

NOTE: SUBMITTAL OF NON-STANDARD  
DOCUMENTS MAY RESULT IN LONGER REVIEW TIMES

1 Prepared by and after recording return to:  
2 \_\_\_\_\_  
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5 Tax Parcel I.D. No(s): \_\_\_\_\_  
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10 **<RIGHT OF WAY> OR <TRANSPORTATION IMPACT FEE > OR**  
11 **<TRANSPORTATION NETWORK>**  
12 **AGREEMENT**  
13 \_\_\_\_\_

14  
15 **<NAME OF DEVELOPMENT>**  
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17 **<NAME OF ROAD>**  
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20 This <Right-of-Way /or/ Transportation Impact Fee /or/ Transportation Network>  
21 Agreement (the “Agreement”), effective as of the <latter/latest> date of execution (the “Effective  
22 Date”), is made and entered into by and <between/among>  
23 \_\_\_\_\_ (“Owner”), a <State, type entity>, with its principal  
24 place of business at \_\_\_\_\_, and Orange County, a charter  
25 county and political subdivision of the State of Florida (“County”), whose mailing address is c/o  
26 Orange County Administrator, Post Office Box 1393, Orlando, Florida 32802-1393.

27 **WITNESSETH:**

28 WHEREAS, Owner is the owner of fee simple title to certain real property, as shown in  
29 the project location map identified as Exhibit “A,” and as more particularly described on  
30 “Exhibit B” (legal description and sketch of description), both of which are attached hereto and  
31 incorporated herein by this reference (the “Property”); and  
32

33 WHEREAS, Owner is developing the Property as <type of development> (the “Project”);  
34 and

35 WHEREAS, Owner is willing to convey to County certain portions of the Property in  
36 return for credits against transportation impact fees to be paid in the future in connection with the  
37 Project; and

38 WHEREAS, the Orange County Engineer has declared <roadway name> to be impact fee  
39 eligible; and

40 WHEREAS, County and Owner desire to set forth certain terms, conditions, and  
41 agreements between the parties as to the conveyance of such land to County.

42 NOW, THEREFORE, for and in consideration of the above premises, the mutual  
43 covenants and agreements set forth herein, and other good and valuable consideration, the receipt  
44 and sufficiency of which are hereby acknowledged, Owner and County (the “Parties”) agree as  
45 follows:

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

48 **Section 2. Conveyance of Land to County by Owner.**

49 (a) *Conveyed Lands.* Within one hundred twenty (120) days following the Effective  
50 Date, Owner shall convey to County marketable fee title to those lands described in the  
51 legal description and sketch of description attached hereto as Exhibit “C” and incorporated by  
52 this reference (the “Conveyed Lands”).  
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56  
57 In the event conveyance does not occur within the aforesaid 120 days, the Manager of the  
58 Real Estate Management Division, or a designee, may grant an extension of up to 120 days  
59  
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61 for the conveyance to take place.

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64           (b)     *Procedure.* The conveyance of the Conveyed Lands shall be by plat dedication  
65 or general warranty deed, free and clear of all liens and encumbrances, except for easements of  
66 record acceptable to County, if any. If by plat dedication, the rest of this paragraph and the  
67 following paragraphs (c), (e), and (f) will not apply. Owner shall pay all costs associated with  
68 the conveyance of the Conveyed Lands, including all recording fees and documentary stamps  
69 related to such conveyance. Ad valorem taxes in connection with the conveyance of the  
70 Conveyed Lands shall be prorated as of the date of transfer of title and said prorated amount  
71 shall be paid by Owner to the Orange County Tax Collector, in escrow, pursuant to Section  
72 196.295, Florida Statutes, unless the conveyance occurs between November 1 and December 31  
73 of the year of conveyance, in which case ad valorem taxes shall be paid in full by Owner for the  
74 year of conveyance.

75           (c)     *Title Policy.* No less than thirty (30) days prior to conveyance of the Conveyed  
76 Lands, Owner shall deliver to County, at Owner’s sole cost and expense, a commitment to issue  
77 an Owner’s Policy of Title Insurance naming County as the insured (the “Title Commitment”).  
78 The original Owner’s Policy of Title Insurance (the “Title Policy”) shall be delivered to County  
79 within thirty (30) days of the conveyance of the Conveyed Lands.

80           (d)     *Value of Conveyed Lands.* The Parties hereby agree that the value of the  
81 Conveyed Lands, which has been determined in accordance with Section 23-95, Orange County  
82 Code, as may be amended from time to time, and for which Owner shall be entitled to credits  
83 against transportation impact fees to be paid in the future in connection with the Project, is

84 \$\_\_\_\_\_.\_\_\_\_. This total results from an agreed-upon fair market value of \$ \_\_\_\_\_.\_\_ per acre,  
85 or fraction thereof, and a total acreage of \_\_\_\_\_ acre(s).

86 (e) *Environmental Audit.* No less than thirty (30) days prior to conveyance, Owner  
87 shall submit to County a current (within 6 months of conveyance to County) Phase I  
88 environmental audit of the areas encompassed by the Conveyed Lands. The Phase I  
89 environmental audit shall be conducted in accordance with the requirements of the All  
90 Appropriate Inquiries Final Rule and with the standards set forth in the American Society for  
91 Testing and Materials (ASTM) E-1527-13. In the event the Phase I environmental audit  
92 presents a matter of concern, as determined by County, then prior to the conveyance, Owner  
93 shall submit to County a Phase II environmental audit. The Phase II environmental audit shall be  
94 conducted in accordance with the requirements of the AAIFR and ASTM E-1903-11. If the  
95 Phase II environmental audit is performed and reveals the need for remediation to the Conveyed  
96 Lands, one of the following events shall occur: (i) Owner shall remediate the Conveyed Lands to  
97 County's satisfaction prior to the conveyance; or (ii) Owner and County shall negotiate and enter  
98 into a separate agreement whereby Owner shall pay the full cost of remediation; or (iii) County  
99 may terminate this Agreement at its option.

100 (f) *Compliance with Section 286.23, Florida Statutes.* Owner shall execute and  
101 deliver to County the "Disclosure of Beneficial Interests" required pursuant to section 286.23,  
102 Florida Statutes.

103 ***Section 3. Transportation Impact Fee Credits.*** Promptly upon County's approval of  
104 any Environmental Assessments and Title Commitment required under Section 2, and upon  
105 approval and acceptance of the general warranty deed, or in the case of conveyance by plat  
106 dedication, County's acceptance of the plat dedication, County shall credit on its books to the

107 account of Owner, for purposes of Article IV of Chapter 23 of the Orange County Code and any  
108 successor code provisions (the “Impact Fee Ordinance”), the aforementioned amount of  
109 transportation impact fee credits to which Owner is entitled under the Impact Fee Ordinance.  
110 Such transportation impact fee credits may only be used in transportation impact fee zone \_\_\_\_.  
111 Thereafter, as impact fees become payable from time to time in connection with the Project, and  
112 if so instructed by Owner, County shall deduct such amounts payable from Owner’s account.

113 For purposes of the foregoing, County shall make deductions from Owner’s account from  
114 time to time only upon receipt of written direction from Owner (or from such person or entity to  
115 whom Owner expressly may assign this authority, in writing, in the future) to effectuate the  
116 particular deduction.

117 Nothing herein shall prevent Owner from assigning transportation impact fee credits as  
118 provided for in Section 23-95(e) of the Orange County Code, as may be amended from time to  
119 time.

120 **Section 4. Utilities.** This agreement does not address utility requirements. Owner  
121 shall coordinate with the Orange County Utilities Director, or a designee, with respect to any  
122 utility easements necessary to accommodate appropriately-sized wastewater sewer mains or  
123 lines, potable water mains or lines, and/or reclaimed water mains or lines.

124 **Section 5. Notice.** Any notice delivered with respect to this Agreement shall be in  
125 writing and shall be deemed to be delivered (whether or not actually received) (i) when hand  
126 delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice in the United  
127 States mail, postage prepaid, certified mail, return receipt requested, addressed to the person at  
128 the address set forth opposite the party’s name below, or to such other address or to such other

129 person as the party shall have specified by written notice to the other party delivered in  
130 accordance herewith.

131  
132 As to Owner: \_\_\_\_\_  
133 \_\_\_\_\_  
134 Attention: \_\_\_\_\_

135  
136 With a copy to: \_\_\_\_\_  
137 \_\_\_\_\_  
138 Attention: \_\_\_\_\_

139  
140 As to County: Orange County Administrator  
141 P.O. Box 1393  
142 201 S. Rosalind Ave  
143 Orlando, FL 32802-1393

144  
145 With a copy to: Orange County Planning, Environmental,  
146 and Development Services Department  
147 Manager, Transportation Planning Division  
148 Orange County Public Works Complex  
149 4200 S. John Young Parkway  
150 Orlando, Florida 32839-9205

151  
152 **Section 6. Covenants Running with the Land.** This Agreement shall run with the  
153 Property and shall be binding upon and shall inure to the benefit and burden of the heirs, legal  
154 representatives, successors, and assigns of the parties and to any person, firm, corporation, or  
155 other entity that may become a successor in interest to the Property. Notwithstanding the  
156 foregoing, however, the authority under Section 3 to instruct County to make deductions from  
157 Owner's transportation impact fee account shall remain with Owner unless expressly assigned in  
158 writing to another by Owner.

159 **Section 7. Recordation of Agreement.** An executed original of this Agreement shall  
160 be recorded, at Owner's expense, in the Public Records of Orange County, Florida within thirty  
161 (30) days after the Effective Date.

162           **Section 8.    Applicable Law.** This Agreement and the provisions contained herein  
163 shall be construed, controlled, and interpreted according to the laws of the State of Florida.

164           **Section 9.    Time is of the Essence.** Time is hereby declared of the essence to the  
165 lawful performance of the duties and obligations contained in this Agreement.

166           **Section 10.   Further Documentation.** The Parties agree that at any time following a  
167 request therefor by the other party, each shall execute and deliver to the other party such further  
168 documents and instruments reasonably necessary to confirm and/or effectuate the obligations of  
169 either party hereunder and the consummation of the transactions contemplated hereby.

170           **Section 11.   Limitation of Remedies.** County and Owner expressly agree that the  
171 consideration, in part, for each of them entering into this Agreement is the willingness of the  
172 other to limit the remedies for all actions arising out of or in connection with this Agreement.

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

- 176                   (i)    action for specific performance or injunction; or  
177                   (ii)   the right to set off, against the amount(s) of impact fees to  
178                   be credited in favor of Owner under this Agreement, (A) any  
179                   amount(s) due to County from Owner under this Agreement but  
180                   remaining unpaid and (B) the cost to County of performing any  
181                   action or actions required to be done under this Agreement by  
182                   Owner, but which Owner has failed or refused to do when  
183                   required; or

- 184 (iii) the withholding of development permits and other  
185 approvals and permits in connection with the Project and/or the  
186 Property; or  
187 (iv) any combination of the foregoing.

188 In addition to the foregoing, nothing in this Agreement prohibits or estops County from  
189 exercising its power of eminent domain with respect to the Conveyed Lands and/or any other  
190 portion of the Property as County may lawfully elect.

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

- 193 (i) action for specific performance; or  
194 (ii) action for injunction; or  
195 (iii) action for declaratory judgment regarding the rights and  
196 obligations of Owner; or  
197 (iv) any combination of the foregoing.

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

204 **Section 12. Amendment.** This Agreement may be amended only in writing, formally  
205 executed in the same manner as this Agreement.



206            **Section 13. Counterparts.** This Agreement and any amendment(s) may be executed  
207 in up to \_\_\_ counterparts, each of which shall be deemed an original and <both/all> of which  
208 shall constitute one and the same instrument.

209            **Section 14. Termination; Effect of Annexation.** This Agreement shall remain in  
210 effect so long as the Property remains in unincorporated Orange County, Florida, unless the  
211 Parties terminate it in writing. If any portion of the Property is proposed to be annexed into a  
212 neighboring municipality, and out of the unincorporated areas, County may, in its sole discretion,  
213 terminate this Agreement upon notice to the Owner.

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[Signatures appear on following pages]

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IN WITNESS WHEREOF, the Parties have caused this 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: \_\_\_\_\_

Jerry L. Demings  
Orange County Mayor

Date: \_\_\_\_\_

ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: \_\_\_\_\_  
Deputy Clerk

Printed name: \_\_\_\_\_

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<NAME OF OWNER, type of entity>

By: \_\_\_\_\_

Printed name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

WITNESSES:

\_\_\_\_\_

Printed Name: \_\_\_\_\_

\_\_\_\_\_

Printed Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by \_\_\_\_\_, as  
\_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, who is known  
by me to be the person described herein and who executed the foregoing, this \_\_\_\_ day of  
\_\_\_\_\_, 20\_\_. S/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 \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

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**Exhibit "A"**  
**Project Location Map**

[See attached \_\_ page(s)]

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**Exhibit “B”**

**Legal Description and Sketch of Description for Property**

[See attached \_\_ page(s)]

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**Exhibit "C"**

**Legal Description and Sketch of Description  
for Conveyed Lands**

[See attached \_\_\_ page(s)]

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**JOINDER AND CONSENT TO**  
**<title of agreement>**

The undersigned hereby certifies that it is the holder of the following instrument(s) (the  
“Instrument(s)”):

**<First/other Mortgage, Assignment of Rents, and Security Agreement/other>**  
**by <name>, a <type of entity> duly organized and validly existing under the**  
**laws of the State of Florida, to <name>, a <type of entity>, duly created,**  
**organized and existing under the laws of the State of Florida (the "Issuer"),**  
**dated < date>, and recorded <date>, in Instrument No. 20170268158, Public**  
**Records of Orange County, Florida, in the original principal amount of <\$>**  
**and the terms and conditions thereof,**

upon the property presently owned by <name>, a description of which is attached hereto  
as Exhibit “A” (hereinafter the “Property”).

The undersigned hereby joins in, and consents to, the recording of the <title of  
agreement> (the “Agreement”), and agrees that its above-referenced Instrument(s), as  
<it/they> may be modified, amended, and assigned from time to time, shall be  
subordinated to the Agreement, as said Agreement may be modified, amended, and  
assigned from time to time.

*[Signatures follow on next page.]*

480           **IN WITNESS WHEREOF**, the undersigned has executed this Joinder and Consent in  
481 manner and form sufficient to bind it.

**Signed, sealed, and delivered  
in the presence of:**

\_\_\_\_\_  
Name: \_\_\_\_\_

<Name>, a <type of entity – e.g., banking  
corporation> duly organized and validly  
existing under the laws of the United States of  
America

\_\_\_\_\_  
Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

482  
483 STATE OF FLORIDA  
484 COUNTY OF ORANGE

485 The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 201\_,  
486 by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a  
487 \_\_\_\_\_, on behalf of \_\_\_\_\_. S/he is personally known to me or  
488 has produced \_\_\_\_\_ as identification.

489  
490  
491 (NOTARY SEAL)

\_\_\_\_\_  
Notary Public, State of Florida

492  
493  
494 \_\_\_\_\_  
495 Typed or Printed Name of Notary  
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<Title of Agreement, Name of development>  
<Nm of Owner, Nm of Rd>, <Year>

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