

THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:
Truong Nguyen
GrayRobinson, P.A.
301 E. Pine Street, Suite 1400
Orlando, FL 32801

DEVELOPMENT AGREEMENT

This Development Agreement (the "Agreement") is entered into on the Effective Date by **HostDime.com, Inc.**, a Florida corporation (the "Owner"), and the **Town of Eatonville, Florida**, a municipal corporation chartered and operating under the laws of the State of Florida (the "Town").

Whereas, the Town is the contract buyer of approximately 99.241 acres of land located on Wymore Road in the Town of Eatonville, Florida (the "Master Parcel"), from the School Board of Orange County, Florida ("OCPS") as set forth in that certain Agreement for Sale and Purchase dated July 1, 2010 by and between the Town and OCPS, as amended from time to time (the "Hungerford Contract").

Whereas, the Owner contracted with the Town to purchase five acres of the Master Parcel more particularly described and depicted on **Attachment A** hereto (the "Property").

Whereas, the Owner plans to consolidate its employees into a 85,000 square foot state-of-the-art corporate headquarters to be constructed on the Property (the "Project").

Whereas, the Town and the Owner now desire to set forth the entitlements, terms, conditions, requirements, and restrictions negotiated by the parties as part of the Project.

Now, therefore, the Town and the Owner agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.
2. **Development of the Property.** The Owner is entitled to develop the Project on the Property in accordance with all of the following:
 - a. Development of the Property shall be controlled by the terms of this Agreement and, to the extent not expressly in conflict with this Agreement, the Town of Eatonville's Comprehensive Plan, the Town of Eatonville Development Code (the "Development Code"), and the Town of Eatonville Code of Ordinances.
 - b. Development of the Property shall be controlled by the zoning and the Site Plan to be approved for the Property by the Town's Planning Board and the Town Council.
3. **Development-Related Conditions of Approval.** Development of the Project may be undertaken on the Property only in compliance with the following conditions, requirements, and restrictions:

a. **Site Plan.** The site plan for the Project (the “**Site Plan**”) shall be prepared for review and approval by the Town’s Planning Board and Town Council, as required by the Development Code. The Town agrees to expedite the review of the Site Plan and other permits. Notwithstanding any part of the Site Plan to the contrary, the Project shall be subject to, and the Site Plan shall reflect, the following conditions, requirements, and restrictions:

(i) Septic systems, on-site package-treatment plants, and potable-water wells are not allowed. Potable water and sanitary sewer service must be obtained from the Town. The Owner shall design and construct the infrastructure (pipes, equipment and all other necessary improvements) to connect the Project to the Town’s potable water and sanitary sewer service lines. The Town shall reimburse the Owner up to \$200,000.00 (“Town Contribution”) of verifiable third party costs and expenses incurred by the Owner in connection with the design and construction of such potable water and sanitary sewer infrastructure (“Utility Improvements”). Any Town Contribution not used to reimburse Owner for Utility Improvements shall be used to reimburse Owner for the Entrance Road below. The Owner shall coordinate with the Town to connect such potable water and sanitary sewer infrastructure to the Town’s existing facilities providing such services.

(ii) Detailed plans for landscaping and tree retention/removal shall be submitted as part of the Site Plan, including the landscape buffer along the perimeter of the site. This can be shown with typical planting detail or notes.

(iii) Sidewalks shall be shown on the plan, including a sidewalk along the parcel’s frontage on Wymore Road.

(iv) Building height shall not exceed 110 feet.

(v) The roadway into the Owner’s entrance (“Entrance Road”), as shown on the Site Plan, will be constructed by the Owner. The Owner shall also pay for any improvements to Wymore Road required in connection with the construction of the Entrance Road. The Town shall cause OCPS to dedicate the Entrance Road to the Town for the use and benefit of the public. The Town and the Owner agree to name of the Entrance Road, “Innovation Place”. The Owner will have the right to choose to use an address of Wymore Road or Innovation Place, Eatonville, Florida. To the extent that the Entrance Road costs more than the Town Contribution, the Master Developer will reimburse Owner up to fifty percent (50%) for the cost of construction of the Entrance Road.

4. **Construction-Related Conditions of Approval.** The following requirements and restrictions shall apply to construction activity on the Property:

a. **Construction Hours and Deliveries.** Construction activity may occur only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless approved otherwise expressly and in writing by the Town’s Chief Administrative Officer. Deliveries of construction materials and equipment may occur only during those same hours.

b. **Stormwater Retention During Construction.** The Owner shall take such steps as are necessary or useful to ensure that, at all times during construction, all stormwater from rainfall, up to at least one inch per storm, is retained within the boundaries of the Property and not discharged offsite.

c. **Construction-Site Security.** The Owner shall secure the Property throughout the construction period to prevent trespass, theft, bodily injury, and other undesirable occurrences. If, after consultation with the Town's Chief of Police, the Town's Chief Administrative Officer reasonably determines that additional security is needed, the Owner will provide it.

d. **Enforcement.** Material violations of the requirements and restrictions of this Section 4, as determined in the reasonable judgment of the Town Administrative Officer, may result in the issuance by the Chief Administrative Officer of a stop-work order. Upon such issuance, the Owner shall halt all construction immediately and correct the violation. Construction may be resumed only upon written notification to the Owner from the Chief Administrative Officer that the violation has been corrected, and the Chief Administrative Officer shall issue such notice immediately upon correction thereof. The Town shall have such other remedies (other than an action for damages) as allowed by law and equity to enforce the provisions of this Section 4, including (but not limited to) withholding building permits and certificates of occupancy.

5. **Master Developer.** Shortly after the conveyance of the Property to the Owner, the Town expects and intends to sell the remaining Master Parcel to a yet-to-be-identified master developer (the "**Master Developer**"). As part of the consideration from the Owner in return for the Town selling the Property separately from the Master Parcel, the Owner agrees to the following:

a. The Owner and its successors in interest shall be part of the property owners' association for the Master Parcel, if and when one is formed by the Master Developer, so long as the Owner's membership rights and duties are the same as other similarly situated property owners in the association. The Owner will have the right to review the property owners' association documents for the Master Parcel and provide comments prior to adoption.

b. The Owner will contribute to the cost of operation and maintenance of the master stormwater system in the same manner as owners of other properties drained by the system.

6. **Intentionally Omitted.**

7. **Notices.**

a. For a notice, or other communication, under this Agreement to be valid, it must be in writing and signed by the sending party, and the sending party must use one of the following methods of delivery: (1) personal delivery; (2) registered or certified mail, in each case return receipt requested and postage prepaid; and (3) nationally recognized

overnight courier, with all fees prepaid. Delivery via facsimile, or email, is also permitted provided it is followed by delivery via one of methods (1)-(3) above and any such delivery via facsimile or email shall not be deemed to have been received pursuant to subsection 7.c. until such delivery pursuant to methods (1)-(3) above shall be deemed to have been received pursuant to Section 7.c.

b. For a notice, or other communication, under this Agreement to be valid, it must be addressed to the receiving party at the addresses listed below for the receiving party, or to any other address designated by the receiving party in a notice in accordance with this Section 7.

- As to Owner:** HostDime.com, Inc.
2603 Challenger Tech Court, Suite 140
Orlando, Florida 32826
Attention: Manny Vivar
- With a copy to: Lowndes, Drosdick, Doster Kantor & Reed, P.A.
215 North Eola Drive
Orlando, FL 32801
Attention: M. Rebecca Wilson
- As to Town:** Town of Eatonville
307 E. Kennedy Boulevard
Eatonville, FL 32751
Attention: Roger Dixon, Chief Administrative
Officer
- With a copy to: GrayRobinson, P.A.
301 E. Pine Street, Suite 1400
Orlando, FL 32801
Attention: Truong M. Nguyen

c. Subject to Section 7.d., a valid notice or other communication under this Agreement is effective when received by the receiving party. A notice, or other communication, is deemed to have been received as follows:

(i) if it is delivered in person, or sent by registered or certified mail, or by nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt; and

(ii) if the receiving party rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address for which notice was not given, then upon that rejection, refusal, or inability to deliver.

d. If a notice or other communication is received after 5:00 p.m. on a business day at the location specified in the address for the receiving party, or on a day

that is not a business day, then the notice is deemed received at 9:00 a.m. on the next business day.

e. Any notice requiring prompt action shall be contemporaneously sent by facsimile transmission or electronic mail.

8. **Project Completion/Forced Sale.** Provided that the Town complies with its duties and obligations under this Agreement, the Owner shall be required to complete construction of the Project, receive a final certificate of occupancy for the Project and commence operations at the Project (collectively, the "**Project Start Conditions**") by June 30, 2019 (the "**Operations Start Date**"). Should the Owner fail to satisfy the Project Start Conditions by the Operations Start Date, but has commenced substantial work on the Project construction, the Operations Start Date shall be extended to June 30, 2020. In the event Owner fails to meet the Project Start Conditions prior to the expiration of the Operations Start Date (including any extension thereof), the Town shall have the right to commence marketing the Property and any then existing Project improvements (the "Incomplete Project") for sale to any potential buyer of the Incomplete Project (the "**Forced Sale Option**"). The Town may exercise the Forced Sale Option by providing notice the Owner setting forth, with specificity, the Owner's failure to satisfy the Project Start Conditions and the Town's intent to market the Incomplete Project for sale. Until such time as the Town is able to (i) procure a buyer for the Incomplete Project (the "**Project Buyer**") and (ii) produce a final executed purchase and sale contract for the Incomplete Project with such Project Buyer (condition (i) and (ii), collectively, (the "**Forced Sale Conditions**"), the Owner shall have right to satisfy the Project Start Conditions, in which event, the Forced Sale Option shall expire and have not force or effect (the "**Option Expiration**"), except that the Owner shall reimburse the Town for all reasonable costs incurred by the Town in marketing and contracting for the sale of the Incomplete Project, including but not limited to legal counsel fees and costs. Should the Town satisfy the Forced Sale Conditions prior to any Option Expiration, the Owner shall be obligated to transfer and convey the Incomplete Project to the Project Buyer upon the following terms (each, a "**Sale Covenant**"):

(a) Title shall be conveyed to the Project Buyer by special warranty deed and quit claim bill of sale in the forms attached as Attachments B and C respectively.

(b) Closing shall take place no later than 30 days after the Town satisfies the Forced Sale Conditions (the "**Project Closing Date**"). Prior to such closing, the Project Buyer and the Town shall have access to the Property and the Incomplete Project, during normal business hours to inspect and perform such reasonable and standard tests and assessments as are typically performed on commercial property such as the Property and the Incomplete Project in connection with the sale of such property. The Owner shall provide the Town with a copy of all of the following documents: all Project surveys, engineering and construction plans, renderings and sketches, all agreements with any general contractor, subcontractor, architect or engineer, insurance policies on the Project, any construction payment or performance bond, any lease, sublease or license agreement for any part of the Project.

(c) The Project Buyer shall pay for all standard closing costs, including recording fees, title insurance premiums and documentary stamp tax on the special warranty deed. The Owner shall pay for the fees the costs of its legal counsel.

(d) Purchase sale price shall equal the aggregate of the Owner's verifiable costs to purchase the Property and construct the Incomplete Project, pro-rated for real property taxes to the date of closing (the "**Sales Proceeds**").

(e) Sales Proceeds, shall be applied and disbursed as follows to the extent of available Sales Proceeds: first to pay off any monetary lien encumbering Property, second to pay off or pay down any Project Indebtedness and last to the Owner. "**Project Indebtedness**" shall mean any debt held by a third party lender, entered into at arm's length terms in order to provide construction financing for the Project, and secured by a first mortgage on the Property. The Town and the Owner hereby subordinates this Agreement to the lien of mortgage securing any Project Indebtedness.

(f) Should the Project Buyer fail to close on the purchase of the Property and the Incomplete Project by the Project Closing Date for any reason other than the Owner's failure to comply with any Sale Covenant applicable to the Owner, the Forced Sale Option shall expire and have not force or effect and the Town shall reimburse the Owner for all reasonable costs incurred by the Owner in complying with any Sale Covenant applicable to the Owner, including but not limited to legal counsel fees and costs.

9. **Force Majeure.** Neither party shall be liable for failure to perform any of its obligations under this Agreement during any period in which such party cannot perform due to fire, flood, or other natural disaster, war or other national emergency, embargo, riot, strike, the intervention of any governmental authority, or other causes beyond the reasonable control of the parties (but specifically excluding therefrom general economic conditions or the economy in general as a cause), provided, however, that the party so delayed promptly notifies the other party of such delay.

10. **Sovereign Immunity.** Nothing contained in this Agreement nor in any instruments or documents executed pursuant to the terms of this Agreement shall be construed as a waiver or attempted waiver by the Town of its sovereign immunity under the Constitution and laws of the State of Florida.

11. **Breach.** In the event of a breach, default, or violation of one or more of the provisions herein by the Owner or the Town, the violating party shall be given thirty (30) days to cure such violation upon receipt of written notice of the violation from a non-violating party. In the event such violation is not cured within said period, the Town, or the Owner, as the case may be, shall have the right to pursue the remedies set forth in Section 13.f. hereof.

12. **Amendments and Waivers.** This Agreement may be amended only by express written instrument executed by both the Owner and the Town, and the execution by the Town shall be valid and binding against the Town only if expressly approved by its Town Council at a legally valid meeting thereof. Waivers of material requirements, restrictions, and conditions

imposed hereunder shall be valid and binding against the Town only if expressly approved by its Town Council at a meeting thereof.

13. **Miscellaneous.**

a. **Consultant Fees.** The Owner in accordance with the Development Code shall reimburse the Town for its reasonable fees paid to consultants hired by the Town to review development plans, Site Plan and permit applications.

b. **Covenants Running with the Land.** This Agreement shall be binding upon, and shall inure to the benefit of, the successors and assigns of the parties and shall be a covenant running with the Property. Also, Owner covenants, on behalf of itself and its successors and assigns, that from the date of this Agreement until the 99th anniversary of the date on which the Property was conveyed by the Town to the Owner, the Owner shall not seek or support or otherwise apply, petition, or sue for de-annexation of the Property from the boundaries of the Town. Any such application, petition, or suit for de-annexation by the Owner (or its successors or assigns) shall be void and subject to denial or dismissal with prejudice. This covenant shall survive termination of this Development Agreement.

c. **Recordation of Agreement.** This Agreement shall be recorded in the Official Records of Orange County, Florida, at the expense of the Owner, within ten business days after the Effective Date of this Agreement (as defined below).

d. **Applicable Law.** This Agreement shall be construed and interpreted according to the laws of the State of Florida. Venue for a proceeding in connection with this Agreement shall be the Ninth Judicial Circuit of Florida, in Orange County, Florida.

e. **Further Documentation.** Following a request therefor by a party, the other party shall execute and deliver such documents and instruments, in form and substance reasonably requested, as may be necessary to confirm the obligations of the party and to evidence the consummation of the transactions contemplated hereby.

f. **Limitation on Remedies.** In judicial proceedings, the Town and the Owner shall have the right to enforce the terms and conditions of this Agreement only by an action for specific performance or injunctive relief. Each party expressly waives its right, if any, to seek damages of any type in actions arising from or connected to this Agreement, the Project, and the Contract. Notwithstanding the foregoing, the parties may use self-help remedies such as withholding performance of obligations hereunder while the other party is in breach hereof, withholding permits and approvals (including certificates of occupancy), etc.

In witness whereof, the Owner and the Town have caused this Agreement to be executed by their respective, duly authorized representatives as set forth below, and the Effective Date is the last date on which this Agreement is executed by all parties.

TOWN OF EATONVILLE, FLORIDA
By: its Town Council

By: _____
Name: _____
Its: _____

ATTEST:

By: _____
Cathlene Williams, Town Clerk

STATE OF FLORIDA
COUNTY OF ORANGE

SWORN to and subscribed freely and voluntarily for the purposes therein expressed before me by _____, _____ of the Town of Eatonville, Florida, known to me to be the person described in and who executed the foregoing, this ____ day of _____, 2016. He is personally known to me or has produced _____ (type of identification) as identification and did/did not (circle one) take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2016.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

Witnesses:

HOSTDIME.COM, INC., a Florida
corporation

Print Name: _____

By: _____
President

Print Name: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF ORANGE

SWORN to and subscribed freely and voluntarily for the purposes therein expressed before me by _____, President of **HostDime.com, Inc.**, known to me to be the person described in and who executed the foregoing, this ____ day of _____, 2015. He/she is personally known to me or has produced _____ (type of identification) as identification and did/did not (circle one) take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2015

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

Attachment A
to the
Development Agreement

Legal Description and Sketch
of the
“Property”

Attachment B

THIS INSTRUMENT PREPARED BY:

*Truong Nguyen, Esquire
GrayRobinson, P.A.
301 E. Pine Street, Suite 1400
Orlando, Florida 332801
Telephone: 407/244-5687*

RETURN TO:

Tax Parcel No.: [_____]

NOTE TO RECORDER: Documentary Stamp Taxes in the amount of \$[_____] on consideration in the amount of \$[_____] are being paid in connection with this Deed as required pursuant to Section 201.02, Florida Statutes.

SPECIAL WARRANTY DEED

THIS INDENTURE is made this ___ day of _____, ____ between [Seller] ("Grantor"), whose mailing address is _____, and [Buyer] ("Grantee"), whose mailing address is _____. Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, and conveyed and by these presents does grant, bargain, sell, and convey unto Grantee that certain tract(s) or parcel(s) of land located in Orange County, Florida, more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Land"), together with all improvements, rights, benefits, privileges, easements, tenements, and appurtenances thereon or pertaining thereto (the Land, together with such improvements, rights, benefits, privileges, easements, tenements, and appurtenances being hereinafter referred to collectively as the "Property").

This Special Warranty Deed and the conveyance hereinabove set forth is executed by Grantor and accepted by Grantee subject only to real estate taxes for calendar year _____ and all subsequent calendar years; and matters of record, the reference to which shall not act to reimpose the same.

TO HAVE AND TO HOLD the Property unto Grantee, his successors and assigns in fee simple forever, and Grantor hereby binds itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the title to the Property unto the said Grantee, his successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise.

IN WITNESS WHEREOF, Grantor has executed this instrument this ____ day of _____,
_____.

WITNESSES:

[Seller]

Print Name: _____

By: _____

Name: _____

Print Name: _____

Its: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, _____, by _____, as _____ of _____, for the _____.
He/She is () personally known to me or () has produced a _____ driver's license as identification.

NOTARY PUBLIC, State of Florida
Print Name: _____
My Commission Expires: _____

(Affix Notary Seal)

Attachment C

FORM OF BILL OF SALE

QUIT-CLAIM BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS:

THAT [Seller], whose address is _____ (hereinafter referred to as "Transferor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) paid by [Buyer], whose address is _____ (hereinafter referred to as "Transferee"), the sufficiency and receipt of which is hereby acknowledged, has granted, transferred and delivered, and by these presents does grant, transfer and deliver unto the Transferee, its successors and assigns, all of its right, title and interest in and to such of the items, goods, chattels and equipment, which are presently existing and located on the real property legally described in Exhibit "A", attached hereto and incorporated herein, AND WITHOUT WARRANTY OF TITLE, FITNESS OR MERCHANTABILITY.

TO HAVE AND TO HOLD the same unto the Transferee, its successors and assigns forever.

IN WITNESS WHEREOF, the Transferor has caused these presents to be executed as of this ____ day of _____, _____.

Signed, sealed and delivered
in our presence:

Witnesses:

[Seller]

Printed Name

By: _____

Name: _____

Its: _____

Printed Name