

**DEVELOPER’S AGREEMENT BETWEEN
INDIAN RIVER COUNTY
AND
MANDALA VILLAGE LLC
FOR RIGHT-OF-WAY DEDICATION AND ASSOCIATED ROADWAY
DRAINAGE IMPROVEMENTS**

THIS DEVELOPER’S AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2023, by and between **INDIAN RIVER COUNTY, FLORIDA**, a political subdivision of the State of Florida, 1801 27th Street, Vero Beach, FL 32960 (“County”) and **MANDALA VILLAGE, LLC**, a Florida limited liability company, 9086 Castle Harbour Circle, Vero Beach, FL 32963 (“Developer”).

W I T N E S S E T H:

WHEREAS, Developer proposes to develop a “Planned Development/Traditional Neighborhood Design” (PD/TND) Community located along the north side of 53rd Street, and West of 58th Avenue in Indian River County, Florida, to be known as Mandala Village, to include a mix of residential, commercial, hotel, recreational, and other uses on real property legally described as follows:

SEE EXHIBIT “A” ATTACHED HERETO AND MADE A PART HEREOF.

WHEREAS, at its regular meeting on January 21, 2020, the Board of County Commissioners of Indian River County approved the Developer’s Planned Development Traditional Neighborhood Design (“PDTND”) rezoning request and granted conceptual PD plan approval for “Mandala Village” (“Conceptual Plan”); and

WHEREAS, a developer’s agreement for right-of-way dedication is required as a condition of PD/TND approval; and

WHEREAS, the County and the Developer share mutual goals and have determined that they can assist each other with respect to right-of-way dedication, roadway and drainage improvements, and other improvements described herein and required by the PD/TND approval; and

WHEREAS, the County and the Developer desire to enter into this Agreement to set forth the terms and conditions to which they have agreed with respect to the matters contained herein.

NOW, THEREFORE, for and in consideration of these premises, Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Developer do hereby covenant, stipulate, and agree as follows:

1. Recitals: The foregoing recitals are incorporated as if fully restated herein.
2. County acknowledges that approximately 1,289 feet of right of way for 53rd Street has already been dedicated to the County along a portion of the Project's southern border recorded at O.R. Book 3058, Page 293, Public Records of Indian River County. Developer shall, within 60 days of approval of this Agreement, , dedicate to the County 120 feet of right of way for 53rd Street along the remainder of the Project's southern border.
3. The Developer acknowledges that the County has constructed a 300-foot four-lane segment of 53rd Street, west of 58th Avenue, along with full signalization of the intersection, as part of the 58th Avenue widening project to accommodate future development of this project.
4. Prior to the issuance of a certificate of completion for Phase 1 of the project, the Developer shall design, permit, and construct the continuation of the roadway improvements from the west leg of the intersection of 53rd Street and 58th Avenue as a two-lane road to the Project's main entrance on 53rd Street for a distance of approximately 800 feet west of 58th Avenue together with a transition lane from the existing four-lane road to the two lane extension to the Developer's main entrance in accordance with design and engineering plans that shall be approved through the County right-of-way permitting process in accordance with Chapter 312 of the Indian River County Code of Ordinances, of which review and approval shall not be unreasonably withheld or delayed. All such plans shall include the required sidewalks on the north side of the road. Failure by the County to reply to the Developer's completed submission of such plans and specifications within 30 days per submittal shall constitute approval.
5. The Developer shall receive traffic impact fee credits for all design, engineering, permitting, and construction costs associated with the 53rd Street improvements described herein paid or contributed by the Developer, except for those costs associated with site related turn lanes or other site related improvements; and any landscaping in excess of the landscaping required by County Ordinance. These shall be considered "non-reimbursable costs".
6. Prior to the issuance of a certificate of completion for Phase 1 of the Project, the Developer shall complete, at its own cost and expense, the following turn lane improvements:
 - a. Westbound right turn lane at the Project's full access connection to 53rd Street,
 - b. Eastbound left turn lane at the Project's full access connection to 53rd Street,
 - c. Westbound right turn lane at the Project's right in/right out connection to 53rd Street, located approximately 350 feet west of 58th Avenue Right-of-way.

7. Prior to the issuance of a certificate of completion for Phase 2 of the Project, the Developer shall design, permit, and construct a 2-lane paved road on the north side of the ROW from the main project entrance to the western boundary of project, prior to or concurrently with final plat approval for Phase 2 as shown on the conceptual PD Plan together with a transition lane from the two-lane road to the existing a two-lane dirt road at the Project's western boundary, in accordance with design and engineering plans that shall be approved through the County right-of-way permitting process in accordance with Chapter 312 of the Indian River County Code of Ordinances., of which review and approval shall not be unreasonably withheld or delayed. All such plans shall include required sidewalks on the north side of the road. Failure by the County to reply to the Developer's completed submission of such plans and specifications within 30 days per submittal shall constitute approval.
8. Developer and County acknowledge that the Developer shall dedicate ten feet (10') along the project's 58th Avenue frontage with corner clip as shown on the Preliminary Plat within 60 days of approval of this Agreement.
9. At the time Developer elects to develop the Project, Developer agrees to incorporate sufficient capacity in the Project to provide stormwater treatment for that portion of 53rd Street which is adjacent to the Project. In addition, Developer shall dedicate a non-exclusive easement to the County to access, maintain, and utilize an appropriate stormwater tract for such purpose. If prior to the development of the Project, Phase 1 or Phase 2, the County moves forward with design, permitting, and construction of 53rd Avenue west of the current termination point of the four-lane section, the Developer agrees to provide a location for temporary stormwater facilities. The County shall be responsible for costs associated with the design, permitting, and construction of the temporary facility.
10. Prior to the issuance of a land development permit for Phase 1, the Developer shall provide a final design, acceptable to the county, for a public transit stop.
11. Miscellaneous:
 - A. In the event of any litigation arising out of this Agreement, the prevailing party shall recover attorneys' fees and costs from the non-prevailing party.
 - B. No amendment, modification, change, or alteration of this Agreement shall be valid or binding unless accomplished in writing and executed by all the parties hereto.
 - C. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

- D. This Agreement contains the entire agreement and understanding between the parties. No representation, statement, recital, undertaking, or promise not specifically set forth herein shall be binding on any parties hereto. This Agreement shall not be effective unless signed by the Developer and the County.
- E. The obligations of the Developer to this Agreement are expressly conditioned upon the Developer's decision, at the Developer's sole discretion, to proceed with the development of Mandala Village.
- F. No Building Permit, Certificate of Completion, or Certificate of Occupancy shall be withheld or delayed by the County for Mandala Village or any portion thereof, nor shall the County delay or withhold any other required permits, provided that the Developer is in compliance with this Agreement, all applicable laws and regulations.
- G. Except for the right-of-way dedications, roadway and stormwater improvements as described herein the County shall not require the Developer to construct, contribute to, or share in the costs of any off-site traffic improvements other than the payment of traffic impact fees as reduced by the traffic impact fee credits per the terms of this Agreement.
- H. This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Florida. Venue hereunder shall lie in Indian River County, Florida. Time shall be of the essence.
- I. This Agreement shall be deemed prepared jointly by each of the parties hereto and shall be construed on parity as between the parties. There shall be no canon of construction for or against any party by reason of the physical preparation of this Agreement.
- J. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural; and the masculine, feminine, and neuter genders shall each include the others.
- K. The County and the Developer shall grant such further assurances and provide such additional documents as may be reasonably required by one another from time to time and cooperate fully with one another in order to carry out the terms and conditions hereof and comply with the express intention of this Agreement.
- L. Failure to insist upon strict compliance with any of the terms, covenants, or conditions herein shall not be deemed a waiver of such terms, covenants, or

conditions, nor shall any waiver or relinquishment of any right or power hereunder at any one time or times be deemed a waiver or relinquishment of such right or power at any other time or times.

- M. All words, terms, and conditions contained herein are to be read in concert each with the other, and a provision contained under one paragraph may be considered to be equally applicable under another in the interpretation of this Agreement.
- N. The words herein and hereof and words of similar import, without referenced to any particular section or subdivision of this Agreement, refer to this Agreement as a whole rather than to any particular section or subdivision hereof.
- O. In the event any term, conditions, or clause of this Agreement is declared to be illegal or unenforceable by a court of competent jurisdiction, such declaration of illegality or unenforceability shall not affect or alter the legality or enforceability of any remaining term, condition, or clause hereof, provided of the parties, as set forth in this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
INDIAN RIVER COUNTY, FLORIDA.

By: _____
Susan Adams, Chairman

BCC Approved: _____

Approved by:

John A. Titkanich, Jr. County Administrator

Attest: Ryan L. Butler, Clerk of the Circuit
Court and Comptroller

By: _____
Deputy Clerk

Approved as to Form and Legal Sufficiency:

William K. DeBraul, County Attorney

Signed, sealed and delivered
in the presence of:

Print Name: _____

MANDALA VILLAGE, LLC

By: DAVID EDERER, Managing Member of
3V Development, LLC, Manager

Print Name: _____

By: _____
Manager

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by _____, the Managing Member of 3V Development, LLC the Manager of Mandala Village, LLC, a Florida limited liability company, who is personally known to me or who has produced _____ as identification.

(Notary Seal)

Print Name: _____
Notary Public
My Commission Expires: