

COMMERCIAL MAINTENANCE BOND

Bond No. FL616348

KNOWN ALL MEN BY THESE PRESENTS, That we, Eden Gardens Resorts, LLC, as Principal, and Merchants Bonding Company (Mutual), a corporation organized and doing business under and by virtue of the laws of the State of Iowa and duly licensed to conduct surety business in the State of Florida, as Surety, are held and firmly bound unto Polk County, a political subdivision of the State of Florida, as Obligee, in the sum of Three Hundred Seventeen Thousand Eight Hundred Forty-nine And 50/100 (\$317,849.50) Dollars, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and successors, jointly and severally firmly by these presents.

WHEREAS, Polk County’s Land Development Code (hereinafter “LDC”) is by reference incorporated into and made part of this Maintenance Bond (hereinafter “Bond”); and

WHEREAS, the Principal has constructed the improvements described in the Engineer’s Cost Estimate, attached hereto as Exhibit “A” and incorporated into and made part of this Bond (hereinafter “Improvements”), in accordance with the drawings, plans, specifications, and other data and information (hereinafter “Plans”) for the Eden Gardens Phase 2 - Barry Road ^{Repaving} as filed with Polk County’s Land Development Division, which Plans are by reference incorporated into and made part of this Bond; and

WHEREAS, the Principal wishes to dedicate the Improvements to the public; and

WHEREAS, the LDC requires as a condition of acceptance of the Improvements that the Principal provide to the Obligee a bond warranting the Improvements for a definite period of time following the Obligee’s final acceptance of said Improvements; and

WHEREAS, this Bond shall commence upon the date of the Obligee’s acceptance of the Improvements (the “Bond Commencement Date”).

NOW, THEREFORE, the conditions of this Bond are such that:

1. If the Principal shall warrant and indemnify for a period of One (1) year(s) following the Bond Commencement Date (the “Warranty Period”) against all loss that Obligee may sustain resulting from defects in construction, design, workmanship and materials (the “Defect”); and
2. If the Principal shall correct all Defects to the Improvements that are discovered during the Warranty Period;

Then upon approval by the Obligee this Bond shall be void, otherwise to remain in full force and effect.

Initials af

3. The Obligee, its authorized agent or officer, shall notify the Principal and Surety in writing of any Defect and shall specify in the notice a reasonable period of time for the Principal to correct the Defect. The Surety unconditionally covenants and agrees that if the Principal fails to correct the Defect within the time specified, the Surety shall forthwith correct the Defect and pay the cost thereof, including without limitation, engineering, legal, and contingent costs.
4. Should the Surety fail or refuse to perform any of its obligations pursuant to this Bond, the Obligee shall have the right to resort to any and all legal remedies against the Principal and Surety, or either, both at law and in equity including specific performance, to which the Principal and Surety unconditionally agree. In such case, the Obligors agree to pay all costs incurred by the Obligee, including attorney's fees and costs, and venue shall be in the courts of Polk County, Florida or in the United States District Court, Middle District of Florida, located in Hillsborough County, Florida.
5. All notices, demands, and correspondence with respect to this Bond shall be in writing and deemed effective on the date of certified mailing addressed to the following, notwithstanding any changes to the addresses listed below:

The Surety at:

Merchants Bonding Company (Mutual)
6700 Westown Pkwy
West Des Moines, IA 50266

The Principal at:

Eden Gardens Resorts, LLC
7121 Via Firenze
Boca Raton, FL 33433

The Obligee at:

Polk County, Land Development Division
330 West Church Street
PO Box 9005 – Drawer GM03
Bartow, FL 33831-9005

This Bond commences on the Bond Commencement Date and shall remain in full force and effect until the correction of all Defects for which timely notice has been provided to the Principal and Surety, even if the time required to correct such Defect exceeds the Warranty Period. This Bond shall be released by the Obligee if all the Conditions of this Bond remain satisfied at the end of the Warranty Period.

IN WITNESS WHEREOF, the Principal and Surety have caused this Bond to be executed by their duly authorized officers this 3rd day of July, 2024.

Alan Sefat
Witness

Anura Elefant
Printed Name

Yehuda Holzer
Witness

Yehuda Holzer
Printed Name

Amanda Jo Herstine
Witness

Amanda Jo Herstine
Printed Name

Jennifer L. Hindley
Witness

Jennifer L. Hindley
Printed Name

PRINCIPAL:

Eden Gardens Resorts, LLC
Name of Corporation

By: Alan Steinhardt

Alan Steinhardt
Printed Name

Title: manager
(SEAL)

SURETY:

Merchants Bonding Company (Mutual)
Name of Corporation

By: Kelly Phelan

Kelly Phelan
Printed Name

Title: Attorney-in-Fact & FL Licensed Resident Agent
(SEAL)

Inquiries: (407) 834-0022

(Attach power of attorney)

Initials as

MERCHANTS
BONDING COMPANY™
POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Allyson Foss Wing; Amanda Jo Herstine; April L Lively; Bryce R Guignard; Christine Morton; David R Turcios; Deborah A DeFoe; Jennifer L Hindley; Kelly Phelan; M Gary Francis; Margie L Morris; Wesley Matthew Adcock

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

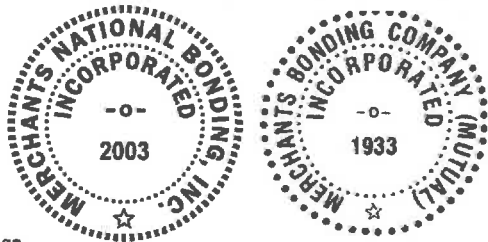
In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 3rd day of February, 2024.

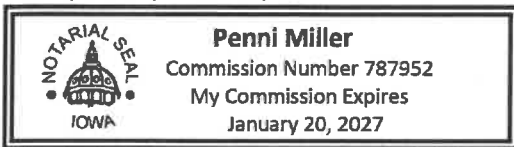
MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY

By 
President

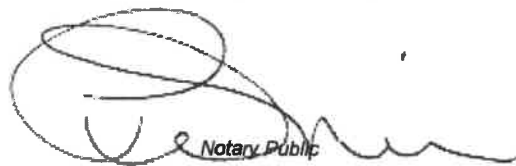


STATE OF IOWA
COUNTY OF DALLAS ss.

On this 3rd day of February 2024, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

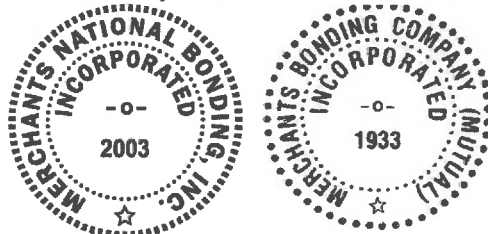


(Expiration of notary's commission does not invalidate this instrument)


Notary Public

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 3rd day of July, 2024.




Secretary



INSTR # 2023246714
 BK 12878 Pgs 1147-1159 PG(s)13
 RECORDED 10/18/2023 09:14:57 AM
 STACY M. BUTTERFIELD, CLERK OF COURT
 POLK COUNTY
 RECORDING FEES \$112.00
 RECORDED BY terrdavi

INFRASTRUCTURE AGREEMENT

Barry Road Improvements from Tank Road Intersection to Castillo Blvd.

THIS INFRASTRUCTURE AGREEMENT ("AGREEMENT") is made and entered by and between, EDEN GARDENS RESORTS, LLC, a Florida corporation, authorized to do business in the State of Florida whose address is __7121 Via Firenze | Boca Raton, FL | 33433_ ("DEVELOPER"), and POLK COUNTY, FLORIDA, a political subdivision of the State of Florida (the "COUNTY").

WITNESSETH:

WHEREAS, the DEVELOPER is the owner or contract purchaser of certain real property located near the intersection of Barry Road and Tank Road in unincorporated Osceola County, Florida identified as **Exhibit A** ("Property"); and

WHEREAS, the DEVELOPER intends to construct a single family subdivision on the Property ("**Eden Gardens Resort**") and has received COUNTY approval for connection to a COUNTY road; and

WHEREAS, the DEVELOPER is willing to design, permit, and construct certain non-Site-Related transportation improvements concerning the intersection of Barry Road and Tank Road as hereinafter described (the "**Transportation Improvements**"); and

WHEREAS, the cost estimate for the Transportation Improvements is reflected in **Exhibit B**; and

WHEREAS, the COUNTY has requested, and the DEVELOPER has agreed, to reimburse the DEVELOPER for a portion of the actual costs incurred for the Transportation Improvements, (the "**Reimbursement Amount**"); and

WHEREAS, the COUNTY and the DEVELOPER desire to set forth in writing the terms and conditions of their understanding and agreement related to the DEVELOPER'S construction of the Transportation Improvements described herein; and

WHEREAS, this AGREEMENT is in the best interest of the public health, safety and welfare of Polk County, Florida and provide a benefit to the residents of Polk County.

NOW, THEREFORE, in consideration of the mutual covenants, premises and promises hereinafter to set forth, the receipt, adequacy and sufficiency of which are hereby acknowledged, the COUNTY and the DEVELOPER hereby agree as follows:

1. **Recitals**. The foregoing recitals are true and correct in all respects and are expressly incorporated herein by reference.
2. **Effective Date**. The Effective Date of this AGREEMENT shall be the date in which the COUNTY executes this AGREEMENT.
3. **Transportation Improvements**. The COUNTY and the DEVELOPER agree to the following terms and conditions: the DEVELOPER shall undertake the design, permitting, and construction of improvements to the intersection of Barry Road and Tank Road as depicted in the Plans and Specifications, as defined below and described in **Exhibit C** and includes the following: construction of roadway milling and resurfacing, and sidewalk (the "**Transportation Improvements**"). The

RECORDER'S MEMO:
 Legibility of Writing, Typing or Printing Unsatisfactory in This Document When Received.

Transportation Improvements are reflected in the Plans and Specifications, as below defined. The DEVELOPER shall bear the full responsibility for payment of all costs, construction and otherwise, related to the construction of the Transportation Improvements and any due diligence matters required by the COUNTY related to the Transportation Improvements including but not limited to, environmental survey, environmental permits, and environmental mitigation. The COUNTY shall reimburse, in cash, DEVELOPER for all such costs within 45 days of receipt of an approved DEVELOPER invoice.

4. **Plans, Specifications, and Permits.**

- A. Prior to construction of the Transportation Improvements, the DEVELOPER shall obtain COUNTY approved construction plans prepared by the DEVELOPER for the Transportation Improvements (Polk County Permitted plans Project # LDNON-2023-1 Dated 3-01-2023) (the “Plans and Specifications”). The final Plans and Specifications are a material part of this AGREEMENT.
- B. The Plans and Specifications for the Transportation Improvements may be modified through the mutual agreement of the DEVELOPER and the COUNTY by change order (the “Change Order”) as actual construction of the Transportation Improvements progresses. Proposed modifications will be provided by the DEVELOPER to the COUNTY for review. To be effective and binding against the COUNTY, however, any and all such modifications and Change Orders must be in writing, executed by the COUNTY and the DEVELOPER. Any Change Order that causes the cumulative cost of the Reimbursement Amount to increase by more than 10% must be approved by written amendment to this Agreement. Based upon approved modifications and Change Orders, the COUNTY will modify the Reimbursement Amount listed in Section 5.E. accordingly.

5. **Construction Requirements.**

- A. The COUNTY is currently inspecting and monitoring the work site during construction of the Transportation Improvements. If, during construction, the COUNTY finds the work, materials, or equipment are defective, the COUNTY will give the DEVELOPER written notice of the defect and the DEVELOPER agrees to correct the defective condition, if commercially reasonable, within thirty (30) days of the DEVELOPER’S receipt of such notice. If the DEVELOPER fails to correct the deficiency, the COUNTY may take any action necessary on the DEVELOPER’S behalf, including correcting the deficiency, removing deficiencies, or utilizing COUNTY’S contractor to complete the work.
- B. The schedule of qualifying improvements eligible for reimbursement by the COUNTY hereunder is set forth and described in the Cost Estimate in **Exhibit B**.
- C. Upon completion of the Transportation Improvements in accordance with the Plans and Specifications, the Parties shall follow the procedures set forth in Section 7, below.
- D. The Transportation Improvements shall be completed on or before December 1st, 2023, unless a later date is mutually agreed to by the Parties, which agreement shall not be unreasonably withheld. The DEVELOPER shall provide the COUNTY a monthly construction management status report during the term of this AGREEMENT. Upon completion of the Transportation Improvements, the DEVELOPER shall notify the COUNTY, in writing, of the completed construction.
- E. The estimated cost of the Transportation Improvements, including a ten percent (10%) contingency, which is THREE HUNDRED SIXTY NINE THOUSAND EIGHT HUNDRED NINETY SIX AND 20/100 DOLLARS (\$369,896.20), as set forth and further described on

Exhibit B. The COUNTY agrees to reimburse the DEVELOPER in cash for all of its actual costs incurred for the Transportation Improvements (the “Reimbursement Amount”). The procedure for the DEVELOPER to request reimbursement from the COUNTY shall follow Section 7, below.

6. **Maintenance.** After the Notice to Proceed is issued to DEVELOPER and until the COUNTY issues the inspection letter referenced in Section 7, the DEVELOPER or the DEVELOPER’S contractor shall be responsible for the vegetative maintenance of and proper maintenance of traffic of the Barry Road and Tank Road; however, such maintenance shall only be required within the construction limits of the Transportation Improvements. The DEVELOPER or the DEVELOPER’S contractor shall additionally be responsible for maintaining the job site in a safe manner for access by vehicles, pedestrians, and bicycle traffic during construction of the Transportation Improvements.

7. **Reimbursement Procedures; Inspection; Conveyance of Transportation Improvements.**

A. Upon receipt of the Developer’s completion notification described in Section 5.D., above, the COUNTY shall conduct or cause to be conducted, within ten (10) days, such inspections of the Transportation Improvements as it may desire in order to determine that the construction of the Transportation Improvements is satisfactory and conforms to the Plans and Specifications (“Inspection”). Upon completion of the Inspection, the COUNTY shall issue a letter to the DEVELOPER indicating that the Transportation Improvements comply with the approved Plans and Specifications.

B. Within ten (10) days of the issuance of the COUNTY inspector’s letter described in Section 7.A., above, the DEVELOPER shall submit to the COUNTY an engineer’s certificate of completion that confirms the Transportation Improvements have been properly constructed in accordance with County standards, and all construction and financial information necessary to insure that Transportation Improvements have been properly constructed in accordance with COUNTY standards and all the contractors and subcontractors have been paid in full (collectively referred to herein as the “Documentation”). The Documentation shall include, without limitation, acceptable “as-built” drawings, detailed construction costs and invoices, receipts, release of liens, and any required certifications to permitting agencies, etc. Upon receipt of all such Documentation, the COUNTY shall have 10 days (the “Review Period”) to review the Documentation to ensure that it is complete. If the Documentation is incomplete, the COUNTY may request additional documentation and the same process shall be followed until all Documentation has been provided to and approved by the COUNTY. Within forty-five (45) days after the COUNTY concludes its Review Period, the COUNTY shall reimburse the DEVELOPER for the cost of the Transportation Improvements up to the dollar amount listed in Section 5.E., above.

C. DEVELOPER shall, at its sole cost and expense, convey the Transportation Improvements to the COUNTY by Quit Claim Deed, free and clear of all liens and encumbrances, within fifteen (15) business days of the issuance of the COUNTY inspector’s letter described in Section 7.A., above.

D. After the COUNTY accepts the Transportation Improvements, it shall thereafter be responsible for the operation and maintenance of the Transportation Improvements so conveyed to the COUNTY. Through a maintenance surety, in a form acceptable to the COUNTY, the DEVELOPER shall warrant the Transportation Improvements from any and all defects for a period of one year from the date of the COUNTY inspector’s letter described in Section 7.A., above. If the warranty period has not been

completed prior to the expiration of this AGREEMENT, then this Section 7.D. shall survive the termination of this AGREEMENT until the end of the warranty period.

8. **Development Approvals.** This AGREEMENT shall in no manner constitute a development approval regarding the Property or the Eden Gardens Resort project. DEVELOPER must comply with all applicable provisions of the Polk County Land Development Code and conditions regarding the development of the Pproperty and the Eden Gardens Resort project.

9. **Self-Help Provision.** In the event DEVELOPER proceeds with the Transportation Improvements according to the terms set forth herein and the COUNTY desires to expedite the overall construction of the Transportation Improvements, the COUNTY shall be permitted, upon thirty (30)-days written notice to DEVELOPER ("Written Notice"), to assume DEVELOPER'S responsibilities related to the construction of the Transportation Improvements. If COUNTY exercises its rights set forth in this Section 9, then DEVELOPER is released from any liability or obligation arising after delivery of Written Notice with respect to Transportation Improvements or that portion of the Transportation Improvements for which the COUNTY assumes responsibility. In such event, the COUNTY shall be entitled to ownership of the Plans and Specifications and all permits (including environmental permits) granted to DEVELOPER in connection with the Transportation Improvements and DEVELOPER shall use its diligent, good faith efforts to ensure the successful transfer of the same to the COUNTY; provided, however, that all costs related to construction then performed by DEVELOPER shall nonetheless be reimbursed by the COUNTY to DEVELOPER prior to the COUNTY'S commencement of the work pursuant to this Self-Help Provision.

10. **Approvals.** In those instances, in which a party's approval, consent or satisfaction is required under this AGREEMENT, and a time period is not specified, then it shall be implied that such action shall be exercised in a reasonable manner and within a reasonable time frame, not to exceed ten (10) business days. Time is hereby declared of the essence as to the lawful performance of all duties and obligations set forth in this AGREEMENT.

11. **Indemnification.** DEVELOPER, its successors, and assigns shall protect, defend, indemnify, and hold harmless, the COUNTY, its officers, commissioners, council members, employees and agents from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, including a reasonable, actually incurred, attorney's fee or other expenses or liabilities, of every kind and character resulting from any error, omission, or negligent act of DEVELOPER itself, its agents, contractors, subcontractors, employees, or representatives in the performance of its obligations under this AGREEMENT. The foregoing indemnification obligation shall not apply to the extent of the negligence of the COUNTY. The COUNTY is a political subdivision of the State of Florida that possesses sovereign immunity except for the limited waiver stated in Section 768.28, Florida Statutes. To the limited extent specified in Section 768.28, the COUNTY may be responsible for certain damages for injury or loss of property caused by negligent acts or omissions of its employees acting within the scope of the employee's office or employment. However, except as otherwise provided in Section 768.29, nothing stated in this AGREEMENT is, or shall be deemed to be: (i) a waiver of the COUNTY's sovereign immunity as stated in Section 768.28; (ii) an extension of the limited waiver of its sovereign immunity as stated in Section 768.28; (iii) a waiver of any requirement or condition stated in Section 768.28; or (iv) the COUNTY's consent to be sued.

12. **Insurance.**

A. The DEVELOPER shall require its engineer of record to acquire and maintain Professional Liability Insurance in the amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) per occurrence and TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) in the aggregate, exclusive of

defense costs, and the Commercial General Liability, Comprehensive Auto Liability, and Workers Compensation coverages stated in Section 12.B. below.

B. The DEVELOPER shall cause its agents and contractors to maintain the following types of insurance with at least the following minimum limits of liability:

Commercial General Liability:	\$1,000,000.00 per occurrence
Comprehensive Automobile Liability	\$1,000,000.00 per occurrence
Workers Compensation	Statutory Limits
Employers Liability	\$1,000,000.00

C. All insurance must be provided by a carrier licensed to do business in the State of Florida having an A.M. Best rating of at least the "A" category and size category of VIII. The COUNTY shall be named as an additional insured on General Liability and Automobile Liability policies. The General Liability and Workers' Compensation policies shall contain a waiver of subrogation in favor of the COUNTY.

D. The DEVELOPER shall provide the COUNTY original Certificates of Insurance satisfactory to the COUNTY to evidence such coverage promptly following the execution of this AGREEMENT and before any work commences on the Transportation Improvements. The COUNTY must be identified on the Certificates as follows: "Polk County, a political subdivision of the State of Florida." Coverage must commence on the first day work begins.

13. **Term and Nature of Agreement.** With the exception of warranty requirements, this AGREEMENT shall terminate upon satisfaction by the Parties hereto of their respective obligations contained herein. If DEVELOPER is unable to obtain all necessary approvals for the construction of the Transportation Improvements from the COUNTY, or any other governmental agency, or if DEVELOPER is unable to enter a Construction Contract for the Transportation Improvements, the DEVELOPER or COUNTY may terminate this AGREEMENT. If DEVELOPER fails to begin construction of the Transportation Improvements on or before three (3) years from the Effective Date of this AGREEMENT, this AGREEMENT shall be null and void.

14. **Notices.** Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered, transmitted electronically (i.e. telecopier device) or within three (3) days after depositing the United State Postal Services, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

County: Chairman
Polk County Board of County Commissioners
330 West Church Street
Bartow, Florida 33830

Copy to: County Attorney
Polk County Board of County Commissioners
330 West Church Street
Bartow, Florida 33830

Developer: Eden Gardens Resorts, LLC
c/o Yehuda Holzer, Alan Steinhardt
7121 Via Firenze
Boca Raton, FL 33433

Copy to: Daniel A. Kaskel
Eden Gardens Resorts, LLC Attorney
Sachs Sax Caplan, P.L.
6111 Broken Sound Parkway NW Suite 200
Boca Raton, FL 33487

15. **Public Records.** Pursuant to Section 119.0701, Florida Statutes, Developer shall comply with the following Florida Public Records' laws:

- A. The Developer acknowledges POLK COUNTY'S obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and comply in the handling of the material created under this AGREEMENT. The Developer further acknowledges that the constitutional and statutory provisions control over the terms of this AGREEMENT. In association with its performance pursuant to this AGREEMENT, the Developer shall not release or otherwise disclose the content of any documents or information that is specifically exempt from disclosure pursuant to all applicable laws.
- B. Without in any manner limiting the generality of the foregoing, the Developer acknowledges its obligations to comply with Section 119.0701, Florida Statutes, with regard to public records and shall:
 - a. Keep and maintain public records required by the COUNTY to perform the services required under this AGREEMENT.
 - b. Upon request from the COUNTY'S custodian of public records, or his/her designee, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
 - c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the DEVELOPER does not transfer the records to the COUNTY.
 - d. Upon completion of the AGREEMENT, transfer, at no cost, to the COUNTY all public records in possession of the DEVELOPER or keep and maintain public records required by the COUNTY to perform the service. If the Developer transfers all public records to the COUNTY upon completion of the contract, the Developer shall destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. If the Developer keeps and maintains public records upon completion of the contract, the Developer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY's custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

C. IF DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT POLK COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT:

**RECORDS MANAGEMENT LIAISON OFFICER
POLK COUNTY
330 WEST CHURCH ST.
BARTOW, FL 33830
TELEPHONE: (863) 534-7527
EMAIL: RMLO@POLK-COUNTY.NET**

16. **Records and Audits.** The DEVELOPER shall maintain in its corporate headquarters or division office all books, documents, papers and other evidence pertaining in any way to payments made pursuant to this AGREEMENT. Such records shall be available at the DEVELOPER'S corporate headquarters at all reasonable times during the term of this AGREEMENT and for ten (10) years from the date of final payment under this AGREEMENT for audit or inspection by the COUNTY, or its duly authorized agent or representative, upon five (5) business day's prior written notice.

17. **Equal Opportunity Employment.** The DEVELOPER agrees that it will not discriminate and will provide in all contracts that its contractors will not discriminate against any employee or applicant for employment under this AGREEMENT because of race, color, religion, sex, age or national origin and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age or national origin.

18. **Amendment.** This AGREEMENT may only be amended and modified by an instrument in writing executed by the Parties hereto or their successors or assigns in interest.

19. **Severability.** If any part of this AGREEMENT is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this AGREEMENT if the rights and obligations of the Parties contained therein are not materially prejudiced and if the intentions of the Parties can continue to be effectuated. To that end, this AGREEMENT is declared severable.

20. **Successors; Assignment.** This AGREEMENT shall be binding upon and the benefits and obligations of this AGREEMENT shall inure to all successors or assigns of the Parties. In the event that the DEVELOPER assigns this AGREEMENT and its rights, obligations and responsibilities hereunder to a third party, the DEVELOPER shall provide written notice to the COUNTY.

21. **Disclaimer of Third Party Beneficiaries.** No right or cause of action shall accrue upon or by reason of this AGREEMENT, to or for the benefit of any third party not a formal party hereto, except any successors in interest of the DEVELOPER or the COUNTY.

22. **Governing Law and Venue.** In performing this AGREEMENT, each party will abide by the respective statutes, ordinances, rules and regulations pertaining to, or regulating, the acts of such party. This AGREEMENT shall be governed by and construed in accordance with laws of the State of Florida.

In the event of any legal action concerning this AGREEMENT, venue shall be exclusively in the state courts in and for Polk County, Florida, or Federal Court in the Middle District of Florida, located in Tampa, Florida, and each party shall be responsible for its own attorneys' fees and costs.

23. **Counterparts.** This AGREEMENT may be executed in any number of counterparts each of which when executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.

24. **Entire Agreement.** This AGREEMENT constitutes the entire agreement of the Parties with respect to the subject matter hereof, and may not be modified or amended except by a written instrument equal in dignity herewith and executed by the Parties to be bound thereby.

25. **Non-Waiver.** No consent or waiver, expressed or implied, by either party, to or of any breach or default of the other party, with regard to the performance by said other party of its obligations under this AGREEMENT shall be deemed or construed to constitute consent or waiver, to or of, any other breach or default in the performance of that party, of the same or of any other objection of performance incumbent upon that party. Failure on the part of either party to complain of any act or failure to act on the part of the other party in default, irrespective of how long the failure continues, shall not constitute a waiver by that party of its rights and any remedies that exist under this AGREEMENT, at law, or in equity.

26. **Construction of Agreement.** This AGREEMENT shall not be construed against either party on the basis of it being the drafter of this AGREEMENT. The Parties agree that both herein played an equal part in negotiating the terms and conditions of this AGREEMENT. Captions and Paragraph headings in this AGREEMENT are provided for convenience only and shall not be deemed to explain, modify, amplify or aid in the interpretation, construction or meaning of this AGREEMENT.

27. **Force Majeure.** Should the performance of this AGREEMENT by the DEVELOPER be prevented or delayed by any Act of God or other cause beyond the reasonable control of the DEVELOPER, including but not limited to, pandemic, floods, storm, fire, war, total or partial failure of transportation or delivery facilities, interruption of power, or by any law, regulation or order of any federal, state or local authority, the DEVELOPER'S performance shall be excused to the extent it is thus prevented or delayed. Neither the lack of financial resources, budgetary requirements, crop revenues, harvesting schedules, nor such other errors, shall constitute a force majeure event sufficient to excuse nonperformance hereunder.

28. **Limitation of Liability.** IN NO EVENT, SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS CONTRACT WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.

29. **Exhibits.** All exhibits attached hereto contain additional terms of this AGREEMENT and are incorporated herein by this reference.

SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the Parties hereto have made and executed this AGREEMENT on the respective dates under each signature: Polk County, Florida, through its Board of County Commissioners, signing by and through its Chairman, and the DEVELOPER, through its authorized representative.

DEVELOPER

Eden Gardens Resorts, LLC

Signed, sealed and delivered
in the presence of:

[Signature]

Print Name: Steven E. Estant

[Signature]

Print Name: Alvin Estant

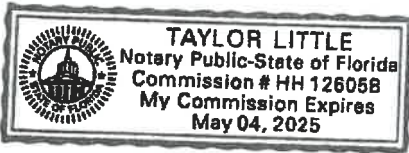
By: *[Signature]*
Print Name: Alan Steinhardt
Title: Manager
Date: 9/5/23

State of Florida

County of Osceola

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 5 day of Sept, 2023 by Alan Steinhardt Authorized Representative of Eden Gardens Resorts, LLC, on behalf of the company, who is personally known to me or who has produced _____ as identification.

[Signature]
Notary Public
My Commission expires: 5-4-2025



COUNTY

**BOARD OF COUNTY COMMISSIONERS OF POLK
COUNTY**



_____, Chairman

This 3rd day of October, 2023.

(SEAL)

ATTEST: Stacy M. Butterfield, Clerk


Deputy Clerk



Approved by County Attorney
As To Form and Legal Sufficiency:

By: 

Exhibit "A" – Property

The property from the intersection of Tank and Barry Roads going West to Castillo Blvd in the County ROW, as depicted in the hatched area in the image below:



Exhibit "B" – Transportation Improvement Cost Estimate

Budget for Polk County Work - Barry Rd

Date		7/17/2023	
Item	Description	Budget Amount	Actual Amount
1	Engineering	\$ 15,300.00	\$ 15,300.00
2	Geotechnical Consultant	\$ 6,500.00	\$ 6,500.00
3	Credit for Original Intersection work	\$ (33,960.90)	\$ (33,960.90)
4	WD Hard Costs for Paving	\$ 317,849.50	\$ 317,849.50
5	Inspection Fees	\$ 7,000.00	TBD
6	Developer Legal Fees	\$ 0	0
7	Developer's Fee	\$ -	\$ -
8	Developer's 5% Contingency	\$ 15,634.43	\$ 15,634.43
9	Maintenance Bond	\$ 7,946.24	TBD
TOTAL		\$ 336,269.27	TBD
Reimbursement Amount minimum		\$ 336,269.27	

Max Reimbursement Amount (including 10% County Contingency) = \$369,896.20

Exhibit C Approved plans

See attached drawings and table below:

Drawing No.	Title	Date
C107	GEOMETRY PLAN	3/6/23
C240	BARRY RD. PLAN AND PROFILE	3/6/23
C241	BARRY RD. PLAN AND PROFILE	3/6/23
C242	BARRY RD. PLAN AND PROFILE	3/6/23
C245	BARRY ROAD DETAILS	3/6/23
C401	SITE DETAILS	2/25/21