

**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND RESERVATIONS**

**FOR**

**NEOCITY**

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EXHIBIT A	DESCRIPTION OF THE DISTRICT PROPERTY
EXHIBIT B	FORMULA FOR ASSESSMENTS AND VOTING RIGHTS
EXHIBIT C	BYLAWS OF NEOCITY PROPERTY OWNERS' ASSOCIATION, INC.

**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND RESERVATIONS**

**THIS DECLARATION** is made and executed as of the 21<sup>st</sup> day of February, 2022 by Osceola County, a charter county and political subdivision of the State of Florida (hereinafter referred to as the "County"), joined by the School District of Osceola County (hereinafter referred to as the "School District") and the Kissimmee Utility Authority, a public entity, organized and legally existing as part of the government of the City of Kissimmee (hereinafter referred to as the "KUA").

**W I T N E S S E T H:**

**WHEREAS**, the County, the School District and the KUA are the record owners of certain real property situated in Osceola County, Florida located within NeoCity Improvement District created by Osceola County Ordinance No. 2022-31 (the "NeoCity District"), which real property is more particularly described in Exhibit A attached hereto; and

**WHEREAS**, the County has constructed the Center for Neovation in the NeoCity District for the development and commercialization of new sensor technologies and other advanced manufacturing technologies; and

**WHEREAS**, the County desires to assure that the area located within the NeoCity District will be developed pursuant to a uniform plan of development with high aesthetic standards so as to create a pleasant and attractive physical environment which will contribute to and enhance the development and commercialization activities in accordance with the Master Plan dated August 2017; and

**WHEREAS**, the County desires that each Site, parcel, piece or tract of land located within the NeoCity District shall be subject to uniform covenants, conditions, restrictions and reservations substantially similar to those herein contained;

**NOW THEREFORE**, for in consideration of the premises hereof, the County does hereby declare that the real property described in Exhibit A shall be and is hereby made a part of the District Property and does hereby impose upon said property those covenants, conditions, restrictions and reservations hereinafter set forth and further declares that said property shall be owned, held, transferred, sold, conveyed, assigned, leased, subleased, mortgaged and occupied subject to said covenants, conditions, restrictions and reservations, to wit:

**ARTICLE I – DEFINITIONS**

1.1 Ancillary Use means a facility or activity subordinate to the permitted principal use of a Site, meaning it serves the purposes of the principal use and is of a smaller scale and size. Examples include cafes and business services.

1.2 Association means the NeoCity Property Owners' Association, Inc., a Florida nonprofit corporation, and its successors and assigns.

1.3 Association Assessments means annual assessments imposed by the Association pursuant to Article VII of this Declaration to fund the Association Expenses and, if for any reason the NeoCity District is dissolved or otherwise fails to impose sufficient District Assessments to fund the District O&M Services, the District O&M Expenses.

1.4 Association Board means the board of directors of the Association.

1.5 Association Capital Expenses means the cost of capital improvements and capital repairs, including costs associated with the financing thereof.

1.6 Association Expenses means Association Operating Expenses and Association Capital Expenses.

1.7 Association Operating Expenses means the cost of providing the Association Services, including any reasonable reserve the Association Board may find necessary and appropriate pursuant to this Declaration, the Bylaws or Articles of Incorporation. Association Operating Expenses shall also include the cost of a standard fidelity bond covering such officers and employees of the Association in such amounts as shall be determined by the Association Board.

1.8 Association Services means services to be delivered by the Association, as determined by the Association Board, for the general benefit of all Sites, as determined by the Association Board, including but not limited to security services; management of electronic signs, messaging and central controls; design review, approval and appeals; covenant enforcement and appeals; architectural review and appeals; special event management and signage; and provision of officers' and directors' liability insurance and any workers compensation insurance required for employees of the Association.

1.9 Bylaws means the Bylaws of the Association attached hereto as Exhibit C.

1.10 Class "B" Control Period means the period of time during which the Class "B" Member is entitled to appoint a majority of the Members of the Association Board, as specified in Section 3.3 of the Bylaws.

1.11 Common Areas means all areas located within the District Property and all improvements located thereon, which are owned by the County or in which the County has an easement interest, that are devoted to the common use and enjoyment of occupants of the District Property, including, without limitation: Transportation Corridors (excluding the Roadway Improvements), Reservoir Property, all other wetlands and stormwater drainage facilities, parks, open space areas, dedicated alleys, trails and other greenways. The term Common Area does not include property owned by the Association or other areas on private property that may be common to various private owners.

1.12 County means Osceola County, Florida, a charter county and political subdivision of the State of Florida.

1.13 County Commission means the Board of County Commissioners of Osceola County, Florida.

1.14 County Manager means the chief executive officer of the County or such person's designee.

1.15 Design Guidelines means the Design Guidelines for the NeoCity District, setting forth design standards and other criteria for use by the Design Review Board in their reviews and recommendations, dated February 2021 and approved by the County Commission on February 21-2022, as amended from time to time pursuant to Section 5.5 hereof.

1.16 Design Review Board means the individuals designated pursuant to Section 5.4 of this Declaration, who shall review and approve, modify or reject any or all development, construction, landscaping and site plans involving Improvements to property located within the District Property.

1.17 District Assessments means non-ad valorem assessments imposed by the NeoCity District pursuant to Section 197.3632, Florida Statutes, to fund the District Capital Cost and District O&M Expenses; provided that for purposes of the District Assessments, the District O&M Expenses associated with maintenance of the physical structure of the reservoir located on the Reservoir Property, exclusive of the TWA installed withdrawal facilities, including perimeter slopes and any retaining walls constructed at the perimeter of the reservoir, shall not exceed the share of such cost proportional to the amount of stormwater drainage generated by the District Property and flowing into the Reservoir Property in relation to the total amount of stormwater drainage flowing into the Reservoir Property.

1.18 District Capital Cost means the expenses incurred or to be incurred by the NeoCity District for the acquisition and construction improvements to the Common Areas, including costs associated with the financing thereof.

1.19 NeoCity District O&M Expenses means the cost of providing the District O&M Services; the NeoCity District's administrative expenses; payment of any taxes and other charges imposed against the Common Areas, and satisfaction of any liability arising from the Common Areas, including any reasonable reserves; and casualty insurance, liability insurance, and other necessary insurance coverage relating to the Common Area. District O&M Expenses shall not include expenses incurred during the Class "B" Control Period for initial installation of infrastructure, original capital improvements, or other original construction costs unless approved by Members representing a majority of the total Class "A" votes of the Association, other than Class "A" votes held by the County, and the consent of the Class "B" Member. After the Class "B" Control Period, District O&M Expenses shall not include such expenses unless approved by Members holding a majority of the total Class "A" votes and by the County, as long as the County owns any Site.

1.20 District O&M Services means the cost of operating and maintaining the Common Areas, including but not limited to provision of mosquito control; maintenance of the physical structure of the reservoir located on the Reservoir Property, exclusive of the TWA installed withdrawal facilities, including perimeter slopes and any retaining walls constructed at the perimeter of the reservoir (as required by the Reservoir Agreement); maintenance of other waterways, ponds, drainage ways, major stormwater pipes and water quality facilities; maintenance of Transportation Corridors (excluding the Roadway Improvements); maintenance



of public alleys; maintenance of public on-site trails (including any equipment), veloways and sidewalks; operation and maintenance of street lights; maintenance of high-speed data fiber; provision of wi-fi services; maintenance of landscape and features, including trees, shrubs, turf and irrigation within the rights-of-way, rain gardens, fountains, structures and shelters, public art, fixed signage, umbrellas, playgrounds and exercise equipment, litter receptacles and doggy pots, and all required furniture, fixtures and equipment.

1.21 District Property means all land now or hereafter made subject to these covenants, conditions, restrictions and reservations, or any amendment or restatement thereof.

1.22 Improvements means all buildings, outbuildings and garages; overhead, above ground and underground installations, including, but not limited to, utility facilities and systems, lines, pipes, wires, towers, cables, conduits, poles, antennae and satellite dishes; flagpoles; pools and fountains; roads, driveways, parking areas and other paved areas; loading docks; storage facilities; fences, trellises, walls, retaining walls and exterior stairs; planted trees, hedges, shrubs and other forms of landscaping; and all other structures of every type.

1.23 Master Plan means the NeoCity Master Plan dated August 2017 including any revisions or amendments that do not constitute a fundamental departure from the scheme of development.

1.24 Member means a Person entitled to membership in the Association, as provided in Section 3.2 of this Declaration.

1.25 NeoCity District means the NeoCity Improvement District created by Osceola County Ordinance No. 2022-31 as a dependent special district pursuant to Sections 125.01(a) and 189.02, Florida Statutes.

1.26 Owner means any party holding fee simple title of record to any Site, including any party selling that interest by land contract, but excluding any party holding an interest merely as security for the performance of an obligation.

1.27 Person means a natural person, a corporation, a partnership, a trustee, or other legal entity.

1.28 Regulations means all applicable laws, statutes, codes, ordinances, rules, regulations, limitations, restrictions, orders, judgments or other requirements of any governmental authority having jurisdiction over the District Property or any Improvements constructed or located thereon.

1.29 Reservoir Agreement means the Water, Wastewater and Reclaimed Water between the County and TWA recorded at Book 5406, Pages 2762-2791, Official Records of Osceola County Florida (CFN 2018144407), the First Amendment to the Amended and Restated Interlocal Agreement for Water Reclamation between the County and TWA recorded at Book 5605, Pages 2922-2960 of the Official Records of Osceola County, Florida (CFN 2019132863).

1.30 Reservoir Easement means the reservoir easement granted by the County to TWA over the Reservoir Property.

1.31 Reservoir Property means the property on which the TWA reservoir is located, as surveyed by the County pursuant to Section 4.02 of the Reservoir Agreement.

1.32 Roadway Improvements means (A) that portion of a Transportation Corridor located from back-of-curb to back-of-curb, excluding planted medians, but including the curbs, road base, wearing surface, stormwater conveyance facilities and subsurface installations including, but not limited to utility facilities, and (B) regulatory signage, traffic signals, curb cuts and roadway accessibility improvements required by the Americans with Disabilities Act located within a Transportation Corridor.

1.33 Site means each separate parcel or real property within the District Property which is initially sold or conveyed by the County as such parcel is described in the initial instrument of conveyance by the County, except that two or more contiguous Sites under common ownership shall be deemed to be a single Site.

1.34 Site-Specific Assessment means a special assessment imposed against a specific Site pursuant to Section 7.3 of this Declaration.

1.35 Tax Roll means the real property ad valorem tax assessment roll maintained by the Osceola County Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

1.36 Transportation Corridors means the street and road rights-of-way owned by the County and located within the District Property, together with all paving, lighting, landscaping, hardscaping and other improvements located therein.

1.37 TWA means the Tohopekaliga Water Authority, an independent special district established and created pursuant to Chapter 189, Florida Statutes, by special act of the Florida Legislature.

1.38 Work means the erection or installation of any structure or other improvement (including staking, clearing, excavation, grading, and other site work, exterior alteration of existing improvements, and plantings or removal of landscaping materials) upon any portion of the District Property.

## **ARTICLE II – DEVELOPMENT PLAN**

2.1 Purposes. The covenants, conditions, restrictions and reservations hereinafter set forth are imposed upon the District Property for the following purposes:

(a) to establish the District Property as a center for development, commercialization and production of smart sensors, photonics and other advanced technologies, and related or supportive business operations and activities, and to foster the economic development of Osceola County and the State of Florida;

(b) to develop the District Property with a campus or park-like character which will ensure its being a continuing asset to Osceola County and the State of Florida;

(c) to ensure the development of the District Property pursuant to the Master Plan with high aesthetic standards so as to create a pleasant and attractive physical environment which will contribute to and enhance the development, commercialization and production activities of the occupants of the District Property;

(d) to ensure development of the District Property in conformity with all applicable Regulations;

(e) to ensure the proper and appropriate development, improvement and use of each Site within the District Property;

(f) to protect each Site against the improper, undesirable or inappropriate development and use of adjacent or neighboring Sites;

(g) to guard against the erection of Improvements constructed of improper or unsuitable materials;

(h) to encourage the erection of attractive Improvements appropriately located on each Site;

(i) to ensure and maintain the proper setback of Improvements from Research Parkways and other streets and adjacent Sites and Improvements within the District Property and on adjoining lands so as to create the desired campus or parklike setting; and

(j) in general, to provide for a high quality of development within the District Property.

## 2.2 Plan of Development; Applicability; Effect.

(a) County has established a general development plan for development of the District Property to accomplish the objectives set forth in Section 2.1 of this Declaration, all subject to the County's, Association Board's and Members' ability to respond to changes in circumstances, conditions and needs of the Owners. The District Property is subject to the land development, architectural, and design provisions set forth in Articles IV and V, the other provisions of this Declaration governing individual conduct and uses of and actions upon the District Property, and the guidelines, rules and restrictions promulgated pursuant to this Article, all of which establish affirmative and negative covenants, easements, and restrictions on the District Property.

(b) All provisions of this Declaration and any Association rules shall apply to all Owners, occupants, tenants, guests and invitees of any Site. Any lease on any Site shall provide or shall be deemed to provide that the lessee and all occupants of the leased Site shall be bound by the terms of this Declaration, the Bylaws and the rules of the Association.

2.3 Authority to Promulgate Use Restrictions and Rules. General use restrictions applicable to the District Property are set forth in Section 4.3 of this Declaration. Subject to the terms of this Article, such general use restrictions may be modified in whole or in part, repealed or expanded as follows:

(a) Subject to its duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Association Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the general use restrictions set forth in Section 4.3 of this Declaration. The Association Board shall conspicuously publish notice of any such proposed action at least 30 business days prior to the Association Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at an Association Board meeting prior to such action being taken. Any rule adopted by the Association Board shall become effective 30 days thereafter unless disapproved at a meeting by Members representing at least 51% of the total Class "A" votes in the Association and by the Class "B" Member, if any. The Association Board shall have no obligation to call a meeting of the Members to consider disapproval except upon petition of the Members as required for special meetings in the Bylaws.

(b) The Members, at a meeting duly called for such purpose as provided in Section 2.4 of the Bylaws, may adopt rules which modify, cancel, limit, create exceptions to, or expand use restrictions (other than the land use regulations set forth in Article IV) previously adopted by a vote of at least 51% of the total Class "A" votes in the Association and the approval of the Class "B" Member, if any.

(c) At least 30 days prior to the effective date of any action taken under subsections (a) or (b) of this Section, the Association Board shall send a copy of the rule to each Owner. The Association shall provide, without cost, a copy of the use restrictions and rules to any requesting Member or Mortgagee.

(d) Notwithstanding the foregoing, after termination of the Class "B" membership, no amendment to or modification of any use restrictions and rules shall be effective without prior notice to and the written approval of County so long as the County owns any portion of the property described on Exhibit A other than Common Areas.

(e) Nothing in this Article shall authorize the Association Board or the Members to modify or repeal the Design Guidelines.

2.4 Owner's Acknowledgment. All Owners and occupants of Sites are given notice that use of their Site is limited by the use restrictions and rules as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into a contract of sale, acknowledges and agrees that the use and enjoyment and marketability of its property may be affected by this provision and that the use restrictions and rules may change from time to time.

### **ARTICLE III – PROPERTY OWNERS' ASSOCIATION**

3.1 Function of Association. The Association shall be responsible for management, maintenance, operation and control of the Common Areas within the District Property. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the District Property as the Association Board may adopt. The Association shall also be responsible for appointing the Design Review Board to enforce the architectural standards and controls set forth in this Declaration and in the Design Guidelines. The Association shall perform its functions in accordance with this Declaration and Florida law.

3.2 Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Site. If a Site is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Association Board regulation and the restrictions on voting set forth in Section 3.3(c) of this Declaration, and all co-Owners be jointly and severally obligated to perform the responsibilities of Owners. The membership rights and privileges may be exercised by the Owner or, in the case of an Owner which is a corporation, partnership or other legal entity, by any officer, director, partner, trustee or by any other individual designated by the Owner from time to time in a written instrument provided to the Secretary of the Association.

3.3 Voting. The Association shall have these two classes of Members, Class "A" and Class "B":

1. Class "A". Class "A" Members shall be all Owners. Each Class "A" Member shall be entitled to the number of votes assigned to its Sites in accordance with the formula set out in Exhibit B; provided that no votes shall be exercised on account of any unimproved property owned by the Class "B" Member as long as the Class "B" membership exists and no votes shall be exercised on account of any property which is exempt from assessments under Section 7.11 of this Declaration.
2. Class "B". The sole Class "B" Member shall be the County, which may assign any or all of its rights to an Owner or group of Owners. The rights of the Class "B" Member, including the right to approve or withhold approval of actions proposed under this Declaration and the Bylaws are specifically set forth in this Declaration and the Bylaws. The Class "B" Member may appoint a majority of the members of the Association Board during the Class "B" Control Period, as specified in Section 3.3 of the Bylaws. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Association Board as provided in the Declaration and these Bylaws, including without limitation Section 3.18 of the Bylaws. The Class "B" membership shall terminate upon the earlier of:
  - (i) when Class "A" Members own 54% of the total acreage described in Exhibit "A" of the Declaration;
  - (ii) 40 years after the date upon which the Declaration is recorded in the Official Records of Osceola County, Florida; or
  - (iii) when, in its discretion, the Class "B" Member declares in a written instrument.
3. Exercise of Voting Rights. If there is more than one Owner of any Site, the votes for such Site shall be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the meeting at which they are to be cast. In the absence of such advice, the votes for such Site shall be suspended if more than one Owner seeks to exercise them. An Owner may assign the right to cast all or a portion of the votes allocated to such Person's Site to the lessee of any portion of such Site by written proxy filed with the Secretary of the Association in accordance with Section 2.9 of the Bylaws.

3.4 Common Area. The Association may manage and control the Common Areas and any Improvements thereon, if authorized by contract with the County.

3.5 Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property.

3.6 Enforcement. The Association may impose sanctions for violations of this Declaration, any applicable supplemental Declaration, the Bylaws or Association rules in accordance with procedures set forth in the Bylaws, including reasonable monetary fines and suspension of the right to vote. In addition, in accordance with Section 3.23 of the Bylaws, the Association may exercise self-help to cure violations and may suspend any services it provides to the Site of any Owner who is more than 30 days delinquent in paying any assessment or other charge due to the Association. All remedies set forth in this Declaration and the Bylaws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of this Declaration or Association rules, the prevailing party shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

3.7 Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration or in the Bylaws, and any right or privilege which could reasonably be implied from or which is reasonably necessary to effectuate any express right or privilege. Except as otherwise specifically provided in this Declaration, the Bylaws or by law, all rights and powers of the Association may be exercised by the Association Board without a vote of the membership.

3.8 Indemnification. The Association shall indemnify every officer and director against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Association Board) to which he or she may be a party by reason of being or having been an officer or director, except that such obligation to indemnify shall be limited to those actions as to which liability is limited under this Section and Florida law. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer and director harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any officer or director, or former officer or director may be entitled.

3.9 Security. The Association may, but shall not be obligated to maintain or support certain activities within the District Property designed to make the Sites safer than they otherwise might be. NEITHER THE ASSOCIATION OR THE COUNTY SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE DISTRICT PROPERTY, NOR SHALL EITHER OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH SUCH SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS

THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, AND THE COUNTY ARE NOT INSURERS AND THAT EACH PERSON USING THE DISTRICT PROPERTY ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO SITES AND THE IMPROVEMENTS OR CONTENTS ON SITES RESULTING FROM ACTS OF THIRD PARTIES.

#### ARTICLE IV – PERMITTED LAND USES

4.1 Form-based Design. The Design Guidelines follow a *form-based design* approach which is based on the disposition, form, massing, and street relationship of the buildings rather than *use-based* or *euclidean* zoning that is typical to many cities. The form-based design approach seeks to create good urban form with a mix of uses. The form-based design approach is framed around a hierarchy of streets and an urban transect overlay that apply to each parcel and dictate the majority of the requirements for individual developments in the NeoCity District. A third overlay of "significant building sites" carries additional requirements and/or allowances that supersede the street hierarchy and transect classification to achieve specific design objectives on uniquely important sites.

#### 4.2 Permitted Uses.

(a) Principal uses of the District Property shall be limited to the purposes identified in this subsection:

(i) research and development activities and fabrication related to the fields of artificial intelligence, semi-conductors, sensors, nanotechnology, energy storage, robotics, photonics, genomics, cybersecurity and compatible technologies, including related business offices;

(ii) regional or national corporate headquarters;

(iii) multifamily apartments (rental or condominium), primarily to provide housing for employees working in the NeoCity District;

(iv) civic uses such as centrally located meeting and mixing points, an event and conference space, a transit hub, and public facilities such as a library;

(v) activities involving the light manufacturing, assembling, warehousing of technologies related to the fields of artificial intelligence, semi-conductors, sensors, nanotechnology, energy storage, robotics, photonics, genomics, or cybersecurity; provided that additional industrial uses may be permitted upon a determination by the Association Board that a proposed use supports and furthers the vision and purpose of the NeoCity District, maintains the NeoCity District's integrity as a walkable urban environment and has minimal conflict with neighboring land uses;

(vi) hotels and similar transient accommodations; and

(viii) parking structures and surface lots.

Internally located Ancillary Uses shall also be permitted.

(b) The ground floor of Sites utilized for offices or multifamily apartments may be utilized for the following additional purposes:

- (i) cafes, bars and restaurants that are open and accessible to the public;
- (ii) neighborhood convenience shops serving the daily commercial needs of NeoCity District residents, visitors and businesses;
- (iii) maker spaces and workshop space that are open to the public;
- (iv) gyms/fitness centers open to the public; and
- (v) recreational services directly related to enjoyment of the NeoCity District's outdoor spaces such as the reservoir, bicycle and running trails, parks and open space areas.

#### 4.3 Use Restrictions.

(a) The following operations, activities, and uses shall not be permitted within the District Property:

- (i) Any industrial or manufacturing use, operation, or activity, except within the limitations stated in Section 4.2(a)(v) of this Declaration;
- (ii) Any activity violating any applicable federal, state or local law, ordinance, regulations, standard, order, or rule;
- (iii) Any use that is offensive to any person on any other part of the District Property because of emission of odors, fumes, dust, smoke, gas, any toxic product, or other form of pollution, or by reason of noise or vibration;
- (iv) Any activity that causes danger to any person or property on any other part of the District Property.

(b) All waste and rubbish shall be stored, treated, and disposed of in such a manner so as to comply with applicable regulations at all times.

(c) No storage tanks, including but not limited to those used for storage of water, propane gas, or other fuels or chemicals, shall be permitted on a Site unless first approved in writing by the Design Review Board. The Design Review Board may condition such approval with reasonable requirements that, in its sole discretion, are considered appropriate given the nature of the materials to be stored and the nature, size, aesthetics and location of the proposed storage tank.

(d) Except during construction of Improvements, no materials, supplies, or equipment shall be stored on a Site, save for inside a building or structure or behind a visual barrier, which shall have been previously approved by the Design Review Board, in order that all stored materials, supplies, and equipment shall at all times be screened from street rights-of-way and adjacent or



neighboring properties. All temporary outdoor storage facilities shall comply with applicable regulations. No such storage shall be permitted within a Site's front setback lines.

(e) No parking shall be permitted on a Site in areas other than those previously approved by the Design Review Board.

(f) No Site shall be used for the keeping or breeding of livestock animals or poultry of any kind. No Owner or occupant may keep, breed or maintain animals for any commercial purpose. No Owner may keep any pets other than a reasonable number of generally recognized household pets on any portion of the District Property. Animals must be kept on a leash and be under the physical control of a responsible person at all times while outdoors. Any feces left upon the Common Areas by an animal must be removed by the animal's owner or the person responsible for the animal.

## **ARTICLE V – DEVELOPMENT REQUIREMENTS**

5.1 General. No Work shall take place within the District Property except in compliance with this Article and the Design Guidelines. The provisions of this Article shall be in addition to, not in lieu of, the requirements of any contracts or additional covenants or restrictions applicable to any Site reserving rights of architectural control to County, its successors, successors-in-title, or assigns. In the event of a conflict, each shall apply independent of the other if possible and if not, the more restrictive shall control. This Article shall not apply to the activities of the Declarant, nor shall it apply to the activities of the Association during the Class "B" Control Period. This Article may not be amended without the written consent of the Declarant, so long as the Declarant owns any land subject to this Declaration.

5.2 Jurisdiction. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the District Property acknowledges that, as the developer of the District Property and as an Owner of significant portions of the District Property, the County has a substantial interest in ensuring that the improvements within the District Property do not impair the County's ability to market, sell or lease its property. Therefore, each Owner agrees that no Work shall be commenced on such Owner's Site unless and until such Work has been approved in accordance with this Article.

### 5.3 Approval of Proposed Land Uses.

(a) Before any work may commence on the construction, erection, placement, installation or alteration of any Improvement on any Site, the Owner of the Site must first apply to the Association Board for a consistency review with the permitted uses identified in Article IV of this Declaration. The Association Board shall have the authority to determine whether a proposed use is allowable and to approve or disapprove the application based upon that assessment. Notice of approval or disapproval of a use application shall be provided to the County Manager.

(b) The Association Board may promulgate rules and procedures for submitting applications for review including a reasonable filing fee to be submitted with each application for such consistency review to defray the expenses of the Association Board. Such rules may provide additional specificity to the criteria that will be considered by the Association Board in determining

the appropriateness of a proposed use. This may include, but need not be limited to, an analysis of the number of direct and indirect jobs to be created. The Association Board may establish and require a reasonable filing fee to be submitted with each application for approval of proposed Improvements to defray expenses of the Design Review Board.

(c) Following notice to the County Manager of the Association Board's approval or disapproval of a use application, the County Manager shall have 10 working days in which to object to the Association Board's decision. If the County Manager chooses to object, written notice shall be provided to the Association Board and a hearing scheduled for the next available County Commission meeting. The County Commission may elect to take no action or may reverse the Association Board's decision. The County Commission's decision is final, without any further consideration or action by the Association Board.

(d) The Association Board may, with prior written approval of the County, but shall not be required to authorize variances from the permitted uses identified in Article IV of this Declaration if a proposed use (i) does not adversely affect the utilization of then-existing improvements on any Site, and (ii) does not constitute a fundamental departure from the scheme of development.

#### 5.4 Design Review Board.

(a) Within 30 days of its initial meeting, the Association Board shall appoint an Design Review Board that shall be responsible for reviewing and approving the Improvements proposed for all Sites within the District Property. The Design Review Board shall consist of 5 people, all of whom shall have professional training and experience in the fields of planning, architecture, landscape architecture, real estate development or building design. The Association Board shall have the right to remove any or all members of the Design Review Board at their discretion by a simple majority vote of the full Association Board.

(b) Notwithstanding the foregoing, if the County owns any property described in Exhibit A other than Common Areas and determines that there has been a material failure of the Design Review Board's obligation to enforce the architectural standards and controls set forth in this Declaration and in the Design Guidelines, the County Commission may remove any or all of the Design Review Board members and appoint replacement members. The County may restore the Association Board's right to appoint the Design Review Board by a subsequent recorded instrument.

5.5 Design Guidelines. No work shall be commenced on the construction, erection, placement, installation or alteration of any Improvement on any Site prior to approval of the Design Guidelines by the County Commission. From time to time, the Design Review Board shall be authorized to propose amendments to the Design Guidelines for approval of the County Commission. No such amendment shall become effective until it has been approved by the County Commission.

5.6 Development Approval. If a proposed use for a Site has been approved pursuant to Section 5.2 of this Article, the Owner may submit its proposed development plans to the Design Review Board for review and approval. The Association Board may establish and require a

reasonable filing fee to be submitted with each application for approval of proposed Improvements to defray expenses of the Design Review Board.

(a) Stages of Review. Each proposed development shall be reviewed as follows:

(i) Pre-Design Conference. Before commencing design, the Owner shall cause its design team to meet with the Design Review Board to review proposed plans for the development. The design team should prepare any necessary materials or visual aids to communicate the intent and uses of the development, along with rough order of magnitude scale and nature of development intended.

(ii) Conceptual Design. Following the pre-design conference, the Owner shall cause its design team to deliver a conceptual design submittal (as described in the appendices to the Design Guidelines) to the Design Review Board. The Design Review Board may require the submission of such additional information as it deems necessary for review of the conceptual design submittal. The Design Review Board shall meet with the Owner's design team to review the conceptual design submittal and may either approve the submittal as proposed or with such modifications as the Design Review Board deems necessary to achieve harmonious development within the District Property.

(iii) Design Development. Following approval of the conceptual design submittal, the Owner shall cause its design team to deliver a design development submittal (as described in the appendices to the Design Guidelines) to the Design Review Board. The Design Review Board may require the submission of such additional information as it deems necessary for review of the design development submittal. The Design Review Board shall meet with the Owner's design team to review the design development submittal and may either approve the submittal as proposed or with such modifications as the Design Review Board deems necessary to achieve harmonious development within the District Property.

(iv) Construction Document Submittal. Following approval of the design development submittal, the Owner shall cause its design team to deliver construction documents (as described in the appendices to the Design Guidelines) to the Design Review Board. The Design Review Board may require the submission of such additional information as it deems necessary for review of the construction document submittal. The Design Review Board shall meet with the Owner's design team to review the construction document submittal and may either approve the documents as proposed or with such modifications as the Design Review Board deems necessary to achieve harmonious development within the District Property.

(b) Standard of Review. At each stage of the approval process, the Design Review Board may consider (but shall not be restricted to consideration of) visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, location in relation to surrounding structures and plant life, compliance with the general intent of the Design Guidelines, and architectural merit. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that

determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

(c) Notice to Applicant. At each stage of the review process, the Design Review Board shall, within 30 days after receipt of the submission, advise the party submitting the same in writing, at an address specified by such party at the time of submission, of (i) the approval such submission, or (ii) the disapproval of such submission, specifying the segments or features of the submission which are objectionable and suggestions, if any, for the curing of such objections. If the Design Review Board fails to advise the submitting party by written notice within the period set forth above of either the approval or disapproval of the submission, the applicant may give the Design Review Board written notice of such failure to respond and state that unless the Design Review Board responds within 10 days of receipt of such notice, approval shall be deemed granted and, upon such further failure, approval shall be deemed to have been given, subject to the right of the County to veto approvals by the Design Review Board as set forth in this Section. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing pursuant to the following subsection (h). Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid. Is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery.

(d) County's Veto Right. Within three business days after the Design Review Board has approved any application relating to proposed Work, the Design Review Board shall give written notice to the County of such action, together with such other information as the County may require. The County shall have ten days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the Design Review Board and the applicant.

(e) Construction. If construction does not commence on any Work for which approval has been granted within 12 months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to reapply for development approval prior to commencing such Work. Construction shall conform to the construction practices and requirements set forth in the appendices to the Design Guidelines. All Work shall be completed within two years of commencement or such other period as may be specified in the notice of approval, unless completion is delayed due to causes beyond the reasonable control of the Owner, as determined in the sole discretion of the Design Review Board.

(f) Review of Actions. The Owner may request review of the Design Review Board's action by the Association Board, whose determination shall be final and binding.

(g) No Waiver of Future Approvals. Each Owner acknowledges that the persons reviewing applications under this Section will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be too late to require changes to the improvements involved, but the Design Review Board may refuse to approve similar proposals in the future. Approval of proposals, plans and specifications, or drawings for any Work done or proposed, or in connection with any matter requiring approval,

shall not be deemed a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings other matters whatever subsequently or additionally submitted for approval.

(h) Variances. The Design Review Board may, with prior written approval of the County, but shall not be required to authorize variances from compliance with any of the provisions of the Design Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental conditions require, or when architectural merit warrants such variance. Such variances shall be granted only when, in the Design Review Board's judgment, unique circumstances exist and no Owner shall have the right to demand or obtain a variance. No variance shall (i) be effective unless in writing, (ii) be contrary to this Declaration, or (iii) estop the Design Review Board from denying a variance in other circumstances.

5.7 Limitation of Liability. The standards and procedures established by this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the District Property but shall not create any duty to any Person. Neither the County nor the Design Review Board shall bear any responsibility under this Declaration for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all structures and improvements constructed within the District Property are of comparable quality, value, or size, or of similar design. Neither the County, the Association, the Design Review Board nor any member of any of the foregoing shall be held liable under this Declaration for soil conditions, drainage problems or other general site work, nor for defects in any plans or specifications submitted, revised or approved hereunder, nor for any structural or other defects in work done according to approved plans, nor for any injury, damages, or loss arising out of the manner, design or quality of approved construction on or modifications to any Site.

#### 5.8 Enforcement.

(a) Any Work performed in violation of this Article or in a manner inconsistent with the development approvals granted pursuant to Section 5.6 of this Declaration shall be deemed to be nonconforming. Upon written request from the County, the Association or the Design Review Board, Owners shall, at their own cost and expense, remove any nonconforming structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming Work. Should an Owner fail to remove and restore as required, the Association or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall I not be deemed a trespass. Upon demand, the Owner shall reimburse all costs incurred by any of the foregoing in exercising its rights under this Section. The Association may assess any costs incurred in taking enforcement action under this Section, together with interest at the maximum rate then allowed by law, against the benefitted Site as a Site-Specific Assessment.

(b) The County and the Association, acting separately or jointly, may preclude any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines from continuing or performing any further activities in the District Property, subject to the notice and hearing procedures

contained in the By-Laws. Neither the Declarant, the Association, nor their officers, directors or agents shall be held liable to any Person for exercising the rights granted by this subsection.

(c) In addition to the foregoing, the Association and the County shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the reviewing entities under this Article.

(d) In the event that the Association fails to take enforcement action within 30 days after receipt of a written demand from the County identifying the violator and specifying the nature of the violation, the Association shall reimburse the County for all costs reasonably incurred by the County in taking enforcement action with respect to such violation if the County prevails in such action.

5.9 Signage. All signage located on the Sites shall conform to the Design Guidelines and be approved by the Design Review Board. Nonconforming or unapproved signage may be removed by the Association upon provision of notice to the Owner not less than ten business days prior to such removal.

5.10 Other Development Activities. Development activities not addressed by the Design Guidelines shall be governed by the applicable standards adopted in the Osceola County Land Development Code.

## ARTICLE VI – MAINTENANCE

### 6.1 Association's Responsibility.

(a) The Association shall maintain the Common Area and keep it in good repair, which shall include, but need not be limited to:

(i) all landscaping and other flora, parks, structures, improvements, and pathways or trails situated upon the Common Area;

(ii) landscaping, sidewalks, streetlights, and signage within public rights-of-way within the District Property, and landscaping and other flora within any public utility easements within the District Property (subject to the terms of any easement agreement relating thereto);

(iii) the Reservoir Property, including any retaining walls, bulkheads or dams (earthen or otherwise), to the extent County has agreed to maintain the same pursuant to the Reservoir Agreement and Reservoir Easement, any inconsistency between such instruments to be construed in favor of the Reservoir Easement;

(iv) such portions of any additional property included within the Common Area by any expansion of the boundaries of the District Property;

(v) all other ponds, streams and/or wetlands located within the District Property which serve as part of the drainage and water retention system for the District Property, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water

therein, and any fountains, lighting, pumps conduits and similar equipment in connection therewith, except to the extent that TWA has assumed the responsibility therefor pursuant to the Reservoir Agreement and Reservoir Easement, any inconsistency between such instruments to be construed in favor of the Reservoir Easement; and

(vi) any property and facilities owned by the County and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and some or all of its Members, such property and facilities to be identified by written notice from the County to the Association and to remain a part of the Common Area and be maintained by the Association until such time as County revokes such privilege of use and enjoyment by written notice to the Association.

(b) The Association shall maintain the facilities and equipment within the Common Area in continuous operation, except for any periods necessary, as determined in the sole discretion of the Association Board, to perform required maintenance or repairs, unless Members representing 75% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

(c) The Association may maintain other property which it does not own, including without limitation, publicly owned property and other property dedicated to public use, if the Association Board determines that such maintenance is necessary or desirable to maintain a high-quality center for development, commercialization and production of smart sensors, photonics and other advanced technologies, and related or supportive business operations and activities.

(d) The Association may assume responsibility for maintenance of any Site and assess all costs of such maintenance against the Site pursuant to Section 8.3 of this Declaration, as appropriate. This assumption of responsibility may take place only by contract with the Owner(s) of such Site or because, in the opinion of the Association Board, the level and quality of maintenance then being provided is not consistent with the requirements established in Section 6.2 of this Declaration.

(e) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Common Area shall be a District O&M Expense funded by District Assessments or Association Assessments.

(f) In the event that the Association fails to properly perform its maintenance responsibilities hereunder, the County may, upon not less than 10 days' notice and opportunity to cure such failure, cause such maintenance to be performed. In such event, the County shall be entitled to reimbursement from the Association for all costs incurred and the Association Board shall be obligated to impose Association Assessments sufficient to fund such reimbursement.

## 6.2 Owner's Responsibility.

(a) Each Owner shall maintain its Site and all structures, parking areas and other improvements comprising the Site, in a manner consistent with all applicable covenants, unless such maintenance responsibility is otherwise assumed by the Association pursuant to a contract with such Owner. Such maintenance shall include, but is not limited to, the following:

- (i) prompt removal of all litter, trash, refuse and waste;
  - (ii) lawn mowing and fertilizing on a regular basis;
  - (iii) tree and shrub pruning and mulching;
  - (iv) watering of landscaped areas;
  - (v) keeping exterior lighting and maintenance facilities in proper working order;
  - (vi) implementing and maintaining erosion-sedimentation control measures;
  - (vii) painting or staining, as appropriate, and regular maintenance and repair of the exterior of all improvements and signage;
  - (viii) roof repair and replacement as necessary to maintain a neat, uniform appearance;
  - (ix) keeping lawn and garden areas alive, free of weeds and attractive;
  - (x) keeping parking areas, driveways and alleys in a state of good repair and free of potholes, excessive cracks and weeds;
  - (xi) complying with all government health and police requirements;
  - (xiii) prompt repair of any exterior damages to improvements; and
  - (xiv) if appropriate, striping of parking areas and repainting of improvements
- (b) In addition to the foregoing, Owners shall be responsible for
- (i) maintaining that portion of any service road providing access to the Owner's Site which lies within the public right-of-way between the Site boundary and the curb or roadbed of the street to which it connects; and
  - (ii) mowing any grassed areas within the public right-of-way between the Site boundary and the curb or roadbed of the adjoining street.

(c) If any Owner fails to properly perform such Owner's maintenance responsibility hereunder, the Association may perform it and assess all costs incurred by the Association against the Site and the Owner thereof in accordance with Section 7.3 of this Declaration; provided however, except when entry is required due to an emergency situation, the Association shall afford the Owner notice and a reasonable opportunity to cure the problem prior to entry.

6.3 County's Responsibility. The County shall maintain the Roadways within the Transportation Corridors.



## ARTICLE VII – ASSOCIATION ASSESSMENTS

7.1 Creation of Lien and Personal Obligation. The County hereby covenants, for each Site owned by it, and each Owner, by acceptance of a deed, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay the Association Assessments, such Association Assessments to be fixed, established and collected from time to time as herein provided. The Association Assessments, together with interest thereon and costs of collection incident thereto as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Site against which such Association Assessment is levied. Each such Association Assessment, together with interest and costs, shall also be the personal obligation of the person or entity who is the Owner at the time the Association Assessment fell due, but such personal obligation shall not pass to the successors in title of such person or entity unless expressly assumed.

7.2 Purpose of Assessments. The Association Assessments shall be used exclusively for payment of the Association Expenses and, if for any reason the NeoCity District is dissolved or otherwise fails to impose sufficient District Assessments, for payment if the District O&M Expenses or otherwise to promote the health, safety, welfare of the Members, their guests, tenants and invitees.

7.3 Site-Specific Assessments. In addition to the Association Assessments:

(a) the Association shall have the right to levy a Site-Specific Assessment against the Owner of a particular Site to cover the cost of any maintenance the Association provides to the Site pursuant to Section 6.1(d) or 6.2(c) of this Declaration; and

(b) Owners causing damage to any portion of the Common Areas shall be directly liable to the Association and a Site-Specific Assessment may be levied against such Owner's Site therefor.

7.4 Assessment Commencement and Due Dates. The obligation to pay Association Assessments shall commence as to each Site on the first day of the month following (a) the month in which such Site is made subject to this Declaration, or (b) the month in which the Association Board first determines and levies Association Assessments, whichever is later. The first annual Association Assessment levied on each Site shall be adjusted according to the number of months remaining in the Association's fiscal year at the time Association Assessments commence on the Site.

7.5 Duties of the Association Board.

(a) The Association Board shall fix the amount of the Association Assessment against each Site for each assessment period at least 30 days in advance of such date or period, and shall, at that time, prepare a roster of the Sites and Association Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

(b) Written notice of the Association Assessment and the method by which the Association Assessment has been computed shall thereupon be sent to every Owner subject thereto.

(c) The Association shall upon demand at any time furnish to any Owner liable for an Association Assessment or any Site-Specific Assessment imposed pursuant to Section 7.3 of this Declaration a certificate in writing, signed by an officer of the Association, setting forth whether such Association Assessment or Site-Specific Assessment has been paid as to any particular Site. Such certificate shall be conclusive evidence of payment of any Association Assessment or Site-Specific Assessment to the Association therein stated to have been paid.

(d) The Association, through the action of the Association Board, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations (including the County) for management services and the fees therefor shall be part of the Association Assessment. Any such agreement shall receive prior Class "B" Member approval during the Class "B" Control Period.

7.6 Capital Improvements. Funds necessary for capital improvements relating to the Common Areas may be levied by the Association upon approval by two-thirds of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. If approved, special assessments for capital improvements shall be included in the Association Assessment.

7.7 Rate of Assessment. The Association Assessment for each Site shall be determined in accordance with the formula set out in Exhibit B. The Association Board may increase the rate of assessment to a level not in excess of the maximum without a vote of the Members.

7.8 Notice and Quorum for Action. Written notice of any meeting called for the purpose of taking any action authorized under Sections 7.6 or 7.7 of this Declaration shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast a majority of all the votes of each class of membership shall constitute a quorum.

7.9 Effect of Non-Payment.

(a) If Association Assessment or any Site-Specific Assessment is not paid on the date when due, then such Association Assessment or Site-Specific Assessment shall become delinquent and shall, together with interest thereon and the cost of collection incident thereto, as herein provided, thereupon become a continuing lien on the Site which shall be binding upon the then Owner, such Person's heirs, personal representatives, successors and assigns. The personal obligation of the then Owner to pay such Association Assessment or Site-Specific Assessment, however, shall remain such Person's personal obligation and shall not pass to such Person's successors in title unless expressly assumed by them.

(b) If the Association Assessment or any Site-Specific Assessment is not paid within 30 days after the due date, such Association Assessment or Site-Specific Assessment shall bear interest from the date when due at the rate of 10 percent per annum and the Association may bring an action at law against the Owner personally obligated to pay the same or may record a claim of lien against the Site on which such Association Assessment or Site-Specific Assessment is unpaid or may foreclose the lien against the Site on which such Association Assessment or Site-Specific Assessment is unpaid, or may pursue one or more of such remedies at the same time or

successively, and there shall be added to the amount of such Association Assessment or Site-Specific Assessment attorneys' fees and costs of preparing and filing the claim of lien and the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the Association Assessment or Site-Specific Assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action, and the Association shall be entitled to attorneys' fees in connection with any appeal of any such action. There shall be no offset against Association Assessments or Site-Specific Assessments for failures or delays in providing services.

(c) It shall be the legal duty and responsibility of the Association to enforce payment of the Association Assessments and Site-Specific Assessments hereunder.

(d) No Owner may waive or otherwise escape liability for the Association Assessment or Site-Specific Assessment by non-use of the Common Areas or by abandonment of such Person's right to use the same.

7.10 Subordination of Assessment Lien to Mortgages. The lien of Association Assessments provided for in this Article VII shall be subordinate to the lien of any first mortgage made to an institutional lender (bank, savings and loan association, insurance company or similar mortgage lending institution). A sale or transfer of a Site shall not affect the Association Assessment lien, except as otherwise provided in the Bylaws; however, the sale or a transfer pursuant to a mortgage foreclosure or deed in lieu of foreclosure shall extinguish the assessment lien as to payments which became due before such sale or transfer. No sale or transfer shall relieve a Site from liability for any Association Assessments thereafter becoming due or from the lien thereon.

7.11 Exempt Property. All Common Areas and any other property owned by or dedicated to and accepted by any governmental authority or public utility for the purpose of providing services to the District Property shall be exempt from payment of Association Assessments.

## ARTICLE VIII – EASEMENTS

8.1 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment and for maintenance and use of any permitted encroachment between each between adjacent Site and any adjacent Common Areas and between adjacent Sites, due to the unintentional placement of settling or shifting of the Improvements constructed, reconstructed or altered on a Site or the Common Area (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary between each Site and the adjacent portion of the Common Areas or as between said adjacent Sites, as the case may be, along a line perpendicular to such boundary at such point; provided however, in no event shall such an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner, tenant or the Association.

### 8.2 Easements for Utilities and Other Public Facilities.

(a) There is hereby reserved to the County, the NeoCity District, the Association and the designees of each, (a) a non-exclusive easement upon, across, over and under the District

Property (but not through a structure) for ingress, egress, installation, monitoring, replacing, repairing, and maintaining cable television systems, fiber optic cable or other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads; walkways; drainage systems; street lights; signage; and all utilities, including, but not limited to water, sewers, meter boxes, telephones, gas, and electricity; for the purpose of altering drainage and water flow across the District Property; and otherwise as may be necessary, in the sole discretion of the County or the Association, for the performance of the Association's maintenance responsibilities under this Declaration; and (b) the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of County, in connection with the orderly development of any property described on Exhibit A.

(b) The Owner of any property to be burdened by any easement granted pursuant to this Section shall be given written notice in advance of the grant. The location of any easement granted pursuant to this Section shall be subject to the written approval of the Owner of the property burdened by that easement, which approval shall not be unreasonably withheld, delayed or conditioned. Upon the grant of any easement pursuant to this Section, the grantee shall (i) cause all work associated with that easement to be performed with the least possible interference to the use and enjoyment of the property burdened by that easement; and (ii) upon completion of all work associated with that easement, cause the property burdened by that easement to be restored, to the extent reasonably possible, to its condition prior to the commencement of the work.

(c) Notwithstanding anything to the contrary contained in this Section, no above ground sewers, electrical lines, water lines, or other utilities may be installed or relocated on the District Property except as (i) may be approved by the County, as long as it has the unilateral right to subject additional property to this Declaration, or the Association Board after the expiration of such rights; or (ii) may be constructed as a part of the original development and/or sale by the County; or (c) may be permitted by the terms of any easement affecting the District Property and recorded prior to the recording of this Declaration.

(d) The easements provided for in this Section shall in no way adversely affect any other recorded easement on the District Property, nor shall they be exercised in any manner which materially restricts or interferes with the use and development of the Site.

8.3 Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Site for emergency, security, and safety reasons, and to inspect for the purpose of ensuring compliance with this Declaration, the Bylaws, and the Association rules and regulations; provided, nothing herein shall authorize any person to enter any structure constructed on a Site without permission of the Owner unless necessary to avoid an imminent threat of personal injury or property damage. This right may be exercised by any member of the Association Board, any officer, manager, agent or employee of the Association acting with the permission of the Association Board, and all law enforcement, fire and similar emergency person in the performance of their duties. Except in an emergency situation to avoid an imminent threat of personal injury or property damage, entry to any portion of a Site not generally open to the public shall only be authorized during reasonable hours and after receipt of the Owner's or occupant's consent. This right of entry shall include the right of the Association to enter upon a Site to perform maintenance or cure any condition which increases the possibility of a fire or other hazard, in the event that the

Owner fails or refuses to perform such maintenance or cure such condition within a reasonable time after request by the Association Board.

## **ARTICLE IX – ANNEXATION AND WITHDRAWAL OF PROPERTY**

9.1 Annexation of Property. The County reserves the right to amend this Declaration for the purpose of annexing any real property to the provisions of this Declaration with the consent of the owner of such property. Such annexation shall be accomplished by filing a supplemental Declaration in the Official Records of Osceola County, Florida describing the property being annexed. Any such annexation shall be effective upon filing unless otherwise provided therein.

9.2 Withdrawal of Property. The County reserves the right to amend this Declaration so long as it owns property subject to this Declaration for the purpose of removing any portion of the District Property from the coverages of this Declaration, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the District Property. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the County. If the property is Common Area, the Association shall consent to such withdrawal.

9.3 Additional Covenants and Easements. The County may unilaterally subject any portion of the property submitted to this Declaration to additional covenants and easements, including additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through Association Assessments. Such additional covenants and easements shall be set forth in a supplemental Declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the Owner(s) of such property, if other than the County. Any such supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property. Notice of the meeting at which such additional covenants and easements will be considered shall be provided to each affected Owner.

9.4 Amendment. This Article shall not be amended without the prior written consent of County, so long as the County owns any property described in Exhibit A other than Common Areas.

## **ARTICLE X – COUNTY'S RIGHTS**

10.1 Transfer of County's Rights. Any or all of the special rights and obligations of the County reserved in this Declaration or the Bylaws may be transferred in whole or in part to other Persons, provided that the transfer shall not reduce an obligation or enlarge a right beyond that contained in this Declaration or the Bylaws and provided further, no such transfer shall be effective unless it is in a written instrument signed by the County and duly recorded in the Official Records of Osceola County, Florida. The foregoing sentence shall not preclude the County from permitting other Persons to exercise, on a one-time basis, any right reserved to County in this Declaration where County does not intend to transfer such right in its entirety, and in such cases, it shall not be

necessary to record any written assignment unless necessary to evidence County's consent to such exercise.

#### 10.2 Use of Common Areas.

(a) County and its designees may maintain and carry on upon portions of the Common Areas such facilities and activities as, in the sole opinion of the County, may be required, convenient, or incidental to the sale of Sites, including, but not limited to, maintenance of business offices, signs, and sales offices. If County's use under this Section results in additional costs to the Association, the County shall reimburse the Association for such costs, but County shall not be obligated to pay any use fees, rent or similar charges for its use of Common Areas pursuant to this Section.

(b) The County and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

10.3 Approval of Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the District Property without County's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the County.

10.4 Amendment of this Article. This Article may not be amended without the written consent of the County so long as County has any rights hereunder. The rights contained in Sections 10.1, 10.2 and 10.3 of this Article shall terminate upon the earlier of (a) 75 years from the date this Declaration is recorded. or (b) upon recording by County of a written statement that all sales activity has ceased.

### **ARTICLE XI – GENERAL PROVISIONS**

#### 11.1 Duration.

(a) Unless terminated as provided in the following subsection (b), this Declaration shall have perpetual duration. If Florida law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall be automatically extended at the expiration of such period for successive periods of 20 years each, unless terminated as provided below. Notwithstanding the foregoing, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue for only until 21 years after the death of the last survivor of the now living descendants of Prince William Arthur Philip Louis Windsor, Duke of Cambridge.

(b) Unless otherwise required by Florida law, this Declaration may not be terminated within the first 30 years after the date of recording except by an instrument signed by Owners of 90% of the total acreage within the District Property and by the County, if the County owns any portion of the District Property, other than Common Areas. After the thirtieth anniversary of the

date of recording, termination may be accomplished by an instrument signed by Owners of at least 80% of the total acreage within the District Property and by the County, if the County owns any portion of the District Property other than the Common Areas. Any such instrument shall set forth the intent to terminate this Declaration and shall be recorded in the Official Records of Osceola County, Florida. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

#### 11.2 Amendment of Declaration.

(a) The County may unilaterally expand the uses permitted by Section 4.2 of this Declaration if such expansion (i) does not adversely affect the utilization of then-existing improvements on any Site, and (ii) does not constitute a fundamental departure from the scheme of development.

(b) Until termination of the Class "B" Control Period, County may unilaterally amend this Declaration for any purpose. Thereafter, County may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary (i) to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which is in conflict therewith; (ii) to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Properties; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans to make, purchase, insure or guarantee mortgage loans on the Sites; or (iv) to satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to any Site unless the Owner shall consent thereto in writing. So long as the County still owns property within the boundaries of and for development as part of the District Property, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

(c) Except as provided in the foregoing subsection (a) or otherwise specifically provided elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners representing 51% of the total Class "A" votes in the Association and the consent of the Class "B" Member, as long as such membership exists. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(d) Amendments to this Declaration shall become effective upon recordation in the Official Records of Osceola County, Florida, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be conclusively presumed to have been validly adopted. In no event shall a change in conditions or circumstances operate to amend any provisions of this Declaration.

(e) If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to so consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

(f) No amendment may directly or indirectly remove, revoke, or modify the status of, or any right or privilege of, the County or the Class "B" Member without the written consent of the County or the Class "B" Member, respectively (or the assignee of such right or privilege).

11.3 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect any other provisions or applications.

11.4 Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue for only until 21 years after the death of the last survivor of the now living descendants of Prince William Arthur Philip Louis Windsor, Duke of Cambridge.

11.5 Mortgagee Rights. Notwithstanding any other provision contained in this Declaration:

In the event that any Owner or Mortgagee furnishes a written request to the Association specifying the name and address of the Mortgagee and of the Site in which it holds an interest, the Association shall give written notice to the Mortgagee of any default of the Owner of such Site in performing or observing any of the terms, conditions, or agreements contained in this Declaration prior to taking any enforcement action. The Mortgagee shall have the right (but not the obligation) to remedy the default. Neither the County nor the Association shall take any action with respect to the default, including, without limitation, any action to impose or enforce a lien against the property of the defaulting Owner, unless the default remains unremedied for a period of 30 days after the Mortgagee's receipt of the written notice. If, however, the default is not reasonably susceptible of being remedied within 30 days after the Mortgagee's receipt of the notice, the Mortgagee shall have such additional time to remedy or cause the remedy of the default as may be reasonable, provided that the Mortgagee has given written notice to the Association of its intent to remedy the default and has commenced efforts to remedy the default within the initial 30 day period and are thereafter diligently prosecutes such cure to completion.

11.6 Litigation. After termination of the Class "B" Membership, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of Members holding at least 75% of the total Class "A" votes of the Association. This Section shall not apply, however to (a) actions brought by the Association to enforce the provisions of this Declaration, (b) the imposition and enforcement of Association Assessments, proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the County or is approved by the percentage of votes and pursuant to the same procedures necessary to institute proceedings, as provided above. This provision shall apply in addition to the provisions of Article XI, if applicable.

11.7 Ownership of Site by Government. The County shall have the right to exempt the United States, the State of Florida, or Osceola County, Florida, or any related entity, as the Owner of a Site, from any of the restrictions contained in this Declaration, or the Bylaws, or rules and regulations of the Association if such exemption is required by the United States, the State of Florida, or Osceola County or any related entity.



11.8 Compliance and Indemnification.

(a) Every Owner and occupant of any Site shall comply with this Declaration, any supplemental Declaration and other covenants applicable to its site, the Design Guidelines, Bylaws and the rules of the Association. Subject to the terms of Article XI, failure to comply shall be grounds for an action by the Association or, in a proper case, by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity in addition to those enforcement powers granted to the Association in Section 3.6 of this Declaration and Section 3.23 of the Bylaws.

(b) Each Owner shall indemnify and hold the Association harmless from any loss, damages and expenses, including counsel fees, which they may incur as a result of the failure of any such Owner, any occupant of such Owner's Site, or any contractor, agent or employee of such Owner acting within the scope of such Person's contract, agency or employment to comply with this Declaration, any supplemental Declaration or other covenants applicable to such Owner's Site, the Design Guidelines, Bylaws and rules of the Association.

**IN WITNESS WHEREOF**, the Board of County Commissioners of Osceola County, Florida, has caused this Declaration to be executed and delivered this \_\_\_ day of \_\_\_\_\_, 2021.

**OSCEOLA COUNTY, FLORIDA**

By: \_\_\_\_\_  
Chair/Vice Chair  
Board of County Commissioners

(SEAL)

ATTEST:

\_\_\_\_\_  
Clerk/Deputy Clerk

As authorized for execution at the Board of  
County Commissioners meeting of:  
February 21, 2022

**EXHIBIT A**  
**DESCRIPTION OF THE DISTRICT PROPERTY**

A parcel of land lying in sections 23, 24 and 26, township 25 south, range 29 east lying south of us highway 192, north of Neptune Road and east of Mill Slough Canal being a portion of said sections and the following platted lots and unimproved platted roadways as follows:

Lots 1 through 3, Tract A and Bill Beck Boulevard lying in F.A.R.M. unit 1, according to the plat thereof as recorded in Plat Book 24, pages 26 & 27 of the public records of Osceola County, Florida.

Together with:

A portion of Lots 1 and 2 Block A, Lots 1, 2, 3, 4 and a portion of Lots 5, 6, 7, 8 Block B, a portion of Lots 5, 6 and 7 Block E, Lots 1, 2, 3, 4, 5, 6, 7, 8 Block F, Lots 1, 2, 3, 4, 7 and 8 and a portion of Lots 5, 6, and 7 Block G, Lots 2, 3, 4, 5, 6, 7 and a portion of Lots 1 and 8 Block J, Lots 1, 2, 3, 4, 5, 6, 7, 8 Block K, Lots 6, 7, 8 and a portion of Lots 1, 2, 3, 4, 5 Block L, a portion of Lots 3, 4, 5, 6, 7 and 8 Block N, Lot 8 and a portion of Lots 1, 5, 6 and 7 Block O and a portion of lot 8 Block P and those un-named platted streets lying between the aforementioned Blocks, Kissimmee Gardens according to the plat thereof as recorded in Plat Book 1, page 32 of the public records of Osceola County, Florida.

Together with:

Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9 Block 7, Idora Park, inclusive and together with a vacated unnamed street lying south of Lot 9, Block 7 and north of Lot 1 Block 8 together with the east 10 ft. of Idora Boulevard abutting Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9 and the vacated street; also that portion of an unnamed vacated street abutting the north line of Lot 1, Block 7 according to the plat thereof, as recorded in Plat book 1, page 222 of the public records of Osceola County, Florida.

Together with:

Lots 1, 2, 3, 4, 5 and 6, Block 8, Idora Park, inclusive and together with vacated Fair Oaks Avenue lying south of Lot 6 Block 8 and north of Lot 1 Block 9 and together with the east 10 ft. of Idora Boulevard abutting Lots 1, 2, 3, 4, 5 and 6, according to the plat thereof, as recorded in Plat book 1, page 222 of the public records of Osceola County, Florida.

Together with:

Lots 1, 2 and 3 Block 9, Idora Park, according to the plat thereof, as recorded in Plat book 1, page 222 of the public records of Osceola County, Florida.

Together with:

Tract A, a portion of Tract B and stormwater management area, Oakhurst Estates according to the plat thereof as recorded in Plat Book 4, page 111 of the public records of Osceola County, Florida.

Said parcel being more particularly described as follows:

Commence at the southwest corner of the southwest 1/4 of Section 23, Township 25 south, range 29 east; thence run s89°38'57"e, a distance of 1549.26 feet to the point of beginning; thence

s27°11'00"w, a distance of 42.07 feet to a point the north right of way line of Neptune Road, a variable right of way per Osceola County Right of Way map project number 92030-2507; said point being on a non-tangent curve concave northerly having a radius of 845.00 feet, a central angle of 07°51'04", a chord bearing of s80°30'41"e and a chord distance of 115.70 feet, thence run easterly along the arc of said curve, a distance of 115.79 feet to the end of said curve; thence continue along said north right of way line s84°26'13"e, a distance of 156.06 feet to a point of curvature of a curve concave southwesterly having a radius of 1555.00 feet, a central angle of 34°44'55", a chord bearing of s67°03'46"e and a chord distance of 928.69 feet, thence run easterly along the arc of said curve, a distance of 943.07 feet to the end of said curve; thence departing said north right of way line n36°51'54"e, a distance of 531.01 feet to a point on the south line of the southwest 1/4 of section 23, township 25 south, range 29 east; thence s89°38'57"e along said south line, a distance of 58.90 feet; thence departing said south line n42°16'07"e, a distance of 449.13 feet; thence s89°35'59"e, a distance of 1898.02 feet; thence s00°00'17"e, a distance of 332.66 feet to a point on the south line of the southwest 1/4 of Section 24, Township 25 south, range 29 east; thence run along said south line s89°44'34"e, a distance of 1282.72 feet to the southeast corner of the southeast corner of the southwest 1/4 of the southwest 1/4 of said Section 24; thence s89°45'20"e, a distance of 1322.35 feet to a point on the west line of Magical Landings Phase 2, according to the plat thereof as recorded in Plat Book 17, pages 12-13 of the public records of Osceola County, Florida; thence run along said west line n00°01'51"e, a distance of 737.71 feet to a point on the south right of way of Bill Beck Boulevard (a variable width right of way); thence run easterly along said south right of way line the following four courses: n50°04'08"e, a distance of 25.99 feet; thence n70°32'26"e, a distance of 285.35 feet to a point of curvature of a curve concave northwesterly having a radius of 300.00 feet, a central angle of 33°39'58", a chord bearing of n53°42'28"e and a chord distance of 173.75 feet; thence run northeasterly along the arc of said curve, a distance of 176.27 feet to a point of tangency; thence n36°52'30"e, a distance of 24.97 feet; thence departing said south right of way line n53°05'36"w, a distance of 100.00 feet to a point on the north right of way line of said Bill Beck Boulevard; thence run westerly along said north line the following four courses: thence s36°52'30"w, a distance of 25.03 feet to a point of curvature of a curve concave northwesterly having a radius of 200.00 feet, a central angle of 33°39'54", a chord bearing of s53°42'28"w and a chord distance of 115.83 feet, thence run southwesterly along the arc of said curve, a distance of 117.51 feet to the end of said curve; thence s70°32'26"w, a distance of 249.95 feet; thence s56°32'13"w, a distance of 176.68 feet to the easterly line of F.A.R.M. unit 1, according to the plat thereof as recorded in Plat Book 26, pages 26-27 of the public records of Osceola County, Florida; thence run northerly along said east line and its northerly projection the following eight courses: n53°02'19"w, a distance of 933.44 feet; thence n53°14'50"w, a distance of 155.03 feet; thence n53°03'53"w, a distance of 389.41 feet; thence n53°11'03"w, a distance of 120.82 feet; n47°06'56"w, a distance of 417.41 feet; thence n47°27'50"w, a distance of 500.42 feet; thence n47°14'56"w, a distance of 320.00 feet; thence n47°14'44"w, a distance of 1051.32 feet to a point on a non-tangent curve concave southeasterly having a radius of 2165.00 feet, a central angle of 03°06'29", a chord bearing of s27°28'45"w and a chord distance of 117.43 feet, thence run southwesterly along the arc of said curve, a distance of 117.44 feet to the end of said curve; thence run n47°14'44"w, a distance of 253.85 feet; thence n00°09'35"e, a distance of 671.57 feet; thence run n89°22'21"w, a distance of 622.06 feet; thence s89°45'04"w, a distance of 649.35 feet; thence n89°33'32"w, a distance of 636.32 feet; thence n66°04'40"w, a distance of 1601.80 feet to a point to a point on the east right of way line of Mill Slough Canal; thence run along said east right of way line for the following three (3) courses

s45°36'26"w, a distance of 649.67 feet; thence s79°21'31"w, a distance of 46.02 feet; thence s45°18'55"w, a distance of 499.86 feet; thence departing said east right of way line s29°21'46"e, a distance of 312.87 feet; thence s14°57'41"w, a distance of 915.14 feet; thence s13°09'13"w, a distance of 576.36 feet; thence s87°50'05"e along the north line of Highland Grove, per Plat Book 2, page 91 public records of Osceola County, Florida, a distance of 597.31 feet; thence run s00°41'24"w, along the east line of said Highland Grove, a distance of 76.73 feet; thence departing said east line s89°49'59"e, a distance of 290.98 feet; thence s00°32'55"w, a distance of 186.81 feet to a point on a non-tangent curve concave southerly having a radius of 50.00 feet, a central angle of 70°35'02", a chord bearing of s71°34'54"e and a chord distance of 57.77 feet, thence run easterly along the arc of said curve, a distance of 61.60 feet to the end of said curve; thence n00°35'02"e, a distance of 205.26 feet; thence s89°53'49"e along the south line of Tract B, Oakhurst Estates, according to the plat thereof as recorded in Plat Book 4, page 111 public records of Osceola County, Florida, a distance of 306.54 feet; thence s00°36'04"w along the east line of Lot 1, of said Oakhurst Estates, a distance of 158.66 feet; thence s46°30'14"e, a distance of 421.53 feet; thence s19°24'09"e, a distance of 224.93 feet; thence s08°48'08"e, a distance of 444.25 feet to a point on a non-tangent curve concave westerly having a radius of 615.25 feet, a central angle of 16°08'32", a chord bearing of s00°21'10"e and a chord distance of 172.76 feet, thence run southerly along the arc of said curve, a distance of 173.34 feet to the end of said curve; thence s81°51'13"e, a distance of 331.87 feet; thence s26°55'54"w, a distance of 351.85 feet; thence n62°40'05"w, a distance of 127.78 feet; thence n27°16'38"e, a distance of 31.00 feet; thence n63°02'38"w, a distance of 142.39 feet; thence s27°10'08"w, a distance of 220.00 feet; thence s62°47'42"e, a distance of 140.07 feet; thence s27°12'41"w, a distance of 270.18 feet; thence n62°25'04"w, a distance of 34.84 feet; thence s27°11'00"w, a distance of 46.35 feet to the point of beginning.

Together with:

Begin at the most easterly corner of the Boggy Creek Road re-alignment, as described in official records book 1878, page 259, of the public records of Osceola County, Florida; thence run south 38°30'00" west, along the southeasterly right of way line of said road, a distance of 10.85 feet to a point of curve to the left, having a radius of 255.00 feet, a chord bearing of south 31°32'20" west, and a chord distance of 61.81 feet; thence run along the arc of said curve, through a central angle of 13°55'20", a distance of 61.96 feet to a point of tangency; thence run south 24°34'40" west, along said right of way line, a distance of 45.26 feet; thence run north 89°22'39" west, along said right of way line, a distance of 74.06 feet to a point on the east line of Freedom Tabernacle International Outreach Ministries, Inc. Property, as described by warranty deed, recorded in official records book 1490, page 2478, of the public records of Osceola County, Florida; thence run north 00°16'23" west, along said east line and the west line of said right of way, a distance of 54.21 feet; thence run north 24°34'40" east, along the northwesterly line of said right of way, a distance of 25.90 feet to a point of curve to the right, having a radius of 345.00 feet, a chord bearing of north 26°46'12" east, and a chord distance of 26.40 feet; thence run along the arc of said curve, through a central angle of 04°23'04", a distance of 26.40 feet to a point of cusp; thence, departing said right of way, run south 38°38'18" west, a distance of 223.85 feet to a point on the south line of aforesaid Freedom Tabernacle International Outreach Ministries, Inc. Property; thence run north 89°23'14" west along said south line, a distance of 63.47 feet; thence run south 38°38'18" west, a distance of 461.19 feet; thence run south 47°15'40" east, a distance of 200.51 feet; thence run north 38°38'18" east, a distance of 802.05 feet to a point on the southwesterly right of way line of U.S.

highway 192; thence run north 47°15'25" west, along said right of way line, a distance of 65.10 feet to the point of beginning.

Together with:

Tract B, Magic Landings, according to the plat thereof, as recorded in Plat Book 11, page 184-187 of the public records of Osceola County, Florida

Together with:

A parcel of land being a portion of Lot I, Northshore Plaza Replat, according to the plat thereof, as recorded in Plat Book 23, page 121 of the public records of Osceola County, Florida and being more particularly described as follows:

Commence at the northeast corner of said Lot I, said point being a point on the south right of way line of U.S. highway no. 192 and a point on a curve, concave to the southwest, having a radius of 3,695.83 feet and a central angle of 01°02'03"; thence run northwesterly along said south right of way line and along said arc, a distance of 66.70 feet (chord bearing = n65°51'50"w, chord= 66.70 feet) to the point of beginning; thence departing said south right of way line, run s23°07'52"w, a distance of 200.16 feet to the point of curvature of a curve, concave to the east, having a radius of 480.00 feet and a central angle of 23°07'52"; thence run southerly along the arc of said curve a distance of 193.78 feet (chord bearing= s11°33'56"w, chord= 192.47 feet) to the point of tangency thereof; thence run s00°00'00"w, a distance of 101.00 feet; thence run s05°18'48"w, a distance of 50.76 feet; thence run s00°00'00"w, a distance of 393.75 feet to a point on the south line of said Lot 1; thence run s89°42'20"w along said south line, a distance of 110.00 feet; thence departing said south line, run n00°00'00"e, a distance of 394.24 feet; thence run n06°06'27"w, a distance of 49.82 feet; thence run n00°00'00"e, a distance of 102.08 feet to the point of curvature of a curve, concave to the east, having a radius of 600.00 feet and a central angle of 23°07'52"; thence run northerly along the arc of said curve a distance of 242.23 feet (chord bearing= n11°33'56"e, chord= 240.59 feet) to the point of tangency thereof; thence run n23°07'52"e, a distance of 199.24 feet to a point on the aforesaid south right of way line of U.S. highway no. 192 and a point on a non-tangent curve, concave to the southwest, having a radius of 3,695.83 feet and a central angle of 01°51'38"; thence run southeasterly along the arc of said curve 120.01 feet, (chord bearing = s67°18'40"e, chord= 120.00 feet) to the point of beginning.

**EXHIBIT B**  
**FORMULA FOR ASSESSMENTS AND VOTING RIGHTS**

(A) Determination of Equivalent Units. Voting rights and Association Assessment obligations under the Declaration shall be based upon the number of "Equivalent Units" assigned to a particular Site relative to all other Sites entitled to vote on a particular matter or subject to a particular Association Assessment. Each Site is assigned one Equivalent Unit for each 10,000 square feet of land comprising the Site (rounded to the nearest tenth) and one Equivalent Unit for each 1,000 square feet of gross building area assessed on the Tax Roll (rounded to the nearest tenth).

(B) Calculation of Voting Rights. The percentage of the total voting power allocated to each Site shall be computed by dividing the Equivalent Units assigned to such Site by the total Equivalent Units assigned to all Sites eligible to vote.

(C) Calculation of Assessment. The percentage of a particular Association Assessment to be levied on each Site shall be computed by multiplying the total amount to be assessed by a fraction, the numerator of which is the number of Equivalent Units assigned to such Unit by the total number of Equivalent Units assigned to all Sites subject to the particular Association Assessment.

(D) Computation by Association Board. The number of Equivalent Units and resulting percentages for allocation of voting rights and Association Assessments shall be computed annually by the Association Board as of the date which is 60 days prior to the beginning of each fiscal year.

(E) Annexation of Additional Property. Upon annexation of additional property to the Declaration between the annual dates for calculation of voting rights and Association Assessments, the Association Board shall recompute the voting rights and Association Assessment percentages for each Site; provided however, that no adjustment need be made for Association Assessments previously levied to reflect such computation.

**EXHIBIT C**

**BYLAWS OF NEOCITY PROPERTY OWNERS' ASSOCIATION, INC.**

**BYLAWS**

**OF**

**NEOCITY PROPERTY OWNERS' ASSOCIATION, INC.**



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**BYLAWS**  
**OF**  
**NEOCITY PROPERTY OWNERS' ASSOCIATION, INC.**

**Article I – Name, Principal Office and Definitions**

1.1 Name. The name of the Association shall be NeoCity Property Owners' Association, Inc. (the "Association").

1.2 Principal Office. The principal office of the Association shall be located in Osceola County, Florida. The Association may have such other offices, either within or outside the State of Florida, as the Association's Board of Directors (the "Association Board") may determine or as the affairs of the Association may require.

1.3 Definitions. The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Declaration of Covenants, Conditions, Restrictions and Reservations for NeoCity filed in the Official Records of Osceola County Florida (the "Declaration"), unless the context indicates otherwise.

**Article II – Membership, Meetings, Quorum, Voting, Proxies**

2.1 Membership. The Association shall have two classes of membership, Class "A" and Class "B", as more fully set forth in the Declaration, the terms of which pertaining to such membership are specifically incorporated herein by reference.

2.2 Place of Meetings. The meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Association Board either within the NeoCity District or as convenient as possible and practical.

2.3 Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one year from the date of incorporation of the Association. Subsequent regular annual meetings shall be set by the Association Board so as to occur during the third quarter of the Association's fiscal year on a date and at a time set by the Association Board.

2.4 Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by (a) resolution of the Association Board, (b) upon a petition signed by Members representing at least 25% of the total Class "A" votes in the Association, or (c) as long as the Class "B" membership exists, upon request of the Class "B" Member.

## 2.5 Notice of Meetings.

(a) Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than 10 nor more than 50 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

(b) In the case of a special meeting or when otherwise required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

(c) If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at its address as it appears on the records of the Association, with postage prepaid.

2.6 Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member or its proxy shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at such meeting unless objection on the basis of lack of proper notice is raised before the business is put to a vote.

## 2.7 Adjournment of Meetings.

(a) If any meeting of the Association cannot be held because a quorum is not present, persons holding a majority of the votes represented at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or it for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

(b) The Members represented at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that Members or their proxies representing at least 25% of the total Class "A" votes in the Association remain in attendance, and provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8 Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated by reference. In the case of a Member which is a corporation, partnership other legal entity, any officer, director, partner or trust officer of such Member shall be entitled to cast the votes of such Member and to execute proxies on behalf of such Member unless otherwise specified by prior written notice to the Association signed by the Member; provided, if two or more such persons attempt to cast the votes for any Site, the votes for such Site shall not be counted.

2.9 Proxies. At all meetings of the Members, Members may vote in person or by proxy, subject to the limitations of Florida law. Every proxy shall be in writing, dated, signed and filed with the Secretary prior to the meeting for which it is to be effective. Except as otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of the Member's Site.

2.10 Majority. As used in these Bylaws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than 50% of the total eligible number.

2.11 Quorum. Except as otherwise provided in these Bylaws or in the Declaration, the presence in person or by proxy of Members representing 50% plus one of the total Class "A" votes in the Association and, as long as the Class "B" membership exists, the presence of a duly appointed representative of the Class "B" Member shall constitute a quorum at all meetings of the Association.

2.12 Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

2.13 Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. Such consents shall be signed within 60 days after receipt of the earliest dated consent, dated and delivered to the Association at its principal place of business in the State of Florida. Such consents shall be filed with the minutes of the Association, and shall have the same force and effect as a vote of the Members at a meeting. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

### **Article III – Board of Directors; Selection, Meetings and Powers**

#### **A. Composition and Selection**

3.1 Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors (referred to herein as the "Association Board"), each of whom ("Directors") shall have one equal vote. Directors need not be Members.

3.2 Number of Directors. The Association Board shall have five Directors.

3.3 Directors During the Class "B" Control Period. Subject to the provisions of Section 3.5, the Directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member until the first to occur of the following:

(a) when Class "A" Members own 54% of the total acreage described in Exhibit "A" of the Declaration;

(b) 40 years after the date upon which the Declaration is recorded in the Official Records of Osceola County, Florida; or

(c) when, in its discretion, the Class "B" Member so determines.

3.4 Nomination of Directors.

(a) Except with respect to Directors selected by the Class "B" Member, nominations for election to the Association Board shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Association Board, and three or more Members or representatives of Members. The Nominating Committee shall be appointed by the Association Board not less than 30 days prior to each annual meeting of the Members to serve a term of one year or until their successors are appointed, and such appointment shall be announced at each such annual meeting.

(b) The Nominating Committee shall make as many nominations for election to the Association Board as it shall in its discretion determine, but in no event less than the number of positions to be filled from each slate, as provided in Section 3.5. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity Member interests which exists within the pool of potential candidates. Nominations shall also be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

3.5 Election and Term of Office. Notwithstanding any other provision of these Bylaws:

(a) Within 30 days after the time that Class "A" Members own 18% of the total acreage described in Exhibit "A" of the Declaration, or whenever the Class "B" Member earlier determines, the President shall call a special meeting at which the Class "A" Members shall be entitled to elect one of the five Directors. The remaining four Directors shall be appointees of the Class "B" Member. The Director then elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until terms of the Directors are reset pursuant to subsection (x) below, whichever is shorter. If such Directors' terms expire prior to the date on which the terms of Directors are reset, successors shall be elected for a like term.

(b) Within 30 days after the time that Class "A" Members own 36% of the total acreage described in Exhibit "A" of the Declaration, or whenever the Class "B" Member earlier determines, the President shall call a special meeting at which Class "A" Members shall be entitled to elect two of the five Directors. The remaining three Directors shall be appointees of the Class "B" Member. The Director then elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until terms of the Directors

are reset pursuant to subsection (x) below, whichever is shorter. If such Directors' terms expire prior to the date on which the terms of Directors are reset, successors shall be elected for a like term.

(c) Within 30 days after the time that Class "A" Members own 54% of the total acreage described in Exhibit "A" of the Declaration, or whenever the Class "B" Member earlier determines, the President shall call a special meeting at which Class "A" Members shall be entitled to elect three of the five Directors. The remaining two Directors shall be appointees of the Class "B" Member. The Director then elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until terms of the Directors are reset pursuant to subsection (x) below, whichever is shorter. If such Directors' terms expire prior to the date on which the terms of Directors are reset, successors shall be elected for a like term.

(d) Within 30 days after the time that Class "A" Members own 72% of the total acreage described in Exhibit "A" of the Declaration, or whenever the Class "B" Member earlier determines, the President shall call a special meeting at which Class "A" Members shall be entitled to elect four of the five Directors. The remaining Director shall be an appointee of the Class "B" Member. The Director then elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until terms of the Directors are reset pursuant to subsection (x) below, whichever is shorter. If such Directors' terms expire prior to the date on which the terms of Directors are reset, successors shall be elected for a like term.

(e) Within 30 days after the time that Class "A" Members own 90% of the total acreage described in Exhibit "A" of the Declaration, or whenever the Class "B" Member earlier determines, the President shall call a special meeting at which Class "A" Members shall be entitled to elect all five Directors. The Director then elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall be elected for a term ending on the date of the next annual meeting of the membership.

(f) At the first annual meeting of the membership following the special meeting held pursuant to subsection (e) above, the terms of all Directors shall be reset, as follows: the Directors elected pursuant to subsections (d) and (e) above shall serve terms of two years and the Directors elected pursuant to subsections (a), (b) and (c) above shall serve terms of one year. Upon expiration of each Director's term of office the Members shall be entitled to elect as successor to serve for a term of two years.

(g) Each Member shall be entitled to cast, with respect to each vacancy to be filled, the total number of votes to which such Member is entitled under the Declaration. There shall be no cumulative voting. The candidate(s) receiving the most votes shall be elected. The Directors shall hold office until their respective successors have been elected. Directors may be elected to serve any number of consecutive terms.

### 3.6 Removal of Directors and Vacancies.

(a) Any Director elected by the Class "A" Members may be removed, with or without cause, by the vote of such Members holding a majority of the votes entitled to be cast for the

election of such Director. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a Director, a successor shall be elected by the Members entitled to elect the Director so removed to fill the vacancy for the remainder of the term of such Director.

(b) Any Director elected by the Class "A" Members who has three consecutive unexcused absences from Association Board meetings or who is more than 30 days delinquent (or is the representative of a Member who is delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority vote of the Directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Association Board to fill the vacancy until the next annual meeting, at which time the Members entitled to fill such directorship may elect a successor for the remainder of the term.

(c) In the event of the death, disability, or resignation of a Director, a vacancy may be declared by the Association Board, and it may appoint a successor to serve until the next annual meeting, at which time a successor shall be elected to serve the remaining portion, if any, of the term of the Director who created the vacancy.

## B. Meetings

3.7 Organizational Meetings. The first meeting of the Association Board following each annual meeting of the membership shall be held within 10 days thereafter at such time and place as the Association Board shall fix.

3.8 Regular Meetings. Regular meetings of the Association Board may be held at such time and place a majority of the Directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter.

3.9 Special Meetings. Special meetings of the Association Board shall be held when called by written notice signed by the President or by any two Directors.

### 3.10 Notice; Waiver of Notice.

(a) Notice of meetings of the Association Board shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The notice shall be given to each Director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; (iv) telecopier with confirmation of transmission; or (v) email to an email address provided by the Director. All such notices shall be given at the Director's telephone number or sent to the Director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four business days before the time set for the meeting. Notices given by personal delivery, telephone, or telecopier shall be delivered, telephoned, or transmitted at least 72 hours before the time set for the meeting.

(b) The transactions of any meeting of the Association Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each of the Directors



not present signs a written waiver of notice, a consent to holding the meeting, or approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11 Quorum of Association Board. At all meetings of the Association Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Association Board, unless otherwise specifically provided in these Bylaws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Association Board cannot be held because a quorum is not present, a majority of the Directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.12 Compensation. No Director shall receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any Director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other Directors. Nothing herein shall prohibit the Association from compensating a Director, or any entity with which a Director is affiliated, for services or supplies furnished to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association, provided that such Director's interest was made known to the Association Board prior to entering into such contract and such contract was approved by a majority of the directors, excluding the interested director.

3.13 Conduct of Meetings. The President shall preside over all meetings of the Association Board, and the Secretary shall keep a minute book of Association Board meetings, recording all Association Board resolutions and all transactions and proceedings occurring at such meetings.

3.14 Notice to Owners; Open Meetings. Except in an emergency, notice of Association Board meetings shall also be posted at least 48 hours in advance of the meeting at a conspicuous place within the NeoCity District. Notice of any meeting at which assessments are to be established shall state that fact and the nature of the assessment. Subject to the provisions of Section 3.15, all meetings of the Association Board shall be open to all Members, but a Member other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Association Board and reconvene in executive session, excluding Members, to discuss matters of a sensitive nature, including pending or threatened litigation and personnel matters.

3.15 Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties

3.16 Powers. The Association Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these Bylaws, the Articles of Incorporation (the "Articles"), and as provided by law. The Association Board may do or cause to be done all acts and things as are not by the Declaration, Articles, these Bylaws or Florida law directed to be done and exercised exclusively by the Members. The Association Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Association Board may designate by resolution. Each such committee shall operate in accordance with the terms of such resolution.

3.17 Duties. The duties of the Association Board shall include, without limitation:

- (a) preparation and adoption of annual budgets and establishing each Owner's share of the Association Expenses;
- (b) assessing and collecting Association Assessments and Site-Specific Assessments from the Owners, as set forth in the Declaration;
- (c) providing Association Services;
- (d) providing for the operation, care, upkeep, and maintenance of the Common Areas and other property, in accordance with the Declaration;
- (e) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association, and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (f) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;
- (g) making and amending rules and regulations;
- (h) opening of bank accounts on behalf of the Association and designating the signatories required;
- (i) making or contracting for the making of repairs, additions, and improvements to or alterations of the property of the Association in accordance with the Declaration and these Bylaws;
- (j) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules adopted by it and bringing any proceeding which may be instituted on behalf of or against the Owners concerning the Association;
- (k) obtaining and carrying insurance as provided in the Declaration, providing for payment of all premiums, and filing and adjusting claims as appropriate;

(l) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;

(m) keeping books with detailed accounts of the receipts and expenditures of the Association;

(n) making available to any prospective purchaser of a Site, any Owner, and the holders, insurers, and guarantors of any mortgage on a Site, current copies of the Declaration, the Articles of Incorporation, the Bylaws, rules and all other books, records, and financial statements of the Association;

(o) permitting utility suppliers to use portions of the Association's property, if any, as may be determined necessary, in the sole discretion of the Association Board, to the ongoing development or operation of the NeoCity District;

(p) indemnifying a director or officer, or former director or officer of the Association to the extent such indemnity is required by Florida law, the Articles of Incorporation or the Declaration; and

(q) assisting in the resolution of disputes between Owners and others without litigation, as set forth in the Declaration.

3.18 Right of the Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy or program of the Association and the Association Board which, in the sole judgment of the Class "B" Member, would tend to impair rights of the County under the Declaration or these Bylaws, or interfere with development, construction of any portion of the NeoCity District, or diminish the level of services being provided by the Association.

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association or the Association Board. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to Association Board meetings with Sections 3.8, 3.9, and 3.10 and which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

(c) No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

(d) The Class "B" Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Association Board. The Class "B" Member, acting through any agent or authorized representative, may exercise its right to disapprove at any time within 10

days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of Association Board or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

### 3.19 Management.

(a) The Association Board may retain for the Association a professional management agent or agents at such compensation as the Association Board may establish, to perform such duties and services as the Association Board shall authorize. The Association Board may delegate to the managing agent or manager, subject to the Association Board's supervision, such powers as are necessary to perform the manager's assigned duties but shall not delegate policy making authority or the duties set forth in subparagraphs (a), (f), (i), (j), (n) and (o) of Section 3.17. The County may be employed as managing agent or manager.

(b) The Association shall not be bound, either directly or indirectly, by any management contract executed during the Class "B" Control Period unless such contract contains a right of termination exercisable by the Association, with or without cause and without penalty, at any time after termination of the Class " B" Control Period upon not more than 90 days' written notice.

(c) The Association Board may delegate to one of its members the authority to act on behalf of the Association Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Association Board.

3.20 Accounts and Reports. The following management standards of performance shall be followed unless the Association Board by resolution specifically determines otherwise:

(a) accrual accounting; as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall, not be comingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Association Board;

- (f) financial reports shall be prepared for the Association at least quarterly containing:
  - (i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;
  - (ii) a statement reflecting all cash receipts and disbursements for the preceding period;
  - (iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
  - (iv) a balance sheet as of the last day of the preceding period; and
  - (v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by Association Board resolution); and
- (g) a current annual report consisting of at least the following shall be distributed to all Members within 120 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year such report having been prepared and reviewed by an independent public accountant.

3.21 Borrowing. The Association shall have the power to borrow money for any legal purpose; provided, the Association Board shall obtain the approval of (a) Class "A" Members holding at least 50% plus one of the votes represented in person or by proxy at a duly constituted meeting or (b) as long as the Class "B" membership exists, the Class "B" Member, if the proposed borrowing, together with all other debt outstanding exceeds or would exceed 20% percent of the budgeted gross expenses of the Association for that fiscal year. No mortgage lien shall be placed on any portion of the Common Area.

3.22 Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other property owners' agreements with trusts, condominiums, cooperatives, or other property owners or similar associations, within and outside the NeoCity District; provided, any common management agreement shall require the consent of a majority of the total number of directors of the Association.

3.23 Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Association Board shall have the power to impose monetary fines, which constitute a lien upon the Site of the violator, and to suspend an Owner's right to vote for violation of any duty imposed under the Declaration, these Bylaws, or any rules and regulations duly adopted hereunder. In addition, the Association Board may suspend any services provided by the Association to an Owner or the Owner's Site if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association. In the event that any occupant, guest or invitee of a Site violates the Declaration, Bylaws, or a rule and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the

occupant within the time period set by the Association Board, the fine shall be assessed against the Site and Owner thereof upon notice from the Association. The failure of the Association Board to enforce any provision of the Declaration, Bylaws, or any rules shall not be deemed a waiver of the right of the Association Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Association Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator or its representative may present a written request for a hearing to the Association Board; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Association Board may, but shall not be obligated to suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Association Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Association Board may elect to enforce any provision of the Declaration, these Bylaws, or the rules of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations), or by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

#### **Article IV – Officers**

4.1 Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the members of the Association Board; other officers may, but need not be members of the Association Board. The Association Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties the Association Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2 Election and Term of Office. The Association Board shall elect the officers of the Association at the first meeting of the Association Board following each annual meeting of the Members.

4.3 Removal and Vacancies. The Association Board may remove any officer whenever in its judgment the best interests of the Association will be served and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4 Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Association Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5 Resignation. Any officer may resign at any time by giving written notice to the Association Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6 Agreements, Checks and Other Instruments. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by resolution of the Association Board.

4.7 Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.12.

## **Article V – Miscellaneous**

5.1 Fiscal Year. The fiscal year of the Association shall be any year beginning on October 1 and ending on the next succeeding September 30 or such other period designated by law as the County's fiscal year.

5.2 Parliamentary Rules. Except as may be modified by resolution of the Association Board, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Florida law, the Articles of Incorporation, the Declaration, or these Bylaws.

5.3 Conflicts. If there are conflicts between the provisions of Florida Law, the Articles of Incorporation, the Declaration, and these Bylaws, the provisions of Florida law, the Declaration, the Articles of Incorporation, and the Bylaws (in that order) shall prevail.

5.4 Statutory Compliance. These Bylaws shall be interpreted or amended, if required, to comply with any applicable inconsistent provision of Chapter 720, Florida Statutes.

## 5.5 Books and Records.

(a) Inspection by Members and Mortgagees. The Association Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Site, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Site: the Declaration, Bylaws, and Articles of Incorporation, including any amendments, the rules of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Association Board, and any committees. The Association Board shall provide for such inspection to take place at the office of the Association or at such other place within the NeoCity District as the Association Board shall designate.

(b) Rules for Inspection. The Association Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

5.6 Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address maintained for the Site of such Member on the real property ad valorem tax assessment roll maintained by the Osceola County Property Appraiser for the purpose of the levy and collection of ad valorem taxes; or

(b) if to the Association, the Association Board, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

## 5.7 Amendment.

(a) By Class "B" Member. Until termination of the Class "B" Control Period, the County may unilaterally amend these Bylaws for any purpose. Thereafter, the County may unilaterally amend these Bylaws at any time and from time to time if such amendment is necessary (i) to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which is in conflict therewith; (ii) to enable any reputable title



insurance company to issue title insurance coverage with respect to any portion of the NeoCity District; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans to make, purchase, insure or guarantee mortgage loans on the Sites; or (iv) to satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to any Site unless the Owner shall consent thereto in writing. So long as the County still owns property described in Exhibit "A" for development as part of the NeoCity District, it may unilaterally amend these Bylaws for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

(b) By Members Generally. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 50% plus one of the total Class "A" votes in the Association and the consent of the Class "B" Member, as long as such membership exists. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments.

(i) Amendments to these Bylaws shall become effective upon recordation in the Official Records of Osceola County, Florida, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws.

(ii) If an Owner consents to any amendment to the Declaration or these Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

(iii) No amendment may remove, revoke, or modify any right or privilege of the County without the written consent of the County or the assignee of such right or privilege.

**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of NeoCity Property Owners' Association, Inc., a Florida corporation;

That the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the \_\_\_\_ day of \_\_\_\_\_, 2021.

IN WITNESS WHEREOF, I have hereunto subscribed by name and affixed the seal of said Association this \_\_\_\_ day of \_\_\_\_\_, 2021.

[SEAL]

\_\_\_\_\_  
Secretary