

THIS DOCUMENT PREPARED BY
AND RETURN TO:

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City of Orlando
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**TRANSPORTATION IMPACT FEE AGREEMENT REGARDING TRANSIT ORIENTED
DEVELOPMENT (TOD) BETWEEN CITY OF ORLANDO AND WINDSOR/ONIX HOLDINGS, LLC**

This AGREEMENT, is made and entered into this _____ day of _____, 2014, by and between WINDSOR/ONIX HOLDINGS, LLC, a Delaware limited liability corporation whose address is 6225 Smith Avenue, Suite 200, Baltimore, Maryland, 21209 (“Bio-research Center at Health Village”) and THE CITY OF ORLANDO, a municipal corporation duly enacted under the laws of the State of Florida, whose address is 400 South Orange Avenue, Orlando, Florida, 32802 (the “City”).

RECITALS

WHEREAS, Section 56.15. I, City Code provides that any development, or portion thereof, defined as Transit Oriented Development (TOD) is exempt from the payment of Transportation Impact Fees.

WHEREAS, Transit Oriented Development (TOD) is defined in Section 56.04, City Code as:

A development site, designated through a development order or a parcel of record, which complies with the following:

- Located within ¼ mile of a premium transit station (SunRail or LYMMO). Any portion of the designated site or parcel that falls within the ¼ mile buffer shall be considered for TOD status.
- Comprised of a compact, dense mix of land uses, including a residential component.
- The 1st floor shall consist of primarily (>50%) retail use or other active commercial uses.
- The 2nd floor and above may contain office and multi-family uses.
- Provides both pedestrian and bicycle friendly facilities which meet or exceed the City's Land Development Code (LDC) and Engineering Standards Manual requirements, no exceptions.
- Reduces parking to the minimum code requirement for each land use (See Chapter 61, Part 3 of the LDC) to encourage transit ridership.
- Requires businesses within the TOD to enter into an agreement to fund or subsidize transit ridership for residents, employees and guests;

WHEREAS, Windsor/Onix Holdings, LLC contract purchaser of 1.05 acre portion the subject site containing 9.178+/- acres of property, “Property,” within the jurisdictional limits of the City of Orlando, with an address of 2322 Dade Avenue, more particularly described in **Exhibit “A,”** attached hereto and made a part hereof by reference;

WHEREAS, On September 20, 2013, Windsor/Onix Holdings, LLC submitted a Transit Oriented Development (TOD) application for a development consisting of 145,085 square feet of general office use and 2,278 square feet of retail use, as identified in the Design Development Package, dated 4/16/2013, as the “Project”;

WHEREAS, the Project is within the Orlando Health Development of Regional Impact (DRI), and is within the Downtown (Area 1A) Transportation Impact Fee Rate, and the North Transportation Impact Fee Benefit Area;

WHEREAS, Windsor/Onix Holdings, LLC asserts that the Project meets a portion of the requirements of Section 56.15 I, City Code and has therefore requested that the City determine that the Project qualifies for the applicable TOD transportation impact fee reduction;

WHEREAS, Windsor/Onix Holding, LLC has demonstrated that the Project, as defined herein, meets sixty percent (60%) of the criteria established by City Code to qualify as a TOD.

See below:

Qualifier: Located within 1/4 mile of premium transit stop/station		
TOD Characteristics:	Percentage (%)	Development Participation (%)
1. Composed of mixture of land uses, including 50% ground floor retail/commercial & Residential component	20	0
2. Meets or exceeds code for pedestrian facilities	20	20
3. Meets or exceeds code for bicycle facilities	20	20
4. Reduces parking to minimum code requirements	20	20
5. Enter into an agreement to fund or subsidize transit ridership for employees and residents ridership for employees and residents	20	0
TOTAL:	100	60
Total Transportation Impact Fees:	Current Rate	Reduced Amount
Fee Assessment – 145,085 sf general office & 2,278 sf of retail	\$460,625.04	
Prior Use-Demolition Credit–4 single family units & 12 multi-family units	\$39,516.00	
Final Fee Assessment	\$421,109.04	\$168,443.62

WHEREAS, Windsor/Onix Holdings, LLC and City agree that the Project is entitled to a sixty percent (60%) reduction to the payment of transportation impact fees after application of a Prior Use determination, which results in an assessment of One Hundred Sixty-Eight Thousand, Four Hundred Forty-Three Dollars and Sixty-Two Cents (\$168,443.62), which must be paid prior to the issuance of a building permit for any portion of the Project; and

WHEREAS, a final inspection and review of the Project and Project site shall be performed by City's Transportation Planning Division Staff to ensure compliance with the qualifying Transit Oriented Development (TOD) criteria awarded above and said final inspection shall be performed prior to the building permit final inspection for the Project reviewed and permitted as the Bio-research Center at Health Village.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1) Recitals. The above recitals are true and correct, and incorporated into the substantive body of this Agreement as if stated herein.

2) Transportation Impact Fee. Subject to the terms of this Agreement and based on the TOD exemption under Section 56.15 I, City Code, the Project shall be entitled to a sixty percent (60%) exemption from the payment of Transportation Impact Fees as described herein. The City's determination is based on development of the Project strictly as permitted by the City and as defined herein. The parties have agreed that Developer will pay the City One Hundred Sixty-Eight Thousand, Four Hundred Forty-Three Dollars and Sixty-Two Cents (\$168,443.62), at permit issuance, for the Transportation Impact Fee assessed to the Project.

3) Continuing Obligation. As a condition of this Agreement, Windsor/Onix Holdings, LLC, its successor or assign, shall ensure that, throughout the use and operation of the Project, the Project will continue to meet sixty percent (60%) of the TOD criteria as described herein. Windsor/Onix Holdings, LLC or successor or assign shall submit to the City's Transportation Planning Division all documentation necessary to verify its continual compliance with the qualifying Transit Oriented Development (TOD) criteria awarded with this agreement if requested.

4) Litigation and Attorneys' Fees. In the event any party to this Agreement should bring suit to enforce or interpret any provision hereof, the predominantly prevailing party shall be entitled to recover reasonable attorneys' fees, paralegals' fees, and costs incurred, whether the same be incurred in pre-litigation negotiation, litigation at the trial level, or upon appeal.

5) Termination. This Agreement may be terminated by mutual consent of the parties hereto or upon default as described in Paragraph 6, below. Upon termination, the parties shall have no further obligation under this Agreement except as otherwise provided herein.

6) Defaults. Failure by either party to comply with or perform any of the terms, conditions, covenants, agreements or obligations contained in this Agreement to be performed by each of them respectively, shall constitute a default under this Agreement, and (i) if such default is not cured or remedied within sixty (60) days after the non-defaulting party provides written notice to the defaulting party specifying with particularity the nature of such default, or (ii) if

such default cannot be reasonably cured or remedied within such sixty (60) day period, the defaulting party fails to commence to cure or remedy the default within such sixty (60) day period and thereafter fails to diligently and expeditiously pursue such cure or remedy, the non-defaulting party, in its sole discretion, shall be entitled to exercise any and all rights and remedies available to it under this Agreement, at law and in equity, including without limitation, the right to terminate this Agreement by providing ten (10) days written notice to the defaulting party of such termination. Within thirty (30) days of the termination of this Agreement, Windsor/Onix Holdings, LLC or its successor or assign shall pay to the City, the amount of the transportation impact fee for the Project that was exempted under the terms of this Agreement. Upon termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect, except as otherwise provided herein.

7) Severability. The invalidity or unenforceability of any term or provision of this Agreement or the non-applicability of any such term or provision to any person or circumstance shall not impair or affect the Agreement.

8) Entire Agreement. This Agreement represents the entire understanding and Agreement between the parties with respect to the subject matter hereof. None of the terms and provisions hereof may be amended, supplement, waived or changed orally, but only by a writing signed by each of the parties hereto.

9) Controlling Laws. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, and all duly adopted ordinances, regulations and policies of the City now in effect and those hereinafter adopted.

10) No Waiver. This Agreement does not, in any way, constitute a waiver of the City's regulatory authority or the application of City Code, or any other applicable law, rule or regulation.

11) Effective Date. This Agreement shall become effective on the date of full and complete execution by the parties hereto.

12) Recording. This document shall be recorded by Windsor/Onix Holdings, LLC at its own cost, in the Public Records of Orange County, Florida.

13) Estoppel Letter. The City shall execute and deliver to Windsor, within fifteen (15) days after any written request by Windsor, a certificate addressed as indicated by stating (i) whether this Agreement is in full force and effect; (ii) whether this Agreement has been modified or amended in any respect; (iii) whether there are any existing defaults hereunder known to the City; and (iv) such other matters as may be reasonably requested.

SIGNATURES NEXT PAGE

In witness whereof, this agreement regarding a transit oriented development (TOD) reduction to the payment of transportation impact fees has been duly executed by the parties as of the day and

TWO WITNESSES:

WINDSOR ONIX HOLDINGS, LLC, a
Delaware limited liability company

Print Name: _____

By: _____

Print Name: _____

Name: _____

Its: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2014 by _____, as _____ of WINDSOR ONIX HOLDINGS, LLC, a Delaware limited liability company, who executed the foregoing instrument and acknowledged before me that he executed the same for the purposes therein expressed and who ☐ is personally known to me or ☐ has produced _____ as identification.

Name
Notary Public
Serial Number: _____
My Commission Expires: _____

CITY:

ATTEST:

CITY OF ORLANDO, FLORIDA

By: _____
Alana C. Brenner, City Clerk

By: _____
Mayor

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

_____, 2013

Assistant City Attorney

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by _____, as Mayor of the City of Orlando, on behalf of the City of Orlando. He ☐ is personally known to me or ☐ has produced _____ as identification.

(NOTARY SEAL)

Notary Public Signature

(Name typed, printed or stamped)

Exhibit "A"

Legal Description – Windsor Parcel

A portion of Lots 1 through 5, Block B, MAP OF HILLCREST HEIGHTS, according to the plat thereof, as recorded in Plat Book H, Page 10, of the Public Records of Orange County, Florida; and a portion of Lots 14 through 18, Block B, ORANGE CREST, according to the plat thereof, as recorded in Plat Book G, Page 103, of the Public Records of Orange County, Florida; and a portion of Smith Street, vacated per Ordinance of the City of Orlando, Florida, as recorded in Official Records Book 9996, Page 3705, of the Public Records of Orange County, Florida, being more particularly described as follows:

Commence at a 5/8" iron rod and cap stamped "DRMP LB2648" at the intersection of the East right-of-way line of Interstate 4 (State Road 400) per Florida Department of Transportation Map No. 242484 5, Section No. 75280 and the North right-of-way line of said vacated Smith Street; thence South 89°58'32" East along said North right-of-way line, a distance of 51.55 feet to the POINT OF BEGINNING; thence departing said North right-of-way line run North 00°04'45" East, 70.89 feet to the point of curvature of a curve concave Easterly having a radius of 44.00 feet and a chord bearing of North 14°58'56" East; thence Northerly along the arc of said curve through a central angle of 29°48'22" for a distance of 22.89 feet to the point of compound curvature of a curve concave Southerly having a radius of 10.00 feet and a chord bearing of North 82°27'29" East; thence Easterly along the arc of said curve through a central angle of 105°08'43" for a distance of 18.35 feet to the point of reverse curvature of a curve concave Northerly having a radius of 59.00 feet and a chord bearing of South 68°01'41" East; thence Easterly along the arc of said curve through a central angle of 46°07'02" for a distance of 47.49 feet to the point of tangency; thence North 88°54'48" East, 181.89 feet to the West right-of-way line of Dade Avenue; thence run South 01°28'03" East along said West right-of-way line, a distance of 81.13 feet to a point on the North right-of-way line of said vacated Smith Street; thence departing said North right-of-way line run South 01°20'46" East, a distance of 40.27 feet to a point on the South right-of-way line of said vacated Smith Street; thence departing said South right-of-way line run South 01°22'38" East, 16.34 feet; thence departing said West right-of-way line run North 90°00'00" West, a distance of 96.41 feet; thence South 00°00'00" West, 97.99 feet; thence North 89°55'15" West, 125.01 feet to the East line of Drainage Easement Parcel No. 819, as recorded in Official Records Book 9930, Page 7038, Official Records Book 10312, Page 4468 and Official Records Book 10312, Page 4580, of said Public Records; thence North 01°21'07" West, along said East line 94.41 feet; thence North 21°05'12" West, along said East line 35.01 feet; thence North 54°55'42" West, along said East line 16.63 feet; thence leaving said East line run North 00°04'45" East, 17.91 feet to the POINT OF BEGINNING.