RESOLUTION of the
ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS

regarding

ADOPITION OF FORM USE AGREEMENTS TO BE USED WITH MANDATORY AND INCORPORATED VOLUNTARY HOMEOWNERS' ASSOCIATIONS FOR THE PURPOSE OF ALLOWING CRIME PREVENTION CAMERAS TO BE PERMITTED IN PUBLIC RIGHTS-OF-WAY.

Resolution No. 2015-M-016

WHEREAS, on January 13, 2015, the Board of County Commissioners (the "Board") approved a program that allows crime prevention cameras to be permitted in public rights-of-way of subdivisions with mandatory and incorporated voluntary Homeowners' Associations, subject to entering into a Use Agreement and complying with County ordinances, conditions, regulations, and permitting requirements (the "Security Camera Program"); and

WHEREAS, it is in the best interest of the County to approve forms of Use Agreements in order to efficiently and effectively accomplish the goals of the Security Camera Program and to authorize the Mayor to approve such Use Agreements on behalf of the Board.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Authority. This Resolution is adopted pursuant to the provisions of the Constitution of the State of Florida, Chapter 125, Florida Statutes, the Charter of Orange County, and other applicable provisions of law.

Section 2. Use Agreement Forms. The Board hereby adopts the Use Agreement form as set forth on Exhibit "A," attached hereto and incorporated herein by
reference, to be used with mandatory homeowners' associations, and the Use Agreement form as set forth on Exhibit "B," attached hereto and incorporated herein by reference, to be used with voluntary incorporated homeowners' associations, both in order to accomplish the goals of the Security Camera Program. The Board hereby directs that such Use Agreements shall be in substantially the form attached hereto.

Section 3. Mayor's Authority to Approve. The Board hereby authorizes the County Mayor to sign the Use Agreements described herein, provided such Use Agreements are in a form which does not materially deviate from that shown in Exhibit "A" or Exhibit "B" hereto, whichever is applicable. The County Comptroller, as Clerk to the Board, or her designee, shall attest to the Mayor's signature on any such Use Agreements.

Section 4. Effective Date. This Resolution shall be effective upon adoption by the Orange County Board of County Commissioners.

ADOPTED this 10th day of March, 2015.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: Teresa Jacobs
Orange County Mayor

ATTEST: Martha O. Haynie, County Comptroller
As Clerk to the Board of County Commissioners

By: Deputy Clerk
EXHIBIT "A"
USE AGREEMENT FORM (Mandatory HOA)
USE AGREEMENT BETWEEN
HOMEOWNERS ASSOCIATION AND ORANGE COUNTY

THIS AGREEMENT (the “Agreement”) is entered into by and between

_____________________________ HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation (the “Association”), with a mailing address at ____________________ Florida _______, and ORANGE COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida (the “County”), with a mailing address at P.O. Box 1393, Orlando, FL 32802-1393.

RECITALS

WHEREAS, a single-family residential project known as _______ [#name of subdivision#], consisting of __________platted [lots/subdivisions], has been constructed in the unincorporated area of Orange County on certain real property, as more particularly described in Exhibit “A,” attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, Association, whose members are the owners of the Property, has been formed pursuant to the Association documents which are recorded at O.R. Book ______ Page _____, public records of Orange County, Florida, to assure the perpetual and continuous maintenance of certain common property and entrance way areas located on and adjacent to the Property; and
WHEREAS, Association desires to obtain a Right-of-Way Utilization Permit and Low Voltage Electrical Registration (together, the "Permits") from County, pursuant to which Association will be allowed to install, construct, and maintain the following improvements: security camera(s), any associated components, electronics, or any other equipment necessary to install such camera(s), any pole(s) to which such camera(s) will be attached, and associated signage within the right-of-way (collectively, the "Improvement(s)"), in the roads, medians, and parkways, located within the existing public rights-of-way adjacent to the Property and/or located within those areas which have been dedicated via plat or deed to public use (collectively, the "Dedicated Areas"), said Dedicated Areas being within the boundaries of or adjacent to the Property, as more particularly described in composite Exhibit "A"; and

WHEREAS, County requires that Association undertake certain commitments and covenants to assure the perpetual and continuous maintenance of any such Improvement(s).

NOW, THEREFORE, in consideration of the foregoing and of the terms and conditions set forth herein, the parties agree as follows:

1. **RECITALS.** The foregoing recitals are true and correct and form a material part of this Agreement.

2. **RIGHT-OF-WAY UTILIZATION PERMIT AND LOW VOLTAGE ELECTRICAL REGISTRATION.** County shall issue the Permits to Association subject to the terms of this Agreement. Association shall not, while installing, maintaining, or removing the Improvement(s), damage or disturb any portion of the Dedicated Areas without prior written approval by County and County’s prior written approval of a plan to restore the Dedicated Areas.
Nothing contained herein or by virtue of the issuance of the Permits shall give or grant to Association any ownership rights to any portion of the Dedicated Areas. Furthermore, nothing contained herein or by virtue of the issuance of the Permits shall give or grant to Association any license, privilege, or right to install, construct, or maintain any of the Improvements outside the Dedicated Areas. Moreover, in the event the Association needs any other type of permit or approval to install, construct, or maintain any of the Improvements, it shall be the Association’s responsibility to apply for and obtain any such permit or approval at its sole expense before installation, construction, or maintenance.

3. **IMPROVEMENTS.** Any improvement that, in County’s sole opinion, may impede the functional operation of planned, proposed, or existing utilities or facilities shall not be permitted under this Agreement. The Improvement(s) shall be established and maintained in such a manner as will not interfere with the use of the Dedicated Areas by the public nor create a safety hazard on such Dedicated Areas.

4. **REMOVAL/RELOCATION.** If, in the sole opinion of County, the Improvement(s):
   a. Presents a safety and/or traffic operational hazard, or
   b. Interferes with any construction, reconstruction, alteration, improvement(s), or maintenance which County desires to perform on, around, or under the Dedicated Areas,

then Association, upon receipt of a written notice from County, shall remove, repair, or relocate the Improvement(s) as requested by County and to County’s satisfaction within thirty (30) days
of receipt of said notice, or within thirty (30) days of the first date of publication of legal notice, which publication shall appear in not less than two weekly issues of a newspaper of general circulation in Orange County, Florida. Any such relocation, repair, or removal of the Improvement(s) shall be at the sole expense of Association and at no cost to County.

5. **INDEMNIFICATION.** To the fullest extent permitted by law, Association shall defend, indemnify, and hold County and its agents, officials and employees, harmless from and against all claims, damages, losses, and expenses, including reasonable attorney fees and costs, arising out of, or resulting in whole or in part from, any act or omission of the Association or their contractors, subcontractors, agents or employees. The remedy provided to County by this paragraph shall be in addition to and not in lieu of any other remedy available under the Agreement or applicable law and shall survive the termination of this Agreement. Association shall defend, indemnify, and hold County harmless (and any governmental body or utility authority properly using the Dedicated Areas) from and against all expenses, costs, or claims for any damages to the Improvement(s) which may result from the use of the Dedicated Areas by County or any other governmental body or authority due to maintenance, construction, installation, or other proper use within the Dedicated Areas.

6. **INSURANCE.** Throughout the duration of this Agreement, Association shall procure and maintain on a primary basis, and solely at their cost and expense, insurance of the types and limits, including endorsements, described herein. The requirements contained herein, as well as County’s review or acceptance of insurance maintained by Association, is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by
Association under this Agreement. Insurance carriers providing coverage must be authorized and/or eligible to conduct business in State of Florida and must possess a current A.M. Best’s Financial Strength Rating of A- Class VIII or better. Association shall require and ensure that each of its contractors and/or subcontractors maintains insurance until the completion of their work under any contract associated with this Agreement. Failure of Association to maintain appropriate and adequate insurance coverage for itself or for any other persons or entities for whom it is responsible, or to ensure that its contractors or subcontractors maintain such coverage, shall not relieve Association of any contractual responsibility, obligation, or liability. The required coverage shall be as follows:

- Commercial General Liability coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than $1,000,000 per occurrence. Association further agrees that coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this Agreement or shall be at twice the required occurrence limit.

- Association shall endorse County as an Additional Insured with a CG 20 26 Additional Insured-Designated Person or Organization endorsement, or its equivalent, to all commercial general liability policies. This provision shall be listed in the name of the Orange County Board of County Commissioners.

Within thirty (30) days of the Effective Date of this Agreement, as defined herein, and at any time prior to execution and commencement of any operations under this Agreement,
Association shall provide the County with current Certificates of Insurance. The type and amount of coverage shall be clearly stated on the face of each certificate. Each certificate shall name County as an additional insured, and shall contain a provision which forbids any cancellation, change, material alteration, or renewal of coverage without providing forty-five (45) days prior written notice to County. In addition to such certificates, Association shall provide copies of the Additional Insured Endorsement(s) and all Waiver of Subrogation endorsements as required herein. Renewal certificates shall be submitted annually within thirty (30) days of renewal. Any insurance certificates, endorsements, or copies thereof required hereunder shall be provided to the Manager of Development Engineering Division of the County’s Public Works Department at 4200 South John Young Parkway, Orlando, FL 32839.

7. ASSOCIATION’S UNCONDITIONAL COVENANT TO COMPLY AND MAINTAIN.

a. Association unconditionally covenants and agrees to comply with all terms set forth herein including, but not limited to, its obligations to satisfy the costs associated with installation of any Improvement(s) pursuant to a plan approved in advance by the County and to remove said Improvement(s) at its sole cost and expense upon reasonable demand from County as further detailed herein. Association represents and warrants that: (1) prior to entering into this Agreement, it held a duly-noticed meeting(s) to inform the owners of the Property of the plan to install the Improvement(s) and to enter into this Agreement, and (2) it has the authority to enter into this Agreement and to expend Association funds to satisfy its obligations hereunder and that no further approval is required to expend said funds other than routine Board of
Directors’ resolution. In no event shall County become responsible for any costs associated with installation, removal, re-installation, or maintenance of any and all Improvement(s) approved by County.

b. Association shall establish in its annual budget a reserve account, as set forth in § 720.303, Florida Statutes, in an amount sufficient to fully reimburse County for any costs County may incur (the “Reserve”) as a result of Association’s failure to perform any of its obligations under this Agreement. The amount of the Reserve shall be based on the deferred maintenance cost of the Improvement(s) which shall include the cost of maintenance and removal of the Improvement(s), and the cost of potential repairs to the Dedicated Areas, all as determined by the County. In the event Association fails to maintain or remove the Improvement(s) permitted by County, County shall have the option to remove the Improvement(s) and Association shall have the unconditional obligation to fully reimburse County from the Reserve for any said costs County may incur. Additionally, Association shall annually budget for the Reserve in the agreed upon amount and shall notify County, at the address listed in Section 6 hereof, if any budget is approved which waives the Reserve or does not maintain the agreed upon level of funding in the Reserve. Notwithstanding the language in Section 10 hereof, waiver or reduction of the agreed upon amount of the Reserve is cause for immediate termination of this Agreement and revocation of the Permits by the County.

c. Association shall comply with all County policies and standards for the installation of the Improvement(s) and shall coordinate all Improvement requests through the County’s Public Works Department. All Improvement(s) installed by or for the benefit of the
Association shall substantially adhere to the “Improvement Requirements” attached hereto and incorporated herein by reference as Exhibit “B.”

d. Association shall, at all times throughout the term of this Agreement, validly maintain its corporate existence with the State of Florida, Division of Corporations, and annually provide proof of good standing to the Manager of the County's Development Engineering Division at the address listed in Section 6 above.

e. Association’s financial obligation to reimburse the County for any costs County may incur related to this Agreement or the Improvements shall survive the termination of this Agreement.

8. RECORDING. This Agreement shall be recorded against the Property in the Public Records of Orange County, Florida within thirty (30) days of its execution at the Association’s expense. Promptly upon execution of this Agreement by the Association, but prior to execution of the Agreement by the County, Association shall pay to County an amount equal to the applicable cost of recording this Agreement in the Public Records of Orange County, Florida.

9. COVENANTS RUNNING WITH THE LAND. The provisions of this Agreement shall constitute covenants running with the land or an equitable servitude upon the land, as the case may be, applicable to all of the Property described herein or any portion thereof. Furthermore, this Agreement shall be binding on all parties having any right, title, or interest in the Property described herein, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Association declares that the Property described in this Agreement and
any portion thereof shall be held, sold, and conveyed subject to the provisions of this Agreement. This Agreement shall inure to the benefit of and be enforceable by County and its legal representatives, successors, and assigns.

10. **DURATION.** The provisions, restrictions, and covenants of this Agreement shall run with and bind the land for a period of five (5) years from the date this Agreement is recorded in the Public Records of Orange County, Florida. Thereafter, this Agreement shall be automatically extended for successive periods of five (5) years each, unless a written instrument agreeing to terminate or revoke said provisions, restrictions, and covenants is approved by a majority of the Orange County Board of County Commissioners and the Association. No such agreement to terminate or revoke shall be effective until said written instrument has been signed, acknowledged, and recorded in the Public Records of Orange County, Florida. Notwithstanding any of the above provisions, County shall have the right to unilaterally cancel this Agreement upon forty-five (45) days prior written notice to Association. No such cancellation shall be effective until a written instrument has been executed and acknowledged by the Board of County Commissioners and recorded in the Public Records of Orange County, Florida. Should the Association desire to remove the Improvement(s), Association shall notify County in writing and, upon County’s written approval of a plan to restore the Dedicated Areas, and County’s final sign-off of the implementation of said plan and removal of the Improvement(s), this Agreement shall terminate once a written instrument acknowledging such termination has been executed and acknowledged by the Board of County Commissioners and recorded in the Public Records of Orange County, Florida.
11. **NO MSTU or MSBU.** In light of the purpose and intent of this Agreement, the Association understands and agrees that during the term of this Use Agreement, the County will not entertain or process any petition to establish a Municipal Service Taxing Unit (MSTU) or a Municipal Service Benefit Unit (MSBU) for the Improvements in [#name of subdivision#].

12. **AMENDMENT.** The provisions, restrictions, and covenants of this Agreement shall not be modified or amended except in a written instrument approved by a majority of the Orange County Board of County Commissioners and by the Association. No such modification or amendment shall be effective until said written instrument has been signed, acknowledged, and recorded in the Public Records of Orange County, Florida.

13. **COMPLIANCE WITH APPLICABLE LAWS.** Association shall comply with all applicable laws and county ordinances, including the Orange County Right-of-Way Utilization Regulations, codified at Section 21-171, et seq., Orange County Code and any laws regarding to the installation, maintenance, and use of the Improvements.

14. **DISCLAIMER OF COUNTY RESPONSIBILITY.** Nothing contained herein shall create any obligation on the part of County to maintain or participate in the maintenance of the Improvement(s). *THE COUNTY WILL NOT OWN, MONITOR, ACCESS, OR OTHERWISE CONTROL THE IMPROVEMENT(S), OR THE DATA GENERATED THEREFROM, DESCRIBED IN THIS AGREEMENT.*

15. **NOTICE.** Any notice delivered with respect to this Agreement shall be in writing and be deemed to be delivered (whether or not actually received) (i) when hand
delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice in the
United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the
person at the address set forth opposite the party's name below, or to such other address or other
person as the party shall have specified by written notice to the other party delivered in
accordance herewith:

As to
Association:  
Attention:  

With copy to:

As to County:  Orange County Administrator  
201 South Rosalind Avenue, 5th Floor  
Orlando, Florida 32801  
With copy to:  Manager, Development Engineering Division  
Orange County Public Works Department  
4200 South John Young Parkway  
Orlando, FL 32839

16. **APPLICABLE LAW.** This Agreement and the provisions contained herein shall
be construed, controlled, and interpreted according to the laws of the State of Florida and in
accordance with the Orange County Code.

17. **CONSTRUCTION OF AGREEMENT; SEVERABILITY.** Captions of the
Sections and Subsections of this Agreement are for convenience and reference only, and the
words contained therein shall in no way be held to explain, modify, amplify, or aid in the
interpretation, construction, or meaning of the provisions of this Agreement. If any provision of
Use Agreement, 20_____

________ Homeowners Assoc., Inc.

this Agreement, the deletion of which would not adversely affect the receipt of any material benefits by any party hereunder or substantially increase the burden of any party hereunder, shall be held to be invalid or unenforceable to any extent by a court of competent jurisdiction, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.

18. **COUNTERPARTS.** This Agreement may be executed in the same number of counterparts as there are parties to this Agreement, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

19. **EFFECTIVE DATE.** This Agreement shall take effect upon being recorded in the Public Records of Orange County, Florida.

**IN WITNESS WHEREOF,** the Parties have caused this Agreement to be duly executed by their respective duly authorized representatives on the dates set forth below.

**“COUNTY”**

**ORANGE COUNTY, FLORIDA**
By: Board of County Commissioners

By:______________________________

Teresa Jacobs, County Mayor

Date:__________________________, 20___

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By:______________________________

Deputy Clerk

[Signatures continue on following page]
Use Agreement, 20____
____________ Homeowners Assoc., Inc.

“ASSOCIATION”

HOMEOWNERS ASSOCIATION, INC.

By:______________________________

Print Name:_______________________

Title:____________________________

Date:___________________________, 20__

WITNESSES:

__________________________________  
Print Name:_______________________

__________________________________  
Print Name:_______________________

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by
_______________________________, who is known by me to
be the person described herein and who executed the foregoing, this ____ day of
_______________, 20___. S/he is personally known
to me or has produced __________________________ as identification and did/did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of
_______________, 20___.

_______________________________
Notary Public
Print Name:_______________________

My Commission Expires:_________________
Exhibit "A" (______ pages)

Description of the Property and Dedicated Areas
Exhibit “B” (2 pages)

Improvement Requirements

The requirements below shall be followed for any Improvements under the Agreement; provided, however, that Orange County may approve deviations from the requirements below, in its sole discretion, on a case-by-case basis as part of the Permit review process.

Camera(s)

- Decoy cameras shall not be permitted
- Cameras shall only be located at ingress and/or egress points to and from the Property
- Camera angle shall be fixed (no pan, tilt, or zoom feature) and directed at public right-of-way entry/exit to and from Property so that no recording is performed except of events and persons in the public view; cameras shall not provide visual access to any area not visible to the general public
- Monitoring and recording of image(s) shall be done in a responsible, lawful, and ethical manner. Any illegal use of monitoring equipment may be subject to prosecution and may result in the revocation of the Permits and termination of the Agreement
- Audio recording shall be prohibited

Signage

- Each camera pole shall have an informational logo or decal attached to it in plain sight. The logo or decal shall be not more than four inches by four inches (4” x 4”) in size and shall include the name of the Association, the Association’s contact telephone number, County permit numbers, and the recording information (OR Book and Page) of the Use Agreement approving the Improvement
- A sign measuring not more than twelve inches by eighteen inches (12” x 18”) in size shall be placed in plain sight so as to be clearly visible to motorists or pedestrians entering the Property at the entrance(s) to the Property where camera(s) are in use, and shall read as follows:

"THIS AREA MAY BE UNDER PRIVATE VIDEO SURVEILLANCE. Camera equipment may be recording, without being monitored, to aid in the prosecution of any crimes committed in this area."

Page 15 of 16
Use Agreement, 20______
____________________ Homeowners Assoc., Inc.

**Pole(s)**

- Pole height shall be between six feet (6') and fifteen feet (15') high
- Poles shall not be placed any closer than two and a half feet (2 1/2') from the curb (relative to curb edge), or no less than six feet (6') from the traveled edge if there is no curb
- Cameras and signage shall not be permitted to be attached to utility poles
- Poles shall be constructed of “break-away” material for safety
- Cameras and signage shall only be permitted when attached to a pole dedicated to the Improvement and complying with the terms of this Agreement

**Installation**

- Cameras and poles shall only be installed by a company that is licensed and insured (in accordance with the Agreement) to do business in Orange County, Florida
EXHIBIT “B”
USE AGREEMENT FORM (Voluntary Incorporated HOA)
USE AGREEMENT BETWEEN
HOMEOWNERS ASSOCIATION AND ORANGE COUNTY

THIS AGREEMENT (the "Agreement") is entered into by and between
_________________________________ HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association"), with a mailing address at ______________ Florida ______, and ORANGE COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida (the "County"), with a mailing address at P.O. Box 1393, Orlando, FL 32802-1393.

RECITALS

WHEREAS, a single-family residential project known as __________[#name of subdivision#], consisting of __________platted [lots/subdivisions], has been constructed in the unincorporated area of Orange County on certain real property, as more particularly described in Exhibit “A,” attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, Association, whose members are the owners of portions of the Property, has been formed pursuant to the Association Articles of Incorporation, which were filed with the Florida Division of Corporations on ________ [#DATE#] and received Document number ______________; and
WHEREAS, Association has been created as a voluntary homeowners’ association, the purpose of which is to ________________[#purpose#]; a list of current Association members is attached hereto and incorporated herein by reference as Exhibit “B”; and

WHEREAS, Association desires to obtain a Right-of-Way Utilization Permit and Low Voltage Electrical Registration (together, the “Permits”) from County, pursuant to which Association will be allowed to install, construct, and maintain the following improvements: security camera(s), any associated components, electronics, or any other equipment necessary to install such camera(s), any pole(s) to which such camera(s) will be attached, and associated signage within the right-of-way (collectively, the “Improvement(s)”), in the roads, medians, and parkways, located within the existing public rights-of-way adjacent to the Property and/or located within those areas which have been dedicated via plat or deed to public use (collectively, the “Dedicated Areas”), said Dedicated Areas being within the boundaries of or adjacent to the Property, as more particularly described in composite Exhibit “A”; and

WHEREAS, County requires that Association and its members undertake certain commitments and covenants to assure the perpetual and continuous maintenance of any such Improvement(s).

NOW, THEREFORE, in consideration of the foregoing and of the terms and conditions set forth herein, the parties agree as follows:

1. RECITALS. The foregoing recitals are true and correct and form a material part of this Agreement.
2. **RIGHT-OF-WAY UTILIZATION PERMIT AND LOW VOLTAGE ELECTRICAL REGISTRATION.** County shall issue the Permits to Association subject to the terms of this Agreement. Association shall not, while installing, maintaining, or removing the Improvement(s), damage or disturb any portion of the Dedicated Areas without prior written approval by County and County’s prior written approval of a plan to restore the Dedicated Areas. Nothing contained herein or by virtue of the issuance of the Permits shall give or grant to Association or its members any ownership rights to any portion of the Dedicated Areas. Furthermore, nothing contained herein or by virtue of the issuance of the Permits shall give or grant to Association or its members any license, privilege, or right to install, construct, or maintain any of the Improvements outside the Dedicated Areas. Moreover, in the event the Association needs any other type of permit or approval to install, construct, or maintain any of the Improvements, it shall be the Association’s responsibility to apply for and obtain any such permit or approval at its sole expense before installation, construction, or maintenance.

3. **IMPROVEMENTS.** Any improvement that, in County’s sole opinion, may impede the functional operation of planned, proposed, or existing utilities or facilities shall not be permitted under this Agreement. The Improvement(s) shall be established and maintained in such a manner as will not interfere with the use of the Dedicated Areas by the public nor create a safety hazard on such Dedicated Areas.

4. **REMOVAL/RELOCATION.** If, in the sole opinion of County, the Improvement(s):

   a. Presents a safety and/or traffic operational hazard, or
b. Interferes with any construction, reconstruction, alteration, improvement(s), or maintenance which County desires to perform on, around, or under the Dedicated Areas,

then Association, upon receipt of a written notice from County, shall remove, repair, or relocate the Improvement(s) as requested by County and to County’s satisfaction within thirty (30) days of receipt of said notice, or within thirty (30) days of the first date of publication of legal notice, which publication shall appear in not less than two weekly issues of a newspaper of general circulation in Orange County, Florida. Any such relocation, repair, or removal of the Improvement(s) shall be at the sole expense of Association and at no cost to County.

5. **INDEMNIFICATION.** To the fullest extent permitted by law, Association shall defend, indemnify, and hold County and its agents, officials and employees, harmless from and against all claims, damages, losses, and expenses, including reasonable attorney fees and costs, arising out of, or resulting in whole or in part from, any act or omission of the Association or their contractors, subcontractors, agents or employees. The remedy provided to County by this paragraph shall be in addition to and not in lieu of any other remedy available under the Agreement or applicable law and shall survive the termination of this Agreement. Association shall defend, indemnify, and hold County harmless (and any governmental body or utility authority properly using the Dedicated Areas) from and against all expenses, costs, or claims for any damages to the Improvement(s) which may result from the use of the Dedicated Areas by County or any other governmental body or authority due to maintenance, construction, installation, or other proper use within the Dedicated Areas.
6. **INSURANCE.** Throughout the duration of this Agreement, Association shall procure and maintain on a primary basis, and solely at their cost and expense, insurance of the types and limits, including endorsements, described herein. The requirements contained herein, as well as County’s review or acceptance of insurance maintained by Association, is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Association under this Agreement. Insurance carriers providing coverage must be authorized and/or eligible to conduct business in State of Florida and must possess a current A.M. Best’s Financial Strength Rating of A- Class VIII or better. Association shall require and ensure that each of its contractors and/or subcontractors maintains insurance until the completion of their work under any contract associated with this Agreement. Failure of Association to maintain appropriate and adequate insurance coverage for itself or for any other persons or entities for whom it is responsible, or to ensure that its contractors or subcontractors maintain such coverage, shall not relieve Association of any contractual responsibility, obligation, or liability. The required coverage shall be as follows:

- Commercial General Liability coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than $1,000,000 per occurrence. Association further agrees that coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this Agreement or shall be at twice the required occurrence limit.
- Association shall endorse County as an Additional Insured with a CG 20 26 Additional Insured-Designated Person or Organization endorsement, or its equivalent, to all commercial general liability policies. This provision shall be listed in the name of the Orange County Board of County Commissioners.

Within thirty (30) days of the Effective Date of this Agreement, as defined herein, and at any time prior to execution and commencement of any operations under this Agreement, Association shall provide the County with current Certificates of Insurance. The type and amount of coverage shall be clearly stated on the face of each certificate. Each certificate shall name County as an additional insured, and shall contain a provision which forbids any cancellation, change, material alteration, or renewal of coverage without providing forty-five (45) days prior written notice to County. In addition to such certificates, Association shall provide copies of the Additional Insured Endorsement(s) and all Waiver of Subrogation endorsements as required herein. Renewal certificates shall be submitted annually within thirty (30) days of renewal. Any insurance certificates, endorsements, or copies thereof required hereunder shall be provided to the Manager of Development Engineering Division of the County’s Public Works Department at 4200 South John Young Parkway, Orlando, FL 32839.

7. **ASSOCIATION’S UNCONDITIONAL COVENANT TO COMPLY AND MAINTAIN.**

   a. Association unconditionally covenants and agrees to comply with all terms set forth herein including, but not limited to, its obligations to satisfy the costs associated with installation of any Improvement(s) pursuant to a plan approved in advance by the County
and to remove said Improvement(s) at its sole cost and expense upon reasonable demand from County as further detailed herein. Association represents and warrants that: (1) prior to entering into this Agreement, it held a duly-noticed referendum with the owners of all of the Property regarding the Association’s plan to install the Improvement(s) and to enter into this Agreement and such referendum passed by at least a majority of all owners of the Property (the “Referendum Majority”), (2) the members of the Association who were part of the Referendum Majority comprise at least a majority of the Association members (the “Association Majority”), (3) all members of the Association Majority have executed the Joinder and Consent attached hereto and incorporated herein by reference as Exhibit “C,” pursuant to which the Association Majority agree to, among other things, bind their successors and assigns to the terms of this Agreement and to have this Agreement recorded against their property (the “Association Property”), as more particularly described in Exhibit “D,” attached hereto and incorporated herein by reference, and (4) Association has the authority to enter into this Agreement and to expend Association funds to satisfy its obligations hereunder and no further approval is required to expend said funds other than a routine Board of Directors’ resolution. In no event shall County become responsible for any costs associated with installation, removal, re-installation, or maintenance of any and all Improvement(s) approved by County.

b. Association shall establish in its annual budget a reserve account in an amount sufficient to fully reimburse County for any costs County may incur (the “Reserve”) as a result of Association’s failure to perform any of its obligations under this Agreement. The amount of the Reserve shall be based on the deferred maintenance cost of the Improvement(s)
which shall include the cost of maintenance and removal of the Improvement(s), and the cost of potential repairs to the Dedicated Areas, all as determined by the County. In the event Association fails to maintain or remove the Improvement(s) permitted by County, County shall have the option to remove the Improvement(s) and Association shall have the unconditional obligation to fully reimburse County from the Reserve for any said costs County may incur. Additionally, Association shall annually budget for the Reserve in the agreed upon amount and shall notify County at the address listed in Section 6 hereof, if any budget is approved which waives the Reserve or does not maintain the agreed upon level of funding in the Reserve. Notwithstanding the language in Section 11 hereof, waiver or reduction of the agreed upon amount of the Reserve is cause for immediate termination of this Agreement and revocation of the Permits by the County.

c. Association shall comply with all County policies and standards for the installation of the Improvement(s) and shall coordinate all Improvement requests through the County’s Public Works Department. All Improvement(s) installed by or for the benefit of the Association shall substantially adhere to the “Improvement Requirements” attached hereto and incorporated herein by reference as Exhibit “E.”

d. Association shall, at all times throughout the term of this Agreement, validly maintain its corporate existence with the State of Florida, Division of Corporations, and annually provide proof of good standing to the Manager of the County’s Development Engineering Division at the address listed in Section 6 above.
e. Association’s financial obligation to reimburse the County for any costs County may incur related to this Agreement or the Improvements shall survive the termination of this Agreement.

8. **ASSOCIATION MAJORITY’S UNCONDITIONAL OBLIGATION.** In the event Association is unable or unwilling to meet its financial obligations to the County pursuant to this Agreement, the Association Majority, by executing the Joinder and Consent attached hereto as Exhibit “C,” agrees to meet the Association’s financial obligation(s) hereunder.

9. **RECORDING.** This Agreement shall be recorded against the Association Property in the Public Records of Orange County, Florida within thirty (30) days of its execution at the Association’s expense. Promptly upon execution of this Agreement by the Association, but prior to execution of the Agreement by the County, Association shall pay to County an amount equal to the applicable cost of recording this Agreement in the Public Records of Orange County, Florida.

10. **COVENANTS RUNNING WITH THE LAND.** The provisions of this Agreement shall constitute covenants running with the land or an equitable servitude upon the land, as the case may be, applicable to the Association Property described in Exhibit D hereof, or any portion thereof. Furthermore, this Agreement shall be binding on all parties having any right, title, or interest in the Association Property described herein, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Association and the Association Majority declare that the Association Property described in this Agreement and any portion thereof shall be held, sold, and conveyed subject to the provisions of this Agreement. This
Use Agreement, 20__
_______________ Homeowners Assoc., Inc.

Agreement shall inure to the benefit of and be enforceable by County and its legal representatives, successors, and assigns.

11. **DURATION.** The provisions, restrictions, and covenants of this Agreement shall run with and bind the land for a period of five (5) years from the date this Agreement is recorded in the Public Records of Orange County, Florida. Thereafter, this Agreement shall be automatically extended for successive periods of five (5) years each, unless a written instrument agreeing to terminate or revoke said provisions, restrictions, and covenants is approved by a majority of the Orange County Board of County Commissioners and the Association. No such agreement to terminate or revoke shall be effective until said written instrument has been signed, acknowledged, and recorded in the Public Records of Orange County, Florida. Notwithstanding any of the above provisions, County shall have the right to unilaterally cancel this Agreement upon forty-five (45) days prior written notice to Association. No such cancellation shall be effective until a written instrument has been executed and acknowledged by the Board of County Commissioners and recorded in the Public Records of Orange County, Florida. Should the Association desire to remove the Improvement(s), Association shall notify County in writing and, upon County’s written approval of a plan to restore the Dedicated Areas, and County’s final sign-off of the implementation of said plan and removal of the Improvement(s), this Agreement shall terminate once a written instrument acknowledging such termination has been executed and acknowledged by the Board of County Commissioners and recorded in the Public Records of Orange County, Florida.
12. **NO MSTU or MSBU.** In light of the purpose and intent of this Agreement, the Association understands and agrees that during the term of this Use Agreement, the County will not entertain or process any petition to establish a Municipal Service Taxing Unit (MSTU) or a Municipal Service Benefit Unit (MSBU) for the Improvements in [#name of subdivision#].

13. **AMENDMENT.** The provisions, restrictions, and covenants of this Agreement shall not be modified or amended except in a written instrument approved by a majority of the Orange County Board of County Commissioners and by the Association. No such modification or amendment shall be effective until said written instrument has been signed, acknowledged, and recorded in the Public Records of Orange County, Florida.

14. **COMPLIANCE WITH APPLICABLE LAWS.** Association shall comply with all applicable laws and county ordinances, including the Orange County Right-of-Way Utilization Regulations, codified at Section 21-171, et seq., Orange County Code and any laws regarding to the installation, maintenance, and use of the Improvements.

15. **DISCLAIMER OF COUNTY RESPONSIBILITY.** Nothing contained herein shall create any obligation on the part of County to maintain or participate in the maintenance of the Improvement(s). **THE COUNTY WILL NOT OWN, MONITOR, ACCESS, OR OTHERWISE CONTROL THE IMPROVEMENT(S), OR THE DATA GENERATED THEREFROM, DESCRIBED IN THIS AGREEMENT.**

16. **NOTICE.** Any notice delivered with respect to this Agreement shall be in writing and be deemed to be delivered (whether or not actually received) (i) when hand
delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the person at the address set forth opposite the party's name below, or to such other address or other person as the party shall have specified by written notice to the other party delivered in accordance herewith:

As to Association:

Attention:

With copy to:

As to County: Orange County Administrator
201 South Rosalind Avenue, 5th Floor
Orlando, Florida 32801

With copy to: Manager, Development Engineering Division
Orange County Public Works Department
4200 South John Young Parkway
Orlando, FL 32839

17. **APPLICABLE LAW.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida and in accordance with the Orange County Code.

18. **CONSTRUCTION OF AGREEMENT; SEVERABILITY.** Captions of the Sections and Subsections of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Agreement. If any provision of
this Agreement, the deletion of which would not adversely affect the receipt of any material benefits by any party hereunder or substantially increase the burden of any party hereunder, shall be held to be invalid or unenforceable to any extent by a court of competent jurisdiction, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.

19. **COUNTERPARTS.** This Agreement may be executed in the same number of counterparts as there are parties to this Agreement, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

20. **EFFECTIVE DATE.** This Agreement shall take effect upon being recorded in the Public Records of Orange County, Florida.

**IN WITNESS WHEREOF,** the Parties have caused this Agreement to be duly executed by their respective duly authorized representatives on the dates set forth below.

“COUNTY”

**ORANGE COUNTY, FLORIDA**

By: Board of County Commissioners

By: __________________________

Teresa Jacobs, County Mayor

Date: _________________________, 20__

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: __________________________

Deputy Clerk

[Signatures continue on following page]
Use Agreement, 20 ______________________ Homeowners Assoc., Inc.

“ASSOCIATION”

HOMEOWNERS ASSOCIATION, INC.

By: ________________________________

Print Name: ________________________________

Title: ________________________________

Date: ________________________________, 20__

WITNESSES:

______________________________

Print Name: ________________________________

______________________________

Print Name: ________________________________

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by ______________ of ______________________, who is known by me to be the person described herein and who executed the foregoing, this ____ day of _____________________, 20___. S/he is personally known to me or has produced ______________________ as identification and did/did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____________________, 20___.

Notary Public
Print Name: ________________________________

My Commission Expires: ________________

Page 14 of 21
Exhibit "A" (____ pages)

Description of the Property and Dedicated Areas
Exhibit "B" (___ pages)

List of Association Members
Exhibit "C" (___ pages)

Joinder and Consent of Association Majority
JOINDER AND CONSENT TO USE AGREEMENT

The undersigned hereby certifies that he/she/they is/are the owner (or mortgagee) of the following property (the “Property”):

[#LEGAL DESCRIPTION OF PROPERTY#]

and that the undersigned hereby joins in and consents to the terms of the Use Agreement entered into by and between the Homeowners Association, Inc. (the “Association”) and Orange County, Florida (the “County”) dated ___________, 20__ (the “Use Agreement”). The undersigned consents to the recording of the Use Agreement against the Property and agrees that the terms of such Use Agreement shall be binding upon the undersigned’s successors and assigns. Further, in the event Association is unable or unwilling to meet its financial obligations to the County under the Use Agreement, the undersigned agrees to meet the Association’s financial obligation(s) thereunder.

Signed, sealed and delivered in the presence of: [#Individually / as Husband and Wife#]

By: ________________________

Print Name: ________________________

Name: ________________________

Print Name: ________________________

STATE OF ______________
COUNTY OF ______________

The foregoing instrument was acknowledged before me this ___ day of ____________, 20__, by _________________________. He/she [ ] is personally known to me, or [ ] produced ________________________ as identification.

(NOTARIAL SEAL)

__________________________________________
Notary Public
Print Name: ________________________
My Commission Expires: ________________________
Exhibit “E” (2 pages)

Improvement Requirements

The requirements below shall be followed for any Improvements under the Agreement; provided, however, that Orange County may approve deviations from the requirements below, in its sole discretion, on a case-by-case basis as part of the Permit review process.

Camera(s)

- Decoy cameras shall not be permitted
- Cameras shall only be located at ingress and/or egress points to and from the Property
- Camera angle shall be fixed (no pan, tilt, or zoom feature) and directed at public right-of-way entry/exit to and from Property so that no recording is performed except of events and persons in the public view; cameras shall not provide visual access to any area not visible to the general public
- Monitoring and recording of image(s) shall be done in a responsible, lawful, and ethical manner. Any illegal use of monitoring equipment may be subject to prosecution and may result in the revocation of the Permits and termination of the Agreement
- Audio recording shall be prohibited

Signage

- Each camera pole shall have an informational logo or decal attached to it in plain sight. The logo or decal shall be not more than four inches by four inches (4” x 4”) in size and shall include the name of the Association, the Association’s contact telephone number, County permit numbers, and the recording information (OR Book and Page) of the Use Agreement approving the Improvement
- A sign measuring not more than twelve inches by eighteen inches (12” x 18”) in size shall be placed in plain sight so as to be clearly visible to motorists or pedestrians entering the Property at the entrance(s) to the Property where camera(s) are in use, and shall read as follows:

"THIS AREA MAY BE UNDER PRIVATE VIDEO SURVEILLANCE. Camera equipment may be recording, without being monitored, to aid in the prosecution of any crimes committed in this area."

Pole(s)

- Pole height shall be between six feet (6’) and fifteen feet (15’) high
- Poles shall not be placed any closer than two and a half feet (2 1/2”) from the curb (relative to curb edge), or no less than six feet (6’) from the traveled edge if there is no curb
- Cameras and signage shall not be permitted to be attached to utility poles
- Poles shall be constructed of “break-away” material for safety
- Cameras and signage shall only be permitted when attached to a pole dedicated to the Improvement and complying with the terms of this Agreement

**Installation**

- Cameras and poles shall only be installed by a company that is licensed and insured (in accordance with the Agreement) to do business in Orange County, Florida