

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) entered into as of the Effective Date (as defined herein), by and between the SCHOOL BOARD OF HERNANDO COUNTY, a body corporate of the State of Florida (hereinafter referred to as the “School Board”), the HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS (the “County”), a political subdivision of the State of Florida, MAK Family Partnership, Ltd., a Florida limited partnership (the “Owner”), and Hawk Sunrise LLC, a Florida limited liability company (the “Developer”), and The School Board, the Owner the Developer, and the County are sometimes referred to herein collectively as the “Parties” and individually as “Party.”

RECITALS

WHEREAS, the Developer and the County, entered into that certain Development Agreement dated September 12, 2023 (the “Development Agreement”) regarding the Developer’s proposed development known as Sunrise (the “Development”); and

WHEREAS, the Development is located within and subject to the Impact Fee Surcharge and Planning Overlay Ordinance for the Greater I-75/SR 50 Planned Development District Area, as adopted on September 12, 2007 (“I-75/SR 50 PDD”); and

WHEREAS, the Developer and the School Board disagree as to the status of the school concurrency requirements for the Development set forth in the Development Agreement, and the School Board filed an appeal on December 16, 2024, appealing the Hernando County Planning and Zoning Commission’s approval of the first Conditional Plat for the Development and that action has not yet been heard by the County; and

WHEREAS, the Parties desire to resolve and end their dispute regarding school concurrency for the Development, and they jointly agree to the following offer and compromise to settle their disagreement; and

WHEREAS, the Parties agree that the County is a necessary Party to this Agreement to resolve the dispute between the Parties; and

It is agreed that:

1. **Recitals.** The recitals provided hereinabove in this Agreement are true and correct, and by reference, are made a part of the operative provisions of this Settlement Agreement.
2. **Defined Terms.** Any capitalized terms used but not otherwise defined herein shall have the same meaning as set forth in the Development Agreement.
3. **Effective Date.** The “Effective Date” of this Agreement shall be the last date that either the School Board or the Developer execute this Agreement.
4. **Draft Period.** Not later than thirty (30) days from the Effective Date of this Agreement, the Developer shall deliver to the School Board a draft of an amendment to the Development Agreement to amend Section 3.15 (Schools) of the Development Agreement, in conformance with and according to the specifications as set forth on Exhibit “A” attached hereto and incorporated herein by reference (the “Amendment”).

5. **Review Period.** The School Board shall have up to fifteen (15) days from the delivery of the Amendment to review and either approve or provide comments on the form of the Amendment for the sole purpose of determining whether it is consistent with this Settlement Agreement and the specifications set forth on Exhibit "A." The School Board shall send all comments to the Developer, indicating if any revisions are necessary for the Amendment to conform with this Agreement. Should the Amendment necessitate revisions after the School Board's review, the Developer shall work diligently to resubmit such revisions within seven (7) days of receipt of the School Board's comments. Upon receipt of the revisions, the School Board shall have up to seven (7) days to review and either approve or provide comments. Any further rounds of comments shall follow the same process and timelines until the Amendment is approved by the School Board (the "Final Amendment").

6. **Hearing and Approval.** Within fifteen (15) days of the Final Amendment approval, the Developer shall submit the Final Amendment to the County and request that the County schedule a hearing to consider the Final Amendment, as approved by the School Board, and from that time shall diligently pursue the successful passage of the Final Amendment.

7. **Termination.** Should the Developer or the School Board fail to approve and execute the Final Amendment within the timeframe provided for in this Agreement, or fail to abide by the terms and conditions of this Agreement, including the attached Exhibit "A", the School Board or Developer may terminate this Agreement immediately by issuing a Notice of Termination to the defaulting Party, in which case this Agreement will be extinguished as if it never existed and the Parties will be in the same position as they were in prior to execution of this Agreement as if this Agreement never existed.

8. **Time is of the Essence.** Time is hereby declared to be expressly of the essence regarding every obligation of this Agreement. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

9. **Counterparts.** Electronic and facsimile copies of this Agreement and any signatures thereon shall for all purposes be treated as originals. This Agreement may be executed in any number of counterparts which shall collectively be considered as one original.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties, through their respective undersigned authorized officers, have duly executed this Agreement effective as of the date set forth above.

“SCHOOL BOARD”

THE SCHOOL DISTRICT OF HERNANDO
COUNTY, FLORIDA, a body corporate and
politic existing under the laws of the State of
Florida

By: _____
Shannon Rodriguez, School Board Chair

Date: _____

Approved as to form and legality by legal
Counsel to The School District of Hernando
County, Florida, exclusively for its use and
Reliance.

C.J. Wilson Law, P.A., Counsel

By: _____
Christopher J. Wilson, Esq.

Date: _____

“COUNTY”

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

Attest: _____
Douglas A. Chorvat, Jr.
Clerk of Circuit Court & Comptroller

By: _____

(SEAL)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Jon Jouben
County Attorney's Office

“DEVELOPER”

HAWK SUNRISE LLC,
a Florida Limited Liability Company

By: _____

Print Name: _____

Title: _____

Date: _____

“OWNER”

MAK FAMILY PARTNERSHIP, LTD., a Florida
Limited Partnership

By: _____

James H. Kimbrough, Jr.

Title: Partner

Date: _____

EXHIBIT “A”

Terms and Conditions of the Amendment

Upon execution of the Settlement Agreement, the County and the Developer shall draft an Amendment to the Development Agreement for the Board of County Commissioner’s consideration based on the following terms and conditions:

1. **School Site Donation.** Owner has agreed to reserve a school site located on Kettering Road adjacent to the Development, containing approximately 49 gross acres of land, as more particularly described by Exhibit 1 attached hereto (“School Site”).
 - a. Accept School Site. Should the School Board elect to proceed with the conveyance of the School Site, the School Site will be conveyed at fair market value (the “School Site Value”). Pursuant to the Owners and the School Board successfully negotiating a Letter of Intent and corresponding Purchase and Sale Agreement, at Closing the Owners shall accept dollar-for-dollar school impact/surcharge fee credits in the full amount of the School Site Value, which credits shall be fully assignable to any Developer/Builder for use in any school concurrency service area, in any Hernando County project, pursuant to the Florida Impact Fee Act. Credits issued will be non-refundable. Notwithstanding any other terms or conditions of the Purchase and Sale Agreement, the School Board must close on the School Site on or before December 31, 2026.
 - b. Decline School Site. Should the School Board decline to proceed with the conveyance of the School Site, the Developer will make a cash payment, or credit from escrow to the extent credits are available, to the School Board in an amount equal to ten percent (10%) of the total amount of the Educational Impact Fee Surcharges for the Phase One Conditional Plat, not later than prior to the issuance of the first building permit in the Phase One Condition Plat in the amount of \$102,9454.30 (the “Mitigation Payment”). The entirety of the Sunrise development shall be vested for purposes of school concurrency, subject to The Developer or its successors interest paying an amount equal to ten percent (10%) of the total amount of the Educational Impact Fee Surcharges for each subsequent phase of the Development, prior to the issuance of the first (1st) building permit for each approved subsequent conditional plat for the Development. The Developer will accept dollar-for-dollar school impact/surcharge fee credits in exchange for the cash payment, which credits shall be fully assignable to any Developer/Builder for use in any school concurrency service area, in any Hernando County project, pursuant to the Florida Impact Fee Act. Credits issued will be non-refundable.
2. **Impact Fee Credit Escrow Account.** The School Board will establish an impact fee credit escrow account for all Educational Facilities Impact Fees and Educational Facilities Impact Fee Surcharges paid by the Developer for any of its affiliated or related developments located in Hernando County from December 1, 2024, until such time that the School Board decides whether to accept or reject the School Site (the “Escrowed Impact Fee Credits”). The Escrowed Impact Fee Credits will be held for the benefit of this Development.
3. **Credits.** Impact Fee credits issued, regardless of whether the School Board elects to accept or decline the School Site donation, shall be issued by the School Board to the Developer/Owner at a rate of dollar-for-dollar. Impact Fee Credits will be assignable and transferable pursuant to Section 163.31801(10), Florida Statutes. All credits issued will be non-refundable.

4. **1.5 Multiplier Does Not Apply.** The Amendment shall include the following language:
 - a. “Pursuant to Section 23-157(a)(1)(e) of the Hernando County Code, the Development Agreement, as amended, is intended to provide for the full mitigation of impacts as to Schools by the enforcement of the amended Development Agreement, and not by the application of the division.”
5. **Capacity Reservation; School Concurrency.** The entire Sunrise Development will remain vested as to school concurrency, subject to the payment of school impact fees and school impact fee surcharges, as set forth by the executed Amendment to the Development Agreement, which was approved by the School Board prior to execution. The School Board agrees to reserve school students’ stations for the Development, subject to the Developer complying with the terms and conditions of the Amendment. Once the Developer has made the Mitigation Payment, the Developer shall be entitled to rely on the School Concurrency Determination and the capacity reservation for the Development, as set forth in the Amendment, and such right of reliance shall survive the expiration of the Development Agreement, as amended.
6. **Impact Fees and Impact Surcharges.** Notwithstanding anything contained herein, the Development shall pay all applicable countywide educational facilities impact fees and educational facilities impact fee surcharges at the then current rate, without offset or exemption, except as provided for in the Amendment.