



Interoffice Memorandum

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

DATE: July 22, 2014

AUG 19 2014 NP/KH

TO: Mayor Teresa Jacobs
and the County Commissioners

FROM: Mark V. Massaro P.E., Director, Public Works Department

CONTACT PERSON: Joseph C. Kunkel, P. E., Deputy Director
Public Works Department

Handwritten signature of Joseph C. Kunkel in black ink.

PHONE NUMBER: (407) 836-7972

SUBJ: **Settlement Agreement Regarding Pemberton Drive**

Pemberton Drive is a County road located off of North Orange Blossom Trail and approximately one half mile north of Maitland Boulevard. It provides access to an industrial subdivision in unincorporated Orange County. Another industrial subdivision was developed in Seminole County, with its only access connected to Pemberton Drive, via a small parcel created in 1992, to provide access to North Orange Blossom Trail. The road connection was constructed with the Seminole County development, but the access parcel was never dedicated as public right-of-way, and eventually the access parcel was sold in a tax deed sale.

The Settlement Agreement identifies the process for dedication of the access parcel as right-of-way and the responsibilities of each of the parties. CANDH Investments Inc., the entity that purchased the property in the tax deed sale, has agreed to deliver to Orange County a special warranty deed for the road right-of-way upon refund of the tax deed sale amount and a cash payment for the access parcel from the owners of the industrial subdivision in Seminole County, who are Dataline Systems Inc., Natural Living Inc., and NHR Management, LLC.

Seminole County will agree to provide a Phase 2 environmental assessment for the access parcel and pay one half of all closing costs related to the special warranty deed.

Orange County will agree to accept the special warranty deed and assume full maintenance responsibility for the road parcel. Orange County will also request the Tax Collector to refund the tax deed sale amount to CANDH Investments and pay one half of all closing costs related to the special warranty deed.

The Settlement Agreement has been reviewed and approved by the County's Attorney's Office, Real Estate Management Division and Risk Management Division.

Action Requested: **Approval of Settlement Agreement Regarding Pemberton Drive by and between Seminole County, Orange County, CANDH Investments, LLC., Dataline Systems, Inc., Natural Living, Inc., and NHR Management, LLC. District 2.**

MVM/JCK/wn

Attachments

SETTLEMENT AGREEMENT REGARDING PEMBERTON DRIVE

THIS SETTLEMENT AGREEMENT is made and entered into by and between **SEMINOLE COUNTY**, a Charter County and political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East 1st Street, Sanford, Florida 32771, hereinafter referred to as "SEMINOLE COUNTY," **ORANGE COUNTY**, a Charter County and a political subdivision of the State of Florida, whose address is 201 South Rosalind Avenue, Orlando, Florida 32801, hereinafter referred to as "ORANGE COUNTY," **CANDH INVESTMENTS, LLC**, a Florida limited liability company, whose address is 4425 Trapp Lane, Orlando, Florida 32814, hereinafter referred to as "CANDH," **DATALINE SYSTEMS, INC.**, a Florida corporation, whose address is 2709 Pemberton Drive, Apopka, Florida 32703, hereinafter referred to as "DATALINE", **NATURAL LIVING, INC.**, a Florida corporation, whose address is 2964 Pemberton Drive, Apopka, Florida 32703, hereinafter referred to as "NATURAL", and **NHR Management, LLC**, a Florida limited liability company, whose address is 201 Bridle Path, Longwood, Florida 32779, hereinafter referred to as "NHR". DATALINE, NATURAL and NHR are collectively referred to as "ORANGE BLOSSOM BUSINESSES."

WITNESSETH:

WHEREAS, Pemberton Drive is a platted right-of-way located in adjacent areas of Orange County and Seminole County; and

WHEREAS, the section of Pemberton Drive connecting the Seminole County portion of the road to the Orange County portion of the road is located within Orange County and has the following legal description:

ORANGE BLOSSOM INDUSTRIAL PARK 15/19 LOT 10 (LESS
BEG NW COR RUN S 111.81 FT N 78 DEG E 176.02 FT N 30 DEG E
27.54 FT N 53.59 FT S 89 DEG W 80.69 FT S 89 DEG W 106.50 FT
TO POB)

Parcel I.D. #: 30-21-29-6201-00-101 (the "Road Segment"); and

WHEREAS, the Road Segment should have been dedicated as public right-of-way and accepted into the Orange County Road System as part of the development of the adjacent properties but instead was sold to CANDH in a tax deed sale; and

WHEREAS, the parties desire to resolve this matter,

NOW, THEREFORE, for and in consideration of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration and of the promises, mutual covenants and agreements contained herein by and between the parties and for the mutual benefit of SEMINOLE COUNTY and ORANGE COUNTY, and their respective citizens, CANDH, and the ORANGE BLOSSOM BUSINESSES, the receipt and sufficiency of such consideration being acknowledged, the parties agree as follows:

Section 1. Recitals. The foregoing recitals are true and correct and form a material part of this Agreement upon which the parties have relied.

Section 2. SEMINOLE COUNTY's Responsibilities. The parties acknowledge that SEMINOLE COUNTY has performed, at SEMINOLE COUNTY's expense, a Phase 2 environmental assessment of the Road Segment, which concluded there are no soil or groundwater impacts on the Road Segment in excess of applicable regulatory standards. SEMINOLE COUNTY shall provide a copy of this assessment to each of the other parties as part of this settlement. The parties specifically acknowledge that SEMINOLE COUNTY has no responsibility for the environmental or any other condition of the Road Segment by having had this assessment performed or for any other reason. SEMINOLE COUNTY agrees to pay ORANGE COUNTY one-half of all closing costs related to the special warranty deed being granted for the Road Segment to CANDH to ORANGE COUNTY, provided that such one-half amount does not exceed FOUR HUNDRED FIFTY AND NO/100 DOLLARS (\$450.00).

Section 3. ORANGE COUNTY's Responsibilities. ORANGE COUNTY agrees to accept a special warranty deed to the Road Segment from CANDH in substantially the same form as attached hereto and incorporated herein as Exhibit "A," to request the Orange County Tax Collector to pay CANDH a tax deed sale refund of FIVE HUNDRED TWELVE AND 68/100 DOLLARS (\$512.68), to pay one-half of all closing costs related to this deed not otherwise covered in this Settlement Agreement, to be responsible for the preparation of a sketch and description for the Road Segment, and to assume full maintenance responsibility for the Road Segment after accepting this deed.

Section 4. ORANGE BLOSSOM BUSINESSES' Responsibility. ORANGE BLOSSOM BUSINESSES collectively agree to pay CANDH the sum of TWO THOUSAND FIVE HUNDRED NINETY-ONE AND 21/100 DOLLARS (\$2,591.21) for CANDH to execute and deliver a deed to the Road Segment to ORANGE COUNTY.

Section 5. CANDH's Responsibilities. Upon payment by ORANGE BLOSSOMS BUSINESSES of the sum of TWO THOUSAND FIVE HUNDRED NINETY-ONE AND 21/100 DOLLARS (\$2,591.21) and the payment by the Orange County Tax Collector of the tax deed sale refund of FIVE HUNDRED TWELVE AND 68/100 DOLLARS (\$512.68), for a total payment of THREE THOUSAND ONE HUNDRED THREE AND 89/100 DOLLARS (\$3,103.89), CANDH agrees to execute and deliver a special warranty deed to ORANGE COUNTY for the Road Segment in substantially the same form as Exhibit "A." CANDH shall also pay the state documentary stamp tax of EIGHTEEN AND 20/100 DOLLARS (\$18.20) that will be due on this deed.

Section 6. Notice. Any notice delivered with respect to this Agreement must be in writing and will be deemed to be delivered (whether or not actually received) when (i) 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 such other address or to such other person as the party has specified by written notice to the other party delivered in accordance herewith:

As to SEMINOLE COUNTY:

Public Works Department
200 West County Home Road
Sanford, FL 32773

As to ORANGE COUNTY:

Mark Massaro, Director
Public Works Department
4200 S. John Young Parkway
Orlando, FL 32839

As to CANDH:

4425 Trapp Lane
Orlando, Florida 32814

As TO DATALINE

2709 Pemberton Drive
Apopka, FL 32703

As to NATURAL

2964 Pemberton Drive
Apopka, FL 32703

As to NHR

201 Bridle Path
Longwood, FL 32779

Section 7. Representations. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

Section 8. Governing Law. The laws of the State of Florida govern the validity, enforcement and interpretation of this Agreement. Orange County, Florida is the sole venue for any legal action in connection with this Agreement.

Section 9. Release. Upon full performance of this Agreement, each party to this Agreement releases each other party to this Agreement for any and all claims of any nature whatsoever arising from and related to the Road Segment and all issues related to the Road Segment, whether such claims are known or unknown.

Section 10. Entire Agreement.

(a) It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements, negotiations, and previous agreements between the parties relating to the subject matter hereof.

(b) Any alterations, amendments, deletions, or waivers of the provisions of this Agreement will be valid only when expressed in writing and duly signed by both parties, except as otherwise specifically provided in this Agreement.

Section 11. Number of Instruments. This Agreement may be executed in any number of counterparts, each of which, when so executed, constitutes an original, but each counterpart will together constitute one and the same instrument.

Section 12. Effect of Agreement. This Agreement inures to the benefit of and is binding upon the parties and their respective successors, assigns, beneficiaries, heirs, personal representatives and estates.

Section 13. Headings and Captions. All headings and captions contained in this Agreement are provided for convenience only, do not constitute a part of this Agreement and may not be used to define, describe, interpret or construe any provision of this Agreement.

Section 14. Effective date. This Agreement will become effective on the date of execution by SEMINOLE COUNTY, ORANGE COUNTY, CANDH, DATALINE, NATURAL, OR NHR, whichever date is latest.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement for the purposes stated herein.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

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

Date: *8.19.14*

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


By: *Katie Smith*
Deputy Clerk

Date: **AUG 19 2014**

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ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA



MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: 


ROBERT DALLARI, Chairman

Date: 6-10-14

For the use and reliance
Seminole County only.

As authorized for execution by the Board of
County Commissioners at its 6/10,
2014, regular meeting.

Approved as to form and
legal sufficiency.



County Attorney

AA

[Balance of this page intentionally blank; signatory continues on Page 8.]

CANDH INVESTMENTS, LLC
a Florida limited liability company
By Its Manager:

Brian Cirillo
BRIAN CIRILLO

Date: 4/18/2014

STATE OF FLORIDA)
COUNTY OF ORANGE)

I HEREBY CERTIFY that, on this 18 day of April, 2014, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Brian Cirillo as Manager of CANDH Investments, LLC, a Florida limited liability company who is personally known to me or ~~who has produced~~ as ~~identification~~. He acknowledged before me that he executed the foregoing instrument as such officer in the name and on behalf of the limited liability company.



[Signature]
SIGNATURE OF NOTARY PUBLIC
Notary Public in and for the County
and State Aforementioned

[Balance of this page intentionally blank; signatory continues on Page 9.]

DATALINE SYSTEMS, INC.
a Florida corporation

By: [Signature]
COLLIN YORK, President

(CORPORATE SEAL)

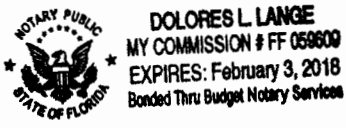
Date: March 18, 2014

STATE OF FLORIDA
COUNTY OF SEMINOLE

I HEREBY CERTIFY that, on this 18th day of March, 2014, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Collin York as President of Dataline Systems, Inc., a Florida corporation who is personally known to me or who has produced _____ as identification. He acknowledged before me that he executed the foregoing instrument as such officer in the name and on behalf of the corporation.

[Signature: Dolores L. Lange]
SIGNATURE OF NOTARY PUBLIC
Notary Public in and for the County
and State Aforementioned

(NOTARY SEAL)



[Balance of this page intentionally blank; signatory continues on Page 10.]

NATURAL LIVING, INC.
a Florida corporation

By: [Signature]
NOE A. ALVAREZ, President

Date: 3/19/14

(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF Seminole

I HEREBY CERTIFY that, on this 19th day of March 2014, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Noe A. Alvarez as President of Natural Living, Inc., a Florida corporation who is personally known to me or who has produced FL, DL as identification. He acknowledged before me that he executed the foregoing instrument as such officer in the name and on behalf of the corporation.

[Signature]
SIGNATURE OF NOTARY PUBLIC
Notary Public in and for the County
and State Aforementioned

(NOTARY SEAL)

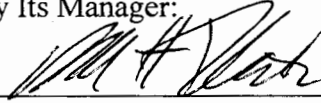
Karanjit K. Arora
Notary Public
State of Florida



My Commission Expires 01/17/2016
Commission No. EE 160328

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NHR MANAGEMENT, LLC
a Florida limited liability company
By Its Manager:



NORMAN H. RUBENSTEIN


Date 4-4-14

STATE OF FLORIDA)
COUNTY OF ORANGE)

I HEREBY CERTIFY that, on this 4th day of April, 2014, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Norman H. Rubenstein as Manager of NHR Management, LLC, a Florida limited liability company who is personally known to me or who has produced _____ as identification. He acknowledged before me that he executed the foregoing instrument as such officer in the name and on behalf of the limited liability company.



(NOTARY SEAL)


SIGNATURE OF NOTARY PUBLIC
Notary Public in and for the County
and State Aforementioned

DGS/dre
03/10/14
Attachment:
Exhibit "A" – Special Warranty Deed
p:\users\dedge\my documents\agt\pemberton drive settlement agt .docx

EXHIBIT "A"

Instrument: 101.1
Project: Pemberton Drive

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, Made and executed the ____ day of _____ A.D., 20__, by CANDH Investments, LLC, a Florida limited liability company having its principal place of business in the city of _____, county of _____, whose address is _____, 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, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, align, remise, release, convey, and confirm unto the GRANTEE, all that certain land situate in Orange County, Florida:

ORANGE BLOSSOM INDUSTRIAL PARK 15/19 LOT 10
(LESS BEG NW COR RUN S 111.81 FT N 78 DEG E 176.02 FT N 30
DEG E 27.54 FT N 53.59 FT S 89 DEG W 80.69 FT S 89 DEG W 106.50 FT TO POB)

Property Appraiser's Parcel Identification Number:

30-21-29-6201-00-101

TOGETHER with all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND Grantor hereby agrees to warrant and forever defend the right and title to the Land unto Grantee against the claims of those persons claiming by, through, or under Grantor, but none other, subject to real estate taxes and assessments for 2014 and subsequent years, which are not yet due and payable, and all easements, restrictions, reservations, and other matters of record, the reference of which shall not serve to reimpose the same.

Instrument: 101.1
Project: Pemberton Drive

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

Signed, sealed, and delivered
in the presence of:

CANDH Investments, LLC, a Florida
limited liability company

Witness

BY: _____

Printed Name

Printed Name

Witness

Title

Printed Name

(Signature of TWO witnesses required by Florida law)

STATE OF _____
COUNTY OF _____

I HEREBY CERTIFY, that on this _____ day of _____ A.D., 20____, before
me personally appeared _____, as
_____ of CANDH Investments, LLC, a Florida limited liability company, to
me known to be, or who has produced _____ as identification, and did (did not) take
an oath, the individual and manager described in and who executed the foregoing conveyance and
acknowledged the execution thereof to be his/her free act and deed as such manager thereunto duly
authorized, and that said conveyance is the act and deed of said limited liability company.

Witness my hand and official seal this _____ day of _____, 20____.

(Notary Seal)

Notary Signature

This instrument prepared by:
Virginia G. Williams, a staff employee
in the course of duty with the
Real Estate Management Division
of Orange County, Florida

Printed Notary Name

Notary Public in and for the
county and state aforesaid

My commission expires: