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**AGREEMENT**  
**between**  
**ORANGE COUNTY, FLORIDA**  
**and**  
**CITY OF WINTER PARK, FLORIDA**

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**THE WINTER PARK PLAYHOUSE**  
(711 Orange Avenue, Winter Park, FL 32789)

THIS AGREEMENT is made and entered into as of the date of last execution below, by and between ORANGE COUNTY, a charter county and political subdivision of the State of Florida (“**County**”), and CITY OF WINTER PARK, FLORIDA, a Florida municipal corporation (“**City**”) and is joined and consented to by THE WINTER PARK PLAYHOUSE, INC. a Florida not-for-profit corporation.

WITNESSETH:

**WHEREAS**, the County currently collects the tourist development taxes authorized by Section 125.0104(3)(c), (d), and (m), Florida Statutes (“**Tourist Development Tax**” or “**TDT**”) and authorized uses of such Tourist Development Tax include the acquisition, construction and/or renovation of auditoriums that are publicly owned, but are operated by not-for-profit organizations and open to the public within the county in which such tax is levied; and

**WHEREAS**, on November 29, 2016, the Orange County Board of County Commissioners (“**Board**”) adopted Ordinance No. 2016-30, as amended from time to time (“**Ordinance**”), which amended the Tourist Development Plan to authorize funding from legally available unallocated TDT revenue for legally authorized capital projects and events pursuant to a grant application process set forth in Section 25-147 of the Orange County Code (“**Code**”) which grant applications would be considered by the County’s TDT Application Review Committee (“**ARC**”); and

**WHEREAS**, one of the requirements in the FY 2024 – FY 2028 TDT ARC funding application was that the request had to be for a capital project for a dollar amount in excess of \$2 million and up to and including \$15 million toward a project for the acquisition, construction, expansion, enlargement, renovation, and equipping of eligible facilities; and

**WHEREAS**, the City applied for TDT capital funding in the amount of Eight Million Dollars (\$8,000,000.00) for the acquisition, enlargement, remodeling, and improvement of the Winter Park Playhouse (the “**Playhouse**”, and collectively, the “**Playhouse Project**”), all of which are authorized expenditures pursuant to the Local Option Tourist Development Act, § 125.0104, Florida Statutes (2024); and

**WHEREAS**, The Winter Park Playhouse, Inc. (“WPP”) is a Florida not-for-profit corporation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the property upon which the Playhouse sits is currently owned by Winter Park Mercantile & Investment Properties, a Florida General Partnership (“Seller”) and leased to the WPP; and

**WHEREAS**, for purposes of compliance with this Agreement and the authorized uses of the Tourist Development Tax, WPP has executed a joinder and consent to this Agreement; and

**WHEREAS**, as part of the Playhouse Project, the City intends to purchase the Playhouse property located at 711 Orange Avenue, Winter Park, Florida 32789, with parcel identification number 07-22-30-3616-00-010 and which is more particularly described on **Exhibit “A”** hereto (the “Property”); and

**WHEREAS**, in accordance with the requirements of the Grant Application, as defined herein, the City submitted a Letter of Intent to Sell executed by the Seller, a copy of which is attached hereto and incorporated herein by reference, as **Exhibit “B”**; and

**WHEREAS**, on September 13, 2024, the ARC recommended approval of the City’s application to the Tourist Development Council (“TDC”); and

**WHEREAS**, on September 27, 2024, the TDC recommended approval of City’s application; and

**WHEREAS**, on October 29, 2024, the Board approved the ARC grant recipients, including the City’s Playhouse Project, subject to the execution of a funding agreement containing certain specific terms before the end of Fiscal Year 2025.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the County and the City agree as follows:

**1. Recitals.** The recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement.

**2. County Contribution.** Subject to all terms and conditions set forth in this Agreement, the County agrees to contribute a total aggregate amount not to exceed Eight Million Dollars (\$8,000,000.00) solely from Fiscal Year 2024-2028 Excess TDT Revenue (the “**County Contribution**”). No more than fifty percent (50%) of the County Contribution may be used for acquisition of the Property, as defined herein (the “**County Acquisition Contribution**”). The County Contribution shall be paid to the City in accordance with the terms and conditions of this Agreement. For purposes of this Agreement, “Excess TDT Revenue” shall mean those TDT revenues appropriated by the Board in 2024 in the amount of \$15,000,000.00 per year beginning in Fiscal Year 2024 through Fiscal Year 2028 for capital projects that apply for, and are awarded, funding to the ARC pursuant to Section 25-147 of the Code.

**3. Restrictions on Use of County Contribution.** City shall use the County Contribution only to pay the capital costs associated with the acquisition of the Property, and enlarging, remodeling, and improving the Playhouse as described in the City’s “Orange County

Tourist Development Tax Capital Project Grant Application” dated April 29, 2024 (the “**Grant Application**”), as on file with the County and a copy of which is attached hereto as **Exhibit “C.”** Capital costs shall include acquisition of the Property; construction; design and engineering expenses; and furnishings, fixtures and equipment related to the scope of the Playhouse Project. *The County Contribution shall not be used for construction cost overruns; operating costs; or maintenance costs of any type whatsoever in connection with the construction or operation of the Playhouse.* Furthermore, the County Contribution shall not be used or pledged to secure any debt whatsoever.

**4. Limitations on County’s Obligation.** The County’s obligation to make the County Contribution shall not constitute a lien on Tourist Development Taxes and will not be on parity with any existing or future debt of the County. The obligations of the County under this Agreement are limited solely to Excess TDT Revenue and no general fund revenues or other funds whatsoever of the County are obligated. Nothing provided herein shall obligate or require the County to levy any ad valorem taxes, fees, or assessments whatsoever. This Agreement and any payments provided for in this Agreement are contingent upon the availability of Excess TDT Revenues derived from the tax levied under Section 25-136 of the Code and made available under Section 25-147 of the Code to make the payments hereunder. The County shall not cause such Excess TDT Revenues to be unavailable as a result of dilution of the funds made available through the application process set forth in Section 25-147 of the Code through funding other projects through such process.

**5. Disbursement of County Contribution.** The County Contribution shall be disbursed according to the requirements and schedule set forth below. Before any County Contribution is disbursed, the City must submit proof to the County’s satisfaction that at least eighty percent (80%) of all non-TDT funding necessary to complete the Playhouse Project, in this case, \$1,600,000.00 (the “**Outside Funds**”), has been raised. All such proof of Outside Funds shall be submitted to the County Administrator or designee with a copy to the Orange County Comptroller (“**Comptroller**”). For purposes of this Agreement, Outside Funds may include contributions by the City from non-TDT revenue sources, such as general fund appropriations, grants, or other lawful municipal funds, provided such contributions are separately accounted for and not derived from Tourist Development Tax revenues. The County shall pay the County Acquisition Contribution first subject to the terms herein, and no other portion of the County Contribution shall be disbursed until such time as the City acquires the Property, subject to the contingencies set forth in paragraph 5(a)(ii) below being met.

(a) Proof of the contingencies set forth in paragraph 5(a)(ii) below shall be submitted to the Orange County Attorney’s Office with a copy to the Orange County Real Estate Management Division all at the notice address set forth in Section 9 herein. After review and approval of the contingencies for the acquisition of the Property, the County Administrator or designee shall instruct the Comptroller to disburse the County Acquisition Contribution for the acquisition of the Property to the City within 10 business days thereafter.

(i) Approved Due Diligence. By its approval and execution of this Agreement, the County hereby acknowledges that the County has received, reviewed, and accepted each of the following from the City:

(1) Approved Lease. An unexecuted copy of that certain proposed long-term lease agreement entitled "Lease Agreement" to be between the City, as lessor, and WPP, as lessee, (the "**Approved Lease**") pursuant to which the City intends to lease the Playhouse to WPP.

(2) Preliminary Title Commitment. A preliminary copy of that certain ALTA Commitment for Title Insurance bearing Commitment No. 212557FL issued by Stewart Title Guaranty Company, (the "**Title Company**") through its issuing agent, Fishback Dominick with a commitment date of January 9, 2025, at 8:00 a.m. (the "**Approved Title Commitment**").

(3) Approved Survey. ALTA Survey prepared by L & S Diversified (PSM No. LB#7829) bearing Project Number 241001.07 and a Date of Plat or Map of July 31, 2025, and last revised August 5, 2025.

(4) Approved Environmental Assessment. Environmental Site Assessment and ASTM Database Review of the Property prepared by Terracon Consultants, Inc., and dated February 28, 2025, and presented in Phase I Environmental Site Assessment.

(5) Approved Appraisal. Appraisal Report of the Property prepared by an appraiser on the County's approved appraiser list, specifically, Walter N. Carpenter, Jr., MAI and Sara J. Pridemore, MAI of Pinel & Carpenter, Inc., bearing Report #: 25-037, and having a date of valuation of April 22, 2025, and a date of report of May 22, 2025 with an endorsement to the County (the "**Approved Appraisal**").

(ii) Contingencies. The County's obligation to disburse the County Acquisition Contribution for the acquisition of the Property is contingent upon and subject to those matters specifically set forth hereinafter in this subsection 5(a)(ii) (each, a "**Contingency**," and collectively the "**Contingencies**"), as determined by the County:

(1) The Property. The City shall have acquired the Property, located at 711 Orange Avenue, Winter Park, Florida, 32789 and legally described in **EXHIBIT "A,"** attached hereto and incorporated herein by this reference. Upon the closing of the transaction conveying the Property to the City ("**Closing**"), the City shall deliver to the County a copy of the fully executed and recorded deed conveying the Property to the City.

(2) Approved Lease. The City and WPP shall have fully executed and entered into the Approved Lease in the form previously accepted by the County. Upon execution of the Approved Lease, the City shall deliver to the County, along with a copy of the deed required pursuant to subparagraph (i), a copy of the fully executed Approved Lease.

(3) Title Policy. The City shall have provided (or shall have caused to be provided) to the County, at no cost or expense to the County, and the County shall have approved a "marked-up" version of the Approved Title Commitment ("**Marked-Up Commitment**") that: (i) unconditionally obligates the Title Company to issue an owner's policy to the City in an amount not less than the Purchase Price ("**Title Policy**"); (ii) reflects that all Requirements have been satisfied or deleted; (iii) reflects that all standard exceptions contained in Section B, Section II, of the Approved Title Commitment have been deleted; and (iv) insures the City's fee simple title to the Property free and clear of all liens, claims, assessments, easements, reservations, restrictions, encumbrances, and other matters of record whatsoever, except for matters of record acceptable to the County, if any. Notwithstanding the foregoing, the County hereby acknowledges that all of the following numbered exceptions set forth in Section B, Section II, of the Approved Title Commitment are acceptable to the County: 3, 7, and 8. Upon the Closing, the City shall deliver to the County a copy of the Marked-Up Commitment. The Manager, or acting Manager, of the Orange County Real Estate Management Division ("**REM Division**") is hereby authorized, on behalf of the County, to approve the Marked-Up Commitment pursuant to this paragraph.

(4) Purchase Price. The County Acquisition Contribution may not exceed the appraised value established by the Approved Appraisal. The appraised value established by the Approved Appraisal must equal or exceed the amount of the County Acquisition Contribution. If the purchase price paid by the City for the Property exceeds the appraised value, the City may contribute the difference using non-TDT funds, provided that no portion of such difference is paid or reimbursed with TDT revenues.

(5) Restrictive Covenants. The City will execute the Declaration of Restrictive Covenants containing those covenants, conditions, restrictions, and agreements in substantially the form set forth in **EXHIBIT "E,"** attached hereto and incorporated herein by this reference (the "**Restrictive Covenants**") and cause the Restrictive Covenants to be recorded in the Public Records of Orange County Florida immediately after the deed conveying the Property to the City.

(iii) Waiver of Contingencies. Any Contingency may be waived, lessened, or otherwise removed from this Agreement by the County at any time by delivery of written notification from the County to the City. If all Contingencies have not been satisfied (by the person responsible for the satisfaction of the same) or waived in writing by County within twelve (12) months of the date this Agreement is approved by Board, then County's obligation to disburse any portion of the County Contribution for Property acquisition shall terminate. The Manager, or acting Manager, of the REM Division is hereby authorized, on behalf of the County, to waive Contingencies and furnish notices pursuant to this paragraph.

(iv) Restrictive Covenants. The Restrictive Covenants, and all terms, provisions, covenants, conditions, restrictions, and agreements thereof, are incorporated into this Agreement by this reference. The City's failure to comply with any of the Restrictive Covenants shall constitute a breach of this Agreement by the City. The terms and provisions of this paragraph shall survive the City's acquisition of the Property.

(b) Only upon completion of the acquisition of the Property shall distribution of the remaining portion of the County Contribution for any portion of the Playhouse Project other than the Property acquisition (i.e. the enlargement, remodeling, and improvement of the Playhouse) commence. Such distribution shall be made after City submits proof of valid design, architectural, or construction costs with certification from the Architect that work invoiced has been satisfactorily performed and signed by an authorized representative of City and accompanied by invoices or receipts evidencing completion of work in substantially the form of the cost requisition attached hereto as **Exhibit "D;"** All such cost requisitions shall be submitted to the County Administrator or designee with a copy to the Comptroller. After review and approval of each requisition, the County Administrator or designee shall instruct the Comptroller to make payment to the City within 20 business days thereafter.

(c) Upon compliance with the above requirements, the Comptroller is authorized to disburse the County Contribution to the City according to the following installment schedule:

- (i) Not to exceed \$6,000,000.00 in the aggregate before October 1, 2025;
- (ii) Not to exceed \$7,000,000.00 in the aggregate before October 1, 2027; and
- (iii) Not to exceed \$8,000,000.00 in the aggregate on or after October 1, 2027.

No later than 45 days after a disbursement for unpaid invoices, City shall provide the County with evidence of payment demonstrating that any such invoice was paid.

**6. Commemorative Plaque.** Upon acquisition of the Property by the City and the completion of the Playhouse Project, City and WPP agree that a plaque shall be prominently displayed on the Property acknowledging the names of the Orange County Mayor and Board of County Commissioners and their contribution to the Playhouse Project.

**7. WPP Representations and Obligations.** WPP has represented that it has received a determination from the Internal Revenue Service that it meets the requirements of Section 501(c)(3) of the Internal Revenue Code and hereby represents that it is in material compliance with the terms of such determination. WPP shall (i) maintain its 501(c)(3) status during the term of this Agreement; (ii) diligently proceed with the repair, remodeling, and improvement of the Playhouse in a financially responsible and commercially reasonable manner; (iii) use the Playhouse as described in The Grant Application; and (iv) shall comply with all federal, state, and local laws, ordinances, rules and regulations relating to the repair, remodeling, improvement, funding, operation and maintenance of the Playhouse and the Playhouse Project.

**8. Audit.** The County and the County Comptroller (or designee) shall have the right to audit for compliance with the terms, conditions, obligations, limitations, restrictions and requirements of this Agreement, including the use of the County Contribution for the acquisition of the Property and the Playhouse Project. Such right shall extend for a period of five (5) years after the City's completion of the Playhouse Project. The City agrees to provide reasonable assistance in providing documents, materials, data, information and records to the County and the Comptroller or designee in the performance of these audits as requested by the Comptroller or County during the course of this Agreement and for the aforementioned five (5) years after completion of the Playhouse Project. In those situations where records have been generated from computerized data (whether mainframe, mini-computer, or PC based computer systems), the Comptroller's representatives shall be provided with extracts of data files in computer readable format on data disks or suitable alternative computer exchange formats. Such activity shall be conducted during normal business hours.

**9. Notices.** Any notices required or allowed hereunder shall be in writing and given by certified mail with return receipt requested, to the addresses below, or in person with proof of delivery to the addresses below, or such other address as either party shall have specified by written notice to the other party delivered in accordance herewith:

County: Orange County Administrator  
201 S. Rosalind Avenue, 5<sup>th</sup> Floor  
Orlando, Florida 32801

With a copy to: Orange County Convention Center  
P.O. Box 691509  
Orlando, FL 32869-1509  
Attention: Deputy Director, Fiscal & Operational Support

City: City of Winter Park  
401 South Park Avenue  
Winter Park, Florida 32789  
Attn: Randy Knight, City Manager

Comptroller: Orange County Comptroller  
Director of Finance & Accounting  
201 S. Rosalind Avenue, 4<sup>th</sup> Floor  
Orlando, Florida 32801

County Attorney's Office 201 S. Rosalind Avenue, 3<sup>rd</sup> Floor  
Orlando, Florida 32801  
Attn: Whitney Evers, Sr. Asst. County Attorney

Orange County Real Estate  
Management Division

Orange County Real Estate Management Division  
Attn: Manager  
400 East South Street, 5<sup>th</sup> Floor  
Orlando, Florida 32801

Winter Park Playhouse:

Heather Alexander, Executive Director  
711 Orange Avenue  
Suites B & C  
Winter Park, FL 32789

With copy to:

Patrick Brandt, Esquire  
DSK Law  
332 N. Magnolia Avenue  
Orlando, FL 32801

**10. Budget and Reporting Requirements.** As a condition of receiving funds via the City pursuant to this Agreement, WPP acknowledges and agrees to comply with its reporting obligations and to timely provide the following to the Comptroller and County Administrator, at their respective notice addresses listed in Section 9 hereof:

- (i) audited financial statements of WPP within 60 days of completion of its audit, and such audit shall be completed within 180 days of the close of WPP's fiscal year;
- (ii) WPP's IRS Form-990 filing with the Internal Revenue Service, to be submitted at the time of submission to the IRS;
- (iii) after completion of the Playhouse Project, periodic program reports regarding the attendance at the Playhouse, the economic impact generated by the Playhouse, and the source of that information; and
- (iv) as requested, copies of minutes of any meetings of governing body of the WPP relating to the County Contribution or the Playhouse Project.

At the County's or TDC's discretion, WPP and/or the City shall provide a presentation or presentations regarding the Playhouse and/or the Playhouse Project as may be requested by the TDC or the County.

**11. Indemnification.** To the extent permitted by law, each party agrees to defend, indemnify and hold harmless the other party, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorney's fees) attributable to its negligent acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes (2024). The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or



negligence of the other party. This provision shall survive termination of this Agreement. Notwithstanding the foregoing, the City shall not be required to indemnify the County for any acts, omissions, negligence, or breaches of this Agreement attributable solely to WPP or other third parties operating the Playhouse.

**12. Recordkeeping; Accounting.** The City will utilize accounting procedures and practices in the maintenance of the records of receipts and disbursements of the funds contributed by the County, as well as all its receipts and disbursement of funds, and such procedures and practices shall be in accordance with generally accepted accounting principles. The County and the County Comptroller or their designees shall have access to all books, records, subcontract(s), financial operations, and documents of the City, its lessee(s), contractors, and its subcontractors, as required to comply with this paragraph, for the purpose of inspection or audit anytime during normal business hours during the term hereof, and for a period of five (5) years after completion of the Playhouse Project or the termination of this Agreement, whichever shall occur later. Any cost incurred by the City as a result of a County audit shall be the sole responsibility of and shall be borne by the City. This provision shall survive termination of this Agreement.

**13. Term; Termination.** This Agreement shall become effective upon execution by both parties hereto ("**Effective Date**") and shall continue for a period of five (5) years after the completion of the Playhouse Project, to be determined based on the date of a certificate of completion for the Playhouse Project. This Agreement may be amended, modified, or terminated at any time during the term of this Agreement by the mutual written agreement of the Parties.

**14. Default by the City.**

1. The occurrence of any of the following constitutes an Event of Default by the City:

(a) Failure of the City to acquire the Property within one (1) year of the Effective Date of this Agreement and to complete the Playhouse Project within three (3) years from the acquisition of the Property;

(b) Any material representation made by the City in any communication submitted to the County in an effort to induce the disbursement of Excess TDT Revenues which representation is determined by the County to be materially false, misleading, or incorrect;

(c) The City's default in the performance of any material term or covenant of this Agreement not otherwise provided for in this section for a period of more than 30 days after its receipt of a notice of default, provided however, that if the nature of the default is such that it cannot reasonably be cured within such 30-day period then the City shall have a reasonable period of time to cure such default provided that it diligently undertakes and pursues such cure;

(d) The dissolution of WPP;

(e) If (i) a petition is filed by WPP seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any law relating to bankruptcy or insolvency, or (ii) a petition is filed against WPP, which is

not dismissed within 60 days after filing, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any law relating to bankruptcy or insolvency, or (iii) WPP seeks or consents to or acquiesces in the appointment of any trustee, receiver, master or liquidator of itself or of all of the rent, revenues, issues, earnings, profits or income of any part of the Playhouse, or (iv) WPP makes any general assignment for the benefit of creditors, or (v) WPP is Insolvent (as defined herein); or (vi) any trustee, receiver or liquidator of WPP is appointed who is not discharged within 60 days after its appointment. For purposes of this paragraph, a person or entity shall be deemed to be "Insolvent" if they are unable to pay their debts as they become due and/or if the fair market value of their assets does not exceed their aggregate liabilities;

(f) The loss of WPP's status under Section 501(c)(3) of the Internal Revenue Code for a period of more than 30 days;

(g) WPP's vacating or abandoning the Playhouse; and

(h) The City's failure to comply with the Restrictive Covenants beyond any applicable grace or cure period.

In the event of a default by City under Section 14. 1. (a), this Agreement shall automatically terminate and the County Contribution shall revert to the County. In the event of a default by the City under Section 14.1. (b) - (g), the County may, at its option, exercise any one or more of the following remedies: (i) declare this Agreement terminated, or (ii) exercise any and all remedies available at law and in equity.

In the event of an uncured noticed default by the City under Section 14(h), the City agrees to reimburse the County for the County Contribution within sixty (60) days of a demand for same.

2. Notwithstanding the foregoing, if the default under Section 14.1.1(d)-(g) is due solely to the actions or inactions of WPP, the City may cure such default by identifying a replacement entity ("Replacement Entity") to occupy and/or operate the venue, subject to County approval as set forth below. The City shall have six (6) months to identify and secure such Replacement Entity, and, during such time, the County agrees that it shall not (i) declare this Agreement terminated, or (ii) exercise any remedies available at law and in equity so long as the City is diligently pursuing such cure (the "**Deferred Default Period**"). The City shall identify and evaluate such Replacement Entity to assume occupation and/or operation of the Playhouse based on the following criteria:

(a) the Replacement Entity is either the City or a not-for-profit corporation in good standing in the State of Florida and qualified as tax-exempt under Section 501(c)(3) of the Internal Revenue Code with the experience and capacity to run a theater or venue similar to the WPP;

(b) the Replacement Entity agrees in writing to occupy and operate, or if the Replacement Entity is the City, to operate, the Playhouse as a performing arts venue

consistent with the use restrictions and purposes set forth in this Agreement and the Declaration of Restrictive Covenants and, if the Replacement Entity is not the City, to execute a joinder and consent to both this Agreement and the Declaration of Restrictive Covenants, as may be amended; and

(c) the Replacement Entity is not, at the time of proposal, in material default under any existing agreement with Orange County.

The City shall provide written notice to the County Administrator or the County Administrator's designee identifying its requested Replacement Entity, along with documentation demonstrating compliance with the above criteria in the form of an amended Grant Application (the "**Amended Grant Application**"). The Amended Grant Application shall be reviewed and approved by the ARC, TDC, and Board of County Commissioners. During the Deferred Default Period, the City shall be responsible for insurance and maintenance of the Playhouse. If a Deferred Default Period occurs before the full County Contribution has been disbursed, no further installments of the County Contribution shall be made until the Replacement Entity has been approved and has executed the documents set forth in section 14.2.(b) If the Replacement Entity does not receive approval from the Board of County Commissioners, the County shall have the right to declare this Agreement in default as provided herein.

**15. Default by the County.** The following shall constitute a default by the County: the County's continued default in the performance of a material term of this Agreement including but not limited to its obligations for disbursement of the County Contribution in accordance with the requirements of this Agreement for a period of more than 30 days from its receipt of written notice of such default from the City. In the event of a default by the County, then the City, at its option, may exercise any one or more of the following remedies: (i) declare this Agreement terminated; or (ii) exercise the remedy of mandamus to require the County's performance under the terms and conditions of this Agreement and/or an action for specific performance. The City hereby acknowledges and agrees that the only remedies available to the City other than termination are those of mandamus and specific performance and the County shall bear no liability for direct, indirect, or consequential damages.

**16. Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof; any representations or statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein. No other agreement whether verbal or written, with regard to the subject matter hereof shall be deemed to exist.

**17. No Assignment.** Neither the City nor WPP may assign its rights hereunder, without the prior written consent of the County. Failure to comply with this section may result in immediate termination of this Agreement.

**18. No waiver.** Continued performance by either party hereto, pursuant to the terms of this Agreement, after a default of any of the terms, covenants or conditions herein shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

**19. Severability.** The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.

**20. Governing Law; Venue.** Any litigation occurring as a result of this Agreement shall be held in the courts of Orange County, Florida. This Agreement shall be governed by the laws of the State of Florida.

**21. Headings.** The headings or captions of sections or paragraphs used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.

**22. Counterparts.** This Agreement may be executed in separate counterparts, all of which taken together shall be deemed to constitute one and the same instrument.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement as indicated below:

**ORANGE COUNTY, FLORIDA**

By: Board of County Commissioners

By: \_\_\_\_\_  
Jerry L. Demings,  
Orange County Mayor

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

ATTEST:

Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: \_\_\_\_\_  
Deputy Clerk

(SEAL)

**CITY:**

**CITY OF WINTER PARK, FLORIDA,** a  
municipal corporation of the State of Florida



By: \_\_\_\_\_  
Sheila DeCiccio,  
as Mayor of the City of Winter Park, Florida

ATTEST:

By: Rene Cranis  
Rene Cranis, City Clerk

**JOINDER AND CONSENT**  
**OF THE WINTER PARK PLAYHOUSE, INC.**

The Winter Park Playhouse, Inc., a Florida not-for-profit corporation, (“WPP”) hereby joins in and consents to the foregoing Agreement for The Winter Park Playhouse (“Agreement”) between Orange County, Florida, a charter county and political subdivision of the State of Florida, and the City of Winter Park, Florida, a Florida municipal corporation, for the purpose of complying with the authorized uses of the tourist development tax as set forth in Section 125.0104(5), Florida Statutes (2024) and to indemnify the County in accordance with paragraph 11 of the Agreement as if it were a party to the Agreement.

IN WITNESS WHEREOF, WPP has caused this Joinder and Consent to be duly executed by its duly authorized representative on the date set forth below.

[Signature appears on following page]

THE WINTER PARK PLAYHOUSE, INC., a  
Florida not-for-profit corporation

By: Heather Alexander

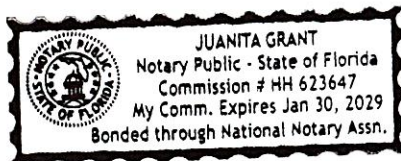
Print Name: Heather Alexander

Title: Executive Director

Date: 8/19/25

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me, a Notary Public, by means of  
☒ physical presence or ☐ online notarization this 19<sup>th</sup> day of August, 2025,  
by HEATHER ALEXANDER, as EXECUTIVE DIRECTOR of THE WINTER  
PARK PLAYHOUSE, INC., a Florida not-for-profit corporation,, on behalf of said corporation,  
who ☒ is personally known to me or ☐ has produced (type of  
identification) \_\_\_\_\_ as identification.



Juanita Grant  
Notary Public

Print Name: JUANITA GRANT

My Commission Expires: JANUARY 30, 2029

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF THE PROPERTY**

This is from the warranty deed for the property:

Lot 1, (LESS road right-of-way), the NE 42.5 feet of Lot 2 (LESS road right-of-way), and Lot 6 (LESS the West 100.5 feet thereof), HILL'S SUBDIVISION, according to the Plat thereof as recorded in Plat Book G, page 62, Public Records of Orange County, Florida.



## EXHIBIT "B"

### COPY OF LETTER OF INTENT TO SELL FROM SELLER

Winter Park Mercantile Investment Properties  
Mr. William Weir  
311 East Morse Blvd., Bldg. 2 Apt. 5  
Winter Park, FL 32789

June 18th, 2024

The City of Winter Park  
401 South Park Avenue  
Winter Park, FL 32789

Dear Randy B. Knight:

This letter of intent expresses our intent (hereinafter "**Sellers**") to sell the land described below to the City of Winter Park (hereinafter "**Buyer**") on the terms stated below and in agreement with the Letter of Intent previously signed and dated April 26<sup>th</sup> 2024:

1. Description of Land. The land that Sellers intend to sell to Buyer and Buyer intends to purchase from Sellers is described as follows:

The Property is herein defined to include the land and improvements thereon, if any, having an address of 711 Orange Avenue, Winter Park with a property description of HILLS SUB G/62 LOT 1 (LESS H/W R/W) & NE 42.5 FT OF LOT 2 (LESS SELY 8 FT FOR ST) & LOT 6 (LESS W 100.5 FT) together with Seller's right, title and interest, if any, in and to (a) all appurtenances, streets, alleys, easements, rights-of-way in or to all streets or other interests in, on, across, in front of, abutting, or adjoining the Property, (b) contracts, agreements, leases, warranties and guarantees encumbering the Property, to the extent same are transferable and (c) all of Seller's licenses, permits, authorizations and approvals issued by governmental authorities for the Property, to the extent same are transferable.

2. Purchase Price. \$3,875,000.00 in cash to Seller, payable at closing.
3. Closing Date. The Closing date will be set by Buyer in consultation with Sellers and in compliance with the previously executed Letter of Intent dated April 26<sup>th</sup> 2024.
4. Delivery of Possession. Sellers intend to vacate the Property and deliver possession to Buyer on the closing date. There are currently two tenants in the building. One is the Winter Park Playhouse and the other is on a month-to-month lease. That lease will end at the time of acquisition.

This letter is intended to indicate the Sellers willingness to sell the property to the City of Winter Park pending the award of the Tourist Development Tax grant requested by the City of Winter Park from Orange County, and in compliance with the already executed Letter of Intent between the Sellers and Buyers dated April 26<sup>th</sup> 2024.

Sincerely,

  
William Weir, Partner Winter Park Mercantile *PARTNER*

6/18/24  
Date

**EXHIBIT "C"**

**COPY OF GRANT APPLICATION**

**EXHIBIT "D"**

**FORM OF COST REQUISITION  
CITY OF WINTER PARK  
WINTER PARK PLAYHOUSE**

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

**TO:** Orange County Administrator  
Orange County Comptroller

The City of Winter Park hereby requests, pursuant to the Agreement between Orange County, Florida and The City of Winter Park, Florida regarding the acquisition, enlargement, remodeling, and improvement of the Winter Park Playhouse dated \_\_\_\_\_, 2025 (the "Agreement"), disbursement of the following amounts:

Name of Vendor	Nature of Disbursement	Vendor Invoice No.	Amount
----------------	------------------------	--------------------	--------

The undersigned does hereby certify to the County that as of the date hereof: 1) there is no existing breach of the Agreement; 2) the above listed items are properly included as authorized enlargement, remodeling, or improvement costs of the Playhouse as set forth in the Agreement; 3) attached hereto are invoices for the costs requested hereby 4) all work being performed is in accordance with any applicable land use restriction agreements, covenants, restrictions, codes or ordinances affecting the site of the Playhouse; 6) the work for which payment is being requested above has been performed and there has been no previous request and disbursement from TDT Revenues for payment of the work.

By: \_\_\_\_\_  
City of Winter Park, Authorized Representative

**EXHIBIT "E"**

**FORM OF DECLARATION OF RESTRICTIVE COVENANTS**

(On following pages)

Prepared by:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Parcel Identification No.: \_\_\_\_\_

### DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (this "Declaration") is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by CITY OF WINTER PARK, FLORIDA, a Florida municipal corporation ("City"), whose address is 401 South Park Avenue, Winter Park, Florida 32789, to and for the benefit of ORANGE COUNTY, a charter county and political subdivision of the State of Florida ("County"), whose address is c/o Orange County Administrator, 201 S. Rosalind Avenue, 5<sup>th</sup> Floor, Orlando, Florida 32801.

### WITNESSETH:

WHEREAS, on even date herewith, City has purchased and acquired title to certain real property situate, lying and being in Orange County, Florida described on Exhibit "A" attached hereto and made a part hereof (the "Property"); and

WHEREAS, pursuant to that certain Agreement between Orange County, Florida and City of Winter Park regarding tourist development tax funding for The Winter Park Playhouse, dated as of the \_\_\_\_ day of \_\_\_\_\_, 2025 (the "Funding Agreement"), City has agreed to impose upon the Property, immediately upon taking title thereto, the covenants and restrictions herein set forth, for the benefit of and enforcement by County.

NOW THEREFORE, for and in consideration of the mutual covenants and conditions contained in the Funding Agreement, City agrees and declares that the following covenants, conditions, restrictions, and agreements (collectively, the "Restrictive Covenants") shall encumber and burden the Property:

1. Beginning upon the recording hereof and continuing for a period of twenty-five (25) years thereafter, the Property shall be used solely for an auditorium and associated amenities, improvements, structures, and infrastructure, including, without limitation, parking areas, driveways, hardscape, landscape, irrigation, lighting, open space, and event space, which shall be operated by an organization exempt from federal taxation pursuant to 26 U.S.C. s. 501(c)(3) ("Non-Profit Entity"), and open to the public, in compliance with all applicable laws and section 125.0104(5)(a)1.b., Florida Statutes (2024) (collectively, the "Playhouse"), unless the prior written consent of County is obtained for other uses, which consent may be withheld or conditioned in County's sole and absolute discretion. For the avoidance of doubt, the Property may be used in accordance with that certain "Winter Park Playhouse Lease and Operation Agreement" of even date herewith between City, as lessor, and The Winter Park Playhouse, Inc., a Florida not-for-profit corporation ("WPP"), as

lessee, (the "Approved Lease") and all uses described in the Approved Lease shall be deemed in compliance with this paragraph.

2. Beginning upon the recording hereof and continuing for a period of twenty-five (25) years thereafter, City shall continuously own the Property and City or a Non-Profit Entity shall continuously use, occupy, and operate the Property (and all buildings, structures, or improvements located thereon from time to time) as the Playhouse in compliance with all applicable laws and materially consistent with generally accepted standards of practice and performance for other Playhouses and facilities of a similar nature throughout the United States of America; provided, however, that periodic closure for weekends and holidays, repair, maintenance, renovation, restoration or the like by reason of fire or other casualty or otherwise or other closures caused by events beyond the City's or operator's reasonable control, including natural disasters, declared emergencies, governmental orders, or public health crises, and/or private events shall not be deemed to be a failure of this covenant.
3. Other than the Approved Lease for the use, occupancy, operation, inspection, maintenance, service, repair, replacement and/or reconstruction of the Playhouse, City shall not, neither orally nor in writing, without the prior written consent of County, which consent may be withheld or conditioned in County's sole and absolute discretion, sell, convey, alienate, transfer (including a transfer by agreement for deed or land contract), assign, or lease the Property, any part thereof, any interest therein, or any buildings, structures, or improvements now or hereafter located thereon, except as may be permitted pursuant to the terms of the Approved Lease; provided, however, that this covenant shall not prohibit City or the lessee (with approval from the City) from entering into short term agreements for third-party use of "event spaces" hereafter located within the Playhouse, nor from the City entering into a lease with a Replacement Entity, as such term is defined in the Funding Agreement, in accordance with the terms set forth in Section 14.2. of the Funding Agreement.
4. City shall not, neither orally nor in writing, without the prior written consent of County (which consent may be withheld or conditioned in County's sole and absolute discretion), create, place, record, or consent to (nor permit to be created, placed, recorded, or exist) on, against, or applicable to the Property, any part thereof, any interest therein, or any buildings, structures, or improvements now or hereafter located thereon, any further monetary or non-monetary liens, pledges, encumbrances, mortgages, security interests, easements, restrictions, leases, agreements, or other instruments whatsoever ("Unpermitted Encumbrances"); provided, however, that this covenant shall not prohibit City from granting easements or similar instruments upon the Property that contain usual and customary provisions and which are reasonably necessary for the construction, operation, or maintenance of the Playhouse upon the Property.
5. These Restrictive Covenants may not be amended or altered without the express written consent of County.
6. In the event of a breach or default by City of any of these Restrictive Covenants which continues for more than thirty (30) days following the date of written notice of such breach or default by City from County, provided, however, that if the nature of the breach or

default is such that it cannot reasonably be cured within such thirty (30) day period, then City shall have a reasonable period of time to cure such breach or default provided that it diligently undertakes and pursues such cure, County shall be entitled to full and adequate relief by any and all remedies permitted at law or in equity, including without limitation award of damages, injunction, and specific performance. Any remedies specifically provided by these Restrictive Covenants shall be cumulative with and in addition to all other remedies permitted at law or in equity.

7. In connection with any dispute arising out of these Restrictive Covenants, or the breach, enforcement, or interpretation of these Restrictive Covenants (regardless of whether such dispute results in mediation, arbitration, litigation, or none of the above), each party and person shall bear the cost of its own attorney's, paralegal, expert, and court fees and costs at trial, retrial, on appeal, at hearings and rehearings, and in all administrative, bankruptcy, and reorganization proceedings. Venue for any action, suit, or proceeding brought to enforce compliance with these Restrictive Covenants shall be in a court of competent jurisdiction in and for Orange County, Florida; each party and person hereby specifically consents to the exclusive personal jurisdiction and exclusive venue of such court.
8. These Restrictive Covenants shall run with title to the Property and shall be binding upon successors and assigns of City. Any transferee of any portion of the Property (regardless of whether such transferee is permitted or unpermitted under these Restrictive Covenants) shall automatically be deemed, by acceptance of the title to any portion of the Property, to have assumed all duties and obligations of these Restrictive Covenants relating thereto. This Declaration shall be of no force or effect twenty-five (25) years after the date this Declaration was recorded.
9. City hereby acknowledges and agrees that City's agreement to accept title to the Property subject to and conditioned upon these Restrictive Covenants is made for good and valuable consideration of County as described in the Funding Agreement, the receipt and sufficiency of which are hereby acknowledged. Without limiting the generality of the foregoing, City acknowledges that County has provided all, or a substantial portion of, the funding necessary to acquire the Property.



**IN WITNESS WHEREOF**, City has caused this Declaration to be executed and delivered as of the date first set forth above.

Signed, sealed and delivered  
in our presence:

\_\_\_\_\_  
(Signature of Witness #1)

\_\_\_\_\_  
(Print name of Witness #1)

\_\_\_\_\_  
(Signature of Witness #2)

\_\_\_\_\_  
(Print name of Witness #2)

Approved as to form and legality for the use  
and reliance of the City of Winter Park,  
Florida, only.

By: \_\_\_\_\_  
City Attorney

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

**CITY:**

**CITY OF WINTER PARK, FLORIDA**, a  
municipal corporation of the State of Florida

By: \_\_\_\_\_  
Sheila DeCiccio,  
as Mayor of the City of Winter Park,  
Florida

**ATTEST:**

By: \_\_\_\_\_  
Rene Cranis, City Clerk

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me, a Notary Public, by means of ☐ physical presence or ☐ online notarization this \_\_\_\_ day of \_\_\_\_\_, 2025, by SHEILA DECICCIO, as Mayor, and Rene Cranis, as City Clerk, of the CITY OF WINTER PARK, FLORIDA, a municipal corporation of the State of Florida, who [ ] is personally known to me or [ ] has produced \_\_\_\_\_ as identification.

(affix seal)

\_\_\_\_\_  
Notary Public, State of Florida at Large  
My Commission Expires: \_\_\_\_\_  
Commission No.

**JOINDER AND CONSENT**  
**OF THE WINTER PARK PLAYHOUSE, INC.**

The Winter Park Playhouse, Inc., a Florida not-for-profit corporation, (“WPP”) hereby joins in and consents to the foregoing Declaration of Restrictive Covenants associated with The Winter Park Playhouse (“Agreement”) between Orange County, Florida, a charter county and political subdivision of the State of Florida, and the City of Winter Park, Florida, a Florida municipal corporation, for the purpose of complying with the Agreement and the authorized uses of the tourist development tax as set forth in Section 125.0104(5), Florida Statutes (2024).

IN WITNESS WHEREOF, WPP has caused this Joinder and Consent to be duly executed by its duly authorized representative on the date set forth below.

[Signature appears on following page]

THE WINTER PARK PLAYHOUSE, INC., a  
Florida not-for-profit corporation

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

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

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me, a Notary Public, by means of  
☐ physical presence or ☐ online notarization this \_\_\_\_ day of \_\_\_\_, 202\_\_,  
by \_\_\_\_\_, as \_\_\_\_\_ of THE WINTER  
PARK PLAYHOUSE, INC., a Florida not-for-profit corporation,, on behalf of said corporation,  
who ☐ is personally known to me or ☐ has produced (type of  
identification) \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

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

My Commission Expires: \_\_\_\_\_

Acknowledged and consented to by:

**ORANGE COUNTY, FLORIDA**

By: Board of County Commissioners

By: \_\_\_\_\_  
Jerry L. Demings,  
Orange County Mayor

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

ATTEST:

Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: \_\_\_\_\_  
Deputy Clerk

(SEAL)

EXHIBIT "A"