




Interoffice Memorandum


APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
JAN 06 2015 KH/BS

REAL ESTATE MANAGEMENT ITEM 3

DATE: December 18, 2014

TO: Mayor Teresa Jacobs
and the
Board of County Commissioners

THROUGH: Ann Caswell, Manager 
Real Estate Management Division

FROM: Jeffrey L. Sponenburg, Title Examiner 
Real Estate Management Division

CONTACT PERSON: Ann Caswell, Manager

DIVISION/ SECTION: Real Estate Management
Phone: 836-7082

ACTION REQUESTED: APPROVAL OF UTILITY EASEMENT BETWEEN BETTJA JEBAILY, LLC, SUCCESSOR BY MERGER TO SW RETAIL INVESTORS, LLC, BETTJA JEBAILY, LLC, SUCCESSOR BY MERGER TO SHADOW WOOD INVESTORS, LLC AND ORANGE COUNTY, SUBORDINATION OF ENCUMBRANCES TO PROPERTY RIGHTS TO ORANGE COUNTY FROM TD BANK, N.A. AND AUTHORIZATION TO RECORD INSTRUMENTS

PROJECT: Shadow Wood Parcels D/E/F – Utility File #69968

District 1

PURPOSE: To provide for access, construction, operation, and maintenance of utility facilities as a requirement of development.

ITEMS: Utility Easement
Cost: Donation
Size: 23,086.8 square feet

Subordination of Encumbrances to Property Rights to Orange County

APPROVALS: Real Estate Management Division
Utilities Department

REMARKS: 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.

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
JAN 06 2015 KHBS

Project: Shadow Wood Parcels D/E/F – Utility File #69968

UTILITY EASEMENT

THIS INDENTURE, Made this 24th day of November, A.D. 2014, between BETTJA JeBailey, LLC, a Florida limited liability company, successor by merger to SW Retail Investors, LLC, a Florida limited liability company and BETTJA JeBailey, LLC, a Florida limited liability company, successor by merger to Shadow Wood Investors, LLC, a Florida limited liability company, having its principal place of business in the city of ORLANDO, county of ORANGE, whose address is 7932 W. SANDLAKE RD., #102, 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 right-of-way and easement for utility purposes, with full authority to enter upon, excavate, construct and maintain, as the GRANTEE and its assigns may deem necessary, water lines, wastewater lines, reclaimed water lines, and any other utility facilities over, under and upon the following described lands situate in Orange County aforesaid, to-wit:

SEE ATTACHED EXHIBIT "A"

Property Appraiser's Parcel Identification Numbers:

a portion of

07-24-29-7959-000-16

07-24-29-7959-000-17

07-24-29-7959-000-18

TO HAVE AND TO HOLD said right-of-way and 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 utilities and any facilities placed thereon by the GRANTEE and its assigns, out of and away from the herein granted right-of-way, and the GRANTOR, its 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 herein granted right-of-way that may interfere with the normal operation or maintenance of the utility facilities installed thereon.

Project: Shadow Wood Parcels D/E/F – Utility File #69968

GRANTEE'S obligation to restore landscaping shall be limited to an obligation to restore to Orange County landscaping standards for Orange County right-of-way and shall not include an obligation to restore to exotic or enhanced landscaping standards.

GRANTEE may at any time increase its use of the easement, change the location of pipelines or other facilities within the boundaries of the easement right-of-way, or modify the size of existing pipelines or other improvements as it may determine in its sole discretion from time to time without paying any additional compensation to GRANTOR or GRANTOR'S heirs, successors, or assigns, provided GRANTEE does not expand its use of the easement beyond the easement boundaries described above.

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

Signed, sealed, and delivered
in the presence of:

BETTJA JeBailey, LLC,
a Florida limited liability company, successor
by merger to SW Retail Investors, LLC,
a Florida limited liability company

Deni Davis

Witness

BY:

Joseph S. JeBailey, Manager

Deni DAVIS

Printed Name

Witness

[Signature]
[Signature]

Printed Name

(Signature of TWO witnesses required by Florida law)

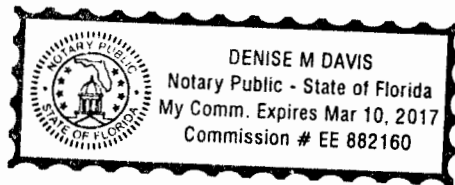
I HEREBY CERTIFY that on this day, before me, personally appeared Joseph S. JeBailey as Manager of BETTJA JeBailey, LLC, a Florida limited liability company, successor by merger to SW Retail Investors, LLC, a Florida limited liability company, to me known to be, or who has produced _____ as identification, 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 free act and deed as such manager thereunto duly authorized, and the said conveyance is the act and deed of said limited liability company.

Witness my hand and official seal this 24 day of November, 2014.

(Notary Seal)

Denise M. Davis
Notary Signature

DENISE M. DAVIS
Printed Notary Name



Notary Public in and for
the County and State aforesaid

My commission expires: 3/10/17

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

Signed, sealed, and delivered
in the presence of:

BETTJA JeBailey, LLC,
a Florida limited liability company, successor
by merger to Shadow Wood Investors, LLC,
a Florida limited liability company

Deni Davis
Witness

BY: [Signature]
Joseph S. JeBailey, Manager

Deni DAVIS
Printed Name

[Signature]
Witness

Tom Hank
Printed Name

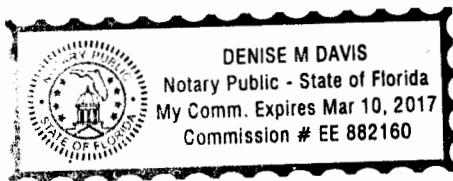
(Signature of TWO witnesses required by Florida law)

I HEREBY CERTIFY that on this day, before me, personally appeared Joseph S. JeBailey as Manager of BETTJA JeBailey, LLC, a Florida limited liability company, successor by merger to Shadow Wood Investors, 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 free act and deed as such manager thereunto duly authorized, and the said conveyance is the act and deed of said limited liability company.

Witness my hand and official seal this 24th day of November, 20 14.

(Notary Seal)

Denise M. Davis
Notary Signature



Denise M. DAVIS
Printed Notary Name

Notary Public in and for
the County and State aforesaid

My commission expires: 3/10/17

This instrument prepared by:
Jeffrey L. Sponenburg, a staff employee
in the course of duty with the
Real Estate Management Division
of Orange County, Florida

EXHIBIT "A"

Legal Description

A portion of Lot 1, SHADOW WOOD, according to the plat thereof, as recorded in Plat Book 27, Pages 71 and 72, Public Records of Orange County, Florida, lying in Section 7, Township 24 South, Range 29 East, Orange County, Florida, being more particularly described as follows:

Commence at the southeast corner of said Lot 1; thence run N 00°19'54" W, along the east line of said Lot 1, a distance of 1225.69 feet; thence, departing the east line of said Lot 1, run S 89°40'06" W, a distance of 631.21 feet; thence run S 75°24'09" W, a distance of 215.00 feet for the POINT OF BEGINNING; said point being a point of curvature of a non-tangent curve, concave southwesterly, having a radius of 2,411.83 feet; thence, on a chord bearing of S 07°19'19" E and a chord distance of 610.89 feet, run southerly along the arc of said curve, a distance of 612.53 feet, through a central angle of 14°33'05" to the point of tangency thereof; thence run S 00°02'46" E, a distance of 53.30 feet; thence run S 89°57'14" W, a distance of 35.00 feet to a point on the easterly right-of-way line of International Drive, as described and recorded in Official Records Book 3807, Page 1927, Public Records of Orange County, Florida; thence run northerly along said easterly right-of-way line the following two (2) courses and distances; run N 00°02'46" W, a distance of 53.30 feet to a point of curvature of a curve, concave westerly, having a radius of 2,376.83 feet and a central angle of 14°33'05"; thence run northerly, along the arc of said curve, a distance of 603.64 feet to a point on said curve; thence, departing said easterly right-of-way line, run N 75°24'09" E, a distance of 35.00 feet to the POINT OF BEGINNING.

Containing 0.53 acres, more or less.

Sketch of Description of a

Utility Easement

being a portion of

Lot 1, SHADOW WOOD

Plat Book 27, Pages 71 & 72

lying in

Section 7, Township 24 South, Range 29 East
Orange County, Florida

Not a Boundary Survey.

Legal descriptions were prepared by the Surveyor.

See Sheet 2 of 2 for sketch.

Bearings are based on record plat.

Lines shown hereon are radial unless noted NR (non-radial).

SKETCH OF DESCRIPTION ONLY - NOT A SURVEY

NO CORNERS WERE SET AND GANUNG-BELTON ASSOCIATES, INC. ASSUMES NO RESPONSIBILITY BEYOND ACCEPTED MATHEMATICAL CLOSURES. ALL BEARINGS AND DISTANCES SHOWN HEREON ARE SUBJECT TO FIELD VERIFICATION.

PREPARED FOR: **Shadow Wood Investors, LLC**

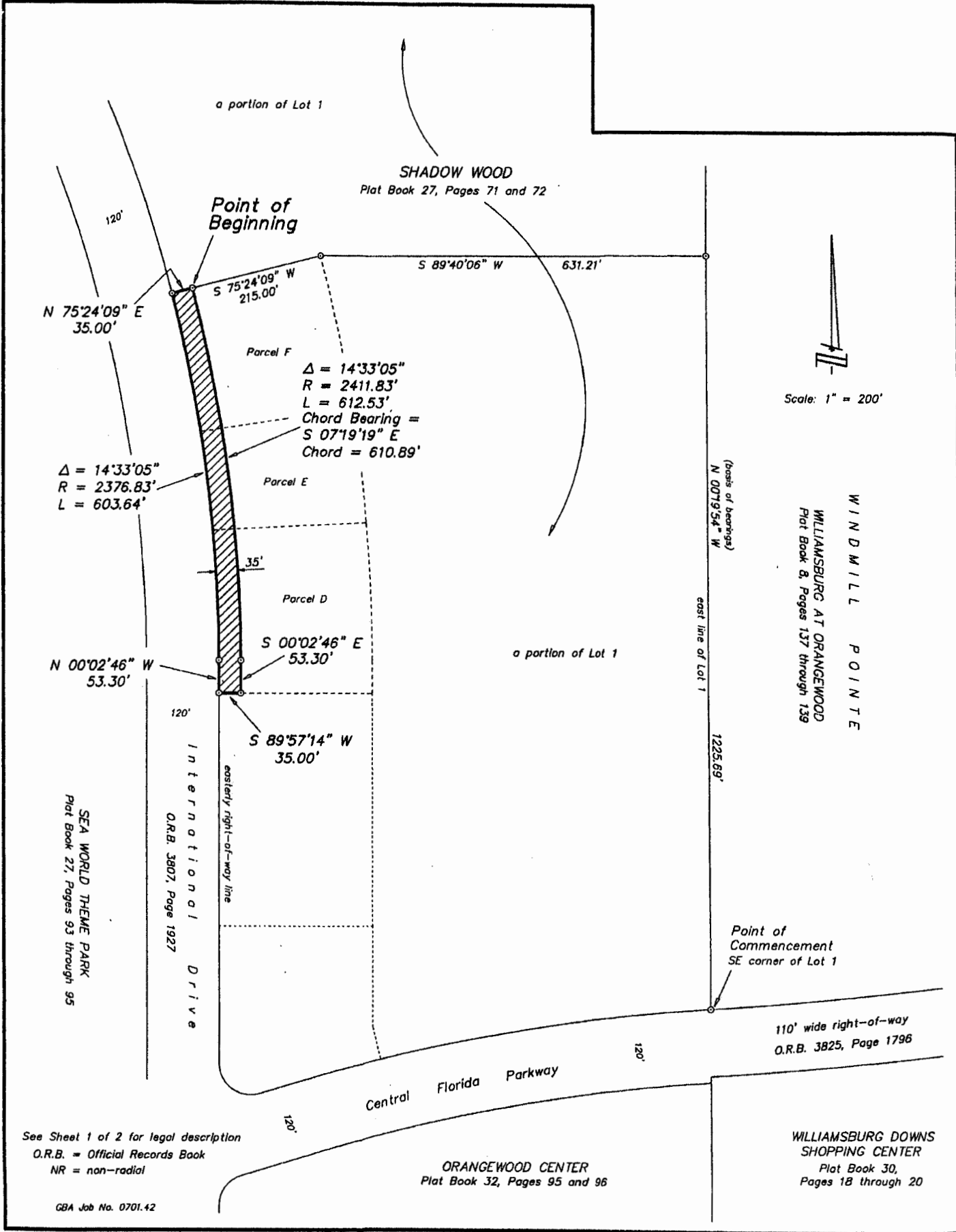


GANUNG - BELTON ASSOCIATES, INC.
professional surveyors and mappers

1275 E. Robinson Street, Orlando, FL 32801 (407) 894-6656

JOB NO. 0701.42	<p>SURVEY NOT VALID WITHOUT THE ORIGINAL RAISED SEAL AND SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER. ADDITIONS OR DELETIONS TO SURVEY MAPS AND OR SURVEY REPORTS BY OTHER THAN THE SIGNING PARTY IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY.</p> <p>FLORIDA BOARD OF SURVEYORS L. R. GANUNG, P.E. REG. P.L.S. NO. 4236</p>
SHEET 1 of 2	
DATE 6/29/12	
SCALE As Noted	

FLORIDA
LICENSED SURVEYOR



$N 75^{\circ}24'09'' E$
35.00'

Point of Beginning

SHADOW WOOD
Plat Book 27, Pages 71 and 72

$S 89^{\circ}40'06'' W$ 631.21'

$S 75^{\circ}24'09'' W$
215.00'

Parcel F
 $\Delta = 14^{\circ}33'05''$
 $R = 2411.83'$
 $L = 612.53'$
Chord Bearing =
 $S 07^{\circ}19'19'' E$
Chord = 610.89'

$\Delta = 14^{\circ}33'05''$
 $R = 2376.83'$
 $L = 603.64'$

Parcel E

35'

Parcel D

$N 00^{\circ}02'46'' W$
53.30'

$S 00^{\circ}02'46'' E$
53.30'

$S 89^{\circ}57'14'' W$
35.00'

International Drive
O.R.B. 3807, Page 1927

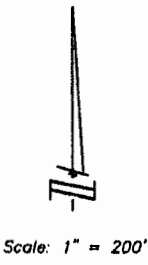
SEA WORLD THEME PARK
Plat Book 27, Pages 93 through 95

a portion of Lot 1

(basis of bearings)
 $N 00^{\circ}19'54'' W$

east line of Lot 1

1225.89'



WINDMILL POINTE
WILLIAMSBURG AT ORANGEWOOD
Plat Book 8, Pages 137 through 139

Point of Commencement
SE corner of Lot 1

110' wide right-of-way
O.R.B. 3825, Page 1796

Central Florida Parkway

ORANGEWOOD CENTER
Plat Book 32, Pages 95 and 96

WILLIAMSBURG DOWNS SHOPPING CENTER
Plat Book 30,
Pages 18 through 20

See Sheet 1 of 2 for legal description
O.R.B. = Official Records Book
NR = non-radial

GBA Job No. 0701.42

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
JAN 06 2015 KH/BS

Project: Shadow Wood Parcels D/E/F – Utility File #69968

SUBORDINATION OF ENCUMBRANCES TO PROPERTY RIGHTS TO ORANGE COUNTY

KNOW ALL MEN BY THESE PRESENTS: That Whereas, it is proposed by ORANGE COUNTY, a charter county and a political subdivision of the state of Florida, whose address is P. O. Box 1393, Orlando, Florida 32802-1393, to locate, construct, maintain, and/or improve a utility easement, in Orange County, Florida; and,

WHEREAS, A portion of the lands involved and necessary to said project is subject to Mortgage; Assignment of Leases, Rents and Profits; Subordination, Attornment and Non-Disturbance Agreements; Assignment; Amended and Restated Mortgage and Security Agreement; Assignment of Leases and Rents; and UCC Financing Statement held by the undersigned; and,

WHEREAS, On behalf of ORANGE COUNTY, a request has been made for the undersigned to subordinate said encumbrances to the property rights of ORANGE COUNTY in and to the portion of the premises hereinafter described.

NOW, THEREFORE, WITNESSETH: That for and in consideration of the premises and One Dollar and other good and valuable considerations, paid, receipt of which is hereby acknowledged, the undersigned subordinates said encumbrances as it has been or as may be modified and amended from time to time to the property rights of ORANGE COUNTY, to locate, construct, maintain, and/or improve said project over, through, upon, and/or across the following described lands, being a portion of the encumbered premises in Orange County, Florida, to-wit:

SEE ATTACHED EXHIBIT "A"

Encumbrances:

TD BANK, N.A.

FROM: BETTJA JEBAILLY, LLC, successor by merger to Shadow Wood Investors, LLC

Mortgage filed February 7, 2012

Recorded in Official Records Book 10328, Page 7230

Assignment of Leases, Rents and Profits filed February 7, 2012

Recorded in Official Records Book 10328, Page 7242

Subordination, Attornment and Non-Disturbance Agreement filed February 7, 2012

Recorded in Official Records Book 10328, Page 7250

Subordination, Attornment and Non-Disturbance Agreement filed February 9, 2012

Recorded in Official Records Book 10329, Page 9237

Assignment filed July 29, 2013

Recorded in Official Records Book 10608, Page 9007

Project: Shadow Wood Parcels D/E/F – Utility File #69968

Encumbrances (continued):

Amended and Restated Mortgage and Security Agreement filed August 2, 2013
Recorded in Official Records Book 10612, Page 9261
Assignment of Leases and Rents filed August 2, 2013
Recorded in Official Records Book 10612, Page 9307
UCC Financing Statement filed August 2, 2013
Recorded in Official Records Book 10612, Page 9322
All in the Public Records of Orange County, Florida

PROVIDED, ALWAYS, NEVERTHELESS, and it is expressly understood and agreed that this instrument subordinates said encumbrances insofar as same affects the rights and privileges of ORANGE COUNTY, in its use of the land specifically above described for utility easement purposes only, and that nothing herein contained shall in any way affect, alter, impair, minimize, or diminish the effect of said encumbrances or the remedies at law or in equity for recovering thereon, or against the parties charged thereby, the full amount of all sums secured by and/or due under the same. It is further understood and agreed that in the event said above described premises are abandoned by ORANGE COUNTY and cease to be used for utility easement purposes that in such event the subordination of said encumbrances shall become of the same status with reference to such abandoned portion as if the subordination had never been made.

IN WITNESS WHEREOF, the said holder of said encumbrances has duly executed this instrument this 19th day of November, A.D. 2014.

TD BANK, N.A.,
a national banking association

Signed, sealed and delivered
in the presence of:

Deni Davis
Witness

Deni DAVIS
Printed Name

[Signature]
Witness

TOM HARB
Printed Name

BY: [Signature]

John B. Warrell
Printed Name

Vice President
Title

EXHIBIT "A"

Legal Description

A portion of Lot 1, SHADOW WOOD, according to the plat thereof, as recorded in Plat Book 27, Pages 71 and 72, Public Records of Orange County, Florida, lying in Section 7, Township 24 South, Range 29 East, Orange County, Florida, being more particularly described as follows:

Commence at the southeast corner of said Lot 1; thence run N 00°19'54" W, along the east line of said Lot 1, a distance of 1225.69 feet; thence, departing the east line of said Lot 1, run S 89°40'06" W, a distance of 631.21 feet; thence run S 75°24'09" W, a distance of 215.00 feet for the POINT OF BEGINNING; said point being a point of curvature of a non-tangent curve, concave southwesterly, having a radius of 2,411.83 feet; thence, on a chord bearing of S 07°19'19" E and a chord distance of 610.89 feet, run southerly along the arc of said curve, a distance of 612.53 feet, through a central angle of 14°33'05" to the point of tangency thereof; thence run S 00°02'46" E, a distance of 53.30 feet; thence run S 89°57'14" W, a distance of 35.00 feet to a point on the easterly right-of-way line of International Drive, as described and recorded in Official Records Book 3807, Page 1927, Public Records of Orange County, Florida; thence run northerly along said easterly right-of-way line the following two (2) courses and distances; run N 00°02'46" W, a distance of 53.30 feet to a point of curvature of a curve, concave westerly, having a radius of 2,376.83 feet and a central angle of 14°33'05"; thence run northerly, along the arc of said curve, a distance of 603.64 feet to a point on said curve; thence, departing said easterly right-of-way line, run N 75°24'09" E, a distance of 35.00 feet to the POINT OF BEGINNING.

Containing 0.53 acres, more or less.

Sketch of Description of a

Utility Easement

being a portion of

Lot 1, SHADOW WOOD

Plat Book 27, Pages 71 & 72

lying in

Section 7, Township 24 South, Range 29 East
Orange County, Florida

Not a Boundary Survey.

Legal descriptions were prepared by the Surveyor.

See Sheet 2 of 2 for sketch.

Bearings are based on record plat.

Lines shown hereon are radial unless noted NR (non-radial).

SKETCH OF DESCRIPTION ONLY - NOT A SURVEY

NO CORNERS WERE SET AND GANUNG-BELTON ASSOCIATES, INC. ASSUMES NO RESPONSIBILITY BEYOND ACCEPTED MATHEMATICAL CLOSURES. ALL BEARINGS AND DISTANCES SHOWN HEREON ARE SUBJECT TO FIELD VERIFICATION.

PREPARED FOR: Shadow Wood Investors, LLC	JOB NO. 0701.42	SURVEY NOT VALID WITHOUT THE ORIGINAL RAISED SEAL AND SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER. ADDITIONS OR DELETIONS TO SURVEY MAPS AND OR SURVEY REPORTS BY OTHER THAN THE SIGNING PARTY IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY.
 GANUNG - BELTON ASSOCIATES, INC. professional surveyors and mappers	SHEET 1 of 2	
1275 E. Robinson Street, Orlando, FL 32801 (407) 894-6656	DATE 6/29/12	
	SCALE As Noted	

FLORIDA
LICENSED SURVEYOR

