

DATE: 05/08/2009 08:38:29 AM

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RECORDING FEES 69.50

This Instrument Prepared by and Return To:
City of Ocala
Engineering Department
P. O. Box 1270
Ocala, Florida 34478
Attn: _____

Recording costs - \$ _____

ANNEXATION AGREEMENT

THIS AGREEMENT is made on May 5, 2009, by and between
Second Nine Partners, LLC ("Owner"), whose mailing address is
1041 SE 69th Place Ocala, FL 34480, and the City of Ocala ("City"), a Florida
municipal corporation.

WHEREAS

- A. Owner is the owner or owners of certain real property (the "Property"), as described in Exhibit A, located within the unincorporated area of Marion County, Florida.
- B. Owner desires to connect to the City's water or wastewater system.
- C. Pursuant to the City's Comprehensive Plan, any property receiving water or wastewater service from the City is required to annex if and when it becomes contiguous.
- D. Pursuant to the City of Ocala/Marion County Water and Wastewater Service Territorial Agreement (the "Territorial Agreement") between the City and Marion County, Florida, a political subdivision of the State of Florida ("Marion County"), and applicable law, the City imposes conditions in return for providing water or wastewater service including, without limitation:
 - 1). The City requires persons or property receiving water or wastewater service from the City to adhere to appropriate criteria, standards and regulations (including land development regulations in accordance with state law) relating to design and construction of project infrastructure.
 - 2). The City requires customers or property requesting water or wastewater service from the City to request that the property be voluntarily annexed into City either immediately or, if the property is not then contiguous to the City limits, when it becomes contiguous.
- E. The City has agreed to provide water or wastewater service to the Owner pursuant to the provisions hereof.

NOW, THEREFORE, in consideration of the matters set forth above (which are incorporated herein by reference), the exchange of the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Owner's Agreements.** Owner hereby covenants and agrees as follows:

1.1. Connection.

1.1.1. Owner shall connect to the City's water or wastewater system and pay all fees in accordance with applicable provisions of the City Code of Ordinances.

1.1.2. Owner shall pay all fees associated with the recording of this agreement.

1.2. Annexation.

1.2.1. Owner shall complete, execute and deliver to the City a petition for annexation, a such form as is requested by City in its sole discretion. The completed petition shall be kept on file in the office of the City's Zoning Department.

1.2.2. Owner shall complete the annexation process upon the Property becoming contiguous to the City limits and otherwise eligible for annexation under applicable law.

1.2.3. Owner shall pay all fees associated with the annexation process.

1.3. Compliance with City's Land Development Regulations.

1.3.1. Owner acknowledges that pursuant to the Territorial Agreement and applicable law:

a. Owner must hereafter adhere to the City's criteria, standards and regulations (including the land development regulations of the Code of Ordinances of the City of Ocala, Florida) relating to design and construction of project infrastructure for the Property; and

b. Until the Property is annexed, Owner may also be required to adhere to Marion County's criteria, standards and regulations relating to design and construction of project infrastructure for the Property

1.3.2. Owner shall notify City prior to requesting any comprehensive plan amendments, rezonings, subdivision or site plan approvals, building permits, or other development orders from Marion County concerning the Property.

1.3.3. Owner shall comply with all procedures adopted by the City concerning the City review of any development of the Property pursuant to the City's criteria, standards and regulations.

1.3.4. Following annexation:

a. The Property shall be subject to all laws, ordinances, and regulations in force in the City and shall be entitled to the same privileges and benefits as other parts of the City upon the effective date of the annexation; and

- b. If the Property was subject to a County land use plan and County zoning or subdivision regulations, those regulations shall remain in full force and effect until the City adopts a comprehensive plan amendment that includes the Property.

2. Appointment of Power of Attorney; Lien.

- 2.1. Owner hereby grants and conveys to the City Engineer of City, including the successors or designee of such City Engineer, a Special Power of Attorney to exercise any and all rights of Owner, and any successors in interest to Owner, including any purchasers, mortgage holders, lien holders or other persons who may claim an interest in the Property to do the following:
 - 2.1.1. Perform all obligations of Owner under paragraph 1.2 above
 - 2.1.2. Petition the City for annexation including the execution of a petition for annexation.
 - 2.1.3. Accomplish all steps necessary or proper for the annexation of the Property.
- 2.2. This Power of Attorney shall be considered a power coupled with an interest and may not be terminated except upon the written consent of City specifically referring to this Agreement
- 2.3. This Agreement and the Power of Attorney granted hereunder touch and concern the Property, and shall bind and run with the Property, and constitute an encumbrance thereon.
- 2.4. Owner hereby grants the City a lien to enforce the obligations of Owner under paragraph 1.2. of this Agreement. Such lien shall be deemed satisfied automatically upon the annexation of the Property.

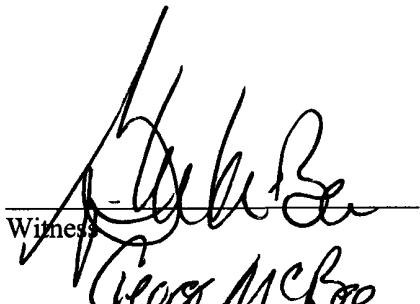
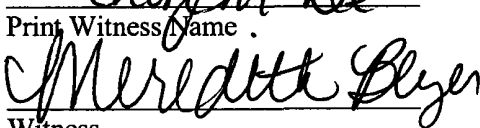
3. City's Agreements. The City hereby covenants and agrees as follows.

- 3.1. City shall permit Owner to connect its water or wastewater facilities on the Property to City water and wastewater services upon
 - 3.1.1. Payment of all applicable fees associated with such connection;
 - 3.1.2. Adherence to all other provisions of the City Code concerning such connections; and
 - 3.1.3. The availability of facilities and capacity to provide such water and wastewater services.
- 3.2. City shall thereafter provide the Owner water or wastewater service subject to Owner's obligation to pay all charges associated with such service and adherence to all other provisions of the City Code concerning such service.

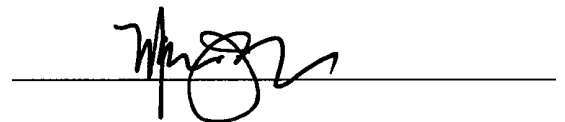
4. Subject to City Ordinances and Annexation Statute.

- 4.1. Nothing in this Agreement shall supersede or take precedence over any existing ordinances, regulations or codes of City.
- 4.2. Nothing set forth herein shall obligate City to annex the Property however, in that such action can only be made pursuant to the ordinance, notice and other requirements of Chapter 171, Florida Statutes.
5. **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 even if not 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.
6. **Successors and Assigns.** All covenants, agreements, warranties, representations, and conditions contained in this Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of the parties to this Agreement.
7. **Severability Clause.**
- 7.1. The City's obligations under paragraph 3 above are expressly conditioned upon the effectiveness of Owner's obligations under paragraphs 1 and 2 above. Thus, if any provision of paragraphs 1 or 2 is found to be contrary to, prohibited by or invalid under applicable laws or regulations, the City may, if it so elects be relieved of all obligations hereunder, terminate this Agreement, and discontinue providing water or wastewater service to the Property.
- 7.2. Except as set forth above, provisions contained in this agreement which are contrary to, prohibited by or invalid under applicable laws or regulations shall be deemed omitted from this document and shall not invalidate the remaining provisions thereof.
8. **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.
9. **Entire Understanding; Amendments.** This agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof, and supersedes all other negotiations (if any) made by and between the parties. The provisions of this agreement may not be amended, supplemented, waived, or changed orally but only by a writing making specific reference to this agreement signed by the party as to whom enforcement of any such amendment, supplement, waiver or modification is sought.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first written above.

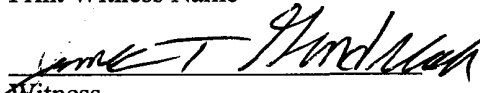

Witness
George McBee
Print Witness Name

Witness
Meredith Beyer
Print Witness Name

OWNER

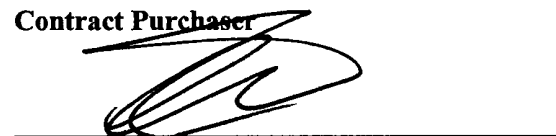

Mark Jank, Managing Member
Type Owner's Name Here


Witness

SUE THEODOR
Print Witness Name

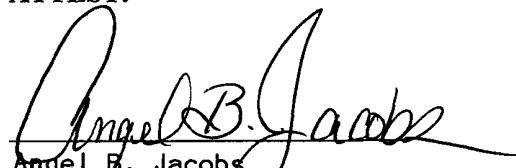

Witness

JAMES T. Gendreau
Print Witness Name

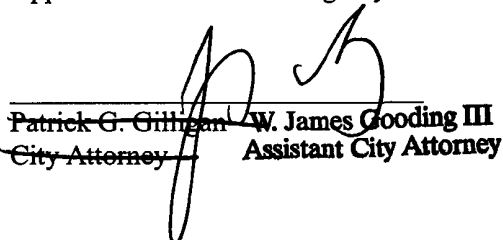
Contract Purchaser


Michael Collard, President
Type Contract Purchaser's Name Here
Michael Collard Properties, Inc.
a Florida corporation

ATTEST:

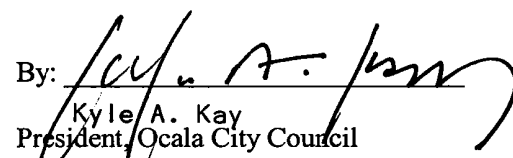

Angel B. Jacobs
Interim City Clerk

Approved as to form and legality


Patrick G. Gilligan
City Attorney

W. James Gooding III
Assistant City Attorney

CITY OF OCALA, a Florida municipal corporation

By: 
Kyle A. Kay
President, Ocala City Council

Owner's Individual Acknowledgment

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____.

Notary Public, State of Florida
Name: _____
(Please print or type)

Commission Number:
Commission Expires:

Notary: Check one of the following:

☐ Personally known OR ☐ Produced Identification (if this box is checked, fill in blanks below).

Type of Identification Produced: _____

Owner's Corporate Acknowledgment

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me this 31 day of MARCH, 2009, by MARK JANK as MANAGING MEMBER of SECOND NINE PARTNERS, LLC a LIMITED LIABILITY CORP. on behalf of the corporation

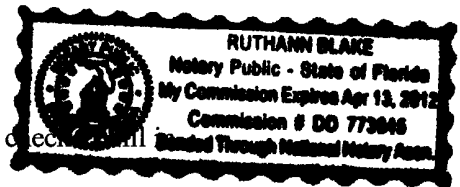
Ruthann Blake
Notary Public, State of Florida
Name: RUTHANN BLAKE
(Please print or type)

Commission Number:
Commission Expires:

Notary: Check one of the following:

☒ Personally known OR ☐ Produced Identification (if this box is checked, fill in blanks below).

Type of Identification Produced: _____



Contract Purchaser's Individual Acknowledgment

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____.

Notary Public, State of Florida

Name: _____
(Please print or type)

Commission Number:
Commission Expires:

Notary: Check one of the following:

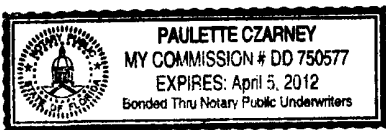
☒ Personally known OR ☐ Produced Identification (if this box is checked, fill in blanks below).

Type of Identification Produced: _____

Contract Purchaser's Corporate Acknowledgment

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 8th day of April, 2009, by MICHAEL COLLARD as President of Michael Collard Properties, Inc. a Florida corporation on behalf of the corporation



Paulette Czarney
Notary Public, State of Florida
Name: PAULETTE CZARNEY
(Please print or type)

Commission Number:
Commission Expires:

Notary: Check one of the following:

☒ Personally known OR ☐ Produced Identification (if this box is checked, fill in blanks below).

Type of Identification Produced: _____

Exhibit "A"

Annexation Agreement
between
Second Nine Partners, LLC
and
the City of Ocala

Legal Description of Property Described as follows:

A PORTION OF SECTION 3, TOWNSHIP 15 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE N.W. CORNER OF THE S.W. 1/4 OF SECTION 3, TOWNSHIP 15 SOUTH, RANGE 21 EAST, THENCE ALONG THE NORTH BOUNDARY OF THE S.W. 1/4 OF SAID SECTION 3, S89°25'15"E, A DISTANCE OF 40.02 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF N.W. 49TH AVENUE (BEING 80.00 FEET WIDE); THENCE ALONG SAID EAST RIGHT OF WAY LINE N00°37'56"E, A DISTANCE OF 88.86 FEET TO THE N.W. CORNER OF "SHAMROCK ADVENTURE LX" AS PER PLAT THEREOF, RECORDED IN PLAT BOOK '9', PAGE 133 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID RIGHT OF WAY LINE, N00°35'51"E, A DISTANCE OF 201.81 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE N89°41'59"E, A DISTANCE OF 575.70 FEET; THENCE S61°36'22"E, A DISTANCE OF 338.70 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 178.00 FEET, A CENTRAL ANGLE OF 28°41'40", AND A CHORD BEARING AND DISTANCE OF S75°57'12"E, 88.22 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 89.14 FEET TO THE POINT OF TANGENCY; THENCE N89°41'59"E, A DISTANCE OF 202.78 FEET; THENCE S00°18'01"E, A DISTANCE OF 421.99 FEET; THENCE S28°23'29"W, A DISTANCE OF 515.95 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 27 (RIGHT OF WAY WIDTH VARIES); THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE, N61°36'31"W, A DISTANCE OF 769.72 FEET TO THE S.E. CORNER OF SAID "SHAMROCK ADVENTURE LX"; THENCE DEPARTING SAID RIGHT OF WAY LINE, ALONG THE EAST BOUNDARY OF SAID PLAT, N00°02'21"E, A DISTANCE OF 359.77 FEET TO THE N.E. CORNER OF SAID PLAT; THENCE ALONG THE NORTHERLY BOUNDARY OF SAID PLAT, N59°04'22"W, A DISTANCE OF 213.64 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 119.00 FEET, A CENTRAL ANGLE OF 30°45'56", AND A CHORD BEARING AND DISTANCE OF N74°28'03"W, 63.13 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND NORTHERLY BOUNDARY, A DISTANCE OF 63.90 FEET TO THE POINT OF BEGINNING. SAID LANDS CONTAINING 17.93 ACRES, MORE OR LESS.