROYAL CYPRESS PRESERVE HOMEOWNERS ASSOCIATION, INC. AND ORANGE COUNTY WITH JOINDER AND CONSENT FROM TOLL FL LIMITED PARTNERSHIP AND AUTHORIZATION TO RECORD INSTRUMENT

PROJECT: Conservation Area Impact Permit # CAI-13-08-018
(Royal Cypress Preserve)

District 1

PURPOSE: To provide for clarification of reserved rights and relocation of the access easement as a requirement of development.

ITEM: First Amendment to Conservation and Access Easement with Joinder and Consent

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

REMARKS:

Conservation Area Impact Permit # CAI-13-08-018 issued by Orange County Environmental Protection Division required a Conservation and Access Easement (Easement) over the site being developed. The Easement was approved by the Board of County Commissioners on July 29, 2014, and included a blanket access easement over the parent tract. Subsequent to the recording of the Easement, the plat of Royal Cypress Preserve was filed over a portion of the original Project Site and the designation of lot numbers and tracts on the preliminary subdivision plan were modified resulting in different lot numbers and tracts being assigned to those same lots and tracts on the plat. This First Amendment to Conservation and Access Easement (Amendment) redefines the lots and tract specified in Section 3 Reserved Rights of the Easement. It also releases the blanket easement over the Project Site and replaces it with an Access Area with specific Tracts that provide access to the Conservation Areas.

Orange County is executing the Amendment to acknowledge the redefined lots and tract and accept the replacement Access Area.

Grantor to pay all recording fees.

A file labeled “BCC Agenda Backup” containing a copy of this agenda item and all supporting documentation is in the top drawer of the BCC file cabinet in the supply room adjacent to Commissioner Thompson’s office.

Prepared by and return to: AUG 23 2016

James H. McNeil, Jr., Esq.
Akerman LLP
420 South Orange Avenue, Suite 1200
Orlando, Florida 32801

Return to: Orange County Real Estate
 Management Division

Project: Conservation Area Impact Permit #CAI-13-08-018
 (Royal Cypress Preserve)

-----[SPACE ABOVE THIS LINE FOR RECORDING DATA]-----

FIRST AMENDMENT TO CONSERVATION AND ACCESS EASEMENT

THIS FIRST AMENDMENT TO CONSERVATION AND ACCESS EASEMENT (this "**First Amendment**") is entered into as of the last date signed (the "**Effective Date**"), by and between **ROYAL CYPRESS PRESERVE HOMEOWNERS ASSOCIATION, INC.**, a Florida non-profit corporation, whose address is 2966 Commerce Park Dr., Orlando, Florida 32819 ("**Grantor**"), and **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**").

W I T N E S E T H :

WHEREAS, Toll FL Limited Partnership, a Florida limited partnership ("**Toll**"), and Grantee entered into that certain Conservation and Access Easement dated June 27, 2014, recorded in Official Records Book 10784, Page 1227, Public Records of Orange County, Florida (the "**Easement**") (unless otherwise defined, capitalized terms used herein shall have the meanings ascribed to them in the Easement);

WHEREAS, Grantor is the successor-in-interest to Toll by virtue of that certain Quitclaim Deed recorded in Official Records Book 11034, Page 8959, Public Records of Orange County, Florida;

WHEREAS, at the time of the recording of the Easement, the lots and tracts referenced in Section 3 of the Easement were designated based on the Orange County-approved preliminary subdivision plan for Royal Cypress Preserve (the "PSP");

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(Royal Cypress Preserve)

WHEREAS, subsequent to the recording of the Easement, a plat of Royal Cypress Preserve was recorded for the Project Site in Plat Book 84, Page 60, Public Records of Orange County, Florida (the "Plat"), and the designation of lot numbers and tracts on the PSP were modified resulting in different lot numbers and tracts being assigned to those same lots and tracts on the Plat as described on Exhibit "A" attached hereto and incorporated herein;

WHEREAS, Grantor and Grantee wish to amend the Easement to, among other things, define the Project Site as that certain property shown on the Plat and amend the lot numbers referenced in the Easement to conform to the final designation of lot numbers and tracts assigned on the Plat.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00), the mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, Grantor and Grantee hereby agree as follows:

1. **Recitals**. The foregoing recitals are true and correct and are incorporated herein by reference as if fully set forth herein.

2. **Project Site**. Exhibit "B" of the Easement is hereby deleted in its entirety. As of the Effective Date, the term "Project Site" shall mean and refer to that certain property shown on the Plat.

3. **Reserved Rights**. The reference to Lots 199-201 contained in Section 3 of the Easement is hereby replaced with a reference to Lots 57-59 of the Plat. The reference to Tract G contained in Section 3 of the Easement is hereby replaced with a reference to Tract O of the Plat. The reference to Lots 192-198 contained in Section 3 of the Easement is hereby replaced with a reference to Lots 50-56 of the Plat. The reference to Lots 202-206 contained in Section 3 of the Easement is hereby replaced with a reference to Lots 60-64 of the Plat.

4. **Access Easement**. Subsection 5(a) of the Easement is hereby deleted in its entirety and is replaced with the following:

(a) **ACCESS EASEMENT**. To enter on, over and through Tracts A, O, and C, according to the Plat (collectively, the "**Access Area**") for the purpose of vehicular and pedestrian ingress and egress over and across the Access Area 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.

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5. **Access Area.** The reference to the Access Easement in the preamble of the Easement shall be limited to the Access Area as defined in Section 4 of this First Amendment and shall not encumber the entire Project Site.

6. **Ratification.** Except as otherwise amended by this First Amendment, all of the terms, conditions and provisions of the Easement are hereby ratified and confirmed and shall continue in full force and effect. In the event of any conflict between the terms of this First Amendment and Easement, the terms of this First Amendment shall govern.

7. **Entire Agreement And Successors.** This First Amendment contains the entire understanding of the parties hereto on the matters set forth herein, shall be binding upon, and for the benefit of, the successors, lessees, and assigns of the parties hereto, and shall be a covenant binding upon and running with title to the real property encumbered by the Easement.

8. **Counterparts.** This First Amendment may be executed in any number of counterparts, each of which upon being executed by both parties shall constitute an original and all of which together shall constitute one agreement.

[Signatures on following pages]

IN WITNESS WHEREOF, the parties have caused this instrument to be signed in their respective names as of the date first written above.

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:**

**ROYAL CYPRESS PRESERVE
HOMEOWNERS ASSOCIATION, INC.,**
a Florida non-profit corporation

[Signature]
SIGNATURE OF WITNESS

By: [Signature]
Brock Fanning, President

Garcia Castillo
PRINT NAME OF WITNESS

[Signature]
SIGNATURE OF WITNESS

MARK McINTOSH
PRINT NAME OF WITNESS

STATE OF FLORIDA)
) ss:
COUNTY OF ORANGE)

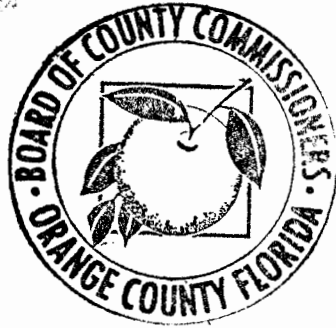
The foregoing instrument was acknowledged before me this 20th day of July, 2016, by BROCK FANNING, as President of **ROYAL CYPRESS PRESERVE HOMEOWNERS ASSOCIATION, INC.**, a Florida non-profit corporation, on behalf of the corporation. He is:

- personally known to me; or
- produced a driver's license issued by the _____ Department of Highway Safety and Motor Vehicles as identification; or
- produced the following identification: _____



[Signature]
NOTARY PUBLIC, STATE OF FLORIDA
Johanna Bass
(Print, Type or Stamp Commissioned Name of Notary Public)

Project: Conservation Area Impact Permit #CAI-13-08-018
(Royal Cypress Preserve)



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Teresa Jacobs*
Teresa Jacobs,
Orange County Mayor

Date: 8.23.16

ATTEST: Martha O. Haynie, County Comptroller
As Clerk to the Board

BY: *Noelia Perez*
for Deputy Clerk

Noelia Perez
Printed Name

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Exhibit "A"

Original Lot Numbers and Tracts (as shown on the PSP)	Final Lot Numbers and Tracts (as shown on the Plat of Royal Cypress Preserve, Plat Book 84, Page 60)
Lots 199-201	Lots 57-59
Tract G	Tract O
Lots 192-198	Lots 50-56
Lots 202-206	Lots 60-64

JOINDER AND CONSENT

The undersigned, being the fee simple owner of the platted Lots referenced on Exhibit "A" hereby joins in and consents to this First Amendment to Conservation and Access Easement.

Signed, sealed and delivered in the presence of:

TOLL FL LIMITED PARTNERSHIP,
a Florida limited partnership

By: Toll FL GP Corp., a Florida corporation, its General Partner

[Signature]
Printed Name: GAMER CASALB

By: [Signature]
Brock Fanning
Division Vice President

[Signature]
Printed Name: MARK MCINTOSH

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 20th day of July, 2016, by BROCK FANNING, as Division Vice President of Toll FL GP Corp., a Florida corporation, as General Partner of Toll FL Limited Partnership, a Florida limited partnership, on behalf of said entities, who {check appropriate box} [] is personally known to me or [] produced _____ as identification.

[Signature]
Print Name: Johanna Bass
Notary Public, State of Florida
My Commission Expires: 4/7/2020
Commission Number: FF980293

[Notary Stamp or Seal]

