

Interoffice Memorandum

### APPROVED

BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

November 13, 2015

DEC 0 1 2015 NP/CAS

TO:

Mayor Teresa Jacobs

and Board of County Commissioners

FROM:

Mark V. Massaro, P.E., Public Works Director

**CONTACT PERSON:** 

Mark V. Massaro, P.E., Director

**Public Works Department** 

**PHONE NUMBER:** 

(407) 836-7970

SUBJECT:

Interlocal Agreement Between Orange County Florida and the City of Orlando Florida Regarding Jurisdiction to Operate and Maintain W. D. Judge Drive Between Mercy Drive and John Young Parkway

The City of Orlando (City) has requested Orange County (County) transfer jurisdiction to operate and maintain W. D. Judge Drive from the east right-of-way line of Mercy Drive to west right-of-way line of John Young Parkway.

In accordance with Florida Statues, an Interlocal Agreement (Agreement) and County Deed have been prepared which transfers to the City all interest, authority and responsibility over this portion of W. D. Judge Drive. Approval of this Agreement also transfers responsibility for maintaining this portion of W. D. Judge Drive to the City. The Orange County Attorney's Office and Risk Management Division have reviewed the Agreement and found it acceptable. The City of Orlando approved this Agreement on September 21, 2015.

**Action Requested:** 

Approval of Interlocal Agreement between Orange County, Florida and the City of Orlando, Florida regarding jurisdiction to operate and maintain W. D. Judge Drive between Mercy Drive and John Young Parkway. District 6.

MVM/GS/wv

Attachments

### INTERLOCAL AGREEMENT

between

**ORANGE COUNTY, FLORIDA** 

and the

CITY of ORLANDO, FLORIDA

regarding

JURISDICTION to OPERATE and MAINTAIN

W. D. JUDGE DRIVE

between

MERCY DRIVE and JOHN YOUNG PARKWAY

Approved by the Orange County Board of County Commissioners

DEC 0 1 2015 , 2015

Approved by the City of Orlando City Council , 2015

City Council life eting: 9.31.15

Item F 2 Escententary: 150921±02

# INTERLOCAL AGREEMENT between ORANGE COUNTY, FLORIDA and the CITY of ORLANDO, FLORIDA regarding JURISDICTION to OPERATE and MAINTAIN W. D. JUDGE DRIVE between MERCY DRIVE and JOHN YOUNG PARKWAY

THIS INTERLOCAL AGREEMENT is made and entered into by and between Orange County, Florida, a Charter County and political subdivision of the State of Florida ("County"), and the City of Orlando, Florida, a municipal corporation created and existing under the laws of the State of Florida ("City").

### **RECITALS**

**WHEREAS**, the County has authority pursuant to Section 125.01, Florida Statutes, to enter into agreements;

**WHEREAS**, the City has authority pursuant to Section 166.021, Florida Statutes, to enter into agreements;

WHEREAS, all roads which are open and available for use by the public and dedicated to public use, according to law or by prescription, are declared to be and established as, pursuant to Section 335.01(1), Florida Statutes, public roads;

WHEREAS, a "road" is defined by Section 334.03(22), Florida Statutes, as "a way open to travel by the public, including, but not limited to, a street, highway, or alley, including, but not limited to, associated sidewalks, the roadbed, the right-of-way, and all culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges [and] tunnels . . . ":

**WHEREAS**, the term "road" as defined by Section 334.03(22), Florida Statutes, also implicitly includes, but is not limited to, curbs, guardrails, landscaping, and traffic control devices (such as signals and signs);

WHEREAS, according to Section 335.01(2), Florida Statutes, public roads are divided into four systems: (1) the "county road system"; (2) the "city street system"; (3) the "State Highway System"; and (4) the "State Park Road System";

WHEREAS, the "county road system" is defined by Section 334.03(8), Florida Statutes, as "all collector roads in the unincorporated areas of a county and all extensions of such collector roads into and through any incorporated areas, all local roads in the unincorporated areas, and all urban minor arterial roads not in the State Highway System";

**WHEREAS**, the "city street system" is defined by Section 334.03(3), Florida Statutes, as "all local roads within a municipality, and all collector roads inside that municipality, which are not in the county road system";

WHEREAS, pursuant to Section 335.0415(1), Florida Statutes, the jurisdiction of public roads and the responsibility for operation and maintenance within the right-of-way of any road within the state, county, and municipal road systems shall be that which existed on June 10, 1995;

WHEREAS, under Section 335.04(2), Florida Statutes, the predecessor statute to Section 335.0415, Florida Statutes, each local government's responsibilities were expressly described therein, and the responsibility of a county for the operation and maintenance of any roads under its jurisdiction that extended into and through a municipality was limited to the roadbed, curbs, culverts and drains, but did not include sidewalks, embankments and slopes;

**WHEREAS**, pursuant to Section 335.0415(2), Florida Statutes, any change of the jurisdiction of a public road after July 1, 1995, that is a part of a county road system or a city street system is governed by Section 335.0415(3), Florida Statutes;

WHEREAS, pursuant to Section 335.0415(3), Florida Statutes, subsequent to July 1, 1995, public roads within the respective road systems of a county or a city may be transferred between those jurisdictions only by mutual agreement of those local governmental entities;

WHEREAS, the City desires to own (or accept dedication of, whatever the case may be), operate, maintain, control, and have responsibility over the local County road known as W. D. Judge Drive between Mercy Drive and John Young Parkway, and more particularly, extending from the eastern right-of-way line of Mercy Drive to the western right-of-way line of John Young Parkway;

WHEREAS, this Interlocal Agreement is intended solely to address the transfer of the subject segment of W. D. Judge Drive from the County's road system to the City's city street system for purposes of operation and maintenance, and/or to act as an acknowledgment by the City of its jurisdiction and authority to operate and maintain such road upon the effective date of this Interlocal Agreement;

WHEREAS, this Interlocal Agreement is not intended to apply and shall not be construed as applying to the subject of which party has jurisdiction to control traffic at intersections and along such road (see Section 316.006, Florida Statutes); and

WHEREAS, this Interlocal Agreement is also not intended to apply and shall not be construed as applying to the subject of which law enforcement authority (the City's Police Department or the Orange County Sheriff's Office) has jurisdiction to enforce traffic laws along such road (see Section 316.640, Florida Statutes).

**NOW, THEREFORE,** in consideration of the mutual covenants and conditions contained herein, the parties hereto agree as follows:

### 1. Recitals.

The foregoing recitals are true and correct and are hereby incorporated herein by reference.

### 2. Jurisdiction of W. D. Judge Drive; Scope; Limitations.

- A. The County hereby transfers to the City, and the City hereby accepts and acknowledges jurisdiction over, the local road known as W. D. Judge Drive extending from the eastern right-of-way line of Mercy Drive to the western right-of-way line of John Young Parkway, as more particularly described and shown in Appendix "A" to Exhibit "A" attached hereto ("W. D. Judge Drive").
- **B.** The City's jurisdiction to operate and maintain W. D. Judge Drive means the authority and responsibility to maintain, control, repair, or improve such road, as the term "road" is defined by Section 334.03(22), Florida Statutes, and to regulate, warn, or guide traffic on such road, regardless of any future alteration, realignment, construction, extension, widening,

or renaming of such road. W. D. Judge Drive is therefore deemed to be a part of the City's "city street system" for purposes of operation and maintenance. Pursuant to Section 337.29(3), Florida Statutes, to the extent that sovereign immunity has been waived, liability for torts shall be in the City. Also pursuant to Section 337.29(3), Florida Statutes, except as otherwise provided by law or this Interlocal Agreement, the City shall have the same governmental, corporate, and proprietary powers with relation to W. D. Judge Drive that the City has with relation to other public roads and rights-of-way within the City.

C. Unless otherwise agreed to in advance by the County, the City shall not close or barricade W. D. Judge Drive to vehicular traffic, other than temporarily for road maintenance, road repair, accidents, or miscellaneous special events, such as road races.

### 3. Dedication and Acceptance; Deed; Vesting of Title.

- A. Dedication and Acceptance. For any portion of W. D. Judge Drive that was heretofore dedicated and that the County heretofore accepted, the County hereby dedicates such portion to the City, and the City hereby accepts such dedication.
- B. Deed. The County shall execute and deliver to the City a County deed in favor of the City substantially in the form attached hereto as Exhibit "A" for any portion of W. D. Judge Drive that the County holds, or may hold, in fee title, which portion is specifically described in the legal description and sketch of description attached to Exhibit "A" as Appendix "A." Within fifteen (15) days after receipt thereof, the City shall accept the deed by recording it in the Official Records of Orange County at the City's expense.
- C. Vesting of Title. The legal and sketch of description attached as Appendix "A" to the County Deed described in subsection 3.B of this Interlocal Agreement

shall constitute the right-of-way map required under Section 337.29(3), Florida Statutes, in order to vest title in W. D. Judge Drive in the City. Accordingly, upon the recording of the County Deed and **Appendix "A"** thereto pursuant to subsection 3.B, title in W. D. Judge Drive shall vest in the City pursuant to Section 337.29(3).

### 4. Miscellaneous.

- A. Validity. The County and the City each represents, warrants, and covenants to and with the other its respective authority and power under Florida law to enter into this Interlocal Agreement, acknowledges the validity and enforceability of this Interlocal Agreement, and waives any future right of defense based on claim of illegality, invalidity or unenforceability of any nature. Furthermore, the County and the City each represents, warrants and covenants to and with the other that this Interlocal Agreement has been validly approved by its respective governing body, and that this Interlocal Agreement constitutes a legal, valid and binding contract enforceable against each party in accordance with the terms hereof (assuming the due authorization, execution and delivery hereby by the other party hereto).
- **B.** Ambiguities. Both parties have been allowed equal input regarding the terms and wording of this Interlocal Agreement, and have had the benefit of consultation with their respective legal counsel prior to its execution, such that all language and wording herein shall be construed equally against the parties.
- C. Headings. The headings or captions of sections or subsections used in this Interlocal Agreement are merely for the convenience of the parties for reference only and are not intended to define or limit their contents, nor are they intended to affect the construction of or to be taken into consideration in interpreting this Interlocal Agreement.

**D.** Severability. The provisions of this Interlocal Agreement are declared by the parties to be severable only to the extent that the remaining provisions can effectuate the purpose and intent of the parties.

### E. Governing Law; Venue; Attorney's Fees and Costs.

- (1) This Interlocal Agreement shall be governed by and construed in accordance with laws of the State of Florida.
- (2) Venue for any action arising out of or related to this Interlocal Agreement shall be in the Circuit Court for the Ninth Judicial Circuit in Orange County, Florida.
- (3) In the event a party deems it necessary to take legal action to enforce any provisions of this Interlocal Agreement, each party shall bear its own attorney's fees and costs at both the trial and appellate levels.
- F. Entire Agreement. This Interlocal Agreement, along with its exhibits, constitutes the entire Agreement between the parties regarding the subject matter hereof. Any prior oral or written agreements or understandings of any kind between the parties relating to the subject matter hereof are null and void and have no further effect.
- **G.** Amendments. This Interlocal Agreement may be amended only by express written instrument approved by the Board of County Commissioners of the County and the City Commission of the City, and executed by the authorized officers of each party.
- H. Counterparts. This Interlocal Agreement and any amendments thereto may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

I. Notices. Any notice required to be given or otherwise given by one party to the other party shall be in writing and shall be deemed delivered when given by hand delivery; five (5) days after being deposited in the United States Mail, postage prepaid, certified or registered; or the next business day after being deposited with a recognized overnight mail or courier delivery service; or when transmitted by facsimile or telecopy transmission, with receipt acknowledged upon transmission; or when sent by electronic mail, and addressed as follows:

If to the County: Director, Orange County Public Works Department

4200 South John Young Parkway

Orlando, Florida 32839 Facsimile: (407) 836-7716

With a copy to: County Attorney

Orange County Administration Center

201 South Rosalind Avenue Orlando, Florida 32802 Facsimile: (407 836-5888

If to the City:

Director of Public Works

City of Orlando

400 South Orange Avenue Orlando, Florida 32801 Facsimile: 407-246-2892

With a copy to:

City Attorney
City of Orlando

400 South Orange Avenue Orlando, Florida 32801 Facsimile: 407-246-2854

In all cases, a notice shall be deemed delivered to a party only upon delivery of the notice to the person or official indicated above in the same manner as for the party being notified. Either party may change its designated official or address for receipt of notice by giving notice of such change to the other party in the manner provided in this section.

5. Effective Date. This Interlocal Agreement shall become effective on the date of execution by the County or the date of execution by the City, whichever date is later.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year indicated below.

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

Teresa Jacobs

Orange County Mayor

Date: /2. /. , 2015

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

Print Name: Ciaig A. Stopyia

CITY of ORLANDO

By: City Council

Buddy Dyer, Mayor

Cleste Bow V City Clerk

APPROVED BY THE CITY

CITY COUNCIL AT A MEETING HELD ON

UNDER AGENDA ITEM 1-3

### Exhibit "A"

Project: Interlocal Agreement between Orange County and the City of Orlando regarding Jurisdiction to Operate and Maintain W. D. Judge Drive between Mercy Drive and John Young Parkway

### **COUNTY DEED**

THIS DEED, dated \_\_\_\_\_\_\_ by ORANGE COUNTY, a charter county and political subdivision of the state of Florida, whose address is P. O. Box 1393, Orlando, Florida 32802-1393, GRANTOR, and the City of Orlando, a municipal corporation, under the laws of the state of Florida, whose address is 400 S. Orange Ave., Orlando, Florida 32801, GRANTEE.

WITNESSETH: That the GRANTOR, for and in consideration of the sum of \$1.00 and other valuable considerations, in hand paid by the GRANTEE, the receipt whereof is hereby acknowledged, does hereby remise, release, and quit-claim unto the said GRANTEE forever, all the right, title, interest, claim, and demand which the GRANTOR has in and to the following described lot, piece, or parcel of land, situate, lying and being in the county of Orange, state of Florida, to-wit:

### SEE ATTACHED APPENDIX "A"

### **Property Appraiser's Parcel Identification Number:**

### Unassigned

THIS COUNTY DEED is being given in accordance with the Interlocal Agreement between Orange County and the City of Orlando regarding Jurisdiction to Operate and Maintain W. D. Judge Drive between Mercy Drive and John Young Parkway.

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity, and claim whatsoever of the GRANTOR, either in law or equity, to the only proper use, benefit, and behoove of the GRANTEE forever.

Project: Interlocal Agreement between Orange County and the City of Orlando regarding Jurisdiction to Operate and Maintain W. D. Judge Drive between Mercy Drive and John Young Parkway

IN WITNESS WHEREOF, the said GRANTOR has caused these presents to be executed in its name by its Board, acting by the County Mayor, the day and year aforesaid.

(Official Seal)	ORANGE COUNTY, FLORIDA By: Board of County Commissioners			
	BY: Teresa Jacobs Orange County Mayor			
	DATE:			
ATTEST: Martha O. Haynie, County Comptroller, Clerk to the Board				
BY: Deputy Clerk				
Printed Name				

### This instrument prepared by:

Theresa A. Avery, a staff employee in the course of duty with the Real Estate Management Division of Orange County, Florida

# LEGAL DESCRIPTION APPENDIX "A"

**Purpose: Road Right of Way** 

That portion of right of way for W D Judge Drive lying within Section 20, Township 22 South, Range 29 East and Section 21, Township 22 South, Range 29 East, Orange County, Florida, being more particularly described as follows:

Commence at the Northwest corner of the Northeast guarter of the Southeast guarter of Section 20, Township 22 South, Range 29 East, Orange County, Florida; thence run South along the West line of said Northeast guarter of the Southeast guarter of Section 20 a distance of 30.00 feet; thence run East a distance of 30.00 feet to a point, said point lying on the East right of way line of Mercy Drive, said point also lying at the Northwest corner of Lot 1 of Sunnybrook Acres as recorded in Plat Book X, Page 149, Orange County, Florida, also being the Point of Beginning; thence East along the North line of Lots 1 through 9 of said plat, also being a line lying 30.00 feet South of and parallel of the North line of the Northeast guarter of the Southeast guarter of said Section 20 a distance of 630.19 feet more or less to a point lying at the Northeast corner of Lot 9 of said Plat Book X, Page 149, Orange County, Florida; thence run East along said parallel line, also being the North right of way line of Palm Grove Gardens as recorded in Plat Book 3, Page 35, Orange County, Florida a distance of 660.32 feet more or less to a point lying at the Northeast corner of Lot 1 of said plat, point also lying on a line 30.00 feet South and parallel of the Southeast quarter of said Section 20; thence continue East along a line lying 30.00 feet South and parallel of the Southeast quarter of Section 20, also being the South right of way line of W D Judge Drive a distance of 343.30 feet more or less per Official Record Book 9604, Page 4539, Orange County, Florida; thence continue East along the South line of W D Judge Drive, also being a line 30.00 feet South and parallel to the North line of the Southwest quarter of Section 21, Township 22 South, Range 29 East, Orange County, Florida a distance of 766.00 feet more or less per Official Record Book 6648, Page 3505, Orange County, Florida to a point, said point lying 3.00 feet North of Evergreen Park, First Addition, Plat Book U, Page 144, Orange County, Florida; thence run South a distance of 3.00 feet to the said Northwest corner of Lot 12, Block E, of said plat; thence run East along the North right of way line of Evergreen Park, First Addition, Plat Book U, Page 144, Orange County, Florida, also being a line lying 33.00 feet South and parallel of the Southwest quarter of Section 21, Township 22 South, Range 29 East a distance of 841.63 feet more or less to a point lying at the Northeast corner of Lot 1, Block E, of said Evergreen Park, First Addition, Plat Book U, Page 144, Orange County, Florida: thence continue East along the South right of way line of W D Judge Drive, also being a line lying 33.00 feet South and parallel of the Southwest guarter of Section 21, Township 22 South, Range 29 East, Orange County, Florida a distance of 63.00 feet more or less per Deed Book 930. Page 112, Orange County, Florida to a point lying at the East right of way line of Ferguson Drive, said point lying 3.00 feet South of the Northwest corner of Lot 2 of Frito-Lay Center as recorded in Plat Book 53, Pages 103-104, Orange County, Florida; thence North 3.00 feet to the Northwest corner of Lot 2 of said plat; thence East along the North line of said Lot 2 a distance of 634.73 feet more or less to the Northeast corner of said Lot 2; thence run South a distance of 20.00 feet more or less to the Northwest corner of Lot 1 of said plat; thence East along the North line of Lot 1 of Frito-Lay Center as recorded in Plat Book 53, Pages 103-104, Orange County, Florida, also being a line lying 50.00 feet South and parallel of the Southeast quarter of Section 21, Township 22, Range 29 East a distance of 881.03 feet more or less to a point lying at the Northeast corner of Lot 1 of Frito-Lay Center as recorded in Plat Book 53, Pages 103-104, Orange County, Florida, point also lying on the West right of way of N John Young Parkway; thence run Northwesterly from the Northeast corner of Lot 1 of said plat and the West right of way line of John Young Parkway

PREPARED FOR: Roads & [	)rainage	ORANGE C	OUNTY PUBLIC WORKS	ENGINEER	RING DIVISION
DRAWN BY: Alvarez	DATE: 05/05/15	SECTION: 20,21	CUDVEY CECTION	ORANGE	DRAWING SCALE:
CHECKED BY: Daynes	JOB No:7641	TOWNSHIP: 22	SURVEY SECTION 4200 SOUTH JOHN YOUNG PARKWAY	2 0	NTS
APPROVED BY: Daynes	DRAWING FILE:	RANGE: 29	ORLANDO, FLORIDA 32839-9205 (407) 836-7940	COUNTY	PROJECT NUMBER
REVISION DATE: 06/17/15	7641 W D Judge Dr	SHEET 1 OF 7	(101,) 555 1515	T T U F T P V	7641

## **LEGAL DESCRIPTION APPENDIX "A"**

**Purpose: Road Right of Way** 

a distance of 126.00 feet more or less to a point lying on the North right of way line of W D Judge Drive and Westerly right of way line of N John Young Parkway; thence run West along the North right of way line of W D Judge Drive a distance of 844.00 feet more or less per Official Record Book 8385, Page 1123, Orange County, Florida to a point lying on the West line of the Northeast quarter of Section 21, Township 22 South, Range 29 East, Orange County, Florida; thence run South 40.00 feet along the West line of the Northeast quarter of Section 21, Township 22 South, Range 29 East, Orange County, Florida to a point; thence West along the North right of way line of W D Judge Drive a distance of 1329.43 feet more or less from the West line of the Northeast quarter of Section 21, Township 22 South, Range 29 East, Orange County, Florida to a point lying on the North right of way line of W D Judge Drive, point also lying on the South line of Willis R. Munger's Land as per Plat Book E, Page 3, Orange County, Florida; thence continue West along the North right of way line of W D Judge Drive a distance of 1329.43 feet more or less per Official Record Book 6648, Page 3505, Orange County, Florida to a point lying on the West line of the Northwest quarter of Section 21, Township 22 South, Range 29 East, Orange County, Florida; thence continue West along the North right of way line of W D Judge Drive a distance of 200.00 feet more or less to a point lying on the West line of the East 200.00 feet more or less per Official Record Book 9836, Page 9299, Orange County, Florida of the Southeast quarter of the Northeast quarter of Section 20, Township 22 South, Range 29 East, Orange County, Florida; said point also lying on the Southeast corner of Lot 1 of Mercy Drive Community Center as recorded in Plat Book 30, Pages 98-99, Orange County, Florida; thence run West along the South line of said plat a distance of 1067.39 feet more or less to a point, said point lying 23.00 feet East of the East right of way line of Mercy Drive; thence run West along the North right of way line of W D Judge Drive a distance of 23.00 feet more or less to a point lying on the East right of way line of Mercy Drive, said point also lying 30.00 feet East of the West line of the Southeast quarter of the Northeast quarter of Section 20, Township 22 South, Range 29 East, Orange County, Florida; thence South along the prolongation of the East right of way line of Mercy Drive a distance of 60.00 feet more or less to a point on the Northwest corner of Lot 1 of Sunnybrook Acres as recorded in Plat Book X, Page 149, Orange County, Florida, said point being the Point of Beginning.

Contains 7.88 acres, more or less.

PREPARED FOR: Roads & Drainage		ORANGE CO		
DRAWN BY: Alvarez	DATE: 05/05/15	SECTION: 20,21		
CHECKED BY: Daynes	JOB No:7641	TOWNSHIP: 22		
APPROVED BY: Daynes	DRAWING FILE:	RANGE: 29		
REVISION DATE: 06/17/15	7641 W D Judge Dr	SHEET 2 OF 7		

SURVEY SECTION 4200 SOUTH JOHN YOUNG PARKWAY ORLANDO, FLORIDA 32839-9205 (407) 836-7940



OUNTY PUBLIC WORKS ENGINEERING DIVISION DRAWING SCALE: NTS PROJECT NUMBER 7641









