



Interoffice Memorandum

APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS

BCC Mtg. Date: September 20, 2016

AGENDA ITEM

August 26, 2016

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: James E. Harrison, Esq., P.E., Chairman
Roadway Agreement Committee
407.836.5610

SUBJECT: September 20, 2016 – Consent Item
Supplemental Agreement to Transportation Agreement
North of Albert's PD 2015 Roads A, B and C (Section C-1)

The Supplemental Agreement to Transportation Agreement North of Albert's PD 2015 Roads A, B and C (Section C-1) between Westside Shoppes, LLC ("Developer") and Orange County allows for the Developer to design, permit and construct approximately 123 linear feet of transportation improvements in order to connect Road C to Tattant Boulevard. The County will reimburse the Developer for the actual costs of the roadway improvements in an amount not to exceed \$30,782.02. The terms for the reimbursement will follow the procedures outlined in the Transportation Agreement for North of Albert's PD 2015 Roads A, B and C (Section C-1) approved by the Board of County Commissioners on August 4, 2015 and recorded at Official Records Document # 20150414458.

The Roadway Agreement Committee approved the Supplemental Agreement on August 3, 2016. The Specific Project Expenditure Report and Relationship Disclosure Forms are on file with the Transportation Planning Division.

ACTION REQUESTED: Approval and execution of Supplemental Agreement to Transportation Agreement North of Albert's PD 2015 Roads A, B, and C (Section C-1) by and between Westside Shoppes, LLC and Orange County providing for the Developer to design, permit and construct roadway improvements to connect Road C-1 to Tattant Boulevard and be reimbursed for actual costs not to exceed \$30,782.02. District 1

JEH|HEGB:rep

Attachments

BCC Mtg. Date: September 20, 2016

Prepared by and after recording return to:
Dwight Saathoff, Esq.
7575 Dr. Phillips Blvd., Suite 265
Orlando, FL 32819

Tax Parcel I.D. No.: 25-23-27-5839-02-000
25-23-27-5839-01-000

**SUPPLEMENTAL
AGREEMENT**

to

**TRANSPORTATION AGREEMENT
NORTH OF ALBERT'S PD 2015
ROADS A, B, AND C (SECTION C-1)**

This Supplemental Agreement, effective as of the latest date of execution (“Effective Date”), is made and entered into by and between WESTSIDE SHOPPES, LLC (“Developer”), a Florida limited liability company, whose mailing address is c/o Unicorp National Developments, Inc., 7940 Via Dellagio Way, Suite 200, Orlando, Florida 32819, and Orange County, a charter county and political subdivision of the state of Florida (“County”), whose mailing address is c/o Orange County Administrator, Post Office Box 1393, Orlando, Florida 32802-1393.

WITNESSETH:

WHEREAS, Developer is the owner of fee simple title to certain real property, as shown in the project location map identified as Exhibit “A”, and as more particularly described on Exhibit “B” (legal description and sketch of description), both of which are attached hereto and incorporated herein by this reference (the “Westside Shoppes Property,” also sometimes referred to herein as Westside Shoppes (the “Project”)); and

WHEREAS, the Westside Shoppes Property is a portion of the Property referenced in that certain Transportation Agreement “North of Albert’s PD 2015 Roads A, B, and C (Section

C-1) approved by the Orange County Board of County Commissioners ("BCC") on August 4, 2015, and recorded in Official Records Book 10964, Page 6364, in the Public Records of Orange County, Florida (the "Transportation Agreement"); and

WHEREAS, the Transportation Agreement was entered into by North of Albert's, LLP, the School Board of Orange County, Florida, and County; and

WHEREAS, Developer is the successor in interest to title to the Westside Shoppes Property and is the party constructing Roads A, B, and C; and

WHEREAS, County and Developer desire to supplement the Transportation Agreement as set forth below and this Supplemental Agreement shall not affect the rights or obligations of any other party to the Transportation Agreement; and

WHEREAS, the original terms of the Transportation Agreement shall remain unchanged and in full force and effect; and

WHEREAS, capitalized terms used herein without definition shall have the meanings ascribed thereto in the Transportation Agreement.

NOW, THEREFORE, for and in consideration of the above premises, the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer and County (the "Parties") agree as follows:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Completion of Tattant Boulevard (a portion of Road C).

Developer is willing to modify the approved construction plans for E-Project 15-E-060 and to also permit and construct approximately 123 linear feet of certain transportation

As to County: Orange County Administrator
P.O. Box 1393
201 S. Rosalind Ave
Orlando, FL 32802-1393

With a copy to: Orange County Community, Environmental,
and Development Services Department
Manager, Transportation Planning Division
Orange County Public Works Complex
4200 S. John Young Parkway
Orlando, Florida 32839-9205

Section 4. Covenants Running with the Land. This Supplemental Agreement shall run with the Westside Shoppes Property and shall be binding upon and shall inure to the benefit and burden of the Parties and of the heirs, legal representatives, successors, and assigns of Developer and any person, firm, corporation, or other entity that may become the successor in interest to the Property.

Section 5. Recordation of Supplemental Agreement. An executed original of this Supplemental Agreement shall be recorded, at Developer's expense, in the Public Records of Orange County, Florida within thirty (30) days of the Effective Date.

Section 6. Applicable Law. This Supplemental Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

Section 7. Time is of the Essence. Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Supplemental Agreement and in the Transportation Agreement.

Section 8. Further Documentation. The Parties agree that at any time following a request therefor by the other party, each shall execute and deliver to the other party such further

documents and instruments reasonably necessary to confirm and/or effectuate the obligations of either party hereunder and the consummation of the transactions contemplated hereby.

Section 9. Limitation of Remedies. County and Developer expressly agree that the consideration, in part, for each of them entering into this Supplemental Agreement is the willingness of the other to limit the remedies for all actions arising out of or in connection with this Supplemental Agreement.

(a) *Limitations on County's remedies.* Upon any failure by Developer to perform its obligations under this Supplemental Agreement, County shall be limited strictly to only the following remedies:

- (i) action for specific performance or injunction; or
- (ii) the right to set off, against the amounts of impact fees to be credited in favor of Developer under this Supplemental Agreement, (A) any amounts due to County from Developer under this Supplemental Agreement but remaining unpaid and (B) the cost to County of performing any action or actions required to be done under this Supplemental Agreement by Developer, but which Developer has failed or refused to do when required; or
- (iii) the withholding of development permits and other approvals or permits in connection with the Project and/or the Westside Shoppes Property; or
- (iv) any combination of the foregoing.

In addition to the foregoing, nothing in this Supplemental Agreement prohibits or estops County from exercising its power of eminent domain with respect to any portion of the Westside Shoppes Property as County may lawfully elect.

(b) *Limitations on Developer's remedies.* Upon any failure by County to perform its obligations under this Supplemental Agreement, Developer shall be limited strictly to only the following remedies:

- (i) action for specific performance; or
- (ii) action for injunction; or
- (iii) action for declaratory judgment regarding the rights and obligations of Developer; or
- (iv) any combination of the foregoing.

Both Parties expressly waive their respective rights to sue for damages of any type for breach of, or default under, this Supplemental Agreement by the other. Both Parties expressly agree that each party shall bear the cost of its own attorney fees for any action arising out of or in connection with this Supplemental Agreement. Venue for any actions initiated under or in connection with this Supplemental Agreement shall be in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida.

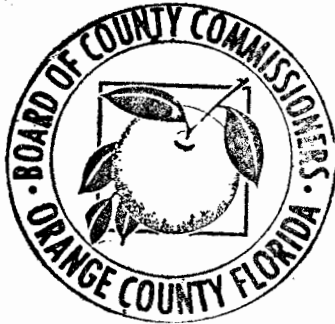
Section 10. Amendments. No amendment, modification, or other change to this Supplemental Agreement or the Transportation Agreement shall be binding upon the Parties unless in writing and executed by all the Parties hereto.

Section 11. Counterparts. This Supplemental Agreement may be executed in up to three (3) counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

Section 12. Utilities. This Supplemental Agreement does not address utility requirements. Developer shall coordinate with the Orange County Utilities Director, or its designee, with respect to any utility easements necessary to accommodate appropriately-sized wastewater sewer mains or lines, potable water mains or lines, and/or reclaimed water mains or lines.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have caused this Supplemental Agreement to be
duly executed by their respective duly authorized representatives on the dates set forth below.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *[Signature]*

[Signature] Teresa Jacobs,
Orange County Mayor

Date: 9.20.16

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

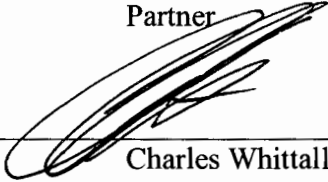
By: *Craig A. Stopyra*
for Deputy Clerk

Printed name: Craig A. Stopyra

WESTSIDE SHOPPES, LLC, a Florida limited liability company

By: CW Family, LLLP, a Florida limited liability limited partnership, its Manager

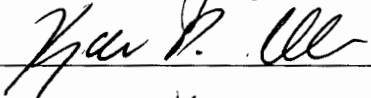
By: CW Family, LLC, a Florida limited liability company, its General Partner

By: 
Charles Whittall
Manager

Date: 8-23-16

WITNESSES: 

Print Name: Amy Barnard

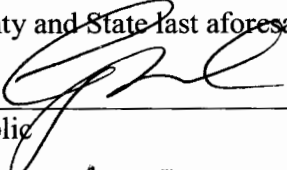


Print Name: Kaithynn Clark

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by Charles Whittall, as Manager of CW Family, LLC, a Florida limited liability company, the General Partner of CW Family, LLLP, a Florida limited liability limited partnership, the Manager of Westside Shoppes, LLC, a Florida limited liability company, who is known by me to be the person described herein and who executed the foregoing, this 23rd day of August, 2016. (He) is personally known to me or has produced _____ as identification and did/did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 23rd day of August, 2016.


Notary Public

Print Name: Amy Barnard

My Commission Expires: MAY 1, 2020

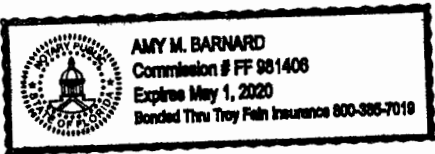


Exhibit "A"

Project Location Map



Exhibit "B"

Legal Description and Sketch of Description for Property

DESCRIPTION
LOT 1

DESCRIPTION:

LOT 1

A portion of the Southwest quarter of the Southeast quarter of Section 25, Township 23 South, Range 27 East, Orange County, Florida, being more particularly described as follows:


Commence at the Southwest corner of the Southeast 1/4 of Section 25, Township 23 South, Range 27 East, Orange County, Florida; thence North 89°29'59" East, a distance of 784.66 feet along the South line of said Southeast 1/4 of Section 25 to the East Right of Way line of Proposed Road "B" and the POINT OF BEGINNING; thence along the said East Right of Way line the following three (3) courses and distances: North 20°00'00" West, a distance of 378.36 feet to a point of curvature of a curve concave Southwesterly, having a radius of 802.50 feet and a central angle of 12°28'12"; thence Northwesterly along the arc of said curve a distance of 174.66 feet to a point on said curve; thence North 19°20'17" East, a distance of 37.10 feet to the South Right of Way line of Proposed Road "A"; thence North 70°28'58" East, a distance of 629.16 feet along said South Right of Way line to a point on the West Right of Way line of Winter Garden Vineland Road per Right of Way Map of Winter Garden/Vineland Road (C.R. 535), Phase One—North Section District No. 1, Orange County, Florida; thence along said West Right of Way line the following two (2) courses and distances: South 19°32'40" East, a distance of 183.49 feet; thence South 20°41'23" East, a distance of 179.81 feet to the East line of the Southwest 1/4 of the Southeast 1/4 of aforesaid Section 25; thence South 00°01'25" West, a distance of 411.40 feet along said East line to aforementioned South line of the Southeast 1/4 of Section 25; thence South 89°29'59" West along said South line, a distance of 523.60 feet to the POINT OF BEGINNING.

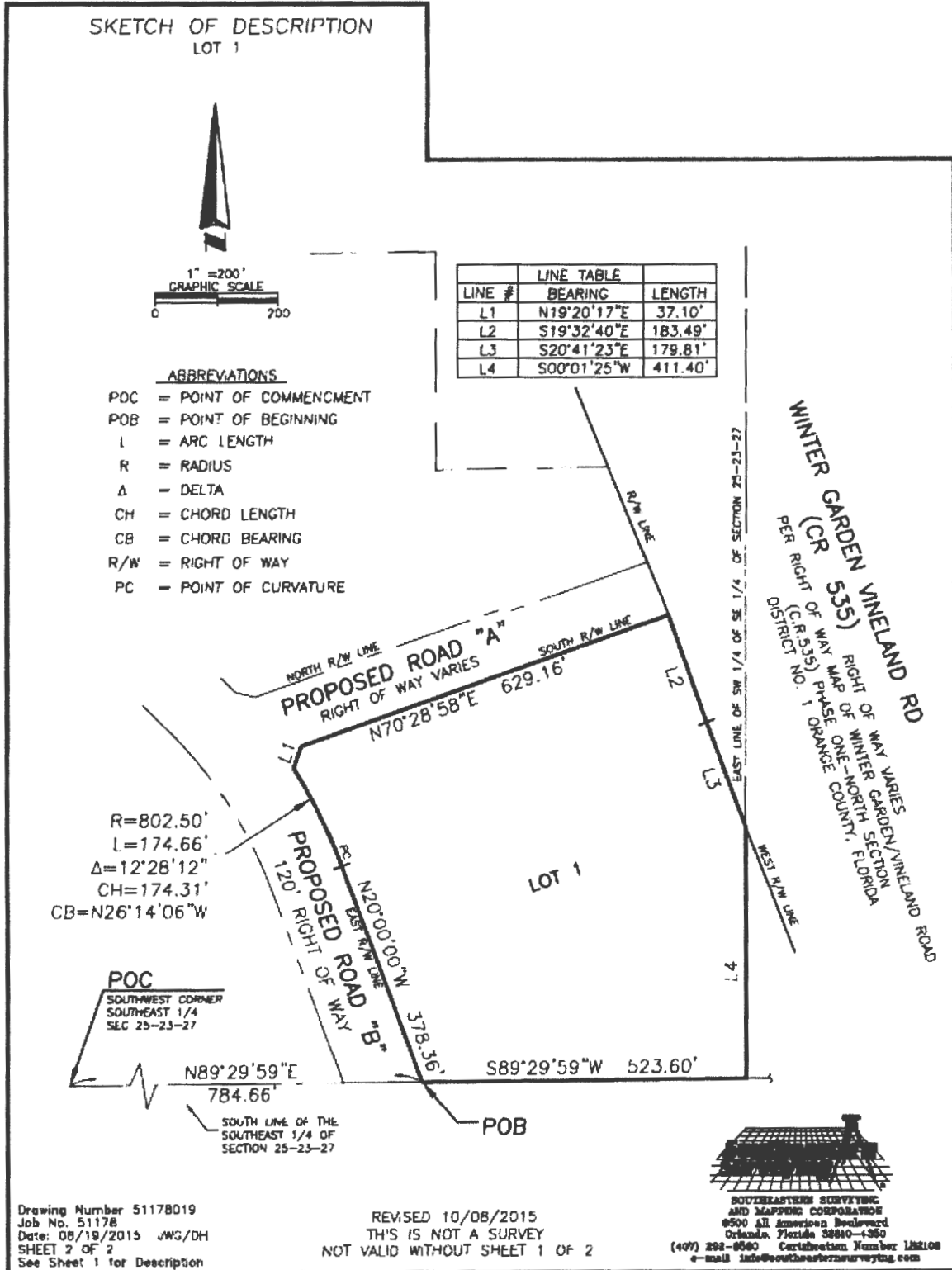
Containing 9.36 acres, more or less.

SURVEYOR'S REPORT:

1. Bearings shown hereon are based on the South line of the Southeast 1/4 of Section 25, Township 23 South, Range 27 East, Orange County, Florida being North 89°29'59" East.
2. I hereby certify that the "Sketch of Description" of the above described property is true and correct to the best of my knowledge and belief as recently drawn under my direction and that it meets the Standards of Practice for Land Surveying Chapter 5J-17.050-.052 requirements.
3. The Sketch of Description or the copies thereof are not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.

REVISED 10/08/2015

DESCRIPTION FOR Unicorp National Developments, Inc. Orange County Florida	Date: 08/19/2015 JWG/DH		Certification Number LB2108 51178019
	Job Number: 51178	Scale: 1" = 200'	
	Chapter 5J-17.050-.052, Florida Administrative Code requires that a legal description drawing bear the notation that		
	THIS IS NOT A SURVEY. NOT VALID WITHOUT SHEET 2 OF 2 SHEET 1 OF 2 SEE SHEET 2 FOR SKETCH		



DESCRIPTION
LOT 2

DESCRIPTION:

A portion of the Southeast 1/4 of Section 25, Township 23 South, Range 27 East, Orange County, Florida, being more particularly described as follows:

Commence at the Southwest corner of the Southeast Quarter of Section 25, Township 23 South, Range 27 East, Orange County, Florida thence North 89°29'59" East, a distance of 1308.26 feet along the South line of the Southeast 1/4 of said Section 25 to the East line of the Southwest 1/4 of the Southeast 1/4 of said Section 25; thence North 00°01'25" East, a distance of 411.40 feet along said East line to a point on the West Right of Way line of Winter Garden Vineland Road per Right of Way Map of Winter Garden/Vineland Road (C.R. 535), Phase One—North Section District No. 1, Orange County, Florida; thence along said West Right of Way line the following three (3) courses and distances: North 20°41'23" West, a distance of 179.81 feet; thence North 19°32'40" West, a distance of 200.09 feet; thence North 22°24'31" West, a distance of 75.49 feet to a point on the North Right of Way line of APF Road "A", per Official Record Book 10997, Page 8172, said point also being the POINT OF BEGINNING; thence along said North Right of Way line the following three (3) courses and distances: South 70°28'58" West, a distance of 240.47 feet; thence North 19°31'02" West, a distance of 7.50 feet; thence South 70°28'58" West, a distance of 131.42 feet; thence departing said North Right of Way line, North 19°31'02" West, a distance of 49.96 feet; thence North 73°00'00" East, a distance of 61.74 feet; thence North 25°28'58" East, a distance of 16.59 feet; thence North 66°02'05" East, a distance of 45.32 feet; thence North 59°12'23" East, a distance of 39.59 feet; thence North 54°49'34" East, a distance of 26.39 feet; thence North 49°40'18" East, a distance of 26.41 feet; thence North 52°11'00" East, a distance of 37.02 feet; thence North 77°54'04" East, a distance of 23.04 feet; thence North 39°56'52" East, a distance of 27.14 feet; thence North 70°28'58" East, a distance of 77.10 feet to a point on the aforementioned West Right of Way line of Winter Garden Vineland Road; thence South 22°24'31" East, a distance of 116.83 feet along said West Right of Way line to the POINT OF BEGINNING.

Containing 0.72 acres, more or less.

SURVEYOR'S REPORT:

1. Bearings shown hereon are based on the South line of the Southeast 1/4 Section 25, Township 23 South, Range 27 East, Orange County, Florida being North 89°29'59" East.
2. I hereby certify that the "Sketch of Description" of the above described property is true and correct to the best of my knowledge and belief as recently drawn under my direction and that it meets the Standards of Practice for Land Surveying Chapter 5J-17 requirements.
3. The Sketch of Description or the copies thereof are not valid without the signature and the original raised seal of a Florida Surveyor and Mapper.

REVISED 03/01/2016 EC
 REVISED 12/21/2015 EC

DESCRIPTION FOR Unicorp National Developments, Inc. Orange County Florida	Date: 08/19/2015 DM		Certification Number LB210B 51178020
	Job Number: 51178	Scale: 1" = 100'	
	<small>Chapter 5J-17.050-.052, Florida Administrative Code requires that a legal description drawing bear the notation that</small> THIS IS NOT A SURVEY.		
	<small>NOT VALID WITHOUT SHEET 2 OF 2</small> SHEET 1 OF 2		
SEE SHEET 2 FOR SKETCH			

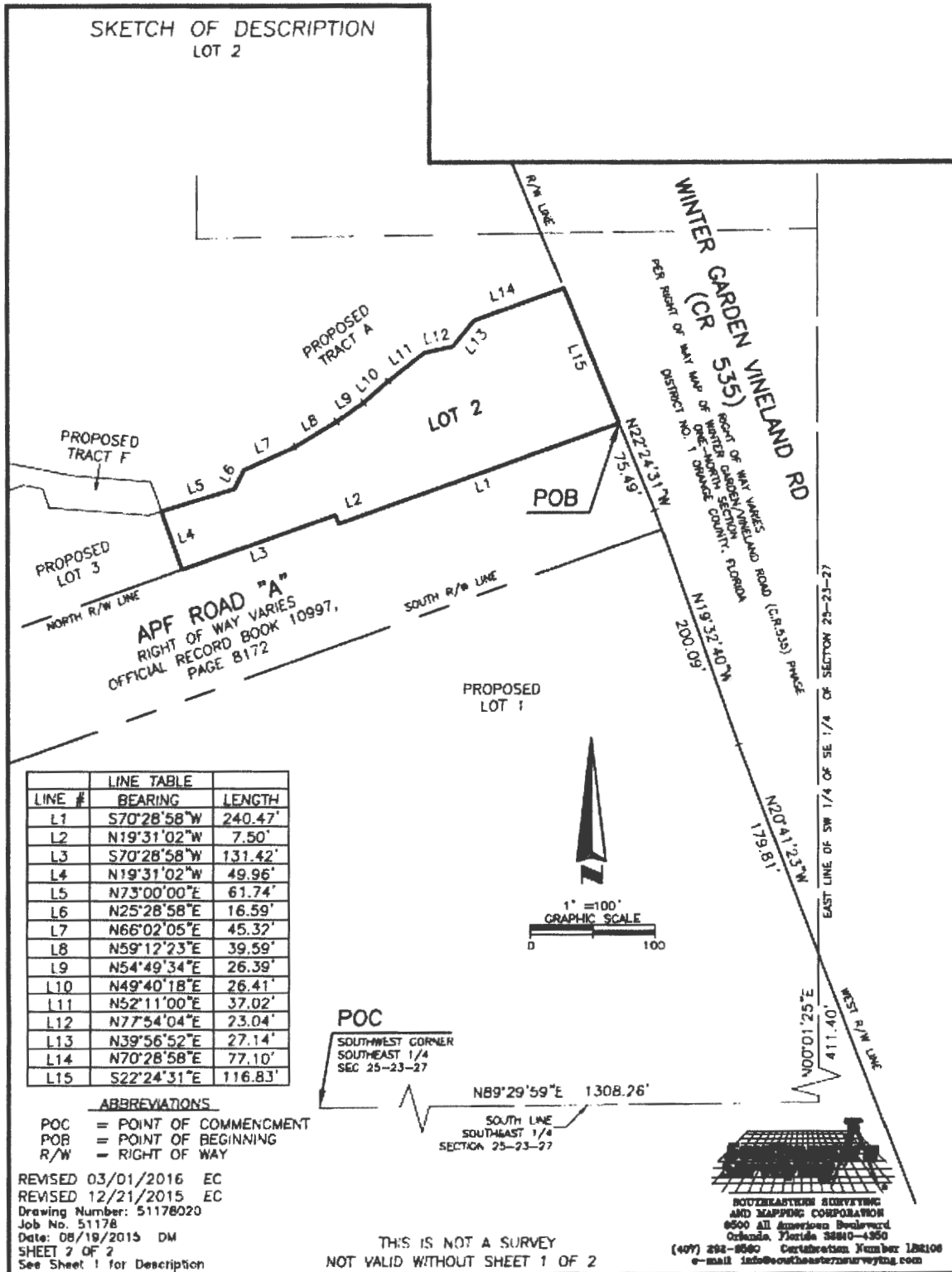


Exhibit "C"

Additional Work

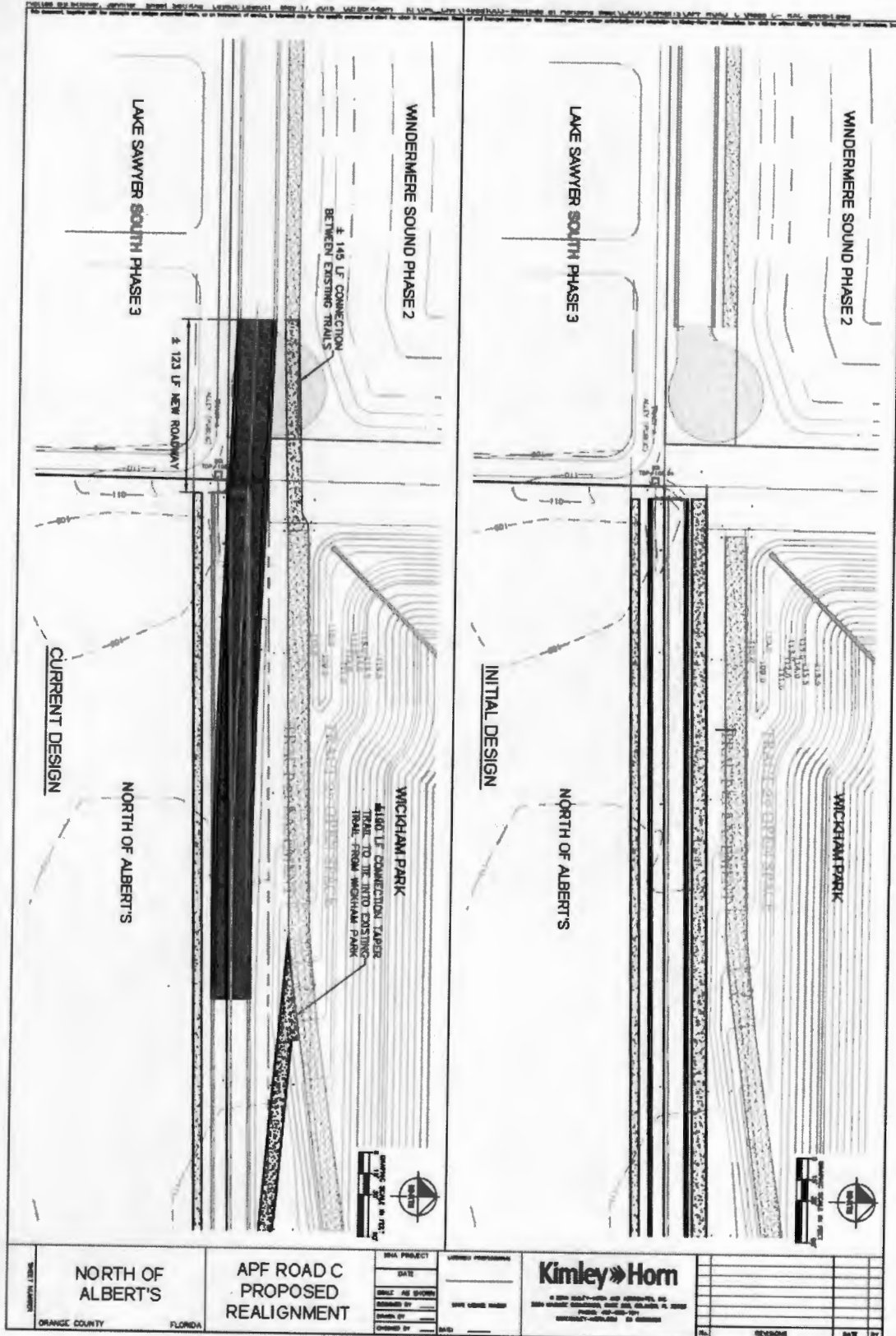


Exhibit "D"

Cost of Additional Work

WESTSIDE SHOPPES, LLC

INVOICE

7940 Via Dellagio Way, Suite 200
Orlando, FL 32819
Phone 407.999.9985

DATE: August 9, 2016
INVOICE # 1
FOR: *Construction Management for
AFF Roads*

Bill To: Orange County

DESCRIPTION	AMOUNT
Road C - Off-Site Extension - Keator Construction	21,099.84
Road C - Off-Site Extension - Kimley-Horn & Associates	6,882.00
Subtotal	27,981.84
Westside Shoppes, LLC - Construction Management Fee (10%)	2,798.18
TOTAL	\$ 30,780.02

If you have any questions concerning this invoice, contact Brett Mulligan, 407.999.9985, brett@unicorpusa.com