



Interoffice Memorandum

APPROVED BY ORANGE  
COUNTY BOARD OF COUNTY  
COMMISSIONERS

BCC Mtg. Date: July 12, 2016

REAL ESTATE MANAGEMENT ITEM 4

**DATE:** June 24, 2016

**TO:** Mayor Teresa Jacobs  
and the  
Board of County Commissioners

**THROUGH:** Ann Caswell, Manager *ac*  
Real Estate Management Division *as prw*

**FROM:** Virginia G. Williams, 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 TEMPORARY LICENSE AGREEMENT FOR CONSTRUCTION ACCESS BETWEEN ORANGE COUNTY AND TAYLOR MORRISON OF FLORIDA, INC. AND DELEGATION OF AUTHORITY TO THE COUNTY ADMINISTRATOR TO EXERCISE EXTENSIONS IF NECESSARY

**PROJECT:** Hidden Springs Repump Facility Property – Construction Access  
District 1

**PURPOSE:** To provide developer temporary use of County property for construction access in connection with development of Havencrest.

**ITEM:** Temporary License Agreement for Construction Access  
Revenue: None  
Term: 4 years  
Options: One-year additional extensions

**APPROVALS:** Real Estate Management Division  
County Attorney's Office  
Utilities Department  
Risk Management Division

**REMARKS:**

Taylor Morrison of Florida, Inc. (Licensee) is developing land to the north of the County's Hidden Springs Repump Facility at 2021 S. Apopka Vineland Road in Orlando and has requested the use of the County's access driveway for construction access to its Havencrest development.

During the term of the Agreement and any extensions, Licensee will carry appropriate workers' compensation, automobile and liability insurance with required limits at all times and will indemnify and hold the County harmless. Licensee will provide normal maintenance and repair during its use of the County's access driveway. At the end of the initial term or completion of Licensee's development, Licensee will repave the driveway and restore the subdivision wall. All safety and security precautions must be observed to protect persons or property. No storage of any kind is permitted on County's property.

**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.**

JUL 12 2016

**TEMPORARY LICENSE AGREEMENT  
For Construction Access**

THIS TEMPORARY LICENSE AGREEMENT (“Agreement”) is made by and between **ORANGE COUNTY**, a charter county and political subdivision of the State of Florida (“County”), having an address at P.O. Box 1393, Orlando, Florida 32802, and **TAYLOR MORRISON OF FLORIDA, INC.** (“Licensee”), a Florida corporation, having an address at 4900 N. Scottsdale Road, Suite 2000, Scottsdale, Arizona, 85251.

**RECITALS**

**WHEREAS**, Licensee is the developer of Havencrest, a residential subdivision located on Apopka Vineland Road south of the Florida Turnpike in unincorporated Orange County, Florida; and

**WHEREAS**, the County owns certain real property, more particularly identified herein, located immediately to the south of Havencrest, on which the County’s Hidden Springs Repump Facility is situated (“County Property”); and

**WHEREAS**, Licensee desires to temporarily use the County Property as a construction access route into Havencrest until the conclusion of development; and

**WHEREAS**, the parties hereto desire to set forth their mutual understanding of the terms and conditions of their agreement contained herein.

**NOW, THEREFORE**, in consideration of the mutual promises and agreements set forth herein, the parties agree as follows:

1. **County Property.** The real property subject to this Agreement is located at 2021 S. Apopka Vineland Road, Orlando, in unincorporated Orange County, Florida and is identified

as Parcel ID 03-23-28-0000-00-024 (“County Property”).

2. **Creation of Temporary License.** The County hereby grants to Licensee the right to enter upon and use the County Property during the term of this Agreement, as may be extended. Licensee’s use of the County Property shall be limited to use as a construction access for Licensee’s development of Havencrest in accordance with the construction entrance plan attached hereto as incorporated herein as **Exhibit “A”** (the “Plan”), which Plan is hereby approved by the County. Licensee shall utilize the paved driveway on the County Property to the maximum extent practicable, except where necessary to cross unpaved areas to access Tract K and Lot 1 of Havencrest, as depicted on the plat for Havencrest (PB 86, PG 138) and identified as the “Proposed Construction Entrance Location” on the Plan. Licensee’s temporary license does not include access through the gate in front of the County’s Hidden Springs Repump Facility. Licensee shall ensure that its employees, agents, contractors, subcontractors, vendors and suppliers comply with all the terms and provisions of this Agreement. Any unauthorized use of the County Property by Licensee or Licensee’s employees, agents, contractors, subcontractors, vendors or suppliers shall be cause for termination of this Agreement pursuant to Paragraph 8, herein. This Agreement does not create an ownership or possessory interest in Licensee.

3. **Term.** The term of this Agreement shall commence upon full execution by both parties hereto and shall terminate four (4) years thereafter, unless sooner terminated pursuant to the provisions contained herein. The term of this Agreement may be extended for additional one-year terms through written request by Licensee to the County Administrator with copies to the Real Estate Management Division and the Utilities Department, and upon written approval by the County Administrator no less than thirty (30) days prior to the then-current termination date.

4. ***Licensee's Obligations & Restrictions.***

a. Licensee shall be responsible for the normal and routine maintenance of the paved driveway located upon the County Property during the term of this Agreement. Said driveway must be maintained in usable condition to the satisfaction of the County. Licensee shall be responsible for repairing damage to the County Property caused by Licensee or Licensee's employees, agents, contractors, subcontractors, vendors or suppliers, but not for damage caused by other third parties or the County.

b. Licensee shall repave the driveway no later than 90 days following (i) the conclusion of the initial term of this Agreement or (ii) the conclusion of Licensee's development of Havencrest, whichever occurs first.

c. If the construction activities continue beyond the initial four-year term of this Agreement, Licensee shall repave the driveway again no later than 90 days following termination of this Agreement.

d. Trucks, vehicles or equipment weighing in excess of 32,000 pounds per axle or a total of 125,000 pounds (62.5 tons), including load, are prohibited on the County Property. Licensee shall ensure that its employees, agents, contractors, subcontractors, vendors, and suppliers utilizing the County Property are notified of and comply with this requirement.

e. No storage of any kind is permitted on the County Property.

f. Licensee's use of the County Property shall not interfere with, nor impede access to, the County's Hidden Springs Repump Facility, located on the County Property, and Licensee's access to and use of the paved driveway shall, at all times, be subordinate to the County's access to and use of the paved driveway.

g. Licensee shall construct a temporary gate at the Proposed Construction Entrance Location to limit access to Havencrest during non-working hours and shall restore the subdivision wall to its original condition upon completion of construction activities or expiration of this Agreement, whichever occurs first.

5. ***Safety and Security Precautions.***

a. Licensee shall take all reasonable precautions for, and will be responsible for initiating, maintaining and supervising all activities relating to the safety and security of all persons and property affected by or involved in Licensee's use of the County Property under this Agreement, including, but not limited to power or communication lines supporting the County's Hidden Springs Repump Facility.

b. Licensee shall comply with all applicable safety and security laws, ordinances, rules, regulations, standards and lawful orders of any public authority bearing on the safety and security of persons or property or their protection, damage, injury or loss affected by Licensee's use of the County Property under this Agreement.

c. Licensee shall act with reasonable care and discretion to prevent any threatened damage, injury or loss in any emergency affecting the safety and security of persons or property affected by Licensee's use of the County Property under this Agreement.

6. ***Insurance.*** Licensee shall procure and maintain, for the duration of this Agreement, insurance of the types and limits specified below. Insurance carriers furnishing these coverages must be authorized to do business in the State of Florida, and **must possess a minimum, current rating of A-Class VIII in the most recent edition of "Best's Key Rating Guide."**

a. Workers' Compensation - covering its employees with statutory workers'

compensation limits, and no less than \$500,000 for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the County and its agents, employees and officials.

b. Commercial General Liability - covering all operations including, but not limited to, Contractual, Products and Completed Operations and Personal Injury. The limits shall be not less than \$1,000,000.00 per occurrence and an aggregate limit of at least \$2,000,000.00. The County shall be named as an additional insured.

c. Business Automobile Liability - covering all owned, non-owned and hired vehicles with limits of not less than \$1,000,000.00 per occurrence, Combined Single Limits (CSL) or its equivalent per occurrence.

Prior to entering upon the County Property, and during the duration of the Agreement, Licensee shall file with the County current certificates of all required insurance on forms acceptable to the County and thirty (30) days prior written notice of cancellation or reduction in coverage, except ten (10) days prior written notice is allowed for cancellation due to non-payment of premium.

Failure of the County to demand such certificates or other evidence of full compliance with these insurance requirements or failure of the County to identify a deficiency from evidence provided will not be construed as a waiver of Licensee's obligation to maintain such insurance. Failure of Licensee to maintain adequate insurance coverage for itself or for any other persons or entities for which it is responsible shall not relieve Licensee of any contractual responsibility or obligation.

It shall be the responsibility of Licensee to ensure that all its subcontractors maintain adequate insurance. Failure of Licensee to maintain adequate insurance coverage for itself or for

any other persons or entities for whom it is responsible, or to ensure that its subcontractors maintain adequate coverage, shall not relieve Licensee of any contractual responsibility or obligation or liability.

7. **Indemnification.** Licensee shall indemnify, defend, and hold harmless the County from and against any and all liabilities, claims, losses, costs, damages, fees, fines, suits or expenses of any kind and nature (including without limitation, attorneys' fees), for injury or death to persons or damage to property or property rights arising out of Licensee's use of the County Property, or the use of the County Property by Licensee's employees, agents, contractors, subcontractors, vendors and suppliers. Licensee assumes all risk of damage to property owned by Licensee, its employees, agents, contractors, subcontractors, vendors and suppliers that may occur while on or about the County Property for any reason whatsoever, other than damage to such property that is caused by the County. The indemnification provisions contained herein shall survive the termination of this Agreement.

8. **Breach of Agreement.** The failure of Licensee to comply with any covenant or condition of this Agreement shall constitute a breach of this Agreement. If Licensee is in breach of this Agreement in any manner, the County shall give Licensee written notice of any such breach. If (i) Licensee fails to cure such breach within 30 days after receiving such notice, or (ii) fails to commence such cure within 30 days after receiving such notice and to diligently prosecute such cure to completion, if the nature of such breach is such that more time is reasonably required by Licensee in order to cure such breach, then the County may terminate this Agreement. The County expressly reserves any and all other legal remedies available at law and in equity. Damages, if any, shall be limited to actual, out-of-pocket expenses incurred to remedy



a breach of this Agreement. Speculative, consequential, punitive or other non-actual damages are prohibited.

9. **Waiver of Breach.** Waiver of breach of one covenant or condition of this Agreement is not a waiver of breach of other covenants and conditions of this Agreement, or of a subsequent breach of the waived covenant(s) or condition(s).

10. **Termination.** This Agreement may be terminated at any time by mutual written consent of the parties. The County may terminate this Agreement upon the breach of this Agreement by Licensee pursuant to the terms of Paragraph 8 herein.

11. **Compliance with Applicable Laws.** Licensee shall observe and comply with all applicable federal, state, and local rules, orders, laws and regulations pertaining to the use of the County Property.

12. **Amendments to Agreement.** The conditions and covenants of this Agreement shall not be amended or modified other than in writing signed by the parties hereto.

13. **Entire Agreement.** The entire Agreement between the parties with respect to the subject matter herein is contained in this Agreement. No other Agreement, oral or written, regarding the subject matter herein shall be deemed to exist or to bind the parties hereto.

14. **Notices.** All notices to either party shall be given (i) by certified or registered mail, postage prepaid, return receipt requested, (ii) by nationally recognized overnight courier service providing proof of delivery, or (iii) by fax or email followed by confirmation under (i) or (ii).

As to County:                      Orange County Administrator  
   P.O. Box 1393  
   Orlando, Florida 32802  
   Fax: (407) 836-7399

and

Orange County Utilities  
Engineering Division  
Attn: Manager  
9150 Curry Ford Road  
Orlando, Florida 32825  
Fax: (407) 254-9900

and

Orange County Administrative Services Department  
Real Estate Management Division  
Attn: Manager  
P.O. Box 1393  
Orlando, Florida 32802  
Fax: (407) 836-5969

As to Licensee: Taylor Morrison of Florida, Inc.  
Attn: Chris Tyree  
151 Southhall Lane, Suite 200  
Maitland, Florida 32751  
Email: [jtyree@taylormorrison.com](mailto:jtyree@taylormorrison.com)

The names, addresses and/or facsimile numbers may be changed by written notice as above provided. Notice shall be effective upon receipt. Notice will also be given simultaneously to any secured lenders whose addresses have been given to County.

Licensee shall notify the County of any changes to its ownership or mailing address.

15. **Validity.** The validity, interpretation, construction and effect of this Agreement shall be in accordance with and be governed by the laws of the State of Florida. In the event any provision hereof shall be determined to be unenforceable or invalid, such unenforceability or invalidity shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

16. ***Hazardous Waste and Materials.*** Licensee, its employees, agents, contractors, subcontractors, vendors and suppliers shall not discharge any hazardous or toxic materials or waste on the County Property. Licensee shall indemnify, defend, and hold harmless the County from and against any claims including without limitation third party claims for personal injury or property damage, actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, taxes, assessments, liabilities, settlement amounts, interest or losses, including reasonable attorney's fees and expenses, consultant fees, expert fees, and all other costs and expenses of any kind or nature that arise directly or indirectly in connection with the presence, release or threatened release of any hazardous substances by, through, or at the direction of Licensee, its employees, agents, contractors, subcontractors, vendors or suppliers, including but not limited to known contaminants in or into the air, soil, groundwater, surface water or improvements at, on, about, under or within the County Property, or any portion thereof, or elsewhere in connection with the transportation of hazardous substances to or from the County Property by, through, or at the direction of Licensee, its employees, agents, contractors, subcontractors, vendors or suppliers. Provided however, Licensee shall not be required to indemnify, defend or hold harmless the County from any claims resulting from the negligent or willful misconduct of the County, or its employees, contractors, vendors, or other agents, or resulting from any environmental condition existing on the County Property or elsewhere which is not caused, disturbed or exacerbated by Licensee or its employees, agents, contractors, subcontractors, vendors or suppliers. The indemnification provisions contained herein shall survive the termination of this Agreement.

17. ***Assignment.*** Neither party may assign its rights hereunder, or as hereinafter

granted pursuant to the provisions hereof, in whole or in part, without the prior written consent of the other party.

18. **Sovereign Immunity.** Nothing herein shall constitute a waiver of the County's sovereign immunity under section 768.28, Florida Statutes, as may be amended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day(s) and year below written.



**ORANGE COUNTY, FLORIDA**

By: Board of County Commissioners

By: *Teresa Jacobs*  
Teresa Jacobs  
Orange County Mayor

Date: 7.12.16

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

By: *Katie Smith*  
Deputy Clerk

Date: **Katie Smith**

**TAYLOR MORRISON OF FLORIDA, INC.,** a Florida corporation

By: Chris Tyre

Print Name: CHRIS TYRE

Title: V.P. Land Development

Date: May 23, 2016

STATE OF Florida

COUNTY OF Orange

BEFORE ME, a Notary Public in and for said County and State on the date below, personally appeared CHRIS TYRE, as the UPLAND DEVELOPMENT of Taylor Morrison of Florida, Inc., a Florida corporation, and that he/she acknowledged executing the foregoing instrument on behalf of said corporation. Said person  is personally known to me or ( ) produced a driver's license issued by Florida, a State of the United States which is either current or has been issued within the past five (5) years and bears a serial or other identification number.

IN WITNESS WHEREOF, I have affixed my notarial seal this 31st day of May, 2016.

Shelley S. Kaercher

Signature of Notary Public

Shelley S. Kaercher

Printed Name of Notary Public

My Commission expires:

[NOTARY SEAL]



# EXHIBIT A

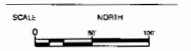


Dewberry Engineers Inc.  
 800 N WOODHAY AVE  
 SUITE 100  
 ORLANDO, FL 32803  
 PHONE 407.373.3300  
 E-MAIL: DEWBERRY@DEWBERRY.COM

**Havencrest Phase 2**  
 Final Engineering Plan  
 Taylor Morrison of Florida, Inc.  
 Orange County, FL

SEAL

KEY PLAN



NO.	DATE	BY	DESCRIPTION
01	01/20/16	CJA	ASSIGN POWER POLE LOCATION

REVISIONS

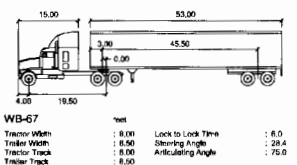
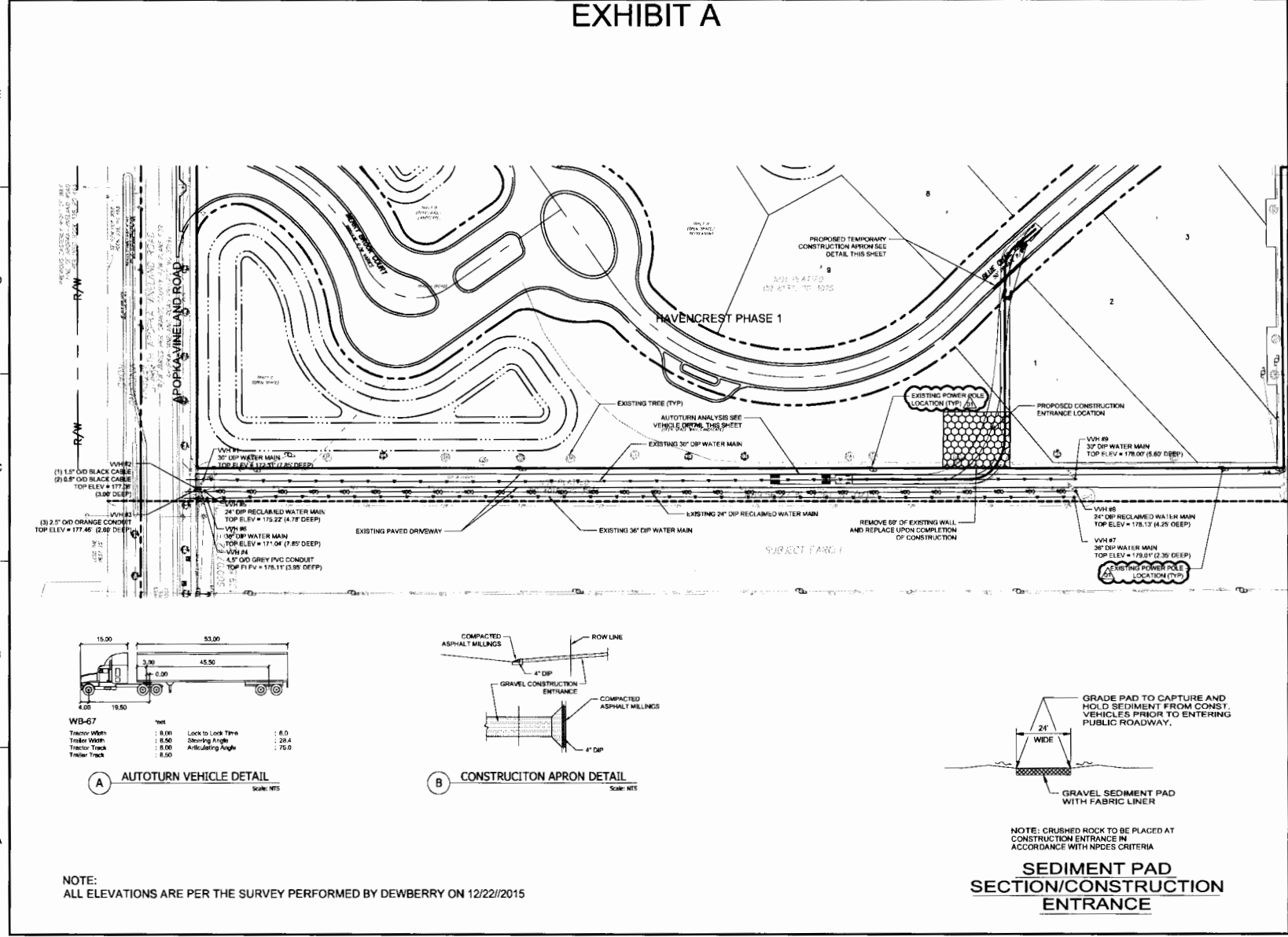
DRAWN BY JSL  
 APPROVED BY JMS  
 CHECKED BY CJA  
 DATE \_\_\_\_\_  
 TITLE \_\_\_\_\_

**CONSTRUCTION ENTRANCE EXHIBIT**

PROJECT NO. 15075334 (S&W)1

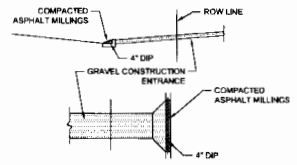
**C00**

SHEET NO.

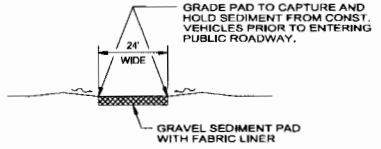


WB-67	Wt	Lock to Lock Time	: 8.0
Tractor Width	: 8.00	Steering Angle	: 28.4
Tractor Track	: 8.00	Articulating Angle	: 70.0
Tractor Track	: 8.00		

**A AUTOTURN VEHICLE DETAIL**  
 Scale: NTS



**B CONSTRUCTION APRON DETAIL**  
 Scale: NTS



**SEDIMENT PAD SECTION/CONSTRUCTION ENTRANCE**  
 NOTE: CRUSHED ROCK TO BE PLACED AT CONSTRUCTION ENTRANCE IN ACCORDANCE WITH NPDES CRITERIA

NOTE:  
 ALL ELEVATIONS ARE PER THE SURVEY PERFORMED BY DEWBERRY ON 12/22/2015