

Prepared By and Return To:

Andrew J. Orosz, Esq.
Hanover Land Company, LLC
605 Commonwealth Avenue
Orlando, Florida 32803

ACCESS AND MAINTENANCE EASEMENT AGREEMENT

THIS ACCESS AND MAINTENANCE EASEMENT AGREEMENT (“Agreement”) is made this 5 day of November, 2019 by the **HANOVER LAKES ASSOCIATION, INC.**, a Florida not-for-profit corporation, whose address is 605 Commonwealth Avenue, Orlando, Florida 32803 (the “**HOA**”), to and in favor of the **OSCEOLA CHAIN OF LAKES COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special-purpose government established pursuant to Chapter 190, Florida Statutes, whose mailing address is 313 Campus Street, Celebration, Florida 34747 (“**District**”) (District and the HOA are sometimes together referred to herein as the “**Parties**,” and separately as a / the “**Party**”).

WITNESSETH:

WHEREAS, District was established pursuant to Chapter 190, *Florida Statutes*, as amended (the “**Act**”), and is validly existing under the Constitution and laws of the State of Florida; and

WHEREAS, the Act authorizes District to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain certain systems, facilities, and basic infrastructure and other infrastructure improvements within or without the boundaries of District; and

WHEREAS, the HOA is the owner in fee simple of certain real property located in Osceola County, Florida, lying within the boundaries of District including certain parcels of land more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, the lands described in **Exhibit A** are referred to herein as the “**Easement Area**,” and are comprised of certain storm-water management facilities; and

WHEREAS, for the benefit of landowners within the boundaries of the District, the District has adopted an improvement plan that includes having District maintain certain permanent drainage and stormwater management facilities within District; and

WHEREAS, the HOA has requested that District agree to undertake the operation and maintenance responsibilities for the drainage and stormwater management facilities within the Easement Area, and District is agreeable to undertaking such responsibilities provided that the HOA grant to District an easement over the Easement Area in order to allow District to access and conduct maintenance within the Easement Area as part of District’s overall improvement plan including the drainage and stormwater management facilities (the “**Improvements**”);

NOW, THEREFORE, in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration and the mutual covenants of the Parties, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and by this reference are incorporated as a material part of this Agreement.

2. **Grant of Perpetual Easement.** The HOA hereby grants to District, and its respective employees, agents, assignees, contractors (or their subcontractors, employees or materialmen), or representatives, a non-exclusive maintenance easement over, upon, under, through, and across the Easement Area for the purpose of vehicular and pedestrian ingress, egress, and access to and for the construction, installation, operation, use, powering, maintenance, replacement and repair of the Improvements (“**Easement**”). District is hereby authorized to modify structures and improvements within the stormwater management facilities or within the Easement Area provided that such modifications are consistent with any applicable permit or agreement. District shall use all due care to protect the Easement Area and adjoining property from damage resulting from District’s use of the Easement Area.

3. **Damage.** Except as otherwise stated herein, in the event that District, its respective employees, agents, assignees, contractors (or their subcontractors, employees or materialmen), or representatives cause damage to the Easement Area or to adjacent property or improvements in the exercise of the easement rights granted herein, District, at District’s sole cost and expense, agrees to promptly commence and diligently pursue the restoration of the same and the improvements so damaged to, as nearly as practical, the original condition and grade, including, without limitation, repair and replacement of any landscaping, hardscaping, plantings, ground cover, roadways, driveways, sidewalks, parking areas, fences, walks, utility lines, stormwater facilities, pumping facilities, pumps and other structures or improvements of any kind.

4. **Indemnity.** The HOA agrees to indemnify and hold harmless District, and its successors, assigns, agents, employees, staff, contractors, officers, supervisors, and representatives (together, “**Indemnitees**”), from any and all liability, loss, damage, or harm of any kind, whether monetary or otherwise, including but not limited to reasonable attorneys’ fees and costs and all fees and costs of mediation or alternative dispute resolution, as a result of any claims, liabilities, suits, liens, demands, costs, interest, expenses, damages, penalties, fines, or judgments, against Indemnitees which relate in any way to the HOA’s use of the Easement Area.

5. **Liens.** District shall not permit (and shall promptly satisfy or bond) any construction, mechanic’s lien or encumbrance against the Easement Area or other the HOA property in connection with the exercise of its rights hereunder.

6. **Exercise of Rights.** The rights and Easement created by this Agreement are subject to the following provisions:

(a) District shall conduct any installation and maintenance activities in a sound, professional manner and shall have sole responsibility for obtaining any necessary permits or

regulatory approvals for the Improvements installation and/or repair. Any rights granted hereunder shall be exercised by District in accordance and compliance with any and all applicable laws, ordinances, rules, regulations, permits and approvals, and any future modifications or amendments thereto. District shall not discharge into or within the Easement Area any hazardous or toxic materials or substances, any pollutants, or any other substances or materials prohibited or regulated under any federal, state or local law, ordinance, rule, regulation or permit, except in accordance with such laws, ordinances, rules, regulations and permits.

(b) Nothing herein shall be construed to limit in any way the HOA's rights to (i) construct and maintain in the Easement Area any structures or other improvements that do not materially interfere with the use or enjoyment of the Easement granted herein for the purposes for which they are created as contemplated herein, or (ii) to use the Easement Area, or allow the use of the Easement Area by others, in common with District, its successors and assigns.

7. **Beneficiaries of Easement Rights.** The Easement set forth in this Agreement shall be for the benefit and use of District and its successors, permitted assigns, agents, employees, consultants, representatives, contractors (and their subcontractors, employees and materialmen), guests and invitees and shall be binding upon the Easement Area and shall be a covenant running with the title to the Easement Area and shall bind and/or benefit the owners thereof, and their respective successors, assigns, tenants, agents, employees, invitees and licensees. The Easement hereby created and granted includes the creation of all incidental rights reasonably necessary for the use and enjoyment of the Easement Area for its intended purpose as expressly set forth and limited herein, including, specifically, the right of entry on, over, upon and through the Easement Area for purposes of construction, installation, operation, use, powering, maintenance, replacement and repair within the Easement Area of any improvements now or hereafter located therein, subject to the limitations set forth herein.

8. **Sovereign Immunity.** The HOA agrees that nothing in this Agreement shall constitute or be construed as a waiver of the District's sovereign immunity protections and limitations on liability contained in Section 768.28, Florida Statutes, or other statutes or law.

9. **Notices.** Any notice, demand, consent, authorization, request, approval, or other communication that any Party is required, or may desire, to give to or make upon the other Party pursuant to this Agreement shall be effective and valid only if in writing and delivered personally to the other Parties or sent by express 24-hour guaranteed courier or delivery service or by certified mail of the United States Postal Service, postage prepaid and return receipt requested, addressed to the other Party as follows (or to such other place as any Party may by notice to the others specify):

To the District: Osceola Chain of Lakes Community Development District
313 Campus Street
Celebration, Florida 34747
Attn: District Manager

With a copy to: Hopping Green & Sams, P.A.
119 S. Monroe Street, Suite 300
Tallahassee, FL 32301

Attn: District Counsel

To the HOA: Hanover Lakes Homeowners Association, Inc.
605 Commonwealth Avenue
Orlando, Florida 32803

Notice shall be deemed given when received, except that if delivery is not accepted, notice shall be deemed given on the date of such non-acceptance. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving notice would otherwise expire on a non-business day, the notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the HOA and counsel(s) for the District may deliver Notice on behalf of the HOA and the District, respectively.

10. Third Parties. This Agreement is solely for the benefit of the HOA and the District, and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, corporation, or entity other than the HOA and the District any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions of this Agreement. Each Party shall be solely responsible for enforcing its rights under this Agreement against any interfering third party. Nothing contained in this Agreement shall limit or impair either Party's right to protect its rights from interference by a third party.

11. Controlling Law and Venue. This Agreement shall be construed, interpreted, and controlled according to the laws of the State of Florida. The Parties agree and consent to venue in Osceola County, Florida, for the resolution of any dispute, whether brought in or out of court, arising out of this Agreement.

12. Public Records. All documents of any kind provided in connection with this Agreement are public records and are treated as such in accordance with Florida law.

13. Severability. The invalidity or unenforceability of any one or more provisions or part of a provision of this Agreement shall not affect the validity or enforceability of the remaining provisions of this Agreement or any part of this Agreement not held to be invalid or unenforceable.

14. Termination. If the Easement shall be abandoned by District or terminated in any manner, all rights and privileges hereunder shall cease and the Easement privileges and rights herein granted shall revert to the HOA. If by future conveyance, the District takes fee simple title to all or part of the Easement Area, then this Easement shall terminate with respect to such the portion of the Easement Area to which the District took title.

15. Authorization. By execution below, the undersigned represent that they have been duly authorized by the appropriate body or official of their respective entity to execute this Agreement, that the respective Parties have complied with all the requirements of law, and they have full power and authority to comply with the terms and provisions of this instrument.

16. **Amendments.** Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both the HOA and District.

17. **Entire Agreement.** This instrument shall constitute the final and complete expression of the agreement between the parties relating to the subject matter of this Agreement.

18. **Non-Waiver.** Any delay of either party in enforcing its rights or remedies under this Agreement shall not waive, affect, diminish, suspend or exhaust any such right or remedy. No act or omission, or series of acts or omissions, by a party as to any failure of the other to perform this Agreement shall be deemed to be a waiver by such party of the right at all times to insist upon full and complete performance in accordance with this Agreement.

19. **Headings for Convenience Only.** The descriptive headings in this Agreement are for convenience only and shall not control nor affect the meaning or construction of any of the provisions of this Agreement.

20. **Arm's Length Transaction.** This Agreement has been negotiated fully between the District and the HOA as an arm's length transaction. All parties participated fully in the preparation of this Agreement and received the advice of counsel. In the case of a dispute concerning the interpretation of any provision of this Agreement, all parties are deemed to have drafted, chosen, and selected the language, and the doubtful language will not be interpreted or construed against any party hereto.

21. **Binding Effect.** This Agreement and all of the provisions, representations, covenants, and conditions contained herein shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns, transferees, and/or licensees.

22. **Effective Date.** This Agreement shall be effective as of the date first written above.

23. **Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original, but all taken together shall constitute one and the same agreement.

[Remainder of page left blank]

IN WITNESS WHEREOF, the HOA and District caused this Agreement to be executed, to be effective as of the day and year first written above.

WITNESSES:

Signed, sealed and delivered
in the presence of:

**Osceola Chain of Lakes Community
Development District**

[Signature]
Print Name: ANDRES ARVELO
[Signature]
Print Name: DOUG DEASLEY

By: [Signature]
Anthony Iorio, Chairperson

STATE OF FLORIDA
COUNTY OF _____

I hereby certify that on this day, before me, an officer duly authorized to take acknowledgments, personally appeared Anthony Iorio as Chairperson of Osceola Chain of Lakes Community Development District, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, on behalf of the District, who executed the foregoing instrument, acknowledged before me that he executed the same on behalf of the foregoing entity and was identified in the manner indicated below.

Witness my hand and official seal this 5 day of NOVEMBER, 2019.




[Signature]
Notary Public


Personally known: ☒
Produced Identification: _____
Type of Identification: _____


Signed, sealed and delivered
in the presence of:

**HANOVER LAKES HOMEOWNERS
ASSOCIATION, INC.**, a Florida not-for-
profit corporation

Witnessed:


Print Name: ANDRES ARVELO

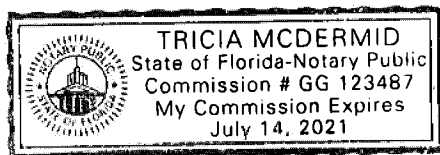
By: 
Print Name: T. Benjamin Snyder
Print Title: Vice President

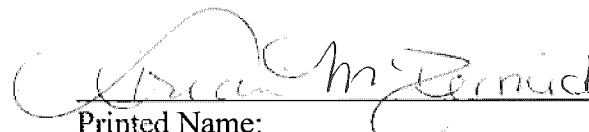

Print Name: Paul Daniel

STATE OF FLORIDA
COUNTY OF _____

I hereby certify that on this day, before me, an officer duly authorized to take acknowledgments, personally appeared T. Benjamin Snyder as Vice President of the Hanover Lakes Homeowners Association, Inc., a Florida not for profit corporation, on behalf of said corporation, who executed the foregoing instrument, acknowledged before me that he executed the same on behalf of the foregoing entity and was identified in the manner indicated below.

Witness my hand and official seal this 5 day of November, 2019.




Printed Name: _____
Notary Public

(NOTARIAL SEAL)

EXHIBIT A
LEGAL DESCRIPTION OF EASEMENT AREA

TRACT A-3, PLAT OF HANOVER PHASE 1, A REPLAT, AS RECORDED IN PLAT BOOK 27, PAGE 18 OF THE PUBLIC RECORDS OF OSCEOLA COUNTY, FLORIDA

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