

After recording return to:
Michael Graham, Land Administrator
Fulton County Land Division
141 Pryor Street, SW, Suite 8021
Atlanta, GA 30303

Cross Reference

Deed Book 60484, Page 90
Deed Book 59384, Page 6

INDEMNIFICATION, MAINTENANCE AND LAND USE AGREEMENT FOR PRIVATE IMPROVEMENT

THIS AGREEMENT made this ____ day of _____, 20__, between **WORTHING NORTHWINDS LLC** a property owner within Fulton County, Georgia, his successors, affiliates and assigns, as Indemnitor ("Owner"), and **FULTON COUNTY, GEORGIA**, a political subdivision of the State of Georgia ("County").

For good and valuable consideration, receipt of which is hereby acknowledged, it is hereby agreed as follows:

1.

Owner warrants that he is the full and true owner and has clear title to that certain property known as Heights at Northwinds, 6000 Summit Pl, Alpharetta, GA and as more fully described in that certain conveyance recorded in Deed Book 60484, Page 90 of Fulton County, Georgia records, on which Owner desires to install certain private improvements (the "Private Improvements") as more fully described in Exhibit "A", attached hereto and incorporated herein by reference.

2.

Previously, Fulton County was granted a water meter easement, as referenced in and recorded at Deed Book 59384, Page 6 of Fulton County, Georgia records, and hereby grants Owner a License to enter within portions of its water meter easement, to construct, repair and replace, from time to time as may be needed, certain private improvements at his sole cost and responsibility, said private improvements as the same are more fully described in Exhibit "A" (the "Private Improvements").

3.

With respect to this License, Owner shall install and construct the Private Improvements in a good and workmanlike manner and in compliance with all state, local, and Fulton County laws and regulations, including but not limited to, all current state, local and Fulton County laws and regulations governing soil erosion and sedimentation control. Owner will at all times adhere to best management

practice procedures to protect the environment in connection with the construction, repair and/or maintenance of the Private Improvements.

4.

This License shall commence on the date of execution hereof and shall continue in full force and effect unless and until it is terminated at the will of the County.

5.

Owner may terminate this License and Agreement by written notice to the County and shall remove the Private Improvement at his sole costs and return the area to its natural vegetative state. If during the term of this License, the area containing the Private Improvements is condemned by the County or its assign, Owner shall make no claim in the condemnation proceedings for compensation for the Private Improvements.

6.

Fulton County personnel and/or agents shall have free access to and across the Private Improvements to perform routine maintenance and any emergency repairs to the existing public improvements.

7.

Owner shall be solely responsible for the maintenance, repair and replacement of the Private Improvements and the County grants Owner a right of access in order to carry out these obligations.

8.

Notwithstanding any other provisions, in the case of an emergency, Fulton County may immediately suspend or revoke the License without notice in order to protect the health, safety, and welfare of the public. In non-emergency situations, after providing at least 10 days' notice to Owner, Fulton County may suspend or revoke the License in order to carry out any necessary governmental function. In the event of the suspension or revocation of the License, Owner must cure all defects specified by the County in its notice and within the time reasonably specified by the County. Failure on the part of Owner to cure any defects within the allotted time will be grounds for the County to terminate the License. Alternately, the County may, but shall not be required to, cure any such defect at the sole cost and expense of Owner. The County may elect to terminate the License at will and remove the Private Improvements without liability for loss or damage for such removal. Fulton County shall remove the Private Improvements so as not to damage other portions of Owner's property and is granted a right of entry by Owner on the other portions of Owner's property to effectuate the repair, if necessary.

9.

Owner hereby agrees to indemnify Fulton County and hold Fulton County harmless from any and all damages which Fulton County may suffer and from any and all liability, claims, penalties, forfeitures, suits, and costs and expenses incident to the granting of the License and this Agreement (including cost of defense, settlement, and reasonable attorney's fees), which it may hereafter incur, become responsible for, or pay out as a result of the death or bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violations of governmental laws, regulations, or orders caused, in whole or in part, by the negligent act, negligent omission or willful misconduct of Owner, his employees, subcontractors, or assigns in the performance of this License or Agreement.

10.

Owner agrees to repair or replace in a manner acceptable to the County and/or the owner thereof any public utilities damaged by its employees or subcontractors during performance of this License and Agreement or resulting from the failure of the Private Improvements. At its election the County may repair or replace the damaged utility and assess all costs against Owner.

11.

The License conveyed to Owner by this Agreement shall be binding upon Owner, his assigns, affiliates, and successors. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia. If any provisions of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.

12.

The License conveyed to Owner by this Agreement shall constitute a covenant running with the land and shall be recorded in the real property records of Fulton County, Georgia and shall be binding upon all subsequent transferees of said property.

13.

All notices, consents, request, demands or other communications to or upon the respective party shall be in writing and shall be effective for all purposes upon receipt, including, but not limited to, in the case of (i) personal delivery; (ii) delivery by messenger, express or air courier or similar courier; or (iii) delivery by United States first class certified or registered mail, postage prepaid and addressed as follows:

COUNTY: Fulton County
Director of Public Works
141 Pryor Street, SW, 6th. Floor
Atlanta, GA. 30303

with a copy to: County Attorney
Office of the County Attorney
141 Pryor Street, SW, Suite 4038
Atlanta, GA. 30303

OWNER: Worthing Northwinds LLC

Re: District 1 Land Lot(s) 753,799

Parcel Number: 12-285007520697

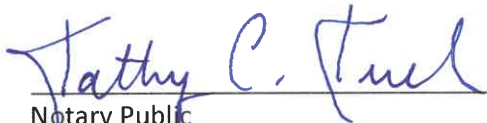
IN WITNESS WHEREOF, the parties have executed this Agreement at Atlanta, Georgia, as of the day and year first above written.

Signatures:

Signed sealed and delivered in the presence of
OWNER (Authorized Party to Bind Said Entity)
WORTHING NORTHWINDS LLC,
a Delaware Limited Liability company


Unofficial Witness

By: Worthing Northwinds Investors LLC,
a Georgia limited liability company,
its manager


Notary Public
My Commission Expires: _____


Owner Signature **DARIN W. COLLIER**
VICE PRES.

Owner's Address:

(Notary Seal)

10 Glenlake Pkwy NE, South Tower, Ste 300

(Notary Stamp)

Sandy Springs, GA 30328

Attest:



FULTON COUNTY, GEORGIA

Clerk of Commission

By: _____
Chairman, Board of Commissioners

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

David E. Clark, Director
Department of Public Works

County Attorney

