

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 SW 57TH AVENUE ROAD
(NORTH OF CR 484)**

THIS AGREEMENT made and entered into this _____, 202__, (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
- The following (individually and collectively “Owner”):
 - John Alvarez InvestmentGroup, LLC, a Florida limited liability company, a/k/a John Alvarez Investment Group, LLC (“Alvarez Investment”);
 - AAW, LLC, a Florida limited liability company (“AAW”);
 - McGinley Homes, LLC, a Florida limited liability company (“McGinley Homes”); and
 - 484 Road Runner.¹

WHEREAS:

- A. Owner owns the Property² located in Marion County, Florida.
- B. The Property is contiguous with CR 484, along the Property’s southern boundary, and with SW 49th Avenue along the Property’s eastern boundary.
- C. Developer desires to construct the 57th Avenue Improvements to connect CR 484 with SW 49th Avenue.

¹ This entity is a party to this Agreement in two capacities: one as the Developer pursuant to which it will perform the Developer Improvements, and secondly as an Owner, in which capacity it has other rights and obligations including to convey the Drainage Easement. Generally, this entity is referred to as Developer solely in connection with its rights and responsibilities as Developer and is included within the category of Owner in connection with its rights and responsibilities as an Owner.

² Terms capitalized in these Whereas paragraphs and not otherwise defined herein are defined in paragraph 1 below.

- D. County will benefit by the 57th Avenue Improvements and other Developer Improvements in that they will establish a connection between CR 484 and SW 49th Avenue and will permit County to provide Utilities to the Property (and adjacent parcels) upon their development.
- E. County and Private Parties enter into this Agreement to accomplish the Developer Improvements construction.

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:

- 1. **Definitions.** In addition to other terms defined in this Agreement, the following terms have the following meanings:
 - 1.1. *57th Avenue DRAs* – One or more of the drainage retention areas which will be constructed to provide stormwater retention capacity for the Developer Improvements.
 - 1.2. *57th Avenue Improvements* - The portion of the Transportation Improvements consisting of the design, permitting and construction of SW 57th Avenue Road between CR 484 and SW 49th Avenue.
 - 1.3. *Concept Plan* – The depiction of the Developer Improvements as set forth on the attached **Exhibit B**.
 - 1.4. *Construct* (regardless of whether the terms is capitalized) – When used in the context of the Developer Improvements: (a) the design, permitting and construction of the Developer Improvements; and (b) conveyance to County of the Drainage Easement.
 - 1.5. *Contractor* – One or more contractors constructing Developer Improvements on behalf of Developer.
 - 1.6. *Conveyance Standards* – The standards and terms for the conveyance of ROW (including conveyances of fee simple title or grants of easements), as set forth on the attached **Exhibit C**.
 - 1.7. *County* – Marion County, a political subdivision of the State of Florida.
 - 1.8. *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.
 - 1.9. *County Commission* – The Board of County Commissioners of Marion County, Florida.
 - 1.10. *County Representative* – The County Administrator, any Assistant or Deputy County Administrator, or the County Engineer.
 - 1.11. *Developer Improvements* – Construction of the following:
 - 1.11.1. Transportation Improvements.
 - 1.11.2. Stormwater Management System.
 - 1.11.3. Utilities.

- 1.12. *Drainage Easement* – The easement to be granted by Private Parties pursuant to paragraph 4 to permit the conveyance of Stormwater from the Transportation Improvements into the 57th Avenue DRAs, and the storage of Stormwater in the 57th Avenue DRAs, as permitted by one or more Permits issued by the Water Management District.
- 1.13. *Force Majeure* – As defined in paragraph 8.
- 1.14. *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.
- 1.15. *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.
- 1.16. *Parcel* – Any parcel of land, including a platted lot, unplatted parcel or other division of real property located on the Property.
- 1.17. *Parcel Owner* – An owner of any Parcel including Owner, until it conveys such Parcel.
- 1.18. *Party* or *Parties* – As applicable, County, Developer or Owner.
- 1.19. *Permits* – All permits necessary for the construction of the Developer Improvements.
- 1.20. *Plans* – The plans and specifications for the construction of the Developer Improvements, as approved by County and/or all other Governmental Authorities with jurisdiction thereover.
- 1.21. *Private Parties* – Developer and Owner.
- 1.22. *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 Developer Improvements; and (b) permit application and related fees.
- 1.23. *Project Engineer* – The registered professional engineer retained by Developer to represent Developer with respect to Developer’s interests under this Agreement, including the design and permitting of the Developer Improvements. The Project Engineer that designed and permitted the Developer Improvements was Kimley-Horn and Associates, Inc. Developer may change the Project Engineer for the work to be performed on behalf of Developer, by providing written notice thereof to County.
- 1.24. *Property* – As described in the attached **Exhibit A**. Each Owner owns the portion of the Property as designated on **Exhibit A**.

- 1.25. *ROW* – Right of way upon which the Developer Improvements shall be constructed and operated, including all easements (permanent or temporary) necessary for the construction or operation of the Developer Improvements. The ROW shall include:
 - 1.25.1. Real property 100 feet in width for the Transportation Improvements.
 - 1.25.2. A 15 feet wide easement for electric Utilities; the balance of the Utilities will be located within the ROW for the Transportation Improvements.
 - 1.25.3. The real property encumbered by the Drainage Easement.
- 1.26. *Stormwater* – Surface water or stormwater runoff (regardless of whether the term is capitalized), to be managed pursuant to the Stormwater Management System.
- 1.27. *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 Developer Improvements which will be constructed pursuant to the terms of this Agreement. The Stormwater Management System shall comply with the design, construction, and operational requirements of the Water Management District and (as applicable) County. The Stormwater Management System shall consist of the 57th Avenue DRAs and conveyance facilities to convey the Stormwater from the Transportation Improvements into the 57th Avenue DRAs pursuant to the Drainage Easement.
- 1.28. *Substantial Completion* – Substantial completion of the Developer Improvements as evidenced by a certificate from the Project Engineer certifying that the Developer Improvements have been constructed pursuant to the approved Plans and any Permits therefor, and County’s acceptance of the Developer Improvements.
- 1.29. *Transportation Facilities* – All roads, streets, highways, intersections, stormwater management systems, or similar facilities.
- 1.30. *Transportation Improvements* – Design, permitting and construction of SW 57th Avenue Road as depicted on the Concept Plan to provide a connection between SW 49th and CR 484 and further extending into the Property as set forth on the Concept Plan. The Transportation Facilities shall consist of a two-lane road with median.
- 1.31. *Utilities* – Water and wastewater utilities provided by Marion County at such locations and with such specifications as determined during the design and permitting of the Utilities.
- 1.32. *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 Stormwater Management Systems, and 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, in anticipation of this Agreement, designed the Developer Improvements consistent with the following:

- 2.1.1. The Developer Improvements have been designed consistent with the Concept Plan.
 - 2.1.2. The Stormwater Management System has been designed to accommodate all Stormwater from the Transportation Improvements constructed as part of the Developer Improvements, as well as development of the Property.
 - 2.2. County has approved the Plans for the Developer Improvements.
 - 2.3. Developer has obtained all Permits necessary for the construction of the Developer Improvements.
 - 2.4. Developer has paid all Professional Expenses incurred in connection with the design and permitting of the Developer Improvements.
3. **Construction of Developer Improvements.**
 - 3.1. Developer shall construct the Developer Improvements in one or more phases (“Phases”) in connection with Developer’s development of the Developer Parcel.
 - 3.2. Developer shall cause Substantial Completion of all Phases of the Developer Improvements to occur within four (4) years after the Effective Date of this Agreement.
 - 3.3. Within forty-five (45) days after Developer’s Substantial Completion of the Developer Improvements, Developer shall provide to County “as built” surveys of the Developer Improvements. Developer may provide the “as built” surveys in connection with one or more Phases or following completion of all Developer Improvements.
4. **Conveyance of ROW.**
 - 4.1. Generally.
 - 4.1.1. Within forty-five (45) days after Developer provides to County the “as-built” Surveys for all Developer Improvements pursuant to paragraph 3.3, Developer and Owner shall convey the ROW for the Developer Improvements to County.
 - 4.1.2. Such conveyance shall be pursuant to the Conveyance Standards.
 - 4.2. Drainage Easement. In addition to the provisions of paragraph 4.1, the following shall apply concerning the conveyance of the Drainage Easement.
 - 4.2.1. Within three months after Substantial Completion of the Developer Improvements, the Private Party owning the portion of the Property upon which any component (e.g., conveyance or storage) of the Stormwater Management System is located shall grant to County a Drainage Easement for such components of the Stormwater Management System. The instrument granting the Drainage Easement shall grant to County the Drainage Easement to permit the conveyance of Stormwater from the Transportation Improvements into the 57th Avenue DRAs, and the storage of Stormwater in the 57th Avenue DRAs, as permitted by one or more Permits issued by the Water Management District. The attached **Exhibit D** contains Project Engineer’s calculation of such volumes; any revision to such volumes shall be

either set forth in the Drainage Easement or evidenced by an amendment to this Agreement executed by the County Administrator or County Engineer, on behalf of the County, and the Owner of the portion of the Parcel upon which the Stormwater Management System is located.

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

5. **Maintenance.** Following construction of the Developer Improvements:

5.1. The Private Party owning the Parcel upon which any component of the Stormwater Management System is located shall maintain such component of the Stormwater Management System pursuant to paragraph 6; and

5.2. Developer shall maintain all other Developer Improvements (including the Transportation Improvements and Utilities) for a period of one (1) year after substantial completion, after which County shall maintain such Developer Improvements.

6. **Stormwater Management System.**

6.1. Maintenance By Developer. The Private Party obligated to maintain any component of the Stormwater Management System pursuant to paragraph 5.1, shall maintain such component in good operating condition, in full and complete compliance with all conditions and covenants of the Stormwater Permit, and in full and complete compliance with any other applicable rules or regulations of County, District, or any other applicable Governmental Authority. For purposes of this Agreement, the primary obligation of the Private Party to maintain the Stormwater Management System as described in this paragraph 6.1 shall apply with respect to normal and ordinary maintenance, repair and replacement of the Stormwater Management System; “ordinary maintenance, repair and replacement” includes such action as is necessary following any catastrophic occurrence (such as sink holes).

6.2. Modification or Relocation by Developer.

6.2.1. Each Private Party retains the right to modify the Stormwater Management System located on its Parcel, in the future, in connection with its development of such Parcel. In connection with any such modification or relocation, such Private Party will comply with the rules of County and District and shall also, as required by the District or County:

6.2.1.1. Obtain a modification of the Stormwater Permit to modify or relocate the Stormwater Management System anywhere within the development being proposed by such Private Party on the Property, provided that such Private Party shall convey the runoff from the Transportation Improvements to the modified or relocated Stormwater Management System; and

6.2.1.2. Account for the stormwater volumes in the existing Stormwater Management System as well as any volumes that are required by the District or County for the development being proposed by such Private Party on the Property.

- 6.2.2. Upon the completion of the modification, the Private Party that owns the Modified Stormwater Management System, and County, shall amend the Drainage Easement to:
 - 6.2.2.1. Extend the Drainage Easement to include any portion of the Parcel not included within the original Drainage Easement, or release any portion of the Parcel no longer needed for the Drainage Easement.
 - 6.2.2.2. Update the Stormwater volumes permitted to be conveyed in such Stormwater Management System from the Transportation Improvements.
- 6.2.3. The Private Party performing the modification or relocation shall be responsible for payment of any and all costs and expenses associated with the modification or relocation of the Stormwater Management System, as described in this paragraph 6.2. There is no specific time frame within which such Private Party must exercise its right to modify or relocate the Stormwater Management System described herein.

6.3. POA.

- 6.3.1. In connection with its development of the Property, the Private Party obligated to perform maintenance of a component of the Stormwater Management System may form a validly organized Florida not-for-profit corporation as a property owners' association ("POA"), provided that all the following conditions are satisfied:
 - 6.3.1.1. The POA is formed for the specific purpose of owning and maintaining common elements for the development of the Parcel owned by the Private Party, including the Stormwater Management System which are the subject matter of this Agreement.
 - 6.3.1.2. The POA is granted the authority to own, maintain and operate the Stormwater Management System by a Declaration recorded in the Public Records of Marion County, Florida.
 - 6.3.1.3. The POA is empowered under the terms of any recorded Declaration to collect assessments from all or some of the owners of units located on the Property for the purpose of providing funds necessary for the maintenance and operation of the Stormwater Management System which are the subject of this Agreement.
- 6.3.2. The Private Party obligated to maintain the Stormwater Management System shall, to the extent that the following are located on the Parcel owned by it, have the right to convey to the POA fee simple title to the 57th Avenue DRAs, and other components of the Stormwater Management System, which the Private Party is obligated to maintain. The POA shall have the right to assume the operation, repair, and maintenance obligations of such Private Party with respect to such components of the Stormwater Management System, and such Private Party shall be released from any and all further liabilities or responsibilities with respect to the ownership, operation, maintenance and repair of such components. The conveyance of the components of the Stormwater Management System, assumption of the

maintenance obligations of such Private Party by the POA, and the release of such Private Party shall be completed in accordance with the following provisions:

- 6.3.2.1. Simultaneous with the conveyance of the components of the Stormwater Management System to the POA, such Private Party and the POA shall enter into an agreement (the "Assumption Agreement"), to be recorded in the Public Records of Marion County, Florida, under which the POA expressly acknowledges assumption of all of such Private Party's obligations under this Agreement with respect to the components of the Stormwater Management System. A copy of the recorded Assumption Agreement shall be provided to County and to the District promptly after its recordation, and in any event within thirty (30) days thereafter; until such Assumption Agreement is provided to County and the District, County and District shall be entitled to enforce any obligations against the Private Party that failed to provide the copy of the Assumption Agreement.
- 6.3.2.2. Upon completion of the procedures set forth above, such Private Party and the POA will, at their sole cost and expense, undertake actions to have the designated permittee of the Stormwater Permit modified to be the POA, subject to any required review and approval by the District or County.
- 6.3.2.3. Upon completion of the execution of the Assumption Agreement and the recording of the same in the Public Records of Marion County, Florida, the POA shall have assumed and shall be responsible for all maintenance obligations of such Private Party with respect to the transferred components of the Stormwater Management System, notwithstanding whether the designated permittee of the Stormwater Permit has been modified to the POA.

7. **County Representative.** Whenever this Agreement refers to approval or consent 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 or consent 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 consents and execute such instruments.

8. **Force Majeure.**

- 8.1. "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 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.”

8.2. 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.

8.3. 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.

9. **Acknowledgement Upon Completion.** Upon Developer’s completion of the Developer Improvements, County shall execute and deliver to Developer a recordable instrument acknowledging such completion. Such instrument may be executed by County Representative on behalf of County.

10. **Assignment Provisions.** No Private Party may assign its rights or obligations under this Agreement without express written consent of County which may be withheld by County in its reasonable discretion. Such consent may be provided by County Representative on behalf of County.

11. **Notices.**

11.1. 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:

11.1.1. If to County: Assistant County Administrator Tracy Straub, P.E., 601 SE 25th Avenue, Ocala, FL 34471; email: tracy.straub@marionfl.org.

11.1.1.1. With _____ a _____ copy to _____

11.1.2. If to Developer: Richard McGinley, 5700 SW Highway 484, Ocala, FL 34473; email: richmcginley@gmail.com.

11.1.2.1. With a copy to: Matt Fabian, 4349 SE 20th Street, Ocala, FL 34471; email: mattpfabian@gmail.com.

- 11.1.2.2. With a copy to: W. James Gooding III, 1531 SE 36th Avenue, Ocala, FL 34471; email: jgooding@lawyersocala.com.
- 11.1.3. If to McGinley Homes: Werner Macedo, 7988 Via Dellagio Way, Suite 206, Orlando, FL 32819; email: werner@d32invest.com.
- 11.2. Each such Communication shall be deemed delivered:
 - 11.2.1. On the date of delivery if by personal delivery with signed receipt thereof;
 - 11.2.2. On the date of email transmission if by email (subject to paragraph 11.5); and
 - 11.2.3. 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.
 - 11.2.4. 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.
- 11.3. 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.
- 11.4. 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.
- 11.5. Concerning Communications sent by email:
 - 11.5.1. 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;
 - 11.5.2. 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;
 - 11.5.3. Any email that the recipient replies to, or forwards to any person, shall be deemed delivered to the recipient.
 - 11.5.4. 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
 - 11.5.5. 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.

12. **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.
13. **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.
14. **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.
15. **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.
16. **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.
17. **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.
18. **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.
19. **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.

20. **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:
- 20.1. Any pronoun used herein shall include the corresponding masculine, feminine and neuter forms.
 - 20.2. 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.
 - 20.3. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation.”
 - 20.4. The words “herein,” “hereof,” “hereunder,” and similar terms shall refer to this Agreement.
 - 20.5. A reference to an Article, paragraph, subparagraph, or other subpart of this Agreement, shall include all paragraphs, subparagraphs, and subparts under the referenced part.
 - 20.6. 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.
21. **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.
22. **Time.**
- 22.1. Time is of the essence of all of the provisions and terms of this Agreement.
 - 22.2. If a time period is five (5) days or less, intervening Saturdays, Sundays or legal holidays will be excluded from the calculation.
 - 22.3. 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.
 - 22.4. 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.

23. **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.
24. **Exhibits.**
- 24.1. All exhibits attached to this Agreement are being incorporated by reference.
- 24.2. The following exhibits are attached to this Agreement.
- 24.2.1. **Exhibit A** – Property.
- 24.2.2. **Exhibit B** – Concept Plan.
- 24.2.3. **Exhibit C** – Conveyance Standards.
- 24.2.4. **Exhibit D** – Stormwater Calculations
25. **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.
26. **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.
27. **Miscellaneous.**
- 27.1. Any violation by Private Parties’, or their 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.
- 27.2. Any amendments to the conditions or provisions contained herein shall require an amendment to this Agreement.
- 27.3. 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; no delay in recording shall adversely impact the effectiveness of this Agreement. 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/OWNER

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

By: _____
Richard W. McGinley, as Manager

Witness Signature

Witness Printed Name

Print Witness Address: _____

Witness Signature

Witness Printed Name

Print Witness Address: _____

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 202__, by Richard W. McGinley, as Manager of 484 Road Runner Resources, LLC, a Florida limited liability company.

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: _____

**OWNER
ALVAREZ INVESMENT**

John Alvarez InvestmentGroup, LLC, a Florida
limited liability company

By: _____
John L. Alvarez as Manager

Witness Signature

Witness Printed Name

Print Witness Address: _____

Witness Signature

Witness Printed Name

Print Witness Address: _____

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 202__, by John L. Alvarez as Manager of John Alvarez InvestmentGroup, LLC, a Florida limited liability company, on behalf of such company.

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 blank below).
Type of Identification Produced: _____

**OWNER
AAW**

AAW, LLC, a Florida limited liability company

Witness Signature

Witness Printed Name

Print Witness Address: _____

By: _____
John L. Alvarez as Manager

Witness Signature

Witness Printed Name

Print Witness Address: _____

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 202__, by John L. Alvarez as Manager of AAW, LLC, a Florida limited liability company, on behalf of such company.

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 blank below).
- ____ Type of Identification Produced: _____

**OWNER
MCGINLEY HOMES**

McGinley Homes, LLC, a Florida limited liability company

By: D32 Invest LLC, a Florida limited liability company as Manager

Witness Signature

Witness Printed Name

Print Witness Address: _____

By: _____
Werner Macedo as Manager

Witness Signature

Witness Printed Name

Print Witness Address: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 2023, by Werner Macedo as Manager of D32 Invest LLC, a Florida limited liability company, as Manager of McGinley Homes, LLC, a Florida limited liability company, on behalf of such companies.

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 blank below).

Type of Identification Produced: _____

COUNTY

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

By: _____
Kathy Bryant as Chairman

ATTEST:

Gregory C. Harrell, Clerk of Court and Comptroller

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

Matthew Guy Minter, County Attorney

**EXHIBIT A
PROPERTY**

Parcels Owned by 484 Road Runner

Tax Parcel ID #: 41200-056-00

SEC 09 TWP 17 RGE 21 S 3/4 OF NE 1/4 OF SEC 9 LYING W OF SW 49TH CT RD & EXC CNTY RD 484 ALL BEING DESC AS: COM AT NE COR OF THE NE 1/4 TH S 00-11-30 W 456.70 FT TO THE INTERSECTION WITH THE WLY ROW OF SW 49TH CT RD SAID PT BEING ON A CURVE CONCAVE NWLY HAVING A RAD OF 895 FT & CANTRAL ANGLE OF 16-21-26 TH SWLY ALONG THE A RC OF SAID CURVE & WLY ROW 255.51 FT (CHORD BEARING & DIST OF S 38-59-26 W 254.64 FT) TO THE POINT OF TANGENCY TH S 47-10-09 W 16.60 FT TO POB TH S 47-10-09 W 381.42 FT TO THE PT OF CURVATURE OF A CURVE CONCAVE SELY HAVING A RAD OF 1492 FT & CENTRAL ANGLE OF 46-54-27 TH SWLY ALONG THE ARC OF SAID CURVE & SAID WLY ROW 1221.49FT (CHORD BEARING & DIST OF S 23-42-56 W 1187.66 FT) TO THE PT OF TANGENCY TH S 00-15-42 W 206.04FT TH S 14-50-09 W 51.66 FT TH S 00-15-42 W 301.03 FT TH S 45-15-42 W 46.70 FT TO CNTY RRD 484 TH N 89-44-31 W 1681.90 FT TH N 00-11-23 E 1941.25 FT TH S 89-43-00 E 2481.59 FT TO POB EXC COM AT THE SW COR OF NE 1/4 OF SEC 9 TH N 00-11-23 E 60 FT TH S 89-44-31 E 1046.65 FT TO THE POB TH N 00-15-29 E 647 FT TH S 89-44-31 E 682.39 FT TO A PT BEING ON A CURVE CONCAVE ELY HAVING A RADIUS OF 1492 FT A CENTRAL ANGLE OF 02-11-10 TH SLY ALONG ARC OF CURVE 56.93 FT A CHORD BEARING & DISTANCE OF S 01-21-17 W 56.93 FT TH S 00-15-42 W 206.04 FT TH S 14-50-09 W 51.66 FT TH S 00-15-42 W 301.03 FT TH S 45-15-42 W 46.70 FT TH N 89-44-31 W 635.25 FT TO THE POB & EXC COM SW COR NE 1/4 SEC 9 TH N 00-11-23 E 60 FT TO N ROW HWY 484 TH S 89-44-31 E ALG ROW 285.17 FT TO POB TH N 00-15-42 E 356.80 FT TH S 89-44-18 E 443.96 FT TH N 468.25 FT TH E 30 FT TH N 95 FT TH E 641.78 FT TH S 95 FT TH E 30 FT TH S 181.18 FT TH N 89-44-31 W 382.98 FT TH S 00-15-29 W 647 FT TO N ROW HWY 484 TH N 89-44-31 W ALG ROW 761.48 FT TO POB

Tax Parcel ID #: 41200-056-02

SEC 09 TWP 17 RGE 21
BEG AT NE COR OF NE 1/4 OF SEC 9 TH S 00-11-30 W 456.70 FT TO THE INTERSECTION WIHT WLY ROW OF SW 49TH COURT RD SAID PT BEING ON CURVE CONCAVE NWLY HAVING RAD OF 895 FT & CENTRAL ANGLE OF 16-21-26 TH SWLY ALG ARC OF CURVE & WLY ROW OF 255.51 FT (CHORD BEARING & DIS OF S 38-59-26 W 254.64 FT) TO PT OF TANGENCY TH ALG WLY ROW S 47-10-09 W 16.50 FT TO TH N 89-43-00 W 2481.59 FT TH S 00-11-23 W 1941.25 FT TH N 89-44-31 W 1048.85 F TH N 75-09-57 W 51.66 FT TH N 89-44-31 W 132.46 FT TH N 49-10-01 W 50.73 FT TH S 82-51-01 W 57.25 FT TH N 00-11-19 E 2570.49 FT TH S 89-42-29 E 3979.84 FT TO POB.
EXCEPT: COM AT THE W 1/4 COR OF SEC 9 TH S 89-44-18 E ALONG S LINE OF THE N 1/2 OF SEC 9, A DIST OF 1246.90 FT TH N 00-15-42 E 60 FT TO THE POB. TH N 47-48-17 E 48.89 FT TH N 00-15-42 E 34.50 FT TH S 89-44-18 E 100 FT TH S 00-15-42 W 21.50 FT TH S 49-09-48 E 50.73 FT TH S 89-44-18 E 51.66 FT TH N 89-44-18 W 357-07 FT TO POB.
LESS & EXCEPT THE FOLLOWING:
BEGIN AT NW COR OF SEC 09 TH S 89-42-29 E 1872.01 FT TH S 00-00-24 W 369.19 FT TH S 89-50-19 E 107.37 FT TH S 00-00-24 W 923.40 FT TO PT ON NON-TANGENT CURVE CONCAVE SELY HAVING A RADIUS OF 947.59 FT & A CENTRAL

ANGLE OF 37-25-26 TH SWLY ALONG ARC OF SAID CURVE
618.93 FT WITH A CHORD BEARING & DISTANCE OF S 56-24-20 W
607.99 FT TH N 53-33-19 W 191.58 FT TO PT OF CURVATURE
OF A CURVE CONCAVE SWLY HAVING A RADIUS OF 226.89 FT
& A CENTRAL ANGLE OF 30-17-34 TH NWLY ALONG THE ARC
OF SAID CURVE 119.96 FT WITH A CHORD BEARING & DISTANCE
OF N 68-03-17 W 118.56 FT TH N 89-40-31 W 1213.53 FT TH
N 00-11-16 E 1473.85 FT TO POB

Tax Parcel ID #: 41200-056-03

SEC 09 TWP 17 RGE 21
W 1/2 OF NW 1/4 N OF SR 484
EXCEPT N 10 FT OF S 60 FT OF N 1/2 OF SEC 9 EXCEPT E 350 FT THEREOF
BEING MORE PARTICULARLY DESC AS:
COM AT NW COR OF NW 1/4 OF SEC 9 TH S 00-11-16 W 2609.89 FT TO
INTERSECTION OF HWY 484 TH S 89-4431 E 1247.22 FT TH N 47-48-03 E
48.89 FT TH N 82-51-01 E 43.59 FT TH N 00-11-19 E 2570.49 FT TH
N 89-42-29 W 1326.61 FT TO POB
EXCEPT: COM AT THE W 1/4 COR OF SEC 9 TH S 89-44-18 E ALONG S LINE
OF THE N 1/2 OF SEC 9, A DIST OF 1246.90 FT TH N 00-15-42 E
60 FT TO THE POB. TH N 47-48-17 E 48.89 FT TH N 00-15-42 E
34.50 FT TH S 89-44-18 E 100 FT TH S 00-15-42 W 21.50 FT TH S 49-09-48 E 50.73 FT
TH S 89-44-18 E 51.66 FT TH N 89-44-18 W 357-07 FT TO POB.
LESS & EXCEPT THE FOLLOWING:
BEGIN AT NW COR OF SEC 09 TH S 89-42-29 E 1872.01 FT
TH S 00-00-24 W 369.19 FT TH S 89-50-19 E 107.37 FT TH
S 00-00-24 W 923.40 FT TO PT ON NON-TANGENT CURVE
CONCAVE SELY HAVING A RADIUS OF 947.59 FT & A CENTRAL
ANGLE OF 37-25-26 TH SWLY ALONG ARC OF SAID CURVE
618.93 FT WITH A CHORD BEARING & DISTANCE OF S 56-24-20 W
607.99 FT TH N 53-33-19 W 191.58 FT TO PT OF CURVATURE
OF A CURVE CONCAVE SWLY HAVING A RADIUS OF 226.89 FT
& A CENTRAL ANGLE OF 30-17-34 TH NWLY ALONG THE ARC
OF SAID CURVE 119.96 FT WITH A CHORD BEARING & DISTANCE
OF N 68-03-17 W 118.56 FT TH N 89-40-31 W 1213.53 FT TH
N 00-11-16 E 1473.85 FT TO POB

Parcels Owned by AAW

Tax Parcel ID #: 41200-056-12

SEC 09 TWP 17 RGE 21
COM SW COR NE 1/4 SEC 9
TH N 00-11-23 E 60 FT TO N ROW HWY 484
TH S 89-44-31 E ALG ROW 285.17 FT TO POB
TH N 00-15-42 E 356.80 FT TH S 89-44-18 E 443.96 FT
TH N 468.25 FT TH E 30 FT TH N 95 FT TH E 641.78 FT
TH S 95 FT TH E 30 FT TH S 181.18 FT TH N 89-44-31 W 382.98 FT
TH S 00-15-29 W 647 FT TO N ROW HWY 484
TH N 89-44-31 W ALG ROW 761.48 FT TO POB

Parcel Owned by Alvarez Investment

Tax Parcel ID #: 41200-056-04

SEC 09 TWP 17 RGE 21

COM AT THE SW COR OF NE 1/4 OF SEC 9 TH N 00-11-23 E 60 FT TH S 89-44-31 E
1046.65 FT TO THE POB TH N 00-15-29 E 647 FT TH S 89-44-31 E 682.39 FT TO A
PT BEING ON A CURVE CONCAVE ELY HAVING A RADIUS OF 1492 FT A CENTRAL
ANGLE OF 02-11-10 TH SLY ALONG ARC OF CURVE 56.93 FT A CHORD BEARING &
DISTANCE OF S 01-21-17 W 56.93 FT TH S 00-15-42 W 206.04 FT TH
S 14-50-09 W 51.66 FT TH S 00-15-42 W 301.03 FT TH S 45-15-42 W 46.70 FT
TH N 89-44-31 W 635.25 FT TO THE POB

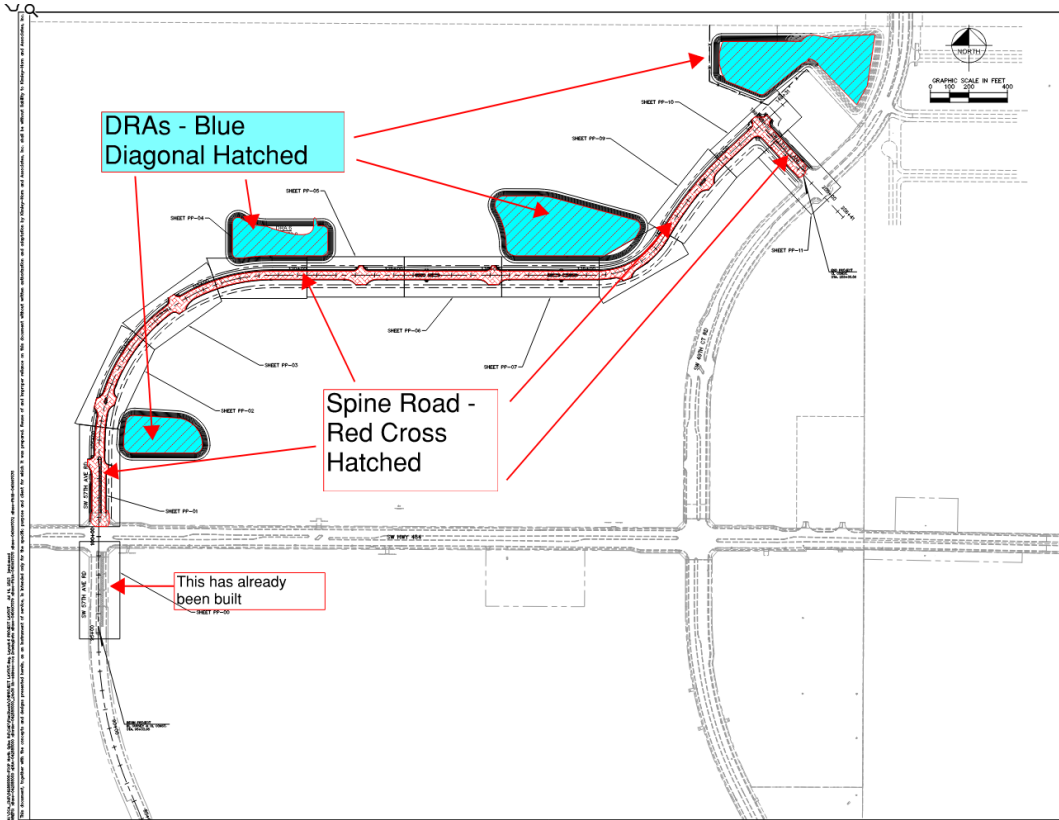
Parcel Owned by McGinley Homes

Tax Parcel ID #: 41200-056-13

SEC 09 TWP 17 RGE 21

BEGIN AT NW COR OF SEC 09 TH S 89-42-29 E 1872.01 FT
TH S 00-00-24 W 369.19 FT TH S 89-50-19 E 107.37 FT TH
S 00-00-24 W 923.40 FT TO PT ON NON-TANGENT CURVE
CONCAVE SELY HAVING A RADIUS OF 947.59 FT & A CENTRAL
ANGLE OF 37-25-26 TH SWLY ALONG ARC OF SAID CURVE
618.93 FT WITH A CHORD BEARING & DISTANCE OF S 56-24-20 W
607.99 FT TH N 53-33-19 W 191.58 FT TO PT OF CURVATURE
OF A CURVE CONCAVE SWLY HAVING A RADIUS OF 226.89 FT
& A CENTRAL ANGLE OF 30-17-34 TH NWLY ALONG THE ARC
OF SAID CURVE 119.96 FT WITH A CHORD BEARING & DISTANCE
OF N 68-03-17 W 118.56 FT TH N 89-40-31 W 1213.53 FT TH
N 00-11-16 E 1473.85 FT TO POB

EXHIBIT B CONCEPT PLAN



ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. DATE OF DECLASSIFICATION IS INDEFINITE. AUTHORITY: 5 U.S.C. 552.

NO.	DATE	DESCRIPTION
1		FOR CONSTRUCTION

PREPARED BY
 484 ROAD RUNNER RESOURCES, LLC
 MARION COUNTY, FLORIDA
 5700 SW HWY 484
 OCALA, FL 34473

Kimley-Horn
 & Associates, Inc.
 2002 KIMLEY-HORN AND ASSOCIATES, INC.
 1000 FULTON AVENUE, SUITE 200
 FORT WORTH, TEXAS 76104
 PHONE: 817-335-3000 FAX: 817-335-3001
 WWW.KIMLEY-HORN.COM

SW 57TH AVENUE ROAD
 PROJECT LAYOUT
 SHEET 4

THIS SHEET IS THE ELECTRONIC FILE FORMAT. PRINT AND PLOT UNDER THESE SETTINGS: 2500x3500, PLOT.

EXHIBIT C
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 determined by utilizing the per square foot value of the real property, according to the most recent assessment by the Marion County Property Appraiser, multiplied by the square feet of the parcel.
 - 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 D STORMWATER CALCULATIONS



Basin ID	Area(ac)	Land Cover	Soil Type	Impervious	DCIA	Runoff Depth (in)	Runoff Volume (cf)	Equivalent Curve Number
Basin-5	2.59	Road (Includes ROW)	Candler sand (0 to 5 percent slopes)	80%	80%	8.82	82,923	82.4
Basin-6	3.68	Road (Includes ROW)	Candler sand (0 to 5 percent slopes)	80%	80%	8.82	117,821	82.4
Basin-12	2.74	Road (Includes ROW)	Candler sand (0 to 5 percent slopes)	80%	80%	8.82	87,725	82.4
Basin-14	2.48	Road (Includes ROW)	Candler sand (0 to 5 percent slopes)	80%	80%	8.82	79,401	82.4

The allowable runoff volumes for the Transportation Improvements are derived from values presented in the FCCP North Spine Road (SW 57th Ave Rd) Drainage Report, signed October 19th, 2022, which was prepared by Kimley-Horn and Associates Inc and approved by SWFWMD under Environmental Resource Permit No. 44106.008. The runoff volumes presented in this table are based on an 11" rainfall event (the 100-year, 24-hour storm).

P:\JG\McGinley Richard\N Spine Road\Agreement\Developer's Agreement re Spine Road JG 7-27-24 Rev.docx