

Return to:

Tax Parcel ID No.

USE AGREEMENT FOR NEIGHBORHOOD GRANT BETWEEN <NAME OF ASSOCIATION> AND ORANGE COUNTY

THIS NEIGHBORHOOD GRANT USE AGREEMENT (the “Use Agreement”) is entered into by and between _____, a Florida not-for-profit corporation (the “Association”) with a principal place of business at _____, and **Orange County**, a charter county and political subdivision of the State of Florida (the “County”) with a mailing address at P.O. Box 1393, Orlando, FL 32802-1393.

RECITALS

WHEREAS, a residential project known as _____ has been developed on a certain tract of real property that is located in the unincorporated area of Orange County, as more particularly described in **Exhibit “A”**, attached hereto and by this reference made a part hereof (the “Property”); and

WHEREAS, Association, whose members are or will be the owners of the Property, has heretofore been formed or created to assure the perpetual and continuous maintenance of certain common areas, including entranceway areas, located on and adjacent to the Property; and

WHEREAS, County from time to time awards grants to neighborhood associations for the purpose of conducting beautification projects in certain common areas; and

WHEREAS, Association has obtained such a neighborhood beautification grant from County; and

WHEREAS, Association will use the grant funds to install and construct certain improvements in certain common areas within public property and/or public rights-of-way on or adjacent to the Property which have been, or will be, dedicated, conveyed, or deeded for public use

(collectively, the “Dedicated Areas”), said Dedicated Areas being within the boundaries of or adjacent to the Property, and more particularly described in the attached and incorporated **Exhibit “B”**; and

WHEREAS, Association desires to obtain a Right-of-Way Utilization Permit from County (the “Permit”), to install, construct, and thereafter maintain the following improvements in the Dedicated Areas: _____ (the “Improvements”); and

WHEREAS, the work associated with the Improvement(s) is detailed in **Exhibit “C”**, attached hereto and incorporated herein; and

WHEREAS, as one of the several conditions for issuance of the Permit, County requires Association to undertake certain duties, obligations, responsibilities, commitments, and covenants regarding such Improvements.

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

1. **RECITALS**. The foregoing recitals are true and correct and form a material part of this Use Agreement.

2. **RIGHT-OF-WAY UTILIZATION PERMIT**.

A. Any such Permit issued by County to Association for the Improvements shall be subject to the provisions of County’s Right-of-Way Utilization Regulations and the terms and conditions of this Use Agreement.

B. Nothing contained in this Use Agreement or by virtue of the issuance of the Permit shall give, grant, or vest Association with any ownership rights to, or property interests in, any portion of the Dedicated Areas.

3. **IMPROVEMENTS**.

A. Association shall install and construct the Improvements utilizing the grant funds awarded by County. Association shall maintain the Improvements at its sole cost and expense, and at no cost to County.

B. Any and all Improvements for which other permits may be required shall be installed and constructed for Association by or under the supervision of a contractor who is licensed with the State of Florida. Only the licensed contractor may request and be issued such permits. County may require signed and sealed site plans as a condition of issuing such permits, which may or may not create additional costs for the Improvements. Any Improvements that, in County's sole opinion, may impede the functional operation of planned, proposed, or existing underdrains shall not be permitted under this Use Agreement.

C. Association shall not, while installing, constructing, or thereafter maintaining the Improvements, damage or disturb any portion of the Dedicated Areas without (i) County's prior written approval of such activity and (ii) County's prior written approval of a plan to restore the Dedicated Areas that may be damaged or disturbed.

D. Association shall install and construct, and thereafter maintain, the Improvements in such a manner as will not interfere with the use of the Dedicated Areas by the public, and will not create a safety hazard on or near such Dedicated Areas.

4. REMOVAL/RELOCATION OF IMPROVEMENTS.

A. If County determines in its sole discretion that any of the Improvements present a real or potential safety hazard, then Association, upon receipt of a written notice from County, shall remove or relocate such Improvements in such a manner so as to eliminate the safety hazard, to County's satisfaction, within thirty (30) days of receipt of such notice, or, in the event such notice is returned as undeliverable to Association's address listed above, within thirty (30)

days of the first date of publication of legal notice, which publication shall appear in not less than two weekly issues of a newspaper of general circulation in Orange County, Florida.

B. If County determines in its sole discretion that any of the Improvements interfere with any construction, reconstruction, alteration, maintenance, or other improvements which County or any other authorized government, agency, or entity may desire from time to time to perform on, around, or under the Dedicated Areas, then Association, upon receipt of a written notice from County, shall remove or relocate such Improvements as requested by County and to County's satisfaction within thirty (30) days of receipt of such notice, or, in the event such notice is returned as undeliverable to Association's address listed above, within thirty (30) days of the first date of publication of legal notice, which publication shall appear in not less than two weekly issues of a newspaper of general circulation in Orange County, Florida.

C. Any relocation or removal of Improvements shall be undertaken and completed at the sole expense of Association and at no cost to County. If Association does not remove or relocate such Improvements within the time period required for removal or relocation, then County may itself remove such Improvements, and may assess Association for the actual incurred costs of removing the Improvements.

5. HOLD HARMLESS AND INDEMNIFICATION.

A. To the fullest extent permitted by law, Association shall release, indemnify, hold harmless, and defend (with legal counsel acceptable to County) County from and against any and all claims, lawsuits, judgments, demands, liabilities, damages, losses, costs, and expenses, including reasonable attorney fees, paralegal fees, consultant fees, and costs arising out of, resulting from, or relating in any way to the performance (or non-performance) of Association's responsibilities, duties, and obligations under this Use Agreement.

B. To the fullest extent permitted by law, Association shall also release, indemnify, hold harmless, and defend (with legal counsel acceptable to County) County (and any governmental body or other authority properly using the Dedicated Areas) from and against any and all claims, lawsuits, judgments, demands, liabilities, damages, losses, costs, and expenses for any damages to the Improvements which may result from the use of the Dedicated Areas by County (or other governmental body or authority) due to construction, installation, maintenance, or other proper use within the Dedicated Areas.

6. LIABILITY INSURANCE. County has heretofore purchased liability coverage for Association's approved grant project to protect County's interests. Association is encouraged to consider the purchase of its own insurance to cover any liability that may result from the project. If Association does purchase liability insurance, Association's insurance shall be primary and County's insurance shall be secondary.

7. DISCLAIMER OF COUNTY RESPONSIBILITY. After installing or constructing the Improvements, Association and not County shall be solely and continuously responsible for maintaining the Improvements. Accordingly, nothing contained in this Use Agreement shall create any duty, obligation, or responsibility on the part of County to maintain or participate in the maintenance of the Improvements. Also, if Association does not adequately maintain the Improvements to County standards after they are installed or constructed, County may remove the Improvements and may assess Association for the cost of removing them.

8. DURATION; EXTENSION; TERMINATION; CANCELLATION.

A. The terms and conditions of this Use Agreement shall run with and bind the Property for a period of twenty-five (25) years from the date this Use Agreement is recorded in the Official Records of Orange County, Florida. Thereafter, this Use Agreement shall be automatically

extended for successive periods of ten (10) years each, unless a written instrument agreeing to terminate this Use Agreement is approved by the Orange County Board of County Commissioners and by either (i) Association or (ii) the then owners of not less than three-fourths of the residential lots (or units, whichever the case may be) on the Property described herein. No such agreement to terminate shall be effective until such written instrument has been signed, acknowledged, and recorded in the Public Records of Orange County, Florida.

B. Notwithstanding anything seemingly to the contrary in this Use Agreement, County shall have the right to unilaterally cancel this Use Agreement upon thirty (30) days prior written notice to Association or to all the owners of the residential lots (or units, whichever the case may be) on the Property. No such cancellation shall be effective until a written instrument has been executed and acknowledged by the Board of County Commissioners and recorded in the Public Records of Orange County, Florida.

9. AMENDMENTS. The provisions, restrictions, and covenants of this Use Agreement shall not be modified or amended except in a written instrument approved by the Board of County Commissioners and by either (i) Association or (ii) the then owners of not less than three-fourths of the residential lots (or units, whichever the case may be) on the Property. No such modification or amendment shall be effective until such written instrument has been signed, acknowledged, and recorded in the Public Records of Orange County, Florida.

10. COMPLIANCE WITH APPLICABLE LAWS. Association shall comply with all applicable state laws and county ordinances, resolutions, and regulations, as they may be amended or created from time to time, including County's Right-of-Way Utilization Regulations.

11. COVENANTS RUNNING WITH THE PROPERTY. The terms and conditions of this Use Agreement shall constitute covenants running with the Property or an equitable servitude

upon the Property, as the case may be, applicable to all the Property described in this Use Agreement or any portion thereof. This Use Agreement shall also be binding on all parties having any right, title, or interest in the Property described in this Use Agreement, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Association declares that the Property described in this Use Agreement and any portion thereof shall be held, sold, and conveyed subject to the terms and conditions of this Use Agreement. This Use Agreement shall inure to the benefit of and be enforceable by County and its legal representatives, successors, and assigns.

12. RECORDING. This Use Agreement shall be recorded in the Public Records of Orange County, Florida within thirty (30) days of its execution. Promptly upon executing this Agreement, Association shall pay County an amount equal to the cost of recording this Use Agreement in the Public Records of Orange County, Florida.

13. EFFECTIVE DATE. This Use Agreement shall take effect upon being recorded in the Public Records of Orange County, Florida.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective duly authorized representatives on the dates set forth below.

COUNTY

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Jerry L. Demings
Orange County Mayor

Date: _____

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

By: _____
Deputy Clerk

ASSOCIATION

<NAME OF HOA>
Homeowners' Association, Inc.

By: _____

Print Name: _____

Title: _____

WITNESS:

Print Name: _____

WITNESS:

Print Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me **by means of physical presence / online notarization**, this **(date)** by **(name of officer or agent), (title of officer or agent)** of **(name of corporation acknowledging)**, a **(state or place of incorporation)** corporation, on behalf of the corporation, who is personally known to me or has produced **(type of identification)**, as identification.

Signature of person taking acknowledgement
Name typed, printed or stamped: _____
Title or rank: _____

EXHIBIT "A"

Legal Description and Sketch of Description for Property

[See attached __ page(s)]

EXHIBIT “B”

Legal description and sketch of description for Dedicated Areas

[See attached __ page(s)]

EXHIBIT “C”

Detailed description of Improvement(s)

- **SUPPLEMENTAL MAINTENANCE – MOWING OF RIGHT-OF-WAY**
- **SUPPLEMENTAL MAINTENANCE – TRIMMING OF SHRUBS**
- **SUPPLEMENTAL MAINTENANCE – TRIMMING OF PALMS**
- **SUPPLEMENTAL MAINTENANCE – TRIMMING OF TREES**
- **SUPPLEMENTAL MAINTENANCE – AQUATIC**
- **BEAUTIFICATION – MAINTENANCE OF FLORA**
- **BEAUTIFICATION – RIGHT-OF-WAY BANNER**
- **BEAUTIFICATION – POLE BANNER**
- **INSTALL LANDSCAPING – PLANTING OF SHRUBS**
- **INSTALL LANDSCAPING – PLANTING OF PALMS**
- **INSTALL LANDSCAPING – PLANTING OF TREES**
- **INSTALL HARDSCAPE – BRICK PAVERS**
- **INSTALL HARDSCAPE – FOUNTAINS**
- **INSTALL HARDSCAPE – SIDEWALK**
- **INSTALL HARDSCAPE – BENCHES**
- **INSTALL IRRIGATION – RIGHT-OF-WAY**
- **INSTALL IRRIGATION – POND AREAS**
- **INSTALL SIGNAGE – BULLETIN BOARD**
- **INSTALL SIGNAGE – ILLUMINATION**
- **INSTALL SIGNAGE – COMMUNITY**
- **INSTALL SIGNAGE – MONUMENT**
- **INSTALL SIGNAGE – WALL**
- **INSTALL ILLUMINATION**
- **INSTALL PUMPS**
- **PLACEMENT OF MULCH**
- **PLACEMENT OF SOD**