

**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 51 COLUMBIA HOTEL PROPERTY, LLC**

This AGREEMENT, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between **51 Columbia Hotel Property, LLC**, a Florida limited liability company, whose project address is 51 Columbia Street, Orlando, Florida 32806, **“Owner,”** 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 32801 (the **“City”**).

**RECITALS**

**WHEREAS**, Section 56.15. I, City Code provides that any development, or portion thereof, defined as a Transit Oriented Development (TOD) shall receive a reduction to the Transportation Impact Fee assessed to the development or portion thereof provided certain criteria are met; and

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

“A development site, as that term is defined in this Section, any portion of which is located within ¼-mile walking distance along a designated roadway from a premium transit stop or station (SunRail or LYMMO). Walking distance shall be measured from the development site’s nearest property line to a premium transit stop or station utilizing a clear path of travel at least five (5) foot in width, located on a separate surface from the roadway, such as a designated sidewalk or multi-use trail. In calculating the distance for purposes of TOD, temporary obstructions to the path of travel arising from construction projects shall be ignored so long as the obstructed path of travel shall be restored upon completion of the construction project.”

and;

**WHEREAS**, the qualifying criteria set forth within Section 56.15.I, City Code, for a Transit Oriented Development (TOD) to receive a reduction to the Transportation Impact Fee assessed against the development or portion thereof are:

- “1. The development site shall be composed of a compact, dense mixture of land uses, including residential, with the ground floor consisting of primarily (>50%) active uses, as defined in this Chapter.
2. Pedestrian facilities serving the development site shall meet or exceed City codes and policies.
3. Bicycle facilities serving the development site shall meet or exceed City codes and policies.
4. Reserved.
5. The Developer shall enter into an agreement(s) to fund or subsidize transit ridership for employees, residents, and/or guests at the development site.”

and;

**WHEREAS**, Section 56.15.I, City Code provides that each of the four criteria, if met in full, shall receive a twelve and one-half percent (12.5%) reduction to the Transportation Impact Fee assessed against the development or portion thereof, with the approval of the Transportation Planning Division Manager; and

**WHEREAS**, the Owner owns and is developing a +/- 2.13 acres of land, located on the south side of Lake of the Woods, north of Columbia Street, west of S. Orange Avenue, with an address of 51 Columbia Street, more particularly described in **Exhibit “A”** attached hereto and made a part hereof by reference (“Property”); and

**WHEREAS**, on March 1, 2018, Owner submitted a Transit Oriented Development (TOD) application for development of the Property as a 110-room hotel, as identified in the Municipal Planning Board case ZON2017-00013 (the “Project”); and

**WHEREAS**, the Project is within the (Rescinded) Orlando Health Development of Regional Impact (DRI), Commissioner District-4 and is within the (Downtown Area 1A) Transportation Impact Fee Rate, Southwest Transportation Impact Fee Benefit Area; and

**WHEREAS**, Owner asserts that the Project meets the requirements of Section 56.15 I, City Code and has therefore requested the City determine that the Project qualifies for the TOD impact fee reduction; and

**WHEREAS**, Owner has demonstrated that the Project, as defined herein, meets two of the reduction 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:	Credit Available (%)	Development Awarded (%)
1. Composed of a mixture of land uses, including residential, >50% ground floor active uses	12.5	0
2. Meets or exceeds code for pedestrian facilities	12.5	12.5
3. Meets or exceeds code for bicycle facilities	12.5	12.5
4. Agrees to fund or subsidize transit ridership for employees and residents	12.5	0
<b>TOTAL:</b>	50	25%

Transportation Impact Fee	
Fee Assessment: 110-hotel rooms	\$260,920.00
Previous Use / Demolition Credit	<u>-\$137,098.26</u>
New Fee	\$123,821.74
Qualifying TOD Impact Fee Reduction of 25%	<u>-\$30,955.44</u>
<b>Final Fee Assessment Due</b>	<b>\$92,866.30</b>

**WHEREAS**, Owner and City agree that the Project is entitled to a twenty-five percent (25%) reduction to the payment of Transportation Impact Fees, which results in an assessment of Ninety-Two Thousand, Eight Hundred Sixty-Six Dollars and Thirty Cents (\$92,866.30), which must be paid prior to the issuance of the building permit for the Project. Rates provided are subject to change, the rates effective at the time of permit issuance shall be shown in the final fee assessment. A final inspection of the Project and Project site shall be performed by City Staff for compliance with the qualifying Transit Oriented Development (TOD) criteria awarded above. This inspection will be scheduled prior to the first building permit final inspection for the Project; and

**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 incorporated into the substantive body of this Agreement.
- 2) Transportation Impact Fee. Subject to the terms of this Agreement and based on the TOD reduction under Section 56.15 I, City Code, the Project shall be entitled to a twenty-five percent (25%) reduction in the payment of Transportation Impact Fees. The City's determination is based on development of the Project strictly as defined herein and is further conditioned upon the following, the satisfaction of which is in the City's reasonable discretion: Owner will pay the City Ninety-Two Thousand, Eight Hundred Sixty-Six Dollars and Thirty Cents (\$92,866.30), at permit issuance, for the Transportation Impact Fees assessed to the Project. This fee estimate is subject to change and will be based on the rate in effect at the time of building permit issuance.
- 3) Continuing Obligation. As a condition of this Agreement, Owner shall ensure that, throughout the use and occupation of the Project, the Project will continue to meet the two TOD criteria as described in this Agreement. Owner or its successor or assign shall submit to the City 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 or before the first (1<sup>st</sup>) anniversary of the effective date of this Agreement.

- 4) Litigation and Attorney's 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 attorney's fees, paralegal's 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. This Agreement shall be automatically terminated and of no further force or effect in the event that Owner does not begin construction on the Project within one year after the Effective Date.
- 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, Owner 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) Successors and Assigns Bound. The rights and obligations contained in this Agreement shall run with the land and be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

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

**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 year first above written.

TWO WITNESSES:

**51 Columbia Hotel Property, LLC**  
a Florida limited liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: 51 Columbia Hotel Property, LLC,  
a Florida limited liability company,  
its manager

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018 by \_\_\_\_\_, as \_\_\_\_\_ of, 51 Columbia Hotel Property, LLC a Florida limited liability company, as Manager of 51 Columbia Hotel Property, LLC, a Florida 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 who has produced \_\_\_\_\_ as identification and who did (did not) take an oath.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public Signature

\_\_\_\_\_  
(Name typed, printed or stamped)

CITY:

ATTEST:

CITY OF ORLANDO, FLORIDA

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Mayor

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

\_\_\_\_\_, 2016

\_\_\_\_\_  
Assistant City Attorney

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, 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”**

Parcel ID: 05-22-29-1457-02-000

**Property Described as:**

Lot 31, Less the West 4.00 Feet and North 20.00 Feet thereof, Lot 32, and Lot 33, Less the West 54.38 Feet of the North 20.00 Feet thereof, and all of Lot 34 all according to replat of Lot 18, lying South of Lands Described in Official Records Book 10047 Page 4617 and the West 14.74 Feet of Lot 28 together with Lot 29 & 30 according to Scott's Spot per Plat Book R Page 88 all of the Public Records of Orange County , Florida lying in Section 35, Township 22 South, Range 29 East in Orange County, Florida (Columbia Street Properties 81/36 Lot 2)

CONTAINING: 2.13 acres, more or less.