

CORTEZ OAKS
SIGNALIZED INTERSECTION CONSTRUCTION AGREEMENT

THIS AGREEMENT (this "Agreement") is made and entered into this 24th day of August, 2021, by and between the Hernando County, a political subdivision of the State of Florida ("County"), Hernando Health Care Properties, LLC ("HHCP"), and HCA Health Services of Florida, Inc. ("HCA"). The County, HHCP and HCA shall each be referred to herein as a "Party" and shall be collectively referred to herein as the "Parties."

RECITALS

WHEREAS, HHCP is the developer of the approximate 22.5-acre property described in the Oak Hill Senior Living Plat (OR PB 43, PGS 7-10), which includes a skilled nursing and assisted living facility with memory care ("HHCP Project"); and

WHEREAS, HCA is the owner and operator of the Oak Hill Hospital ("Hospital"); and

WHEREAS, the County has planned a critical county urban collector road to be known as Cortez Oaks Boulevard connecting S.R. 50 between the Hospital and the HHCP Project, and proceeding North to Star Road, as provided by the Hernando County Comprehensive Plan ("Regional Road Project"); and

WHEREAS, a critical component of implementing the Regional Road Project will require the County to relocate the existing signalized intersection at S.R. 50 and Oak Hill Hospital west to accommodate the Regional Road Project's connection to S.R. 50 as generally depicted on Exhibit "A" attached hereto ("Signalized Intersection Relocation Project"); and

WHEREAS, the Parties desire to cooperatively work together to assist the County in constructing the Signalized Intersection Relocation Project as specifically provided for in this Agreement; and

WHEREAS, the Parties desire to enter into this Agreement in order to provide for the rights and responsibilities of the Parties regarding the design, permitting, construction and funding of the Signalized Intersection Relocation Project.

NOW, THEREFORE, in consideration of the covenants hereinafter contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **Recitals.** The above referenced recitals are true and correct and are incorporated herein by reference.
2. **Signalized Intersection Relocation Project Plans and Specifications.** The Parties agree to the plans and design specifications for the Signalized Intersection Relocation Project which are contained in the "Construction Plans for S.R.50 & Cortez Oaks Avenue Intersection Improvements (Project #17017)" prepared by Coastal Engineering Associates, Inc. ("Coastal") and attached hereto as **Composite Exhibit "B"** ("**Plans and Specifications**"). Any modifications to the Plans and Specifications shall require the approval of the Parties, which approval may be confirmed in a separate written instrument, including electronic format, by each Party. The County agrees that any approval for such modifications may be administratively approved by the Director of Public Works/County Engineer.

3. **The County's Role – Project Manager.** The Parties agree that the County shall be the project manager responsible for the design, permitting, construction, and funding of the Signalized Intersection Relocation Project as provided in this Agreement. Within ten (10) days of the Effective Date of this Agreement, the County will coordinate with the Florida Department of Transportation ("FDOT") to assume the role of applicant and permittee of the FDOT Application identified as Construction Agreement No. 2019-C-798-00008, attached hereto as **Exhibit "C"** ("**FDOT Construction Agreement**"), and take all necessary actions to obtain FDOT's approval of the Plans and Specifications, together with any other required permits to effectuate the construction of the Signalized Intersection Relocation Project including the finalization and execution by the County of the FDOT Construction Agreement (collectively, "**Government Authorizations**"). The County shall use commercially reasonable efforts to obtain all required Governmental Authorizations for the Signalized Intersection Relocation Project within three (3) months of the Effective Date of this Agreement. Any modifications to the Plans and Specifications must be approved by the Parties as set forth in Paragraph 2 above.

4. **Project General Contractor, Engineer, and Bidding Process for Final Section of Construction Contractor.** The Parties agree that HHCP shall be the independent contractor responsible for the management of the construction of the Signalized Intersection Relocation Project, and Coastal shall continue to serve as the engineer. HHCP agrees to solicit sealed alternate competitive bids to determine the Final Project Costs (defined below) for the Signalized Intersection Relocation Project and select the construction contractor. The final selection of the construction contractor shall be based upon the lowest reasonable and responsive alternate competitive bid from a minimum of at least three (3) reputable Hernando County approved contractors. HHCP agrees to otherwise comply with the County's bid process. Each bid shall clearly indicate the cost of each component of the Signalized Intersection Relocation Project. HHCP also agrees to have County personnel supervise the bidding process and be present when the sealed bids are opened. HHCP further agrees to allow the County to concurrently approve and accept the most reasonable and responsive low bid. The County shall be responsible for entering into all agreements with the construction contractor, Coastal and other professionals and consultants performing work on the Signalized Intersection Relocation Project and shall be the responsible party for paying all contractors, professionals and consultants directly.

5. **Estimated and Final Project Costs.** Attached as **Exhibit "D"** is an estimate in the amount of \$1,434,942.46 from Coastal which represents the design, permitting and construction costs for the Signalized Intersection Relocation Project ("**Estimated Project Costs**"). The final Signalized Intersection Relocation Project costs shall be the total costs for the Signalized Intersection Relocation Project, including design, permitting and construction costs, upon the final completion of the Signalized Intersection Relocation Project on the date that Coastal obtains approval of the final Signalized Intersection Relocation Project as-built from all applicable governmental permitting entities, including FDOT and the County ("**Final Project Costs**").

6. **Cost-Sharing.** Attached as **Exhibit "E"** is the transportation analysis prepared by Lincks & Associates, Inc. dated June 15, 2020 ("**Transportation Analysis**") which provides a proportionate share allocation for the Signalized Intersection Relocation Project. The Transportation Analysis assigns 61.6% of the Final Project Costs to the County which would currently be \$883,924.56 of the Estimated Project Costs. The Parties agree that the Final Project Costs shall be paid as follows:
 - a. Within ten (10) days of the Effective Date, HHCP shall pay the County \$500,000.00, which the County shall use to pay toward the Final Project Costs.

- b. Within ten (10) days of the Effective Date, HCA shall pay the County \$250,000.00, which the County shall use to pay toward the Final Project Costs.
 - c. After the County has expended the \$750,000.00 contributed by HHCP and HCA to pay the Final Project Costs as provided in Section 6a. & b. above, the County shall be responsible for paying the remaining Final Project Costs necessary to complete the construction of the Signalized Intersection Relocation Project.
7. **Pre-Construction Conference.** HHCP shall hold a pre-construction conference for Signalized Intersection Relocation Project, and notify the County so the County may attend and participate.
 8. **Inspection.** HHCP agrees to permit the County inspector(s) to be present at all times during construction of the Signalized Intersection Relocation Project.
 9. **Remedies.** In the event of a breach or threatened breach of any Party's obligations under this Agreement, a cause of action shall immediately accrue to the non-breaching Party, and such non-breaching Party shall be entitled to pursue all remedies in law and equity.
 10. **Notices.** All notices which are required or permitted hereunder must be in writing and shall be deemed to have been given, delivered or made, as the case may be (notwithstanding lack of actual receipt by the addressee) (i) upon hand delivery; (ii) one (1) Business Day after having been deposited with an expedited, overnight courier service (such as by way of example but not limitation, U.S. Express Mail, Federal Express, or UPS), or (iii) upon delivery of a facsimile transmission with electronic delivery verification to the following addresses or numbers:

If to HHCP: Hernando Health Care Properties, LLC
1800 N. Wabash, Ste. 300
Marion, IN 46952
Attn: Ryan Ott
Fax: (765) 664-5403
E-mail: Ryan.Ott@tlcmgmt.com

Courtesy copy to: Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
106 E. College Ave., Ste. 700
Tallahassee, FL 32301
Attn: Reggie L. Bouthillier, Esq.
Fax: (850) 580-7200
E-mail: rbouthillier@stearnsweaver.com

If to HCA: HCA Health Services of Florida, Inc.
One Park Plaza
Nashville, TN 37203
Attn: Nick Paul, Vice President, Real Estate
E-mail: nick.paul@hcahealthcare.com

Courtesy copy to: Waller Lansden Dortch & Davis LLP
511 Union St., Ste. 2700
Nashville, TN 37219
Attn: Tonya W. Scharf, Esq.
Fax: (615) 244-6804
E-mail: tonya.scharf@wallerlaw.com

If to the County: Hernando County
 15470 Flight Path Drive
 Brooksville, FL 34604
 Attn: County Administrator
 Fax (352) 754-4477
 Email: administration@co.hernando.fl.us

Courtesy copy to: Hernando County Attorney's Office
 20 N. Main St., Ste. 462
 Brooksville, FL 34601
 Attn: Garth Coller, Esq.
 Fax: (352) 754-4001
 E-mail: CAO@hernandocounty.us

The failure by any party to deliver a courtesy copy as referenced above shall not constitute a default under the terms of this Agreement nor shall it create a defect in any notice which is otherwise properly given. Furthermore, it is agreed that, if any party hereto is represented by legal counsel, such legal counsel is authorized to deliver written notice directly to the other party on behalf of his or her client, and the same shall be deemed proper notice hereunder if delivered in the manner hereinabove specified. Any party hereto may, at any time by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the foregoing address to which such notice shall be given and other parties to whom copies of all notices hereunder shall be sent.

11. **Miscellaneous.**

- a. **Participation.** Each of the Parties have participated fully in the negotiation and preparation of this Agreement with full benefit of counsel. Accordingly, this Agreement shall not be more strictly construed against any of the Parties, and shall be interpreted as if the Parties hereto jointly prepared it.
- b. **Cooperation.** The Parties shall execute in good faith such other and further documents as may be required to effectuate the terms of this Agreement.
- c. **Force Majeure.** If the performance of any obligation under this Agreement is prevented, restricted, or interfered with by reason of war, revolution, civil commotion, acts of public enemies, pandemic, epidemic, blockade, embargo, strikes, acts of God, floods, tropical storms or hurricanes, then the affected party shall, upon giving prior written notice to the other party, be excused from such performance to the extent of such prevention, restriction, or interference, provided that the affected party shall use commercially reasonable efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed.
- d. **Attorneys' Fees/Venue.** In the event of any dispute, litigation, or other proceeding between the Parties arising out of this Agreement, to enforce any provision of this Agreement, or any right of the Parties hereunder, each party to such dispute, litigation, or other proceeding shall pay its own attorney fees, costs and expenses incurred in court, at trial, on appeal, and in any other proceeding irrespective of whether a party prevails in such litigation or proceeding. In the event of litigation, venue shall be in Hernando County, Florida. The provisions of this Section shall survive termination of this Agreement.

- e. **Relationship of the Parties; No Third Party Beneficiaries.** Nothing contained in this Agreement is intended to, or shall, or shall be deemed to, create a joint venture or partnership of any kind between the Parties hereto. Nothing contained in this Agreement is intended to create any rights in third parties.
- f. **Waiver of Jury Trial.** THE PARTIES JOINTLY AND SEVERALLY, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS, WHETHER VERBAL OR WRITTEN, OR ACTIONS OF EITHER PARTY.
- g. **Severability.** In the event any one or more provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.
- h. **Assignment.** Assignment of this Agreement by any Party must be approved in writing by the other Parties, which approval shall not be unreasonably withheld.
- i. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective Parties.
- j. **Authority.** If applicable, the entity officer or manager executing this Agreement certifies by acknowledgment of the signature below that s/he has been properly authorized to enter into this Agreement on behalf of, and binding with respect to, such entity.
- k. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall together constitute but one and the same instrument.
- l. **Amendment.** This Agreement is the complete agreement of the Parties and may not be changed, orally, but only by instrument in writing signed by the Parties.
- m. **Headings.** Titles and captions to paragraphs and sections are inserted for convenience only, and in no way define, limit, extend or describe the scope or intent of this Agreement or the paragraphs, sections or provisions herein.
- n. **No Waiver.** Failure of any Party to exercise any right or power given hereunder, or to insist upon compliance by another Party with its obligations set forth herein, shall not constitute a waiver of any Party's right to demand strict compliance with the terms and provisions of this Agreement. Parties further agree that the waiver of a Party's breach or threatened breach of any obligations under this Agreement shall not be construed as a waiver of any subsequent breach by that Party.
- o. **Effective Date.** The "Effective Date" of this Agreement shall be the date that the last of the Parties execute this Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals as of the dates set forth below.

HERNANDO COUNTY

ATTEST:

Susan Burns, Deputy Clerk
for Douglas Chorvat, Jr.
Clerk of the Circuit Court

J. Allocco
John-Allocco,
Hernando County, Board Chairman

Date: August 24, 2021



COUNTY OF HERNANDO

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 24th day of August, 2021, by John Allocco as Chairman of the Hernando County Board of County Commissioners, who is personally known to me or who has produced _____ as identification.

[Notary Seal]



Cheryl Carr
Notary Public

Cheryl Carr
Name printed

My Commission Expires: 11/2/2024

FOR THE USE AND RELIANCE OF
HERNANDO COUNTY ONLY.
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY.

Michael B...
Assistant County Attorney

WITNESSES:

HERNANDO HEALTH CARE PROPERTIES, LLC

Helma Spargo
Print Name: Helma Spargo

Jennifer L. Young
Print Name: Jennifer L. Young

By: Ryan M. Ott
Name: Ryan M. Ott
Title: Vice President of Development

Date: 7/15/2021

STATE OF Indiana
COUNTY OF Grant

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 13th day of July, 2021, by Ryan M. Ott of Hernando Health Care Properties, LLC, a Florida limited liability company, who is personally known to me or who has produced _____ as identification.



Marietta J. Williams
Notary Public
Marietta J. Williams
Name printed

My Commission Expires: 12-20-2025

WITNESSES:

[Signature]
Print Name: Karin M. Holm

[Signature]
Print Name: Kelly K. Wise

STATE OF Florida
COUNTY OF Hillsborough

HCA HEALTH SERVICES OF FLORIDA, INC.

By: [Signature]
Name: Ravi Chari
Title: President
Date: 7/21/21

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 21st day of July, 2021, by Ravi S Chari of HCA Health Services of Florida, Inc., a Florida corporation, who is personally known to me or who has produced _____ as identification.

[Notary S



[Signature]
Notary Public
DINA KATSOUGRAKIS
Name printed
My Commission Expires: 4/28/2025