

**GREEN BUILDING INCENTIVE AGREEMENT
BETWEEN CITY OF ORLANDO AND [DEVELOPER]**

This Green Building Incentive Agreement (the "Agreement"), is made and entered into as of the Effective Date (as defined herein), by and between the **City of Orlando, Florida**, a municipal corporation organized and existing under the laws of the State of Florida (the "City"), and _____, a [Florida corporation/foreign corporation authorized to conduct business in the State of Florida], (the "Developer"). The foregoing entities individually may be referred to as a "party" or collectively as the "parties."

RECITALS

WHEREAS, as of the Effective Date, Developer is the owner and developer of certain real property located within the City, more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, the Property is being developed as [XX] (the "Project"); and

WHEREAS, the City created the Green Building Incentive Program (the "Program") to provide a tax increment rebate for newly constructed or substantially enlarged commercial and commercial multi-family structures that are designed, built, constructed and certified as Leadership in Energy and Environmental Design ("LEED") Silver or above; and

WHEREAS, the Project complies with the eligibility requirements of the Program and is being designed, contracted, and built to achieve LEED Silver certification or greater; and

WHEREAS, pursuant to the Program, City will provide Developer a tax increment rebate according to the tier level established in the Program in the amount of the property tax increment revenue directly attributable to the Project, for the City's portion of the real property taxes assessed against the Property for the calendar year immediately following the project completion and property appraisal of the Project (the "Tax Rebate"); and

WHEREAS, the City finds and declares it is in the public's best interest to award the Tax Rebate to Developer pursuant to this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, and such other good and valuable consideration the receipt of which is hereby acknowledged, the parties agree as follows:

Section 1. Recitals. The foregoing recitals are true and correct and incorporated into this Agreement as if fully set forth below.

Section 2. Tax Increment Rebate. The City hereby agrees to provide a one-time tax increment rebate (the “Tax Rebate”) to Developer for the Project. The Tax Rebate claim must be filed by May 1st the first year in which taxes are paid on the Project, but no later than May 1, 2030. The Tax Rebate will be provided to Developer no later than June 30th of the year the Tax Rebate claim is filed, and no payments will be issued after June 30, 2030. The amount of the Tax Rebate shall be the corresponding percentage of the property tax increment revenue directly attributable to the Project as collected by the City based on the City’s millage rate in effect in the Tax Rebate year. The rebate value will depend upon the LEED Certification level achieved as follows:

LEED Silver	50%
LEED Gold	75%
LEED Platinum	100%

For purposes of calculating the property tax increment revenue for the Property, it is agreed that the base year valuation of the Property is the estimated taxable assessed value of the Property in the tax year at the time of this Agreement. The Tax Rebate should be claimed for the first year in which LEED certification is achieved and property taxes have been paid.

The City’s millage rate is subject to change by the City as provided by law.

The maximum amount of the Tax Rebate shall not exceed \$250,000.

Section 3. Performance Benchmarks. The City's obligation to provide the Tax Rebate is contingent upon the following:

- A. Developer notifies the Office of Sustainability and Resilience within 30 days of submitting the building permit application for the Project.
- B. Developer submits a written claim application to the City no later than May 1st the first year property taxes are paid on the completed Project. The application shall include:
 - i. Proof of LEED certification
 - ii. Certificate of Occupancy (copy)
 - iii. Proof of timely payment of real estate taxes levied against the Property for the year for which the Tax Rebate is requested.
- C. Developer complies with the eligibility requirements of the Program.

Section 4. Default. Each of the following shall constitute an event of default:

A. Developer fails to obtain a Certificate of Occupancy - or its functional equivalent - for the Project within five (5) years of the Effective Date, or by December 31, 2028, whichever is earlier.

B. Developer either elects to abandon the Project as evidenced by written notice of such election to the City, or the Developer is deemed to have abandoned the Project as determined by the City.

C. Developer's breach of any of the terms, covenants, conditions, obligations, or provisions of this Agreement, including failure to comply with any of the Program's requirements.

D. Developer's material misrepresentation in any certification or communication submitted to the City in an effort to induce the award, payment or the administration thereof that is determined to be false, misleading, or incorrect in any material manner.

E. Developer's failure to achieve LEED certification for the Project.

Section 5. Remedies. In the event of the occurrence of any default by Developer, the City shall be entitled to pursue all rights and remedies available under the law, including ceasing payment of the Tax Rebate and terminating this Agreement as provided for herein. The parties further agree that the City shall have the specific rights and remedies set forth in this Agreement, which rights and remedies are in addition to and cumulative with any and all other rights or remedies, now or hereafter available to the City at law or in equity in order to enforce the provisions of this Agreement. The exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy, nor shall any such delay or omission be construed to be a waiver of or acquiescence to any default. The exercise of any such right or remedy by the City shall not release Developer from its obligations or any liability under this Agreement, except as expressly provided for in this Agreement.

Section 6. Termination. This Agreement shall terminate upon the occurrence of any of the following events:

A. On June 30, 2030, or upon the City's Tax Rebate payment, whichever occurs first.

B. Upon the occurrence of any default.

Section 7. Repayment. Developer shall be liable for repayment of any funds dispensed under the terms of this Agreement which may be deemed by the City to have been dispensed in error.

Section 8. Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Any action, in equity or law, with

respect to this Agreement must be brought in a federal or state court situated in Orange County, Florida.

Section 9. **Assignment.** Developer's rights, duties and obligations under this Agreement are freely assignable, in whole or in part, upon written notice to the City.

Section 10. **Amendments.** This Agreement may be amended only by written instrument upon mutual consent of both parties.

Section 11. **No Liability or Monetary Remedy.** Developer hereby acknowledges and agrees that it is sophisticated and prudent in business transactions and proceeds at its own risk under advice of its own counsel and advisors and without reliance on the City, and that the City bears no liability for direct, indirect or consequential damages. The only remedies available to Developer for any breach by the City are for specific performance and mandamus to require the City's specific performance under the terms and conditions of this Agreement.

Section 12. **Severability.** Any sentence, phrase, paragraph, provision or portion of this Agreement held by a court of competent jurisdiction to be invalid, illegal or unenforceable shall be severable and shall not be construed to render the remainder of this Agreement to be invalid, illegal or unenforceable.

Section 13. **Notices.** Any notices required or allowed herein shall be in writing and given by certified mail, return receipt requested, or in person with proof of delivery, to the address below or such other address as either party shall specify by written notice to the other party, delivered in accordance herewith:

To the City: Chief Administrative Officer
City of Orlando
400 South Orange Avenue, 3rd Floor
Orlando, Florida 32801
Telephone: (407) 246-3091

To Developer:

The parties hereby agree to notify each other in writing of any change of address.

Section 14. **Indemnification.** Developer shall indemnify and hold harmless the City, its agents, employees, and elected and appointed officials, from and against all claims, damages, losses, and expenses (including all attorney's costs and fees) arising out of or relating to Developer's performance or activities as provided herein.

Section 15. Captions. The captions and headings of sections or paragraphs used in this Agreement are for convenient reference only and shall not limit, define or otherwise affect the substance or construction of provisions of this Agreement.

Section 16. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter contained herein and supersedes all previous discussions, understandings and agreements.

Section 17. Counterparts; Copies. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and all of which shall together constitute one and the same instrument. This Agreement may be executed by .pdf electronic signature by any party and such signature will be deemed binding for all purposes hereof without delivery of an original signature being thereafter required.

Section 18. Land Development Regulations. Notwithstanding anything contained in this Agreement to the contrary, the City does not, by this Agreement, abrogate any right it may have to grant or deny any particular land development regulatory approval, zoning classification, or any other applicable permit or regulatory approval.

Section 19. Compliance with Laws. Developer shall at all times be in compliance with all applicable federal, state and local laws, codes, statutes, rules and regulations, and shall obtain all state and local permits or other governmental authorizations and approvals required by law in order to proceed with the development of the Project on the Property. This paragraph is not intended to preclude the City from granting Developer certain waivers, exemptions or variances under the Orlando City Code as allowed therein.

Section 20. Effective Date. This Agreement takes effect upon full execution by the parties.

IN WITNESS WHEREOF, the City and the Developer have duly approved this Agreement and have authorized its execution and delivery by the respective signing officers all as of the date first above written.

[Signatures to follow]

CITY OF ORLANDO, FLORIDA,
a municipal corporation

Kevin Edmonds
Chief Administrative Officer

Date

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

Assistant City Attorney

Print Name

For Developer

Name: _____

Title: _____

Date

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20____, by _____, as _____ [title] for _____ [Developer].

Notary Public Signature

My Commission Expires: _____

(Affix Notary Stamp or Seal)

Personally Known OR Produced Identification

Type of Identification Produced: _____