

**AGREEMENT CONCERNING PURCHASE AND SALE OF PROPERTY  
AND CONVEYANCE OF NEW DRAINAGE EASEMENT**

**THIS AGREEMENT CONCERNING PURCHASE AND SALE OF PROPERTY AND  
CONVEYANCE OF NEW DRAINAGE EASEMENT** is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2022 (the "Effective Date") between:

- City of Ocala, a Florida municipal corporation, 1805 NE 30th Avenue Building #700 Ocala, Florida 34470 ("City"); and
- John G. Noonan, as Bishop of the Diocese of Orlando, his successors in office and assigns, a corporation sole, 50 East Robinson Street, Orlando, Florida 32801 ("Diocese")<sup>1</sup>.

**RECITALS**

- A. City owns and maintains the City Parcel<sup>2</sup>, which includes the Existing DRA.
- B. Diocese is the owner of the Trinity Catholic High School Property, which includes property adjacent and contiguous to the western, northern, and eastern boundaries of the City Parcel. The City Parcel constitutes a fingerlike extension into the Trinity Catholic High School Property disrupting what would otherwise be a unified rectangular whole solely owned by the Diocese.
- C. Diocese desires to acquire and perpetually maintain the City Parcel as part of its development of the rest of the Trinity Catholic High School Property, and has requested City to convey the City Parcel to Diocese in exchange for Diocese granting to City a drainage easement over and across the City Parcel.
- D. City is willing to convey the City Parcel in consideration of the Grant of Easement pursuant to the terms and conditions herein.

**NOW, THEREFORE**, in consideration of the foregoing, and other good and valuable considerations, and with the intention that they be legally bound by this Agreement, the parties do hereby agree as follows, which terms shall be binding upon the parties and their respective successors and assigns, as may be applicable.

- 1. **Definitions.** As used herein, the following terms shall have the following meanings:
  - 1.1. *Agreement* – This Agreement, as it may from time to time be amended or modified pursuant to its terms and provisions.
  - 1.2. *City Parcel* – The real property described in the attached **Exhibit A**.
  - 1.3. *Closing* – The delivery of the Special Warranty Deed, Grant of Easement, and other documents pursuant to paragraph 7.

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<sup>1</sup> Wherever the context so admits or requires, the terms "City" and "Diocese" are used for singular and plural, and respectively refer to the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations/corporate soles.

<sup>2</sup> Terms capitalized herein and not previously defined herein are defined in paragraph 1 below or elsewhere in this Agreement.

- 1.4. *Closing Date* – The date for Closing as set forth in paragraph 7.1.
  - 1.5. *Existing DRA* – The existing drainage retention area on the City Parcel.
  - 1.6. *Effective Date* – The date this Agreement is last executed by the City and Diocese which must occur within the time period set forth in paragraph 3, or else this Agreement is deemed void.
  - 1.7. *Grant of Easement* – The instrument conveying an easement over and across the City Parcel, which shall be substantially similar to the attached **Exhibit C** with such revisions and exhibits as are acceptable to Diocese and City in their reasonable discretion. The Grant of Easement shall grant City the right to convey to, and store in, the Existing DRA, surface water and stormwater from SW 42nd Street up to the maximum capacity which City may utilize as set forth on **Exhibit E** (“**City Maximum Capacity**”) (the remainder shall be available to the Diocese for its current and future utilization), and shall contain provisions concerning maintenance of the Existing DRA by Diocese at its sole cost and expense and as set forth in this Agreement.
  - 1.8. *Inspection Period* – A period of time beginning on the Effective Date and ending thirty (30) days following the Effective Date.
  - 1.9. *Permit* – Environmental Resource Permit # 4-083-19707-3 originally issued to Marion County, Florida by the Water Management District authorizing construction of a surface water management system consisting of a 0.3-mile long 4-lane roadway, stormwater sewer systems, and one dry detention system known as S.E. – S.W. 31st Street Phase 2.
  - 1.10. *Title Insurance Company* – Fidelity National Title Insurance Company.
  - 1.11. *Title Defect* – A failure of title to the City Parcel to meet the standards set forth in paragraph 4.1 of this Agreement, as set forth in the Commitment or endorsements thereto, or encroachments as set forth in a Survey.
  - 1.12. *Trinity Catholic High School Property* – The real property described in the attached **Exhibit B**.
  - 1.13. *Water Management District* – Saint Johns River Water Management District, its successors or assigns.
2. **Conveyance and Grant of Easement.** Subject to the terms of this Agreement:
- 2.1. City shall execute and deliver a Special Warranty Deed conveying the City Parcel to Diocese; and
  - 2.2. Diocese shall execute and deliver to City a Grant of Easement as a non-exclusive, perpetual easement for the operation and maintenance of water and stormwater drainage systems over and across the City Parcel, substantially similar to the attached **Exhibit C** (“Easement Agreement”). Notwithstanding the foregoing or anything contained in this Agreement to the contrary, the form and content of the exhibits to the Easement Agreement shall be mutually agreed upon by City and Diocese, prior to execution of the Easement Agreement, failing which, either party may terminate this Agreement.



3. **TIME FOR ACCEPTANCE AND CONTINGENCIES.** THIS AGREEMENT IS CONTINGENT AND NOT BINDING UPON DIOCESE UNTIL RATIFIED AND ACCEPTED BY OCALA CITY COUNCIL, SIGNED BY ITS PRESIDENT, AND ATTESTED BY THE CITY CLERK, WITHIN 60 DAYS OF EXECUTION OF THIS AGREEMENT BY DIOCESE. IF NOT SO RATIFIED AND ACCEPTED WITHIN SUCH TIME PERIOD, THIS AGREEMENT SHALL BE DEEMED REJECTED BY CITY AND OF NO FURTHER EFFECT. CITY ACKNOWLEDGES AND AGREES THAT THIS PROVISION CANNOT BE WAIVED BY DIOCESE OR ANY AGENT OF DIOCESE.

4. **Representations of City; AS IS.**

- 4.1. City shall convey marketable title subject only to liens, encumbrances, exceptions, or qualifications specified in this Agreement. Marketable title shall be determined according to applicable Title Standards adopted by the Florida Bar. If title is found defective in the sole discretion of the Diocese, then Diocese shall, prior to Closing, notify City in writing specifying the defects. If so notified, City shall have one hundred and twenty (120) days (or such longer period as provided by Diocese) from receipt of notice within which to remove the defects failing which Diocese shall have the option of either accepting the title as it then is or canceling this Agreement. City shall, if title is found unmarketable by Diocese, use diligent efforts to correct defects in the title within the time provided therefore, including the bringing of necessary suits. If City is unable to timely correct the defects, Diocese shall either waive the defects or cancel this Agreement.
- 4.2. From the date of execution of this Agreement through the Closing, City shall exercise diligent care in protecting the City Parcel against waste or destruction of any kind, and shall not do or permit anything to be done to permit or cause any liens, encumbrances, liabilities, debts, or obligations on the City Parcel except as exist as of the date of City's execution of this Agreement.
- 4.3. There are no facts known to City materially affecting the value of the City Parcel which are not readily observable by Diocese or which have not been disclosed to Diocese.
- 4.4. Except as otherwise provided in this Agreement, City is not making and specifically disclaims any warranties or representations of any kind or character, express or implied, with respect to the City Parcel, including, but not limited to, warranties or representations as to matters of title (other than City's warranty of title set forth in the Special Warranty Deed to be delivered at Closing), zoning, tax consequences, physical or environmental conditions, availability of access, ingress or egress, operating history or projections, valuation, governmental approvals, governmental regulations, or any other matter or thing relating to or affecting the City Parcel including, without limitation: (i) the value, condition, merchantability, marketability, profitability, suitability or fitness for a particular use or purpose of the City Parcel, (ii) the manner or quality of the construction or materials incorporated into any part of the City Parcel, and (iii) the manner, quality, state of repair, or lack of repair of the City Parcel. Diocese agrees that with respect to the City Parcel, Diocese has not relied upon and will not rely upon, either directly or indirectly, any representation or warranty of City or any agent of City, except the representations and warranties contained in the Closing documents. Diocese represents that it is a knowledgeable purchaser of real estate and that it is relying solely on its own expertise and that of Diocese's consultants, and that Diocese will conduct such inspections and

investigations of the City Parcel, including, but not limited to, the physical and environmental conditions thereof, and shall rely upon same, and, upon Closing, shall assume the risk that adverse matters, including, but not limited to, adverse physical and environmental conditions, which may not have been revealed by Diocese's inspections and investigations. DIOCESE ACKNOWLEDGES AND AGREES THAT UPON CLOSING, CITY SHALL SELL AND CONVEY TO DIOCESE, AND DIOCESE SHALL ACCEPT THE CITY PARCEL "AS IS, WHERE IS," WITH ALL FAULTS, AND THERE ARE NO ORAL AGREEMENTS, WARRANTIES, OR REPRESENTATIONS (EXCEPT AS SPECIFICALLY PROVIDED HEREIN OR IN THE DEED TO BE DELIVERED AT CLOSING), COLLATERAL TO OR AFFECTING THE CITY PARCEL BY CITY, ANY AGENT OF CITY OR ANY THIRD PARTY ACTING FOR OR ON BEHALF OF CITY. The terms and conditions of this paragraph shall expressly survive the Closing and not merge into the Special Warranty Deed to be executed and delivered at Closing. City is not liable or bound in any manner by any verbal or written statements, representations, or information pertaining to the City Parcel furnished by any real estate broker, agent, employee, servant, or other person, unless the same are specifically set forth or referred to in this Agreement.

4.5. Hazardous Substances.

- 4.5.1. It is the intent of the parties that City shall bear the liability arising from any releases or discharges of Hazardous Substances which were caused by City on the City Parcel prior to Closing ("Existing Substances"), and that Diocese shall bear the liability arising from releases or discharges of Hazardous Substances (other than the Existing Substances) which occur on the City Parcel on or after the Closing Date, except as otherwise provided herein.
- 4.5.2. In the event that there shall be a release of Hazardous Substances resulting from City's negligence or intentional acts, after the Closing and which impacts the City Parcel, then City shall bear the liability arising from any such releases or discharges of Hazardous Substances.
- 4.5.3. As used herein, "Hazardous Substances" shall mean a hazardous or toxic substance or a substance which requires removal or remedial action with respect to such hazardous or toxic substance, specifically including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 United States Code. Section 9601, et seq. and Part IV of the Florida Air and Water Pollution Control Act, Chapter 403, Florida Statutes.
- 4.5.4. This provision is a material inducement for City entering into this Agreement and it shall survive the Closing.

5. **Inspection Period and Survey.**

- 5.1. Existing Documentation. Within five (5) days of the Effective Date of this Agreement City will provide to Diocese:
  - 5.1.1. A copy of any prior survey of the City Parcel in the possession of, or available to, City; and
  - 5.1.2. Copies of all prior title insurance policies regarding the City Parcel in City's possession, if any.
- 5.2. Diocese's Inspection of the City Parcel.



- 5.2.1. During the Inspection Period, Diocese shall have the right to enter upon the City Parcel to make all inspections of the condition of the City Parcel which it may deem necessary, including, but not limited to, soil borings, percolation tests, engineering, environmental and topographical studies, inspections of zoning and the availability of utilities, all of which inspections shall be undertaken at Diocese's sole cost and expense. Before entering the City Parcel, Diocese or any of Diocese's agents so entering shall provide City with proof of appropriate liability insurance covering any and all losses, costs, claims, damages, liabilities, and expenses which might arise from the exercise by Diocese, or any of its agents, of the right of entry.
- 5.2.2. Neither Diocese nor Diocese's agents shall conduct any inspection so as to damage the City Parcel, except damage reasonably resulting from soil borings, but if any such damage occurs, and the Closing is not consummated, then Diocese shall restore the City Parcel to its pre-inspection condition no later than sixty (60) days after the damage occurs. Diocese shall, in a timely manner, pay in full the cost of all inspections, investigations, and inquiries of any kind, so that no person or entity hired by Diocese shall have the right to file any lien against the City Parcel.
- 5.2.3. Diocese acknowledges that City currently uses the Existing DRA located on the City Parcel. During its inspections, Diocese shall not interfere with such operation or damage the Existing DRA or any infrastructure.
- 5.3. Indemnification. Diocese hereby agrees to indemnify City and hold City harmless against all claims, demands and liability, including, but not limited to, attorneys' fees, for nonpayment for services rendered to Diocese, for construction liens, or for damage to persons or property arising out of the presence of Diocese's agents, employees, surveyors, engineers, contractors, or other third parties under the control of Diocese, on the City Parcel. Notwithstanding anything to the contrary set forth in this Agreement, the indemnification and agreement to hold harmless set forth in this paragraph shall survive the Closing or the earlier termination of this Agreement (for whatever reason).
- 5.4. Diocese's Right to Terminate During the Inspection Period.
- 5.4.1. In the event that Diocese's inspection of the Property is unsatisfactory (in the sole and unfettered discretion of the Diocese) or information becomes known to Diocese affecting its willingness to proceed with the purchase and sale contemplated herein for any reason whatsoever, Diocese may deliver to City, prior to 5:00 p.m. Eastern Time in effect on the final business day of the Inspection Period, written notice of its election to terminate this Agreement (the "Termination Notice"). Upon City's timely receipt of (a) the Termination Notice and (b) the documents required by paragraph 5.4.3 below, thereafter neither Diocese nor City shall have any further rights or obligations hereunder except as otherwise expressly provided herein as surviving termination.
- 5.4.2. If City does not receive the Termination Notice from Diocese by the end of the Inspection Period, Diocese's right to terminate as aforesaid shall be deemed waived and Diocese shall be deemed to have accepted the City Parcel "as is." City makes no warranties, express, implied, or otherwise, with respect to the City Parcel, except as may be otherwise specifically set forth in this Agreement.



5.4.3. If Diocese terminates this Agreement pursuant to this section, copies of all documents relating to the inspections, investigations, and inquiries, and of all documents provided by City to Diocese pursuant to paragraph 5.1, shall forthwith be provided to City along with the Termination Notice, and shall become City's property. Diocese shall not disclose the results of any inspections, investigations, and inquiries to any persons other than the (i) City, (ii) Diocese's advisors, lenders, affiliates, legal counsel, accountants, consultants, or (iii) for any disclosure required by administrative or legal proceedings.

5.5. Survey.

5.5.1. Diocese may, within Thirty (30) days of the expiration of the Inspection Period obtain, at Diocese's expense, a survey ("Survey") of the City Parcel. Diocese shall be responsible for the expense of the Survey. If the Survey reveals any encroachments or defects in title, the City shall have an opportunity to cure as provided in paragraph 4.1. The Survey shall be certified to Diocese, City, Title Insurance Agent (if any), and the Title Insurance Company (if any). If the Diocese obtains a Survey and the Closing does not occur, then Diocese shall provide to City three (3) sealed and certified copies of the Survey. The legal description of the City Parcel as determined by the Survey shall constitute the legal description of the City Parcel.

5.5.2. If the Survey reveals any of the following matters, they shall be treated as defects rendering title unmarketable pursuant to paragraph 4.1 ("Title Defects"), except to the extent that any of them are Permitted Exceptions, as listed on **Exhibit D**:

- a. Easements or rights-of-way on the City Parcel, including any evidence of unrecorded easements or rights-of-way on the City Parcel;
- b. Violations of any restrictive covenants; violations of any building, zoning, land use, or other laws, ordinances, rules, or regulations imposed by governmental authority;
- c. Encroachments of improvements located on the City Parcel onto setback lines, easements, rights-of-way, or the lands of others; encroachments of improvements of others (i.e., adjoining landowners) onto the City Parcel; or
- d. Overlaps, gaps, gores, and hiatuses; lack of access.

5.5.3. Diocese shall notify City of any Title Defects revealed by the Survey within twenty (20) days after the earlier of: (a) the date that Diocese receives the Survey; or (b) the deadline for Diocese to obtain the Survey. If Diocese fails to timely notify City of any Title Defects revealed by the Survey, Diocese shall be deemed to have waived all objections to such Title Defects.

6. **Prorations.** Taxes, assessments, rent, interest, insurance, and other expenses and revenue of the City Parcel shall be prorated through the date of the Closing. Diocese will pay prorated taxes, if any. If Closing occurs at a date or under circumstances where the current year's millage is not yet fixed, or the current year's assessments are otherwise unavailable, taxes will be prorated based on prior year's tax. A tax proration based upon an estimate shall, at request of either party, be readjusted upon receipt of a tax bill if a statement to that effect is signed at Closing.

**7. Closing.**

- 7.1. Closing Date. The Closing of the transaction contemplated by this Agreement shall occur upon the earlier of: (a) three (3) months after the Effective Date or such earlier date as selected by the parties in its sole discretion; or (b) ten (10) days after all Title Defects are cured or waived under paragraph 4.1 and paragraph 5.5.
- 7.2. Place of Closing. The Closing shall occur in Marion City, Florida at the office of counsel for City or any other location designated by City. Notwithstanding the foregoing, City and Diocese will cooperate with each other in Closing this transaction through the mail or overnight courier services if requested by City or Diocese.
- 7.3. Diocese's Obligations at Closing. At the Closing, Diocese shall:
  - 7.3.1. Execute and deliver the Grant of Easement to City pursuant to the terms and conditions of this Agreement.
  - 7.3.2. Pay any applicable real estate transfer tax, including documentary stamps due with respect to the Grant of Easement.
  - 7.3.3. Pay all costs to record the Grant of Easement.
  - 7.3.4. Such other documents as are reasonably necessary to consummate this Agreement.
- 7.4. City's Obligations at Closing. At the Closing, City shall:
  - 7.4.1. Execute and deliver the Special Warranty Deed conveying the City Parcel to Diocese pursuant to the terms and conditions of this Agreement.
  - 7.4.2. Pay any applicable real estate transfer tax, including documentary stamps due with respect to the Special Warranty Deed.
  - 7.4.3. Pay all costs to record the Special Warranty Deed.
  - 7.4.4. Execute and deliver a mechanic's lien, possession and gap affidavit, and any other such affidavits or documents as may be required by the Title Insurance Company.
  - 7.4.5. Such other documents as are reasonably necessary to consummate this Agreement.

**8. Maintenance of Existing DRA; Notice to District.**

- 8.1. After the Closing, Diocese shall, at its sole cost and expense, maintain the Existing DRA as required by the Permit, applicable requirements of the Water Management District, and the Easement Agreement.
- 8.2. After the Closing, City shall, at its sole cost and expense, maintain the following: (a) any City conveyance facilities located off of the City Parcel (e.g. in public right of way); or (b) the conveyance facilities between SW 31st Street and the City Parcel, as required by the Permit and applicable requirements of the Water Management District.

- 8.3. City shall notify the Water Management District in writing within Thirty (30) days of Closing, as required by the Permit and applicable requirements of the Water Management District.
- 8.4. This section shall survive Closing but shall be void if this Agreement is terminated (for whatever reason).

9. **Notice.**

- 9.1. All notices, requests, consents and other communications (each a "Communication") required or permitted under this Agreement shall be in writing (including emailed communication) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, emailed or mailed by Registered or Certified Mail (postage pre-paid), Return Receipt Requested, addressed as set forth in the party's signature line or to such other addresses as any party may designate by Communication complying with the terms of this paragraph 9.
- 9.1.1. If to City, as set forth in the reference to such party in the introductory paragraph of this Agreement.
- a. With a copy to: Robert W. Batsel, Jr., Gooding & Batsel, PLLC, 1531 S.E. 36th Avenue, Ocala, FL 34471; Email: [rbatsel@lawyersocala.com](mailto:rbatsel@lawyersocala.com).
- 9.1.2. If to Diocese, to: 50 East Robinson Street, Orlando, FL 32801 Attention: Senior Director - Ecclesiastical Properties Services; Email: [sfergerson@orlandodiocese.org](mailto:sfergerson@orlandodiocese.org).
- a. With a copy to: Baker Hostetler LLP, Attn: Alberto S. Bustamante, III, Esq., 200 S. Orange Ave., Suite 2300, Orlando, FL 32801; Email: [abustamante@bakerlaw.com](mailto:abustamante@bakerlaw.com).
- 9.2. Each such Communication shall be deemed delivered:
- 9.2.1. On the date of delivery if by personal delivery;
- 9.2.2. On the date of email transmission if by email (subject to Section 9.5); and
- 9.2.3. If the Communication is mailed, on the earlier of: (a) the date upon which the Return Receipt is signed; or (b) the date upon which delivery is refused.
- 9.2.4. Notwithstanding the foregoing, service by personal delivery delivered, or by email sent, after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday or legal holiday.
- 9.3. If a Communication is delivered by multiple means, the Communication shall be deemed delivered upon the earliest date determined in accordance with the preceding subsection.
- 9.4. If the above provisions require Communication to be delivered to more than one person (including a copy), the Communication shall be deemed delivered to all such persons on the earliest date it is delivered to any of such persons.



- 9.5. Concerning Communications sent by email:
- 9.5.1. The Communication shall not be deemed to have been delivered if the sender receives a message from the sender's or the recipient's internet service provider or otherwise that the email was not delivered or received but, if the email was sent by the sender on the last day of a deadline or other time period established by this Agreement, the time for the sender to re-send the Communication by a different authorized means shall be extended one (1) business day;
  - 9.5.2. If the sender receives an automatic reply message indicating that the recipient is not present to receive the email (commonly referred to as an "out of the office message"), the email shall not be deemed delivered until the recipient returns but, if the email was sent by the sender on the last day of a deadline or other time period established by this Agreement, the time for the sender to re-send the Communication by a different authorized means shall be extended one (1) business day;
  - 9.5.3. Any email that the recipient replies to, or forwards to any person, shall be deemed delivered to the recipient.
  - 9.5.4. The sender must print the email to establish that it was sent (though it need not do so at the time the email was sent); and
  - 9.5.5. The sender shall maintain the digital copy of the email in its email system for a period of no less than one year after it was sent.
10. **Agreement Not Recordable.** Neither this Agreement nor any notice of it shall be recorded in the Public Records.
11. **Assignment.** Neither party may assign this Agreement, in whole or in part, without the express written consent of the other party, which may be withheld or conditioned in the other party's sole discretion.
12. **Attorney's Fees.** If any legal action or other proceeding (including, without limitation, appeals or bankruptcy proceedings) whether at law or in equity, which: arises out of, concerns, or relates to this Agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby; or is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses taxable as court costs, incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.
13. **Mutuality of Negotiation.** City and Diocese acknowledge that this Agreement is a result of negotiations between City and Diocese and the Agreement shall not be construed in favor of, or against, either party as a result of that party having been more involved in the drafting of the Agreement.

14. **Time.**

- 14.1. Time is of the essence of all of the provisions and terms of this Agreement, including, without limitation, the time period for Diocese to deliver an objection to a Title Defect, and the Closing Date.
  - 14.2. If a time period is five (5) days or less, intervening Saturdays, Sundays or legal holidays will be excluded from the calculation.
  - 14.3. When any time period specified herein falls or ends upon a Saturday, Sunday or legal holiday, the time period shall automatically extend to 5:00 p.m. on the next ensuing business day.
  - 14.4. For purposes of this Agreement, "legal holiday" means the day set aside by Section 110.117, Florida Statutes, for observing New Year's Day, Martin Luther King, Jr.'s Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the Friday after Thanksgiving Day, or Christmas Day, and any day upon which the Clerk of the Court of Marion City, Florida, is closed for ordinary business.
15. **Further Action.** Each of the parties hereto shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of the obligations hereunder and to carry out the intent of the parties hereto.
16. **JURY WAIVER.** EACH PARTY HEREBY COVENANTS AND AGREES THAT IN ANY LITIGATION, SUIT, ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT, AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY THE OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.
17. **Entire Agreement.** This Agreement shall constitute the entire agreement of the parties hereto; all prior agreements between the parties, whether written or oral, are merged herein and shall be of no force or effect. This Agreement cannot be changed, modified, or released orally, but only by an agreement in writing signed by the parties against whom enforcement of said change, modification or discharge is sought.
18. **Modification and Amendment to the Permit.** City and Diocese acknowledge that the Permit will need to be modified and amended to separate the City Parcel (and the pond located thereon) from the Permit and transfer/assign the rights relating to the City Parcel to Diocese. City agrees to cooperate in good faith and timely execute transfer documents and/or permit modification documents, as may be required by the Water Management District. City agrees to timely verify its

approval of the transfer the obligation (subject to the drainage easement agreement), and/or join the modification permit as a dual applicant. This Section shall specifically survive the Closing and shall be a continuing obligation of City until the Permit has been appropriately modified and/or amended as required by the Water Management District.



**IN WITNESS WHEREOF**, each of the parties hereto set their hand and seal on this Agreement as of the day and year set forth immediately beneath their respective signatures.

**CITY**

This contract is ratified and accepted  
by the City of Ocala City Council  
on \_\_\_\_\_

Attest:

\_\_\_\_\_  
Angel B. Jacobs, City Clerk

Approved as to form and legality:

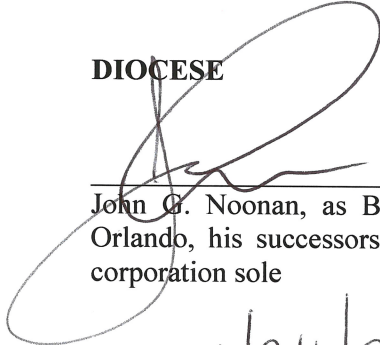
\_\_\_\_\_  
Robert W. Batsel, Jr., City Attorney

**City of Ocala, a Florida municipal corporation**

\_\_\_\_\_  
Ire Bethea, City Council President

Date: \_\_\_\_\_

**DIOCESE**

  
\_\_\_\_\_  
John G. Noonan, as Bishop of the Diocese of  
Orlando, his successors in office and assigns, a  
corporation sole

Date: 1/24/2022

**EXHIBIT A**  
**CITY PARCEL – LEGAL DESCRIPTION**

Commence at the Northwest corner of Section 36, Township 15 South, Range 21 East, Marion County, Florida; thence proceed S. 00 degrees 44'28" W. along the West boundary of said Section 36 a distance of 1360.87 feet to a point on the Westerly extension of the South right of way of SW 42<sup>nd</sup> Street (formerly Lopez Road) also known as County Road No. 475-C; thence S. 89 degrees 45'01" E. along said Westerly extension of the South right of way and along said South right of way a distance of 1398.90 feet to the East boundary of the property described in O.R. Book 2532, Page 1965 of the Public Records of Marion County, Florida; thence departing said right of way proceed S. 00 degrees 41'23" W. along said East boundary a distance of 552.10 feet to the Point of Beginning of the following described:

Thence continue S. 00 degrees 41'23" W. along said East boundary a distance of 730.59 feet to a point on the North boundary of Lot 13, WALDO PLACE, as per plat thereof recorded in Plat Book E, Page 31, Public Records of Marion County, Florida; thence departing said East boundary, proceed S. 89 degrees 44'16" E. along said North boundary a distance of 123.00 feet; thence departing said North boundary, proceed N.00 degrees 41'23" E. a distance of 517.84 feet; thence N. 09 degrees 30'04" W. a distance of 215.23 feet; thence N. 89 degrees 18'37" W. a distance of 84.92 feet to the Point of Beginning.

**EXHIBIT B**  
**TRINITY CATHOLIC HIGH SCHOOL PROPERTY – LEGAL DESCRIPTION**

**PIGEON-ARDURRA, LLC**

FEBRUARY 8, 2021

**DIOCESE OF ORLANDO  
TRINITY CATHOLIC HIGH SCHOOL  
(MARION COUNTY PARCEL 23942-000-00)**

**DESCRIPTION**

THE "PARENT TRACT" *[AS DESCRIBED IN THE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2532, AT PAGE 1965, OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA]*:

A PORTION OF LOTS E & F OF THE SUBDIVISION OF LOTS 8, 9, AND 12, OF THE SUBDIVISION OF WALDO PLACE IN TOWNSHIP 15 SOUTH, RANGE 21 EAST, ACCORDING TO PLAT THEREOF IN CHANCERY ORDERS BOOK K, PAGE 605, PUBLIC RECORDS OF MARION COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF LOT 8, WALDO PLACE, AS RECORDED IN PLAT BOOK E, PAGE 31, PUBLIC RECORDS OF MARION COUNTY, FLORIDA, THENCE S.34°56'52" E. ALONG THE EASTERLY BOUNDARY OF SAID LOT 8, A DISTANCE OF 25.00 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF A 50.00 FOOT WIDE COUNTY ROAD, SAID POINT BEING PERPENDICULAR TO THE CENTERLINE OF SAID ROAD; THENCE S. 54°56'39" W. ALONG SAID RIGHT OF WAY LINE 1298.20 FEET; THENCE S. 35°01'28"E., 1312.37 FEET TO A POINT, SAID POINT BEING N. 35°03'21" W., 1447.90 FEET FROM THE CENTERLINE OF A 30 FOOT ABROGATED ROAD ACCORDING TO THE PLAT OF DUNN, BROWN AND TAYLOR SUBDIVISION, AS RECORDED IN PLAT BOOK E, PAGE 36, PUBLIC RECORDS OF MARION COUNTY, FLORIDA; THENCE S. 55°02'43" W., 1613.92 FEET TO A CONCRETE MONUMENT; THENCE N. 89°42'27"W. ALONG THE NORTH BOUNDARY OF LOT 13 OF SAID WALD PLACE, 1024.58 FEET TO A CONCRETE MONUMENT AT THE POINT OF BEGINNING; THENCE CONTINUE N. 89°42'27" W. ALONG SAID NORTH BOUNDARY 1363.04 FEET TO A CONCRETE MONUMENT AT AN INTERSECTION WITH THE EAST RIGHT OF WAY LINE OF SW 27TH AVENUE (COUNTY ROAD C-475-A) (66 FEET WIDE); THENCE N. 00°38'43" E. ALONG SAID EAST RIGHT OF WAY LINE 813.23 FEET TO AN IRON PIN WITH CAP STAMPED "MOORHEAD ENG. CO." ON SAID EAST RIGHT OF WAY LINE OF SW 27TH AVENUE; THENCE N. 03°30'20" E. ALONG SAID EAST RIGHT OF WAY LINE 241.63 FEET TO A CONCRETE MONUMENT ON SAID EAST RIGHT OF WAY LINE; THENCE N. 00°38'43" E. ALONG SAID EAST RIGHT OF WAY LINE 186.53 FEET TO A CONCRETE MONUMENT ON SAID EAST RIGHT OF WAY LINE; THENCE N. 45°23'45" E. ALONG SAID EAST RIGHT OF WAY LINE 56.81 FEET TO A CONCRETE MONUMENT AT AN INTERSECTION WITH THE SOUTH RIGHT OF WAY LINE OF SW 42ND STREET (COUNTY ROAD C-475C) (80 FEET WIDE); THENCE S. 89°45'56" E. ALONG SAID SOUTH RIGHT OF WAY LINE 1311.56 FEET TO A

925 S.E. 17<sup>th</sup> Street, Suite A  
Ocala, FL 34471  
Ph: 352-861.7799  
Fax: 352-861.7709

T:\166 TCHS\Land Acquisition from MO\Docs\_PSM\Description\_TCHS (Parcel 23942-000-00).doc



CONCRETE MONUMENT; THENCE DEPARTING FROM SAID SOUTH RIGHT OF WAY LINE S. 00°40'15" W., 1282.36 FEET TO THE POINT OF BEGINNING. CONTAINING 40.0 ACRES, MORE OR LESS.

LESS AND EXCEPT:

RIGHT OF WAY TAKING PARCEL "A" (ALONG SW 42ND STREET, A.K.A. LOPEZ ROAD) *[AS DESCRIBED IN SCHEDULE A OF THE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2971, AT PAGE 112, OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA]*:

COMMENCE AT THE NW CORNER OF SECTION 36, TOWNSHIP 15 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA; THENCE PROCEED S.00DEGREES 44'28"W. ALONG THE WEST BOUNDARY OF SAID SECTION 36 A DISTANCE OF 1360.87 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE SOUTH RIGHT OF WAY OF SW 42ND STREET (FORMERLY LOPEZ ROAD) THENCE S.89DEGREES45'01"E. ALONG SAID WESTERLY EXTENSION OF THE SOUTH RIGHT OF WAY A DISTANCE OF 87.34 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED. SAID POINT OF BEGINNING BEING AT THE INTERSECTION OF THE EAST RIGHT OF WAY OF SW 27TH AVENUE AND SAID SOUTH RIGHT OF WAY; THENCE S.89DEGREES45'01"E. ALONG SAID SOUTH RIGHT OF WAY A DISTANCE OF 1311.56 FEET TO THE EAST BOUNDARY OF THE PARENT TRACT AS DESCRIBED IN O.R. BOOK 2532, PAGE 1965 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA; THENCE DEPARTING SAID SOUTH RIGHT OF WAY PROCEED S.00DEGREES41'23"W. ALONG SAID EAST BOUNDARY A DISTANCE OF 40.03 FEET; THENCE DEPARTING SAID EAST BOUNDARY PROCEED N.89DEGREES44'56"W. A DISTANCE OF 1311.53 FEET; THENCE S.45DEGREES26'03"W. A DISTANCE OF 56.76 FEET TO A POINT ON THE EAST RIGHT OF WAY OF SW 27TH AVENUE THENCE N.00DEGREES39'03"E. ALONG SAID EAST RIGHT OF WAY A DISTANCE OF 40.02 FEET; THENCE CONTINUE ALONG SAID EAST RIGHT OF WAY N.45DEGREES26'32"E. A DISTANCE OF 56.77 FEET TO THE POINT OF BEGINNING LYING COMPLETELY WITHIN THE PARENT TRACT.

AND LESS AND EXCEPT:

RIGHT OF WAY TAKING PARCEL "B" (ALONG SW 27 AVENUE A/K/A COUNTY ROAD C-475A) *[AS DESCRIBED IN SCHEDULE A OF THE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2971, AT PAGE 112, OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA]*:

COMMENCE AT THE NW CORNER OF SECTION 36, TOWNSHIP 15 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA; THENCE PROCEED S.00DEGREES 44'28"W. ALONG THE WEST BOUNDARY OF SAID SECTION 36 A DISTANCE OF 1360.87 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE SOUTH RIGHT OF WAY OF SW 42ND STREET (FORMERLY LOPEZ ROAD) THENCE S.89DEGREES45'01"E. ALONG SAID WESTERLY EXTENSION OF THE SOUTH RIGHT OF WAY A DISTANCE OF 47.34 FEET TO A POINT ON THE EAST RIGHT OF WAY OF SW 27TH AVENUE (COUNTY ROAD C-475A); THENCE S.00DEGREES39'09"W. ALONG SAID EAST RIGHT OF WAY A

DISTANCE OF 226.53 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED; THENCE DEPARTING SAID EAST RIGHT OF WAY CONTINUE S.00DEGREES39'09"W. A DISTANCE OF 1054.54 FEET TO A POINT ON THE SOUTH BOUNDARY OF THE PARENT TRACT AS DESCRIBED IN O.R. BOOK 2532, PAGE 1965 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA; THENCE N.89DEGREES40'54"W. A DISTANCE OF 12.32 FEET TO A POINT ON THE AFORESAID EAST RIGHT OF WAY OF SW 27TH AVENUE (COUNTY ROAD C-475A); THENCE N.00DEGREES40'16"E. ALONG SAID RIGHT OF WAY A DISTANCE OF 813.28 FEET; THENCE N.03DEGREES30'46"E. ALONG AFORESAID EAST RIGHT OF WAY A DISTANCE OF 241.63 FEET TO THE POINT OF BEGINNING. LYING COMPLETELY WITHIN THE PARENT TRACT.

AND:

THE "EXPANSION TRACT" [AS DESCRIBED IN EXHIBIT A OF THE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 4806, AT PAGE 957, OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA];

COMMENCE AT THE SOUTHWEST CORNER OF LOT 12 "WALDO PLACE" AS PER PLAT THEREOF RECORDED IN PLAT BOOK E, PAGE 31 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA; THENCE ALONG THE SOUTH BOUNDARY OF LOT 12, NORTH 89 DEGREES 56 MINUTES 33 SECONDS EAST, A DISTANCE OF 1486.15 FEET TO THE POINT OF BEGINNING. THENCE DEPARTING SAID SOUTH BOUNDARY, NORTH 00 DEGREES 19 MINUTES 53 SECONDS EAST A DISTANCE OF 517.55 FEET; THENCE NORTH 09 DEGREES 51 MINUTES 35 SECONDS WEST, A DISTANCE OF 215.23 FEET; THENCE NORTH 89 DEGREES 40 MINUTES 08 SECONDS WEST, A DISTANCE OF 84.92 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 52 SECONDS EAST, A DISTANCE OF 522.10 FEET TO THE NEW SOUTH RIGHT OF WAY LINE OF SOUTHWEST 42ND STREET (ALSO KNOWN AS COUNTY ROAD 475C), HAVING A VARIABLE RIGHT OF WAY WIDTH; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE, NORTH 89 DEGREES 54 MINUTES 45 SECONDS EAST, A DISTANCE OF 153.15 FEET TO THE POINT OF CURVATURE OF A RIGHT OF WAY CURVE CONCAVE NORTHERLY, HAVING A CENTRAL ANGLE OF 08 DEGREES 02 MINUTES 25 SECONDS, A RADIUS OF 1450.00 FEET, AND A CHORD OF 203.31 FEET BEARING NORTH 85 DEGREES 47 MINUTES 48 SECONDS EAST; THENCE ALONG THE ARC OF SAID RIGHT OF WAY CURVE, A DISTANCE OF 203.47 FEET; THENCE DEPARTING SAID SOUTH RIGHT OF WAY, SOUTH 09 DEGREES 50 MINUTES 39 SECONDS EAST, A DISTANCE OF 1285.62 FEET TO A POINT ON THE AFORESAID SOUTH BOUNDARY OF LOT 12, "WALDO PLACE"; THENCE ALONG SAID SOUTH BOUNDARY, SOUTH 89 DEGREES 55 MINUTES 21 SECONDS WEST, A DISTANCE OF 459.95 FEET TO THE POINT OF BEGINNING.

*THIS DESCRIPTION HAS BEEN COMPILED FROM THE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2532, AT PAGE 1965; THE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2971, AT PAGE 112; THE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 4806, AT PAGE 957, ALL OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA, AND COMPILED AS CONFIGURED ABOVE WHICH IS INTENDED TO DESCRIBE THE LANDS CURRENTLY INCLUDED IN THE CAMPUS OF TRINITY CATHOLIC HIGH SCHOOL, MORE PARTICULARLY IDENTIFIED AS MARION COUNTY PARCEL 23942-000-00, THE REMAINDER TITLE TO WHICH APPEARS CURRENTLY VESTED INTO THE DIOCESE OF ORLANDO, A CORPORATION SOLE, BY VIRTUE OF THE WARRANTY DEEDS REFERENCED HEREIN, NO SKETCH WAS PREPARED IN CONJUNCTION WITH THE COMPILATION OF THIS DESCRIPTION.*

**EXHIBIT C**  
**GRANT OF EASEMENT**

PREPARED BY AND RETURN TO:

Alberto S. Bustamante, III, Esq.  
Baker & Hostetler LLP  
200 South Orange Avenue  
Suite 2300  
Orlando, FL 32801

**JOINT RETENTION EASEMENT AGREEMENT**

**THIS JOINT RETENTION EASEMENT AGREEMENT** (this “Easement”) is made and entered as of \_\_\_\_\_, 2022 (“Effective Date”), by and between **City of Ocala**, a Florida municipal corporation (“City”), and **John G. Noonan, as Bishop of the Diocese of Orlando, his successors in office, a corporation sole** (“Diocese”).

**WITNESSETH:**

**WHEREAS**, Diocese is the owner of certain property located in Marion County, Florida commonly known as Trinity Catholic High School, as more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference (the “**Diocese Property**”);

**WHEREAS**, City is the owner of certain property located adjacent to the Diocese Property in Marion County, Florida, as more particularly described on **Exhibit B** attached hereto and incorporated herein by this reference (the “**City Property**”);

**WHEREAS**, Diocese has constructed or will construct certain improvements on the Diocese Property consisting of a Catholic High School Campus, buildings, playfields, and related improvements, together with certain private access roads/driveways;

**WHEREAS**, City has constructed or will construct certain improvements on the City Property consisting of a drainage retention area utilized for stormwater retention (“**DRA**”), together with swales, inlets, pipes, and certain public access roads / driveways;

**WHEREAS**, a stormwater retention/detention pond which serves both the City Property and the Diocese Property (the “**Stormwater Pond**”) is located on the Diocese Property, as more specifically delineated and in the location as shown on **Exhibit C** attached hereto and incorporated herein (the “**Stormwater Pond Area**”);

**WHEREAS**, Diocese has agreed to provide to City the right to utilize the Stormwater Pond for the purpose of storing, detaining, and retaining stormwater runoff generated by the City Property; and

**WHEREAS**, the parties further desire to set forth their mutual agreement as to the foregoing easement.

**NOW THEREFORE**, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:



1. **Recitals.** The recitals set forth above are true and correct and hereby incorporated into the terms of this Easement.

2. **Grant of Drainage Easement.**

(a) Diocese hereby grants and conveys to City, for the benefit of the City Property, a non-exclusive drainage easement over, under and upon a portion of the Diocese Property described on **Exhibit D** attached hereto and incorporated herein ("**Diocese Drainage Easement Area**") for the purposes of (i) storing and holding stormwater up to the City Maximum Capacity (as defined hereafter) pursuant to Environmental Resource Permit # 4-083-19707-3; (ii) connecting, installing, maintaining, repairing and replacing related storm water collection facilities from City Property to the Stormwater Pond Area, and (iii) transmitting and collecting stormwater generated by the City Property across, under and upon the Diocese Drainage Easement Area and into the Stormwater Pond (the "**Diocese Drainage Easement**"). After completion of any maintenance, repair, replacement or work, City shall restore the surface of the Diocese Drainage Easement Area, insofar as is practicable, to substantially the same condition just prior to the commencement of the work, save and except such improvements installed and trees removed.

(b) Diocese shall be permitted to relocate any pipes, lines, equipment, or facilities associated with the Stormwater Pond or Diocese Drainage Easement, at Diocese's sole cost expense, provided that any such relocation shall not materially and adversely interfere with City's use of same.

(c) City and Diocese each hereby agree that it will not take any action that is inconsistent with or that would unreasonably interfere with the other party's use of the drainage easement or the Stormwater Pond for the purposes specified herein; provided, however, that Diocese hereby reserves the right and privilege of using the Diocese Drainage Easement Area for any and all purposes not inconsistent with or which would not unreasonably interfere with City's use of the Diocese Drainage Easement Area or the Stormwater Pond. Additionally, City and Diocese each hereby agree that it will not take any action that violates any permit issued by applicable governmental agencies.

(d) Diocese shall be permitted to enlarge, reconfigure, and/or relocate the Stormwater Pond provided that such activity (i) shall not violate or affect any existing permit (unless Diocese is able to modify/amend such permit), (ii) shall at all times preserve the capacity allocated to the City during such relocation and upon such reconfigured stormwater facility, and (iii) shall comply with any additional requirements from applicable governing authorities. In the event that it is necessary for the Stormwater Pond to be enlarged or reconfigured to accommodate the stormwater from the City Property or the Diocese Property, the party causing such need or increased use shall be responsible for all costs associated with the improvements to the Stormwater Pond and the parties shall amend this Easement to reflect the modified location of the Stormwater Easement Area.

3. **Maintenance of the Drainage Easement.** Diocese shall be responsible for constructing and maintaining the improvements located within the Stormwater Pond Area (the "**Drainage Improvements**"), that serve the Diocese Property and the City Property. Additionally, Diocese

shall be responsible for maintaining the Diocese Drainage Easement Area. In the event that any portion of the Drainage Improvements requires maintenance, repair, replacement or removal, such work shall be performed by Diocese in a manner which shall limit, to the extent reasonably and commercially possible, interruptions to the City's use of the Diocese Drainage Easement. Notwithstanding, each party shall be responsible for maintenance and repair of facilities, lines/pipes, and/or structure located upon its respective property located outside the Stormwater Pond Area. Additionally, City shall maintain all of its facilities, lines/pipes, and/or structures to the point of outfall even if within the Stormwater Pond Area. City acknowledges that there will be temporary interruptions to the use of the Diocese Drainage Easement Area as may be reasonably necessary from time to time to perform maintenance.

4. **Stormwater Pond Capacity.** The maximum capacity which City may utilize within the Stormwater Pond shall be as set forth in **Exhibit E** ("**City Maximum Capacity**"), the remainder shall be available to the Diocese for its current and future utilization.

5. **Duration of Easements.** All covenants, rights and obligations hereby granted, created and declared shall exist for the benefit of the City Property and the Diocese Property, respectively, in perpetuity and may not be changed, amended, modified, canceled or terminated other than as expressly provided herein, except by an instrument in writing executed by both parties hereto, and recorded among the public records of Marion County, Florida.

6. **Private Easement.** This Easement is not a public easement but is for the specific and sole use of City for the limited purposes set forth herein.

7. **Incidental Rights.** The easements and rights of use hereby created and conveyed include all incidental rights reasonably necessary for the use and enjoyment of the easements for their intended purposes. All rights not expressly granted hereunder are expressly reserved to the owner of the property encumbered by such easement.

8. **Indemnity.** To the extent permitted by applicable law and consistent with Section 768.28, Florida Statutes, and without waiving sovereign immunity, each party, its successors and assigns, expressly agrees to defend, indemnify, save and hold the other party subject to this Easement harmless from and against any loss, damage, liability, suit, claim, cost or expense incurred by such other party, its officers, directors, employees, agents, representatives, guests or invitees, incurred as a result of the exercise of that party's rights hereunder.

9. **Successors.** The easements, covenants, rights and obligations hereby granted, created and declared shall run with and be appurtenant to the land herein described, and shall run with said lands forever and be binding upon and inure to the benefit of and be enforced by all the parties hereto and their respective successors, unless the same are terminated as provided herein. With or without specific reference thereto, the conveyance of an interest in any portion of the City Property or the Diocese Property shall be subject to the respective burdens and benefits of this Easement to the same extent as if all of the terms of this instrument were set forth in such conveyance in full. Both City and Diocese acknowledge and agree that the lien of any mortgage of either of them, which encumbers the City Property or the Diocese Property, respectively, shall encumber such party's easement interest hereunder only and shall not encumber the fee title to such other party's property.



10. **Attorneys' Fees.** In the event of any dispute concerning the interpretation or enforcement of the terms hereof, the prevailing party in any such dispute shall be entitled to recover from the non-prevailing party all costs and expenses incurred in connection therewith, including but not limited to reasonable attorneys' fees, paralegals' fees and expenses incurred prior to trial, at trial, on appeal and in connection with any administrative or bankruptcy proceedings.

11. **Governing Law.** This Easement and the provisions contained herein shall be construed and interpreted in accordance with and controlled and governed by the laws of the State of Florida.

12. **Entire Agreement.** This Easement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof.

13. **Miscellaneous.** City and Diocese each hereby represents and warrants that it has full right, power, and authority to enter into this Easement and that the person executing this Easement on behalf of City and Diocese, respectively, is duly authorized to do so. This Easement may be executed in one or more counterparts, each of which shall constitute an original and all of which when taken together shall constitute one and the same instrument. Each party has participated fully in the review and drafting of this Easement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Easement.

14. **Notices.** All notices required under this Easement shall be in writing and shall be given by hand delivery, acknowledged electronic transmission, overnight delivery service (e.g. Federal Express/United Parcel Service), or United States mail, first class postage prepaid addressed as follows (or to any such other address or officer as either party may designate in writing):

City: City of Ocala  
1805 NE 30th Avenue Building #700  
Ocala, FL 34470

With a copy to: Gooding & Batsel, PLLC  
Attn: Robert W. Batsel, Jr.  
1531 Southeast 36th Avenue  
Ocala, Florida 34471  
E-mail: [rbatsel@lawyersocala.com](mailto:rbatsel@lawyersocala.com)

Diocese: Diocese of Orlando  
50 E. Robinson Street  
Orlando, FL 32801  
Attention: Scott Ferguson, Ecclesiastical Properties Secretariat  
Email: [sfergerson@orlandodiocese.org](mailto:sfergerson@orlandodiocese.org)



With a copy to: Baker Hostetler  
Attention: Alberto S. Bustamante, III, Esq.  
200 S. Orange Ave.  
Suite 2300  
Orlando, FL 32801  
Email: [abustamante@bakerlaw.com](mailto:abustamante@bakerlaw.com)

*[Signatures to appear on the following page(s)]*

**IN WITNESS WHEREOF**, the parties have executed this Joint Retention Easement Agreement in manner and form sufficient to bind them as of the day and year first written above.

**CITY:**

**City of Ocala, a Florida municipal corporation**

This contract is ratified and accepted  
by the City of Ocala City Council  
on \_\_\_\_\_

\_\_\_\_\_  
Ire Bethea, City Council President

Attest:

Date: \_\_\_\_\_

\_\_\_\_\_  
Angel B. Jacobs, City Clerk

Approved as to form and legality:

\_\_\_\_\_  
Robert W. Batsel, Jr., City Attorney

STATE OF FLORIDA  
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Ire Bethea, as City Council President of City of Ocala, a Florida municipal corporation, on behalf of such municipal corporation.

Personally Known \_\_\_\_\_ or  
Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission Number is: \_\_\_\_\_

**WITNESSES:**

Witness: \_\_\_\_\_

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

Witness: \_\_\_\_\_

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

**DIOCESE:**

\_\_\_\_\_  
JOHN G. NOONAN, AS BISHOP OF THE  
DIOCESE OF ORLANDO, HIS SUCCESSORS  
IN OFFICE AND ASSIGNS, A  
CORPORATION SOLE

Date: \_\_\_\_\_, 2022

STATE OF FLORIDA

COUNTY OF \_\_\_ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2022, by JOHN G. NOONAN, as Bishop of the Diocese of Orlando, a corporation sole, on behalf of said corporation sole.

Personally Known \_\_\_\_\_ or  
Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission Number is: \_\_\_\_\_



**EXHIBITS TO THE JOINT RETENTION EASEMENT AGREEMENT:**

**EXHIBIT A**  
**Diocese Property**

**EXHIBIT B**  
**City Property**

**EXHIBIT C**  
**Stormwater Pond Area**

**EXHIBIT D**  
**Diocese Drainage Easement Area**

***NOTE: this exhibit should include the stormwater pond and the area 5' on either side of conveyance structures (pipes, lines, etc.)***

**EXHIBIT E**  
**City Maximum Capacity in Stormwater Pond**

**EXHIBIT D**  
**PERMITTED EXCEPTIONS**

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this form.
2. Any claim that any portion of the insured land is sovereign lands of the State of Florida, including submerged, filled or artificially exposed lands accreted to such land.
3. Easement from John G. Noonan, as Bishop of the Diocese of Orlando, his successors in office and assigns, a corporation sole, Grantor, to the City of Ocala, a Florida municipal corporation, Grantee, recorded \_\_\_\_\_ in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, Public Records of Marion County, Florida.
4. Drainage Easement by Ocala Stud, a Florida General Partnership and Ocala Stud, Inc., a dissolved Florida corporation, Grantor, and Marion County, a Political Subdivision of the State of Florida, Grantee, recorded August 1, 2002 in Official Records Book 3210, Page 200, Public Records of Marion County, Florida.
5. Drainage Easement by Norbert M. Dorsey, Bishop of the Diocese of Orlando, a corporation sole, Grantor, in favor of Marion County, a political subdivision of the State of Florida, Grantee, recorded November 5, 2002 in Official Records Book 3272, Page 766, Public Records of Marion County, Florida.
6. NOTE: Access to the property described herein is by virtue of the proposed insured, John G. Noonan, as Bishop of the Diocese of Orlando, his successor in office and assigns, as corporation sole, owning the adjacent parcel currently assessed under Marion County Parcel No. 23942-000-00 and which abuts SW 42nd Street and SW 27th Avenue. Access to the property described herein may not be guaranteed in the event that said proposed insured no longer owns parcel currently assessed under Marion County Parcel No. 23942-000-00.

**EXHIBIT E**  
**CITY MAXIMUM CAPACITY**

TO BE CONFIRMED BY CITY AND DIOCESE.