

INNOVATION PARK DEVELOPMENT AGREEMENT

THIS AGREEMENT is made and entered into between THE LEON COUNTY RESEARCH AND DEVELOPMENT AUTHORITY (hereafter referred to as “the Authority”), and the CITY OF TALLAHASSEE, FLORIDA, a Florida municipal corporation, (hereafter referred to as “the City”) pursuant to Fla. Stat. 163.3220-163.3242, the Florida Local Government Development Agreement Act, and Section 2-2, Tallahassee Code of Ordinances.

RECITALS

WHEREAS, the Authority is a research and development authority created by Leon County Ordinance 80-68, codified at Sections 2-56, 2-57, and 2-58, Leon County Code of Ordinances, pursuant to Fla. Stat. 159.703, for the purpose of promoting scientific research and development in affiliation with and related to the research and development activities of Florida A & M University and The Florida State University; and

WHEREAS, the City is a Florida municipal corporation with the authority to enter into development agreements pursuant to Fla. Stat. 163.3220-163.3243 to strengthen the public planning process and encourage sound capital improvements planning; and

WHEREAS, on January 28, 1980, the Authority acquired approximately 208 acres of land in the City, described in Exhibit “A” attached hereto, by long term lease from the State of Florida for development and operation as a research and development park known as INNOVATION PARK/TALLAHASSEE (hereafter referred to as “Innovation Park”); and

WHEREAS, the Authority created a master plan for the development of Innovation Park, and, on December 16, 1987, the City approved a Planned Unit Development authorizing the development of Innovation Park consistent with the master plan (hereafter referred to as “the PUD”), most recently amended on January 4, 1993; and

WHEREAS, on January 23, 1991, the Authority applied for a determination of vested rights for certain development in Innovation Park, which determination was approved by the City on January 23, 1991, amended on September 10, 1992, and remains in effect; and

WHEREAS, in 2008, The Florida State University (“FSU”) amended its Campus Master Plan to include approximately 740 acres, known as the “Southwest Campus” adjacent to, and including several parcels within Innovation Park, all of which are part of a major expansion of FSU’s research and academic programs; and

WHEREAS, the City has adopted a multi-modal transportation planning district that includes Innovation Park and major parts of the FSU Southwest and Main Campus for the purpose of promoting transit, biking and pedestrian travel and reducing vehicle miles

traveled and Innovation Park wishes to integrate its transportation system serving existing and future development with the City's multi-modal plan; and

WHEREAS, the Florida Legislature enacted amendments to Florida's Growth Management laws in 2009 that exempt the City of Tallahassee from the Development of Regional Impact program and from State transportation concurrency requirements; and

WHEREAS, on _____, 2010, the Authority filed applications to update the PUD and for approval of this Development Agreement, to be reviewed and considered concurrently, to reflect changes in State law and to better integrate the Innovation Park master plan with the City's multi-modal planning district and with the FSU and FAMU Campus Master Plans; and

WHEREAS, the parties recognize that the creative research and the applied technology development and supporting activities already developed in Innovation Park have created a significant number of high-paying jobs, with associated economic benefits for citizens of Tallahassee and Leon County; and

WHEREAS, the parties wish to upgrade and expand Innovation Park's capacity to support research and development and related activities, and to increase its potential for economic development and associated employment opportunities in conjunction with the FSU and FAMU campus master plans; and

WHEREAS, notice of the parties' intent to consider this development agreement was provided as required by law, by publication in the Tallahassee Democrat on _____; and

WHEREAS, the Tallahassee City Commission held two, properly advertised public hearings to consider this agreement and has determined that this development agreement is in the public interest and will further the health, safety and welfare of the residents of the City.

NOW THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. RECITALS. The recitals set forth in the preceding "WHEREAS" clauses are incorporated herein and form a material part of this Agreement.
2. LEGAL DESCRIPTION. The legal description of Innovation Park is attached hereto as Exhibit "A" and is incorporated herein by reference.
3. DURATION. This Development Agreement shall remain in effect for a period of twenty (20) years, commencing on the effective date, as set forth herein. This Development Agreement may be renewed and extended by mutual consent of the parties.

4. EXISTING DEVELOPMENT. Innovation Park's existing development and development in progress is described in the table of development reflected on the proposed amended PUD, and attached hereto as Exhibit "B."
5. TOTAL DEVELOPMENT USES PERMITTED. The following uses shall be permitted in Innovation Park consistent with the PUD site plan:
 - a. Up to 150 hotel units, including ancillary uses such as a restaurant and conference facilities;
 - b. 15,000 square feet of commercial;
 - c. Research and development uses and activities of up to 1,863,800 sq ft., described as set out below.
6. RESEARCH AND DEVELOPMENT DEFINED. For the purposes of this Agreement, Research and Development uses and activities mean those functions occurring within a Research and Development Park, as defined by §159. 27(7), F.S., and as contemplated by §159.701, in describing the purpose of research and development authorities. These descriptions recognize the evolving and hybrid nature of research and development which includes not only traditional scientific and academic research, but also applied industrial applications, computer oriented research often related to regulatory or government functions, administrative functions required to support research activities, and ancillary uses intended to foster researcher interaction and achieve synergy by providing formal and informal meeting spaces and convenience uses on site. The following list provides examples of former, existing and planned uses which are categorized based on these functions. These examples are not intended to represent a list of all potential uses that may be permitted within Innovation Park, but rather to provide a framework for identifying eligible uses based on the statutory requirements.
 - a. Scientifically oriented production or assembly facilities, including industrial applications. Examples include:
 - a) Comm-Engines, Inc.
 - b) Talla-Com Industries
 - c) Danfoss Turbocor Compressors, Inc.
 - d) Center for Advanced Power Systems
 - b. Prototype, scientific and product testing laboratories, including academic research. Examples include:
 - a) National High Magnetic Fields Lab
 - b) Materials Research Building
 - c) Center for Applied Superconductivity
 - c. Administrative facilities providing infrastructure or services in support of research activities. Examples include:
 - a) Leon County Research and Development Authority
 - b) College Center for Library Automation
 - c) FSU Office of IP Development and Commercialization

- d) Enterprise Resource Planning
 - e) Enterprise Information Technology
 - f) Northwest Regional Data Center
 - d. Research oriented businesses which may provide related services. Examples include:
 - a) FSU Foundation, Inc.
 - e. Research oriented government/educational institutions which may also involve related regulatory functions. Examples include:
 - a) U.S. Geological Survey
 - b) Center for Ocean Atmospheric Prediction
 - c) Beaches and Shores Research Center
 - d) Florida Conflict Resolution Consortium
 - e) DEP Bureau of Laboratory Services
 - f) DEP Bureau of Mine Reclamation
 - g) Institute on Urban Policy and Commerce
 - h) Center for Economic Forecasting and Analysis
 - f. Ancillary uses in support of research functions. Examples include:
 - a) Recreational/Amenities
 - b) Conference Facilities
 - c) Hotels
 - d) Restaurants
 - e) Convenience/Sundries.
7. MULTI-MODAL TRANSPORTATION PLANNING. All future uses shall be planned to coordinate with the City's multi-modal transportation plans to maximize the opportunity for transit service to serve Innovation Park. Parking requirements shall be reduced as appropriate, consistent with the availability of transit service.
8. TRIP GENERATION. The trip generation for future land uses within Innovation Park shall be determined by using the Research and Development Center trip rate as published by the Institute of Traffic Engineers or through on site studies at the option of the applicant. Only stand-alone ancillary uses shall be evaluated independently based on their unique characteristics and potential for internal capture within Innovation Park. For example, a different trip rate shall not apply to a Starbucks or a Nature's Way-type restaurant that is developed as an ancillary use within a R&D building. The same rule would apply to hotels with a restaurant and conference center. Nor would a different trip rate apply to a restaurant and conference facilities that are ancillary to the hotel.
9. VESTED RIGHTS.
- a. The parties hereto agree that Innovation Park is entitled to certain vested development rights, based upon earlier development approvals and vested rights determinations of the City, for future development exempt from the

consistency and concurrency and proportionate fair share requirements of State or local laws.

- b. In order to preserve Innovation Park's vested rights, and to encourage future development of Innovation Park for the benefit of Florida A&M University and The Florida State University, and the citizens of Tallahassee, the parties hereto further agree that the vested development rights shall be aggregated and are hereby converted to _____ net new external vehicle trips, based on professionally accepted ITE trip generation rates in effect on the date of this Agreement, hereafter referred to as the "Vested Trip Bank."
- c. The vested trips from the Vested Trip Bank shall be assigned to future development within Innovation Park by the Leon County Research and Development Authority (hereafter "LCRDA") during the Site Plan Approval process established by the INNOVATION PARK/TALLAHASSEE DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS, February 10, 1981, and the LCRDA Resolution dated June 16, 1993. The LCRDA shall have discretion to assign a greater or lesser number of vested trips to a particular use based on the following criteria:
 - i. The potential to foster economic development and broaden the economic base of Tallahassee and Leon County;
 - ii. The potential to promote scientific research at FAMU and/or FSU;
 - iii. The potential for enhancement of Innovation Park.
- d. The LCRDA shall maintain an up-to-date record of vested trips assigned to approved future development and the balance of trips remaining, and shall provide a copy of the vested trip record to the City when requested.
- e. The Authority hereby waives and releases any other claim to vesting from the consistency and concurrency requirements of the City or of State law arising from vesting determinations or certificates of any kind previously issued by the City.

10. RESERVATIONS OR DEDICATIONS OF LAND FOR PUBLIC PURPOSES. [Note size and location of transit stations, utility sites, etc.]

11. LOCAL PERMITS NEEDED. The following City development approvals are needed for development authorized by this Agreement and the amended PUD:

- a. Site Plan Approval by the Leon County Research and Development Authority Development Review Committee (hereafter "LCRDA") established by the INNOVATION PARK/TALLAHASSEE DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS, February 10, 1981, and the LCRDA Resolution dated June 16, 1993.
- b. City Building Permits.
- c. City Land Use Compliance Certificate.

- d. Natural Features Inventory.
- e. Environmental Impact Assessment.
- f. Environmental Management Permit.
- g. Water Management District Stormwater Permits.

12. PERMITS FROM OTHER REGULATORY ENTITIES. The developer shall obtain all necessary permits from other local, regional, and state regulatory entities and provide copies of the same to the City and the Authority within a reasonable time after the permits are issued. The developer shall provide copies of all permit applications to the City and the Authority at least 10 days prior to filing to allow the City and the Authority an opportunity to comment on such application.

13. DEVELOPMENT TO COMPLY WITH PERMITS AND CITY COMPREHENSIVE PLAN AND CODE PROVISIONS. The development described in and authorized by this Agreement shall be developed in accordance with all required permits, and in accordance with all applicable provisions of the City's Comprehensive Plan and Land Development Code in effect on the date this Agreement takes effect.

14. FINDING OF CONSISTENCY. The City finds that the development authorized herein is consistent with the City's Comprehensive Plan and Land Development Regulations in effect on the date this Agreement takes effect.

15. COMPLIANCE WITH PERMITS, TERMS, CONDITIONS AND RESTRICTIONS NOT IDENTIFIED HEREIN. The failure of this Development Agreement to address a particular permit, condition, term, or restriction shall not relieve the Owners of the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions.

16. LAWS GOVERNING DEVELOPMENT UNDER THIS AGREEMENT.

- a. For the duration of this Agreement, all development shall comply with and be controlled by this Development Agreement and the provisions of the City's Comprehensive Plan and Land Development Code in effect on the effective date of this Agreement.
- b. Pursuant to Section 163.3223, Florida Statutes, the City may apply subsequently adopted laws and policies to the property covered by this Agreement only after the required public hearings and based upon legislative findings as prescribed by Section 163.3223.
- c. If state or federal laws enacted after the effective date of this Agreement preclude any party from complying with this Agreement, this Agreement shall be modified as necessary to comply with the relevant State or federal laws. However, this provision shall not be construed to waive or abrogate any rights that may vest in the developer or the Authority pursuant to common or statutory law.

17. AMENDMENT, RENEWAL, AND TERMINATION. This Agreement may be amended, renewed, or terminated as follows:
- a. This Agreement may be amended by mutual consent of the parties or by their successors in interest, by a written instrument signed by the parties or their successors. Section 163.3237, Florida Statutes.
 - b. This Agreement may be renewed by the mutual consent of the parties, subject to the advertising and public hearing requirements of Section 163.3225, Florida Statutes.
 - c. This Agreement may be terminated by the Authority following a breach of the Agreement upon written notice to the City as provided herein.
 - d. This Agreement may be revoked by the City if the City finds, based on competent substantial evidence, that there has been a failure to comply with the terms of this Agreement, pursuant to Section 163.3235, Florida Statutes.
 - e. This Agreement may be terminated by mutual consent of the parties, by a written instrument signed by the parties or their successors.

18. BREACH OF AGREEMENT AND CURE PROVISIONS.

- a. If the city determines that there has been a material breach of this Agreement, or of a permit issued by the city or other regulatory entity for development authorized by this Agreement, the City shall serve written notice on the Authority identifying the term or condition the City contends has been breached and the factual basis for the City's determination. The notice shall provide the Authority ninety (90) days from receipt of the notice to cure the breach.
- b. If the Authority determines that there has been a material breach of this Agreement, the Authority shall serve written notice on the City identifying the term or condition the Authority contends has been breached and the factual basis for the Authority's determination. The notice shall provide the City ninety (90) days from receipt of the notice to cure the breach.
- c. If a material breach is not cured within the time provided, the party that provided notice may elect to terminate this Agreement or may seek to enforce this Agreement as provided herein.
- d. If a party waives a material breach of this Agreement, such waiver shall not be deemed a waiver of any subsequent breach.

17. NOTICES. All notices, demands, requests, or replies provided for or permitted by this Agreement shall be in writing to the addressees identified below, and may be delivered by (a) personal delivery, or (b) United States Mail. Notice shall be effective upon receipt by the following:

- a. To the City:

b. To the Authority:

18. ENFORCEMENT. In accordance with Section 163.3243, Florida Statutes, any party to this Agreement, any aggrieved or adversely affected person as defined in Section 163.3215, Florida Statutes, or the State land planning agency may file an action for injunctive relief in the Circuit Court of Leon County, Florida, to enforce the terms of this Agreement or to challenge it for compliance with Sections 163.3220-163.3243, Florida Statutes.
19. ASSIGNMENT. This Agreement may not be assigned without the written consent of the parties.
20. ENTIRETY OF AGREEMENT. This Agreement contains the entire and exclusive understanding and agreement among the parties and may not be modified except by a written instrument signed by the parties after notice and hearing, if required by law.
21. RECORDING; EFFECTIVE DATE. The Authority shall record this Agreement in the public records of Leon County within 14 days after execution by the parties. A copy of the recorded Agreement shall be served on the State land planning agency, and a copy provided to the City. This Agreement shall take effect thirty (30) days after the recorded Agreement is received by the State land planning agency.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have set their hands and seals on the dates written below.

[add signature blocks for the City and the Authority]