

Return recorded copy to:
City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32709

**AGREEMENT RELATING TO APPLICABILITY OF
IMPACT FEES FOR GRACE BIBLE CHURCH BUILDING ADDITION**

THIS AGREEMENT ("Agreement") is entered into this ____ day of _____, 2023, by and between the **CITY OF PALM BAY, FLORIDA**, a Florida municipal corporation, whose address is 120 Malabar Road SE, Palm Bay, Florida 32907 ("City"), and **GRACE BIBLE CHURCH OF PALM BAY, FLORIDA, INC.**, a Florida not-for-profit corporation, whose principal address is 3620 Bayside Lakes Boulevard SE, Palm Bay, Florida 32909 ("Owner"), is based on the following premises:

RECITALS

WHEREAS, Owner has submitted a site plan to the City for approval seeking the construction of a building addition to the existing church building on the property for a fellowship hall and small kitchen ("Project");

WHEREAS, the Code of Ordinances, City of Palm Bay, provides, "Any Land Development activity generating traffic that creates an increased demand on the major road network system shall be obligated to pay a fair share transportation facilities impact fee";

WHEREAS, Owner has submitted to the City that the Project will not generate traffic that creates an increased demand on the major road network system in that it will not increase the number of seats at the church which is currently established at 180 individuals (180) per original building permit or ("Existing Seating Capacity");

WHEREAS, based upon the representation of the Owner, the City has agreed that the Project will not result in an increased demand on the major road network and will not result in an increase in the number of seats used to calculate the fair share transportation facilities impact fee;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and other valuable consideration, the receipt and adequacy of which is hereby acknowledged by all parties, the parties hereto agree as follows:

1. **Recitals.** The above recitals are hereby incorporated and made a part of this Agreement.
2. **Scope of Agreement.** The Project, consisting of the construction of a sixty thousand and sixty (6060 sq. ft.) square foot building located in the City of Palm Bay is subject to an assessment of transportation facilities impact fees by the City. The scope of this Agreement is limited to the

provisions of such. Other impact fees may be imposed on the Project by the City, or other applicable agencies and such other impact fees will remain due and payable pursuant to the applicable regulations thereof. Absent any deferrals or waivers.

3. **Transportation Facilities Impact Fees.**

- 3.1 *Fee Deferral.* The Project would be subject to transportation facilities impact fees if the resultant structure increases the seating capacity of the use, in the amount of twenty two thousand, six hundred and eighty two and sixty four (\$22,682.64) Dollars. The transportation facilities impact fees may be deferred pursuant to the provisions of this Agreement, resulting in the deferral of transportation facilities impact fees in the total amount of twenty two thousand, six hundred and eighty two and sixty four (\$22,682.64) Dollars.
 - 3.2 *Sale, Transfer, or Expansion of the Project.* Owner agrees to notify the City of any proposed sale, transfer, or expansion of the project which may result in a seating capacity for the overall use exceeding the Existing Seating Capacity. The deferral of the transportation facilities impact fees provided in this Agreement may continue if the new owner of the Project agrees not to increase the Existing Seating Capacity. In the event the above-stated condition is not met, the deferred transportation facilities impact fees hereunder shall be due in full upon the sale, transfer, or expansion of the Project.
 - 3.3 *Default.* If the Owner defaults in the performance of its obligations under this Agreement or breaches any covenant, agreement, or warranty of the Owner set forth in this Agreement, and if such default remains uncured for a period of [thirty (30)] days after notice thereof shall have been given by the City to Owner (or for an extended period approved by the City if such default stated in such notice can be corrected, but not within such [thirty (30)] day period, and if the Owner commences such correction within such [thirty (30)] day period, and thereafter diligently pursues the same to completion within such extended period), then the balance of the deferred transportation facilities impact fee shall be due and payable by the Owner or their successor in title to the Project. The City may take any lawful action, whether for specific performance of any covenant in this Agreement or such other remedy as may be deemed most effective by the City to enforce the obligations of the Owner with respect to the Project.
4. **Non-Transferability.** The transportation facilities impact fee deferral applies exclusively to the Project. The transportation facilities impact fee deferral may not be transferred to any other property.
5. **Effective Date and Duration.** Within fifteen (15) days after the execution of this Agreement by all parties, the City shall record this Agreement with the Brevard County Clerk of Court. The Owner shall be responsible for all costs associated with recordation. Unless terminated earlier by either party as provided herein, this Agreement shall remain in effect for a period of ten (10) years. The burdens of this Agreement shall run with the land and shall be binding upon, and the benefits shall inure to, respectively, the Owner and the City, and their respective successors and assigns during the term of this Agreement.
6. **Notices.** All notices, demands and correspondence required or provided for under this Agreement shall be in writing and delivered in person or dispatched by certified mail, postage prepaid, return receipt requested. Notice required to be given shall be addressed as follows:

If to Owner: Grace Bible Church of Palm Bay, Florida, Inc.
Attn: _____
3620 Bayside Lakes Boulevard SE
Palm Bay, FL 32909-6829

If to City: City of Palm Bay
Attn: City Manager
120 Malabar Road SE
Palm Bay, FL 32907

With a copy to: Palm Bay City Attorney's Office
Attn: City Attorney
120 Malabar Road SE
Palm Bay, FL 32907

7. **Miscellaneous.** The execution of this Agreement has been duly authorized by the appropriate body of each of the parties hereto. Each party has complied with all the applicable requirements of law and has full power and authority, to comply with the terms and conditions of this Agreement. The venue of any litigation arising out of this Agreement shall be Brevard County, Florida. The exhibits attached hereto and incorporated by reference herein are by such attachment and incorporation made a part of this Agreement for all purposes. The fact that one of the parties to this Agreement may be deemed to have drafted or structured the provisions of this Agreement, whether in whole or in part, shall not be considered in construing or interpreting any particular provision hereof, whether in favor of or against such party. The terms and conditions of this Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement is solely for the benefit the parties hereto and their respective successors and assigns, and no right or cause of action shall accrue upon or result by reason hereof or for the benefit of any third party not a formal party hereto. Nothing in this Agreement whether expressed or implied, is intended or shall be construed to confer upon any person other than the parties hereto any right, remedy, or claim under or by reason of this Agreement or any of the provisions hereof. This Agreement may not be changed, amended, or modified in any respect whatsoever except through in writing signed by all of the parties, nor may any covenant, condition, agreement, requirement, provision, or obligation contained herein be waived except in a signed writing.
8. **Attorneys' Fees; Hold Harmless; Indemnification.** Should any litigation arise between the parties, each party shall bear its own attorneys' fees and costs. In the event of litigation or claims against the City from third parties arising from this Agreement or the construction described herein, Owner shall indemnify and hold harmless the City from any such litigation or claims; provided, however, nothing contained herein shall be deemed to be a waiver by the City of its respective sovereign immunity. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred by sovereign immunity or operation of law. Owner acknowledges that specific consideration has been paid and other good and sufficient consideration has been received for this indemnification provision.
9. **Captions.** Headings of a particular paragraph of this Agreement are inserted only for convenience and are in no way to be construed as part of the Agreement or as a limitation of the scope of the paragraphs to which they refer.

10. **Severability.** If any part of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way. If any party's joinder in or execution of this Agreement is deemed invalid for any particular purpose, the sections for which the joinder or execution is valid shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and their corporate seals affixed as of the day and year first above written.

ATTEST:

CITY OF PALM BAY, FLORIDA, a Florida
municipal corporation,

City Clerk

Signed, sealed and delivered in the presence of:

GRACE BIBLE CHURCH OF PALM BAY, FLORIDA, INC., a Florida not-for-profit corporation,

[Signature]
Signature

Drew Springer
Print Name

[Signature]
Signature

Theresa Spraggins
Print Name

David Cannon
Signature

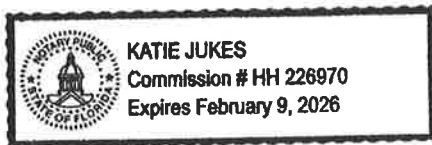
David Cannon
Print Name

Pastor, Director
Title

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 13 day of March, 2023, by David Cannon as Pastor for Grace Bible Church of Palm Bay, Florida, Inc., who is ☐ personally known to me or ☒ produced FL DL as identification.



[Signature]
Notary Signature

EXHIBIT A

Legal Description of Project

Tract I-2, Bayside Lake Commercial Center, Phase 2, According to the Plat thereof, as recorded in Plat Book 45, Pages 82 – 84, of the Public Records of Brevard County, Florida.

Containing 3.24 Acres, more or less.