

**THE FOLLOWING ORDINANCE WAS MOVED FOR INTRODUCTION BY  
COUNCIL MEMBER \_\_\_\_\_ SECONDED FOR INTRODUCTION BY COUNCIL  
MEMBER \_\_\_\_\_.**

**ORDINANCE NO.22-21**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE TO  
AUTHORIZE THE EXECUTION OF AN ACT OF SERVITUDE OF PASSAGE BY THE  
CITY OF MANDEVILLE IN FAVOR OF MJJ&B PROPERTIES, LLC AND AN ACT OF  
SERVITUDE OF PASSAGE BY THE CITY OF MANDEVILLE IN FAVOR OF EAST  
CAUSEWAY DEVELOPMENT GROUP, LLC**

**WHEREAS**, multiple properties located on East Causeway Approach have their egress to East Causeway Approach blocked due to a one-way extension road leading to Magnolia Ridge Drive which prohibits access to the westbound side of East Causeway Approach.

**WHEREAS**, in the past the City of Mandeville has permitted these properties to access Massena Street through egress across the rear exit of the Paul Spitzfaden Community Center located at 3090 E. Causeway Approach, Mandeville, LA 70448.

**WHEREAS**, the City of Mandeville wishes to formally grant a servitude of passage to these properties with certain conditions, affirmations, assumptions, and responsibilities set forth in a formal Act of Servitude of Passage which will protect the City from liabilities that may arise from the continued use of the City property for egress and also allow the City to possibly acquire certain affected property should it be listed for sale and should it be in the best interest of the City of Mandeville.

**NOW, THEREFORE, BE IT ORDAINED**, that the City Council of the City of Mandeville in regular session convened that the City of Mandeville does hereby authorize the Act of Servitude of Passage to be granted by the City of Mandeville in favor of each of the current owners of the lots affected and across the City of Mandeville property more particularly described as follows, to wit:

LOT 73 lies within the Squares bounded by East Causeway Approach, Galvez Street, Monroe Street and Massena Street. From the Northwest corner of Lot 73 formed by the intersection of the South line of East Causeway Approach and the West line of Massena Street, which is the point of beginning, measure thence along the South line of East Causeway Approach a distance of 190.0 feet; then turn right along a line parallel to Massena Street, in the direction of Monroe Street, and run a distance of 261.0 feet; thence turn right along a line parallel to East Causeway Approach and run in the direction of Massena Street a distance of 190.0 feet to the East line of Massena Street; then turn right

and run along the East line of Massena Street a distance of 261.0 feet to the point of beginning, being the same property acquired by the City of Mandeville recorded in CB 794 705 INST. NO. 934330.

**BE IT FURTHER ORDAINED**, by the City Council of the City of Mandeville, in regular session convened that the said execution of the Act of Servitude of Passage in favor of each of the current owners of the lots affected is proper and approval is granted by this Council providing the authority unto the Honorable Clay Madden, Mayor to execute same and to execute any and all documents necessary and proper to effect same and be recorded.

**BE IT FURTHER ORDAINED** that this Ordinance shall take effect immediately upon the signature of the Mayor;

**BE IT FURTHER ORDAINED** that the Clerk of this Council be, and she is hereby authorized and empowered to take any and all actions which she, in the exercise of her discretion, deems necessary to promulgate the provisions of this Ordinance.

The Ordinance being submitted to a vote, the vote thereon was as follows:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

and the Ordinance was declared adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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Kristine Scherer  
Clerk of Council

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Jason Zuckerman  
Council Chairman

**ACT OF SERVITUDE OF PASSAGE**

**UNITED STATES OF AMERICA**

**STATE OF LOUISIANA**

**BY: CITY OF MANDEVILLE**

**PARISH OF ST. TAMMANY**

**TO: EAST CAUSEWAY DEVELOPMENT GROUP, LLC**

BE IT KNOWN that on this \_\_\_\_ day of \_\_\_\_\_, 2022, in the presence of the below subscribing competent witnesses, personally came and appeared:

**CITY OF MANDEVILLE**, a municipal corporation of the State of Louisiana situated in St. Tammany Parish, Louisiana, appearing herein through the Mayor, the Honorable Clay Madden, in accordance with ordinance number # \_\_\_\_\_, attached hereto and made a part hereof, being domiciled at 3101 East Causeway Approach, Mandeville, Louisiana 70448 (herein referred to as "Grantor"), its successors and assigns with full warranty subrogation and substitution of any real or personal rights only as they affect the servitude created herein.

Who declared that Grantor does, by these presents, grant, sell confirm, transfer, convey and deliver unto:

**EAST CAUSEWAY DEVELOPMENT GROUP, LLC**, a limited liability company duly organized and existing under the laws of the State of Louisiana, represented herein by John L. Donahue, Jr., its managing member, duly authorized by virtue of its Authorization to Act for East Causeway Development Group, LLC, a copy of which is attached hereto, the mailing address of said limited liability company being 200 Greenleaves Boulevard, Suite 1, Mandeville, LA 70448, hereinafter referred to as "Grantee".

A permanent servitude of passage (the "Servitude") to allow a right of passage through its property located at 3090 E. Causeway Approach, Mandeville, LA 70448, and specifically the Paul Spitzfaden Community Center parking lot rear egress to Massena St. This Servitude is for the benefit of Grantee's property located at Lot 73-A-2-1 and Lot 73-A-2-2, municipal address 3030 East Causeway Approach, Mandeville, LA 70448. The Servitude will permit egress from Lot 73-A-2-1 and Lot 73-A-2-2 on to Massena Street through Grantor's property; however, such access of egress will require traverse of Lot 73-A-1-A, and this Servitude presumes that Grantee has obtained or will obtain any required servitude of passage from the record owner of Lot 73-A-1-A to permit access to Grantor's property. Nothing herein represents any assurance from Grantor that Grantee will have such access to Massena Street from the property owner of Lot 73-A-1-A.

The Servitude granted herein is over the following described property to wit:

LOT 73 lies within the Squares bounded by East Causeway Approach, Galvez Street, Monroe Street and Massena Street. From the Northwest corner of Lot 73 formed by the intersection of the South line of East Causeway Approach and the West line of Massena Street, which is the point of beginning, measure thence along the South line of East Causeway Approach a distance of 190.0 feet; then turn right along a line parallel to Massena Street, in the direction of Monroe Street, and run a distance of 261.0 feet; thence turn right along a line parallel to East Causeway Approach and run in the direction of

Massena Street a distance of 190.0 feet to the East line of Massena Street; then turn right and run along the East line of Massena Street a distance of 261.0 feet to the point of beginning, being the same property acquired by the City of Mandeville recorded in CB 794 705 INST. NO. 934330.

The Servitude granted by Grantor to Grantee shall be governed by the following provisions, accepted by Grantee and Grantor as controlling the Servitude:

- (1) There shall be no improvements constructed which shall impair the rights granted under this Servitude.
- (2) Said Servitude shall provide for and allow all activities necessary for the egress of vehicles from Grantee's property on to Massena Street, a one-way westerly exit only, to accomplish the purposes of the Servitude.
- (3) Grantor retains and shall have the right to fully use and enjoy the above-described property except as to the rights herein granted and except that the Grantor shall not build a structure on the Servitude property and make no use of said property which will unnecessarily impede the Servitude.
- (4) If, in the use of Grantor's property by way of the Servitude, Grantee damages Grantor's property, improvements or facilities of any kind, or that of Grantor's lessees or assigns, on or off of the Servitude area or respective Servitude property, Grantee will restore Grantor's property, including the portion subject to the Servitude, to the condition the property was in before the aforesaid use which caused the damage.
- (5) Grantee assumes all risks of and shall defend, indemnify and save Grantor, its agents, assigns and employees, harmless from and against all claims, demands, actions or suits for or on account of injuries to (including death of) persons or damage to property, arising wholly or in part from or in connection with the construction, maintenance, operation, use, occupancy of, and access across and over Grantor's property to and from, (as well as including) the Servitude. In the event of any suit or action brought against Grantor or its assigns for or on account of any such damage, injury or death, Grantor shall notify Grantee, and Grantee shall appear and defend said suit or action at its costs and expense, and will pay and satisfy any judgment that may be rendered therein against Grantor, when such suit or action has been finally determined. Notwithstanding anything herein to the contrary, the foregoing defense and indemnification shall not cover defense of or loss, damage or liability arising from the negligence and/or willful misconduct of Grantor.
- (6) Grantee does hereby accept the aforesaid dedication of the above-described Servitude over, under, and across the above-described property, and does, by these presents, covenant and agree that the said Servitude is acquired by the Grantee for the purpose of egress from its property on to Massena Street.
- (7) If, for any reason, either party must make demand upon the other or its successors or assigns or if either party is required to file or defend suit in a court of competent jurisdiction or submit to mediation or arbitration in order to enforce any terms of this Servitude, the non-prevailing party shall be required to pay all reasonable attorneys' fees, court costs and expenses incurred by the other in bringing or defending such demand, litigation, mediation or arbitration.
- (8) The waiver of a breach of any of the terms or conditions hereof shall be limited to the act or acts constituting such breach and shall never be construed as being a continuing or permanent waiver of any of the terms or conditions or as a waiver of any other terms and conditions, all of which shall be and remain in full force and effect, notwithstanding any such waiver.
- (9) Any notice or other communication given under or with respect to this Servitude grant by Grantee to Grantor shall be given by certified mail or telegram addressed to Grantor at:

City of Mandeville

3101 East Causeway Approach

Mandeville, LA 70448

(985) 626- 3144

- (10) Any such notice by Grantor to Grantee shall be given by certified mail or telegram addressed to Grantor at:

EAST CAUSEWAY DEVELOPMENT GROUP, LLC

c/o John L. Donahue, Jr.  
200 Greenleaves Boulevard, Suite 1,  
Mandeville, LA 70448

- (11) This grant shall be constructed, interpreted and determined in accordance with the laws of the State of Louisiana without reference to its choice of law provisions.
- (12) This agreement shall extend to and be binding on the heirs, executors, administrators, successors and assigns of the parties hereto.
- (13) This instrument may be executed in several counterparts, and any such counterpart shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The covenants and obligations of this Servitude shall run with the land.

**THUS, DONE AND SIGNED** in the City of Mandeville, Louisiana in the presence of the below subscribing competent witnesses and me, Notary, after due reading of the whole.

**WITNESS:**

**GRANTOR: CITY OF MANDEVILLE**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
**CLAY MADDEN**  
**MAYOR**

THUS, SWORN TO AND SUBSCRIBED, BEFORE ME, NOTARY, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
**NOTARY, City Attorney,**  
**City of Mandeville**  
**Elizabeth C. Sconzert**

**THUS DONE AND SIGNED** in the City of \_\_\_\_\_, Louisiana in the presence of the below subscribing competent witnesses and me, Notary, after due reading of the whole.

**WITNESS:**

**GRANTEE: EAST CAUSEWAY DEVELOPMENT GROUP, LLC**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
**John L. Donahue, Jr.,** its  
Member and Manager

THUS, SWORN TO AND SUBSCRIBED, BEFORE ME, NOTARY, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
**NOTARY PUBLIC**

IN WITNESS WHEREOF, the said appearer, Doug Schmidt, City Clerk, having been present and witnessed the above and foregoing instrument attest to the identity of the witnesses and parties to the instrument executed by all parties as true, correct and their signatures are all valid, genuine and made of their own free will.

\_\_\_\_\_  
**DOUG SCHMIDT, CITY CLERK  
CITY OF MANDEVILLE**

THUS, SWORN TO AND SUBSCRIBED, BEFORE ME, NOTARY, THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
**NOTARY, City Attorney,  
City of Mandeville  
Elizabeth C. Sconzert**

**ACT OF SERVITUDE OF PASSAGE**

**UNITED STATES OF AMERICA**

**STATE OF LOUISIANA**

**BY: CITY OF MANDEVILLE**

**PARISH OF ST. TAMMANY**

**TO: MJJ & B PROPERTIES, LLC**

BE IT KNOWN that on this \_\_\_\_ day of \_\_\_\_\_, 2022, in the presence of the below subscribing competent witnesses, personally came and appeared:

**CITY OF MANDEVILLE**, a municipal corporation of the State of Louisiana situated in St. Tammany Parish, Louisiana, appearing herein through the Mayor, the Honorable Clay Madden, in accordance with ordinance number # \_\_\_\_\_, attached hereto and made a part hereof, being domiciled at 3101 East Causeway Approach, Mandeville, Louisiana 70448 (herein referred to as "Grantor"), its successors and assigns with full warranty subrogation and substitution of any real or personal rights only as they affect the servitude created herein.

Who declared that Grantor does, by these presents, grant, sell confirm, transfer, convey and deliver unto:

**MJJ & B PROPERTIES, LLC**, a limited liability company duly organized and existing under the laws of the State of Louisiana, represented herein by John L. Donahue, Jr., its managing member, duly authorized by virtue of its Authorization to Act for MJJ & B Properties, LLC, a copy of which is attached hereto, the mailing address of said limited liability company being 3030 East Causeway Approach, Mandeville, LA 70448, hereinafter referred to as "Grantee".

A permanent servitude of passage (the "Servitude") to allow a right of passage through its property located at 3090 E. Causeway Approach, Mandeville, LA 70448, and specifically the Paul Spitzfaden Community Center parking lot rear egress to Massena St. This Servitude is for the benefit of Grantee's property located at Lot 73-A-1-A, municipal address 3030 East Causeway Approach, Mandeville, LA 70448. The Servitude will permit egress from Lot 73-A-1-A on to Massena Street through Grantor's property. The Servitude granted herein is over the following described property to wit:

LOT 73 lies within the Squares bounded by East Causeway Approach, Galvez Street, Monroe Street and Massena Street. From the Northwest corner of Lot 73 formed by the intersection of the South line of East Causeway Approach and the West line of Massena Street, which is the point of beginning, measure thence along the South line of East Causeway Approach a distance of 190.0 feet; then turn right along a line parallel to Massena Street, in the direction of Monroe Street, and run a distance of 261.0 feet; thence turn right along a line parallel to East Causeway Approach and run in the direction of Massena Street a distance of 190.0 feet to the East line of Massena Street; then turn right and run along the East line of Massena Street a distance of 261.0 feet to the point of beginning, being the same property acquired by the City of Mandeville recorded in CB 794 705 INST. NO. 934330.

The Servitude granted by Grantor to Grantee shall be governed by the following provisions, accepted by Grantee and Grantor as controlling the Servitude:

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- (2) Said Servitude shall provide for and allow all activities necessary for the egress of vehicles from Grantee's property on to Massena Street, a one-way westerly exit only, to accomplish the purposes of the Servitude.
- (3) Grantor retains and shall have the right to fully use and enjoy the above-described property except as to the rights herein granted and except that the Grantor shall not build a structure on the Servitude property and make no use of said property which will unnecessarily impede the Servitude.
- (4) If, in the use of Grantor's property by way of the Servitude, Grantee damages Grantor's property, improvements or facilities of any kind, or that of Grantor's lessees or assigns, on or off of the Servitude area or respective Servitude property, Grantee will restore Grantor's property, including the portion subject to the Servitude, to the condition the property was in before the aforesaid use which caused the damage.
- (5) Grantee assumes all risks of and shall defend, indemnify and save Grantor, its agents, assigns and employees, harmless from and against all claims, demands, actions or suits for or on account of injuries to (including death of) persons or damage to property, arising wholly or in part from or in connection with the construction, maintenance, operation, use, occupancy of, and access across and over Grantor's property to and from, (as well as including) the Servitude. In the event of any suit or action brought against Grantor or its assigns for or on account of any such damage, injury or death, Grantor shall notify Grantee, and Grantee shall appear and defend said suit or action at its costs and expense, and will pay and satisfy any judgment that may be rendered therein against Grantor, when such suit or action has been finally determined. Notwithstanding anything herein to the contrary, the foregoing defense and indemnification shall not cover defense of or loss, damage or liability arising from the negligence and/or willful misconduct of Grantor.
- (6) Grantee does hereby accept the aforesaid dedication of the above-described Servitude over, under, and across the above-described property, and does, by these presents, covenant and agree that the said Servitude is acquired by the Grantee for the purpose of egress from its property on to Massena Street.
- (7) As consideration for the Servitude, Grantee does hereby agree that should Grantee ever decide, based upon the existence of this permanent Servitude, to transfer, sell, lease, or otherwise divest itself of that portion of Lot 73-A-1-A that represents the approximate 35.93 feet by 190.37 feet that spans the area between Lot 73-A-1-A and Messina Street and bordered by Lot 73 owned by Grantor, Grantee and its heirs and assigns do hereby grant to Grantor a right of first refusal pursuant to *LA-C.C. art. 2625* which shall exist pursuant to *LA.C.C. art 2628* as long as the Servitude is in use and has not been abandoned by Grantee.
- (8) If, for any reason, either party must make demand upon the other or its successors or assigns or if either party is required to file or defend suit in a court of competent jurisdiction or submit to mediation or arbitration in order to enforce any terms of this Servitude, the non-prevailing party shall be required to pay all reasonable attorneys' fees, court costs and expenses incurred by the other in bringing or defending such demand, litigation, mediation or arbitration.
- (9) The waiver of a breach of any of the terms or conditions hereof shall be limited to the act or acts constituting such breach and shall never be construed as being a continuing or permanent waiver of any of the terms or conditions or as a waiver of any other terms and conditions, all of which shall be and remain in full force and effect, notwithstanding any such waiver.
- (10) Any notice or other communication given under or with respect to this Servitude grant by Grantee to Grantor shall be given by certified mail or telegram addressed to Grantor at:

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Mandeville, LA 70448

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- (11) Any such notice by Grantor to Grantee shall be given by certified mail or telegram addressed to Grantor at:

MJJ & B PROPERITES, LLC

c/o John L. Donahue, Jr.

3030 East Causeway Approach,

Mandeville, LA 70448



- (12) This grant shall be constructed, interpreted and determined in accordance with the laws of the State of Louisiana without reference to its choice of law provisions.
- (13) This agreement shall extend to and be binding on the heirs, executors, administrators, successors and assigns of the parties hereto.
- (14) This instrument may be executed in several counterparts, and any such counterpart shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The covenants and obligations of this Servitude shall run with the land.

**THUS, DONE AND SIGNED** in the City of Mandeville, Louisiana in the presence of the below subscribing competent witnesses and me, Notary, after due reading of the whole.

**WITNESS:**

**GRANTOR: CITY OF MANDEVILLE**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**By:** \_\_\_\_\_  
**CLAY MADDEN**  
**MAYOR**

THUS, SWORN TO AND SUBSCRIBED, BEFORE ME, NOTARY, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
**NOTARY, City Attorney,**  
**City of Mandeville**  
**Elizabeth C. Sconzert**

**THUS DONE AND SIGNED** in the City of \_\_\_\_\_, Louisiana in the presence of the below subscribing competent witnesses and me, Notary, after due reading of the whole.

**WITNESS:**

**GRANTEE: MJJ & B PROPERITES, LLC**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**By:** \_\_\_\_\_  
**John L. Donahue, Jr.,** its  
 Member and Manager

THUS, SWORN TO AND SUBSCRIBED, BEFORE ME, NOTARY, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
**NOTARY PUBLIC**

IN WITNESS WHEREOF, the said appearer, Doug Schmidt, City Clerk, having been present and witnessed the above and foregoing instrument attest to the identity of the witnesses and parties to the instrument executed by all parties as true, correct and their signatures are all valid, genuine and made of their own free will.

\_\_\_\_\_  
**DOUG SCHMIDT, CITY CLERK  
CITY OF MANDEVILLE**

THUS, SWORN TO AND SUBSCRIBED, BEFORE ME, NOTARY, THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
**NOTARY, City Attorney,  
City of Mandeville  
Elizabeth C. Sconzert**