

This Instrument Prepared By:  
W. James Gooding III  
Gooding & Batsel, PLLC  
1531 SE 36th Avenue  
Ocala, FL 34471

Record and Return To:  
Marion County Office of County Engineer  
412 SE 25th Avenue  
Ocala, FL 34471

Recording: \$ \_\_\_\_\_

**DEVELOPER'S AGREEMENT FOR CROSSROADS COMMERCE PARK – SOUTH  
CONCERNING SW 57TH EXTENSION**

THIS AGREEMENT made and entered into this \_\_\_\_\_, 2024, (the "Effective Date"), by and between:

- Marion County, a political subdivision of the State of Florida ("County");
- 484 Road Runner Resources, LLC, a Florida limited liability company ("Developer"); and
- Coyote Crossing Holdings, LLC, a Florida limited liability company ("Owner").

WHEREAS:

- A. Developer owns the Developer's Tract,<sup>1</sup> being a platted tract within the Subdivision.
- B. Owner owns Owner's Lots, being platted lots within the Subdivision.
- C. The Subdivision was developed pursuant to the Development Agreement.
- D. Pursuant to the Development Agreement, the Project is to be developed in accordance with the Master Plan.
- E. The Master Plan contemplates the SW 57th Extension and the East-West Connector Road.
- F. County and Developer desire to assure the timely construction of the SW 57th Extension in preparation for the later construction of the East-West Connector Road.
- G. County and Developer enter into this Agreement to accomplish the Transportation Improvements portion of the SW 57th Extension.

NOW THEREFORE, IN CONSIDERATION of the payment of \$10.00 and other good and valuable consideration acknowledged by both parties, the parties do mutually covenant and agree as follows:

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<sup>1</sup> Terms capitalized in these Whereas paragraphs and not otherwise defined herein are defined in paragraph 1 below.

1. **Definitions.** In addition to other terms defined in this Agreement, the following terms have the following meanings:
  - 1.1. *Construct* (regardless of whether the terms are capitalized) – When used in the context of the Transportation Improvements: (a) the design, permitting and construction of the Transportation Improvements; and (b) conveyance to County of the Drainage Easement.
  - 1.2. *Construction Plans* – The plans for the Transportation Improvements as approved by Marion County and as described on the attached Exhibit A.
  - 1.3. *Contractor* – One or more contractors constructing Transportation Improvements on behalf of Developer.
  - 1.4. *Conveyance Standards* – The standards for conveyance of the ROW as set forth in Exhibit B.
  - 1.5. *County* – Marion County, a political subdivision of the State of Florida.
  - 1.6. *County Code* – The “Marion County Code” as defined in Section 1-1 of the County Code, as the same may be subsequently amended, modified, or supplemented.
  - 1.7. *County Commission* – The Board of County Commissioners of Marion County, Florida.
  - 1.8. *County Impact Fee Ordinance* – The “Marion County Impact Fee Ordinance for Transportation Facilities” as defined and codified in Division 2 of Article 10 of the County Code.
  - 1.9. *County LDR* – The County’s “Land Development Code,” as adopted by County Ordinance No. 13-20, as defined in Section 1.1.1 of such Code, and as the same may be subsequently amended, modified, or supplemented.
  - 1.10. *County Representative* – The County Administrator, any Assistant or Deputy County Administrator, or the County Engineer.
  - 1.11. *Development Agreement* – The *Master Development Agreement Pursuant to Chapter 163, Florida Statutes [Florida Crossroads Commerce Park]* entered into between County and the predecessors in title to Developer and Owner as recorded in OR Book 7110, Page 1.<sup>2</sup>
  - 1.12. *Developer's Tract* – Tract B as depicted on the Plat.
  - 1.13. *Drainage Easement* – The easement to be granted by Developer or Owner pursuant to paragraph 5 to permit the conveyance of Stormwater from the SW 57th Extension into the Temporary DRA, and the storage of Stormwater in the Temporary DRA, as permitted by one or more Permits issued by the Water Management District.
  - 1.14. *East-West Connector Road* – The connecting road between SW 57th Avenue Road and SW 49th Court Road as depicted on the Master Plan.

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<sup>2</sup> All recording references refer to the Public Records of Marion County, Florida.

- 1.15. *Existing Road* – The road built within a portion of SW 57th Avenue Road as dedicated by the Plat. The existing road stops approximately 300 feet from the southern boundary of SW 57th Avenue Road as set forth on the Plat.
- 1.16. *Force Majeure* – As defined in paragraph 11.
- 1.17. *Governmental Authority* – Any governmental agency, entity, department, commission, or other governmental organization of any nature whatsoever which has regulatory authority over, or must issue approvals or permits for, the construction and operation of any land, roadways, or Stormwater Management Facilities which are subject of this Agreement, including, without limitation, County, or the Water Management District.
- 1.18. *Impact Fee Credits* – Credits against Impact Fees to be provided to Developer for the Transportation Improvements.
- 1.19. *Impact Fees* – Impact fees due under the County Impact Fee Ordinance. (Because this Agreement primarily concerns transportation matters, this phrase does not apply to any other impact fees, capital charges, or similar charges, assessed under the County Code.)
- 1.20. *Master Plan* – The *Commerce Park South Master Plan prepared by Tillman & Associates Engineering, LLC, dated July 16, 2021*, consisting of sixteen (16) sheets and a three (3) page topographical survey.
- 1.21. *Month* (regardless of whether the term is capitalized) – When used with reference to calculation of dates, shall refer to the monthly anniversary of the starting date of the first event. For example, two (2) months after November 15, 2023, is January 15, 2024. If the first date is a day of the month which is not in the subsequent month, the subsequent date will be the last day of such subsequent month. For example, one month after May 31, 2023, is June 30, 2023.
- 1.22. *Owner's Lots* – One or more of Lots 1 through 6 as depicted on the Plat.
- 1.23. *Parcel* – Any parcel of land, including a platted lot, unplatted parcel or other division of real property located on the Property.
- 1.24. *Parcel Owner* – An owner of any Parcel including Owner or Developer until it conveys such Parcel.
- 1.25. *Party* – As applicable Developer, Owner or County.
- 1.26. *Permits* – All permits necessary for the construction of the Transportation Improvements.
- 1.27. *Plans* – The plans and specifications for the construction of the Transportation Improvements, as approved by County and/or all other Governmental Authorities with jurisdiction thereover.
- 1.28. *Plat* – The plat of *Florida Crossroads Commerce Park, a Planned United Development* as recorded in Plat Book 15, Page 52.
- 1.29. *Professional Expenses* – Amounts paid by Developer for: (a) services rendered by engineers, surveyors, attorneys, and other professionals in connection with the preparation

of this Agreement, the design, permitting and construction of the Transportation Improvements; and (b) permit application and related fees.

- 1.30. *Project* – The multi-use project known as *Florida Crossroads Commerce Park as Contemplated by the Development Agreement* and as platted pursuant to the Subdivision.
- 1.31. *Project Engineer* – The registered professional engineer retained by Developer to represent Developer with respect to Developer’s interests under this Agreement, to be retained by Developer to design and permit the Transportation Improvements. Project Engineer is currently Kimley-Horn and Associates, Inc., a North Carolina corporation. Developer may change the Project Engineer for the work to be performed on behalf of Developer, by providing written notice thereof to County.
- 1.32. *Property* – One or more of Owner’s Lots or Developer’s Tract.
- 1.33. *ROW* – Right of way upon which the Transportation Improvements shall be constructed and operated, including all easements (permanent or temporary) necessary for the construction or operation of the Transportation Improvements.
- 1.34. *Stormwater* – Surface water or stormwater runoff (regardless of whether the term is capitalized), to be managed pursuant to the Temporary Stormwater Management System.
- 1.35. *Subdivision* – *Florida Crossroads Commerce Park, a Planned Unit Development* according to the Plat thereof recorded in Plat Book 15, Page 52.
- 1.36. *Substantial Completion* – Substantial completion of the Transportation Improvements as evidenced by a certificate from the Project Engineer therefor certifying that the Transportation Improvements have been constructed pursuant to the approved Plans and any Permits therefor, and County’s acceptance of the Transportation Improvements.
- 1.37. *SW 57th Extension* – The following:
  - 1.37.1. Construction of an additional approximately 500 feet from the southerly extension of the Existing Road through and including its contemplated intersection with the planned East-West Connector Road, together with an associated Temporary Stormwater Management System therefor. The extension shall be designed and constructed consistent with the Existing Road previously constructed by County and the typical cross sections set forth in the Master Plan. This component of the SW 57th Extension constitutes the Transportation Improvements to be constructed by Developer under this Agreement.
  - 1.37.2. The extension of water and sewer lines, to the extent not previously constructed, to the new terminus of SW 57th Avenue Road including through and to the south right-of-way line of the contemplated East-West Connector Road. Developer is constructing this component of the SW 57th Extension through coordination with Marion County Utilities, and such component is not the subject of the Agreement.
- 1.38. *Temporary DRA* – The drainage retention area which will be constructed to provide stormwater retention capacity for the Transportation Improvements.

- 1.39. *Temporary Stormwater Management System* – The drainage retention facilities, ditches, swales, underground pipes, drainage structures, or other improvements which constitute the surface water and stormwater management system which provide stormwater management for the other Transportation Improvements which will be constructed pursuant to the terms of this Agreement. The Temporary Stormwater Management System shall comply with the design, construction, and operational requirements of the Water Management District and (as applicable) County. The Temporary Stormwater Management System shall consist of the Temporary DRA and Conveyance Facilities to convey the Stormwater from the SW 57th Extension into the Temporary DRA pursuant to the Drainage Easement.
- 1.40. *Transportation Improvements* – The design, permitting and construction of the SW 57th Extension including the Transportation Facilities and the Temporary Stormwater Management System.
- 1.41. *Transportation Facilities* – All roads, streets, highways, intersections, stormwater management systems, or similar facilities.
- 1.42. *Water Management District or District* – Southwest Florida Water Management District, an agency of the State of Florida, the Governmental Authority which has jurisdiction over the design, permitting and operation of surface water and Temporary Stormwater Management Systems, and Temporary Stormwater Management System, for the Property and for all Transportation Facilities to be constructed or improved under the terms of this Agreement.

2. **Design and Permitting.**

- 2.1. Developer has, at its sole cost and expense, designed the Transportation Improvements to be constructed by it, and will obtain Permits for such Transportation Improvements.
- 2.2. Developer has designed, and will obtain Permits for the Transportation Improvements pursuant to the following requirements:
  - 2.2.1. The Transportation Improvements shall be generally consistent with the Construction Plans.
  - 2.2.2. The Temporary Stormwater Management System shall be designed to accommodate all Stormwater from the Transportation Facilities constructed as part of the SW 57th Extension.
- 2.3. Developer shall prepare and submit to County, and any Governmental Authority, including FDOT and the Water Management District, the Plans for approval by County or such Governmental Authority, prior to commencing construction of the Transportation Improvements.
- 2.4. Developer shall obtain all Permits necessary for the construction of the Transportation Improvements. County consents to such Permits being in the name of County and/or Developer, and County shall cooperate with Developer in connection with the permitting process. Developer shall provide to the other Parties copies of all Permits it obtains.

2.5. Developer shall pay all Professional Expenses incurred in connection with the design and permitting of the Transportation Improvements.

3. **Construction of Transportation Improvements.**

3.1. Developer has requested or shall request bids from Contractors for the construction of the Transportation Improvements and may award the bid to any Contractors. Regardless of the amount bid or owed under the award, Developer shall receive Impact Fee Credits for constructing the Transportation Improvements calculated pursuant to paragraph 8.2.

3.2. Developer shall enter into one or more agreements with one or more Contractors for the construction of the Transportation Improvements.

4. **Schedule for Transportation Improvements.**

4.1. Developer shall obtain all Permits for the Transportation Improvements within three (3) months after the Effective Date of this Agreement.

4.2. Developer shall commence construction of the Transportation Improvements within three (3) months after obtaining all Permits.

4.3. Developer shall cause Substantial Completion of the Transportation Improvements within six (6) months after commencing such construction.

4.4. Within forty-five (45) days after Developer's Substantial Completion of the Transportation Improvements, Developer shall provide to County "as built" surveys of the Transportation Improvements.

5. **Drainage Easement.**

5.1. As part of its design of the Temporary Stormwater Management System, Developer has designed, and shall obtain Permits from the Water Management District for, the Temporary Stormwater Management System for the SW 57th Extension including a Temporary DRA to be located at approximately the location set forth on the attached Construction Plans, together with conveyance facilities to convey Stormwater from the Transportation Facilities to the Temporary DRA.

5.2. Following Substantial Completion of the Transportation Improvements, Owner shall grant to County and Developer the Drainage Easement.

5.2.1. The instrument granting the Drainage Easement shall:

5.2.1.1. Grant to County the Drainage Easement to permit the conveyance of Stormwater from the SW 57th Extension into the Temporary DRA, the storage of Stormwater in the Temporary DRA, as permitted by one or more Permits issued by the Water Management District, and the maintenance of the Temporary Stormwater Management System.

5.2.1.2. Terminate when the Temporary DRA is replaced with a permanent drainage retention area and additional components to replace the Temporary Stormwater Management System, to be constructed as part

of the construction of the East-West Connector Road, sufficient to accommodate the Stormwater from the SW 57th Extension and the East-West Connector Road.

5.2.1.3. Permit the County Representative to execute and deliver to Developer or Owner a recordable instrument terminating the Drainage Easement.

5.2.2. The form and substance of the instrument granting the Drainage Easement shall be subject to approval of the County Representative.

5.2.3. Neither Developer nor Owner are entitled to any Impact Fee Credits for the Drainage Easement.

6. **Conveyance of ROW.**

6.1. Within forty-five (45) days after Substantial Completion of the Transportation Improvements, Developer shall provide to County "as-built" Surveys for the completed Transportation Improvements. Within forty-five (45) days thereafter, Owner shall convey to County any ROW on real property owned by Developer and not currently owned by County.

6.2. The Project ROW will be conveyed to County under threat of and in lieu of condemnation. Therefore, County and Private Parties believe no documentary excise taxes are due. If they are due, they shall be paid by the Owner conveying the Project ROW, together with any interest and penalties.

6.3. Such conveyance shall be pursuant to the Conveyance Standards.

7. **Maintenance.** Following construction of the Transportation Improvements, County shall maintain the Transportation Improvements, including the Temporary Stormwater Management System.

8. **Impact Fee Credits.**

8.1. Entitlement. County acknowledges that, pursuant to the County Impact Fee Ordinance, Developer is entitled to Impact Fee Credits for constructing the Transportation Improvements and conveying the ROW.

8.2. Construction Costs. The amount of Impact Fee Credits to be granted to Developer upon completion of construction of the Transportation Improvements shall consist of the following:

8.2.1. Construction costs (the "Construction Costs") in the amount of \$651,617.09 based upon an estimate of the reasonable amount of the Construction Costs to be incurred by Developer in constructing the Transportation Improvements and as set forth in the attached Exhibit C. Developer shall document its entitlement to the Construction Costs by submitting to County:

8.2.1.1. All of the Contractor's draw requests and proof of the Developer's payment thereof. Such documentation is solely for the purpose of establishing Developer's payment of such draw requests; the amount of the Construction Costs upon which Impact Fee Credits are to be

granted is as set forth in paragraph 8.2.1 regardless of the amount of the draw requests.

8.2.1.2. Final construction lien waivers from Contractor and all other person providing labor, services or materials in connection with the construction of the Developer's Transportation Improvements.

8.2.2. Plus, all amounts paid by Developer for Professional Expenses as documented by:

8.2.2.1. Invoices submitted to Developer for services and costs.

8.2.2.2. Proof of payment of such invoices, or of permitting fees, by the Developer.

8.2.3. Plus, to the extent not included in paragraph 8.2.2.2, all permitting fees paid by Developer to County, or any other Governmental Authority in connection with the Developer's Transportation Improvements.

8.3. ROW. Developer is entitled to Impact Fee Credits for dedicating the ROW in the amount of \$147,000.00 Such amount has been calculated based upon an estimate of the area of the ROW multiplied by \$50,000.00 per acre. The Impact Fee Credits shall be such amount regardless of the actual size of the ROW actually conveyed to County.

8.4. Determination. Upon Substantial Completion of the Transportation Improvements, and conveyance of all ROW, County shall provide to Developer confirmation of the amount of Impact Fee Credits for which Developer is entitled. Developer shall have Impact Fee Credits in such amounts. Although the Impact Fee Credits are granted to Developer, immediately upon their grant to Developer, they shall be deemed to have been further assigned by Developer to Owner without the necessity of any further action by Developer.

## 9. **Miscellaneous Provisions Concerning Impact Fee Credits.**

9.1. Generally. This Agreement constitutes a "written impact fee credit agreement" pursuant to Section 10-323 of the County Impact Fee Ordinance.

9.2. Duration of Impact Fee Credits. The Impact Fee Credits under this Agreement shall expire twenty (20) years from the Effective Date of this Agreement.

9.3. Additional Requirements. In compliance with Section 10-323(f) of the County Impact Fee Ordinance, the following provisions shall apply:

9.3.1. All Transportation Improvements under this Agreement shall be construed and characterized as work done and property rights acquired by the County for the improvement of a road within the boundaries of a public right of way, and County has the exclusive control of such construction or contributions (except to the extent they are to be performed by Developer hereunder) including whether they are subsequently transferred to another governmental entity.

9.3.2. Developer shall keep or provide for the retention of adequate records and supporting documentation which concern or reflect total cost of the Transportation Improvements. Such information shall be available to County, or its duly



authorized agent or representative for audit, inspection or copying for a minimum of 5 years from the termination or expiration of this Agreement.

- 9.3.3. Each Impact Fee Credit shall run with the land for which the Impact Fee is being assessed and shall be reduced by the entire amount of the Impact Fee due for each building permit or site plan approval issued thereon until all Impact Fee Credits are exhausted or no longer available.
- 9.3.4. The burdens of this Agreement shall be binding upon, and the benefits of the Agreement shall inure to, all successors in interest to Parties, including, without limitation, subsequent owners of a parcel.
- 9.3.5. County shall conduct an annual review under this Agreement to determine whether or not there has been demonstrated good faith compliance with the terms of this Agreement, and shall, upon request of Developer or Owner, provide to Developer or Owner the amount of Impact Fee Credits applied toward payment of Impact Fees, and the balance of available and unused Impact Fee Credits.
- 9.3.6. County, Developer and Owner shall negotiate in good faith to modify or revoke this Agreement as is necessary to comply with relevant state or federal laws, if state or federal laws are enacted after execution of the Agreement which are applicable to and preclude the Parties' compliance with the terms of this Agreement.
- 9.3.7. This Agreement may be amended or cancelled by mutual consent of the parties or by their successors in interest. For purposes of the foregoing any owner of a Parcel which has been developed as contemplated by this Agreement and for which all Impact Fees have been paid (either monetarily or by Impact Fee Credit) shall not be required to join in any subsequent amendment.
- 9.3.8. Developer shall cause this Agreement to be recorded in the Public Records of Marion County, Florida, within 14 days of the Effective Date thereof.
- 9.3.9. County will establish the time frame when the Impact Fee Credits become available on all future roadways contained on the County major road network. Such timeframe shall be based on when traffic volumes are expected to reach a level consistent with the classification of the road as a County collector or arterial road.
- 9.3.10. The Impact Fee Credits granted under this Agreement are for construction or contributions made to the major road network system to accommodate growth within road construction district 1 West under the County Impact Fee Ordinance where the impact generating land development activity is located.
- 9.3.11. The Impact Fee Credits, having been assigned by Developer to Owner pursuant to paragraph 8.4, shall run with Owner and may be assigned to other developments, regardless of ownership, within the same road construction district 1 West under the County Impact Fee Ordinance.
- 9.3.12. As the Transportation Improvements were not an integral part of the major road network system which was scheduled for construction in the five (5) year County

TIP or any municipal CIP, this Agreement has been approved by a super-majority vote of the County Commission.

10. **County Representative.** Whenever this Agreement refers to approval by County, or the subsequent execution or delivery of another instrument by County, such approval may be provided by, and such instrument may be executed by, the County Representative unless, pursuant to the County Code or other applicable law, such approval is required by the County Commission or some other board of County or, only a member of the County Commission may execute such instrument. By approving this Agreement, the County Commission authorizes the County Representative to make such approvals and execute such instruments.
11. **Force Majeure.**
  - 11.1. “Force Majeure” means causes that: (a) are beyond the reasonable control of a party (the “Delayed Party”); (b) the Delayed Party, despite its diligent, good faith efforts, is unable to overcome; and (c) consist solely of delays caused by any of the following: fire, flood, windstorm, sinkhole, unavailability of materials or equipment (provided that the Delayed Party demonstrates that such materials or equipment were ordered with sufficient lead time given known market conditions, and there are no commercially available alternative sources from which the materials or equipment can be procured at prices substantially equivalent to the prices of the original materials or equipment), equipment or fuel, declaration of hostilities, terrorist act, civil strife, strike, lock-out, labor dispute, epidemic, pandemic, archaeological excavation, act of God, act of public enemy, act of armed forces, war, riot, sabotage, blockage, embargo, earthquake, flood, fire, explosions, tornado or hurricane, litigation, unusual and unforeseen delays in actions, restrictions, requirements or mandates of governmental authorities, governmental restraints, or any other cause whether or not of the same kind as enumerated above, that is either: (a) not within the sole control of the Delayed Party and which by exercise of Due Diligence the Delayed Party is unable to overcome; or (b) that constitutes an excuse under Florida law based upon the doctrine of “impossibility of performance.”
  - 11.2. If Developer is unable to timely perform its obligations under this Agreement, due to a Force Majeure, such delay shall be excused in the manner herein provided.
  - 11.3. If Developer is so delayed, the date for action required or contemplated by this Agreement shall be extended by the number of days equal to the number of days such party is delayed. Developer shall give written notice of the delay to County, which notice shall indicate the anticipated duration of the Force Majeure. Each party shall use its best efforts to rectify any conditions causing the delay and will cooperate with the other party, except for the occurrence of unreasonable additional costs and expenses, to overcome any loss of time that has resulted.
12. **Acknowledgement Upon Completion.** Upon Developer’s completion of the Transportation Improvements, County shall execute and deliver to Developer a recordable instrument acknowledging such completion. Such instrument as approved as to form and legality by the County Attorney may be executed by County representative on behalf of County.
13. **Assignment Provisions.** Except concerning the Impact Fee Credits (provisions for the assignment of which are set forth elsewhere in this Agreement), Developer and Owner may not assign their rights or obligations under this Agreement without express written consent of County which may be withheld by County in its reasonable discretion.

14. **Notices.**

- 14.1. All notices, requests, consents and other communications (each a “Communication”) required or permitted under this Agreement shall be in writing (including emailed communication) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, emailed or mailed by Registered or Certified Mail (postage pre-paid), Return Receipt Requested, addressed as follows or to such other addresses as any party may designate by Communication complying with the terms of this paragraph:
  - 14.1.1. If to County: Assistant County Administrator Tracy Straub, P.E., 601 SE 25th Avenue, Ocala, FL 34471; email: [tracy.straub@marionfl.org](mailto:tracy.straub@marionfl.org).
    - 14.1.1.1. With a copy to: Steven Cohoon, Marion County Engineer, 412 SE 25th Avenue, Ocala, FL 34471; email: [Steven.Cphoon@marionfl.org](mailto:Steven.Cphoon@marionfl.org).
  - 14.1.2. If to Developer: 484 Road Runner Resources, LLC, Attn: Richard McGinley, 5700 SW Hwy 484, Ocala, FL 34473; email: [richmcginley@gmail.com](mailto:richmcginley@gmail.com).
    - 14.1.2.1. With a copy to: Matt Fabian, 4349 SE 20th Street, Ocala, FL 34471; email: [mattpfabian@gmail.com](mailto:mattpfabian@gmail.com).
    - 14.1.2.2. With a copy to: W. James Gooding III, 1531 SE 36th Avenue, Ocala, FL 34471; email: [jgooding@lawyersocala.com](mailto:jgooding@lawyersocala.com).
- 14.2. Each such Communication shall be deemed delivered:
  - 14.2.1. On the date of delivery if by personal delivery with signed receipt thereof;
  - 14.2.2. On the date of email transmission if by email (subject to paragraph 14.5); and
  - 14.2.3. If the Communication is mailed, on the earlier of: (a) the date upon which the Return Receipt is signed; or (b) the date upon which delivery is refused.
  - 14.2.4. Notwithstanding the foregoing, service by personal delivery delivered, or by email sent, after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday, or legal holiday.
- 14.3. If a Communication is delivered by multiple means, the Communication shall be deemed delivered upon the earliest date determined in accordance with the preceding subparagraph.
- 14.4. If the above provisions require Communication to be delivered to more than one person (including a copy), the Communication shall be deemed delivered to all such persons on the earliest date it is delivered to any of such persons.
- 14.5. Concerning Communications sent by email:
  - 14.5.1. The Communication shall not be deemed to have been delivered if the sender receives a message from the sender’s or the recipient’s internet service provider or otherwise that the email was not delivered or received but, if the email was sent by

the sender on the last day of a deadline or other time period established by this Agreement, the time for the sender to re-send the Communication by a different authorized means shall be extended one (1) business day;

14.5.2. If the sender receives an automatic reply message indicating that the recipient is not present to receive the email (commonly referred to as an “out of the office message”), the email shall not be deemed delivered until the recipient returns but, if the email was sent by the sender on the last day of a deadline or other time period established by this Agreement, the time for the sender to re-send the Communication by a different authorized means shall be extended one (1) business day;

14.5.3. Any email that the recipient replies to, or forwards to any person, shall be deemed delivered to the recipient.

14.5.4. The sender must print the email to establish that it was sent (though it need not do so at the time the email was sent); and

14.5.5. The sender shall maintain the digital copy of the email in its email system for a period of no less than one year after it was sent.

15. **Relationship Between Developer and Owner.**

15.1. Owner enters into this Agreement concerning its rights and obligations concerning the Owner’s Lots only, and the grant of the Drainage Easement, and not in connection with the construction of the Transportation Improvements.

15.2. Although Developer and Owner may be related by common ownership, they are not deemed to be partners or joint ventures in connection with the development of the Property or the construction of the Transportation Improvements.

15.3. Developer acknowledges its receipt of full and adequate consideration for its obligations under this Agreement.

16. **Exclusive Venue.** The parties agree that the exclusive venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of concerns, or relates to this Agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, shall be in Marion County, Florida.

17. **JURY WAIVER.** EACH PARTY HEREBY COVENANTS AND AGREES THAT IN ANY LITIGATION, SUIT, ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT, AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED

UPON ANY ORAL REPRESENTATIONS TO OR BY THE OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

18. **Governing Laws.** This Agreement and all transactions contemplated by this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida without regard to principles of conflicts of laws.
19. **Attorney's Fees.** If any legal action or other proceeding (including, without limitation, appeals or bankruptcy proceedings) whether at law or in equity, which: arises out of, concerns, or relates to this Agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby; or is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses even if not taxable as court costs, incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.
20. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
21. **Successors and Assigns.** All covenants, Agreements, warranties, representations, and conditions contained in this Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of the parties to this Agreement.
22. **Severability Clause.** Provisions contained in this Agreement which are determined by a court of competent jurisdiction to be contrary to, prohibited by or invalid under applicable laws or regulations shall be deemed omitted from this document and shall not invalidate the remaining provisions thereof.
23. **Waiver.** A failure to assert any rights or remedies available to a party under the terms of this Agreement shall not be deemed a waiver of such rights or remedies, and a waiver of the right to remedies available to a party by a course of dealing or otherwise shall not be deemed to be a waiver of any other right or remedy under this Agreement, unless such waiver of such right or remedy is contained in a writing signed by the party alleged to have waived his other rights or remedies.
24. **Construction of Agreement.** Each party acknowledges that all parties to this Agreement participated equally in the drafting of this Agreement and that it was negotiated at arm's length. Accordingly, no court construing this Agreement shall construe it more strongly against one party than another.
25. **Rules of Construction.** For the purposes of the interpretation, construction, administration, and implementation of this Agreement, unless otherwise stated in this Agreement or the context clearly indicates to the contrary, the following rules of construction shall apply:
  - 25.1. Any pronoun used herein shall include the corresponding masculine, feminine and neuter forms.
  - 25.2. All definitions in this Agreement shall apply equally to both the singular and plural forms of the nouns defined, to the present, future, and past tenses of verbs defined, and to all derivatives of defined terms.

- 25.3. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation.”
- 25.4. The words “herein,” “hereof,” “hereunder,” and similar terms shall refer to this Agreement.
- 25.5. A reference to an Article, paragraph, subparagraph, or other subpart of this Agreement, shall include all paragraphs, subparagraphs, and subparts under the referenced part.
- 25.6. Where a provision involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or” or “either or,” the conjunction shall be interpreted as follows: “and” indicates that all the connected terms shall apply; “or” indicates that the connected terms may apply singly or in any combination; and “either or,” indicates that only one of the connected terms may apply.
26. **Further Action.** Each of the parties hereto shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of the obligations hereunder and to carry out the intent of the parties hereto.
27. **Time.**
- 27.1. Time is of the essence of all of the provisions and terms of this Agreement.
- 27.2. If a time period is five (5) days or less, intervening Saturdays, Sundays or legal holidays will be excluded from the calculation.
- 27.3. When any time period specified herein falls or ends upon a Saturday, Sunday or legal holiday, the time period shall automatically extend to 5:00 p.m. on the next ensuing business day.
- 27.4. For purposes of this Agreement, “legal holiday” means: (a) the day set aside by paragraph 110.117, Florida Statutes, for observing New Year’s Day, Martin Luther King, Jr.’s Birthday, Memorial Day, Independence Day, Labor Day, Veterans’ Day, Thanksgiving Day or Christmas Day; (b) the Friday after Thanksgiving; (c) Christmas Eve; (d) if Christmas is on weekend, the Monday after Christmas Day; and (e) any other day upon which the Clerk of the Court of Marion County, Florida, is closed for ordinary business.
28. **Negation of Partnership.** None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the parties in their respective businesses or otherwise, nor will it cause them to be considered joint venturers or members of any joint enterprises. Further, no party under this Agreement shall be deemed to be an employee, agent, or other representative of the other party.
29. **Exhibits.**
- 29.1. All exhibits attached to this Agreement are being incorporated by reference.
- 29.2. The following exhibits are attached to this Agreement.
- 29.2.1. **Exhibit A** – Construction Plans.

29.2.2. **Exhibit B** – Conveyance Standards.

29.2.3. **Exhibit C** – Construction Costs Estimate.

30. **Entire Understanding.** This Agreement represents the entire understanding and Agreement between the parties with respect to the subject matter hereof, and supersedes all other negotiations (if any) made by and between the parties.
31. **Amendments.** The provisions of this Agreement may not be amended, supplemented, waived, or changed orally but only by a writing making specific reference to this Agreement signed by the party as to whom enforcement of any such amendment, supplement, waiver, or modification is sought.
32. **Miscellaneous.**
- 32.1. Any violation by Developer, or Developer's successors or assigns, of any provision contained herein shall be considered as a violation of this Agreement and may result in the suspension, cancellation or termination of development orders and permits by County for the Property.
- 32.2. Any amendments to the conditions or provisions contained herein shall require an amendment to this Agreement.
- 32.3. Upon execution of this Agreement, Developer shall provide funds to County for recording of this Agreement in the public records. The Agreement shall be recorded within fourteen (14) days as set forth in Section 10-323(f)(17) of the County Code. Any conveyance of any interest in the Property after execution of this Agreement and prior to recording of the Agreement in the public records, shall be subject to the terms and conditions of this Agreement. Developer shall be responsible for the disclosure of the existence of this Agreement.

THEREFORE, the Parties have entered into this Agreement effective the date first set forth above.

[SIGNATURES ON FOLLOWING PAGES]

**DEVELOPER**

484 Road Runner Resources, LLC, a Florida limited liability company

By: [Signature]  
Richard W. McGinley, as Manager

[Signature]  
Witness Signature  
**W. JAMES GOODING III**  
Witness Printed Name

Print Witness Address:  
1531 SE 36th Ave.  
Ocala, FL 34471

[Signature]  
Witness Signature  
**KARLA S. HAYTER**  
Witness Printed Name

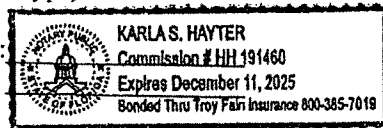
Print Witness Address:  
1531 SE 36th Ave.  
Ocala, FL 34471

STATE OF FLORIDA  
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 20 day of August, 2024, by Richard W. McGinley, as Manager of 484 Road Runner Resources, LLC, a Florida limited liability company, on behalf of the company.

[Signature]  
Notary Public, State of Florida  
Name: KARLA S. HAYTER  
(Please print or type)

Commission Number:  
Commission Expires:



Notary: Check one of the following:

Personally known OR

Produced Identification (if this box is checked, fill in blanks below).

Type of Identification Produced: \_\_\_\_\_



**OWNER**

Coyote Crossing Holdings, LLC, a Florida limited liability company

By: [Signature]  
Richard W. McGinley, as Manager

[Signature]  
Witness Signature  
JAMES GOODING III  
Witness Printed Name

Print Witness Address:  
1531 SE 36th Ave.  
Ocala, FL 34471

[Signature]  
Witness Signature  
KARLA S. HAYTER  
Witness Printed Name

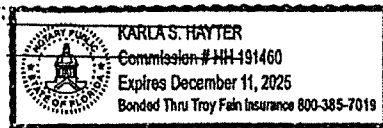
Print Witness Address:  
1531 SE 36th Ave.  
Ocala, FL 34471

STATE OF FLORIDA  
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 20 day of August, 2024, by Richard W. McGinley, as Manager of Coyote Crossing Holdings, LLC, a Florida limited liability company, on behalf of the company.

[Signature]  
Notary Public, State of Florida  
Name: \_\_\_\_\_  
(Please print or type)

Commission Number: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_



**Notary: Check one of the following:**

- Personally known OR
- Produced Identification (if this box is checked, fill in blanks below).  
Type of Identification Produced: \_\_\_\_\_

**COUNTY**

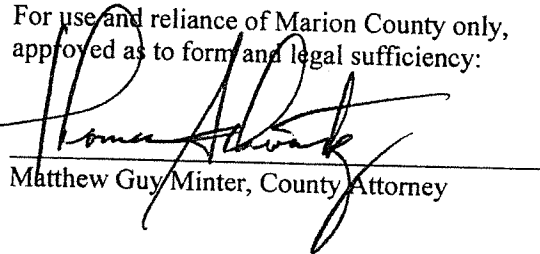
MARION COUNTY, FLORIDA, a political  
subdivision of the State of Florida, by its Board  
of County Commissioners

By: \_\_\_\_\_  
Michelle Stone as Chair

ATTEST:

\_\_\_\_\_  
Gregory C. Harrell, Clerk of Court and Comptroller

For use and reliance of Marion County only,  
approved as to form and legal sufficiency:

For:   
\_\_\_\_\_  
Matthew Guy Minter, County Attorney



**EXHIBIT B**  
**CONVEYANCE STANDARDS**

All conveyances of title to ROW (whether in fee simple or by grants of easements) which are required under the terms of this Agreement shall be made in accordance with the following Conveyance Standards:

1. The conveying party ("Conveying Party") shall convey fee simple title ROW by Special Warranty Deed.
2. Unless otherwise specifically provided in this Agreement, fee simple title to parcels of real property shall be conveyed free and clear of all liens or encumbrances other than utility easements in favor of governmental entities or licensed public utilities, which shall be Permitted Exceptions with respect to the conveyances.
3. The Conveying Party shall have prepared, at its expense, a survey or a sketch and legal description of each parcel to be conveyed or each parcel for which an easement is to be granted, sealed and signed by a licensed Florida surveyor and certified to the grantor and the grantee in the conveyance or grant.
4. As to all conveyances of fee simple title or grants of easements, the Conveying Party shall, at its expense, provide a commercial title insurance commitment and policy with respect to the conveyance, in accordance with the following provisions:
  - 4.1. The title insurance underwriter shall be First American Title Insurance Company.
  - 4.2. The amount of the title insurance policies shall be \$147,000.00, being the parties' estimate of the fair market value of the ROW.
  - 4.3. The Conveying Party shall provide, at its expense, all necessary closing documents and satisfy other requirements necessary for deletion of the Standard Exceptions in the final title insurance policy, and comply with all other title commitment requirements for the conveyance to be insured.
5. Except as to conveyances that this Agreement expressly provides are in lieu of condemnation (and therefore exempt from the payment of documentary excise taxes), the Conveying Party shall be responsible for payment of any applicable documentary excise taxes. The Conveying Party shall be responsible for payment of the cost of recording the instrument of conveyance and the cost of recording any documents required to satisfy title insurance requirements.
6. With respect to any grant of easement provided under the terms of this Agreement, the same cost allocations and title insurance requirements applicable to conveyances of fee title to real property shall apply.
7. If not specifically provided as an Exhibit to this Agreement, the form and content of any conveyance documents, and other documents prepared by or on behalf of Conveying Party, shall be subject to approval by County in its reasonable discretion. By approving this Agreement, the County Commission authorizes the County Representative to provide such approval on behalf County.

**EXHIBIT C  
CONSTRUCTION COSTS ESTIMATE**

<b>DESCRIPTION</b>	<b>CREDIT</b>
Engineering	\$103,840.00
Road	429,930.09
Storm	\$110,640.00
Geo-tech	\$7,207.00
<b>TOTAL</b>	<b>\$651,617.09</b>

P:\JG\McGinley Richard\57th Extension\Road K\Developer's Agreement re SW 57th Extension 8-26-24.docx