

Return recorded document to:

Broward County Highway Construction
and Engineering Division
1 North University Drive, Suite 300B
Plantation, FL 33324-2038

Document prepared by:

NOTICE: PURCHASERS, GRANTEES, HEIRS, SUCCESSORS AND ASSIGNS OF ANY INTEREST IN THE PROPERTY SET FORTH ON EXHIBIT "A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS SET FORTH WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE PROPERTY UNTIL FULLY PERFORMED.

**AGREEMENT FOR CONSTRUCTION OF OFFSITE IMPROVEMENTS
AS PART OF COUNTY ROAD PROJECT**

This is an Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the State of Florida, its successors and assigns, hereinafter referred to as "COUNTY;"

AND

_____, its successors and assigns, hereinafter referred to as "DEVELOPER."

WHEREAS, the COUNTY has undertaken to improve and widen _____ as part of the capital improvement program, hereinafter referred to as "Road Project"; and

WHEREAS, DEVELOPER'S Project, known as _____, Development Management Division File No. _____, hereinafter referred to as the "Property," a legal description of which is attached hereto as Exhibit "A" and made a part hereof;" and

WHEREAS, the Property is adjacent to the Road Project and will be served by the ultimate roadway to be constructed; and

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WHEREAS, the DEVELOPER anticipates developing the Property in the future; and

WHEREAS, development of the Property is subject to Chapter 5, Article IX, of the Broward County Code of Ordinances which will require the DEVELOPER to construct offsite improvements necessary to provide safe and adequate access to the Property; and

WHEREAS, COUNTY has determined that DEVELOPER may satisfy its access obligation by installing certain offsite road Improvements, hereinafter referred to as "Improvements," set forth in Exhibit "B," attached hereto and made a part hereof; and

WHEREAS, COUNTY and DEVELOPER believe that the Improvements may be efficiently constructed as part of the Road Project; and

WHEREAS, the DEVELOPER is willing to reimburse the COUNTY for the costs of the construction of the Improvements; and

WHEREAS, the Highway Construction and Engineering Division has estimated the cost of installing the Improvements based upon standard unit prices which are anticipated to be contained in the construction contract for the Road Project or unit prices and specifications which are contained within the construction contract for the Road Project; and

WHEREAS, the COUNTY is willing to include the Improvements as part of the Road Project; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, and payments hereinafter set forth, COUNTY and DEVELOPER agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.
2. DEVELOPER shall deliver to COUNTY a cashier's check in the amount of _____, such sum representing the estimated cost of including the Improvements in the Road Project based upon the itemized list of materials and quantities set forth in Exhibit "C."
3. Upon receipt of payment provided under paragraph 2, COUNTY shall take all necessary measures to include the Improvements as set forth in Exhibit "B" in the design contract for the Road Project, and shall cause the Improvements to be constructed as part of the construction contract for the Road Project.
4. In the event that the COUNTY determines that the Improvements can be feasibly constructed as part of the Road Project, then COUNTY agrees that DEVELOPER'S

payment under paragraph 2 satisfies the conditions of the development order approval that required installation of the Improvements.

5. In the event that the COUNTY determines that the improvements cannot be feasibly constructed as part of the Road Project, or if the Road Project is canceled for any reason, then the COUNTY shall notify the DEVELOPER. Upon such notice, the DEVELOPER may elect to either:
 - (a) construct the Improvements, or
 - (b) submit a Delegation Request for the COUNTY to delete the conditions of development approval which required construction of the Improvements.
6. DEVELOPER shall notify COUNTY of such election within sixty (60) days of notice from COUNTY. If DEVELOPER elects to construct the improvements, DEVELOPER shall enter into a standard Improvement Agreement and shall provide security to the COUNTY in the form of an irrevocable letter of credit in an amount equal to the estimated cost of the Improvements. Upon COUNTY's acceptance of the Improvement Agreement and security, the DEVELOPER shall be entitled to a refund of the amounts paid under this Agreement. If the Developer elects to request deletion of the conditions of development approval which required construction of the Improvements, and the COUNTY approves such request, then the DEVELOPER shall be entitled to a refund of the amount paid under this Agreement.
7. In the event that the actual cost to COUNTY to install the Improvements is not equal to the required payment under paragraph 2, the parties understand and agree that no refund shall be made to DEVELOPER, nor additional sum be required to be paid to COUNTY.
8. It is expressly understood that the COUNTY shall have sole discretion in determining the feasibility of the design and construction of the Improvements or any portion thereof according to sound engineering principles or practices. In the event that construction is impeded in any manner, then COUNTY, at its sole discretion, may elect not to construct any portion of the Improvements. It is expressly understood that under no circumstances shall the DEVELOPER be entitled to any refund based upon changes in the development intensity proposed for the Property.
9. NOTICE. Whenever any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Director of the Broward County Highway Construction and Engineering Division
1 North University Drive, Suite 300B
Plantation, FL 33324-2038

For the DEVELOPER:

10. RECORDATION. DEVELOPER agrees that this Agreement shall be recorded in the Official Records of Broward County, Florida, against the property described in Exhibit "A" to put subsequent purchasers, grantees, heirs, successors and assigns of any interest in such property on notice of the obligations set forth herein, which shall run with the property until fully performed.
11. VENUE; CHOICE OF LAW. Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs, and shall be governed by the laws of the State of Florida.
12. CHANGES TO FORM AGREEMENT. DEVELOPER represents and warrants that there have been no amendments or revisions whatsoever to the form Agreement without the prior written consent of the County Attorney's Office. Any unapproved changes shall be deemed a default of this Agreement and of no legal effect.
13. CAPTIONS AND PARAGRAPH HEADINGS. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.
14. NO WAIVER. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.
15. EXHIBITS. All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference. Typewritten or handwritten provisions

inserted in this Agreement or attached hereto shall control all printed provisions in conflict therewith.

16. FURTHER ASSURANCES. The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
17. ASSIGNMENT AND ASSUMPTION. DEVELOPER may assign all or any portion of its obligations pursuant to this Agreement to a grantee of the fee title to all or any portion of the property described in Exhibit "A." DEVELOPER agrees that any assignment shall contain a provision which clearly states that such assignment is subject to the obligations of this Agreement and recorded in the public records of Broward County, Florida.
18. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by COUNTY and DEVELOPER.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same by Board action on the _____ day of _____, 20__, and DEVELOPER, signing by and through its _____ duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

County Administrator and
Ex-Officio Clerk of the
Board of County Commissioners
of Broward County, Florida

By _____
Mayor

_____ day of _____, 20__

Approved as to form by
Office of County Attorney
Broward County, Florida
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By _____
Assistant County Attorney

_____ day of _____, 20__

EXHIBIT "A"
LEGAL DESCRIPTION

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EXHIBIT "B"
IMPROVEMENTS

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EXHIBIT "C"

ITEMIZED COST ESTIMATE OF MATERIALS AND QUANTITIES