

RESOLUTION NO. 180304

A resolution of the City of Gainesville, Florida, approving the final plat named "GRAND OAKS AT TOWER – PHASE 1" located in the vicinity of Tower Road and SW 20th Avenue, Gainesville, Florida, as more specifically described in this resolution; accepting the dedication of the public rights-of-way, easements, and other dedicated portions as shown on the plat; authorizing the City Manager to execute security agreements to secure the construction of improvements; providing directions to the Clerk of the Commission; providing conditions and restrictions; and providing an immediate effective date.

WHEREAS, on August 28, 2018, the Development Review Board approved the design plat of the subject property with conditions (Petition No. DB-18-56-SUB); and

WHEREAS, on October 18, 2018, the City Commission approved the design plat with conditions and in accordance with the City of Gainesville Land Development Code (Chapter 30 of the Code of Ordinances); and

WHEREAS, the owner of the proposed subdivision has requested the City Commission to accept and approve the final plat as provided in Section 30-3.39 of the Land Development Code and in accordance with Chapter 177 of the Florida Statutes; and

WHEREAS, the owner has submitted a final plat that has met the conditions set forth in Petition DB-18-56 SUB and the conditions required by the City Commission on October 18, 2018; and

WHEREAS, the owner has submitted security agreements to secure the cost of the uncompleted subdivision improvements; and

WHEREAS, the owner thereby requests the City Commission to accept and approve the final plat in accordance with the Land Development Code and Chapter 177 of the Florida Statutes; and

WHEREAS, the City Commission finds that the final plat described herein is consistent with the City of Gainesville Comprehensive Plan.

1 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,**
2 **FLORIDA:**

3 **SECTION 1.** The final plat of "GRAND OAKS AT TOWER – PHASE 1" is accepted and approved by
4 the City Commission on the property lying in the City of Gainesville, Alachua County, Florida,
5 that is described in **Exhibit A** attached hereto and made a part hereof as if set forth in full.


6 **SECTION 2.** The City Manager is authorized to execute the Security Agreement for Construction
7 of Public Improvements, Security Agreement for Construction of Sidewalks, and Maintenance
8 Security Agreement for Public Improvements attached as **composite Exhibit B**, in accordance
9 with Section 30-3.39 of the Land Development Code, to secure the construction and completion
10 of the subdivision improvements required under the ordinances of the City of Gainesville.

11 **SECTION 3.** The Clerk of the Commission is authorized and directed to affix her signature to the
12 record plat on behalf of the City Commission and accept the dedication of public rights-of-way,
13 easements, and other dedicated portions as shown on the plat.

14 **SECTION 4.** This resolution shall be effective immediately upon adoption.


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16 **PASSED AND ADOPTED** this 7th day of March, 2019.

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LAUREN POE
MAYOR

Attest:



OMICHELE D. GAINNEY
CLERK OF THE COMMISSION

Approved as to form and legality:



Daniel M. Nee
for/ NICOLLE M. SHALLEY
CITY ATTORNEY

Legal Description

DATE: November 5, 2018
CLIENT: Gary Weseman
PROJECT NAME: Grand Oaks Phase 1
PROJECT NO: 17-0500
DESCRIPTION FOR: Phase 1 Boundary

A PARCEL OF LAND BEING A PORTION OF LOTS 3, AND 4 IN SECTION 9, TOWNSHIP 10 SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 9; THENCE SOUTH 00°51'18" EAST, ALONG THE WEST LINE OF SAID SECTION 9, A DISTANCE OF 1518.24 FEET TO THE NORTHWEST CORNER OF SAID LOT 3 IN SECTION 9; THENCE NORTH 88°56'39" EAST, ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 48.87 FEET TO AN INTERSECTION WITH THE EAST RIGHT OF WAY LINE OF SW 75TH STREET (100' RIGHT OF WAY); THENCE SOUTH 0°51'18" EAST, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 405.78 FEET TO THE CENTERLINE OF 100 FOOT WIDE POWER LINE EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 106, PAGE 48 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; THENCE DEPARTING SAID EAST RIGHT OF WAY LINE, NORTH 89°22'57" EAST, ALONG SAID POWER LINE EASEMENT CENTERLINE, A DISTANCE OF 800.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID POWER LINE EASEMENT CENTERLINE, NORTH 89°22'57" EAST, A DISTANCE OF 1293.58 FEET; THENCE DEPARTING FROM SAID POWER LINE EASEMENT CENTERLINE, NORTH 00°00'00" EAST, A DISTANCE OF 50.00 FEET TO THE NORTH LINE OF SAID POWER LINE EASEMENT CENTERLINE; THENCE NORTH 00°00'00" EAST, A DISTANCE OF 30.00 FEET; THENCE NORTH 90°00'00" WEST, A DISTANCE OF 50.00 FEET; THENCE NORTH 00°00'00" EAST, A DISTANCE OF 50.00 FEET; THENCE NORTH 90°00'00" EAST, A DISTANCE OF 50.00 FEET; THENCE NORTH 00°00'00" EAST, A DISTANCE OF 15.27 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 85.00 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 44°45'10" EAST, 119.89 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 89°30'21", AN ARC DISTANCE OF 132.78 FEET; THENCE NORTH 89°30'21" EAST, A DISTANCE OF 27.68 FEET; THENCE SOUTH 0°29'39" EAST, A DISTANCE OF 60.00 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 25.00 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 44°45'10" WEST, 35.20 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURE, THROUGH A CENTRAL ANGLE OF 89°30'21", AN ARC DISTANCE OF 39.05' FEET; THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 144.84 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 185.00 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 12°57'45" WEST, 83.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 25°55'30", AN ARC DISTANCE OF 83.71 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 90.00 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 12°57'45" WEST, 40.38 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 25°55'30", AN ARC DISTANCE OF 40.72 FEET; THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 16.96 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 20.00 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 45°00'00" EAST, 28.28 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 31.42 FEET; THENCE NORTH 90°00'00" EAST, A DISTANCE OF 5.00 FEET; THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 80.00 FEET; THENCE NORTH 90°00'00" EAST, A DISTANCE OF 84.21 FEET; THENCE SOUTH 0°22'24" EAST, A DISTANCE OF 397.40 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 537.00 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 72°29'34" EAST, 168.53 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF

SAID CURVE, THROUGH A CENTRAL ANGLE OF 18°03'24", AN ARC DISTANCE OF 169.23 FEET; THENCE SOUTH 63°27'52" EAST, A DISTANCE OF 105.91 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 25.00 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 71°32'08" EAST, 35.36 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 39.27 FEET; THENCE SOUTH 63°27'52" EAST, A DISTANCE OF 60.00 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 20.00 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 18°27'52" EAST, 28.28 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°00'01", AN ARC DISTANCE OF 31.42 FEET; THENCE SOUTH 63°27'52" EAST, A DISTANCE OF 339.89 FEET; THENCE NORTH 68°22'27" EAST, A DISTANCE OF 33.16 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF SW 20TH AVENUE (100' RIGHT OF WAY), SAID POINT BEING ON A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1959.86 FEET, AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 28°33'16" WEST, 81.53 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AND SAID NORTHWESTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 2°23'16", AN ARC DISTANCE OF 81.54 FEET; THENCE SOUTH 25°22'50" WEST, ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 55.56 FEET; THENCE NORTH 26°45'49" WEST, A DISTANCE OF 27.39 FEET; THENCE NORTH 63°27'52" WEST, A DISTANCE OF 341.14 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 20.00 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 71°32'08" WEST, 28.28 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 31.42 FEET; THENCE SOUTH 26°32'08" WEST, A DISTANCE OF 42.20 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 85.00 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 58°16'04" WEST, 89.41 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 63°27'52", AN ARC DISTANCE OF 94.15 FEET; THENCE NORTH 90°00'00" WEST, A DISTANCE OF 69.93 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 145.00 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 89°23'56" WEST, 3.04 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 1°12'08", AN ARC DISTANCE OF 3.04 FEET; THENCE SOUTH 01°01'10" EAST, A DISTANCE OF 158.75 FEET TO THE SOUTH LINE OF AFOREMENTIONED LOT 4 IN SECTION 9; THENCE SOUTH 88°58'50" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 1815.94 FEET; THENCE DEPARTING SAID SOUTH LINE, NORTH 00°51'18" WEST, A DISTANCE OF 497.81 FEET; THENCE NORTH 89°08'42" EAST, A DISTANCE OF 250.00 FEET; THENCE NORTH 00°51'18" WEST, A DISTANCE OF 609.89 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 42.786 ACRES, MORE OR LESS.

**ALL AS SHOWN ON THE MAP
ATTACHED HERewith AND MADE
A PART HEREOF**

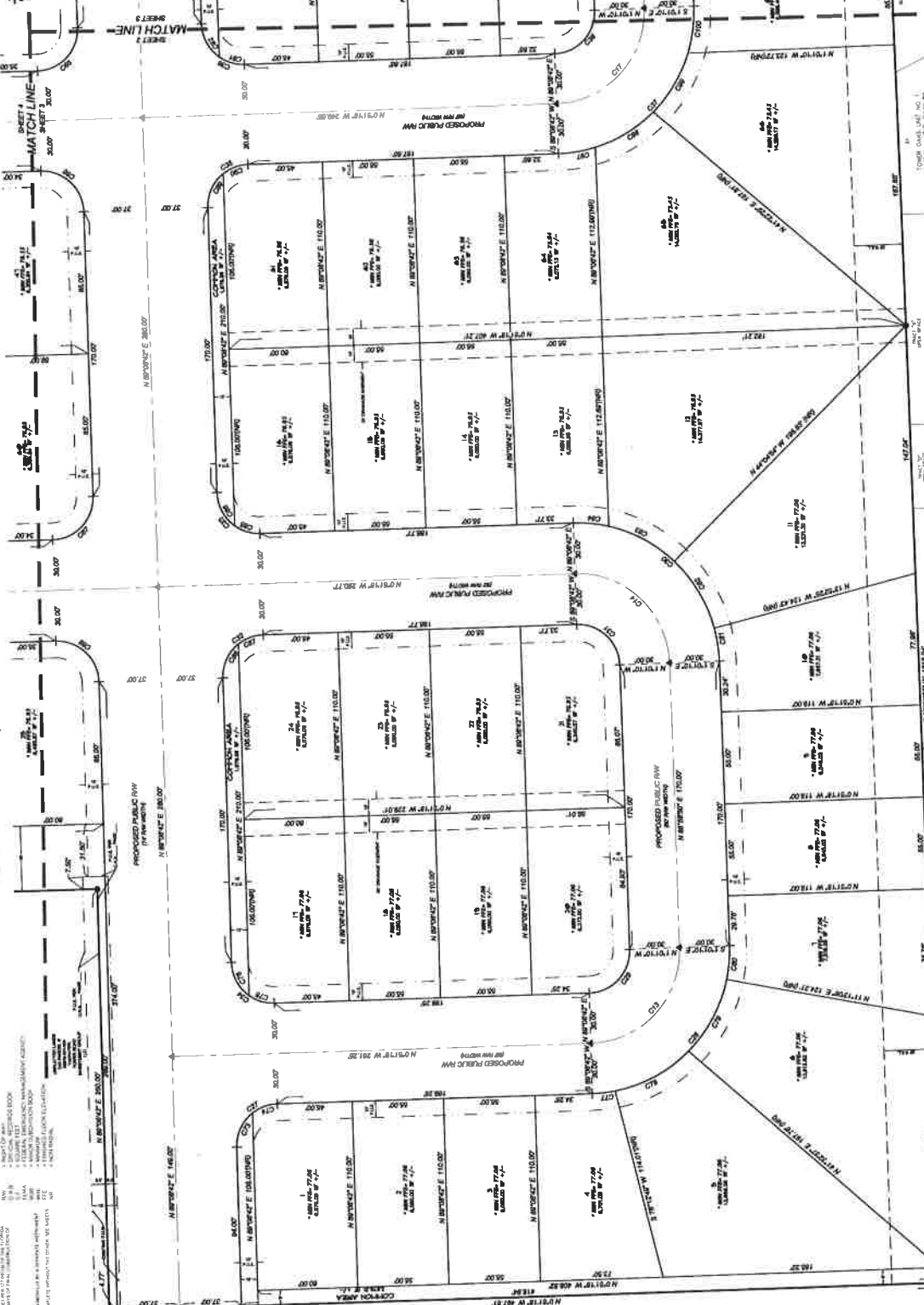
GRAND OAKS AT TOWER - PHASE 1

SITUATED IN LOTS 3 AND 4, SECTION 9,
TOWNSHIP 10 SOUTH, RANGE 19 EAST,
CITY OF GAINESVILLE,
ALACHUA COUNTY, FLORIDA

LEGEND:

- 1. ALL DIMENSIONS SHALL BE IN FEET AND INCHES.
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GRAND OAKS AT TOWER - PHASE I

SITUATED IN LOTS 3 AND 4, SECTION 9,
TOWNSHIP 19 SOUTH, RANGE 19 EAST,
CITY OF GAINESVILLE,
ALACHUA COUNTY, FLORIDA

CHW
Professional Corporation

1980 Research Drive
Alachua, Florida 32601
P.O. Box 1000
Winter Haven, Florida 33894
Tel: 888-345-5075

PLAT BOOK —, PAGE —
SHEET THREE OF SIX

SURVEYOR'S NOTES:

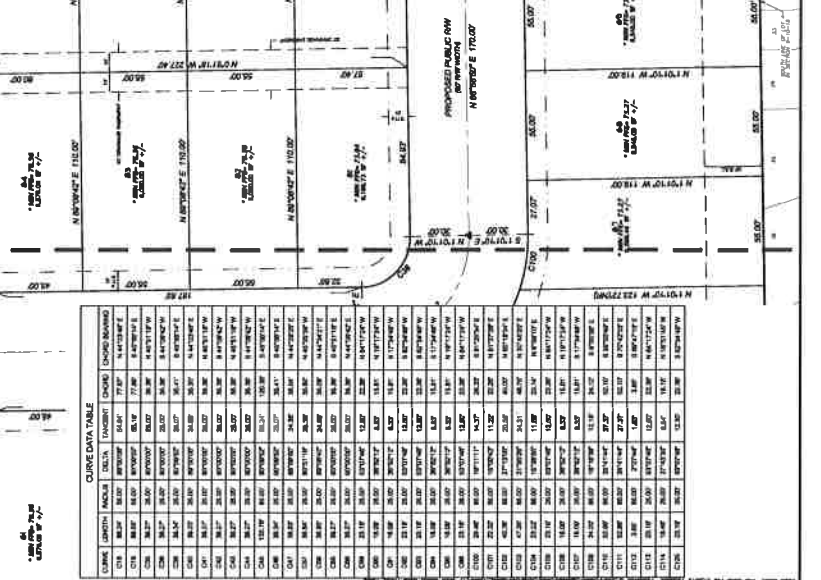
1. THIS SURVEY WAS MADE FROM THE CORNER OF THE SECTION 9, TOWNSHIP 19 SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA.
2. THE CORNER WAS FOUND BY THE SURVEYOR AND IS BEING RECORDED AS SUCH.
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LEGEND:

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- 20. FOUND BY SURVEYOR (AS NOTED)

CURVE DATA TABLE

CURVE	LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
C1	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C2	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C3	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C4	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C5	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C6	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C7	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C8	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C9	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C10	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C11	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C12	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C13	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C14	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C15	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C16	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C17	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C18	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C19	100.00	90.00	100.00	141.42	N 45.00° E 135.00°
C20	100.00	90.00	100.00	141.42	N 45.00° E 135.00°

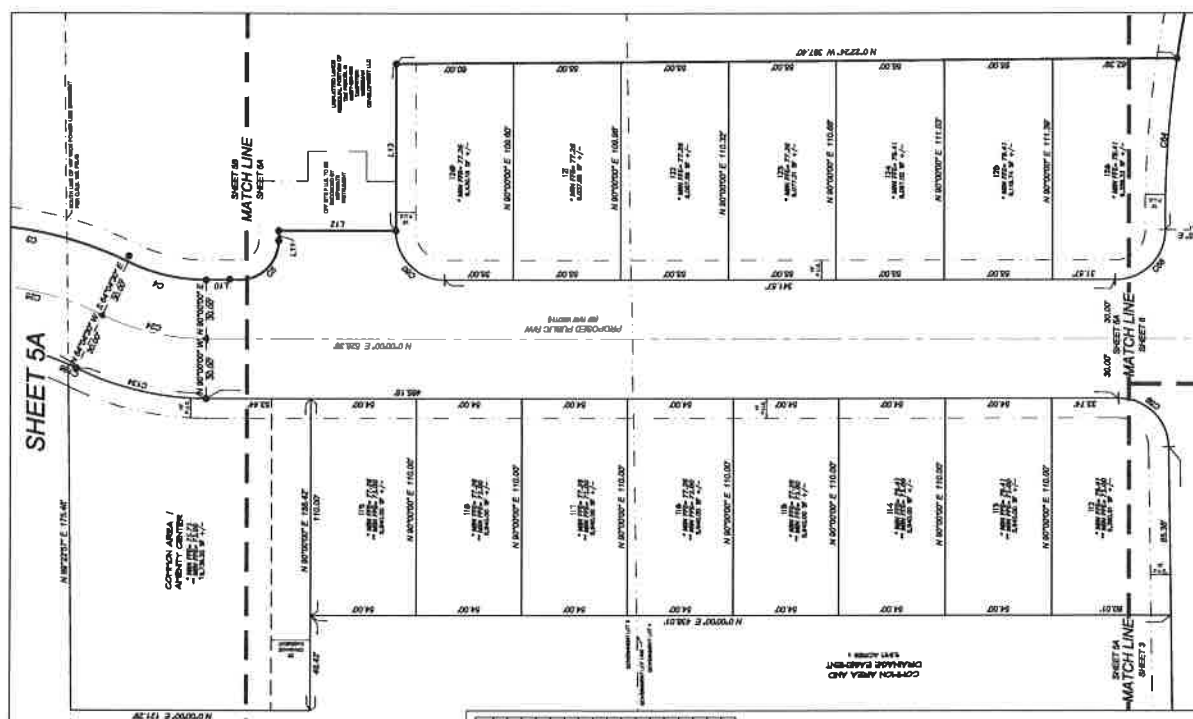


GRAND OAKS AT TOWER - PHASE I
 SITUATED IN LOTS 3 AND 4, SECTION 9,
 TOWNSHIP 10 SOUTH, RANGE 19 EAST,
 CITY OF GAINESVILLE, ALACHUA COUNTY, FLORIDA

CHW
 CONSULTANTS
 1800 Research Drive
 Alachua, Florida 32310
 www.chw.com
 P.L.L.C.
 REG. IN FLORIDA
 CA 5075

PLAT BOOK _____, PAGE _____
 SHEET FIVE OF SIX

- LEGEND:**
- 1. CONCRETE CURB
 - 2. CONCOURSE
 - 3. CONCOURSE WITH CURB
 - 4. CONCOURSE WITH CURB AND SIDEWALK
 - 5. CONCOURSE WITH CURB AND SIDEWALK WITH BIKEWAY
 - 6. CONCOURSE WITH CURB AND SIDEWALK WITH BIKEWAY AND BIKEWAY LIGHTS
 - 7. CONCOURSE WITH CURB AND SIDEWALK WITH BIKEWAY AND BIKEWAY LIGHTS AND BIKEWAY SIGNAGE
 - 8. CONCOURSE WITH CURB AND SIDEWALK WITH BIKEWAY AND BIKEWAY LIGHTS AND BIKEWAY SIGNAGE AND BIKEWAY FURNITURE
 - 9. CONCOURSE WITH CURB AND SIDEWALK WITH BIKEWAY AND BIKEWAY LIGHTS AND BIKEWAY SIGNAGE AND BIKEWAY FURNITURE AND BIKEWAY PLANTING
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CURVE DATA TABLE

LINE	LENGTH	ANGLE	CHORD	CHORD BEARING
1	10.00	90.00	10.00	N 0°00'00" E 10.00
2	10.00	90.00	10.00	N 90°00'00" W 10.00
3	10.00	90.00	10.00	S 0°00'00" E 10.00
4	10.00	90.00	10.00	S 90°00'00" W 10.00
5	10.00	90.00	10.00	N 0°00'00" E 10.00
6	10.00	90.00	10.00	N 90°00'00" W 10.00
7	10.00	90.00	10.00	S 0°00'00" E 10.00
8	10.00	90.00	10.00	S 90°00'00" W 10.00
9	10.00	90.00	10.00	N 0°00'00" E 10.00
10	10.00	90.00	10.00	N 90°00'00" W 10.00
11	10.00	90.00	10.00	S 0°00'00" E 10.00
12	10.00	90.00	10.00	S 90°00'00" W 10.00
13	10.00	90.00	10.00	N 0°00'00" E 10.00
14	10.00	90.00	10.00	N 90°00'00" W 10.00
15	10.00	90.00	10.00	S 0°00'00" E 10.00
16	10.00	90.00	10.00	S 90°00'00" W 10.00
17	10.00	90.00	10.00	N 0°00'00" E 10.00
18	10.00	90.00	10.00	N 90°00'00" W 10.00
19	10.00	90.00	10.00	S 0°00'00" E 10.00
20	10.00	90.00	10.00	S 90°00'00" W 10.00

LINE DATA TABLE

LINE	DIRECTION	LENGTH
1	N 0°00'00" E	10.00
2	N 90°00'00" W	10.00
3	S 0°00'00" E	10.00
4	S 90°00'00" W	10.00
5	N 0°00'00" E	10.00
6	N 90°00'00" W	10.00
7	S 0°00'00" E	10.00
8	S 90°00'00" W	10.00
9	N 0°00'00" E	10.00
10	N 90°00'00" W	10.00
11	S 0°00'00" E	10.00
12	S 90°00'00" W	10.00
13	N 0°00'00" E	10.00
14	N 90°00'00" W	10.00
15	S 0°00'00" E	10.00
16	S 90°00'00" W	10.00
17	N 0°00'00" E	10.00
18	N 90°00'00" W	10.00
19	S 0°00'00" E	10.00
20	S 90°00'00" W	10.00

SECURITY AGREEMENT FOR CONSTRUCTION OF SIDEWALKS

THIS AGREEMENT ("Agreement") is entered into on the ____ day of _____, 20____, by and between the **City of Gainesville, Florida**, a municipal corporation ("City"), **Weseman Development, LLC**, a Florida limited liability company ("Developer"), and **Renasant Bank**, a Mississippi state-chartered bank ("Issuer").

WITNESSETH

WHEREAS, the Developer is the fee simple owner and developer of the subdivision named **Grand Oaks at Tower – Phase 1**, which is located in the City of Gainesville, as per Plat thereof recorded in Plat Book _____, Page _____, of the Public Records of Alachua County, Florida ("Subdivision"); and

WHEREAS, pursuant to Section 30-3.39 of the City of Gainesville Land Development Code, a subdivision final plat shall not be approved by the City unless the Developer has provided the City with security in one of the forms allowed for in Section 30-3.39 to secure the construction and completion, within 12 months from the date of final plat approval, of all the subdivision public improvements required by the City-approved subdivision development plans and specifications, the Land Development Code and all other applicable local, state, and federal regulations ("Public Improvements"); and

WHEREAS, the Developer's final plat was approved by the City and in accordance with Section 30-3.37 of the Land Development Code, the Developer provided security and entered into a security agreement with the City on the ____ day of _____, 20____, ("Security Agreement") to secure the construction and completion of the Subdivision Public Improvements; and

WHEREAS, the installation of all Subdivision sidewalks is the responsibility of the Developer and included within the Public Improvements required for the Subdivision, and generally shall be installed prior to the acceptance for maintenance of the Public Improvements. However, pursuant to Section 30-6.6 K. of the Land Development Code and if the Developer provides the required security, the Developer may elect to postpone the installation of certain sidewalks not including those fronting common areas such as stormwater basins, entrance streets, or open space ("Eligible Sidewalks") until building permits are issued for 60 percent of the Subdivision lots, but such postponement shall last for no longer than five years and therefore all Subdivision sidewalks shall be installed no later than five years from the date of final plat approval; and

WHEREAS, the security provided by the Developer for the construction of Eligible Sidewalks shall be enforceable by and payable to the City in a sum at least equal to 150 percent of the total cost to construct and complete the Eligible Sidewalks. The total cost of construction shall be indicated in an executed, itemized contract verified by a private engineer acting for the Developer or in a professional engineer's signed and sealed estimate, and shall be verified and approved by the Public Works Director or designee. Improvements otherwise covered by a separate security agreement between the Developer and the City and those improvements already constructed and approved by the Public Works Director or designee shall not be included when determining the cost of improvements subject to this Agreement; and

WHEREAS, the estimated total cost to construct and complete the Eligible Sidewalks is _____, Therefore, the Developer shall provide security in an amount equal to or greater than _____; and

WHEREAS, following construction of the Subdivision Public Improvements, including the Eligible Sidewalks, the Developer shall provide the City with maintenance security in accordance with Section 30-3.39 C. of the Land Development Code to be used by the City to pay the costs of any necessary repairs and maintenance on the Subdivision Public Improvements for a period of one year following the date the City has approved and accepted for maintenance the Subdivision Public Improvements ("Maintenance Period"); and

WHEREAS, this Agreement and the security provided herein is separate and distinct from the maintenance security that the Developer shall also comply with in accordance with Section 30-3.39 C. of the Land Development Code.

NOW THEREFORE, in consideration of the mutual covenants as set forth below, the parties agree as follows:

1. **Effective Date and Term.** This Agreement shall become effective on the date the last of the parties executes this Agreement as indicated below ("Effective Date") and shall remain in effect until the Security has been released in accordance with Section 3 of this Agreement.
2. **Security.** The Developer shall provide, on the same date as the Effective Date of this Agreement, the following form of Security for the Developer's construction and completion of the Eligible Sidewalks. The Security provided by the Developer shall be enforceable by and payable to the City in a sum at least equal to 150 percent of the total cost to construct and complete the Eligible Sidewalks, which sum shall be verified and approved by the City Manager or designee. *((Fill in one of the below.))*
 - ___ **Cash Deposit:** Developer shall deposit with the City Director of Management and Budget a cash deposit in the amount of _____, lawful money of the United States of America. Interest earned on the cash deposit shall be for the account and to the credit of the person or persons making such deposit.
 - ___ **Surety Bond:** Developer shall cause Issuer to issue to the City, as beneficiary, a Surety Bond in the amount of _____, lawful money of the United States of America. The Issuer shall be a surety company authorized to do business in the state of Florida with a rating of not lower or less than A-XII as rated by A.M. Best Company, Inc.
 - ___ **Irrevocable and Unconditional Letter of Credit:** Developer shall cause Issuer to issue to the City, as beneficiary, an Irrevocable and Unconditional Letter of Credit in the amount of _____, lawful money of the United States of America. The Issuer shall be a Florida bank. The Security issued shall, by its terms, be irrevocable, unconditional, and provide for drafts to be honored at a banking location within Alachua County, Florida.
 - ___ **Construction Loan Agreement:** Developer shall deposit with the City a certified copy of a Construction Loan Agreement between Issuer and the Developer evidencing the terms of a construction development loan by Issuer to Developer in the amount of Three Million Four Hundred Sixty Thousand and 00/100 Dollars (\$3,460,000.00), upon condition that Developer

maintain its existing account with Issuer containing Two Million and 00/100 Dollars (\$2,000,000.00) as Developer's cash equity toward the project costs and from which the initial development costs shall be paid. Under the terms and conditions of Developer's Construction Loan Agreement with Issuer, Developer's total available funds are Five Million Four Hundred Sixty Thousand and 00/100 Dollars (\$5,460,000.00), lawful money of the United States of America. The Construction Loan Agreement, by its terms, shall be for the benefit of and satisfactory to the City. The Issuer shall make payments on the proceeds of the loan to the City in accordance with Section 3 of this Agreement.

3. **Terms of Security.** The Developer shall construct and complete all Eligible Sidewalks, as evidenced by the inspection and written approval of the City's Public Works Director or designee, within 12 months from the date building permits are issued for 60 percent of the Subdivision lots or within five years from the date of final plat approval, whichever is soonest. In the event the Developer has not completed construction of the Eligible Sidewalks and received approval of the City for same within the timeframe described herein, the Developer shall be deemed in default and the City shall have the right without prior notice to Developer to draw on the Security in such amount as the City deems necessary to complete construction of that portion of the Eligible Sidewalks that have not been completed.

Upon the Developer's completion of any portion of the Eligible Sidewalks, as evidenced by the inspection and written approval of the City's Public Works Director or designee, and the Developer providing the City with the appropriate maintenance security required by Section 30-3.39 C. of the Land Development Code, a portion of the Security may be released in an amount equal to the City-approved costs of such completed Eligible Sidewalks. However, at no time before all Eligible Sidewalks have been completed and so certified by the City shall the balance of the Security be reduced to less than 30 percent of the estimated total cost to construct and complete all Eligible Sidewalks as written above. If the Developer completes the construction of all Eligible Sidewalks, with inspection and written approval by the City, and provides the appropriate maintenance security required by Section 30-3.39 C. of the Land Development Code, then the Security shall be released.

4. **Developer's Responsibilities.** The Developer shall construct and complete the Eligible Sidewalks, as evidenced by the inspection and written approval of the City's Public Works Director or designee, within the timeframe and in accordance with the terms described in this Agreement. In accordance with Section 30-6.6 K. of the Land Development Code, the Developer warrants any completed Eligible Sidewalks against all defects in materials and construction workmanship and also against design defects, and shall provide maintenance security for same.
5. **City's Responsibilities.** The City agrees to fulfill its responsibilities as required by the provisions of the City's Land Development Code, as may be amended from time to time.
6. **Issuer's Responsibilities.** This section is applicable only if the Developer provided Security to the City in the form of a surety bond, an irrevocable and unconditional letter of credit, or a construction loan agreement. The Issuer agrees that the Security shall remain valid for the term of this Agreement and shall be maintained and administered in accordance with this Agreement, and that any disbursement or release of the Security during the term of this Agreement shall not be made without the express written approval and certification of the City. In the event the Security can only be issued for a limited term, the Security shall provide for automatic extensions, without requiring written amendment, for successive periods as necessary to include the full term of this Agreement.

In addition, the Issuer shall provide written notice to the City at least 60 calendar days in advance of any expiration date, in the event the term of the Security will not be extended beyond the then current expiration date.

7. **Inspection.** During the term of this Agreement, the City may inspect the Subdivision at any time during reasonable business hours to determine if Developer has complied with this Agreement.
8. **Relationship.** This Agreement does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture between the City and the Developer or the Issuer. The Developer or the Issuer cannot create any obligation or responsibility on behalf of the City or bind the City in any manner. Each party is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether the same is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. Each party acknowledges that none of the other parties hereto is acting as a fiduciary for or an adviser to it in respect of this Agreement or any responsibility or obligation contemplated herein.
9. **Bankruptcy.** The filing by the Developer or the Issuer of a petition for relief under federal bankruptcy laws or any other similar law or statute of the United States, or the entry of an order or decree appointing a receiver of the Developer or the Issuer or their respective assets, shall not affect the Security or the City's rights under this Agreement.
10. **Modification and Waiver.** This Agreement may only be modified or waived in writing signed by all the parties. No course of dealing shall be deemed a waiver of rights or a modification of this Agreement. The failure of any party to exercise any right in this Agreement shall not be considered a waiver of such right. No waiver of a provision of this Agreement shall apply to any other portion of this Agreement. A waiver on one occasion shall not be deemed to be a waiver on other occasions.
11. **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, notwithstanding any Florida conflict of law provision to the contrary. Any legal action, in equity or law, with respect to this Agreement shall be brought and heard in Alachua County, Florida.
12. **Sovereign Immunity.** Nothing in this Agreement shall be interpreted as a waiver of the City's sovereign immunity as granted under Section 768.28, Florida Statutes.
13. **Severability.** Any provision of this Agreement held by a court of competent jurisdiction to be invalid, illegal or unenforceable shall be severable and shall not be construed to render the remainder to be invalid, illegal or unenforceable.
14. **Captions.** The captions and headings of sections or paragraphs used in this Agreement are for convenient reference only and shall not limit, define or otherwise affect the substance or construction of provisions of this Agreement.
15. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. Any representations or statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein.

16. **Successors and Assigns.** No parties to this Agreement shall assign or transfer any interest in this Agreement without the prior written consent of the other parties. The parties each bind the others and their respective successors and assigns in all respects to all the terms, conditions, covenants, and provisions of this Agreement.
17. **Time.** Time is of the essence in this Agreement. Whenever a notice or performance is to be done on a Saturday or Sunday or on a legal holiday observed by the City, it shall be postponed to the next business day.
18. **Notices.** Any notices pursuant to this Agreement shall be effective upon receipt and sent by either certified mail, return receipt requested, overnight courier service, or delivered in person to the following addresses:

To the City: City Manager
 City of Gainesville
 P.O. Box 490, Station 6
 Gainesville, Florida 32602-0490

With a copy: Director of Public Works
 City of Gainesville
 P.O. Box 490, Station 58
 Gainesville, Florida 32602-0490

To the Developer: Weseman Development, LLC
 c/o Gary Weseman, Manager
 1501 NW 98th Street
 Gainesville, FL 32606
 Phone: _____
 Fax: _____

To the Issuer: Renasant Bank
 c/o David Wilson, Market President
 4373 W. Newberry Road
 Gainesville, FL 32607
 Telephone: _____
 Fax: _____

[REMAINDER OF THIS PAGE BLANK. SIGNATURES TO FOLLOW.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by duly authorized officials on the dates written below.

WITNESSES:

CITY OF GAINESVILLE

Sign: _____

Print Name: _____

By: _____

Deborah Bowie
City Manager

Sign: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF ALACHUA

I, an officer duly authorized in the state and county named above to take acknowledgments, certify that on this date before me, the foregoing Instrument was acknowledged by Deborah Bowie, City Manager of the City of Gainesville. He or she personally appeared before me and is: (check one of the below)

_____ personally known to me, or

_____ produced the following type of identification: _____

Executed and sealed by me on _____, _____.

Notary Public
Print Name: _____
My Commission expires: __/__/__

WITNESSES:

Sign: [Signature]
Print Name: **JONATHAN M. TURNER**

Sign: [Signature]
Print Name: **Pamela K. O'Steen**

DEVELOPER:

Weseman Development, LLC

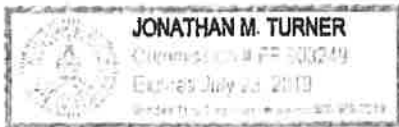
By: [Signature]
Print Name: Gary Weseman
Title: Manager

STATE OF FLORIDA
COUNTY OF ALACHUA

I, an officer duly authorized in the state and county named above to take acknowledgments, certify that on this date before me, the foregoing instrument was acknowledged by Gary Weseman, as Manager for and on behalf of Weseman Development, LLC. He/she personally appeared before me and is: (check one of the below)

personally known to me, or
 produced the following type of identification: _____

Executed and sealed by me on February 15, 2019.



[Signature]
Notary Public
Print Name: _____
My Commission expires: / /

WITNESSES:

Sign: [Signature]
Print Name: JONATHAN M. TURNER

Sign: [Signature]
Print Name: Pamela K. O'Steen

ISSUER:

Renasant Bank

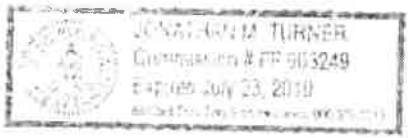
By: [Signature]
Print Name: David Wilson
Title: Market President

STATE OF FLORIDA
COUNTY OF ALACHUA

I, an officer duly authorized in the state and county named above to take acknowledgments, certify that on this date before me, the foregoing instrument was acknowledged by David Wilson, as Market President, for and on behalf of Renasant Bank. He/she personally appeared before me and is: (check one of the below)

personally known to me, or
 produced the following type of identification: _____


Executed and sealed by me on February 15, 2019.



[Signature]
Notary Public
Print Name: _____
My Commission expires: / /

I CERTIFY THIS TO BE A TRUE

& EXACT COPY OF THE ORIGINAL


JONATHAN M. TURNER

This instrument prepared by:
Jonathan M. Turner, Esq.
Scruggs, Carmichael & Wershow, P.A.
2234 N.W. 40th Terrace, Suite B
Gainesville, FL 32605
JMT 19-2075

CONSTRUCTION LOAN AGREEMENT

BORROWER	
Weseman Development, LLC, a Florida limited liability company assigned document #L16000201066	
ADDRESS	
1501 N.W. 98th Street, Gainesville, FL 32606	
TELEPHONE NUMBER (352) 333-9333	IDENTIFICATION NUMBER 47-3809983

OFFICER IDENTIFICATION	INTEREST RATE	PRINCIPAL AMOUNT	FUNDING DATE	MATURITY DATE	CUSTOMER NUMBER	LOAN NUMBER
David Wilson	ARM	\$3,460,000.00	February 15, 2019	February 15, 2021		

LOCATION OF REAL PROPERTY SECURING THE LOAN: Grand Oaks at Tower - Phase I, Gainesville, Alachua County, Florida

1. DEFINITIONS. In this Agreement, the following words and phrases shall have the following meanings:

- 1.1 "Engineer" shall mean the person or entity who has prepared Plans and Specifications for the construction of the Improvements;
- 1.2 "Assignment of Leases" shall mean the Assignments of Rents and Leases executed by Borrower which creates a first lien on the leases of, and rents from, the Property;
- 1.3 "Borrower" shall mean the borrower identified above;
- 1.4 "City" shall mean the City of Gainesville, Florida, a municipal corporation
- 1.5 "Code" shall mean the Uniform Commercial Code as currently enacted in the state where the Property is located;
- 1.6 "Completion Date" shall mean one year from the date of final plat approval by the City of Gainesville for all Public Improvements, or the issuance of a Certificate of Occupancy for any single family residence, as the context so requires.
- 1.7 "Construction Budget" shall mean the estimated cost of the construction of the Improvements in accordance with the Plans and Specifications as approved by Lender;
- 1.8 "Contractor" shall mean the general contractor hired by Borrower to complete construction of the Improvements;
- 1.9 "Guarantor" shall mean any accommodation maker, guarantor or other party liable for the payment of Borrower's obligations under the Loan;
- 1.10 "Improvements" shall mean the proposed structure(s) to be placed or constructed upon or within the Property by Borrower, the cost of which shall be funded in whole or in part by periodic disbursements of the proceeds of the Loan, which proposed structure(s) is (are) more fully described in Schedule C hereto;
 - 1.10.1 "Public Improvements" shall mean all Improvements specifically for the public and common areas in the Grand Oaks at Tower Phase I subdivision approved design plat, and improvements required by Sections 30-3.38 and 30-6.6 of the City of Gainesville Land Development Code, the Public Works Design Manual, and all other applicable local, state, and federal regulations as referenced in the Surety Agreement for Construction of Public Improvements, dated _____
- 1.11 "Lender" shall mean: **Renasant Bank, 4373 W. Newberry Road, Gainesville, FL 32607.**

CONSTRUCTION LOAN AGREEMENT

Page 2

1.12 "Loan" shall mean the construction loan made by Lender to Borrower in the principal amount described above;

1.13 "Loan Documents" shall collectively mean the Promissory Note, Security Instrument (as defined herein), Security Agreement, consent of contractor, consent of Engineer, the construction schedule, this Agreement and any other instrument executed in connection with or evidencing the Loan;

1.14 "Plans and Specifications" shall mean the plans and specification approved by Lender pertaining to the construction of Improvements upon the Property and approved by the City pertaining to the construction of Public Improvements;

1.15 "Premises" shall mean the Property, together with the Improvements, fixtures and personal property located upon or within the property;

1.16 "Promissory Note" shall mean that certain Promissory Note in the aggregate principal amount of the Loan payable to the order of the Lender, executed by Borrower, evidencing the Loan;

1.17 "Property" shall mean the real property located at the location described above and legally described in Schedule A, attached hereto and incorporated herein by reference;

1.18 "Security Agreement" shall mean that certain security agreement executed by Borrower that creates a first lien on all chattels, furniture, furnishings, fixtures, machinery, equipment, appliances and other personal property owned by Borrower and used or to be used in the operation of the Premises; and

1.19 "Security Instrument" shall mean the mortgage or deed of trust executed by Borrower/ Grantor/ Mortgagor which evidences a first lien on the Property and secures the Promissory Note.

2. AMOUNTS AND TERMS OF LOAN.

2.1 Lender shall make the Loan to Borrower to construct the Improvements on the terms and conditions set forth herein. Borrower, and any co-makers, agree to execute and deliver the Promissory Note in the principal amount of the Loan. Advances under the Loan shall be made to Borrower or others from time to time pursuant to the terms and conditions described in the Promissory Note and this Agreement. Interest shall be imposed on all sums advanced from the date of each advance at the rate of interest described in the Promissory Note. Principal, interest and any other sums owing under the Loan Documents shall be repaid to Lender in the manner described therein.

2.2 Borrower agrees to pay to Lender a loan fee in the amount of \$12,1100.00 on the date of closing of the Loan.

3. COLLATERAL.

3.1 To secure the performance of Borrower's obligations to Lender under the Loan, Borrower agrees promptly to execute and deliver to Lender the Security Instrument, Security Agreements, consent of contractor, consent of Engineer, financing statements, and other appropriate documents deemed necessary or desirable by Lender to provide Lender with the first lien and security interest on the Premises. The Security Instrument, Security Agreements, financing statements, and other documents, shall be in a form and content satisfactory to Lender in its sole discretion.

3.2 Borrower agrees to execute and deliver to Lender an Assignment of Leases in form and content satisfactory to Lender in its sole discretion.

3.3 As additional collateral for the Loan, Borrower hereby grants to Lender a security interest and hereby assigns all of Borrower's right, title and interest in all monies, instruments and deposit accounts of Borrower maintained with Lender.

3.4 In the event partial releases are to be executed by Lender from time to time, Lender shall execute and deliver such partial releases upon the conditions and under the terms described in the Security Instrument. However, no partial release will be executed by Lender if it would otherwise interfere

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with the development of the Property which remains encumbered by the Security Instrument or if Borrower is in default of any obligation under this Agreement or the Loan Documents.

3.5 Borrower shall deposit an equity contribution in the amount of Two Million and 00/100 Dollars (\$2,000,000.00) into an account held by Lender (hereafter, "Equity Account") and execute and deliver to Lender a collateral assignment of said account granting Lender a first-lien security interest for additional collateral to the Loan.

4. DISBURSEMENT PROCEDURES.

4.1 Disbursement of the Loan shall be made by Lender for construction and development costs in accordance with the approved Construction Budget (covering both hard and soft costs) and the approved schedule of estimated monthly disbursements.

4.1.1 Initial disbursements for construction and development costs towards the Improvements shall be made from the existing balance of the Borrower's Equity Account until the balance is zero (\$0.00), at which time the proceeds of the Loan shall be used for further disbursements until the Improvements are completed.

4.2 No extra work or changes in the Plans and Specifications or the Construction Budget shall be ordered or authorized by Borrower without the written consent of Lender. If Lender approves of any extra work or changes, Lender shall have the right to withhold any pending or future disbursement and shall require that Borrower pay the cost of these items from its own funds and not from the Loan proceeds.

4.3 At the time of any disbursement request, Borrower shall complete, execute and deliver to Lender a request for an advance on Lender's standard form draw request, attached hereto as Exhibit 1, or in the standard A1A draw request as directed by Lender. Each request for an advance must be accompanied by evidence in form and content satisfactory to Lender, which may include, but may not necessarily be limited to, invoices and statements, certificates, affidavits and other declarations as Lender may deem necessary of Borrower, Engineer or Contractor, and City, all of which shall show:

4.3.1 The value of the portion of the Improvements completed at that time;

4.3.2 That all outstanding claims for labor, services and materials through the previous draw request have been paid;

4.3.3 That there are no liens outstanding against the Premises except the lien belonging to Lender and inchoate liens for property taxes not yet due; and

4.3.4 That copies of all bills or statements for expenses for which the advance is requested are attached to such request for advance.

4.4 Subject to Paragraph 4.5 below, all disbursements shall be made directly to the Borrower. All Loan funds shall be considered to be advanced to and received by Borrower, and interest on such funds shall be payable by Borrower from and after, their deposit in any disbursement account or direct advance by Lender to the Borrower or charge against Loan funds as provided in Paragraph 4.5 below.

4.5 Notwithstanding the provisions of Paragraph 4.4 above, Lender may elect, without further notice to or authorization by Borrower, to use the Loan funds to pay, as and when due, any Loan fees owing to Lender, accrued, unpaid interest on the Loan, amounts secured by prior liens on the Property, legal fees and expenses of Lender's attorneys which are payable by Borrower, and such other sums as may be owing from time to time by Borrower to Lender with respect to the Loan. On or before each interest payment date, Lender shall invoice Borrower for the amount of the required interest payment. Borrower shall promptly make such payments to Lender as and when due. Notwithstanding any of the provisions of this Paragraph, Lender's agreement to make such advances for interest or loan fees shall be subject to compliance with the conditions precedent set forth in Paragraph 4.9 below.

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4.6 If Lender at any time determines in good faith that the amount of the undisbursed Loan proceeds shall not be sufficient to pay fully for all costs required to complete the Improvements in accordance with the Plans and Specifications as well as all financing and development costs to be incurred by the Borrower, whether such deficiency is attributable to changes in the work or construction or in the Plans and Specifications or to any cause, Lender may make written demand on Borrower to deposit with Lender funds equal to the amount of the projected shortage. Borrower shall deposit the required funds with Lender within ten days after the date of Lender's written demand. No further disbursements need to be made by Lender until those funds are deposited by Borrower with Lender. Whenever Lender has any such funds on deposit, all disbursements shall be made by Lender first from those funds until they are exhausted.

4.7 At no time and in no event shall Lender be obligated to disburse funds:

4.7.1 In excess of the amount recommended by Lender's architectural or engineering representative, who, at the option of Lender, shall make periodic inspections of the Premises at Borrower's expense;

4.7.2 If any event of default under this Agreement, the Security Instrument, or any other Loan Documents has occurred and has not been cured;

4.7.3 If the Improvements have been damaged by fire or other casualty and Lender has not received insurance proceeds sufficient in the sole judgment of Lender to effect the restoration of the Improvements in accordance with Plans and Specifications and to permit the completion of the Improvements on or before the Completion Date described in this Agreement;

4.7.4 For stored materials until they are actually incorporated into the improvements, except on such conditions and such occasions as may be approved by Lender in its sole discretion;

4.7.5 If Lender believes in good faith that the priority of Lender's lien may be adversely affected; or

4.7.6 If the Lender concludes that the construction of the Improvements has fallen behind any construction schedule approved by Lender or the cost of completing construction of the Improvements at any time exceeds the amount remaining to be drawn under the Loan by a factor of more than five percent (5.0%) or \$5,000.00, whichever is less.

4.8 Lender shall not be required to make the first disbursement of the Loan until Borrower has fulfilled to Lender's satisfaction all conditions of Lender's written loan commitment to Borrower and all of Lender's customary and reasonable loan closing and post-loan closing conditions for construction loans have been met, which include, but are not limited to, the following:

4.8.1 Lender has received the executed Loan Documents (including without limitation the Promissory Note and Security Instrument), and the Security Instrument, Security Agreement, Assignment of Leases and financing statements have been duly recorded or filed, as applicable;

4.8.2 After recordation of the Security Instrument, a title insurance company acceptable to Lender must have issued, at the expense of Borrower, an ALTA (or equivalent) Lender's extended coverage policy of title insurance in an amount and form satisfactory to Lender subject only to exceptions approved by Lender in writing, together with any endorsements required by Lender;

4.8.3 Lender's security interest in all personal property and fixtures upon the Premises as described in the Security Agreement must have been duly perfected and has a lien priority in all respects satisfactory to Lender;

4.8.4 If Lender so requests, an environmental questionnaire or assessment has been delivered to Lender and Borrower agrees to indemnify Lender for any violation of any environmental laws which concern the Premises;

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- 4.8.5 The Plans and Specification must have been approved by Lender and any other persons or agencies whose prior approval is required by law or any covenants, conditions or restrictions applicable to the Property, and all insurance policies, executed general contracts and performance and payment bonds required by Lender must be approved by Lender and be in full force and effect;
- 4.8.6 Borrower must have satisfied all conditions described in Lender's commitment letter to Borrower pertaining to the Loan;
- 4.8.7 Lender's loan fee must have been paid or be payable out of the initial disbursement upon recordation of the Security Instrument;
- 4.8.8 Lender shall have received executed copies of all of Borrower's agreements with the Contractor and the Engineer for the construction of the Improvements and approved same;
- 4.8.9 If Borrower or any accommodation maker, guarantor, or other party liable for the payment of Borrower's obligations under the Loan (collectively "Guarantors") is a partnership, corporation, limited liability company or non-profit association, such parties must have delivered to Lender one or more opinions of counsel in a form and context acceptable to Lender stating among other things that such party is duly organized, validly existing and is in good standing in the jurisdiction of its incorporation or organization and in each jurisdiction where its failure to so qualify would have a material adverse effect on its business, operations or its ability to carry out its obligations under the Loan Documents, and has duly authorized by all requisite corporate, member/manager or partnership action the execution, delivery and performance of the Loan Documents;
- 4.8.10 If Borrower or any Guarantor is a partnership, corporation, limited liability company or non-profit association, such parties must have delivered to Lender such certified copies of directors' and stockholders' resolutions, partnership, operating or joint venture agreements, etc., as may be necessary, in the Lender's judgment, to authorize and support the execution and delivery of all documents contemplated by the Loan;
- 4.8.11 Borrower has satisfied Lender and the title insurance company issuing the policy required under Paragraph 4.8.2 that no work has been commenced prior to the recordation of the Security Instrument; and
- 4.8.12 Lender is not required to disburse funds under the conditions described in Paragraph 4.7 of this Agreement.
- 4.9 Lender shall not be required to make any subsequent disbursement under the Loan if:
- 4.9.1 Lender does not receive, at Borrower's expense, a title endorsement, satisfactory to Lender prior to any disbursement stating that such disbursement shall have priority over mechanic's or materialmen's liens or any other intervening or subordinate liens on the Property; and
- 4.9.2 Any event or condition described in Paragraph 4.7 of this Agreement exists.
- 4.10 Lender shall not be obligated to make its final disbursement of Loan proceeds for the improvements hereto unless and until the following conditions are satisfied:
- 4.10.1 The Lender determines that the Improvements have been substantially completed by the Completion Date in accordance with the Plans and Specifications. Completion must be verified to the reasonable satisfaction of Lender;
- 4.10.2 Borrower has obtained for Lender at Borrower's expense any title insurance endorsements to the title policy which insures the lien-free completion of the Improvements and any other endorsements required by Lender;
- 4.10.3 Borrower has obtained and delivered to Lender for its approval copies of all temporary or permanent certificates of occupancy for any portion of the Improvements and Lender has approved such certificates; and

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4.10.4 No condition exists that would excuse Lender from disbursing funds under Paragraph 4.7 of this agreement.

4.11 At the option of the Lender, each request for an advance shall be submitted to Lender at least ten (10) business days prior to the date of the requested advance. All such advances, regardless of to whom made, shall satisfy, to the extent possible, the obligations of Lender hereunder and shall be secured by the Security Instrument and other Loan Documents as fully as it made to Borrower.

4.12 Any waiver by Lender of any condition of disbursement must be expressly made in writing. The making of a disbursement prior to fulfillment of one or more conditions thereto shall not be construed as a waiver of such conditions, and Lender reserves the right to require their fulfillment prior to making any subsequent disbursements.

5. COVENANTS OF BORROWER. Borrower covenants with and warrants to Lender as follows:

5.1 Borrower shall provide Lender with a detailed Construction Schedule (which shall be in such detail as Lender shall require) prior to the execution of this Agreement and shall meet all deadlines described herein. Borrower shall commence construction of the Improvements within 10 days from the date of this Agreement. Borrower shall substantially complete construction by the Completion Date. All construction work shall be performed in substantial compliance with the approved Plans and Specifications, any change orders approved by Lender and with this Agreement. All construction work shall be completed without liens, claims, or assessments (actual or contingent) asserted against the Premises for any material, labor or other items furnished in connection therewith (except as such liens, claims or assessments are insured or bonded to Lender's satisfaction), and all are in full compliance with all construction, use, building, zoning and other similar requirements of any governmental jurisdiction. Borrower shall provide Lender with satisfactory evidence of such compliance upon request by Lender.

5.2 Borrower agrees that no modification of or amendments to the Plans and Specifications shall be made without first obtaining the approval in writing of Lender and all necessary governmental authorities. In addition, Borrower agrees to deposit with Lender such additional sums or take such action as Lender may require to insure payment of the cost of any such changes.

5.3 Borrower shall not, without the prior written consent of Lender, mortgage, assign, convey, transfer, sell or otherwise dispose of or encumber its interest in the Property or any part thereof or the income to be derived therefrom.

5.4 Borrower shall comply with and keep in effect all permits and approvals obtained from any governmental bodies that relate to the lawful construction of the Improvements. Borrower shall comply with all existing and future laws, regulations, orders and requirements of all governmental, judicial or legal authorities having jurisdiction over the Property or Improvements. Borrower shall comply with all existing or future recorded restrictions affecting the Property. The Improvements shall be constructed entirely on the Property and shall not encroach upon or over any known easement or right-of-way, nor upon the land of others, and when erected shall be wholly within any building restriction lines.

5.5 Borrower shall furnish from time to time upon request by Lender, in a form acceptable to Lender, a correct list of all Contractors and subcontractors employed in connection with construction of the Improvements and true and correct copies of all executed contracts and subcontracts. Lender may contact any Contractor or subcontractor to verify any facts disclosed in the list, and all contracts and subcontracts relating to construction of the Improvements must require the disclosure of the listed information to Lender.

5.6 No materials, equipment, fixtures or articles of personal property of Borrower placed in the improvements shall be purchased or installed under any security agreement or other agreement where the seller reserves or purports to reserve title or the right to remove or repossess the items, or the right

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to consider such items as personal property after their incorporation in the work of construction, unless authorized by Lender in writing.

5.7 Lender and its agents and representatives shall have the right at any reasonable time to enter the Property and inspect the construction of the Improvements and all plans, specifications, change orders, and other matters pertaining thereto. Lender shall also have the right to examine, copy and audit the books, records, accounting data and other documents of Borrower and its Contractors relating to the Property or construction of the Improvements. If Lender in good faith determines that any work or materials do not conform to the approved Plans and Specifications or sound building practices, or otherwise depart from any of the requirements of this Agreement, Lender may require the work to be stopped and withhold disbursements until the matter is corrected. In such event, Borrower shall promptly correct the work to Lender's satisfaction. No such action by Lender shall affect Borrower's obligation to complete the Improvements of any phase of construction before the dates designated in Paragraph 5.1. Any inspection or examination by Lender of books and records of Borrower is for the sole purpose of protecting Lender's collateral and preserving Lender's rights under this Agreement. No default of Borrower shall be waived by any inspection by Lender, and no inspection by Lender shall be construed as a representation that there has been or shall be compliance with the Plans and Specifications or that construction is free from defective materials or workmanship.

5.8 Borrower shall indemnify and hold Lender harmless from and against all liabilities, claims, damages, costs and expenses (including, but not limited to, reasonable legal fees and costs) arising out of or resulting from any defective workmanship or materials occurring in the construction of the Improvements. Upon demand by Lender, Borrower shall defend any action or proceeding brought against Lender alleging any defective workmanship or materials or Lender may elect to conduct its own defense at the expense of Borrower. The provisions of this Paragraph shall survive the termination of this Agreement and repayment of the Loan.

5.9 If Borrower is a corporation, limited liability company or partnership, it shall not amend or modify or permit any amendment or modification of, its Articles of Incorporation or its partnership or operating agreement during the term of the Loan without the prior written approval of Lender. As an entity, Borrower shall maintain active status with the State of Florida by paying and filing necessary annual reports.

5.10 Borrower shall not without the prior written consent of Lender (i) commit any default under the terms of the Construction Contract (as hereinafter defined), (ii) waive any of the obligations of the Contractor thereunder, (iii) do any act which would relieve the Contractor from its obligation to construct the improvements according to the Plans and Specifications, or (iv) make any amendment to the Construct on Contract resulting in additional costs which by themselves or in conjunction with other amendments exceed the Construction Budget, or (v) take any action which would cause the cost of completing construction of the Improvements to exceed the undisbursed Loan funds by a factor of more than five percent (5.0%) or \$5,000.00, whichever is less.

5.11 Borrower shall not without the prior written consent of Lender (i) commit any default under the terms of the Engineer's Contract (as hereinafter defined) (ii) waive any of the obligations of Engineer thereunder, (iii) do any act which would relieve the Engineer from its obligations thereunder, or (iv) make an amendment to the Engineer's Contract.

5.12 Borrower shall obtain such insurance or evidence of insurance as Lender may require, including but not limited to, the following:

5.12.1 Title Insurance. An ALTA (or equivalent) mortgagee's title insurance policy in amount, form and substance and written by a title insurance company satisfactory to Lender and insuring the lien of the Security Instrument as a first priority lien on the Premises subject only to the matters listed in Schedule B to the Security Instrument, the original of which