

**Southwest District Transportation Improvement Agreement Between  
Alachua County and Celebration Pointe Partner, LLC**

**THIS AGREEMENT** (hereinafter “Agreement”), made and entered into, this \_\_\_\_\_ day of \_\_\_\_\_, 2011 (hereafter “Effective Date”), by and between CELEBRATION POINTE PARTNERS, LLC, a Florida limited liability corporation (hereinafter "Developer"), and Alachua County, a charter county and political subdivision of the State of Florida (hereinafter "County").

**W I T N E S S E T H:**

**WHEREAS**, Article VII, Section 1(g), Florida Constitution provides that charter counties have all powers of local self-government not inconsistent with general law; and

**WHEREAS**, Subsection 125.01(2)(m), Florida Statutes, authorizes the county to provide and regulate arterial, toll, and other roads, bridges, and other transportation facilities; and

**WHEREAS**, the Board of County Commissioners of Alachua County, Florida, (the “Board”) finds that the Southwest Urban Area of the unincorporated Alachua County and areas in proximity thereto provide vital economic, recreational and community opportunities for the people of Alachua County, including among other things, pristine natural conservation areas, important public facilities such as schools, parks and libraries, destinations and other valuable resources that distinguish Alachua County for its natural beauty and its quality of life; and

**WHEREAS**, the Board further finds that the transportation infrastructure which currently supports access to and from the many desirable locations within said portions of Southwest Alachua County is in need of improvement to adequately meet the current and future transportation and mobility needs of the people of the County and visitors to arrive in, and move about within, said portions of Southwest Alachua County; and such needs are restricting the potential of Southwest Alachua County to realize its economic development potential; and

**WHEREAS**, the Board finds that it is necessary and desirable to address the transportation operation and infrastructure needs of portions of southwestern Alachua County to provide for substantial improvements thereto (the “Multi-Modal Transportation Projects”) in order for such area to reach its full potential (i) to provide sound, clean economic development, (ii) to protect the natural beauty in a manner that enables the public and visitors to enjoy the immense opportunities for recreation, with a minimum of difficulty of access, (iii) to afford adequate and efficient multi-modal traffic corridors so that Southwest Alachua County is more appealing and accessible as a destination for residents, workforce and visitors; and

**WHEREAS**, the Developer is the owner of an approximately 225 acre parcel of land identified as Tax Parcel Numbers 06820-000-000, 06828-000-000, 06684-000-000, 06830-000-000, 06826-001-000, 06827-001-000, 06832-000-000, and 06937-000-000 in Section 15, Township 10, Range 19 (hereinafter “Property”), as more particularly described in Exhibit “A,” (Celebration Pointe Legal Description of Properties & Parcel Boundary Map) attached and incorporated by reference to this Agreement; and

**WHEREAS**, the Developer, consistent with Future Land Use Element Policy 1.7 of the Alachua County Comprehensive Plan (hereinafter “Comprehensive Plan”), intends to construct a Transit Oriented Development, to be known as “Celebration Pointe” (hereinafter “Development”) on the Property; and

**WHEREAS**, the Developer, received preliminary development plan approval on November 9, 2010 to develop 896,000 square feet of non-residential uses that encompass a mixture of commercial, office, research and medical oriented industrial and civic uses, and 2,225 residential units that encompass a mixture of single-family, multi-family, lodging and assisted living facility units; and

**WHEREAS**, as part of the development process, the Developer has submitted a traffic analysis showing that the Development, designed as a Transit Oriented Development, will generate 1,801 PM peak hour external trips, 961 AM peak hour external trips and 18,071 daily external trips with a significant reduction in trips due to a greater level of internal capture and a higher percentage of trips made by walking, biking and riding transit; and

**WHEREAS**, in Policy 1.1.7 of the Transportation Mobility Element of the Comprehensive Plan, the Board of County Commissioners has established a process whereby development can mitigate its transportation impact and receive transportation concurrency approval; and

**WHEREAS**, as a means to encourage Transit Oriented Development, to promote infill development, and to pay for multi-modal transportation projects consistent with the Capital Improvements Element of the Comprehensive Plan, the County has designated a Southwest Alachua County Transportation Improvement District (hereinafter “Improvement District”) for the area generally bounded by Interstate 75 to the East, the Hogtown Creek Greenway to the North, Lake Kanapaha to the West and Southwest 47<sup>th</sup> Avenue to the South as more particularly described in Exhibit “B,” (Southwest Alachua County Transportation Improvement District Map) attached and incorporated by reference to this Agreement; and

**WHEREAS**, the Developer voluntarily agrees to design and construct, consistent with County requirements, specific multi-modal transportation projects and to convey specific portions of the Property to Alachua County consistent with the currently-adopted Capital Improvements Element of the Comprehensive Plan which will advance the implementation of the Transportation Mobility Element of the Comprehensive Plan; and

**WHEREAS**, the Developer agrees to fund weekday, 15-minute interval, peak-hour transit service for 2 hours in the AM and 2 hours in the PM for a 15-year period from the Development to the University of Florida as required for Transit Oriented Developments per Policy 1.7.9 in the Future Land Use Element of the Comprehensive Plan; and

**WHEREAS**, the Developer will design and construct, consistent with County requirements, multi-modal transportation capacity projects that meet the requirements of the multi-modal transportation mitigation credit per Chapter 407, Article 12 of the Alachua County Unified Land Development Code (“ULDC”); and

**WHEREAS**, the County has determined that it is in the best interest of the citizens of the County for the Developer to design and construct, consistent with County requirements, multi-modal transportation capacity projects and dedicate right-of-way to the County.

**WHEREAS**, the County has determined that the use of lawfully available County funds to reimburse the Developer for a portion of the cost of capital improvement and to pay for transit capital, operations and maintenance that serve or otherwise benefit property in the Southwest Alachua County Improvement District serve a valuable public purpose.

**NOW, THEREFORE**, in consideration of the promises, mutual covenants, and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties to this Agreement agree as follows:

**Section 1. Recitals Incorporated.**

The above recitals are true and correct and incorporated herein.

**Section 2. Definitions.**

“Force Majeure event” shall mean an event which is all of the following: 1) beyond the reasonable control of the afflicted party; 2) not reasonably foreseeable by the afflicted party; 3) not incurred as a product or result of the negligence of the afflicted party; and 4) has a materially adverse effect on the ability of the afflicted party to perform its obligations under this Agreement.

"Tax Increment" shall mean that amount equal to the difference between:

- (1) The amount of general ad valorem taxes levied each year by the county, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of the Southwest Alachua County Transportation Improvement District; and
- (2) The amount of general ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by the county, exclusive of any amount from any debt service millage, upon the total of the assessed value of the taxable real property in calendar year 2012 (the base tax year) of the taxable real property contained within the Southwest Alachua County Transportation Improvement District.

**Section 3. Purpose.**

The Purpose of this Agreement is:

- a. To recognize that the Developer will have mitigated the transportation impact of the Development as provided for in Policies 1.1.10.1 and 1.1.10.3 of the Transportation Mobility Element of the Comprehensive Plan and Chapter 407,

Article 12 of the ULDC and as required for the construction of the Development, subject to compliance by the Developer with the terms and conditions of this Agreement; and

- b. To establish that any owner of a property in the Development may receive credit for transportation projects that the Developer constructs that provide capacity for motor vehicles, transit vehicles, pedestrians and bicyclists as provided for in the Multi-Modal Transportation Mitigation Ordinance, subject to compliance by the Developer with the terms and conditions of this Agreement; and
- c. To enter into a transportation infrastructure improvement agreement that requires the County to reimburse the Developer for the full cost associated with construction and funding of Multi-Modal Transportation Projects, beyond the Developer's required multi-modal transportation mitigation.
- d. To encourage Transit Orientated Developments, infill development in close proximity to the City of Gainesville and public / private partnerships to effectively and efficiently provide transportation mobility options to County residents, business and visitors.

#### **Section 4. Development Identification.**

The proposed Development, to be known as "Celebration Pointe," is located on Southwest 45<sup>th</sup> Street north of Archer Road, which is identified as Alachua County Tax Parcel numbers: 06820-000-000, 06828-000-000, 06684-000-000, 06830-000-000, 06826-001-000, 06827-001-000, 06832-000-000 and 06937-000-000 (more specifically described in Exhibit A: Celebration Pointe Legal Description of Properties & Parcel Boundary Map). The Developer, consistent with Future Land Use Element Policy 1.7 of the Comprehensive Plan, intends to construct a Transit Oriented Development with 896,000 square feet of non-residential uses and 2,225 residential units.

#### **Section 5. Covenant to Budget and Appropriate Non-Ad Valorem Funds: Southwest Alachua County Transportation and Transit Trust Fund and Multi-Modal Transportation Mitigation Fund.**

Each year during the term of this agreement, the County shall budget and appropriate non-ad valorem revenues lawfully available to meet its obligations under this Agreement. The County shall pay for transit operations, as set forth in Section 7 of this Agreement, and shall reimburse the Developer, as set forth in Section 8 of this Agreement, from the funds appropriated to the Southwest Alachua County Transportation and Transit Trust Fund and the Southwest Alachua County Multi-Modal Transportation Mitigation Fund.

A. Southwest Alachua County Transportation and Transit Trust Fund.

The County shall establish the Southwest Alachua County Transportation and Transit Trust Fund (“Transportation and Transit Trust Fund”). Subject to the limitations in Section 18 of this Agreement, the County shall pay into the Transportation and Transit Trust Fund an amount equal to the following schedule.

- Between and including the years of 2013 and 2025, the County shall deposit an amount equal to 30% of the tax increment, as defined in Section 2 of this Agreement, collected within the Southwest Alachua County Transportation Improvement District, as delineated in Exhibit B (Southwest Alachua County Transportation Improvement District Legal Description & Parcel Boundary Map); and
- Between and including the years of 2026 and 2035, the County shall deposit an amount equal to 25% of the tax increment, as defined in Section 2 of this Agreement, collected within the Southwest Alachua County Transportation Improvement District, as delineated in Exhibit B.

The County shall maintain an amount equal to 5% of the tax increment collected annually through the schedule in this Section in reserve for the term of this Agreement. Starting from the establishment of the Trust Fund until the Developer receives the building permit for the 650<sup>th</sup> residential unit, the County shall set aside 20% of the amount appropriated each year into the Transportation and Transit Trust Fund for the purpose of funding transit, as set forth in Section 7 of this Agreement. Starting from when the Developer receives the building permit for the 650<sup>th</sup> residential unit until the Developer is fully reimbursed or the termination of this Agreement, the County shall set aside a minimum of 20% and a maximum of 45% of the amount appropriated each year into the Transportation and Transit Trust Fund for the purpose of funding transit, as set forth in Section 7 of this Agreement. The County shall annually fund transit operations at a rate up to an amount equal to 45% of the funds appropriated each year to the Transportation and Transit Trust Fund. The County shall use the remaining funds to reimburse the Developer, as set forth in Section 8 of this Agreement.

Should the Development build out within ten years or less, then the Developer shall have the right to request that the County reevaluate the percentage thresholds established in this Section to determine whether the percentages should be adjusted for the purpose of more expeditiously reimbursing the Developer for the Multi-Modal Transportation Projects and the funding of transit service the costs of which exceed the Developer’s MMTM obligation.

B. Southwest Alachua County Multi-Modal Transportation Mitigation Fund.

The County shall establish the Southwest Alachua County Transportation Improvement District Multi-Modal Transportation Mitigation Fund (“TID MMTM Fund”) for the multi-modal transportation mitigation funds collected in the Transportation Improvement District, as delineated in Exhibit B, separately from other funds for the purpose of reimbursing the

Developer for the Multi-Modal Transportation Projects the costs of which exceed the Developer's MMTM obligation.

## **Section 6. Multi-Modal Transportation Projects.**

The Developer's obligation to mitigate the impacts of its development (MMTM obligation) shall be calculated using the methodology found in Alachua County Code §407.125.3 (Multi-Modal Transportation Mitigation Program). The Developer shall meet its MMTM obligation by designing and constructing, consistent with County requirements, the Multi-Modal Transportation Projects as set forth in this Section and dedicating right-of-way to the County as set forth in this Section. Upon completion of each Multi-Modal Transportation Projects as set forth in this Section, the Development shall have met its MMTM obligation and shall be deemed concurrent as to transportation concurrency for the term of this Agreement.

### **A. Projects and Right-of-Way.**

#### Project 1: Southwest 30<sup>th</sup> Avenue.

##### **1) Developer's Obligations.**

The Developer shall design and construct, consistent with County requirements, Southwest 30<sup>th</sup> Avenue from Southwest 47<sup>th</sup> Street, west of Interstate 75, to Southwest 42<sup>nd</sup> Street, east of Interstate 75 and associated stormwater facilities. The Developer shall dedicate to the County all right-of-way necessary for the improvements, including stormwater facilities west of Interstate. The width of the bridge over Interstate 75 shall not exceed 100 feet and right-of-way west of Interstate 75 shall not exceed 120 feet. The Developer agrees to design and construct Southwest 30<sup>th</sup> Avenue with travel lanes, dedicated transit lanes, bike lanes, and the Archer Braid Trail.

##### **2) County's Obligations.**

The County will use methods within its sole discretion to obtain the right-of-way for Southwest 30<sup>th</sup> Avenue and associated land for stormwater from Interstate 75 to Southwest 42<sup>nd</sup> Street. The County shall use its best efforts with the City of Gainesville to ensure that the right-of-way necessary for SW 30<sup>th</sup> Avenue is dedicated to the City, consistent with the City's Comprehensive Plan and planned development approval for Butler Plaza. Best efforts may include but not be limited to informal conversations, formal meetings, and correspondence. The County will assist the Developer in obtaining the necessary approvals from all non-party relevant entities to construct Southwest 30<sup>th</sup> Avenue over Interstate 75.

Exhibit "C" (Southwest 30<sup>th</sup> Avenue Project), attached and incorporated by reference to this Agreement, is preliminary cross-section drawings of the project and an illustration of the right-of-way that the Developer will dedicate to the County.

Project 2: Archer Braid Multi-Use Trail.

1) Developer's Obligations.

The Developer shall design and construct, consistent with County requirements, approximately 2.25 miles of the Archer Braid Multi-Use Trail from Veterans Kanapaha Park to Interstate 75 and associated stormwater facilities. The Developer shall dedicate to the County all right-of-way necessary for the improvements, including stormwater facilities, starting at the western Property boundary and terminating at Interstate 75. The width of the right-of-way shall not exceed 20 feet within open space, conservation areas and buffers. The width of the right-of-way shall not exceed 10 feet within built up areas of the Development or within a roadway cross-section.

2) County's Obligations.

The County will use methods within its sole discretion to obtain the right-of-way for the Archer Braid Trail and associated land for stormwater from the western Property boundary to Veterans Kanapaha Park.

Exhibit "D" (Archer Braid Multi-Use Trail Project), attached and incorporated by reference to this Agreement, is preliminary cross-section drawings of the project and an illustration of the right-of-way that the Developer will dedicate to the County.

Project 3: Dedicated Transit Lane(s) and Multi-Use Path.

1) Developer's Obligations.

The Developer shall design and construct, consistent with County requirements, approximately one mile of dedicated transit lane(s) and a multi-use path. The Developer shall dedicate to the County all right-of-way necessary for the improvements from Archer Road to Southwest 30<sup>th</sup> Avenue. The Developer shall have the option to design the dedicated transit lane(s) as concrete ribbon drives.

Exhibit "E" (Dedicated Transit Lane(s) Project and Multi-Use Path), attached and incorporated by reference to this Agreement, is preliminary cross-section drawings of the project and an illustration of the right-of-way that the Developer will dedicate to the County.

Project 4: Park and Ride.

1) Developer's Obligations.

The Developer shall design and construct, consistent with County requirements, a 200-300 parking space park and ride facility along the dedicated transit lane(s), adjacent to the Development's transit station. The Developer may choose to construct either a surface park and ride lot or a structured park and ride facility or both. If the Developer seeks reimbursement for a structured park and ride facility after receiving reimbursement for a surface park and ride lot, the County shall reimburse the Developer for the difference between the cost of the structured park and ride facility and the amount that the County paid for the surface park and ride lot. The County shall permit the Developer to construct additional parking spaces in the surface or structured park and ride facility, at no cost to the County, for use by the Development.

The Developer shall provide the County, prior to final development plan approval, an access plan detailing the processes or procedures it will use to ensure public transit users have perpetual access to the parking spaces identified below.

- Weekdays, between and including 6:00 am and 10:00 am – ensure public transit user access to 200-300 parking spaces;
- All other days and times – ensure public transit user access to between 50-100 parking spaces; and
- The final number of spaces to be set aside for public transit users shall be dependent upon a transit user demand analysis submitted with final development plans and the credit or reimbursement sought by the Developer.
- The Developer may enter into an agreement with the University of Florida, Shands Hospital or the Veterans Administration to provide parking spaces. These spaces shall not exceed 50% of the spaces to be made available to the public.

The Developer shall include a perpetual access easement dedicated to the County in its access plan. The approved access plan shall become a condition of final development plan approval. Prior to receiving any credit or reimbursement for this project, the Developer shall demonstrate how the access plan has been implemented.

The County shall permit the Developer to charge up to \$2 per space per day for spaces available to the public to recoup ongoing maintenance, operations, insurance and staffing costs associated with the public use pending a justification of costs. Prior to receiving final development plan approval for the park and ride

facility, the Developer shall receive County approval of a technical analysis that justifies any proposed charge for parking. Subsequent reviews to modify the parking charge following final development plan approval shall be subject to prior approval by the County Manager and shall never exceed \$2 per space per day.

Exhibit “F,” (Park and Ride Project) attached and incorporated by reference to this Agreement, is an illustration of the proposed location of the project area.

#### Project 5. Archer Road Traffic Management.

##### 1. Developer’s Obligations.

The Developer shall design and construct, consistent with County requirements, turn lanes, travel lane modifications and realignments, relocation of signals, access management and median modifications on Archer Road between Interstate 75 and Southwest 47<sup>th</sup> Street.

##### 2. County’s Obligations.

The County will assist the Developer in obtaining the necessary approvals from all non-party relevant entities to construct the Archer Road Traffic Management Improvements.

#### Project 6. Transit Capital and Infrastructure.

##### 1. County’s Obligations.

The County shall procure four rapid transit vehicles and share the cost of a vehicle maintenance facility to accommodate the rapid transit vehicles.

#### B. Obligation to Construct Contingent on Availability of Right-of-Way.

The Developer’s obligation to construct any portion of a project under this Agreement is contingent on the availability of the necessary right-of-way to the Developer or the County or through the permission of all relevant entities. Except as to the construction of the Southwest 30<sup>th</sup> Avenue Project, the Developer shall construct all portions of a project where the right-of-way is available unless the County determines that it is unreasonable or impractical to construct a portion of a project without constructing the entire project. The Developer shall not begin construction of Southwest 30<sup>th</sup> Avenue Project prior to all right-of-way being obtained by the Developer or the County or through the permission of all relevant entities. The County shall use methods within its sole discretion to obtain the right-of-way necessary to complete the projects. In no way does this Agreement obligate the County to obtain the right-of-way.

### C. Dedication of Right-of-Way.

The final delineation and legal descriptions of right-of-way to be dedicated to the County by the Developer shall be determined prior to final development plan approval for each Multi-Modal Transportation Project to be dedicated to the County. Upon completion of a project, the Developer shall submit an irrevocable letter of credit or other form of surety acceptable to the County Attorney and receive a certificate of completion in anticipation of an approval for maintenance from the County for each Multi-Modal Transportation Project to be dedicated to the County in accordance with Alachua County Code, §407.86(b)-(c). The Developer shall dedicate the right-of-way, as set forth in this Section, to the County within 30 days of receiving a certificate of completion from the County. The County shall hold the deeds in escrow and present the deeds to the Board of County Commissioners for acceptance once the Multi-Modal Transportation Projects are accepted for maintenance by the County Engineer.

Upon final development plan approval for SW 45<sup>th</sup> Street, the Developer may dedicate right-of-way for SW 45<sup>th</sup> Street from Archer Road to a point ½ mile north of Archer Road to the County in the form of a deed. The Developer shall be eligible to receive MMTM credit for dedication of this right-of-way.

Upon final development plan approval for SW 30<sup>th</sup> Avenue, the Developer may dedicate right-of-way for SW 30<sup>th</sup> Avenue between SW 47<sup>th</sup> Street and Interstate 75 to the County in the form of a deed. The Developer shall be eligible to receive MMTM credit for dedication of this right-of-way.

The County shall hold the right-of-way deeds in escrow until the Multi-Modal Transportation Projects are constructed by the Developer and the projects are accepted for maintenance by the County Engineer. After the projects are accepted for maintenance by the County Engineer, the deeds will be presented to the Board of County Commissioners for acceptance.

The County shall have the option of accepting the right-of-way which has been dedicated for maintenance and recording the deeds held in escrow at any time.

### D. Design.

The final design and cross-sections of the Multi-Modal Transportation Projects shall be determined prior to final development plan approval of each project, consistent with the requirements of the Comprehensive Plan and ULDC. The Developer shall design, in accordance with all County requirements, the Multi-Modal Transportation Projects to promote walking, biking and riding transit and to calm motor vehicle traffic.

### E. Timing: Design and Construction.

The Developer shall commence the design of the Multi-Modal Transportation Projects, consistent with County requirements, prior to: 1) the date of the Developer receives a building permit for the 1,000<sup>th</sup> residential unit; or 2) the date of the Developer receives the building permit for the 350,000<sup>th</sup> square foot of non-residential development.

The Developer shall commence the construction of Project 1 prior to: 1) the date the Developer receives a building permit for the 1,400<sup>th</sup> residential unit; 2) the date the Developer receives the building permit on the 650,000<sup>th</sup> square foot of non-residential uses; or 3) at such time as 75% of the funds needed to construct Project 1 are available for reimbursement in the Transportation and Transit Trust Fund, whichever comes first. The Developer may commence construction of Project 1 earlier than the thresholds identified here.

The Developer shall commence the construction of Projects 2, 3 and 4, consistent with County requirements, prior to: 1) the date the Developer receives a building permit for the 1,400<sup>th</sup> residential unit; 2) or the date the Developer receives the building permit on the 650,000<sup>th</sup> square foot of non-residential uses, whichever comes first. The Developer may commence construction Projects 2, 3 and 4 earlier than the thresholds identified here.

The Developer shall commence the construction of Project 5, consistent with County requirements, when the County, in consultation with the Florida Department of Transportation, determines that the improvements are warranted.

The Developer shall complete construction and dedicate the required right-of-way to the County for Project 1 no later than 24 months from the commencement of construction. The Developer shall complete construction and dedicate the required right-of-way to the County for Projects 2, 3 and 4 no later than 18 months from the commencement of construction. The Developer shall have additional time to complete construction if the Developer claims excuse of performance due to a Force Majeure event, as defined in Section 2 of this Agreement, and follow the procedures, as set forth in Section 39 of this Agreement.

#### F. Permits and Plans.

The Developer shall apply for and obtain construction permits prior to commencing construction of the any of the Multi-Modal Transportation Projects. Upon written request by the County, the Developer shall deliver copies of all plans and permits in the Developer's possession related to the Multi-Modal Transportation Projects to the County for review.

### **Section 7. Transit Service.**

#### A) Developer's Obligations.

The Developer shall pay \$3 million to the County for transit operations over a 15-year period. The County shall give the Developer MMTM credit for the payments under this Section. By September 30<sup>th</sup> of each year of the 15-year period, the Developer shall pay the following amount for the funding of transit service:

1. \$250,000 for years 1 thru 5,
2. \$200,000 for years 6 thru 10, and
3. \$150,000 for years 11 thru 15.

The Developer's 15-year obligation to pay for transit services under this Agreement shall commence when the Developer has constructed at least 500 residential units consistent with and as defined on the approved preliminary development plan. The Developer may, at its option, begin payments to the County prior to when its obligation to commence payment is triggered and may pay more than it is obligated according to the pay schedule above. If the Developer chooses to exercise the option to begin payments early or to pay more than the pay schedule above, the Developer's payment schedule shall be adjusted accordingly. The Developer's obligation under this Section may extend beyond the term of this Agreement.

B) County's Obligations.

To the extent that funds are available from the Developer, as set forth in Section 7(A) of this Agreement, and in the Transportation and Transit Trust Fund, as set forth in Section 5 of this Agreement, the County shall provide transit services according to the following schedule.

- Phase I (Express Transit Service): This Phase shall start within one calendar year following the year when the Developer has received the building permit for the 500<sup>th</sup> residential unit consistent with and as defined in the approved preliminary development plan. The County shall provide transit service from the Development to the University of Florida McCarty Hall transfer hub during weekdays, with 15-minute headways during the peak-hour periods for 2 hours in the AM (7:00 – 9:00am) and 2 hours in the PM (4:00 – 6:00pm).
- Phase II Transit Service: This Phase shall start within one calendar year following the year when the Developer has received the building permit for the 650<sup>th</sup> residential unit consistent with and as defined in the approved preliminary development plan. The County shall provide transit service for 11 hours daily from the Development to Shands Hospital and the University of Florida McCarty Hall transfer hub, with 20-minute headways during the peak-hour periods for 2 hours in the AM (7:00 – 9:00am) and 2 hours in the PM (4:00 – 6:00pm) and 40-minute headways during off-peak hours.
- Phase III Transit Service: This Phase shall start within one calendar year following the year when the Developer has received the building permit for the 1,500<sup>th</sup> residential unit consistent with and as defined in the approved preliminary development plan. The County shall provide transit service for 16 hours daily from the Development to Shands Hospital and the University of Florida McCarty Hall transfer hub, with 15-minute headways during the peak-hour periods for 2 hours within the AM hours (6:30 – 9:30am) and 2 hours within the PM hours (3:30 – 6:30pm) and 30-minute headways during off-peak hours.
- Phase IV Transit Service: This Phase shall start within one calendar year following the year when the Developer has received the building permit for the 2,250<sup>th</sup> residential unit consistent with and as defined in the approved preliminary development plan. The County shall provide transit service for 18 hours daily from the Development to Shands Hospital and the University of Florida McCarty Hall transfer hub, with 10-minute headways during the peak-hour periods 2 hours within the AM hours (6:30 – 9:30am), within the afternoon hours (11:30am – 1:30pm) and within the PM hours (3:30 – 6:30pm) and 20-minute headways during daytime and

early evening off-peak hours and 30-minute headways during early morning and later evening off-peak hours.

The number of residential uses in the thresholds above shall be reduced by 50 units for every 50,000 square feet of non-residential above 300,000 square feet and/or for every 100 hotel rooms that are constructed.

The County may enter into an agreement with a third party or the Developer to provide transit services.

If the County elects to extend transit service to the Downtown Transfer Hub and the Eastside Activity Center during Phases III and IV, no more than 25% of the funds allocated to transit services, as set forth in Section 5 of this Agreement, may be used to fund this extension.

The Developer, with written agreement of the County, may fund and operate a transit circulator or streetcar within the Improvement District. The Developer shall ensure that transit circular or streetcar provides access to the most convenient transit transfer station within the City of Gainesville which provides transit service at least at the headways and spans of service, as set forth in this Section, and provides access to the University of Florida McCarty Hall and Shands Hospital. During the time when the Developer provides the transit circular or streetcar service, the County shall not be obliged to provide transit service. The County shall reimburse the Developer for the actual costs of providing transit circular or streetcar service, as set forth in Section 5 of this Agreement.

## **Section 8. Construction Costs and Reimbursement.**

### **A. Construction Costs.**

If the cost of the Multi-Modal Transportation Projects and funding of transit service is less than the Developer's MMTM obligation, the Developer will pay the County the difference between the Developer's required MMTM obligation and the cost of the Multi-Modal Transportation Projects and funding of transit service. If the cost of the Multi-Modal Transportation Projects and funding of transit service exceeds the Developer's MMTM obligation, the Developer will pay the cost of the Multi-Modal Transportation Projects and receive reimbursement, as set forth in Section 8(B) of this Agreement.

### **B. Reimbursement.**

Over the term of this Agreement and as limited by the County's reimbursement obligation cap, as set forth in Section 18 of this Agreement, the County shall reimburse the Developer for the Multi-Modal Transportation Projects and funding of transit service the costs of which exceed the Developer's MMTM obligation.

The County shall commence annual reimbursement payments to the Developer upon the dedication to and acceptance by the County of a Multi-Modal Transportation Project the costs of which exceeds the Developer's MMTM obligation. Any obligation by the County to reimburse

the Developer is payable solely from the Transportation and Transit Trust Fund and the TID MMTM Fund, as set forth in Section 5 of this Agreement.

To the extent that the Developer is owed reimbursement:

- Starting from the establishment of the Trust Fund until the Developer receives the building permit for the 650<sup>th</sup> residential unit, the County shall reimburse the Developer at a rate of 75% of the amount appropriated each year into the Transportation and Transit Trust Fund; and
- Starting from when the Developer receives the building permit for the 650<sup>th</sup> residential unit until the Developer is fully reimbursed or the termination of this Agreement, the County shall reimburse the Developer at a rate of at least 50% of the amount appropriated each year into the Transportation and Transit Trust Fund.

If funds remain in the Transportation and Transit Trust Fund, as set forth in Section 5 of this Agreement, after the Developer has been fully reimbursed for the Multi-Modal Transportation Projects and the funding of transit service the costs of which exceed the Developer's MMTM obligation, the County shall close the Transportation and Transit Trust Fund and transfer any remaining funds to whatever account the County deems appropriate. If funds remain in the TID MMTM Fund, as set forth in Section 5 of this Agreement, after the Developer has been fully reimbursed for the Multi-Modal Transportation Projects the costs of which exceed the Developer's MMTM obligation, the County shall stop accounting for the funds separately from the TID MMTM Fund and reintegrate the funds into the Southwest Transportation Mobility District MMTM fund.

If, at the termination of this Agreement, the funds in the Transportation and Transit Trust Fund and the TID MMTM Fund, as set forth in Section 5 of this Agreement, are insufficient to fully reimburse the Developer for the Multi-Modal Transportation Projects and the funding of transit service the costs of which exceed the Developer's MMTM obligation, the County shall reimburse the Developer from all remaining funds, as set forth in Section 5 of this Agreement, including reserves up to the County's reimbursement obligation cap, as set forth in Section 18 of this Agreement. At the termination of this Agreement and payment of all remaining funds, as set forth in Section 5 of this Agreement, including reserves, up to the County's reimbursement obligation cap, as set forth in Section 18 of this Agreement, the County's reimbursement obligation shall be fully satisfied.

In lieu of receiving reimbursement from the County, the Developer may elect to receive MMTM credit in exchange for any reimbursement obligation that the County owes it under this Agreement. Upon receiving MMTM credit, the County's reimbursement obligation is extinguished in the amount equal to the MMTM credit given to the Developer.

## **Section 9. Multi-Modal Transportation Mitigation.**

Consistent with the MMTM ordinance, the Developer's mitigation for a use or phase shall be based on the MMTM schedule in effect at the time of final development plan approval. The

Developer shall be vested to the MMTM schedule in effect for the remaining un-built portion of the Development upon completion and acceptance by the County of all the Multi-Modal Transportation Mitigation Projects. Should the County reduce the MMTM rates or eliminate the MMTM program, the Developer's mitigation shall be adjusted accordingly.

The Developer may elect to receive Multi-Modal Transportation Mitigation credit upon completion and acceptance of a Multi-Modal Transportation Project or dedication of right of way for a Multi-Modal Transportation Project occurring at or before final development plan approval. The Developer shall receive a 15% reduction in future MMTM payments upon completion and acceptance of a Multi-Modal Transportation Project or dedication of right of way for a Multi-Modal Transportation Project occurring at or before final development plan approval, consistent with the MMTM ordinance.

The Developer has the right to determine which projects within the Development are authorized to use any MMTM credits earned for the construction of the Multi-Modal Transportation Projects and dedication of right-of-way to the County. The Developer shall have the right to use MMTM credits for any development it owns within the Southwest Mobility District consistent with the MMTM ordinance.

**Section 10. Certificate of Level of Service Compliance.**

Provided that the Developer complies with all provisions of this Agreement, the Development shall be deemed concurrent as to transportation concurrency. If the Developer receives final development plan approval, the Developer shall also receive a final certificate of level of service compliance for the entire Development as to transportation concurrency.

**Section 11. Vesting for Transportation Concurrency Purposes.**

Upon completion of the Multi-Modal Transportation Projects and the Developer receiving certificates of completion from the County, the Development shall be deemed vested as to all transportation mitigation for the development identified in the approved Preliminary Development Plan from transportation concurrency as defined in Chapter 407, Article 12 of the ULDC.

**Section 12. Relationship of Parties.**

The Developer acknowledges that the Developer is not an agent or a service provider of the County. No person employed by either party to this Agreement will, in connection with the performance of this Agreement, be considered the employee of the other party, nor will any employee claim a right in or entitlement to any pension, workers' compensation benefit, unemployment compensation, civil service, or other employee rights or privileges granted by operation of law or otherwise, except through and against the entity by whom the person is employed.

**Section 13. Indemnification.**

The Developer shall defend, indemnify and hold harmless the County and its agents, officers, and employees from any and all liabilities, claims, damages, penalties, demands, judgments, actions, proceedings, losses, or costs, including, but not limited to, reasonable attorneys' and paralegals' fees and costs, whether at trial or appellate levels or otherwise, arising during or out of the design or construction of the improvements contemplated by this Agreement.

The Developer's duty to defend is independent and separate from the duty to indemnify. The duty to defend exists if the allegations made indicate that the cause of the alleged harm arose from the acts or omissions of the Developer. The Developer's duty to defend arises immediately upon presentation of a claim by any party and written notice of such claim being provided to the Developer.

The Developer's obligation to indemnify and defend will survive the expiration or early termination of this Agreement until it is determined by final judgment that an action against the County or an indemnified party is fully and finally barred by the applicable statute of limitations.

**Section 14. Workers' Compensation and Insurance.**

The Developer will maintain and require its contractors to maintain workers' compensation coverage and insurance naming the County as an Additional Insured Party in accordance with Florida Statutes and Exhibit G: Type A: Insurance Requirements, attached and incorporated by reference to this Agreement.

**Section 15. Necessity to Obtain Permits.**

The Developer acknowledges its obligation to obtain all necessary permits that may be needed for the Multi-Modal Transportation Projects. The Developer is responsible for coordinating any permitting activities with all appropriate government agencies. The failure of this Agreement to address any particular permit, condition, term, or restriction applicable to the Development shall not relieve the Developer or its successors or assigns of the necessity of complying with federal, state, and local permitting requirements, conditions, terms, or restrictions as may be applicable.

**Section 16. Impact of the Development.**

The Developer agrees that the conveyances and commitments pursuant to this Agreement are necessary to reduce the impacts of the Development and meet the "essential nexus" and "rough proportionality" requirements established by the United States Supreme Court in the cases of *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*.

**Section 17. Burden on Property Owner's Rights.**

The Developer agrees that the conveyances and commitments pursuant to this Agreement in no way inordinately burdens an existing use of the Property or vested right to a specific use of the Property.

**Section 18. County's Financial Obligations – Reimbursement Obligation Cap.**

Notwithstanding any other provision in this Agreement to the contrary, the County's financial obligations are limited to the funds deposited in the Transportation and Transit Trust Fund and the TID MMTM Fund, as set forth in Section 5 of this Agreement.

**Section 19. No Pledge of County Taxing Power; No Lien on County Property.**

It is expressly agreed by the Developer and the County that the full faith and credit of the County is not pledged to the payment of the financial obligations contain in this Agreement and that the Developer shall never have the right to require or compel the exercise of any taxing power or establish of any rate of taxation of the County to fulfill its contractual obligations contained in this Agreement. This Agreement and the obligations contained herein shall not constitute a lien upon any property of the County.

**Section 20. Timing of Payment of County Financial Obligations.**

Notwithstanding any other provision in this Agreement to the contrary, the County shall be required to begin reimbursing the Developer only after the Developer has completely constructed and dedicated a Multi-Modal Transportation Project, the cost of which exceeds the Developer's MMTM obligation, to the County and the project has been accepted for maintenance by the County Engineer.

**Section 21. Governing Law.**

The Agreement and the rights and obligations created hereunder shall be interpreted, construed and enforced in accordance with the laws the State of Florida. If any litigation should be brought in connection with this Agreement, venue shall lie in Alachua County, Florida. The parties waive trial by jury.

**Section 22. Severability.**

If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

**Section 23. Complete Agreement.**

This Agreement contains the entire agreement between the parties. No rights, duties or obligations of the parties shall be created unless specifically set forth in this Agreement.

**Section 24. Agreement Amendment.**

No modification or amendment of this Agreement shall be of any legal force or effect unless it is in writing and executed by both parties, and meets the requirements of the Comprehensive Plan, ULDC, and County Code.

**Section 25. Non-exclusivity.**

The County may enter into Developer Agreements with multiple applicants for the Multi-Modal Transportation Projects to facilitate collaboration with multiple applicants and allow for the Multi-Modal Transportation Projects.

**Section 26. Assignment.**

This Agreement may not be assigned without the prior written consent of the other party, and all the terms and conditions set forth herein shall inure to the benefit of and shall bind all future assignees. The County shall not unreasonably delay or withhold assignment.

**Section 27. Successors and Assigns.**

This Agreement shall be binding on the parties, and shall inure to the benefit of the heirs, legal representatives, successors, and assigns of the parties, and shall be a covenant running with the Property and be binding upon the successors and assigns of the Developer and upon any person, firm, corporation, or entity who may become the successor in interest to the Property.

**Section 28. Annexation.**

This Agreement is not intended to be, and indeed is not, a “development agreement” within the meaning of Sections 163.3220-163.3242, Florida Statutes. The parties shall not be deprived of their rights and obligations, and this Agreement shall not be terminated, modified, or affected by operation of a municipal annexation of any portion of the Property; provided, however, that the County’s obligation to provide funding for transit operations terminates upon annexation of the Property, or any portion of the Property, by a municipality in Alachua County.

**Section 29. Recordation of Agreement.**

The County shall record this Agreement in the Official Records of Alachua County, Florida, at Developer’s expense, within 10 business days after the execution of this Agreement by both parties.

**Section 30. Waiver.**

Failure to enforce any provision of this Agreement by either party shall not be considered a waiver of the right to later enforce that or any provision of this Agreement.

**Section 31. Further Documentation.**

The parties agree that, at any time following a request by the other party, each shall execute and deliver to the other party such further documents and instruments in form and substance reasonably necessary to confirm or effectuate the obligations of either party hereunder and the consummation of the transactions contemplated hereby.

**Section 32. Notices.**

Any notice, request, demand, instruction or other communication to be given to either party under this Agreement shall be in writing and shall be hand delivered, sent by Federal Express or a comparable overnight mail service, or by U.S. Registered or Certified Mail, return receipt requested, postage prepaid, to County and to Developer at their respective addresses below.

County Address: Alachua County  
c/o County Manager  
12 SE 1st Street  
Gainesville, FL 32601

Developer Address: Celebration Pointe, LLC  
c/o SHD Development, LLC.  
2579 SW 87th Drive  
Gainesville, FL 32608

**Section 33. Enforcement and Third Party Beneficiaries.**

If any party hereto fails to carry out any of its covenants or obligations contained herein, both parties shall be entitled to all remedies available at law or in equity. This Agreement does not create any relationship with, or any rights in favor of, any third party.

**Section 34. Construction of Agreement.**

Captions of the Sections and Subsections of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Agreement. Preparation of this Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

**Section 35. Effective Date.**

The effective date of this Agreement shall be the date when the last one of the parties has properly executed this Agreement as determined by the date set forth immediately below their respective signatures.

**Section 36. Counterparts.**

This Agreement may be executed by the parties in any number of counterparts, each of which shall be deemed to be an original, and all of which shall be deemed to be one and the same Agreement.

**Section 37. Term of Agreement.**

This Agreement will commence on its Effective Date and terminate on December 31, 2035.

### **Section 38. Termination.**

The failure of either party to comply with any provision of this Agreement will place the party in default, unless excused or justified by a Force Majeure event, as defined in Section 2 of this Agreement; by default by the other party; or by another legally recognized cause customarily justifying or excusing non-performance. If the obligation inhibiting effects of a Force Majeure event is claimed for a continued duration of a year and a day, the party not claiming the Force Majeure event may terminate the Agreement. If the obligation inhibiting effects of Force Majeure events is claimed for an aggregated period of two years and a day, the party not claiming the Force Majeure events may terminate the Agreement.

Prior to terminating the Agreement, the party wishing to terminate will notify the other party in writing, hand delivered, or sent by Federal Express or a comparable overnight mail service, or by U.S. Registered or Certified Mail, return receipt requested, postage prepaid. This notification will make specific reference to the provision which gave rise to the default. The party wishing to terminate will give the other party 90 days to cure the default. The County Manager is authorized to provide written notice of default on behalf of the County and, if the default situation is not corrected within the allotted time, the County Manager is authorized to provide final termination notice on behalf of the County to the Developer.

### **Section 39. Force Majeure – Excuse of Performance.**

As a condition precedent to the right to claim excuse of performance due to a Force Majeure event, the party claiming a Force Majeure event shall promptly notify the other party verbally and, as soon as practical, but in no event more than ten days thereafter, prepare and deliver to the other party a written notice with a detailed description of:

1. the nature of the Force Majeure event;
2. the date/time of the commencement of the Force Majeure event;
3. the estimated duration and cost impact of the Force Majeure event, if any, on the party's obligations, under this Agreement; and
4. the estimated impact (other than cost) of the Force Majeure event, if any, on the party's obligations under this Agreement.

When a party claims excuse of performance due to a Force Majeure event, the party claiming the Force Majeure event shall, as quickly as possible, to the extent reasonable, eliminate the cause therefore, reduce the costs thereof, and resume performance under this Agreement. The party claiming the Force Majeure event shall provide prompt notice to the other of the cessation of a Force Majeure event. The party claiming a Force Majeure event shall affirmatively prove to the other party the occurrence of the Force Majeure event and all resulting impacts, if any, to the performance of the Agreement.

**Section 40. Mediation.**

The parties agree to attempt to resolve all disputes, claims or controversies arising out of or relating to this Agreement by mediation in accordance with Chapter 44, Florida Statutes. The parties further agree that their respective good faith participation in mediation is a condition precedent to pursuing any other available legal or equitable remedy, including litigation, arbitration or other dispute resolution procedures.

Either party may commence the mediation process by providing to the other party written notice, setting forth the subject(s) of the dispute, claim(s), and the relief(s) desired. Within twenty business days after the receipt of the notice, the receiving party shall deliver a written response to the initiating party's notice stating whether the receiving party agrees with or disputes the initiating party's claim(s) or disputes the initiating party's entitlement to the relief(s) desired. If the receiving party disputes the initiating party's claim(s) or entitlement to the relief desired, the parties shall jointly appoint a mutually acceptable mediator who is Florida Circuit Court certified in accordance with §44.106, Florida Statutes and Florida Rules of Certified and Court-Appointed Mediators. If the parties cannot agree on a mediator, each shall select one mediator from the available Florida Circuit Court certified mediators and those two mediators shall select a third mediator who will conduct the sessions. There shall be no independent right to discovery for these mediation sessions. The parties acknowledge and agree these mediation sessions are subject to the Mediation Confidentiality and Privilege Act (§§44.401-44.406, Florida Statutes).

The initial mediation session shall be held within ninety calendar days after the initial notice, unless otherwise agree to by the parties, on a date set by the mediator, making reasonable accommodation and taking into account the respective scheduled of the parties. The parties further agree to share equally the costs of the mediation sessions, which costs will not include costs incurred by a party for representation by counsel at the mediation. The mediation sessions shall be conducted in Alachua County, Florida.

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement on the date and year first above written.

DEVELOPER

ALACHUA COUNTY, FLORIDA

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Board of County Commissioners, Chair

Its: \_\_\_\_\_

WITNESS: \_\_\_\_\_

WITNESS: \_\_\_\_\_

(Corporate seal is acceptable in place of witnesses)

Attest: \_\_\_\_\_

J.K. Irby, Clerk

Approved as to form:

\_\_\_\_\_  
County Attorney

The parties representatives are:

Developer: Celebration Pointe, LLC  
Svein Dyrkolbotn  
2579 SW 87<sup>th</sup> Drive  
Gainesville, FL 32608

County: Randall Reid  
County Manager  
Post Office Drawer 2877  
Gainesville, FL 32602

A copy of any notice hereunder shall also be sent to:

J. K. Irby  
Clerk of the Circuit Court  
Post Office Box 939  
Gainesville, FL 32602  
Attn: Finance and Accounting

Exhibit A: Celebration Pointe Legal Description of Properties & Parcel Boundary Map

Exhibit B: Southwest Alachua County Transportation Improvement District Legal Description & Parcel Boundary Map

That part of Section's 14, 15, 22 and 23, Township 10 South, Range 19 East, Alachua County, Florida, and being more particularly described as follows:

Commence at the Southwest corner of Lot 4 (also being the Southeast corner of Lot 5) of "Ricelands Subdivision", as per plat recorded in Plat Book "D", page 74 of the public records of Alachua County, Florida, for the Point of Beginning: thence Southerly across the right of way of SW 47th Way (Riceland Avenue) to the northwest corner of Lot 18 of said Ricelands Subdivision, and also being the northeast corner of "Lyon's Replat of Lot 17", as per plat recorded in Plat Book "F", page 44 of the said public records; thence continue Southerly along the west line of said Lot 18, and along the east line of said Lyon's Replat to the southwest corner of said Lot 18, as well as being at an intersection with the north line of the Gary Grant; thence Northeasterly along the said north line of the Gary Grant to the most northerly corner of the Prairie View Trust Property (tax parcel 07240-000-000); thence Southeasterly along the easterly line of the said Prairie View Trust Property to the most westerly corner of the Beach Construction Holdings, LLC property, as per deed recorded in Official Record Book 3836, page 2286 of the said public records (tax parcel 06800-007-001); thence Northeasterly along the northerly line of the said Beach Construction Holdings, LLC property to an intersection with the westerly right of way line of interstate 75 (State Road 93); thence Northwesterly along the said westerly right of way line to an intersection with the south line of Lot 7 of the "Map of Sec's 9 and 10 Township 10 Range 19 S and E", as per plat recorded in Plat Book "A", page 10 of the said public records; thence Westerly along the said south line of Lot 7 to the northwest corner of the Mabel Barnes Heirs property (tax parcel 06828-000-000), as per deed recorded in Official Record Book 2352, page 2881 of the said public records; thence Southerly along the west line of the said Mabel Barnes Heir property (tax parcel 06828-000-000) to the southwest corner of the said Mabel Barnes Heir property (said corner is at an intersection with the north line of tax parcel 06820-000-000, and also being a part of the Mabel Barnes Heirs property, as per deed recorded in Official Record Book 198, page 359 of the said public records; thence Westerly along the north line of the said Mabel Barnes Heir property (tax parcel 06820-000-000) to the northwest corner of the said Mabel Barnes Heir property; thence Southerly along the west line of the said Mabel Barnes Heir property to a boundary corner of Arc communities 8 LLC property (tax parcel 06819-010-000), as per deed recorded in Official Record Book 2509, page 1168 of the said public records; thence Westerly and Southerly along the westerly line of the said Arc Communities 8 LLC property, to the southwest corner of the said ARC Communities 8 LLC property and being at an intersection with the north line of the Gainesville Council on Aging, Inc. property (tax parcel 06816-000-000), as per deed recorded in Official Record Book 4001, page 1353 of the said public records; thence Easterly along the north line of the said Gainesville Council on Aging, Inc. property to the northeast corner of the said Gainesville Council on Aging, Inc. property, which is also on the west line of a 30.0 foot wide easement, as per Easement Agreement recorded in Official Record Book 788, page 994 of the said public records; thence Southerly along the easterly line of the said Gainesville Council on Aging, Inc. properties (tax parcel's 06933-001-000 and 06935-001-000, both as per deed recorded in Official Record Book 4001, page 1353 of the said public records), and also being along the west line of the said



- Exhibit C: Southwest 30<sup>th</sup> Avenue Project
- Exhibit D: Archer Braid Multi-Use Trail Project
- Exhibit E: Dedicated Transit Lane(s) Project and Multi-Use Path
- Exhibit F: Park and Ride Project

Exhibit G: Type A: Insurance Requirements

**TYPE “A” INSURANCE REQUIREMENTS  
“ARTISAN CONTRACTORS / SERVICE CONTACTS”**

**Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the contractor, his agents, representatives, employees or subcontractors.**

**COMMERCIAL GENERAL LIABILITY**

Coverage must be afforded under a per occurrence form policy for limits not less than \$1,000,000 General Aggregate, \$1,000,000 Products / Completed Operations Aggregate, \$1,000,000 Personal and Advertising Injury Liability, \$1,000,000 each Occurrence, \$50,000 Fire Damage Liability and \$5,000 Medical Expense.

**AUTOMOBILE LIABILITY**

Coverage must be afforded including coverage for all Owned vehicles, Hired and Non-Owned vehicles for Bodily Injury and Property Damage of not less than \$1,000,000 combined single limit each accident.

**WORKERS COMPENSATION AND EMPLOYER’S LIABILITY**

Coverage to apply for all employees at STATUTORY Limits in compliance with applicable state and federal laws; if any operations are to be undertaken on or about navigable waters, coverage must be included for the USA Longshoremen & Harbor Workers Act. Employer’s Liability limits for not less than \$100,000 each accident; \$500,000 disease policy limit and \$100,000 disease each employee must be included.

**BUILDER’S RISK / INSTALLATION FLOATERS**

**When this contract or agreement includes** the construction of and/or the addition to a permanent structure or building; including the installation of machinery and/or equipment, the following insurance coverage must be afforded:

Coverage Form: Completed Value, All Risk in an amount equal to 100% of the value upon completion or value of equipment to be installed.

When applicable: Waiver of Occupancy Clause or Cessation of Insurance clause.  
Flood Insurance as available under the National Flood Insurance Program.

## **OTHER INSURANCE PROVISIONS**

The policies are to contain, or be endorsed to contain, the following provisions:

### **I Commercial General Liability and Automobile Liability Coverages**

a. **The Alachua County Board of County Commissioners, its officials, employees and volunteers are to be covered as an Additional Insured as respects:** Liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor.

b. **The Contractor's insurance coverage shall be considered primary** insurance as respects the County, its officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officials, employee's or volunteers shall be excess of Contractor's insurance and shall be non-contributory.

### **II Workers' Compensation and Employers' Liability Coverages**

The insurer shall agree to waive all rights of subrogation against the County, for losses arising from work performed by the Contractor for the County.

### **III All Coverages**

**The Contractor shall provide a Certificate of Insurance to the County with a Ten (10) day notice of cancellation for non-payment of premium and a Thirty (30) day notice of cancellation/non-renewal for all other causes. The certificate shall indicate if cover is provided under a "claims made" or "per occurrence" form. If any cover is provided under a claims made from the certificate will show a retroactive date, which should be the same date of the contract (original if contract is renewed ) or prior.**

## **SUBCONTRACTORS**

Contractors shall include all subcontractors as insured under its policies. All subcontractors shall be subject to the requirements stated herein.