

This document prepared by:

Tax Parcel ID No.:

**USE AGREEMENT AMONG
<OWNER>, <LESSEE>, AND ORANGE COUNTY**

THIS USE AGREEMENT (the “Agreement”) is entered into by and among _____, a <state/type of entity>, as lessee (the “Lessee”), with a mailing address at _____; _____, a <state/type of entity>, as property owner (the “Owner”), with a mailing address at _____; and Orange County, Florida, a charter county and political subdivision of the State of Florida (the “County”), with a mailing address at P.O. Box 1393, Orlando, FL 32802-1393.

RECITALS

WHEREAS, a commercial or residential project on a certain parcel of real property (the “Property”), as more particularly described in Exhibit “A”, attached hereto and incorporated herein by this reference, the title of which is held by Owner, has been constructed and is located in the unincorporated area of Orange County; and

WHEREAS, Lessee with the consent of Owner desires to obtain a Right-of-Way Utilization permit (hereinafter the “Permit”) from County, whereby Lessee will be allowed to install, construct, and maintain the following improvement(s): _____ (the “Improvement(s)”) in the road, median, parkway, and/or drainage areas located within the rights-of-way adjacent to the Property which have been, or will be, dedicated to public use (collectively, the “Dedicated Areas”),

said Dedicated Areas being located within and/or adjacent to the Property, as more particularly described in the attached and incorporated Exhibit "B"; and

WHEREAS, County requires that Lessee and Owner be jointly and separately responsible for the fulfillment of certain commitments and covenants to assure the perpetual and continuous maintenance of any such Improvement(s), which commitments and covenants are more particularly set forth herein.

NOW, THEREFORE, in consideration of the foregoing and of the terms and conditions set forth herein, the parties agree as follows:

1. **RECITALS.** The foregoing recitals are true and correct and form a material part of this Agreement.
2. **RIGHT-OF-WAY UTILIZATION PERMIT.** Any such Permit issued by County to Lessee shall be subject to the terms of this Agreement. Lessee shall not, while installing or maintaining the Improvement(s), damage or disturb any portion of the Dedicated Areas without prior written approval by County and County's prior written approval of a plan to restore the Dedicated Areas. Nothing contained herein or by virtue of the issuance of a Permit shall give or grant to Lessee or Owner any ownership rights to any portion of the Dedicated Areas.
3. **IMPROVEMENTS.** Any improvements that, in County's sole opinion, may impede the functional operation of planned, proposed, or existing underdrains shall not be permitted under this Use Agreement. The Improvement(s) shall be established and maintained in such a manner as will not interfere with the use of the

Dedicated Areas by the public nor create a safety hazard on such Dedicated Areas. If County determines that the Improvement(s) do present a safety hazard, then Lessee and/or Owner, at its sole expense and at no cost to County, shall relocate the Improvements in such a manner as to eliminate the hazard, to the satisfaction of County.

4. **REMOVAL/ RELOCATION.** If, in the sole opinion of County, the Improvement(s) interferes with any construction, reconstruction, alteration, improvement(s), or maintenance which County desires to perform on, around, or under the Dedicated Areas, or if County requests removal for any reason, then Lessee and/or Owner, upon receipt of a written notice from County, shall remove or relocate the Improvement(s) as requested by County and to County's satisfaction within thirty (30) days of receipt of said notice, or within thirty (30) days of the first date of publication of legal notice, which publication shall appear in not less than two weekly issues of a newspaper of general circulation in Orange County, Florida. Any such relocation or removal of the Improvement(s) shall be at the sole expense of Lessee and/or Owner, and at no cost to County.

5. **INDEMNIFICATION.** To the fullest extent permitted by law, Lessee and Owner shall defend, indemnify, and hold harmless County from and against all claims, damages, losses, and expenses, including reasonable attorney's fees and costs, arising out of, or resulting from, the performance of their operations under this Agreement. Lessee and Owner shall defend, indemnify, and hold harmless County (and any governmental body or utility authority properly using the Dedicated Areas) from and

against all expenses, costs, or claims for any damages to the Improvement(s) which may result from the use of the right-of-way by County or other governmental body or authority due to maintenance, construction, installation, or other proper use within the Dedicated Areas.

6. **INSURANCE**. Throughout the duration of this Agreement, including the initial period and any extensions thereto, Lessee and/or Owner shall obtain and possess:

a) Commercial General Liability coverage, issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, for all operations under this Agreement, including but not limited to Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than \$1,000,000 Combined Single Limits (CSL) or its equivalent per occurrence. Such coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Severability of Interests. The general aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit;

b) Workers' Compensation coverage for all employees with statutory workers' compensation limits, and no less than \$100,000 for each incident of bodily injury or disease for Employers' Liability; and

c) Business automobile liability coverage for all owned, non-owned, and hired vehicles issued on the most recent version of the ISO form as filed for use in Florida, or its equivalent, with limits of not less than \$500,000 per accident. In the event Lessee and/or Owner does not own automobiles, Lessee and/or Owner

shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the commercial General Liability policy or separate business Auto Liability policy.

Prior to commencing operations under this Agreement, Lessee and/or Owner shall provide Certificates of Insurance to County to verify coverage. The name of the project for which the Improvement(s) are to be installed and the type and amount of coverage provided, shall be clearly stated on the face of each Certificate of Insurance. The insurance coverage shall name Orange County, Florida as an additional insured, and shall contain a provision which forbids any cancellation, changes or material alterations, or renewal of coverage without providing thirty (30) days prior written notice to County. Lessee and/or Owner shall require and ensure that each of its contractors and subcontractors maintains insurance until the completion of their work under any contract associated with this Agreement. Failure of Lessee and/or Owner to maintain insurance coverage for itself or for any other person or entities for whom it is responsible or to ensure that its contractors and subcontractors maintain coverage shall not relieve Lessee and/or Owner of any contractual responsibility, obligation, or liability.

7. **RECORDING**. This Agreement shall be recorded in the Public Records of Orange County, Florida within thirty (30) days of its execution. Promptly upon execution of this Agreement, Lessee and/or Owner shall pay to County an amount equal to the applicable cost of recording this Agreement in the Public Records of Orange County, Florida.

8. **COVENANTS RUNNING WITH THE LAND.** The provisions of this Agreement shall constitute covenants running with the land or an equitable servitude upon the land, as the case may be, applicable to all of the Property described herein or any portion thereof. Furthermore, this Agreement shall be binding on all parties having any right, title, or interest in the Property described herein or any portion thereof and on their heirs, personal representatives, successors, and assigns. Owner declares that the Property described in this Agreement and any portion thereof shall be held, sold, and conveyed subject to the provisions of this Agreement. This Agreement shall inure to the benefit of and be enforceable by County and its legal representatives, successors, and assigns.

9. **DURATION.** The provisions, restrictions, and covenants of this Agreement shall run with and bind the land for a period of twenty-five (25) years from the date this Agreement is recorded in the Public Records of Orange County, Florida. Thereafter, this Agreement shall be automatically extended for successive periods of ten (10) years each, unless a written instrument agreeing to revoke said provisions, restrictions, and covenants is approved by a majority of the Orange County Board of County Commissioners, Lessee, and Owner. No such agreement to revoke shall be effective until said written instrument has been signed, acknowledged, and recorded in the Public Records of Orange County, Florida. Notwithstanding any of the above provisions, County shall have the right to cancel this Agreement upon thirty (30) days prior written notice to Lessee and Owner. No such cancellation shall be effective until a written instrument has been executed and acknowledged by the

Board of County Commissioners and recorded in the Public Records of Orange County, Florida.

10. **AMENDMENT**. The provisions, restrictions, and covenants of this Agreement shall not be modified or amended except in a written instrument approved by a majority of the Orange County Board of County Commissioners, Lessee, and Owner of the Property described herein. No such modification or amendment shall be effective until said written instrument has been signed, acknowledged, and recorded in the Public Records of Orange County, Florida.
11. **COMPLIANCE WITH APPLICABLE LAWS**. Lessee and Owner shall comply with all applicable state laws and county ordinances, including the Orange County Right-of-Way Utilization Regulations.
12. **DISCLAIMER OF COUNTY RESPONSIBILITY**. Nothing contained herein shall create any obligation on the part of County to maintain or participate in the maintenance of the Improvement(s).
13. **EFFECTIVE DATE**. This Agreement shall take effect upon being recorded in the Public Records of Orange County, Florida.

[Signatures appear on following pages]

Use Agmt, 20__
<owner>, <lessee>

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.

COUNTY

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: _____
Teresa Jacobs,
Orange County Mayor

Date: _____

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

By: _____
Deputy Clerk

Use Agmt, 20__
<owner>, <lessee>

OWNER

<NAME OF OWNER>, a <state/type of entity>

By: _____

Print Name: _____

Title: _____

Date: _____

WITNESSES:

Print Name: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by _____, as
_____ of _____, 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: _____

Use Agmt, 20__
<owner>, <lessee>

LESSEE

<NAME OF LESEE>, a <state/type of entity>

By: _____

Print Name: _____

Title: _____

Date: _____

WITNESSES:

Print Name: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by _____, as
_____ of _____, 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: _____

Use Agmt, 20 __
<owner>, <lessee>

EXHIBIT "A"

Legal Description and Sketch of Description for Property

[See attached __ page(s)]

Use Agmt, 20 __
<owner>, <lessee>

EXHIBIT “B”

Legal description and sketch of description for Dedicated Areas

[See attached __ page(s)]

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