


APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
DEC 16 2014 KHBS

DOC# 20140641330 B: 10851 P: 0669
12/19/2014 03:28:43 PM Page 1 of 13
Rec Fee: \$112.00
Deed Doc Tax: \$0.00
DOR Admin Fee: \$0.00
Intangible Tax: \$0.00
Mortgage Stamp: \$0.00
Martha O. Haynie, Comptroller
Orange County, FL
IO - Ret To: ORANGE COUNTY GROWTH MANA


This instrument prepared by
and after recording return to:
Account No: 802
Miranda F. Fitzgerald, Esq.
Lowndes, Drosdick, Doster,
Kantor & Reed, P.A.
215 North Eola Drive
Orlando, FL 32801

Tax Parcel Identification Number: 31-23-27-0000-00-010
31-23-27-0000-00-011
30-23-27-0000-00-016
30-23-27-0000-00-017
30-23-27-0000-00-018

**FIRST AMENDMENT TO
RIGHT-OF-WAY CONVEYANCE AGREEMENT
(Town Center – Schofield Road, Porter Road, Valencia Parkway)**

(Capitalized terms which are not specifically defined in this First Amendment are defined in and shall have the same meaning as in the Original Agreement)

This First Amendment (the “First Amendment”) to Right-of-Way Conveyance Agreement, is made and entered into by and among ORANGE COUNTY, a charter county and political subdivision of the State of Florida, whose address is c/o Orange County Administrator, Post Office Box 1393, Orlando, Florida 32802-1393 (the “County”); FOX HEARTLAND, LLC, a Florida limited liability company, whose office address is 500 South Australian Avenue, Suite 710, West Palm Beach, Florida 33401 (“Fox Heartland”); FOX KAY, LLC, a Florida limited liability company, whose office address is 500 South Australian Avenue, Suite 710, West Palm Beach, Florida 33401 (“Fox Kay”); FOX COMMON, LLC, a Florida limited liability company, whose office address is 500 South Australian Avenue, Suite 710, West Palm Beach, Florida 33401 (“Fox Common”) (collectively “Fox Entities”); and ISLAND TREE, LLC, a Florida limited liability company (“Island”) whose office address is 500 South Australian Avenue, Suite 710, West Palm Beach, Florida 33401. Fox Entities, Island, and County are sometimes referred to herein as the “Parties” to this First Amendment.

WITNESSETH:

WHEREAS, the Parties entered into that certain Right-of-Way Agreement approved by the Orange County Board of County Commissioners (“BCC”) on March 8, 2011 and recorded in Official Records Book 10184, Page 1403, in the Public Records of Orange County, Florida (the “Original Agreement”); and

WHEREAS, the Fox Entities and Island were unable to convey the Trust Parcels, as described in the Original Agreement, and the Island Parcels to the County within the extended

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time frame allowed in the Original Agreement because of an unavoidable delay in obtaining subordination of a utility easement held by AT&T Corporation (the "Utility Easement") and the need for sub-surface investigation of a portion of the Trust Parcels; and

WHEREAS, the Parties would like to proceed with conveyance to the County of only the Island Parcels at this time; and

WHEREAS, E. Allen Bottorff, II has replaced Helene Loiselle as one of the Co-Trustees under the Amended Land Trust Agreement; and

WHEREAS, the Parties desire to amend certain terms and provisions of the Original Agreement as set forth below; and

WHEREAS, in all other respects the terms of the Original Agreement shall remain unchanged and in full force and effect.

NOW, THEREFORE, the Parties agree as follows:

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

Section 2. Conveyance of Land to County by Fox Entities and Island. Section 2(a) of the Agreement is hereby deleted and replaced with the following:

- (a) **Conveyed Lands.** Within sixty (60) days from the Effective Date of this First Amendment, Island shall convey to the County marketable fee simple title to the Island Parcels, as depicted and described in Exhibits B-1 and B-2 of the Original Agreement. The parties agree that the conveyance of the Trust Parcels, as depicted and described in Exhibits A-1, A-2 and A-3 of the Original Agreement, shall occur within 120 days from the Effective Date of this First Amendment. In the event the conveyance of the Trust Parcels does not occur within the aforesaid 120 days, the Director of the Administrative Services Department, or his/her designee, may grant an extension of up to an additional 120 days for the conveyance to take place. The County agrees to diligently review the proposed conveyances such that any comments or objections can be resolved within the time frames for conveyance as stated herein.

Section 3. Notice. Section 6 of the Original Agreement is hereby deleted and replaced with the following:

6. **Notice.** Any notice delivered with respect to this Agreement shall be in writing and shall be deemed to be delivered (whether or not actually

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received) (i) when 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 to such other address or to such other person as the party shall have specified by written notice to the other party delivered in accordance herewith.

As to Fox Entities: Fox Heartland, LLC
Fox Kay, LLC
Fox Common, LLC
Attention: Mr. Herb Kahlert
500 South Australian Avenue
Suite 710
West Palm Beach, FL 33401

With a copy to: Miranda F. Fitzgerald, Esquire
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
215 North Eola Drive
Orlando, FL 32801

As to Island: Island Tree, LLC
Attention: Mr. Herb Kahlert
500 South Australian Avenue
Suite 710
West Palm Beach, FL 33401

With a copy to: Miranda F. Fitzgerald, Esquire
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
215 North Eola Drive
Orlando, FL 32801

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, FL 32839-9205

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As to VCC: The District Board of Trustees of Valencia
Community College, Florida
Attention: Bill Mallowney
190 South Orange Avenue
Orlando, FL 32801

With a copy to: Baker & Hostetler, LLP
Attention: Rosemary O'Shea
Sun Trust Center, Suite 2300
200 South Orange Avenue
Orlando, FL 32801

As to Co-Trustees: Keith Houck and E. Allen Bottorff, II
190 South Orange Avenue
Orlando, FL 32801

James J. Wheeler, Esq.
Broad and Cassel
7777 Glades Road, Suite 300
Boca Raton, FL 33434

Section 4. Covenants Running with the Land. The Original Agreement and this First Amendment shall run with the Trust Parcels and the Island Parcels and shall be binding upon and shall inure to the benefit and detriment of the heirs, legal representatives, successors, and assigns of the owners of these parcels and any person, firm, corporation, or other entity that may become the successor in interest to the Trust Parcels and the Island Parcels. Notwithstanding the foregoing, however, the authority under Section 4.(b) of the Original Agreement to instruct the County to make deductions from its road impact fee account shall remain with Fox Heartland as the owner of the road Impact Fee Credit Account, unless expressly assigned in writing by Fox Heartland to another party.

Section 5. Recordation of First Amendment. An executed original of this First Amendment shall be recorded, at the expense of Fox Heartland, in the Public Records of Orange County, Florida within thirty (30) days of the Effective Date.

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

Section 7. Counterparts. This First Amendment may be executed in up to 8 counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

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Section 8. Effective Date. The effective date of this First Amendment (the “Effective Date”) shall be the date when the last one of the Parties has properly executed this Amendment as determined by the date set forth immediately below their respective signatures.

[SIGNATURES ON FOLLOWING PAGES]

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

COUNTY

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

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

Date: *12.16.14*



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

By: *Jessica Moore*
for Deputy Clerk
Print Name: *Jessica Moore*

[SIGNATURES CONTINUE ON NEXT PAGE]

First Amendment to Right-of-Way Conveyance Agreement
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Signed, sealed and delivered in the
Presence of:

M.F.
Print Name: Madeline Foster
Natalie Wingate
Print Name: Natalie Wingate

FOX HEARTLAND, LLC, a Florida limited
liability company

By: H.F. Kahlert
Name: H.F. Kahlert
Title: Manager
Date: 11/17, 2014

STATE OF FLORIDA

COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 17 day of November
2014 by H.F. Kahlert, as the Manager of Fox Heartland, LLC, a
Florida limited liability company, on behalf of the _____. Said person (check
one) is personally known to me or produced _____ as
identification.

(Notary Stamp)



M.T.
Printed Name: Marcie Tinsley
Notary Public, State of Florida
Commission No. _____
My commission expires: _____

[SIGNATURES CONTINUE ON NEXT PAGE]

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Signed, sealed and delivered in the
Presence of:

[Signature]
Print Name: Madeline Foster
[Signature]
Print Name: Natalie Wingate

FOX COMMON, LLC, a Florida limited
liability company

By: [Signature]
Name: Hans C. Kahler
Title: Manager
Date: Nov 17, 2014

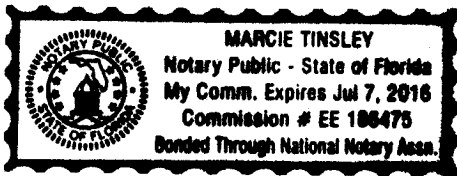
STATE OF FLORIDA

COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 17th day of November
2014 by Hans C Kahler, as the Manager of Fox Common, LLC, a
Florida limited liability company, on behalf of the _____. Said person (check
one) is personally known to me or produced _____ as
identification.

(Notary Stamp)

[Signature]
Printed Name: Marcie Tinsley
Notary Public, State of _____
Commission No. _____
My commission expires: _____



[SIGNATURES CONTINUE ON NEXT PAGE]

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Signed, sealed and delivered in the
Presence of:

M.A.

Print Name: Modeline Foster

Natalie Wingate

Print Name: Natalie Wingate

FOX KAY, LLC, a Florida limited liability
company

By: H.F. Kahler

Name: H.F. Kahler

Title: Manager

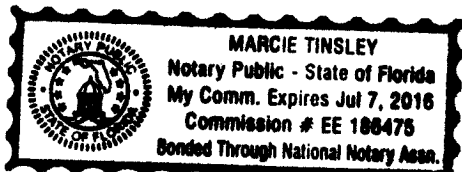
Date: 11/17, 20 14

STATE OF FLORIDA

COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 17th day of November
2014 by H.F. Kahler, as the Manager of Fox Kay, LLC, a
Florida limited liability company, on behalf of the _____. Said person (check
one) is personally known to me or produced _____ as
identification.

(Notary Stamp)



M.T.
Printed Name: Marcie Tinsley
Notary Public, State of Florida
Commission No. _____
My commission expires: _____

[SIGNATURES CONTINUE ON NEXT PAGE]

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Signed, sealed and delivered in the
Presence of:

[Signature]
Print Name: Madeline Foster
[Signature]
Print Name: Natalie Wingate

“ISLAND”

ISLAND TREE, LLC, a Florida limited
liability company

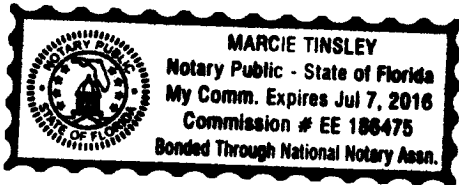
By: [Signature]
Name: H.F. Kohlent.
Title: Manager
Date: 11/17, 2014

STATE OF FLORIDA

COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 17th day of November
2014 by H.F. Kohlent, as the Manager of Island Tree, LLC, a
Florida limited liability company, on behalf of the _____. Said person (check
one) is personally known to me or produced _____ as
identification.

(Notary Stamp)



[Signature]
Printed Name: Marcie Tinsley
Notary Public, State of Florida
Commission No. _____
My commission expires: _____

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JOINDER AND CONSENT OF SUCCESSOR CO-TRUSTEE

I, E. ALLEN BOTTORFF, II, as successor to Helene Loiselle, one of the named Co-Trustees under the Amended Land Trust Agreement described in Recital B of the Right-of-Way Conveyance Agreement (the "Original Agreement"), hereby join in and consent to the terms and conditions of this First Amendment to the Agreement.

17th IN WITNESS WHEREOF, the undersigned has caused these presents to be executed this day of November, 2014.

Signed, sealed, and delivered in our presence as witnesses:

Successor Co-Trustee:

[Signature]

E. Allen Bottorff, II
E. Allen Bottorff, II

Print Name: Lori Gacey

[Signature]

Print Name: Heather Barrett

STATE OF Florida

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 17th day of November 2014 by E. Allen Bottorff, II. He is personally known to me or has produced _____ as identification.

(Notary Stamp)



Patricia Nicholas

Notary Public Signature

Patricia Nicholas

(Name typed, printed or stamped)

Notary Public, State of Florida

Commission No.: EE 153769

My Commission Expires: 4/16/16

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JOINDER AND CONSENT OF CO-TRUSTEE

I, KEITH HOUCK, one of the named Co-Trustees under the Amended Land Trust Agreement described in Recital B of the foregoing Right-of-Way Conveyance Agreement (the "Original Agreement") hereby join in and consent to the terms and conditions of this First Amendment to the Agreement.

17th IN WITNESS WHEREOF, the undersigned has caused these presents to be executed this day of November, 2014.

Signed, sealed, and delivered in our presence as witnesses:

Co-Trustee:

[Signature]

[Signature]

Print Name: Lori Gacey

Keith Houck

[Signature]

Print Name: Heather Barrett

STATE OF Florida

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 17th day of November 2014 by Keith Houck. He is personally known to me or has produced _____ as identification.

(Notary Stamp)



[Signature]
Notary Public Signature

Patricia Nicholas
(Name typed, printed or stamped)
Notary Public, State of Florida
Commission No.: EE 153769
My Commission Expires: 4/16/16

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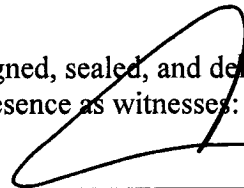
JOINDER AND CONSENT OF CO-TRUSTEE


I, JAMES J. WHEELER, one of the named Co-Trustees under the Amended Land Trust Agreement described in Recital B of the foregoing Right-of-Way Conveyance Agreement (the "Original Agreement") hereby join in and consent to the terms and conditions of this First Amendment to the Agreement.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed this 17th day of NOVEMBER, 2014.

Signed, sealed, and delivered in our presence as witnesses:

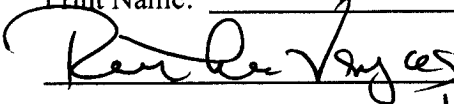
Co-Trustee:





Print Name: Christy Ann Kane

James J. Wheeler



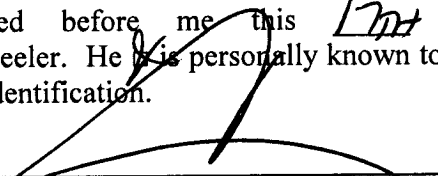
Print Name: Ruthie Vanegas

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 17th day of NOVEMBER 2014 by James J. Wheeler. He is personally known to me or has produced _____ as identification.

(Notary Stamp)



Notary Public Signature

Christy Ann Kane

(Name typed, printed or stamped)

Notary Public, State of _____

Commission No.: _____

My Commission Expires: _____

