

**THIS DOCUMENT PREPARED BY
AND RETURN TO:**

Roy K. Payne
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**FIRST AMENDMENT TO TRANSPORTATION IMPACT FEE
AGREEMENT REGARDING TRANSIT ORIENTED DEVELOPMENT
(TOD) BETWEEN CITY OF ORLANDO AND CJP COLUMBIA
PROPERTIES PHASE II, LLC**

THIS FIRST AMENDMENT TO TRANSPORTATION IMPACT FEE AGREEMENT REGARDING TRANSIT ORIENTED DEVELOPMENT (TOD) BETWEEN CITY OF ORLANDO AND CJP COLUMBIA PROPERTIES PHASE II, LLC, "First Amendment", is made and entered into this _____ day of _____, 2017, by and between the **CITY OF ORLANDO**, a municipal corporation duly enacted under the laws of the State of Florida, whose address is 400 S. Orange Avenue, Orlando, FL, 32802, "City", and **CJP COLUMBIA PROPERTIES PHASE II, LLC**, a Florida limited liability corporation whose address is 601 Bayshore Boulevard, Suite 650, Tampa, FL, 33606, "Developer".

W I T N E S S E T H:

WHEREAS, Developer owns 2.41+/- acres of property, "Property," within the jurisdictional limits of the City of Orlando, with an address of 39 Columbia Street, more particularly described in **Exhibit "A,"** attached hereto and made a part hereof by reference; and

WHEREAS, Developer has constructed and is operating a Hampton Inn hotel, "Project," on the Property; and

WHEREAS, on April 1, 2014, City and Developer entered into the Transportation Impact Fee Agreement Regarding Transit Oriented Development (TOD) between City of Orlando And CJP Columbia Properties Phase II, LLC, "**Agreement;**" and

WHEREAS, the Agreement established a Transit Oriented Development, "TOD," exemption, "Exemption," in the amount of Ninety-Nine Thousand Three-Hundred Thirty-Nine dollars and Ninety-Three Cents (\$99,339.93), which constituted sixty percent (60%) of the total transportation impact fees assessed against the Project; and

WHEREAS, the Exemption was based on three categories of criteria under City Code, with each category providing a twenty percent (20%) exemption to the total payment of transportation impact fees for the Project; and

WHEREAS, Developer has recently notified the City that it will not construct certain sidewalk and pedestrian facilities originally included in its development approvals and therefore will not meet the category requirement for “meets or exceeds code for pedestrian facilities”, as described in the Agreement;

WHEREAS, this failure to meet one of category requirements under the Agreement results in a twenty percent decrease in the Exemption amount; and

WHEREAS, notwithstanding a decrease in the Exemption amount, the Developer is not required to return any funds to the City because at the time of permit issuance, the Developer paid the twenty percent (20%) exemption amount under the Agreement for the category requiring Developer to enter into an agreement to fund or subsidize transit ridership for employees and residents; and

WHEREAS, Developer hereby agrees that the amount it paid related to the exemption for subsidized ridership will not be returned to Developer but will constitute the return of funds to the City resulting from Developer’s failure to meet the requirement to construct sidewalk and other pedestrian facilities under the Agreement; and

WHEREAS, the parties desire to memorialize their agreement.

NOW, THEREFORE, in consideration of the mutual covenant herein contained, the sufficiency of which is hereby acknowledged, City and Developer agree as follows:

1. Incorporation of Recitals. The foregoing recitals are true and correct and are hereby incorporated into the substantive body of this Agreement as if fully set forth herein.
2. The Matrix shown in the seventh (7th) Whereas Clause of the Agreement is hereby amended and replaced with the following:

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	0
3. Meets or exceeds code for bicycle facilities	20	20
4. Reduces parking to minimum code requirements	20	0
5. Enter to fund or subsidize transit ridership for employees and residents	20	20
TOTAL:	100	40
Total Transportation Impact Fees:	Current Rate	Reduced Amount
Fee Assessment – 126 Hotel Rooms BLD2013-06570	\$276,696.00	

Prior Use-Demolition Credit – DEM2009-00057 8,153 sf Pharmacy DEM 2009-00058 8,153 sf Medical Office	\$111,129.46	
Final Fee Assessment	\$165,566.54	\$66,226.62

3. Paragraph 2 of the Agreement is hereby revised to read as follows:

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 forty percent (40%) 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, Sixty-Six Thousand, Two Hundred Twenty-Six Dollars and Sixty-Two Cents (\$66,226.62), at permit issuance, for the Transportation Impact Fee assessed to the Project.

4. Paragraph 4 of the Agreement is amended to read as follows:

Continuing Obligation. As a condition of this Agreement, Hampton Inn, its successor or assign, shall ensure that, throughout the use and operation of the Project, the Project will continue to meet forty percent (40%) of the TOD criteria as described herein. Hampton Inn 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, on an annual basis starting on the first (1st) anniversary of the effective date of this Agreement.

5. Entire Agreement. This Agreement contains the entire agreement of the parties and no representations, inducements, promises or agreements, oral or otherwise between the parties not embodied herein shall be of any force or effect. Any amendment to this First Amendment shall not be binding upon any of the parties hereto unless such amendment is in writing and executed by Developer and City.

6. Applicability to Successors and Assigns. The provisions of this First Amendment shall inure solely to the benefit of and be binding upon the parties hereto and shall not be assignable by either party without the written consent of the other party.

7. Severability. This First Amendment is intended to be performed in accordance with, and only to the extent permitted by all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent be invalid or enforceable, the remainder of this First Amendment and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

8. Recording. The City shall record this First Amendment in the Public Records of Orange County, Florida, at its sole cost and expense.

9. Effective Date: This First Amendment shall take effect upon the date of full execution by both parties hereto.

10. No other Modifications. Except as set forth herein, the terms and conditions of the Agreement shall remain unmodified and in full force and effect.

ATTEST:

CITY OF ORLANDO, FLORIDA, a municipal corporation, organized and existing under the laws of State of Florida (SEAL)

By: _____
Denise Aldridge, City Clerk

By: _____
Mayor / Mayor Pro Tem

Date: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing was acknowledged before me this ___ day of _____, 2017 by _____, Mayor / Pro Tem and _____, City Clerk, who is personally known to me who did (did not) take an oath.

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

TWO WITNESSES:

“DEVELOPER”

By: _____

CJP COLUMBIA PROPERTIES PHASE II, LLC

Print Name: _____

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

CORPORATE ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

THE FOREGOING was acknowledged before me this _____ day of _____, 2017, by _____ as _____, on behalf of **CJP Columbia Properties Phase II, LLC**, a for profit limited liability company. He/She is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

Approved as to form and legality for the use
and reliance of the City of Orlando, Florida only

_____, 2017

Chief Assistant City Attorney