

**DONATION AGREEMENT BETWEEN
ALACHUA COUNTY, FLORIDA AND
SDPS REAL ESTATE INVESTMENTS VI, LLC**

THIS AGREEMENT ("**Agreement**") is made and entered into on _____, by and between **SDPS REAL ESTATE INVESTMENTS VI, LLC**, a Florida limited liability company, hereinafter referred to as the "**Donor**," and **Alachua County**, a charter county and a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as "**County**." (Collectively, the Donor and the County are hereinafter referred to as "**Parties**").

RECITALS

A. The Donor owns fee simple title to the real property located in Alachua County, Florida and being more particularly described as follows (the "**Property**"):

See **Exhibit "A"** attached hereto and incorporated herein.

B. The Property is part of a development known as "**Celebration Pointe**" currently being planned and constructed by the Donor; and

C. It is in Donor's financial interest and benefit to donate the Property to the County for the development and use as a multi-purpose sports center (the "**Sports Center**"); and

D. The Donor has offered to donate the Property to the County on the condition that the Property be developed to function as and support the Sports Center use as set forth in this Agreement (the "**Donation**"); and

E. The County desires to accept the Donation of the Property to construct and operate a Sports Center in accordance with the terms and conditions set forth in this Agreement.

F. The County is in the process of negotiating that certain Multi-Use Sport Center Development Agreement with **Viking Companies, LLC**, a Florida limited liability company (the "**Developer**") for the design, construction, and equipping of the Sports Center on the Property (the "**Development Agreement**").

G. The County is in the process of negotiating that certain Operations and Maintenance Agreement with **CP Event Center Operations, LLC**, a Florida limited liability company (the "**Operator**"), for operating, managing, and maintaining the Sports Center (the "**Operations Agreement**").

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of is hereby acknowledged by the Parties, the Parties agree as follows:

1. **RECITALS; EFFECTIVE DATE.** The foregoing Recitals are true and correct, and the same are incorporated herein. This Agreement shall become effective as of the day and year upon which both Donor and the County have executed this Agreement as set forth on the signature page hereof ("**Effective Date**").

2. **DEFINITIONS.** The capitalized terms below shall have the following meanings herein:

a. **Closing Agent** shall mean the law firm of Salter Feiber, P.A., a Florida Corporation, with offices at 3940 NW 16th Boulevard, Building B, Gainesville, Florida, 32605; Phone (352) 376-8201. The Closing Agent is the attorney for the County notwithstanding its other duties herein and shall continue to act as attorney for the County only, and not the Donor, regarding the Agreement and this transaction.

b. Title Commitment shall mean the written commitment of a Florida licensed title insurance company to insure and provide title insurance policies to the County. The Closing Agent shall ensure the County is the named insured for the Property.

c. Survey shall mean the boundary survey of the Property made by a Florida licensed surveyor who the County shall select from its list of approved surveyors. The surveyor and survey shall: (1) certify the Survey to the County, the Donor, the Closing Agent, and the Florida licensed title insurance company issuing the Title Commitment; (2) meet the requirements of Chapter 472, Florida Statutes; (3) provide a "metes and bounds" legal description of the Property; (4) list the exact number of Surveyed Acres to the hundredth decimal place or as reasonably practical; and (5) be signed and dated no earlier than May 1, 2021.

d. Environmental Reports shall mean any and all environmental site assessments, audits, reports, and/or correspondence relating to any potential environmental matters (including without limitation any species identified or listed as threatened or endangered by the state of Florida or the federal government) on any portion of the Property.

3. DONATION OF THE PROPERTY.

a. Donation. Donor hereby irrevocably offers to donate the Property to the County and irrevocably grants to the County the right to accept the Donation of the Property. Donor's offer, grant, donation, and conveyance pursuant to the Donation includes and will include all easements, rights-of-way, privileges, benefits, contract rights, development rights, appurtenances, hereditaments, and riparian and littoral rights, permits, licenses or approvals in any way associated with or arising out of the Property.

b. Acceptance. By execution of this Agreement, the County approves and accepts the Donation, subject to the satisfaction of (i) those certain Conditions of Acceptance outlined below; and (ii) all other terms, covenants, and conditions of this Agreement.

c. Omitted.

d. Conditions of Acceptance. No later than July 30, 2021, unless extended by the Parties or other provisions of this Agreement (the "**Conditions Period**"), the following conditions must be completed by the Donor to the County's reasonable satisfaction:

i. Donor shall amend any and all covenants, restrictions, or servitudes encumbering the Property (the "**Covenants**") to provide that for so long as the County owns the Property:

1. Any and all terms, covenants, or provisions of the Covenants which authorize or impose any lien, claim, or encumbrance against the Property to secure payment of any fee, fine, charge, or assessment (the "**Charges**") against the Property in favor of any party (the "**Creditor Party**") which authorizes foreclosure by the Creditor Party of such lien, claim, or encumbrance against the Property, shall be stayed, and shall be and remain unenforceable against the County and the Property.

2. Any charge for Common Area Maintenance expenses (the "**CAM**") applied against the Property shall not include amounts for taxes and insurance on the Property, and otherwise, the CAM will be a prorated charge based on the square-footage of the Property. All provisions which impose Charges against the Property, including, but not limited to CAM, "Special Assessment", "Reconstruction Assessment", or otherwise, shall be subject to annual budgetary appropriation by the Alachua County Board of County Commissioners (the "**Board**") for each applicable fiscal year in accordance with constraints under the Constitution of the State of Florida and all other applicable laws, and no such Charges will or may be enforced as a lien through foreclosure against the Property. The Creditor Party, however, shall not be limited or restricted from pursuing any or all of its lawful remedies (excluding foreclosure) available to it in the event County should fail or refuse to pay any Charges.

3. All provisions which impose a release, indemnification, and/or hold harmless obligation upon the owner of the Property shall not apply to the County nor the Property; and neither the County, nor the Property, shall be subject to any charge, claim, or assessment for payment of any amounts owed by the Creditor Party in connection therewith.

4. All provisions which require the owner of the Property to maintain insurance shall not apply to the County or to the Property. This shall not be construed, however, to imply that the County, in the event of damage or destruction of any structure constructed on the Property, is not obligated to repair or to reconstruct the damaged or destroyed structure, as well as to clear the Property of all debris.

5. The County intends to use the Property as a Sports Center; therefore, provisions contained in the Covenants, and in other documents (e.g., articles of incorporation, by-laws, rules and regulations and guidelines) which conflict with this purpose, shall neither apply to the County nor the Property.

6. In the event of any conflict between the provisions of the Covenants, and those provisions contained in any other related documents (e.g., articles of incorporation, by-laws, rules and regulations and guidelines), the provisions of the amendment to the Covenants will prevail, and the provisions of the said amendment will supersede any conflict.

Notwithstanding the foregoing terms of this Conditions of Acceptance paragraph, the County, by and through the County Manager without need for further authorization from the Board, may agree to receive title to the Donation with certain Conditions of Acceptance remaining unsatisfied, and in that event, the unsatisfied Conditions of Acceptance will constitute **"Title Defects"** for purposes of this Agreement.

4. **DOCUMENTS AND INFORMATION DONOR SHALL PROVIDE.** The Donor shall furnish to the County, within five (5) calendar days of the Effective Date, the following documents and information:

a. Copies of all title insurance policies, commitments, abstracts, opinions, searches and/or reports for any portion of the Property in the Donor's possession or control.

b. Copies of all Environmental Reports in the Donor's possession or control.

c. Copy of the Master Declaration and all amendments.

d. Copies of a survey of the Property.

e. Copies of all engineering reports, reports on water and utility availability and quality, hazardous materials, endangered species, site plans, zoning or other land use applications or stipulations or agreements, and copies of any permits or licenses which relate to the Property.

f. Copies of all leases, contracts, options, easements, licenses, mortgages, financing statements, security agreements, judgments, liens, claims of lien, tax assessment records, and all similar documents, known to the Donor, which are in effect and may affect the title to the Property or the Donor's ability to convey fee simple title to the Property.

g. The Donor's Federal Tax ID number.

5. **DUE DILIGENCE INSPECTIONS; DONOR DETERMINATION.** The Donor represents and warrants that (a) the Property has (or will have on or before the Closing Date) all permits, zoning, and all other land use approvals and entitlements necessary to develop, construct, use, and operate the Property as a Sports Center; (b) Donor has conducted any and all surveys, surface and subsurface explorations, soil tests, engineering studies, environmental site assessments, endangered species assessments, or other tests and investigations of the Property necessary to evaluate and confirm the Property can be developed and used as a Sports Center (the **"Inspections"**); and (c) following Donor's review of the results of all such Inspections, the Donor has determined the Property is suitable for development and use as a Sports Center.

6. **EVIDENCE OF TITLE AND TITLE INSURANCE.** During the Conditions Period, the County shall obtain the Title Commitment for an ALTA Owner's Title Insurance Policy insuring the marketable title of the Property from a recognized title insurance company doing business in the Alachua County area. The Title Commitment shall describe the Property, shall be dated and in an amount acceptable to the County, shall have attached legible copies of all instruments referred to therein, and shall disclose the title to the Property to be good, marketable, and insurable, with legal, insurable access to the Property. Any exceptions shown on the Title Commitment other than (a) the standard pre-printed title exceptions; or (b) those exceptions set forth in **Exhibit "B"** attached hereto (the "**Permitted Exceptions**") shall constitute "**Title Defects**" for purposes of this Agreement.

7. **SURVEY.** Within fifteen (15) days following the Effective Date, the Donor shall provide the County the Survey. If the Survey shows (a) any encroachments on the Property, or that improvements, if any, on the Property encroach on other lands, or (b) that the Property is not contiguous to a publicly dedicated right of way, or (c) any other facts that affect the marketability of the title to the Property, then any such facts or matters so shown shall constitute a "**Title Defect**" for purposes of this Agreement.

8. **TITLE DEFECTS.** If either the Survey or the Title Commitment reveals any Title Defects, or if the County determines that any of the Conditions of Acceptance have not been satisfied, the County shall give written notice to Donor of any such Title Defects prior to the expiration of the Conditions Period. Thereafter, the County may either: (a) accept the Title Defects, close and accept the Donation according to the terms of this Agreement (or upon such other terms as the Donor and County may agree), as may be determined and elected by the County Manager without further approval by the Board; or (b) terminate this Agreement by written notice to the Donor, as may be determined and elected by the County Manager without further approval by the Board, whereupon neither Party shall have any further rights or obligations under this Agreement. Notwithstanding anything else herein to the contrary, the Donor shall, at Closing, pay-off, fully satisfy of record, and remove all encumbrances on the title to the Property which can be paid from the sale proceeds, including, without limitation, mortgages, judgments, claims of lien, and similar items.

9. **ENVIRONMENTAL SITE ASSESSMENT.** The County (at the County's expense) shall have the right to obtain an additional environmental site assessment of the Property during the Conditions Period, which the County determines, in its sole discretion, to be satisfactory. If the results of the environmental site assessment or any environmental reports furnished to the County by a third party consultant or the Donor reveal that any portion of the Property is contaminated or violates applicable federal, state or local laws, ordinances, codes, rules, orders or regulations relating to pollution or protection of the environment or to threatened or endangered species (collectively the "**Environmental Defects**"), the County shall provide written notice to the Donor of the Environmental Defects prior to the expiration of the Conditions Period. The County may either: (a) accept the Environmental Defects and accept the Donation according to the terms of this Agreement, or (b) terminate this Agreement by written notice to the Donor, as may be determined and elected by the County Manager without further approval by the Board, whereupon neither Party shall have any further rights or obligations under this Agreement.

10. **CLOSING DATE.** This transaction shall be closed and fee simple marketable title of record to the Property shall be transferred to the County at a date and time as determined by the County (the "**Closing Date**"), at or through the offices of the Closing Agent. On the Closing Date, both the Operations Agreement and the Development Agreement must be fully executed and delivered among the parties. The County Manager may terminate this Agreement, or extend the Closing Date, on behalf of the County without further approval by the Board.

11. **EXPENSES.** The Parties shall pay closing costs and expenses as follows:

DONOR:

- Documentary stamp tax on the deed of conveyance;
- Preparation of all closing documents necessary to cure title defects (if any);
- Past due taxes (if any);
- Donor's attorney's fees; and
- Donor's brokerage fees (if any).

COUNTY:

- Title Insurance policy for the County (including all related search and abstract fees);
- Closing Agent fees (including the preparation of all closing documents, except those that are necessary to cure title defects and are thus Donor's responsibility);
- Recording costs; and
- County's attorney's fees.

12. AD VALOREM TAXES AND ASSESSMENTS ON THE PROPERTY.

a. For the year of Closing, the Donor shall be responsible for and pay at Closing all unpaid ad valorem taxes and assessments on the Property, to discharge the lien of such ad valorem taxes and assessments. The Donor may take advantage of all legal procedures for discharging such lien by paying an estimated, prorated amount into escrow with the applicable tax collector(s) as provided by Section 196.295, Florida Statutes, Rule 12D-13.016, Florida Administrative Code and other applicable provisions of law.

b. For all years prior to the year of Closing, the Donor shall be responsible for and pay at Closing all unpaid ad valorem taxes and assessments on the Property, and to discharge any and all liens of same.

13. ASSESSMENTS AND FEES. At Closing, the Donor shall pay Donor's portion of the following items accruing to the Closing Date: all non-ad valorem fees and assessments; unpaid public assessments for street, sidewalk or other improvements, if any; city or county garbage disposal fees, incineration fees, fire service fees, and the like; impact fees payable with respect to the Property; and any other fees or payments due to any governmental authority with respect to the Property.

14. CLOSING DOCUMENTS: The County's Public Works Director is hereby delegated the authority to execute all closing documents on behalf of the County that are necessary to close this transaction, including but not limited to the HUD-1 Settlement Statement. Except as specifically provided below, the Donor shall deliver, or provide the Closing Agent with information necessary to produce, the following documents at or prior to Closing:

a. An Affidavit of Non-Foreign Status, Notice of Non-Recognition, or Withholding Certificate to establish compliance with the Foreign Investment and Real Property Tax Act of 1980 "FIRPTA". Any such documents executed and delivered by the Donor must comply with the provisions of FIRPTA and any regulations or rules promulgated thereunder.

b. An Owner's affidavit, in form acceptable to the Closing Agent, the title insurance company, and the County, sufficient to remove standard printed exceptions to title in the Policy regarding (i) rights or claims of parties in possession; and (ii) mechanic's liens.

c. An environmental affidavit affirming the Donor's representations and warranties listed in Paragraph 19.

d. IRS 1099 Form, if required.

e. Incumbency Certificate, Resolution and Affidavit, in form acceptable to the Closing Agent, from the Donor if the Donor is not a natural person.

f. Satisfaction(s), release(s) or estoppel letters from lenders and others holding mortgages or liens on the Property.

g. An assignment of all of Donor's rights, title and interest in the following items specifically related to the Property: all development rights, permits, licenses, benefits, consents, or approvals, surveys, soil tests, water, sewer, or other utility capacity verification or reservation, development plans, engineering plans or specifications, tests, reports, studies, appraisals, analyses and similar documents or information.

h. Signed and notarized waiver of the right of foreclosure by the Celebration Pointe Community Development, which waiver will be recorded in the Alachua County Public Records.

i. Properly executed Affidavit of Disclosure of Beneficial Interest, attached hereto as **Exhibit "C"**.

j. Signed and notarized contractor's affidavit and appropriate lien release documents executed by any contractor, subcontractor, or other party performing any work on the Property within the period commencing ninety (90) days prior to the Closing Date.

k. Any other documents or information the Closing Agent reasonably requests or requires to complete the transaction.

15. **CONVEYANCE.** At Closing, the Donor shall convey fee simple marketable title of record for the Property to the County by general warranty deed, free and clear of all liens and encumbrances except for those matters expressly allowed for herein or otherwise agreed to by the Parties in writing. Notwithstanding the foregoing, the conveyance of the Property is conditioned upon the construction of a Sports Center as provided herein. The Board authorizes the County Manager to accept liens and encumbrances related to the Property without requiring further approval of the Board. The deed of conveyance shall: (1) utilize the "metes and bounds" legal descriptions of the Property; and (2) meet the standards of the Closing Agent and the County as to form. Possession of the Property shall pass to the County at the time of Closing.

16. **TIME IS OF THE ESSENCE.** In all matters relating to this Agreement, **TIME IS OF THE ESSENCE.** Notwithstanding the foregoing, neither Party will be liable for any failure or delay in performing an obligation under this Agreement that is due to any of the following causes, to the extent beyond its reasonable control: acts of God, accident, riots, war, terrorist act, epidemic, pandemic, quarantine, civil commotion, natural catastrophes, changes in laws or regulations, national strikes, fire, explosion, generalized lack of availability of raw materials or energy.

For the avoidance of doubt, Force Majeure shall not include (a) financial distress nor the inability of either party to make a profit or avoid a financial loss, (b) changes in market prices or conditions, or (c) a party's financial inability to perform its obligations hereunder.

17. **NO ALTERATIONS AND CONDITION OF PROPERTY.** After the Effective Date, the Donor will not, without prior written consent from the County (which may be executed by the County Manager without further approval by the Board), execute or enter into any lease, contract, option, easement, license, mortgage, financing statement, security agreement, or similar document or agreement concerning or affecting the Property.

18. **CONDITIONS TO OBLIGATIONS OF THE COUNTY.** Unless expressly waived by the County in writing, any and all performance due by the County under this Agreement is specifically conditioned upon the following:

a. The representations and warranties made by Donor herein shall be correct statements of fact as said facts exist as of the Closing Date, and at all times between the Effective Date and the Closing Date.

b. All terms, covenants, agreements and provisions of this Agreement to be complied with and performed by the Donor on or before the Closing Date shall have been duly complied with or performed.

c. The County and the Developer complete negotiations and enter into, fully execute, and deliver the Development Agreement on or before the Closing Date.

d. The County and the Operator complete negotiations and enter into, fully execute, and deliver the Operations Agreement on or before the Closing Date.

19. **REPRESENTATIONS, WARRANTIES, AND COVENANTS OF DONOR.** The Donor hereby represents, warrants, and covenants to and with the County as follows:

a. Except for those matters that will be discharged at Closing, the Donor, and only the Donor, holds fee simple title to the Property and neither the Donor nor any other party has a common law or statutory way of necessity over or across the Property pursuant to §704.01, Florida Statutes.

b. From and after the Effective Date, Donor shall not enter into any contracts, agreements, encumbrances, liens, or other documents or instruments for or regarding the sale, transfer, disposition, assignment, conveyance, encumbrance, lien, pledge, of the Property, or any part thereof or any interest therein, or which may result in any lien or encumbrance with regard to the Property, or any part thereof, or an interest therein, without the prior written consent of the County.

c. The person executing this Agreement on behalf of the Donor is fully and duly authorized to do so by Donor, and any and all actions required to make this Agreement and the performance thereof legally binding obligations of Donor, have been duly and legally taken. No further consent, authorization or approval of any person or entity is required for Donor to enter into or perform this transaction.

d. Donor has paid (or covenants that they will pay prior to Closing) any and all taxes (excluding taxes not yet due) which have or could become a lien or charge against the Property, subject to the proration therein provided.

e. Except for any liens, encumbrances, or charges against the Property specifically disclosed in this Agreement, there are no other liens, encumbrances, unpaid bills to vendors, outstanding obligations or charges (contingent or absolute) in existence against such Donor or any businesses conducted thereon, or any existing undisclosed or unrecorded liens, encumbrances or charges, which could adversely affect title to the Property after the Effective Date or the Closing Date, and Donor has no knowledge of any matters pending that could result in a lien against the Property, or in any way substantially adversely affect title to the Property.

f. From and after the Effective Date Donor will not cause, permit, suffer, or allow any change, modification or alternation to be made to the Property, or any part or portion thereof, or its physical condition without the prior written consent of County.

g. There are no leases of the Property, or any portion thereof.

h. Donor represents that during its ownership the Property has never been used for the dumping, disposal, manufacture, handling, transportation, storage, or usage of any toxic or hazardous wastes or materials, and no such toxic or hazardous waste or materials are present on, in, or under the Property. As used herein "hazardous or toxic wastes or materials" shall mean and refer to any substance or matter giving rise to liability or regulations under any federal, state, or local law, statute, regulation, rule or ordinance.

i. To the best of the Donor's actual information and belief, no party has ever used the Property as a dump, landfill or garbage disposal site.

j. To the best of the Donor's actual information and belief, the Property presently complies with all applicable environmental laws, rules and regulations.

k. The Donor is unaware of any previous violations of applicable environmental laws, rules and regulations regarding the Property.

l. The Donor has not received notice from any government agency that the Property violates any federal, state or local laws, ordinances, codes, rules, orders or regulations or that any remedial action is required on the Property. The Donor shall, after Closing, indemnify, defend and hold the County harmless from and against any and all claims, demands, suits, losses, damages, assessments, fines, penalties, costs and other expenses, (including but not limited to attorney's fees, court costs, and agency costs of investigation) for actual damage to the environment, personal injury or death, or damage to property, due to a release or alleged release of hazardous materials on or under the Property or in the surface or ground water located on or under the Property, or gaseous emissions from the Property or any other adverse environmental

condition existing on the Property, occurring prior to Closing, that is caused by, arising from or any way related to the invalidity of the foregoing representations.

m. The Donor is not aware that there are any endangered species (as defined by state or federal law) on the Property.

n. The Donor is not a "foreign person" as that term is defined in 26 U.S.C.A. §1445(f)(3), nor is the sale of the Property subject to any withholding requirements imposed by the Internal Revenue Code, including but not limited to 26 U.S.C.A. §1445.

o. At Closing, Donor shall transfer sole and exclusive possession of the Property to the County.

p. There are no actions, suits or proceedings of any kind or nature whatsoever legal or equitable, actual or threatened, affecting the Property, or any portion thereof, or relating to or arising out of the ownership of the Property, in any court or before or by any Federal, state, county or municipal department, commission, board, bureau, or agency or other government instrumentality.

q. Except as previously disclosed or matters appearing in the public records, no commitments have been made, to the best of Donor's knowledge, to any governmental authority, utility company, school board, church or other religious body, or any homeowner's association, or to any other organization, group, or individual, relating to the Property which would impose an obligation upon County, or its successors or assigns, to make any contribution or dedications or money or land, or to construct, install, or maintain any improvements of a public or private nature on or off the Property, and no governmental authority has imposed any requirement that any developer of the Property pay directly or indirectly any special fees or contributions or incur any expenses or obligations in connection with any development of the Property, or any part thereof.

r. No person, firm or other legal entity other than County has any right or option whatsoever to acquire the Property or any portion thereof, or any interest therein.

s. The execution and delivery of this Agreement and the consummation of the transaction contemplated herein shall not and do not constitute a violation or breach by Donor of any provision of any agreement or other instrument to which Donor is a party or to which Donor may be subject although not a party, nor result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against Donor.

t. Donor is not aware of any information or facts concerning the physical condition or the Property, or the existing or proposed governmental regulation of the use or development of the Property, which would materially or adversely affect the value or use thereof which has not been disclosed to County in writing. In the event that changes occur as to any information, documents, or exhibits referred to in any part of this Agreement, Donor will immediately disclose same to County when first available to Donor.

u. No representation, warranty or covenant in this Agreement, nor any document, certificate or exhibit given or delivered to County pursuant to this Agreement, when read singularly or together as a whole, contains any untrue statement of a material fact, or omits a material fact necessary to make the statements contained therein true in the light of the circumstances under which they were made.

v. Donor is not subject to any bankruptcy proceeding, assignment for benefit of creditors, receivership or similar proceedings and that the conveyance of the Property as set out herein will not result in the Donor becoming bankrupt or insolvent.

20. REPRESENTATIONS AND WARRANTIES OF THE COUNTY. County hereby represents and warrants to Donor as follows:

a. No consent to the transaction contemplated by this Agreement by any person or entity other than County is required.

b. No representation, warranty or covenant in this Agreement, nor any document, certificate or exhibits given or delivered to Donor pursuant to this Agreement, when read singularly or together as a whole, contains any untrue statement of material fact, or omits a material fact necessary to make the statement contained therein true in light of the circumstances under which they were made.

21. **CONTINUING REPRESENTATION AND WARRANTIES.** The representations and warranties of the Parties contained herein shall be continuing up to and through one (1) year following the Closing Date (the “**Warranty Period**”) and at all times (with the same force and effect) between the Effective Date hereof and expiration of the Warranty Period. Donor will indemnify and keep and hold the County harmless from and against any costs, loss, damages, penalties, interest, remediation, or fees (including without limitation attorney’s fees) which the County may suffer from any claim arising during the Warranty Period related to any compliance with or violation of any applicable federal, state or local laws, ordinances, codes, rules, orders or regulations relating to pollution or protection of the environment or to threatened or endangered species.

22. **EMINENT DOMAIN.** The Donor has no knowledge of any threatened or pending eminent domain proceedings affecting the Property. In the event eminent domain proceedings are pending (without Donor’s knowledge) or instituted after the Effective Date, to acquire all or any part of Property, the Parties agree that:

a. The Donor shall, upon discovery, immediately notify the County of such threatened or pending eminent domain proceedings and provide to the County copies of all written correspondences, pleadings or other papers concerning the eminent domain proceeding as the Donor receives them.

b. The County may either: (i) terminate this Agreement by written notice to the Donor, whereupon the Parties shall be relieved of all further obligations under the Agreement; or (ii) the County may elect to keep the Agreement in full force and effect and assume sole control and direction (including settlement authority) of the eminent domain proceedings. The County shall receive any eminent domain award. The Donor shall execute all assignments or documents as are necessary to accomplish the same.

23. **REAL ESTATE COMMISSIONS.** Each party represents, covenants, and warrants to the other that there are no real estate brokers or any third parties entitled to receive any compensation or payment in connection with the Donation of the Property.

24. **AUTHORITY.** Each party hereby represents and warrants to the other party, which representations and warranties shall be true and shall be deemed to be restated at the Closing:

a. Each party has full authority to bind itself to the obligations stated herein, including but not limited to, providing any necessary resolutions or like documents indicating consent and approval.

b. The execution and delivery of this Agreement and consummation of the transaction contemplated hereby shall not (i) constitute a default under any instrument, document or obligation to which it is now, or may become a party, or by which it may be bound or affected, or (ii) violate any order, writ, injunction or decree of any court in any litigation to which it is a party.

25. **FURTHER ASSURANCES.** The Parties shall execute such further documents and do any and all such further things as may be necessary to implement and carry out the intent of this Agreement.

26. **NOTICES.** Any notice, demand, request, or other communication required or permitted by this Agreement or by law shall be in writing, and shall be deemed to be given when (a) delivered in person with signed proof of delivery, (b) delivered by United States certified or registered mail, return receipt requested, postage prepaid, or (c) delivered by a commercial courier service (such as Federal Express) to the following addresses:

Donor:

SDPS REAL ESTATE INVESTMENTS VI, LLC
Attn: James J. Stockman, Esq.
2579 SW 87th Drive
Gainesville, FL 32608

County:

County Manager
12 SE 1st Street
2nd Floor
Gainesville, Florida 32602-2877

and

Alachua County Public Works Department
5620 NW 120th Lane
Gainesville, Florida 32653
Attention: Director

To change or update any of the addresses above, the notifying party shall provide notice of the change in writing to the other party using the methods set out above. The date of notice shall be the date the notifying party sends notice to the receiving party. If the notifying party delivers personal notice to the receiving party, the receiving party shall have received notice upon receipt thereof.

27. DEFAULT.

a. If the County fails to consummate the acquisition of the Property in accordance with the terms of this Agreement for any reason other than Donor's default or the County's termination of this Agreement as allowed herein, Donor's sole remedy against the County shall be to retain the Property as liquidated and agreed upon damages, and all Parties shall be relieved from any further obligations under this Agreement. It is agreed by the Parties that such remedy is a fair and reasonable measure of the damages to be suffered by Donor in the event of such default and that the exact amount thereof is incapable of ascertainment.

b. In the event Donor breaches its covenant to convey the Property to the County or otherwise fails to perform its obligations under this Agreement, for any reason except for the County's default, the County shall be entitled to pursue any and all remedies available under law or equity, including specific performance, and to seek and recover any and all damages available to the County under law or in equity.

28. TERMINATION. If the County does not accept the Donation prior to the expiration of the Conditions Period or this Agreement is terminated by either party as allowed herein, all Parties shall be released from any further obligation under this Agreement.

29. ASSIGNMENT. This Agreement may not be assigned by either party without the written consent of the other party.

30. PERSONS BOUND. This Agreement shall be binding upon, and shall inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, personal representatives, legal representatives, successors, and permitted assigns.

31. ESCROW. Any escrow agent receiving funds or equivalent is authorized and agrees by acceptance thereof to deposit promptly and to hold same in escrow and subject to clearance thereof to disburse same in accordance with the terms

and conditions of this Agreement. Failure of clearance of funds shall not excuse performance by the County, and may be treated as a default by the County at the option of the Donor. In the event of doubt as to the escrow agent's duties or liabilities under the provisions of this Agreement, the escrow agent may in agent's sole discretion, continue to hold the funds in escrow until the Parties mutually agree to the disbursement thereof, or until a judgment or a court of competent jurisdiction shall determine the rights of the Parties thereto, or escrow agent may deposit same with the clerk of the circuit court having jurisdiction of the dispute, and upon notifying all Parties concerned of such action, all liability on the part of the escrow agent shall fully terminate, except to the extent of accounting for any items theretofore delivered out of escrow. In the event of any suit between County and Donor wherein the escrow agent is made a party by virtue of acting as an escrow agent hereunder, or in the event of any suit wherein escrow agent interpleads the subject matter of this escrow, the agent shall be entitled to recover reasonable attorney's fees and costs incurred, said fees and costs to be charged and assessed as court costs in favor of the prevailing party. All Parties agree that the escrow agent shall not be liable to any party or person whomsoever for misdelivery to County or Donor of items subject to escrow, unless such misdelivery shall be due to willful breach of this Agreement or gross negligence on the part of the agent.

32. ENTIRE AGREEMENT; AMENDMENT. This Agreement contains all of the agreements, representations and warranties of the Parties hereto with respect to the Property, and supersedes all other discussions, understandings or agreements in respect to the subject matter hereof. All prior discussions, understandings and agreements are merged into this Agreement, which alone fully and completely expresses the agreements and understandings of the Parties hereto. This Agreement may be amended, superseded, extended or modified only by an instrument in writing referring hereto signed by all Parties. County Manager may, in their sole discretion, extend any of the dates herein if so requested by the Donor.

33. APPLICABLE LAW; VENUE. This Agreement shall be interpreted, construed, and enforced in accordance with the laws of the State of Florida. Sole and exclusive venue shall be in Alachua County, Florida.

34. WAIVER OF RIGHT TO TRIAL BY JURY. Each party waives its rights to demand trial by jury.

35. SOVEREIGN IMMUNITY. The County fully retains all sovereign immunity protections afforded to it as a charter county and a political subdivision of the State of Florida. The County waives nothing by entering into this Agreement. All claims against the County that are permissible pursuant to the partial waiver of sovereign immunity set forth in §768.28, Florida Statutes, must strictly comply with the procedures found in §768.28, Florida Statutes.

36. SEVERABILITY. In the event any portion of this Agreement is found to be unenforceable, the remainder of this Agreement shall remain in full force and effect if the deletion of such portion shall neither affect the overall intent of this Agreement, nor materially impair the benefits negotiated by each party hereunder.

37. CONSTRUCTION; DATES. The provisions of this Agreement have been carefully and fully negotiated between the Parties, each of which has relatively equal bargaining power. The terms of this Agreement are to be construed in accordance with their fair meaning and intent and are not to be construed against either party merely because such party or its counsel drafted this Agreement. In the event a day of performance falls on a Saturday, Sunday or legal holiday under the laws of the State of Florida, the day of performance shall be automatically extended to the next day which is not a Saturday, Sunday or legal holiday and the County is open for regular business.

38. NO RECORDING OF AGREEMENT. The Parties agree that neither the County nor the Donor shall cause this Agreement to be recorded in any public records relating to the Property.

39. COUNTERPARTS. This Agreement may be executed by the Parties hereto individually or in combination, in one or more counterparts, each of which shall be an original, and all of which shall constitute one and the same Agreement. This Agreement may be executed and delivered by facsimile and/or email transmission, with the intention that such facsimile and/or email signature and delivery shall have the same effect as an original signature and actual delivery.

40. HEADINGS. The captions and headings contained in this Agreement are for reference purposes only, and shall not in any way affect the meaning or interpretation hereof.

41. **WAIVER.** No provision of this Agreement or any rights hereunder may be waived unless such waiver is in writing and is signed by the party waiving such provision or right. The waiver by one party of the performance of any covenant or condition herein shall not invalidate this Agreement, nor shall it be considered to be a waiver by such party of any other covenant or condition herein. The waiver by either or both Parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time. The exercise of any remedy provided by law or in the provisions of this Agreement shall not exclude other remedies unless they are expressly excluded.

42. Omitted.

43. **NONCASH CHARITABLE CONTRIBUTION.** Notwithstanding any other provision, it is understood between the Parties that it is the Donor's intention to claim a noncash charitable contribution to the County ("**Charitable Claim**"). The County acknowledges that the Donor intends to claim a noncash charitable contribution; however, the County does not represent any concurrence in the Donor's claimed fair market value or claimed deduction. If the Donor elects to assert the Charitable Claim, then Donor shall, within 30 days after the Closing Date, complete the applicable parts of Internal Revenue Service ("**IRS**") Form 8283 in accordance with all applicable IRS Instructions, and then furnish its Form 8283 to the County. The County's sole and exclusive obligation with regards to the Charitable Claim shall be to: (i) furnish Donor with a contemporaneous written acknowledgment of Donor's contribution as required by Title 26 Internal Revenue Code §170(f)(8) within 30 days after the Closing Date, which shall describe the personal property, if any, conveyed to the County in the manner said personal property is described in any Bill of Sale furnished to the County by Donor at the Closing, and shall also describe the real property conveyed to the County, as described in **Exhibit A** hereto, and the Purchase Price (if any) paid by the County to the Seller for said real and personal property; and (ii) complete and sign Part IV of IRS Form 8283, and then to furnish same to Donor, within 20 days of the County's receipt of IRS Form 8283 from the Donor. The County makes no guarantees, representations or warranties to the Donor regarding the Charitable Claim. The Donor shall not be entitled to any increase to the Purchase Price (if any), increase to the County's share of the Closing Costs, or to any damages whatsoever in the event that: (i) Donor elects not to assert its Charitable Claim, or (ii) Donor's Charitable Claim is denied in whole or in part by the IRS or any governmental entity having jurisdiction over such matters.

EXECUTED by Donor on _____.

Signed, sealed and delivered
in the presence of:

DONOR:

SDPS REAL ESTATE INVESTMENTS VI, LLC
a Florida limited liability company

By: SHD-CELEBRATION POINTE, LLC
a Florida limited liability company
As its Manager

Witness No 1 Signature

Witness No 1 Print Name

Witness No 2 Signature

Witness No 2 Print Name

By: _____
SVEIN DYRKOLBOTN
As its Manager

Date: _____

STATE OF FLORIDA
COUNTY OF ALACHUA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization on _____, by SVEIN DYRKOLBOTN, as Manager of SHD-CELEBRATION POINTE, LLC, a Florida limited liability company, as Manager of SDPS REAL ESTATE INVESTMENTS VI, LLC, a Florida limited liability company, on behalf of said companies. Said person is ☐ personally known to me or ☐ produced _____ as identification.

Notary Public – State of Florida

Print Name: _____

Commission Number: _____

Commission Expiration Date: _____

EXECUTED by the County on _____.

COUNTY

ALACHUA COUNTY, a charter county and
political subdivision of the state of Florida

By: _____

KEN CORNELL, as Chair
Board of County Commissioners

Date: _____

ATTEST:

J.K. "JESS" IRBY, ESQ., CLERK

APPROVED AS TO FORM

Alachua County Attorney's Office

EXHIBIT A

PROPERTY LEGAL DESCRIPTION

A portion of Section 15, Township 10 South, Range 19 East, Alachua County, Florida; being more particularly described as follows:

Commence at the southeast corner of Section 15, Township 10 South, Range 19 East, Alachua County, Florida and run thence South 89°58'56" West, along the south line of said Section 15, a distance of 923.35 feet to the intersection with the easterly maintained Right of Way line of S.W. 45th Street (per Maintenance Map Book 2, pages 19-25) (Right of Way width varies); thence run the following three (3) courses along said easterly maintained Right of Way line: (1) North 31°35'14" West, 327.55 feet to the beginning of a non-tangent curve concave northeasterly, having a radius of 300.00 feet; (2) thence northwesterly along the arc of said curve, through a central angle of 28°31'54", an arc distance of 149.39 feet to the end of said curve, said arc being subtended by a chord, having a bearing and distance of North 17°15'19" West, 147.85 feet; (3) thence North 02°59'19" West, 637.77 feet; thence South 86°27'14" West, 55.88 feet to a point lying on the arc of a curve, concave westerly, having a radius of 350.00 feet; thence northerly along the arc of said curve through a central angle of 12°42'22", an arc distance of 77.62 feet, said arc being subtended by a chord having a bearing and distance of North 11°04'26" West, 77.46 feet; thence South 73°13'17" West, 4.79 feet to a point lying on the arc of a curve, concave southwesterly, having a radius of 354.00 feet; thence northwesterly along the arc of said curve through a central angle of 34°19'31", an arc distance of 212.08 feet to the end of said curve, said arc being subtended by a chord having a bearing and distance of North 34°16'46" West, 208.92 feet, said end of curve being the beginning of a curve concave northeasterly, having a radius of 773.60 feet; thence northwesterly along the arc of said curve through a central angle of 51°26'32", an arc distance of 694.56 feet to the end of said curve, said arc being subtended by a chord having a bearing and distance of North 25°43'16" West, 671.47 feet; thence North 00°00'00" West, 687.39 feet; thence North 90°00'00" West, 4.00 feet; thence North 00°00'00" West, 846.88 feet to a point lying on the arc of a curve concave southwesterly, having a radius of 23.00 feet; thence northwesterly along the arc of said curve through a central angle of 65°55'50", an arc distance of 26.47 feet, said arc being subtended by a chord having a bearing and distance of North 57°02'07" West, 25.03 feet; thence North 00°00'00" West, 91.00 feet; thence North 90°00'00" West, 59.08 feet; thence North 00°00'00" East, 40.98 feet to the POINT OF BEGINNING; thence North 90°00'00" West, 150.17 feet; thence North 00°00'00" East 51.75 feet; thence North 90°00'00" West, 54.42 feet; thence North 00°00'00" East, 1.50 feet; thence North 90°00'00" West, 29.33 feet; thence North 00°00'00" East, 144.50 feet; thence North 90°00'00" West, 23.33 feet; thence North 00°00'00" East, 29.33 feet; thence South 90°00'00" West, 41.75 feet; thence North 00°00'00" East, 102.67 feet; thence North 90°00'00" East, 41.75 feet; thence North 00°00'00" West, 26.67 feet; thence North 90°00'00" East, 23.33 feet; thence North 00°00'00" West, 109.50 feet; thence South 90°00'00" East, 77.86 feet; thence North 00°00'00" East, 1.50 feet; thence North 90°00'00" East, 39.31 feet; thence North 00°00'00" East, 40.67 feet; thence North 90°00'00" East, 112.33 feet; feet; thence South 00°00'00" East, 40.67 feet; thence North 90°00'00" East, 14.00 feet; thence South 00°00'00" East, 144.00 feet; thence North 90°00'00" East, 66.00 feet; thence South 00°00'00" East, 271.67 feet; thence South 90°00'00" West, 75.58 feet; thence South 00°00'00" East, 51.75 feet to the POINT OF BEGINNING.

EXHIBIT B

PERMITTED EXCEPTIONS

- a. Real estate taxes and assessments for 2021, which are not yet due and owing.
- b. Southwest District Transportation Improvement Agreement as set forth in instrument recorded in **Book 4068, Page 2380** and in **Book 4082, Page 493**, together with Assignment of Contract Rights and Acknowledgment of Merger Southwest District Transportation Agreement recorded in **Book 4318, Page 2275**. (*Sched. B2 (4)*)
- c. Notice of Establishment of the Celebration Pointe Community Development District No. 1 recorded in **Book 4163, Page 2332**, as expanded by instrument recorded in **Book 4260, Page 465** and by instrument recorded in **Book 4476, Page 1320**. (*Sched. B2 (5)*)
- d. Recorded Notice of Environmental Resource Permit recorded in **Book 4276, Page 1**. (*Sched. B2 (6)*)
- e. Declaration of Covenants Imposing and Implementing the Celebration Pointe Public User Fee recorded in **Book 4317, Page 415**, as amended by instruments recorded in **Book 4537, Page 838** and in **Book 4542, Page 1345**. (*Sched. B2 (7)*)
- f. Declarations of Consent to Jurisdiction of Celebration Pointe Community Development District No. 1 and to Imposition of Special Assessments recorded in **Book 4318, Page 2279**, in **Book 4334, Page 1152**, in **Book 4551, Page 2086**, together with True-Up and Payment Agreement recorded in **Book 4518, Page 647** and Mortgagee Special Assessment Acknowledgment recorded in **Book 4518, Page 853**. (*Sched. B2 (8)*)
- g. Collateral Assignment and Assumption of Development and Contract Rights relating to the Celebration Pointe Community Development District No. 1 recorded in **Book 4325, Page 1795**, as amended and restated by instrument recorded in **Book 4529, Page 1136**. (*Sched. B2 (9)*)
- h. Recorded Notice of Environmental Resource Permit recorded in **Book 4330, Page 404**. (*Sched. B2 (10)*)
- i. Declaration of Covenants, Conditions and Restrictions recorded in **Book 4379, Page 2401**. (*Sched. B2 (12)*)
- j. Declaration of Covenants, Conditions, Restrictions and Easements, recorded in **Book 4396, Page 785**, as modified by First Amendment to Master Declaration of Easements, Covenants and Restrictions recorded in **Book 4474, Page 1656**; Second Amendment to Master Declaration of Easements, Covenants and Restrictions recorded in **Book 4601, Page 851**; Third Amendment to Master Declaration of Easements, Covenants and Restrictions recorded in **Book 4727, Page 1548**; and Fourth Amendment to Master Declaration of Easements, Covenants and Restrictions recorded in **Book 4732, Page 959**. (*Sched. B2 (13)*)
- k. Utility Relocation Agreement as set forth in instrument recorded in **Book 4444, Page 880**. (*Sched. B2 (15)*)
- l. UCC-1 (Financing Statement) from Celebration Pointe Holdings, LLC, a Florida limited liability company to State of Florida Department of Transportation recorded December 12, 2014 in **Book 4318, Page 2274**, as continued by instrument recorded in **Book 4732, Page 1972**. (*Sched. B2 (16)*)
- m. Interlocal Agreement Between Alachua County and Celebration Pointe Community Development District No. 1 as set forth in instrument recorded in **Book 4452, Page 2147**. (*Sched. B2 (17)*)
- n. Zoning Rights Agreement as set forth in instrument recorded in **Book 4742, Page 1057**, as re-recorded in **Book 4747, Page 642**. (*Sched. B2 (18)*)

NOTE: All Permitted Exceptions documents are recorded in the Public Records of Alachua County, Florida

NOTE: All Permitted Exceptions Covenants documents are subject to the Conditions of Acceptance requirements outlined in Paragraph 3 above.

NOTE: THE ABOVE PERMITTED EXCEPTIONS DOCUMENTS (A – N) HAVE NOT BEEN AGREED TO BY THE COUNTY AND ARE SHOWN FOR INFORMATIONAL PURPOSES ONLY. THE COUNTY MAY REQUIRE CERTAIN OF THE ABOVE LISTED ITEMS BE DELETED ON THE FINAL DONATION AGREEMENT.

EXHIBIT C

AFFIDAVIT OF DISCLOSURE OF BENEFICIAL INTEREST

STATE OF FLORIDA
COUNTY OF ALACHUA

Before me, the undersigned authority, personally appeared _____ (the "Affiant") who was sworn and makes the following statements:

1. Affiant has personal knowledge of the facts contained herein.

2. Affiant makes this affidavit concerning the property described in Exhibit "A", attached hereto (the "Property") located in Alachua County, Florida which is being conveyed to ALACHUA COUNTY, FLORIDA, a political subdivision of the state of Florida:

3. The Property is owned by The Laser Investment Group, LLC (the "Owner"). Affiant is an Authorized Person of _____.

4. Affiant makes this affidavit pursuant to the entity disclosure requirements listed in §286.23, Florida Statutes concerning real property being conveyed to a public agency.

5. The following are the names and addresses of all parties having any beneficial interest in the Owner:

- a. _____, whose address is _____.
- b. _____, whose address is _____.
- c. _____, whose address is _____.

Further Affiant Sayeth Naught.

DATED: _____

SIGNATURE: _____

SWORN TO, SUBSCRIBED AND ACKNOWLEDGED before me by means of ☐ physical presence or ☐ online notarization on _____, by _____ who is ☐ personally known to me or ☐ who has produced _____ as identification.

Notary Public - State of Florida

Sign: _____

{S E A L}

Print: _____