



CITY COUNCIL MEETING

July 05, 2023 at 6:30 PM

City Council Chambers, 16 Colomba Rd.

DeBary, Florida 32713

AGENDA

CALL TO ORDER

Invocation

Flag Salute

ROLL CALL

PUBLIC PARTICIPATION: For any items **NOT ON THE AGENDA**, citizen comments are limited to three (3) minutes per speaker. For items **ON THE AGENDA**, citizen comments are limited to five (5) minutes per speaker. Speakers will be called when the item is introduced for discussion.

APPROVAL OF MINUTES

- [1.](#) Regular City Council Meeting June 7, 2023

ADDITIONS, DELETIONS OR AMENDMENTS TO THE AGENDA

PRESENTATIONS

2023 Legislative Update - Shawn Foster, Sunrise Consulting

CONSENT AGENDA

- [2.](#) City staff requests City Council approve the Extending Insurance Brokerage Services Agreement with Brown and Brown of Florida, Inc. until August 31, 2024.
- [3.](#) Staff is requesting City Council approve the Grant Agreement for the City of DeBary Comprehensive Vulnerability Assessment.

PUBLIC HEARINGS

- [4.](#) Staff is requesting City Council approve the second reading of Ordinance No. 06-2023, amending the Code of Ordinances and the Land Development Code (LDC) to provide for regulations of mobile food dispensing vehicles (food trucks).

NEW BUSINESS

- [5.](#) City Manager is requesting City Council approve the Agreement for Exchange of Real Property between DeBary Town Center, LLC (DTC) and the City of DeBary for approximately 2.17 acres located at the corner of Fort Florida Road and U.S. Highway 17-92.
- [6.](#) City Manager is requesting City Council adopt Resolution No. 2023-15, enacting the U.S. Highway 17-92 Golf Cart Crossing at Dogwood Trail and N. Pine Meadow Drive.

COUNCIL MEMBER REPORTS / COMMUNICATIONS

Board/Committee Appointments

7. River to Sea TPO Citizen Advisory Committee Appointment

Member Reports/ Communications

- A. Mayor and Council Members
- B. City Manager
- C. City Attorney

DATE OF UPCOMING MEETING / WORKSHOP

Special City Council Meeting July 19, 22023, 6:30 p.m.

ADJOURN

If any person decides to appeal any decision made by the City Council with respect to any matter considered at this meeting or hearing he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105).

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk at least three (3) working days in advance of the meeting date and time at (386) 668-2040.



CITY COUNCIL MEETING

June 07, 2023 at 6:30 PM

City Council Chambers, 16 Colomba Rd.

DeBary, Florida 32713

MINUTES

CALL TO ORDER: Mayor Chasez called the meeting to order at 6:30 p.m.

ROLL CALL: Mayor Chasez, Vice-Mayor Butlien, and Council Members Pappalardo, Sell and Stevenson are present.

Others present: Carmen Rosamonda, City Manager; Kurt Ardaman, City Attorney; Wendy Cullen, Human Resource Director; Eric Frankton, Information Technology Director; Shari Simmans, Economic Development & Government Affairs Director; Annette Hatch, City Clerk, and Kasey Hewitt, Communications Manager.

PUBLIC PARTICIPATION: For any items **NOT ON THE AGENDA**, citizen comments are limited to three (3) minutes per speaker. For items **ON THE AGENDA**, citizen comments are limited to five (5) minutes per speaker. Speakers will be called when the item is introduced for discussion.

Joseph T. Skinner, Jacqueline Schutt, Thomas S. Marshall, Sr., Mike Bernosky, and Mark Brown addressed Council.

APPROVAL OF MINUTES: Motion by Council Member Stevenson to approve the minutes of the Regular City Council Meeting May 3, 2023, and the Special City Council Meeting May 17, 2023. Seconded by Vice-Mayor Butlien. Motion passed unanimously.

ADDITIONS, DELETIONS OR AMENDMENTS TO THE AGENDA: None.

PRESENTATIONS: 2023 Citizens Academy Graduates were introduced and recognized by Council. Graduates Gary Crews and Vera Reckstad addressed Council.

NEW BUSINESS:

City staff requests City Council approve Resolution No. 2023-04, Revisions/Additions to the City of DeBary Personnel Policies & Procedures with an effective date of June 7, 2023.

City Attorney read the Resolution into the record.

Staff described the revisions.

No one addressed Council.

Motion by Vice-Mayor Butlien to approve Resolution No. 2023-04. Seconded by Council Member Sell. Motion passed unanimously.

City Manager is requesting City Council adopt Resolution No. 2023-03, approving and authorizing the filing of a Maintenance Map for a portion of Shell Road.

City Attorney read the Resolution into the record.

City Manager reviewed the resolution and right-of-way map.

No one addressed Council.

Motion by Council Member Stevenson to approve Resolution No. 2023-03. Seconded by Vice-Mayor Butlien. Motion passed unanimously.

City Manager is requesting City Council approve Kimley-Horn's Individual Project Order No. 18, Gateway Park Entrance and Signal Design, Engineering and Permitting.

City Manager reviewed the 4-way intersection and new entrance concept.

No one addressed Council.

Motion by Vice-Mayor Butlien to approve Kimley-Horn's Individual Project Order No. 18. Seconded by Council Member Stevenson. Motion passed unanimously.

COUNCIL MEMBER REPORTS / COMMUNICATIONS:

Board/Committee Appointments - Historic Preservation Advisory Board:

Council discussed the applicants.

No one addressed Council.

Motion by Council Member Pappalardo to appoint all eight applicants to the Board contingent upon resubmitting a resolution amending the appointments to eight members. Seconded by Vice-Mayor Butlien. Motion passed unanimously.

Member Reports/ Communications

- A. Mayor and Council Members
- B. City Manager
- C. City Attorney

DATE OF UPCOMING MEETING / WORKSHOP: Special City Council Meeting June 21, 2023, 6:30 p.m.

ADJOURN: The meeting was adjourned at 7:56 p.m.

APPROVED:

**CITY COUNCIL
CITY OF DEBARY, FLORIDA**

Karen Chasez, Mayor

Annette Hatch, CMC, City Clerk



City Council Meeting City of DeBary AGENDA ITEM

Subject: Extending Insurance Brokerage Services Agreement	Attachments: <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
From: Wendy Cullen, Human Resource Director	
Meeting Hearing Date July 5, 2023	

REQUEST

City staff requests City Council to approve the Agreement Extending Insurance Brokerage Services Agreement with Brown and Brown of Florida, Inc. until August 31, 2024.

PURPOSE

To continue the current business relationship between the City and its current broker that provides assistance to the City related to health insurance.

CONSIDERATIONS

An agreement with a broker benefits the City through the broker’s ability to work directly with multiple insurance carriers to request proposals for health insurance plans that best align with the City’s current plans and available funding for the plan year. The current broker also acts as a liaison between the City and its insurance carriers, assists Human Resources with claims, billing issues, benefit-related questions, and renewal planning.

The current Insurance Brokerage Services Agreement was approved by City Council on August 18, 2021 with an effective date of September 1, 2021. This agreement provided for a two (2) year term, with the option of three (3) one-year extensions. This is the first of three (3) one-year extensions.

COST/FUNDING

Not applicable.

RECOMMENDATION

It is recommended that the City Council approve the Agreement Extending Insurance Brokerage Services Agreement with Brown and Brown until August 31, 2024.

IMPLEMENTATION

Not applicable.

ATTACHMENTS

Insurance Brokerage Services Agreement.
Agreement Extending Insurance Brokerage Services Agreement

INSURANCE BROKERAGE SERVICES AGREEMENT

This Insurance Brokerage Agreement (the "Agreement") is entered into by the City of DeBary, a Florida municipal corporation whose mailing address is 16 Columba Road, DeBary, Florida 32713 (hereinafter the "City"), and Brown & Brown of Florida, Inc., a Florida corporation whose mailing address is P.O. Box 2412, Daytona Beach, Florida 32115-2412 ("Broker").

WHEREAS, the City issued that certain Request for Proposals (RFP) Brokerage Services for Health Insurance and Employee Benefits, otherwise known as RFP #05-21; and

WHEREAS, in response to the RFP, Broker submitted that certain proposal dated May 21, 2021, a copy of which is attached hereto as Exhibit "A") (the "Proposal"); and

WHEREAS, the City has selected Broker to provide certain insurance brokerage services to the City, on the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **RECITALS.** The foregoing recitals are true and correct, are incorporated herein by this reference, and form a material part of this Agreement.

2. **SERVICES & COMPENSATION.** Broker shall provide the City with comprehensive insurance brokerage services with respect to health insurance and employee benefits, as more particularly described on pages 3-68 of the Proposal. Broker's compensation shall be on a commission basis, as described on pages 67-68 of the Proposal. Broker shall at all times act in the interests of the City in performing services under this Agreement.

3. **TERM & TERMINATION.**

(a) **Term.** This Agreement shall be for a term of two (2) years beginning on the Effective Date. The City shall have the option to renew the Agreement for three (3) additional terms of one (1) year each. The City may exercise its right to renew by informing Broker in writing of the City's intention to renew the Agreement at least ninety (90) days prior to the expiration of a term.

(b) **Termination.** Either party may terminate this Agreement for any reason by giving written notice of termination to the other party at least ninety (90) days prior to the effective date of termination. Additionally, upon breach of any obligation under this Agreement by either party, the non-breaching party may terminate this Agreement upon fifteen (15) days written notice and opportunity to cure, or such longer period as may be reasonable given the circumstances.

4. **INDEMNIFICATION.** Each party hereby indemnifies and holds the other party and its elected and appointed officials, parent, affiliates, employees, and agents harmless from and against any and all claims, disputes, lawsuits, injuries, damages, reasonable attorneys' fees (including trial and appellate fees), costs and experts' fees, interest and all adverse matters in any way arising out of or relating to either parties, its employees', and agents' acts, omissions, negligence, misrepresentations or defaults related to this Agreement.

5. **GENERAL PROVISIONS**

(a) **Relationship of Parties.** Broker is an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer/employee relationship, a joint venture relationship, or partnership relationship between the parties.

(b) **Entire Agreement.** This Agreement constitutes the entire agreement of the parties and supersedes all previous promises, negotiations, representations, and statements with respect to its subject matter. This Agreement may not be modified or amended except by a written instrument equal in dignity herewith and executed by the parties to be bound thereby.

(c) **Non-Waiver.** No consent or waiver, expressed or implied, by either party, to or of any breach or default of the other party, with regard to the performance by said other party of its obligations under this Agreement shall be deemed or construed to constitute consent or waiver, to or of, any other breach of default in the performance of that party, of the same or of any other objection of performance incumbent upon that party. Failure on the part of either party to complain of any act or failure to act on the part of the other party in default, irrespective of how long the failure continues, shall not constitute a waiver by that party of its rights and any remedies that exist under this Agreement, at law, or in equity. Nothing contained in this Agreement nor in any instruments executed pursuant to the terms of this Agreement shall be construed as a waiver or attempted waiver by the City of its sovereign immunity under the Constitution and laws of the State of Florida.

(d) **No Third Party Beneficiaries.** This Agreement is intended solely for the benefit of the parties hereto, and their respective successors in interest and title. No right or cause of action shall accrue under or by reason of this Agreement to or for the benefit of any third party. Nothing contained in this Agreement, whether expressed or implied, is intended, nor shall be construed, to confer upon or give to any person or entity not a party hereto any right, remedy or claim under or by reason of this Agreement or any particular term, provision or condition of this Agreement other than the parties hereto and their respective successors in interest and title.

(e) **Binding Effect & Assignment.** This Agreement shall be binding upon the parties and their respective successors in interest and title. Neither this Agreement nor any of the rights, interests, or obligations under this Agreement shall be assigned by any party without the prior written consent of the other party.

(f) **Governing Law; Venue.** This Agreement is governed by and construed in accordance with the laws of the State of Florida, and venue for any action arising out of or related to this Agreement shall be in Volusia County, Florida.

(g) **Severability.** If any particular term, provision or condition of this Agreement, the deletion of which would not adversely affect the receipt of any of the material benefit of this Agreement by either party hereto or substantially increase the burden of this Agreement upon either party hereto, 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 remaining terms, provisions and conditions of this Agreement.

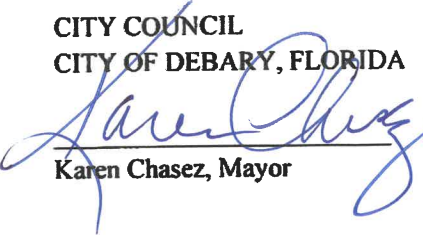
(h) **Warranties & Representations.** The parties each represent and warrant that they are authorized to enter into this Agreement. Broker warrants and represents that it and its officers and employees hold, and shall maintain for the course of this Agreement, all necessary licenses with the State of Florida such that Broker is authorized to perform the services described in this Agreement.

(i) **Notices.** Contact information for purposes of written notice under this Agreement shall be as provided in the introductory paragraph of this Agreement. Either party may change its contact information at any time via written notice to the other party.

(j) **Execution & Effective Date.** This Agreement may be executed in separate copies by the parties or as part of a single document. Any facsimile or electronic copy of this Agreement, and all signatures thereon, shall be considered for all purposes as an original. This Agreement shall be effective September 1, 2021 provided it has been approved by the DeBary City Council and executed by both parties.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the Effective Date.

CITY COUNCIL
CITY OF DEBARY, FLORIDA



Karen Chasz, Mayor

ATTEST:



Annette Hatch, City Clerk

8/18/2021

Date

BROWN & BROWN OF FLORIDA, INC.



Signature

STEVE FARMER

Print Name

Executive J.P.

Position/Title

8/17/21

Date

**AGREEMENT EXTENDING
INSURANCE BROKERAGE SERVICES AGREEMENT**

This Agreement Extending Insurance Brokerage Services Agreement (the “Extension Agreement”) is entered into by the City of DeBary, a Florida municipal corporation whose mailing address is 16 Columba Road, DeBary, Florida 32713 (the “City”), and Brown & Brown of Florida, Inc., a Florida corporation whose mailing address is P.O. Box 2412, Daytona Beach, Florida 32115-2412 (“Broker”).

WHEREAS, the City and Broker previously executed that certain Insurance Brokerage Services Agreement effective September 1, 2021 (the “Brokerage Agreement”), hereby incorporated by reference, which provides for an initial term of two (2) years followed by three optional one-year renewals; and

WHEREAS, the parties desire to extend the Brokerage Agreement for one (1) year.

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **RECITALS.** The foregoing recitals are true and correct, are incorporated herein by this reference, and form a material part of this Extension Agreement.
2. **EXTENSION.** The Brokerage Agreement is hereby extended, on all the same terms, for a period of one (1) year beginning on the date of expiration of the initial term of the Brokerage Agreement.
3. **EFFECTIVE DATE.** This Extension Agreement shall become effective as of the date last executed by the parties.

IN WITNESS WHEREOF, the parties have caused this Extension Agreement to be executed by their respective authorized representatives on the dates provided below.

CITY COUNCIL
CITY OF DEBARY, FLORIDA

Karen Chasez, Mayor

ATTEST:

Annette Hatch, City Clerk

Date

BROWN & BROWN, INC.

Signature

Print Name

Position/Title

Date



**City Council Meeting
City of DeBary
AGENDA ITEM**

Subject: City of DeBary Comprehensive Vulnerability Assessment	Attachments: <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
From: Richard Villaseñor, City Engineer	
Meeting Hearing Date: July 5, 2023	

REQUEST

Staff is requesting City Council approval of the Grant Agreement for the City of DeBary Comprehensive Vulnerability Assessment.

PURPOSE

To formalize the agreement and receive the Notice to Proceed to initiate the work effort

CONSIDERATIONS

- Following the Grant award notification, a few additional steps were required for FDEP to produce the agreement presented here.
- The City Council awarded Stanley Consultants, Inc. the assessment work contract at the April 19, 2023 City Council meeting.

COST/FUNDING

No cost for this execution of agreement.

RECOMMENDATION

It is recommended that the City Council approve the Grant agreement for the City of DeBary Comprehensive Vulnerability Assessment.

IMPLEMENTATION

Stanley Consultants is ready to begin as soon as we get the Notice to Proceed from FDEP.

ATTACHMENTS

Grant Agreement

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Standard Grant Agreement**

This Agreement is entered into between the Parties named below, pursuant to Section 215.971, Florida Statutes:

1. Project Title (Project): **City of DeBary Comprehensive Vulnerability Assessment** Agreement Number: **23PLN33**

2. Parties **State of Florida Department of Environmental Protection,
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000** (Department)

Grantee Name: **City of DeBary** Entity Type: **Local Government**

Grantee Address: **16 Colomba Road, DeBary, Florida 32713** FEID: **59-3217634** (Grantee)

3. Agreement Begin Date: **Upon Execution** Date of Expiration: **9/30/2026**

4. Project Number: **23PLN33** Project Location(s): **Volusia County**
(If different from Agreement Number)

Project Description: **The project will conduct a comprehensive Vulnerability Assessment pursuant to Section 380.093, Florida Statutes, for the City of DeBary.**

5. Total Amount of Funding:	Funding Source?	Award #s or Line Item Appropriations:	Amount per Source(s):
\$ 250,000.00	<input type="checkbox"/> State <input checked="" type="checkbox"/> Federal	FY 22-23 GAA 197-H	\$ 250,000.00
	<input type="checkbox"/> State <input type="checkbox"/> Federal		\$
	<input type="checkbox"/> Grantee Match		\$
Total Amount of Funding + Grantee Match, if any:			\$ 250,000.00

6. Department's Grant Manager Name: Charles Neuhauser _____ or successor	Grantee's Grant Manager Name: Richard Villasenor _____ or successor
Address: Resilient Florida Program 2600 Blair Stone Road, MS235 Tallahassee, Florida 32399 Phone: 850-245-2138 Email: Charles.Neuhauser@FloridaDEP.gov	Address: City of DeBary 16 Colomba Rd DeBary, FL 32713 Phone: 386-601-0215 Email: rvillasenor@debary.org

7. The Parties agree to comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated by reference:

<input checked="" type="checkbox"/> Attachment 1: Standard Terms and Conditions Applicable to All Grants Agreements
<input checked="" type="checkbox"/> Attachment 2: Special Terms and Conditions
<input checked="" type="checkbox"/> Attachment 3: Grant Work Plan
<input checked="" type="checkbox"/> Attachment 4: Public Records Requirements
<input checked="" type="checkbox"/> Attachment 5: Special Audit Requirements
<input checked="" type="checkbox"/> Attachment 6: Program-Specific Requirements
<input checked="" type="checkbox"/> Attachment 7: Grant Award Terms (Federal) *Copy available at https://facts.fldfs.com , in accordance with §215.985, F.S.
<input checked="" type="checkbox"/> Attachment 8: Federal Regulations and Terms (Federal)
<input type="checkbox"/> Additional Attachments (if necessary):
<input checked="" type="checkbox"/> Exhibit A: Progress Report Form
<input type="checkbox"/> Exhibit B: Property Reporting Form
<input checked="" type="checkbox"/> Exhibit C: Payment Request Summary Form
<input type="checkbox"/> Exhibit D: Quality Assurance Requirements
<input type="checkbox"/> Exhibit E: Advance Payment Terms and Interest Earned Memo
<input type="checkbox"/> Exhibit J: Common Carrier or Contracted Carrier Attestation Form PUR1808
<input checked="" type="checkbox"/> Additional Exhibits (if necessary): Exhibit F: Final Report Form, Exhibit G: Photographer Release Form, Exhibit H: Contractual Services Certification, Exhibit I: Vulnerability Assessment Compliance Checklist Certification

8.	The following information applies to Federal Grants only and is identified in accordance with 2 CFR 200.331 (a) (1):
Federal Award Identification Number(s) (FAIN):	SLFRP0125
Federal Award Date to Department:	2/6/2023
Total Federal Funds Obligated by this Agreement:	\$250,000
Federal Awarding Agency:	U.S. Department of Treasury
Award R&D?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A

IN WITNESS WHEREOF, this Agreement shall be effective on the date indicated by the Agreement Begin Date above or the last date signed below, whichever is later.

City of DeBary

GRANTEE

By _____
(Authorized Signature) Date Signed

Carmen Rosamonda, City Manager

Print Name and Title of Person Signing

State of Florida Department of Environmental Protection

DEPARTMENT

By _____
Secretary or Designee Date Signed

Alex Reed, Director of the Office of Resilience and Coastal Protection

Print Name and Title of Person Signing

Additional signatures attached on separate page.

ORCP Additional Signatures

DEP Grant Manager, Charles Neuhauser

DEP QC Reviewer, Christina Rouslin

Grantee may add additional signatures below, if needed.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD TERMS AND CONDITIONS
APPLICABLE TO GRANT AGREEMENTS**

ATTACHMENT 1

1. Entire Agreement.

This Grant Agreement, including any Attachments and Exhibits referred to herein and/or attached hereto (Agreement), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter. Any terms and conditions included on Grantee's forms or invoices shall be null and void.

2. Grant Administration.

- a. Order of Precedence. If there are conflicting provisions among the documents that make up the Agreement, the order of precedence for interpretation of the Agreement is as follows:
 - i. Standard Grant Agreement
 - ii. Attachments other than Attachment 1, in numerical order as designated in the Standard Grant Agreement
 - iii. Attachment 1, Standard Terms and Conditions
 - iv. The Exhibits in the order designated in the Standard Grant Agreement
- b. All approvals, written or verbal, and other written communication among the parties, including all notices, shall be obtained by or sent to the parties' Grant Managers. All written communication shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. If the notice is delivered in multiple ways, the notice will be considered delivered at the earliest delivery time.
- c. If a different Grant Manager is designated by either party after execution of this Agreement, notice of the name and contact information of the new Grant Manager will be submitted in writing to the other party and maintained in the respective parties' records. A change of Grant Manager does not require a formal amendment or change order to the Agreement.
- d. This Agreement may be amended, through a formal amendment or a change order, only by a written agreement between both parties. A formal amendment to this Agreement is required for changes which cause any of the following:
 - (1) an increase or decrease in the Agreement funding amount;
 - (2) a change in Grantee's match requirements;
 - (3) a change in the expiration date of the Agreement; and/or
 - (4) changes to the cumulative amount of funding transfers between approved budget categories, as defined in Attachment 3, Grant Work Plan, that exceeds or is expected to exceed twenty percent (20%) of the total budget as last approved by Department.A change order to this Agreement may be used when:
 - (1) task timelines within the current authorized Agreement period change;
 - (2) the cumulative transfer of funds between approved budget categories, as defined in Attachment 3, Grant Work Plan, are less than twenty percent (20%) of the total budget as last approved by Department;
 - (3) changing the current funding source as stated in the Standard Grant Agreement; and/or
 - (4) fund transfers between budget categories for the purposes of meeting match requirements.This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.
- e. All days in this Agreement are calendar days unless otherwise specified.

3. Agreement Duration.

The term of the Agreement shall begin and end on the dates indicated in the Standard Grant Agreement, unless extended or terminated earlier in accordance with the applicable terms and conditions. The Grantee shall be eligible for reimbursement for work performed on or after the date of execution through the expiration date of this Agreement, unless otherwise specified in Attachment 2, Special Terms and Conditions. However, work performed prior to the execution of this Agreement may be reimbursable or used for match purposes if permitted by the Special Terms and Conditions.

4. Deliverables.

The Grantee agrees to render the services or other units of deliverables as set forth in Attachment 3, Grant Work Plan. The services or other units of deliverables shall be delivered in accordance with the schedule and at the pricing outlined in the Grant Work Plan. Deliverables may be comprised of activities that must be completed prior to Department making payment on that deliverable. The Grantee agrees to perform in accordance with the terms and conditions set forth in this Agreement and all attachments and exhibits incorporated by the Standard Grant Agreement.

5. Performance Measures.

The Grantee warrants that: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in the Grant Work Plan; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services shall not and do not knowingly infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) its employees, subcontractors, and/or subgrantees shall comply with any security and safety requirements and processes, if provided by Department, for work done at the Project Location(s). The Department reserves the right to investigate or inspect at any time to determine whether the services or qualifications offered by Grantee meet the Agreement requirements. Notwithstanding any provisions herein to the contrary, written acceptance of a particular deliverable does not foreclose Department's remedies in the event deficiencies in the deliverable cannot be readily measured at the time of delivery.

6. Acceptance of Deliverables.

- a. Acceptance Process. All deliverables must be received and accepted in writing by Department's Grant Manager before payment. The Grantee shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time at Grantee's expense. If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed rejected.
- b. Rejection of Deliverables. The Department reserves the right to reject deliverables, as outlined in the Grant Work Plan, as incomplete, inadequate, or unacceptable due, in whole or in part, to Grantee's lack of satisfactory performance under the terms of this Agreement. The Grantee's efforts to correct the rejected deliverables will be at Grantee's sole expense. Failure to fulfill the applicable technical requirements or complete all tasks or activities in accordance with the Grant Work Plan will result in rejection of the deliverable and the associated invoice. Payment for the rejected deliverable will not be issued unless the rejected deliverable is made acceptable to Department in accordance with the Agreement requirements. The Department, at its option, may allow additional time within which Grantee may remedy the objections noted by Department. The Grantee's failure to make adequate or acceptable deliverables after a reasonable opportunity to do so shall constitute an event of default.

7. Financial Consequences for Nonperformance.

- a. Withholding Payment. In addition to the specific consequences explained in the Grant Work Plan and/or Special Terms and Conditions, the State of Florida (State) reserves the right to withhold payment when the Grantee has failed to perform/comply with provisions of this Agreement. None of the financial consequences for nonperformance in this Agreement as more fully described in the Grant Work Plan shall be considered penalties.
- b. Invoice reduction
If Grantee does not meet a deadline for any deliverable, the Department will reduce the invoice by 1% for each day the deadline is missed, unless an extension is approved in writing by the Department.
- c. Corrective Action Plan. If Grantee fails to correct all the deficiencies in a rejected deliverable within the specified timeframe, Department may, in its sole discretion, request that a proposed Corrective Action Plan (CAP) be submitted by Grantee to Department. The Department requests that Grantee specify the outstanding deficiencies in the CAP. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.
 - i. The Grantee shall submit a CAP within ten (10) days of the date of the written request from Department. The CAP shall be sent to the Department's Grant Manager for review and approval. Within ten (10) days of receipt of a CAP, Department shall notify Grantee in writing whether the CAP proposed has been accepted. If the CAP is not accepted, Grantee shall have ten (10) days from receipt of Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain Department approval of a CAP as specified above may result in Department's termination of this Agreement for cause as authorized in this Agreement.
 - ii. Upon Department's notice of acceptance of a proposed CAP, Grantee shall have ten (10) days to commence implementation of the accepted plan. Acceptance of the proposed CAP by Department does not relieve Grantee of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by Grantee, Department shall retain the right to

require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by Department or steps taken by Grantee shall preclude Department from subsequently asserting any deficiencies in performance. The Grantee shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to Department as requested by Department's Grant Manager.

- iii. Failure to respond to a Department request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by Department may result in termination of the Agreement.

8. Payment.

- a. Payment Process. Subject to the terms and conditions established by the Agreement, the pricing per deliverable established by the Grant Work Plan, and the billing procedures established by Department, Department agrees to pay Grantee for services rendered in accordance with Section 215.422, Florida Statutes (F.S.).
- b. Taxes. The Department is exempted from payment of State sales, use taxes and Federal excise taxes. The Grantee, however, shall not be exempted from paying any taxes that it is subject to, including State sales and use taxes, or for payment by Grantee to suppliers for taxes on materials used to fulfill its contractual obligations with Department. The Grantee shall not use Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.
- c. Maximum Amount of Agreement. The maximum amount of compensation under this Agreement, without an amendment, is described in the Standard Grant Agreement. Any additional funds necessary for the completion of this Project are the responsibility of Grantee.
- d. Reimbursement for Costs. The Grantee shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in the Grant Work Plan. Reimbursement shall be requested on Exhibit C, Payment Request Summary Form. To be eligible for reimbursement, costs must be in compliance with laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures, which can be accessed at the following web address:
<https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.
- e. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by Department pursuant to the Grant Work Plan shall be submitted to Department in sufficient detail for a proper pre-audit and post-audit to be performed. The Grantee shall only invoice Department for deliverables that are completed in accordance with the Grant Work Plan.
- f. Interim Payments. Interim payments may be made by Department, at its discretion, if the completion of deliverables to date have first been accepted in writing by Department's Grant Manager.
- g. Final Payment Request. A final payment request should be submitted to Department no later than sixty (60) days following the expiration date of the Agreement to ensure the availability of funds for payment. However, all work performed pursuant to the Grant Work Plan must be performed on or before the expiration date of the Agreement.
- h. Annual Appropriation Contingency. The State's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of Department if the Legislature reduces or eliminates appropriations.
- i. Interest Rates. All interest rates charged under the Agreement shall be calculated on the prevailing rate used by the State Board of Administration. To obtain the applicable interest rate, please refer to:
www.myfloridacfo.com/Division/AA/Vendors/default.htm.
- j. Refund of Payments to the Department. Any balance of unobligated funds that have been advanced or paid must be refunded to Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to Department. If this Agreement is funded with federal funds and the Department is required to refund the federal government, the Grantee shall refund the Department its share of those funds.

9. Documentation Required for Cost Reimbursement Grant Agreements and Match.

If Cost Reimbursement or Match is authorized in Attachment 2, Special Terms and Conditions, the following conditions apply. Supporting documentation must be provided to substantiate cost reimbursement or match requirements for the following budget categories:

- a. Salary/Wages. Grantee shall list personnel involved, position classification, direct salary rates, and hours spent on the Project in accordance with Attachment 3, Grant Work Plan in their documentation for reimbursement or match requirements.
- b. Overhead/Indirect/General and Administrative Costs. If Grantee is being reimbursed for or claiming match for multipliers, all multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by Grantee exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate.
- c. Contractual Costs (Subcontractors). Match or reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate. Nonconsumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in Chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.
 - i. For fixed-price (vendor) subcontracts, the following provisions shall apply: The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in Attachment 3, Grant Work Plan. Invoices submitted to Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (e.g., Invitation to Bid, Request for Proposals, or other similar competitive procurement document) resulting in the fixed-price subcontract. The Grantee may request approval from Department to award a fixed-price subcontract resulting from procurement methods other than those identified above. In this instance, Grantee shall request the advance written approval from Department's Grant Manager of the fixed price negotiated by Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of Department Grant Manager's approval of the fixed-price amount, Grantee may proceed in finalizing the fixed-price subcontract.
 - ii. If the procurement is subject to the Consultant's Competitive Negotiation Act under section 287.055, F.S. or the Brooks Act, Grantee must provide documentation clearly evidencing it has complied with the statutory or federal requirements.
- d. Travel. All requests for match or reimbursement of travel expenses shall be in accordance with Section 112.061, F.S.
- e. Direct Purchase Equipment. For the purposes of this Agreement, Equipment is defined as capital outlay costing \$5,000 or more. Match or reimbursement for Grantee's direct purchase of equipment is subject to specific approval of Department, and does not include any equipment purchased under the delivery of services to be completed by a subcontractor. Include copies of invoices or receipts to document purchases, and a properly completed Exhibit B, Property Reporting Form.
- f. Rental/Lease of Equipment. Match or reimbursement requests for rental/lease of equipment must include copies of invoices or receipts to document charges.
- g. Miscellaneous/Other Expenses. If miscellaneous or other expenses, such as materials, supplies, non-excluded phone expenses, reproduction, or mailing, are reimbursable or available for match or reimbursement under the terms of this Agreement, the documentation supporting these expenses must be itemized and include copies of receipts or invoices. Additionally, independent of Grantee's contract obligations to its subcontractor, Department shall not reimburse any of the following types of charges: cell phone usage; attorney's fees or court costs; civil or administrative penalties; or handling fees, such as set percent overages associated with purchasing supplies or equipment.
- h. Land Acquisition. Reimbursement for the costs associated with acquiring interest and/or rights to real property (including access rights through ingress/egress easements, leases, license agreements, or other site access agreements; and/or obtaining record title ownership of real property through purchase) must be supported by the following, as applicable: Copies of Property Appraisals, Environmental Site Assessments, Surveys and Legal

Attachment 1

Descriptions, Boundary Maps, Acreage Certification, Title Search Reports, Title Insurance, Closing Statements/Documents, Deeds, Leases, Easements, License Agreements, or other legal instrument documenting acquired property interest and/or rights. If land acquisition costs are used to meet match requirements, Grantee agrees that those funds shall not be used as match for any other Agreement supported by State or Federal funds.

10. Status Reports.

The Grantee shall submit status reports quarterly, unless otherwise specified in the Attachments, on Exhibit A, Progress Report Form, to Department's Grant Manager describing the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. Quarterly status reports are due no later than twenty (20) days following the completion of the quarterly reporting period. For the purposes of this reporting requirement, the quarterly reporting periods end on March 31, June 30, September 30 and December 31. The Department will review the required reports submitted by Grantee within thirty (30) days.

11. Retainage.

The following provisions apply if Department withholds retainage under this Agreement:

- a. The Department reserves the right to establish the amount and application of retainage on the work performed under this Agreement up to the maximum percentage described in Attachment 2, Special Terms and Conditions. Retainage may be withheld from each payment to Grantee pending satisfactory completion of work and approval of all deliverables.
- b. If Grantee fails to perform the requested work, or fails to perform the work in a satisfactory manner, Grantee shall forfeit its right to payment of the retainage associated with the work. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed. The Department shall provide written notification to Grantee of the failure to perform that shall result in retainage forfeiture. If the Grantee does not correct the failure to perform within the timeframe stated in Department's notice, the retainage will be forfeited to Department.
- c. No retainage shall be released or paid for incomplete work while this Agreement is suspended.
- d. Except as otherwise provided above, Grantee shall be paid the retainage associated with the work, provided Grantee has completed the work and submits an invoice for retainage held in accordance with the invoicing procedures under this Agreement.

12. Insurance.

- a. Insurance Requirements for Sub-Grantees and/or Subcontractors. The Grantee shall require its sub-grantees and/or subcontractors, if any, to maintain insurance coverage of such types and with such terms and limits as described in this Agreement. The Grantee shall require all its sub-grantees and/or subcontractors, if any, to make compliance with the insurance requirements of this Agreement a condition of all contracts that are related to this Agreement. Sub-grantees and/or subcontractors must provide proof of insurance upon request.
- b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee providing such insurance.
- c. Proof of Insurance. Upon execution of this Agreement, Grantee shall provide Department documentation demonstrating the existence and amount for each type of applicable insurance coverage *prior to* performance of any work under this Agreement. Upon receipt of written request from Department, Grantee shall furnish Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.
- d. Duty to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, or if Grantee cannot get adequate coverage, Grantee shall immediately notify Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.
- e. Insurance Trust. If the Grantee's insurance is provided through an insurance trust, the Grantee shall instead add the Department of Environmental Protection, its employees, and officers as an additional covered party everywhere the Agreement requires them to be added as an additional insured.

13. Termination.

- a. Termination for Convenience. When it is in the State's best interest, Department may, at its sole discretion, terminate the Agreement in whole or in part by giving 30 days' written notice to Grantee. The Department shall notify Grantee of the termination for convenience with instructions as to the effective date of termination or the specific stage of work at which the Agreement is to be terminated. The Grantee must submit all invoices for work to be paid under this Agreement within thirty (30) days of the effective date of termination. The Department shall not pay any invoices received after thirty (30) days of the effective date of termination.

- b. Termination for Cause. The Department may terminate this Agreement if any of the events of default described in the Events of Default provisions below occur or in the event that Grantee fails to fulfill any of its other obligations under this Agreement. If, after termination, it is determined that Grantee was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Department. The rights and remedies of Department in this clause are in addition to any other rights and remedies provided by law or under this Agreement.
- c. Grantee Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination unless as otherwise directed by Department, Grantee shall not furnish any service or deliverable on the date, and to the extent specified, in the notice. However, Grantee shall continue work on any portion of the Agreement not terminated. If the Agreement is terminated before performance is completed, Grantee shall be paid only for that work satisfactorily performed for which costs can be substantiated. The Grantee shall not be entitled to recover any cancellation charges or lost profits.
- d. Continuation of Prepaid Services. If Department has paid for any services prior to the expiration, cancellation, or termination of the Agreement, Grantee shall continue to provide Department with those services for which it has already been paid or, at Department's discretion, Grantee shall provide a refund for services that have been paid for but not rendered.
- e. Transition of Services Upon Termination, Expiration, or Cancellation of the Agreement. If services provided under the Agreement are being transitioned to another provider(s), Grantee shall assist in the smooth transition of Agreement services to the subsequent provider(s). This requirement is at a minimum an affirmative obligation to cooperate with the new provider(s), however additional requirements may be outlined in the Grant Work Plan. The Grantee shall not perform any services after Agreement expiration or termination, except as necessary to complete the transition or continued portion of the Agreement, if any.

14. Notice of Default.

If Grantee defaults in the performance of any covenant or obligation contained in the Agreement, including, any of the events of default, Department shall provide notice to Grantee and an opportunity to cure that is reasonable under the circumstances. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that, should the Grantee fail to perform within the time provided, Grantee will be found in default, and Department may terminate the Agreement effective as of the date of receipt of the default notice.

15. Events of Default.

Provided such failure is not the fault of Department or outside the reasonable control of Grantee, the following non-exclusive list of events, acts, or omissions, shall constitute events of default:

- a. The commitment of any material breach of this Agreement by Grantee, including failure to timely deliver a material deliverable, failure to perform the minimal level of services required for a deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Agreement;
- b. The commitment of any material misrepresentation or omission in any materials, or discovery by the Department of such, made by the Grantee in this Agreement or in its application for funding;
- c. Failure to submit any of the reports required by this Agreement or having submitted any report with incorrect, incomplete, or insufficient information;
- d. Failure to honor any term of the Agreement;
- e. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Grantee by a state or other licensing authority;
- f. Failure to pay any and all entities, individuals, and furnishing labor or materials, or failure to make payment to any other entities as required by this Agreement;
- g. Employment of an unauthorized alien in the performance of the work, in violation of Section 274 (A) of the Immigration and Nationality Act;
- h. Failure to maintain the insurance required by this Agreement;
- i. One or more of the following circumstances, uncorrected for more than thirty (30) days unless, within the specified 30-day period, Grantee (including its receiver or trustee in bankruptcy) provides to Department adequate assurances, reasonably acceptable to Department, of its continuing ability and willingness to fulfill its obligations under the Agreement:
 - i. Entry of an order for relief under Title 11 of the United States Code;
 - ii. The making by Grantee of a general assignment for the benefit of creditors;
 - iii. The appointment of a general receiver or trustee in bankruptcy of Grantee's business or property; and/or

- iv. An action by Grantee under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation.

16. Suspension of Work.

The Department may, in its sole discretion, suspend any or all activities under the Agreement, at any time, when it is in the best interest of the State to do so. The Department shall provide Grantee written notice outlining the particulars of suspension. Examples of reasons for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, Grantee shall comply with the notice. Within 90 days, or any longer period agreed to by the parties, Department shall either: (1) issue a notice authorizing resumption of work, at which time activity shall resume; or (2) terminate the Agreement. If the Agreement is terminated after 30 days of suspension, the notice of suspension shall be deemed to satisfy the thirty (30) days' notice required for a notice of termination for convenience. Suspension of work shall not entitle Grantee to any additional compensation.

17. Force Majeure.

The Grantee shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of Grantee or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond Grantee's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to Grantee. In case of any delay Grantee believes is excusable, Grantee shall notify Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten days after the cause that creates or will create the delay first arose, if Grantee could reasonably foresee that a delay could occur as a result; or (2) if delay is not reasonably foreseeable, within five days after the date Grantee first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against Department. The Grantee shall not be entitled to an increase in the Agreement price or payment of any kind from Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist Grantee shall perform at no increased cost, unless Department determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to Department, in which case Department may: (1) accept allocated performance or deliveries from Grantee, provided that Grantee grants preferential treatment to Department with respect to products subjected to allocation; (2) contract with other sources (without recourse to and by Grantee for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity; or (3) terminate Agreement in whole or in part.

18. Indemnification.

- a. The Grantee shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless Department and its officers, agents, and employees, from suits, actions, damages, and costs of every name and description arising from or relating to:
 - i. personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Grantee, its agents, employees, partners, or subcontractors; provided, however, that Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of Department;
 - ii. the Grantee's breach of this Agreement or the negligent acts or omissions of Grantee.
- b. The Grantee's obligations under the preceding paragraph with respect to any legal action are contingent upon Department giving Grantee: (1) written notice of any action or threatened action; (2) the opportunity to take over and settle or defend any such action at Grantee's sole expense; and (3) assistance in defending the action at Grantee's sole expense. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by Department in any legal action without Grantee's prior written consent, which shall not be unreasonably withheld.
- c. Notwithstanding sections a. and b. above, the following is the sole indemnification provision that applies to Grantees that are governmental entities: Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, F.S. Further, nothing herein shall be construed as consent by a state agency or subdivision of the State to be sued by third parties in any matter arising out of any contract or this Agreement.

- d. No provision in this Agreement shall require Department to hold harmless or indemnify Grantee, insure or assume liability for Grantee's negligence, waive Department's sovereign immunity under the laws of Florida, or otherwise impose liability on Department for which it would not otherwise be responsible. Any provision, implication or suggestion to the contrary is null and void.

19. Limitation of Liability.

The Department's liability for any claim arising from this Agreement is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Agreement. Such liability is further limited to a cap of \$100,000.

20. Remedies.

Nothing in this Agreement shall be construed to make Grantee liable for force majeure events. Nothing in this Agreement, including financial consequences for nonperformance, shall limit Department's right to pursue its remedies for other types of damages under the Agreement, at law or in equity. The Department may, in addition to other remedies available to it, at law or in equity and upon notice to Grantee, retain such monies from amounts due Grantee as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it.

21. Waiver.

The delay or failure by Department to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of Department's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

22. Statutory Notices Relating to Unauthorized Employment and Subcontracts.

- a. The Department shall consider the employment by any Grantee of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Grantee shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.
- b. Pursuant to Sections 287.133, 287.134, and 287.137 F.S., the following restrictions apply to persons placed on the convicted vendor list, discriminatory vendor list, or the antitrust violator vendor list:
- i. Public Entity Crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
 - ii. Discriminatory Vendors. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
 - iii. Antitrust Violator Vendors. A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply on any contract to provide any good or services to a public entity; may not submit a bid, proposal, or reply on any contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity.
 - iv. Notification. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list, the discriminatory vendor list, or antitrust violator vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and the antitrust violator vendor list and posts the list on its website. Questions regarding the discriminatory vendor list or antitrust violator vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

23. Compliance with Federal, State and Local Laws.

- a. The Grantee and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Grantee shall include this provision in all subcontracts issued as a result of this Agreement.
- b. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
- c. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- d. Any dispute concerning performance of the Agreement shall be processed as described herein. Jurisdiction for any damages arising under the terms of the Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

24. Build America, Buy America Act (BABA) - Infrastructure Projects with Federal Funding.

This provision does not apply to Agreements that are wholly funded by Coronavirus State and Local Fiscal Recovery Funds under the American Rescue Plan Act. Also, this provision does not apply where there is a valid waiver in place. However, the provision may apply to funds expended before the waiver or after expiration of the waiver.

If applicable, Recipients or Subrecipients of an award of Federal financial assistance from a program for infrastructure are required to comply with the Build America, Buy America Act (BABA), including the following provisions:

- a. All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. All manufactured products used in the project are produced in the United States--this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- c. All construction materials are manufactured in the United States--this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

25. Scrutinized Companies.

- a. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- b. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- c. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

26. Lobbying and Integrity.

The Grantee agrees that no funds received by it under this Agreement will be expended for the purpose of lobbying the Legislature or a State agency pursuant to Section 216.347, F.S., except that pursuant to the requirements of Section

287.058(6), F.S., during the term of any executed agreement between Grantee and the State, Grantee may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that agreement. The Grantee shall comply with Sections 11.062 and 216.347, F.S.

27. Record Keeping.

The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. In the event that any work is subcontracted, Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes. Upon request of Department's Inspector General, or other authorized State official, Grantee shall provide any type of information the Inspector General deems relevant to Grantee's integrity or responsibility. Such information may include, but shall not be limited to, Grantee's business or financial records, documents, or files of any type or form that refer to or relate to Agreement. The Grantee shall retain such records for the longer of: (1) three years after the expiration of the Agreement; or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at:

<http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>).

28. Audits.

- a. Inspector General. The Grantee understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its sub-grantees and/or subcontractors issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees and/or subcontractors, respectively.
- b. Physical Access and Inspection. Department personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:
 - i. Grantee shall provide access to any location or facility on which Grantee is performing work, or storing or staging equipment, materials or documents;
 - ii. Grantee shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
 - iii. Grantee shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.
- c. Special Audit Requirements. The Grantee shall comply with the applicable provisions contained in Attachment 5, Special Audit Requirements. Each amendment that authorizes a funding increase or decrease shall include an updated copy of Exhibit 1, to Attachment 5. If Department fails to provide an updated copy of Exhibit 1 to include in each amendment that authorizes a funding increase or decrease, Grantee shall request one from the Department's Grants Manager. The Grantee shall consider the type of financial assistance (federal and/or state) identified in Attachment 5, Exhibit 1 and determine whether the terms of Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. For federal financial assistance, Grantee shall utilize the guidance provided under 2 CFR §200.331 for determining whether the relationship represents that of a subrecipient or vendor. For State financial assistance, Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website: <https://apps.fldfs.com/fsaa>.
- d. Proof of Transactions. In addition to documentation provided to support cost reimbursement as described herein, Department may periodically request additional proof of a transaction to evaluate the appropriateness of costs to the Agreement pursuant to State guidelines (including cost allocation guidelines) and federal, if applicable. Allowable costs and uniform administrative requirements for federal programs can be found under 2 CFR 200. The Department may also request a cost allocation plan in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). The Grantee must provide the additional proof within thirty (30) days of such request.
- e. No Commingling of Funds. The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.

- i. If Department finds that these funds have been commingled, Department shall have the right to demand a refund, either in whole or in part, of the funds provided to Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from Department shall refund, and shall forthwith pay to Department, the amount of money demanded by Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from Department by Grantee to the date repayment is made by Grantee to Department.
- ii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by Department, from another source(s), Grantee shall reimburse Department for all recovered funds originally provided under this Agreement and interest shall be charged for those recovered costs as calculated on from the date(s) the payment(s) are recovered by Grantee to the date repayment is made to Department.
- iii. Notwithstanding the requirements of this section, the above restrictions on commingling funds do not apply to agreements where payments are made purely on a cost reimbursement basis.

29. Conflict of Interest.

The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

30. Independent Contractor.

The Grantee is an independent contractor and is not an employee or agent of Department.

31. Subcontracting.

- a. Unless otherwise specified in the Special Terms and Conditions, all services contracted for are to be performed solely by Grantee.
- b. The Department may, for cause, require the replacement of any Grantee employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.
- c. The Department may, for cause, deny access to Department's secure information or any facility by any Grantee employee, subcontractor, or agent.
- d. The Department's actions under paragraphs b. or c. shall not relieve Grantee of its obligation to perform all work in compliance with the Agreement. The Grantee shall be responsible for the payment of all monies due under any subcontract. The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract and Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract.
- e. The Department will not deny Grantee's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of Department's denial is safety or security considerations.
- f. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State. A list of minority-owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
- g. The Grantee shall not be liable for any excess costs for a failure to perform, if the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Grantee and the subcontractor(s), and without the fault or negligence of either, unless the subcontracted products or services were obtainable from other sources in sufficient time for Grantee to meet the required delivery schedule.

32. Guarantee of Parent Company.

If Grantee is a subsidiary of another corporation or other business entity, Grantee asserts that its parent company will guarantee all of the obligations of Grantee for purposes of fulfilling the obligations of Agreement. In the event Grantee is sold during the period the Agreement is in effect, Grantee agrees that it will be a requirement of sale that the new parent company guarantee all of the obligations of Grantee.

33. Survival.

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Agreement, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Agreement.

34. Third Parties.

The Department shall not be deemed to assume any liability for the acts, failures to act or negligence of Grantee, its agents, servants, and employees, nor shall Grantee disclaim its own negligence to Department or any third party. This

Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If Department consents to a subcontract, Grantee will specifically disclose that this Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

35. Severability.

If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

36. Grantee's Employees, Subcontractors and Agents.

All Grantee employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Grantee shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under Agreement must comply with all security and administrative requirements of Department and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement.

37. Assignment.

The Grantee shall not sell, assign, or transfer any of its rights, duties, or obligations under the Agreement, or under any purchase order issued pursuant to the Agreement, without the prior written consent of Department. In the event of any assignment, Grantee remains secondarily liable for performance of the Agreement, unless Department expressly waives such secondary liability. The Department may assign the Agreement with prior written notice to Grantee of its intent to do so.

38. Compensation Report.

If this Agreement is a sole-source, public-private agreement or if the Grantee, through this agreement with the State, annually receive 50% or more of their budget from the State or from a combination of State and Federal funds, the Grantee shall provide an annual report, including the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Grantee must also inform the Department of any changes in total executive compensation between the annual reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Grantee.

39. Execution in Counterparts and Authority to Sign.

This Agreement, any amendments, and/or change orders related to the Agreement, may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. In accordance with the Electronic Signature Act of 1996, electronic signatures, including facsimile transmissions, may be used and shall have the same force and effect as a written signature. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Terms and Conditions
AGREEMENT NO. 23PLN33**

ATTACHMENT 2

These Special Terms and Conditions shall be read together with general terms outlined in the Standard Terms and Conditions, Attachment 1. Where in conflict, these more specific terms shall apply.

1. Scope of Work.

The Project funded under this Agreement is City of DeBary Comprehensive Vulnerability Assessment. The Project is defined in more detail in Attachment 3, Grant Work Plan.

2. Duration.

- a. Reimbursement Period. The reimbursement period for this Agreement is the same as the term of the Agreement.
- b. Extensions. There are extensions available for this Project.
- c. Service Periods. Additional service periods may be added in accordance with 2.a above and are contingent upon proper and satisfactory technical and administrative performance by the Grantee and the availability of funding.

3. Payment Provisions.

- a. Compensation. This is a cost reimbursement Agreement. The Grantee shall be compensated under this Agreement as described in Attachment 3.
- b. Invoicing. Invoicing will occur as indicated in Attachment 3.
- c. Advance Pay. Advance Pay is not authorized under this Agreement.

4. Cost Eligible for Reimbursement or Matching Requirements.

Reimbursement for costs or availability for costs to meet matching requirements shall be limited to the following budget categories, as defined in the Reference Guide for State Expenditures, as indicated:

<u>Reimbursement</u>	<u>Match</u>	<u>Category</u>
<input type="checkbox"/>	<input type="checkbox"/>	Salaries/Wages
		Overhead/Indirect/General and Administrative Costs:
<input type="checkbox"/>	<input type="checkbox"/>	a. Fringe Benefits, N/A.
<input type="checkbox"/>	<input type="checkbox"/>	b. Indirect Costs, N/A.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contractual (Subcontractors)
<input type="checkbox"/>	<input type="checkbox"/>	Travel, in accordance with Section 112, F.S.
<input type="checkbox"/>	<input type="checkbox"/>	Equipment
<input type="checkbox"/>	<input type="checkbox"/>	Rental/Lease of Equipment
<input type="checkbox"/>	<input type="checkbox"/>	Miscellaneous/Other Expenses
<input type="checkbox"/>	<input type="checkbox"/>	Land Acquisition

5. Equipment Purchase.

No Equipment purchases shall be funded under this Agreement.

6. Land Acquisition.

There will be no Land Acquisitions funded under this Agreement.

7. Match Requirements

There is no match required on the part of the Grantee under this Agreement.

8. Insurance Requirements

Required Coverage. At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy

maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Agreement. All insurance policies shall be through insurers licensed and authorized to issue policies in Florida, or alternatively, Grantee may provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

a. Commercial General Liability Insurance.

The Grantee shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Agreement. The Department, its employees, and officers shall be named as an additional insured on any general liability policies. The minimum limits shall be \$250,000 for each occurrence and \$500,000 policy aggregate.

b. Commercial Automobile Insurance.

If the Grantee's duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The Department, its employees, and officers shall be named as an additional insured on any automobile insurance policy. The minimum limits shall be as follows:

\$200,000/300,000	Automobile Liability for Company-Owned Vehicles, if applicable
\$200,000/300,000	Hired and Non-owned Automobile Liability Coverage

c. Workers' Compensation and Employer's Liability Coverage.

The Grantee shall provide workers' compensation, in accordance with Chapter 440, F.S. and employer liability coverage with minimum limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policies shall cover all employees engaged in any work under the Grant.

d. Other Insurance. None.

9. Quality Assurance Requirements.

There are no special Quality Assurance requirements under this Agreement.

10. Retainage.

No retainage is required under this Agreement.

11. Subcontracting.

The Grantee may subcontract work under this Agreement without the prior written consent of the Department's Grant Manager except for certain fixed-price subcontracts pursuant to this Agreement, which require prior approval. The Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work. Regardless of any subcontract, the Grantee is ultimately responsible for all work to be performed under this Agreement.

12. State-owned Land.

The work will not be performed on State-owned land.

13. Office of Policy and Budget Reporting.

There are no special Office of Policy and Budget reporting requirements for this Agreement.

14. Common Carrier.

- a. Applicable to contracts with a common carrier – firm/person/corporation that as a regular business transports people of commodities from place to place. If applicable, Contractor must also fill out and return PUR 1808 before contract execution] If Contractor is a common carrier pursuant to section 908.111(1)(a), Florida Statutes, the Department will terminate this contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808.
- b. Applicable to solicitations for a common carrier – Before contract execution, the winning Contractor(s) must fill out and return PUR 1808, and attest that it is not willfully providing any service in furtherance of transporting a person into this state knowing that the person unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The Department will terminate a contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808

15. Additional Terms.

Documentary Evidence Requirement for Subcontractor(s). If any work associated with this Agreement is completed by a subcontractor(s), the Grantee shall require that such subcontractor(s) submit documentary evidence (e.g., workshop agendas; meeting recordings) to Grantee demonstrating that the subcontractor(s) has fully performed its Project obligation(s). The Grantee shall forward copies of all such documentary evidence to the Department with the Grantee's relevant deliverable(s), using the approved Project Timeline set forth in Attachment 3 to this Agreement (Grant Work Plan).

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
GRANT WORK PLAN
AGREEMENT NO. 23PLN33**

ATTACHMENT 3

PROJECT TITLE: City of DeBary Comprehensive Vulnerability Assessment

PROJECT LOCATION: The Project is located in the City of DeBary within Volusia County, Florida.

PROJECT DESCRIPTION:

The City of DeBary (Grantee) will complete the City of DeBary Comprehensive Vulnerability Assessment Project (Project) to include a comprehensive Vulnerability Assessment (VA) pursuant to Section 380.093, Florida Statutes (F.S.), as well as identify focus areas.

TASKS AND DELIVERABLES:

Task 1: Acquire Background Data

Description: The Grantee will research and compile the data needed to perform the VA based on the requirements as defined in s. 380.093, F.S. Three main categories of data are required to perform a VA: 1) critical and regionally significant asset inventory, 2) topographic data, and 3) flood scenario-related data. GIS metadata should incorporate a layer for each of the four asset classes as defined in paragraphs 380.093(2)(a)1-4, F.S. GIS files and associated metadata must adhere to the Resilient Florida Program's GIS Data Standards (Exhibit I), and raw data sources shall be defined within the associated metadata. Sea level rise projection data shall include the 2017 National Oceanic and Atmospheric Administration (NOAA) intermediate-high and intermediate-low projections for 2040 and 2070, at a minimum. Other projections can be used at the Grantees discretion. Storm surge data used must be equal to or exceed the 100-year return period (1% annual chance) flood event. In the process of researching background data, the Grantee shall identify data gaps, where missing data or low-quality information may limit the VA's extent or reduce the accuracy of the results. The Grantee shall rectify any gaps of necessary data.

Deliverables: The Grantee will provide the following: 1) a technical report to outline the data compiled and findings of the gap analysis; 2) a summary report to include recommendations to address the identified data gaps and actions taken to rectify them, if applicable; and 3) GIS files with appropriate metadata of the data compiled, to include locations of critical assets owned or maintained by the Grantee as well as regionally significant assets that are classified and as defined in paragraphs 380.093(2)(a)1-4, F.S.

Task 2: Exposure Analysis

Description: The Grantee will perform an exposure analysis to identify the depth of water caused by each sea level rise, storm surge, and/or flood scenario. The water surface depths (i.e. flood scenarios) used to evaluate assets shall include the following data: tidal flooding, current and future storm surge flooding, rainfall-induced flooding, and compound flooding, all as applicable, as well as the scenarios and standards used for the exposure analysis shall be pursuant to s. 380.093, F.S. GIS files and associated metadata must adhere to the Resilient Florida Program's GIS Data Standards (Exhibit I), and raw data sources shall be defined within the associated metadata.

Deliverables: The Grantee will provide the following: 1) a draft Vulnerability Assessment report that provides details on the modeling process, type of models utilized, and resulting tables and maps illustrating flood depths for each flood scenario; and 2) GIS files with results of the exposure analysis for each flood scenario as well as the appropriate metadata that identifies the methods used to create the flood layers.

Task 3: Sensitivity Analysis

Description: The Grantee will perform the sensitivity analysis to measure the impact of flooding on assets and to apply the data from the exposure analysis to the inventory of critical assets created in the Acquire Background Data Task. The sensitivity analysis should include an evaluation of the impact of flood severity on each asset class and at each flood scenario and assign a risk level based on percentages of land area inundated and number of critical assets affected.

Deliverables: The Grantee will provide the following: 1) an updated draft Vulnerability Assessment report that provides details on the findings of the exposure analysis and the sensitivity analysis, and includes visual presentation of the data via maps and tables, based on the statutorily-required scenarios and standards; and 2) an initial list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset.

Task 4: Identify Focus Areas

Description: The Grantee will identify focus areas, following the guidelines in Chapter 2 of the Florida Adaptation Planning Guidebook. Based on the exposure and sensitivity analyses, the Grantee may assign focus areas to locations or assets that are particularly vulnerable and require the development of adaptation strategies. GIS files and associated metadata must adhere to the Resilient Florida Program's GIS Data Standards (Exhibit I), and raw data sources shall be defined within the associated metadata.

Deliverables: The Grantee will provide the following: 1) a report summarizing the areas identified as focus areas, with justification for choosing each area; 2) tables listing each focus area with any critical assets that are contained inside the focus area; 3) maps illustrating the location of each focus area compared to the location of all critical assets within the geographic extent of the study; and 4) GIS files and associated metadata illustrating geographic boundaries of the identified focus areas.

Task 5: Final Vulnerability Assessment Report, Maps, and Tables

Description: The Grantee will finalize the Vulnerability Assessment (VA) report pursuant to the requirements in s. 380.093, F.S.. The final VA must include all results from the exposure and sensitivity analyses, as well as a summary of identified risks and assigned focus areas. It should contain a list of critical and regionally significant assets that are impacted by flooding and sea-level rise, specifying for each asset the flood scenario(s) impacting the asset. GIS files and associated metadata must adhere to the Resilient Florida Program's GIS Data Standards (Exhibit I), and raw data sources shall be defined within the associated metadata.

Deliverables: The Grantee will provide the following: 1) Final Vulnerability Assessment Report that provides details on the results and conclusions, including illustrations via maps and tables, based on the statutorily-required scenarios and standards in s. 380.093, F.S.; 2) a final list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset.; 3) all

electronic mapping data used to illustrate flooding and sea level rise impacts identified in the VA, to include the geospatial data in an electronic file format and GIS metadata; and 4) a signed Vulnerability Assessment Compliance Checklist Certification (Exhibit I).

PERFORMANCE MEASURES: The Grantee will submit all deliverables for each task to the Department’s Grant Manager on or before the Task Due Date listed in the Project Timeline. The Grantee must also submit Exhibit A, Progress Report Form, to the Department’s Grant Manager, with every deliverable and payment request. For interim payment requests, Exhibit A may serve as the deliverable for a task. The Department’s Grant Manager will review the deliverable(s) to verify that they meet the specifications in the Grant Work Plan and the task description, to include any work being performed by any subcontractor(s), and will provide written acceptance or denial of the deliverable(s) to the Grantee within ten (10) working days. Upon written acceptance by the Department’s Grant Manager of deliverables under the task, the Grantee may proceed with the payment request submittal.

CONSEQUENCES FOR NON-PERFORMANCE: For each task deliverable not received by the Department at one hundred percent (100%) completion and by the specified due date listed in the Agreement’s most recent Project Timeline, the Department will reduce the relevant Task Funding Amount(s) paid to Grantee in proportion to the percentage of the deliverable(s) not fully completed and/or submitted to the Department in a timely manner.

PAYMENT REQUEST SCHEDULE: Following the Grantee’s full completion of a task, the Grantee may submit a payment request for cost reimbursement using both Exhibit A, Progress Report Form, and Exhibit C, Payment Request Summary Form. Interim payment requests cannot be made more frequently than quarterly and must be made using Exhibit A, detailing all work progress made during that payment request period, and Exhibit C. Upon the Department’s receipt of Exhibit A and C, along with all supporting fiscal documentation and deliverables, the Department’s Grant Manager will have ten (10) working days to review and approve or deny the payment request.

PROJECT TIMELINE AND BUDGET DETAIL: The tasks must be completed by, and all deliverables received by, the corresponding task due date listed in the table below. Cost-reimbursable grant funding must not exceed the budget amounts indicated below. Requests for any change(s) must be submitted prior to the current task due date listed in the Project Timeline. Requests are to be sent via email to the Department’s Grant Manager, with the details of the request and the reason for the request made clear.

Task No.	Task Title	Budget Category	DEP Amount	Match Amount	Total Amount	Task Start Date	Task Due Date
1	Acquire Background Data	Contractual Services	\$59,088	\$0	\$59,088	Upon Execution	6/30/2026
2	Exposure Analysis	Contractual Services	\$48,668	\$0	\$48,668	Upon Execution	6/30/2026
3	Sensitivity Analysis	Contractual Services	\$41,788	\$0	\$41,788	Upon Execution	6/30/2026
4	Identify Focus Areas	Contractual Services	\$50,448	\$0	\$50,448	Upon Execution	6/30/2026
5	Final Vulnerability Assessment Report, Maps, and Tables	Contractual Services	\$50,008	\$0	\$50,008	Upon Execution	6/30/2026

Total:	\$250,000	\$0	\$250,000	
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**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Public Records Requirements**

Attachment 4

1. Public Records.

- a. If the Agreement exceeds \$35,000.00, and if Grantee is acting on behalf of Department in its performance of services under the Agreement, Grantee must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by Grantee in conjunction with the Agreement (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Agreement if Grantee refuses to allow public access to Public Records as required by law.

2. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

For the purposes of this paragraph, the term “contract” means the “Agreement.” If Grantee is a “contractor” as defined in section 119.0701(1)(a), F.S., the following provisions apply and the contractor shall:

- a. Keep and maintain Public Records required by Department to perform the service.
- b. Upon request, provide Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- c. A contractor who fails to provide the Public Records to Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- d. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the Public Records to Department.
- e. Upon completion of the contract, transfer, at no cost, to Department all Public Records in possession of the contractor or keep and maintain Public Records required by Department to perform the service. If the contractor transfers all Public Records to Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to Department, upon request from Department’s custodian of Public Records, in a format specified by Department as compatible with the information technology systems of Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.

f. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT’S CUSTODIAN OF PUBLIC RECORDS AT:

Telephone: (850) 245-2118
Email: public.services@floridadep.gov
Mailing Address: Department of Environmental Protection
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Boulevard, MS 49
Tallahassee, Florida 32399

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Audit Requirements
(State and Federal Financial Assistance)

Attachment 5

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the agreement*) to the recipient (*which may be referred to as the "Recipient", "Grantee" or other name in the agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEP Department staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient that expends \$750,000 or more in Federal awards in its fiscal year, must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.
3. A recipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F-Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <https://sam.gov/content/assistance-listings>.

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$750,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and required by PART I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of the recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512
 - A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:

By Mail:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at <http://harvester.census.gov/facweb/>

2. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

A. The Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

B. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<http://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

4. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

Attachment 5

3 of 7

5. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with 2 CFR 200, Subpart F-Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (non and for-profit organizations), Rules of the Auditor General, should indicate the date and the reporting package was delivered to the recipient correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of **five (5)** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **three (3)** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Note: If the resources awarded to the recipient represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
Federal Program A	U.S. Department of Treasury	21.027	SLFRP0125	\$250,000.00	197-H23
Federal Program B	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	

Note: Of the resources awarded to the recipient represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below:

Federal Program A	First Compliance requirement: i.e.: (what services of purposes resources must be used for)
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)
	Etc.
	Etc.
Federal Program B	First Compliance requirement: i.e.: (what services of purposes resources must be used for)
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)
	Etc.
	Etc.

Note: If the resources awarded to the recipient for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program A					
Federal Program B					

Note: If the resources awarded to the recipient represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program	State Awarding Agency	State Fiscal Year ¹	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original Award	Florida Department of Environmental Protection	22/23	37.098	Resilient Florida Programs		140078
State Program B	State Awarding Agency	State Fiscal Year ²	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category

Total Award	\$250,000.00
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Note: List applicable compliance requirement in the same manner as illustrated above for federal resources. For matching resources provided by the Department for DEP for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amount for the non-federal resources, there may be more than one grouping (i.e. 1, 2, 3, etc.) listed under this category.

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<https://sam.gov/content/assistance-listings>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [https://apps.fldfs.com/fsaa/state_project_compliance.aspx]). The

¹ Subject to change by Change Order.

² Subject to change by Change Order.

services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
PROGRAM-SPECIFIC REQUIREMENTS
RESILIENT FLORIDA PROGRAM**

ATTACHMENT 6

1. Sea Level Impact Projection Study Requirement. If the project is within the designated area, pursuant to Section 161.551, F.S. and Chapter 62S-7, *Florida Administrative Code*, the Grantee is responsible for performing a Sea Level Impact Projection (SLIP) study and submitting the resulting report to the Department. The SLIP study report must be received by the Department, approved by the Department, and be published on the Department's website for at least thirty (30) days before construction can commence. This rule went into effect July 1, 2021, and applies to certain state-funded construction projects located in the coastal building zone as defined in the rule.
2. Permits. The Grantee acknowledges that receipt of this grant does not imply nor guarantee that a federal, state, or local permit will be issued for a particular activity. The Grantee agrees to ensure that all necessary permits are obtained prior to implementation of any grant-funded activity that may fall under applicable federal, state, or local laws. Further, the Grantee shall abide by all terms and conditions of each applicable permit for any grant-funded activity. Upon request, the Grantee must provide a copy of all acquired and approved permits for the project.
3. Attachment 3, Grant Work Plan, Performance Measures. All deliverables and reports submitted to the Department should be submitted electronically and must be compliant with the Americans with Disabilities Act, also known as "508 Compliant," in all formats provided.
4. Copyright, Patent and Trademark. The Department reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for state government purposes:
 - a. The copyright in any work developed under this Agreement; and
 - b. Any rights or copyright to which the Grantee or subcontractor purchases ownership with grant support.
5. Grant funds may not be used to support ongoing efforts to comply with legal requirements, including permit conditions, mitigation, and settlement agreements.
6. Funding Source. With the exception of audiovisuals not intended for presentation to the general public that are produced either as research instruments or for documenting experimentation or findings (unless otherwise required under the special terms of this Agreement), Grantee agrees to include the Department's logo (which can be found on the Department's website at: <https://floridadep.gov> or by contacting the Grant Manager for a copy) on all publications, printed reports, maps, audiovisuals (including videos, slides, and websites), and similar materials, as well as the following language:

"This work was funded in part through a grant agreement from the Florida Department of Environmental Protection's Office of Resilience and Coastal Protection Resilient Florida Program. The views, statements, findings, conclusions, and recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the State of Florida or any of its subagencies."

The next printed line must identify the month and year of the publication.

7. Final Project Report. The Grantee must submit Exhibit F, Final Project Report Form, prior to requesting final payment. The Final Project Report may be submitted in lieu of the final quarterly status report, only in instances where the next quarterly report falls after the project's completion date.

8. Project Photos. The Grantee must submit Exhibit G, Photo Release Form, with the first submission of deliverables and reports (Exhibit A and F) that include photos.
9. Contractual Services. For all grant agreements that include Contractual Services as an expenditure category, the Grantee must submit Exhibit H, Contractual Services Certification, and all required supporting documentation for all contractors conducting work under the grant agreement, prior to requesting payment that includes contractual services.
10. Vulnerability Assessments. For all Planning grant agreements (Resilient Florida Grant Program and Regional Resilience Entities), the Grantee must submit Exhibit I, Vulnerability Assessment Compliance Checklist Certification, with the final grant deliverable(s).
11. Geographic Information System (GIS) files and associated metadata. All GIS files and associated metadata must adhere to the Resilient Florida Program's GIS Data Standards (found on the Resilient Florida Program website: <https://floridadep.gov/rcp/resilient-florida-program/documents/resilient-florida-program-gis-data-standards>), and raw data sources shall be defined within the associated metadata.
12. State and Local Fiscal Recovery Funds. For all grant agreements funded with the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) under the American Rescue Plan Act, the Grantee must submit the SLFRF Reporting Requirements Form upon execution of the grant agreement.

ATTACHMENT 8
Contract Provisions for Coronavirus State and Local Fiscal Recovery Funds
(SLFRF) Agreements

The Department, as a Non-Federal Entity as defined by 2 CFR §200.69, shall comply with the following provisions, where applicable. For purposes of this Grant Agreement between the Department and the Grantee, the term “Recipient” shall mean “Grantee.”

Further, the Department, as a pass-through entity, also requires the Grantee to pass on these requirements to all lower tier subrecipients/contractors, and to comply with the provisions of the award, the SLFRF implementing regulation, including applicable provisions of the OMB Uniform Guidance (2 CFR Part 200), and all associated terms and conditions. Therefore, Grantees must include these requirements in all related subcontracts and/or sub-awards. Grantees can include these requirements by incorporating this Attachment in the related subcontract and/or sub-awards, however for all such subcontracts and sub-awards, the Grantee shall assume the role of the Non-Federal Entity and the subrecipients shall assume the role of the Recipient.

2 CFR PART 200 APPENDIX 2 REQUIREMENTS

1. Administrative, Contractual, and Legal Remedies

The following provision is required if the Agreement is for more than \$150,000. In addition to any of the remedies described elsewhere in the Agreement, if the Recipient materially fails to comply with the terms and conditions of this Contract, including any Federal or State statutes, rules, or regulations, applicable to this Contract, the Non-Federal Entity may take one or more of the following actions.

- A. Temporarily withhold payments pending correction of the deficiency by the Recipient.
- B. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- C. Wholly or partly suspend or terminate this Contract.
- D. Take other remedies that may be legally available.

The remedies identified above, do not preclude the Recipient from being subject to debarment and suspension under Presidential Executive Orders 12549 and 12689. The Non-Federal entity shall have the right to demand a refund, either in whole or part, of the funds provided to the Recipient for noncompliance with the terms of this Agreement.

2. Termination for Cause and Convenience

Termination for Cause and Convenience are addressed elsewhere in the Agreement.

3. Equal Opportunity Clause

The following provision applies if the agreement meets the definition of “federally assisted construction contract” as defined by 41 CFR Part 60-1.3:

During the performance of this Agreement, the Recipient agrees as follows:

- A. The Recipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Recipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
 - i. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Recipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. The Recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Recipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. The Recipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's

essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Recipient's legal duty to furnish information.

- D. The Recipient will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Agreement or understanding, a notice to be provided advising the said labor union or workers' representatives of the Recipient's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The Recipient will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. The Recipient will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the Recipient's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Recipient may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. The Recipient will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Recipient will take such action with respect to any subcontractor purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

4. Contract Work Hours and Safety Standards Act

Where applicable, if the Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, the Recipient must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each Recipient must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under Agreement

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the Non-Federal Entity or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the Non-Federal Entity or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. Clean Air Act (42 U.S.C. 7401-7671q.), the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), and EPA Regulations

If the Agreement is in excess of \$100,000, the Recipient shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control

Act as amended (33 U.S.C. 1251-1387), and by the EPA (40 CFR Part 15). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).

- i. The Grantee shall include these requirements for the Clean Air Act and the Federal Water Pollution Act in each subcontract exceeding \$100,000 financed in whole or in part with SLFRF funds.

7. Debarment and Suspension (Executive Orders 12549 and 12689)

The Recipient certifies that it is not listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 and 2 CF 1200 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.”

8. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

The Recipient certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. If applicable, the Recipient shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award, using form SF-LLL, available at:

https://apply07.grants.gov/apply/forms/sample/SFLLL_1_2_P-V1.2.pdf.

- i. Grantees who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient.

9. Procurement of Recovered Materials

The Recipient must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act as described in 2 CFR part 200.322.

10. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

The Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. See Section 889 of Public Law 115-232 (National Defense Authorization Act 2019). Also, see 2 CFR 200.216 and 200.471.

11. Domestic Preferences for Procurement

The Recipients and subrecipients must, to the greatest extent practical, give preference to the purchase, acquisition, or use of goods, products, or materials produced in the United States in accordance with 2 CFR 200.322.

ADMINISTRATIVE

1. General Federal Regulations

Recipients shall comply with the regulations listed in 2 CFR 200, 48 CFR 31, and 40 U.S.C. 1101 *et seq.*

2. Rights to Patents and Inventions Made Under a Contract or Agreement

Rights to inventions made under this assistance agreement are subject to federal patent and licensing regulations, which are codified at Title 37 CFR Part 401 and Title 35 U.S.C. 200 through 212.

3. Compliance with the Trafficking Victims Protection Act of 2000 (2 CFR Part 175)

Recipients, their employees, subrecipients under this award, and subrecipients' employees may not:

- A. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- B. Procure a commercial sex act during the period of time that the award is in effect; or
- C. Use forced labor in the performance of the award or subawards under the award.

4. Whistleblower Protection

Recipients shall comply with U.S.C. §4712, Enhancement of Recipient and Subrecipient Employee Whistleblower Protection. This requirement applies to all awards issued after July 1, 2013 and effective December 14, 2016 has been permanently extended (Public Law (P.L.) 114-261).

Attachment 8

- A. This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies in the pilot program on award recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239).
- B. Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.
- C. The Recipient shall insert this clause, including this paragraph C, in all subawards and in contracts over the simplified acquisition threshold related to this award; best efforts should be made to include this clause, including this paragraph C in any subawards and contracts awarded prior to the effective date of this provision.

5. Notification of Termination (2 CFR § 200.340)

In accordance with 2 CFR § 200.340, in the event that the Agreement is terminated prior to the end of the period of performance due to the Recipient's or subcontractor's material failure to comply with Federal statutes, regulations or the terms and conditions of this Agreement or the Federal award, the termination shall be reported to the Office of Management and Budget (OMB)-designated integrity and performance system, accessible through System for Award Management (SAM) currently the Federal Awardee Performance and Integrity Information System (FAPIIS). The Non-Federal Entity will notify the Recipient of the termination and the Federal requirement to report the termination in FAPIIS. See 2 CFR § 200.340 for the requirements of the notice and the Recipient's rights upon termination and following termination.

6. Additional Lobbying Requirements

- A. The Recipient certifies that no funds provided under this Agreement have been used or will be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.
- B. The Lobbying Disclosure Act of 1995, as amended (2 U.S.C. §1601 et seq.), prohibits any organization described in Section 501(c)(4) of the Internal Revenue Code, from receiving federal funds through an award, grant (and/or subgrant) or loan unless such organization warrants that it does not, and will not engage in lobbying activities prohibited by the Act as a special condition of such an award, grant (and/or subgrant), or loan. This restriction does not apply to loans made pursuant to approved revolving loan programs or to contracts awarded using proper procurement procedures.
- C. Pursuant to 2 CFR §200.450 and 2 CFR §200.454(e), the Recipient is hereby prohibited from using funds provided by this Agreement for membership dues to any entity or organization engaged in lobbying activities.

7. Increasing Seat Belt Use in the United States

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Grantee is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented or personally owned vehicles.

8. Reducing Text Messaging While Driving

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Grantee is encouraged to adopt and enforce policies that ban text messaging while driving and establish workplace safety policies to decrease accidents caused by distracted drivers.

9. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970

Where applicable, 42 U.S.C. §§ 4601-4655 and implementing regulations apply to this Agreement.

COMPLIANCE WITH ASSURANCES

1. Assurances

Recipients shall comply with all applicable assurances made by the Department or the Recipient to the Federal Government during the Grant application process.

FEDERAL REPORTING REQUIREMENTS

1. FFATA

Grant Recipients awarded a new Federal grant greater than or equal to \$30,000 awarded on or after October 1, 2015, are subject to the FFATA the Federal Funding Accountability and Transparency Act ("FFATA") of 2006. The FFATA legislation requires that information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

The Grantee agrees to provide the information necessary, within one (1) month of execution, for the Department to comply with this requirement.

DEPARTMENT OF TREASURY-SPECIFIC

1. Civil Rights Compliance

Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services or otherwise discriminate on the basis of race, color, national origin, (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following: Title VI of Civil Rights Acts of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department of Treasury implementing regulations at 31 CFR part 23.

The Department of Treasury will request information on recipients' compliance with Title VI of the Civil Rights Act of 1964, as applicable, on an annual basis. This information may include a narrative describing the recipient's compliance with Title VI, along with other questions and assurances.

SLFRF-SPECIFIC

1. Period of Performance

All funds from SLFRF must be obligated by December 31, 2024 and expended by December 31, 2026.

2. Equipment and Real Property Management

Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

SLFRF INFRASTRUCTURE PROJECTS

For all infrastructure projects, the Grantee shall provide the following project information on a quarterly basis to the Department:

- i. Projected/actual construction start date (month/year)
- ii. Projected/actual initiation of operation date (month/year)
- iii. Location details

SLFRF INFRASTRUCTURE PROJECTS OVER \$10 MILLION

For infrastructure projects over \$10 million, the following provisions apply:

1. Wage Certification

Grantees may provide a certification that all laborers and mechanics employed by Grantee in the performance of such project are paid wages at the rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with the Davis-Bacon Act, for the corresponding classes of laborers and mechanics employed projected of a character similar to the contract work in the civil subdivision of Florida in which the work is to be performed. If the Grantee does not provide such certification, the Grantee must provide a project employment and local impact report detailing:

- i. The number of employees of contractors and sub-contractors working on the project;
- ii. The number of employees on the project hired directly and hired through a third party;
- iii. The wages and benefits of workers on the project by classification; and
- iv. Whether those wages are at rates less than those prevailing.

Grantee must maintain sufficient records to substantiate this information upon request.

2. Project Labor Agreements

Grantees may provide a certification that the project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with the section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the Grantee does not provide such certification, the Grantee must provide a project

workforce continuity plan, detailing:

- i. How the Grantee will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;
 - ii. How the Grantee will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;
 - iii. How the Grantee will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities;
 - iv. Whether workers on the project will receive wages and benefits that will secure and appropriately skilled workforce in the context of the local or regional labor market; and
 - v. Whether the project has completed a labor agreement.
3. Other Reporting Requirements

Grantees must report whether the project prioritizes local hires and whether the project has Community Benefit Agreement, with a description of any such agreement, if applicable.

SLFRF WATER & SEWER PROJECTS

For water and sewer projects, Grantees shall provide the following information to the Department once the project starts, as applicable:

- i. National Pollutant Discharge Elimination System (NPDES) Permit Number, for projects aligned with the Clean Water State Revolving Fund
- ii. Public Water System (PWS) ID number, for projects aligned with the Drinking Water State Revolving Fund.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RESILIENT FLORIDA GRANT PROGRAM
EXHIBIT A
PROGRESS REPORT FORM**

The current **Exhibit A, Progress Report Form** for the Resilient Florida Program grant agreements can be found on the Department's website at the link below. Each payment request must be submitted on the current form. The Department will notify grantees of any substantial changes to Exhibit A that occur during the grant agreement period.

<https://floridadep.gov/Resilient-Florida-Program/Grants>

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RESILIENT FLORIDA GRANT PROGRAM
EXHIBIT C
PAYMENT REQUEST SUMMARY FORM**

The current **Exhibit C, Payment Request Summary Form** for the Resilient Florida Program grant agreements can be found on the Department's website at the link below. Each payment request must be submitted on the current form. The Department will notify grantees of any substantial changes to Exhibit C that occur during the grant agreement period.

<https://floridadep.gov/Resilient-Florida-Program/Grants>

EXHIBIT F

DEP AGREEMENT NO. 23PLN33

CITY OF DEBARY COMPREHENSIVE VULNERABILITY ASSESSMENT

City of Debary

Final Project Report



Insert Month & Year

This report is funded in part through a grant agreement from the Florida Department of Environmental Protection. The views, statements, findings, conclusions, and recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the State of Florida or any of its subagencies.

Part I. Executive Summary

Exhibit F, DEP Agreement # 23PLN33

Page 1

5/12/2022

Part II. Methodology

Part III. Outcome

Include evaluation of project's ability to meet goals and expected performance measures and provide explanation for why goals were not met, if applicable. Identify successful outcomes, areas for improvement, and quantifiable metrics as a result of the project.

Part IV. Further Recommendations

Instructions for completing Attachment F Final Project Report Form:

DEP AGREEMENT NO.: This is the number on your grant agreement.

GRANTEE NAME: Enter the name of the grantee's agency.

PROJECT TITLE: Enter the title shown on the first page of the grant agreement.

MONTH & YEAR: Enter month and year of publication

The final Project Report must contain the following sections: Executive Summary, Methodology, Outcome, and Further Recommendations. The Final Project Report must comply with the publication requirements in the grant agreement. Please limit the final project report to no more than five (5) pages. One electronic copy shall be submitted to the Department's Grant Manager for approval. Final payment will be held until receipt and approval of the Final Project Report.

Questions regarding completion of the Final Project Report should be directed to the Department's Grant Manager, identified in paragraph 18 of this agreement.



Florida Department of Environmental Protection

EXHIBIT G

PHOTOGRAPHER RELEASE FORM
FOR PHOTOGRAPHS, VIDEOS, AUDIO RECORDINGS AND ARTWORKS

DEP AGREEMENT NO: 23PLN33

RELEASE FORM FOR PHOTOGRAPHS, VIDEOS, AUDIO RECORDINGS AND ARTWORKS

Owner/Submitter's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: () _____ Email: _____

License and Indemnification

I certify that I am the owner of the photograph(s), video(s), audio recording(s) and/or artwork(s) being submitted and am eighteen (18) years of age or older.

I hereby grant to the Florida Department of Environmental Protection the royalty-free and non-exclusive right to distribute, publish and use the photograph(s), video(s), audio recording(s) and art work(s) submitted herewith (the "Work") to promote the Florida Department of Environmental Protection. Uses may include, but are not limited to:

1. Promotion of FDEP (including, but limited to publications, websites, social media venues, advertisements, etc.); and
2. Distribution to the media; and
3. Use in commercial products.

The Florida Department of Environmental Protection reserves the right to use/not use any Work as deemed appropriate by the Florida Department of Environmental Protection. No Work will be returned once submitted.

I hereby acknowledge that the Florida Department of Environmental Protection shall bear no responsibility whatsoever for protecting the Work against third-party infringement of my copyright interest or other intellectual property rights or other rights I may hold in such Work, and in no way shall be responsible for any losses I may suffer as a result of any such infringement; and I hereby represent and warrant that the Work does not infringe the rights of any other individual or entity.

I hereby unconditionally release, hold harmless and indemnify the Florida Department of Environmental Protection, its employees, volunteers, and representatives of and from all claims, liabilities and losses arising out of or in connection with the Florida Department of Environmental Protection's use of the Work. This release and indemnification shall be binding upon me, and my heirs, executors, administrators and assigns.

I have read and understand the terms of this release.

Owner signature: _____ Date: _____

Photo/video/audio/artwork/recording
file name(s): _____

Location of photo/video/audio
recording/artwork: _____

Name of person accepting Work submission _____

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RESILIENT FLORIDA GRANT PROGRAM
CONTRACTUAL SERVICES CERTIFICATION**

Exhibit H

Required for all grant agreements that include Contractual Services as an expenditure category.

DEP Agreement Number: 23PLN33

Project Title: City of DeBary Comprehensive Vulnerability Assessment

Grantee: City of DeBary

Prior to making a request for payment of contractual services, the Grantee must provide the following to the Department Grant Manager then responsible for the Grantee's Resilient Florida Grant Program grant agreement:

1. Documentation of the Grantee's procurement process, as consistent with Attachment 1, Paragraph 9(c) and Attachment 2, Paragraph 11;
2. A list of all subcontractor quote and/or bid amounts (as applicable), including the company name and address for each subcontractor;
3. An explanation of how and why the Grantee made their determination(s) for the subcontractor(s) selected to perform certain task(s) under the Grantee's relevant grant agreement; and
4. This Exhibit H, signed and dated by the Grantee's own (non-Departmental) grant manager.

By signing below, I certify that, on behalf of the Grantee, I have provided all the information required by items 1. through 3. of this exhibit, as stated above, to the Department Grant Manager currently responsible for the Grantee's Resilient Florida Grant Program grant agreement. I also certify that the procurement process the Grantee utilized follows all of said Grantee's non-Departmental policies and procedures for subcontractors.

Grantee's Grant Manager Signature

Print Name

Date

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RESILIENT FLORIDA GRANT PROGRAM
VULNERABILITY ASSESSMENT COMPLIANCE CHECKLIST CERTIFICATION**

Exhibit I

Required for all planning grant agreements.

DEP Agreement Number: 23PLN33

Project Title: City of DeBary Comprehensive Vulnerability Assessment

Grantee: City of DeBary

In accordance with subsection 380.093(3), F.S., the following components, scenarios, data, and information are required for a comprehensive Vulnerability Assessment (VA). The checklist must be completed and submitted with the final VA Report deliverable, pursuant to Attachment 3, Grant Work Plan. The Grantee must abide by the Department’s GIS Data Standards found on the Resilient Florida Program webpage at the link below:

<https://floridadep.gov/rcp/resilient-florida-program/documents/resilient-florida-program-gis-data-standards>

Part 1 – Subparagraph 380.093(3)(c)2., F.S.

Item ID	Check if Included	Item Description	Page Reference in VA Report (if applicable)
a	<input type="checkbox"/>	Final Vulnerability Assessment Report that provides details on the results and conclusions, including illustrations via maps and tables.	
All electronic mapping data used to illustrate flooding and sea level rise impacts that are identified in the VA must be provided in the format consistent with the Department’s GIS Data Standards and include the following three (3) items:			
b	<input checked="" type="checkbox"/>	Geospatial data in an electronic file format.	
c	<input type="checkbox"/>	GIS metadata.	
d	<input type="checkbox"/>	List of critical assets for each jurisdiction, including regionally significant assets, that are impacted by flooding and sea level rise. The list must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset	

Part 2 – Subparagraphs 380.093(3)(d)1. and 380.093(3)(d)2., F.S.

Item ID	Check if Included	Item Description	Page Reference in VA Report (if applicable)
e	<input type="checkbox"/>	Peril of Flood Compliance Plan amendments developed that address paragraph 163.3178(2)(f), F.S., if applicable.	

		<input type="checkbox"/> Not applicable <input type="checkbox"/> Already in compliance	
f	<input type="checkbox"/>	Depth of tidal flooding, including future high tide flooding, using thresholds published and provided by the Department.	
g	<input type="checkbox"/>	To the extent practicable, analysis geographically displays the number of tidal flood days expected for each scenario and planning horizon. <i>(optional)</i>	
h	<input type="checkbox"/>	Depth of current and future storm surge flooding using publicly available NOAA or FEMA storm surge data. <i>(check one)</i> <input type="checkbox"/> NOAA data <input type="checkbox"/> FEMA data	
i	<input type="checkbox"/>	Initial storm surge event equals or exceeds current 100-year flood event.	
j	<input type="checkbox"/>	Higher frequency storm analyzed for exposure of a critical asset. <i>(optional, but must provide additional detail if included)</i>	
k	<input type="checkbox"/>	To the extent practicable, rainfall-induced flooding was considered using spatiotemporal analysis or existing hydrologic and hydraulic modeling results. <i>(required if item e is not applicable)</i>	
l	<input type="checkbox"/>	Future boundary conditions have been modified to consider sea level rise and high tide conditions. <i>(optional)</i>	
m	<input type="checkbox"/>	Depth of rainfall-induced flooding for 100-year storm and 500-year storm event. <i>(required if item e is not applicable)</i>	
n	<input type="checkbox"/>	To the extent practicable, compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding. <i>(optional)</i>	

Part 3 – Subparagraph 380.093(3)(d)3., F.S.

Item ID	Check if Included	Item Description	Page Reference in VA Report (if applicable)
o	<input type="checkbox"/>	All analyses performed in North American Vertical Datum of 1988.	
p	<input type="checkbox"/>	Includes at least two local sea level rise scenarios, which must include the 2017 NOAA intermediate-low and intermediate-high sea level rise projections.	
q	<input type="checkbox"/>	Includes at least two planning horizons, which must include years 2040 and 2070.	
r	<input type="checkbox"/>	Utilizes local sea level data that has been interpolated between the two closest NOAA tide gauges.	
s	<input type="checkbox"/>	Local, publicly available, sea level data was taken from one of the two closest NOAA tide gauges, which must be the gauge with the highest mean sea level <i>(if so, provide Department approval)</i> .	



**City Council Meeting
City of DeBary
AGENDA ITEM**

Subject: Ordinance # 06-2023	Attachments: <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
From: Steven E. Bapp, AICP Growth Management Director	
Meeting Hearing Date July 5, 2023	

REQUEST

Staff is requesting the City Council approve the second reading of Ordinance # 06-2023, amending the Code of Ordinances and the Land Development Code (LDC) to provide for regulations of mobile food dispensing vehicles (food trucks).

PURPOSE

To establish zoning classifications in which food trucks may be located, regulations for the operation of food trucks, and to provide for permitted and prohibited signs on food trucks.

CONSIDERATIONS

Background:

Historically, food trucks have not been a permitted use in the City aside from special event permits. On 6/30/2020, the Governor signed House Bill 1193 (HB 1193), which created Florida Statutes § 509.102: Mobile food dispensing vehicles; preemption. 509.102(2) states “A municipality, county, or other local governmental entity may not prohibit mobile food dispensing vehicles from operating within the entirety of the entity’s jurisdiction”, effectively legalizing food trucks statewide.

The law came into effect on 7/1/2020. During this three-year period, the City’s LDC has not been updated to reflect the fact that the prohibition of food trucks is preempted to the State. Thus, the LDC does not currently have any regulations pertaining to what zoning classifications food trucks may be located, conditions under which they must operate, or regulations for signage. In addition, food trucks operating within the City have not been issued business tax receipts (BTRs), as the Code of Ordinances currently does not require food trucks be issued a BTR, due to their transient nature.

The first reading for Ordinance # 06-2023 took place on June 21, 2023. The first reading was approved.

Proposed Amendments:

VIOLATIONS AND PENALTIES

Chapter 2, Article III, Division 3, Section 2-153 of the Code of Ordinances would be amended to add food trucks into the schedule of violations and penalties. Violations of the newly proposed Section 18-310 of

the Code of Ordinances would be a Class II violation, which is a \$100 fine for the first offense; \$200 for the second offense; and a mandatory court hearing for the third and subsequent offenses.

REGULATIONS FOR OPERATION OF FOOD TRUCKS:

Chapter 18 of the Code of Ordinances would be amended to create Article VIII – Mobile Food Dispensing Vehicles. F.S. 509.102(2) preempts the licensing, registration, permitting, and fees to the state (the City may still require BTRs to do business in the City). Otherwise, 509.102(3) states municipalities may regulate the operation of food trucks.

The intent of Article VIII is to establish operational standards for food trucks, and procedures for application for a Business Tax-Receipt in connection thereof, in a manner consistent with F.S. 509.102. It promulgates procedures for permitting of food trucks; regulates hours of operation, frequency, and duration; prohibits certain conduct (discharge of liquid waste, free-standing barbecue grills, etc.); regulates lighting; prescribes requirements for trash disposal and pickup; and provides for the enforcement of the ordinance and penalties therein.

DEFINITIONS

LDC Chapter 1, Section 1-3 would be amended to provide for a definition for mobile food dispensing vehicles. They would be defined as *“any vehicle that is a licensed public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal, or as such vehicle may be from time to time defined in § 509.102, Florida Statutes”*.

ZONING CLASSIFICATIONS:

LDC Chapter 3, Article III, Division 3 would be amended to permit food trucks to operate in the following zoning classifications by-right:

- Public Use (P);
- Neighborhood Commercial (B-2);
- Shopping Center (B-3);
- General Commercial (B-4);
- Heavy Commercial (B-5);
- Highway Interchange Commercial (B-6)
- General Office (B-9); and
- Light Industrial (I-1).

SITING REGULATIONS

LDC Chapter 3, Article III, Division 4 would be amended to create a new Section 3-140 – Mobile Food Dispensing Vehicles.

The intent of Section 3-140 is to establish additional zoning and siting regulations for food trucks. It describes permitted and prohibited locations for food trucks; setbacks and standards for vehicles; and provides certain exceptions.

Amendments for Second Reading:

At the June 21, 2023 City Council Meeting, several changes to the proposed Section 3-140 were requested by the Council. The following changes have been made to the ordinance:

- Section 3-140(b)(1)xii has been struck out in its entirety. This proposed language permitted food trucks on *“Other sites when allowed pursuant to Special Event permit as granted by at the City’s discretion.”* It was determined that this language was unnecessary.
- Section 3-140(b)(2) has been amended to rephrase the permitted location of food trucks as *“locations on a property”* rather than *“sites”*. This amendment clarifies that certain prohibitions listed in this paragraph are based on the location of the food truck.
- Section 3-140(b)(2)iii has been similarly amended to rephrase the permitted location of food trucks to *“locations on a property”* rather than *“sites”*. Proposed required buffers from residential uses have been adjusted to provide more flexibility to vendors and businesses. Instead of requiring food trucks be on sites greater than 150 feet from the boundaries of any parcel that is zoned for residential use and/or contains an active residential use, the proposed language now states they cannot be less than 100 feet from a structure for residential use and/or contains an active residential use. Reducing the distance from 150 to 100 feet and the point of reference for the distance measurement from the parcel boundaries to the residential structure provides significantly more flexibility to vendors and businesses.
- Similar to Section 3-140(b)(2), Section 3-140(b)(2)iv has been amended to rephrase the permitted location of food trucks as *“locations on a property”* rather than *“sites”*. To provide clarification on the point of reference for the distance buffer requirement, the proposed language strikes out *“front entrance”* and replaces it with *“building frontage”* to make it clearer that the point of reference used for the buffer is the entrance that would be visible from the right-of-way.
- Section 3-140(b)(2)v has been struck out in its entirety. This proposed language prohibited food trucks on *“Otherwise permissible properties and sites where the existing paved parking area does not meet the standards of this code, or if the placement of the mobile food dispensing vehicle on such property or site would reduce available parking below the minimum number of spaces required by this code.”* This proposed language has been struck out due to the likely difficulty of enforcing it and the potential for being overly restrictive. Elements complicating enforcement of this proposed language include determining a site’s conformance with the City’s minimum parking requirements (the current use of the lot would determine whether the existing parking conforms to the LDC) and determining how many parking spaces would be temporarily used by the vendor. In addition to issues of enforcement, many properties in the City do not meet the minimum parking requirements of the LDC, thus making this provision potentially overly restrictive.

- Section 3-140(d)(3) has been amended to add additional language on the contract exception from this ordinance. The new language states *“Any contracts drafted after the effective date of this ordinance, which deviate from this ordinance, must receive approval from the City Council to be valid”*. This ensures that certain unique situations that do not meet the requirements of this ordinance but are otherwise desirable to the City have the potential to be permitted.

SIGNAGE

LDC Chapter 5, Article II would be amended to create a new Section 5-45 – Mobile food dispensing signs.

Permitted signs include mounted, painted, and wrapped. Prohibited signs are all signs or forms of advertising not located or mounted on the food truck or trailer.

COST/FUNDING

None.

RECOMMENDATION

It is recommended the City Council: Adopt Ordinance # 06-2023, proposed amendments to the Code of Ordinances and LDC to provide for the regulation of food trucks.

IMPLEMENTATION

If the Council adopts the ordinance, Staff will update the relevant sections of the Code of Ordinances and the LDC. To implement the ordinance, multiple administrative actions will have to take place:

- Public outreach will have to be made to inform the City’s business community that food truck vendors must receive a valid BTR to do business in the City. This would involve the use of social media, providing informational material at City Hall, and sending notification of the ordinance’s implementation to all businesses in the City with a current, valid BTR.
- To reduce the risk of widespread violations, informational materials explaining operational standards for food trucks, permitted and prohibited locations, and what types of signage are permitted and prohibited would be published on the City’s website and be provided at City Hall.
- The City’s processing system for BTRs will have to be adjusted to create a category for food trucks. Food truck vendors applying for a BTR would have to meet all requirements and pass all required inspections prior to beginning operations.
- The City’s special event permit application would be revised in accordance with this ordinance.
- A form for requesting City Council approval of a food truck related contract would be provided on CitizenServe, the City’s electronic permitting system.
- Actions against violations of the ordinance would be reactive (i.e., complaint based), like the rest of the City’s code enforcement procedures.

ATTACHMENTS

- Ordinance # 06-2023

ORDINANCE NO. 06-2023

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, ESTABLISHING REGULATIONS FOR MOBILE FOOD DISPENSING VEHICLES BY AMENDING THE CITY OF DEBARY’S CODE OF ORDINANCES AND LAND DEVELOPMENT CODE TO CREATE OPERATIONAL, LAND DEVELOPMENT, ZONING, AND OTHER RELATED REGULATIONS PERTAINING TO MOBILE FOOD DISPENSING VEHICLES WITHIN THE CITY; PROVIDING FOR PENALTIES PERTAINING TO VIOLATIONS OF SUCH REGULATIONS; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to § 509.102, Florida Statutes, the licensing, registration, permitting, and charging of fees pertaining for mobile food dispensing vehicles is preempted to the state, and the state regulates such vehicles as public food service establishments; and

WHEREAS, the City is nonetheless authorized by its home rule authority to establish land development, zoning, and other operational regulations pertaining to mobile food dispensing vehicles located within the City; and

WHEREAS, the City desires to amend its Code of Ordinances to include operational requirements for mobile food dispensing vehicles within the City; and

WHEREAS, the City desires to also amend its Land Development Code to establish zoning and siting regulations pertaining to mobile food dispensing vehicles that are consistent with the City’s home rule authority; and

WHEREAS, the City Council determines that this Ordinance is in the best interest of the health, safety and welfare of the citizens of the City of DeBary and is consistent with the Comprehensive Plan.

IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1 RECITALS. The above recitals are true and correct and incorporated herein as legislative findings of the City Council.

SECTION 2 ADOPTION. The following code section and corresponding class of violation is hereby added to the schedule of violations and penalties contained in Chapter 2, Article III, Division 3, Section 2-153 of the Code of Ordinances of the City of DeBary, Florida:

Section 18-310	Mobile Food Dispensing Vehicles	Class II
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SECTION 3 ADOPTION. Article VIII is hereby added to Chapter 18 of the City of DeBary Code of Ordinances as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

ARTICLE VIII. – MOBILE FOOD DISPENSING VEHICLES

Sec. 18-310 – Mobile Food Dispensing Vehicles.

It is the intent of this section to establish appropriate operational standards for mobile food dispensing vehicles within the City and procedures for application for a Business Tax-Receipt in connection with same.

(a) Construction.

The provisions of this section must be interpreted in conformity with § 509.013, Florida Statutes. For the purposes of this Article, the term “*Mobile food dispensing vehicle*” means and refers to any vehicle that is a licensed public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal, or as such vehicle may be from time to time be defined pursuant to § 509.102, Florida Statutes.

(b) Business tax receipt procedures.

Mobile food dispensing vehicles may operate in the City of DeBary in compliance with the following procedures:

- (1) Submit an application for a City of DeBary Business Tax-Receipt as prescribed in Article I of Chapter 18 of the City of DeBary Code of Ordinances, as well as all applicable documents described in the application furnished by the City of DeBary.
- (2) Provide a copy of the following documents upon submittal of application for Business Tax-Receipt:
 - a. Mobile food dispensing vehicle license granted by the Department of Business and Professional Regulation (DBPR) as required by § 509.241, Florida Statutes, and any other licenses or permits as may be statutorily required at the time of submittal.
 - b. Proof of any necessary approvals issued by the Florida Department of Health.
 - c. Proof of completion of all inspections as may be required by § 509.032, Florida Statutes.
 - d. A copy of the fire code inspection form provided by the entity having jurisdiction over fire inspections within the city verifying that the mobile food dispensing vehicle has passed such inspection.

- e. A notarized letter of authorization from the owner of the real property upon which the mobile food dispensing vehicle will be operated, which expressly permits operation of such vehicle upon the property. If the applicant is the property owner or tenant of the real property, then a warranty deed verifying ownership or a lease verifying tenancy and authority to operate a mobile food dispensing vehicle on such premises must be submitted.
- (3) Any other permits or licenses required by the state of Florida or any division or department thereof in connection with the operation of the mobile food dispensing vehicle must be acquired prior to the issuance of a Business Tax-Receipt.
- (c) Hours of operation, frequency, duration.
 - (1) Hours of operation. Mobile food dispensing vehicles may not be operated at any time other than the below prescribed hours:

Sunday thru Saturday: 9:00 A.M. until 9:00 P.M.
 - (2) Frequency. No single parcel may host more than one (1) mobile food dispensing vehicle for more than one (1) day per calendar week.
 - (3) Duration. A mobile food dispensing vehicle may not be located on the same parcel of real property for more than 12 hours in a single calendar week.
- (d) Prohibited conduct. The following activities conducted by the operator of a mobile food dispensing vehicle are prohibited.
 - (1) Water, grease, or other liquid waste may not be discharged on the site where the mobile food dispensing vehicle is located.
 - (2) An operator of a mobile food dispensing vehicle may not by act or omission create or cause a hazardous or unsafe condition, produce or emit excess noise, or cause excess heat or glare, vibration, or electronic interference.
 - (3) An operator of a mobile food dispensing vehicle may not employ the use of a free-standing barbecue grill or smoker. All cooking equipment must be maintained inside the mobile food dispensing vehicle.
 - (4) An operator of a mobile dispensing vehicle may not sell products to persons occupying motor vehicles.
 - (5) An operator of a mobile food dispensing vehicle may not vacate a site without removing and disposing of all trash or materials generated as a result of the operation of such mobile food dispensing vehicle.

- (6) An operator of a mobile dispensing vehicle may not sell anything other than that which the vendor has been licensed to sell by the appropriate permitting or licensing authority.
- (7) An operator of a mobile food dispensing vehicle may not dump waste or wastewater at the site or at any other place in the City of DeBary other than a location lawfully designated for such disposal.
- (8) An operator of a mobile dispensing vehicle may not connect to permanent water and sewer utilities.
- (9) An operator of a mobile food dispensing vehicle may not connect to permanent electrical utilities via the use of an extension cord with a length greater than ten feet and that is not otherwise rated for such connection.
- (10) An operator of a mobile food dispensing vehicle may not utilize sound amplification equipment.
- (11) An operator of a mobile food dispensing vehicle may not prepare food outside of such vehicle.
- (e) Lights. Mobile food dispensing vehicle operations must conform to the lighting standards of § 30-36(6) of this code to avoid the creation of nuisance conditions.
- (f) Trash disposal and pickup. From the time of setup on site to vacation of a site, the operator of a mobile food dispensing vehicle must maintain at least one trash receptacle per mobile food dispensing vehicle. Receptacles must be appropriately emptied in accordance with the law and removed from the site when the vehicle has been removed from the site.
- (g) Enforcement, penalties.
 - (1) Law Enforcement, City Code Enforcement Officers, and other designated enforcement officers are responsible for the enforcement of the provisions of those regulations pertaining to mobile food dispensing vehicles.
 - (2) Mobile food dispensing vehicles operating in violation of any of the provisions of this section or any referenced provisions of separate sections must cease all operations and vacate the location and may be subject to a citation in accordance with applicable provisions of the city's code of ordinances.

SECTION 4. ADOPTION. Chapter 1, Section 1-3 of the Land Development Code of the City of DeBary, Florida, is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

Sec. 1-3. - Definitions and rules of construction.

- (a) *Words and terms defined.* The following words and phrases, as used in this Code, shall have the following meanings:

Mobile food dispensing vehicle means any vehicle that is a licensed public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal, or as such vehicle may be from time to time defined in § 509.102, Florida Statutes.

SECTION 5 ADOPTION. Chapter 3, Article III, Division 3, Land Development Code of the City of DeBary, Florida, is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

Sec. 3-83 – P Public Use Classification.

- (b) *Permitted principal uses and structures.* In the P Public Use Classification, no premises shall be used except for the following uses and their customary uses and structures:

Mobile food dispensing vehicles.

Sec. 3-100. – B-2 Neighborhood Commercial Classification.

- (b) *Permitted principal uses and structures.* In the B-2 Neighborhood Commercial Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Reference Article II, Overlay Districts, for any additional applicable regulations.

Mobile food dispensing vehicles.

Sec. 3-101. – B-3 Shopping Center Classification.

- (b) *Permitted principal uses and structures.* In the B-3 Shopping Center Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Also, reference Article II, Overlay Districts, for any additional applicable regulations.

Mobile food dispensing vehicles.

Sec. 3-102. – B-4 General Commercial Classification.

- (b) *Permitted principal uses and structures.* In the B-4 General Commercial Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Also, reference Article II, Overlay Districts, for any additional applicable regulations.

Mobile food dispensing vehicles.

Sec. 3-103. – B-5 Heavy Commercial Classification.

- (b) *Permitted principal uses and structures.* In the B-5 Heavy Commercial Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Also, reference Article II, Overlay Districts, for any additional applicable regulations.

Mobile food dispensing vehicles.

Sec. 3-104. – B-6 Highway Interchange Commercial Classification.

- (b) *Permitted principal uses and structures.* In the B-6 Highway Interchange Commercial Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager:

Mobile food dispensing vehicles.

Sec. 3-106. – B-9 General Office Classification

- (b) *Permitted principal uses and structures.* In the B-9 General Office classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Also, reference Article II, Overlay Districts, for any additional applicable regulations.

Mobile food dispensing vehicles.

Sec. 3-107. – I-1 Light Industrial Classification.

- (b) *Permitted principal uses and structures.* In the I-1 Light Industrial Classification, no premises shall be used except for the following industrial uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Permitted and special exception uses must also be consistent with the uses permitted by the property's future land use designation on the City's adopted Future Land Use Map. Also, reference Article, II Overlay Districts, for any additional applicable regulations.

Mobile food dispensing vehicles with standard permitted uses.

SECTION 6. ADOPTION. Chapter 3, Article III, Division 4, Land Development Code of the City of DeBary, Florida, is hereby amended to create a new Section 3-140 to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

Sec. 3-140 – Mobile Food Dispensing Vehicles.

- (a) *Purpose and intent.* This section establishes zoning and siting regulations pertaining to the operation of mobile food dispensing vehicles.
- (b) *Locations, permitted and prohibited.*
- (1) *Permitted locations.* Mobile food dispensing vehicles are not permitted on any real property unless such is located in one of the following zoning classifications:

- i. P as a permitted use.
- ii. B-2 as a permitted use.
- iii. B-3 as a permitted use.
- iv. B-4 as a permitted use.
- v. B-5 as a permitted use.
- vi. B-6 as a permitted use.
- vii. B-9 as a permitted use.
- viii. I-1 as a permitted use.
- ix. R-1 through R-8 with a Special Event permit.
- x. Active PUDs, RPUDs, BPUDs, IPUDs, and MPUDs when temporarily allowed pursuant to a Special Event permit.
- xi. Sites, regardless of zoning classification, located in the Transit Oriented Development (TOD) overlay district as when temporarily allowed pursuant to a Special Event permit.

(2) *Prohibited locations.* Mobile food dispensing vehicles, regardless of zoning classification, may not be located on any properties or locations on a property that contain one or more of the following conditions, unless specially allowed pursuant to a Special Event permit.

- i. Unimproved properties.
- ii. Properties that do not contain an active commercial or industrial principal use.
- iii. Locations on a property that are within one-hundred (100) feet of a structure for residential use or that contains an active residential use.
- iv. Locations on a property that are within three hundred (300) feet of the building frontage of any licensed restaurant located in a principal structure during the hours said restaurant is open for business.

(c) *Setbacks and Standards for mobile food dispensing vehicles.*

(1) *Maximum vehicle size:* A mobile food dispensing vehicle may not exceed a size of 9 feet in width and 20 feet in length. If the mobile food dispensing vehicle is a trailer, the trailer must be unhitched from the motorized vehicle and stabilized prior to operating the mobile food dispensing vehicle, and the trailer alone will be measured for the purposes of meeting the size limitation set forth herein. Tent structures are not permitted to be utilized in connection with the operation of a mobile food dispensing vehicle.

(2) Clearance. Mobile food dispensing vehicles must maintain minimum clearances as set forth below:

- i. Setbacks established for the zoning classification of the parcel upon which the mobile food dispensing vehicle is located.
- ii. Buildings: A setback of ten (10) feet must be maintained from all buildings on the property.
- iii. A setback of ten (10) feet must be maintained from all parking spaces and access ramps established for the disabled, including the ingress and egress routes for such ramps and spaces.
- iv. Loading zones: A setback of ten (10) feet from all loading zones must be maintained.
- v. Driveway aprons: A setback of ten (10) feet from all driveway aprons must be maintained.
- vi. Drive aisles: A setback of ten (10) feet from all drive aisles must be maintained.
- vii. Fire lanes: A setback of fifteen (15) feet from all fire lanes must be maintained.
- viii. Fire control devices: A setback of fifteen (15) feet from all fire control devices, including hydrants and emergency hose stations must be maintained.
- ix. Public rights-of-way: A setback of five (5) feet from all public rights-of-way must be maintained.
- x. Combustible material: All mobile food dispensing vehicles must be located a minimum of twenty-five (25) feet from any combustible materials.

(d) Exceptions

- (1) To the extent that a conflict exists between the terms of a Special Event permit and the requirements of this code, the terms of the Special Event permit will govern and control to the extent any such conflict exists. The terms of the Special Event permit may differ from subsections (d), (e), and (f) of this section.
- (2) Mobile food dispensing vehicles are exempt from this code when operated in conjunction with a private catering event conducted on a residentially zoned property.
- (3) Mobile food dispensing vehicles operated pursuant to an existing contract with the owner or lessee of a commercial or industrial zoned property are exempt from this code. For the purposes of this paragraph, a contract is existing if it is a valid and binding contract

that is in effect at the time this ordinance is enacted. Any contracts drafted after the effective date of this ordinance, which deviate from this ordinance, must receive approval from the City Council to be valid

SECTION 7. ADOPTION. A new Chapter 5, Article II, Land Development Code of the City of DeBary, Florida, is hereby created to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

Sec. 5-45– Mobile food dispensing signs

(a) *Permitted signs.* The following signage, when used in connection with the operation of a mobile food dispensing vehicle, is permitted:

(1) *Mounted signs.* Mounted signs shall be allowed as long as they are affixed to the mobile food dispensing vehicle.

(2) *Painted signs.* Painted signs are allowed as long as they are placed upon the mobile food dispensing vehicle.

(3) *Wrapped signs.* Wrapped signs laminated or otherwise affixed upon the mobile food dispensing vehicle

(b) *Prohibited signs.*

(1) Any signs or forms of advertising that are not otherwise located or mounted upon a mobile food dispensing vehicle.

SECTION 8. SEVERABILITY. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 9. CONFLICTS. This Ordinance shall control over any Ordinances or parts of Ordinances in conflict herewith to the extent that such conflict exists.

SECTION 10. CODIFICATION. Sections 2 and 3 of this Ordinance are to be codified and made a part of the City of DeBary Code of Ordinances. Sections 4, 5, 6, and 7 of this Ordinance are to be codified and made a part of the City of DeBary Land Development Code. The City Clerk is given liberal authority to correct typographical errors and to renumber the sections and subsections as may be necessary to codify the ordinance into the existing codes. Grammatical, typographical and similar like errors may be corrected, including additions, alterations, and omissions that do not otherwise affect the construction, intent, or meaning of this Ordinance.

SECTION 11. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and adoption.

APPROVED on first reading on ____ day of _____ 2023.

ADOPTED at the second reading on ____ day of _____ 2023.

CITY COUNCIL
City of DeBary

Karen Chasez, Mayor

Attest:

Annette Hatch, CMC, City Clerk

Date: _____

SEAL:



**City Council Meeting
City of DeBary
AGENDA ITEM**

<p>Subject: Exchange Agreement of Real Property Between DeBary Town Center, LLC and City of DeBary</p> <p>From: Carmen Rosamonda, City Manager</p> <p>Meeting Hearing Date July 5, 2023</p>	<p>Attachments: <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other</p>
--	--

REQUEST

City Manager is requesting City Council approve the Agreement for Exchange of Real Property between DeBary Town Center, LLC (DTC) and the City of DeBary for approximately 2.17 acres located at the corner of Fort Florida Road and Highway 17-92.

PURPOSE

The purpose of this agreement is to fulfill a contingency of the Palm Drive Purchase and Sales Agreement, which the City Council approved on May 3, 2023.

CONSIDERATIONS

- DTC (The Junction) has been in pursuit of a 2.17-acre property exchange at the eastern corner of Ft. Florida Road and Highway 17-92 for more than 4 years. DTC has been attempting to mitigate \$390,000 to satisfy SJRWMD requirements. Unfortunately, deals in Brevard and Lake Counties were unsuccessful.
- The purpose of this 2.17-acre exchange is to improve traffic flow and safety at The Junction. Currently, Junction residents and visitors must make a U-turn if they are exiting southbound on Highway 17-92. This 2.17-acre exchange will link the Junction to the Ft. Florida Road intersection. In 2020, FDOT designed and built the traffic light at Ft. Florida Road for a four-way intersection in anticipation of this exchange.
- Working with DTC and SJRWMD, the City issued a Purchase and Sales Agreement to NOW, combining the DTC and SJRWMD contingencies. NOW signed the Purchase and Sales Agreement and City Council approved the Purchase and Sales Agreement on May 3, 2023.
- One of the contingencies of the purchase and sales agreement (Section 7) requires DTC to contribute the \$390,000 towards the purchase price of the Palm Road property. Rather than this investment being made in other counties and/or cities, it will now be made into the City of DeBary.

- Upon full execution of the Palm Drive PSA, the City will convey the 2.17 acres to DTC in exchange for DTC conveying the public access easement over the DTC easement parcels to the City.
- DTC will construct the road and trail upon one of three factors, whichever occurs first. 1) Upon DTC application of the Public Parcel (60,287) square feet plus an additional 12,500 square feet of outparcel non-residential on one or more of the 3 commercial outparcels on the “Shopping Center Parcel.” 2) development any outparcel located on DTC’s property adjacent to the north side of the planned intersection, or within 2 years after the date of receipt by DTC of a certificate of occupancy for the grocery store on the Shopping Center Parcel. There is a provision whereby DTC may request an extension which may be approved by the City in the City’s sole discretion.
- If these provisions are not met, the City may withhold issuance of any further certificate of occupancy for the properties in Exhibits “C” & “D” until such completion and acceptance by the City of such improvements.
- The trail improvements on the 2.17-acre parcel is subject to Mobility credits. This portion of the trail will link the Highway 17/92 to the State trail running through Gemini Springs.
- SJRWMD has agreed to release the conservation easement on the 2.17 acres at Ft. Florida Rd/Highway 17/92 intersection in exchange for imposing a conservation easement on the approximately 20 acres of the Palm Road property, which does not include the future FDOT retention pond. SJRWMD’s approval of the Conservation easement is a contingency of the purchase and sale agreement (Section 7) and subject to SJRWMD Board approval.

COST/FUNDING

There is no cost for approval of this agreement.

RECOMMENDATION

It is recommended that the City Council approve the Agreement for Exchange of Real Property between DeBary Town Center, LLC and the City of DeBary for approximately 2.17 acres located at the corner of Fort Florida Road and Highway 17-92.

IMPLEMENTATION

This Exchange Agreement will be in full force upon payment of \$390,000 towards the Palm Drive purchase, approval of the conservation easement transfer by SJRWMD Board, and the closing of the Palm Drive Property.

ATTACHMENTS

- Agreement for Exchange of Real Property
- Palm Drive PSA – Executed
- Junction 2-Acre Property Plans
- DeBary Town Center Master Plan

AGREEMENT FOR EXCHANGE OF REAL PROPERTY

THIS AGREEMENT FOR EXCHANGE OF REAL PROPERTY (the “Agreement”) is made and entered into this ____ day of _____, 2023 (the “Effective Date”), by and between:

DEBARY TOWN CENTER, LLC, a Florida limited liability company, whose address is 444 Seabreeze Avenue, Suite 1000, Daytona Beach, Florida 32118 (“DTC”); and

THE CITY OF DEBARY, a Florida municipal corporation, whose address is 16 Columba Road, DeBary, 32713 (the “City”).

WHEREAS, DTC confirms that in 1998, DTC’s predecessor in title, Empire Cattle, Ltd. (“Empire”), entered into a settlement agreement with the Florida Department of Transportation (“FDOT”) in Case # _____, (the “Settlement Agreement”) that among other things, granted two full median access locations to Empire to ensure future access to the property now owned by DTC for access to future development on DTC’s property from U.S. 17-92; and

WHEREAS, DTC confirms that in 1999, Empire also entered into an agreement to sell certain property, including the City Parcel described herein, to the St. Johns River Water Management District (the “District”) for conservation purposes and to serve as wetland mitigation for future FDOT projects, including the construction of the new St. Johns River bridge on Interstate 4 and the ongoing I-4 Ultimate project; and

WHEREAS, DTC confirms that when DTC sought to permit access to its property from U.S. 17-92 through FDOT at the locations guaranteed in the Settlement Agreement for purposes of providing access to the proposed Integra Landings project, FDOT cited safety concerns for denying the previously guaranteed access locations; and

WHEREAS, DTC confirms that rather than re-opening Case # _____ to address additional damages that resulted from the loss of access, FDOT, Volusia County and DTC met and determined it was a preferred alternative to release the City Parcel from its use as mitigation in connection with certain FDOT permits, certain conservation easements in favor of the DISTRICT and exchange real property interests in order to ultimately convey the City Parcel to DTC to provide access to DTC's property at the signalized intersection of U.S. 17-92 and Ft. Florida Road; and

WHEREAS, DTC confirms that in reliance upon its agreement with the County and FDOT, DTC has purchased 1.21 replacement wetland mitigation credits from the Colbert/Cameron Mitigation Bank to replace the mitigation value previously associated with the City Parcel; and

WHEREAS, in accordance with the requirements of the DISTRICT to replace the market value of the conservation easement interest held by DISTRICT on the City Parcel, DTC will contribute the sum of \$390,000.00 to the City for the acquisition and conservation of certain property located on Palm Drive, in the City of DeBary, as further detailed herein; and

WHEREAS, as a result of DTC’s purchase of replacement mitigation credits for FDOT’s permits and the contribution of funds to the City to secure conservation easements over a portion of the Palm Drive Parcel in favor of the DISTRICT, the City is expected to receive title to property which is located within the municipal limits of the City, as more particularly described on attached **Exhibit “A”** (the “City Parcel”); and

WHEREAS, DTC is currently master planning a mixed use, transit oriented community adjacent to the City Parcel and arranged for the City Parcel to be deeded to the City in order to effect the exchange contemplated herein and provide improved access to the DTC property at the intersection of U.S. 17-92 and Ft. Florida Road; and

WHEREAS, DTC owns property within the municipal limits of the City, as more particularly described on attached **Exhibit “B”** (the “DTC Easement Parcels”); and

WHEREAS, the City has determined that the DTC Easement Parcels are suitable for use by the City as an expansion of the City’s road and trail system and the City and DTC have agreed that DTC shall convey public access easements over the DTC Easement Parcels in exchange for DTC’s receipt of title to the City Parcel; and

WHEREAS, the City has determined that it is in the best interest of the residents of DeBary for the City to convey the City Parcel to DTC in exchange for DTC conveying public access easements over the DTC Easement Parcels to the City; and

WHEREAS, the City and DTC agree that the relative value of the City Parcel (less the value of the conservation easement in favor of the DISTRICT) and DTC Easement Parcels are equivalent and that the exchange of property interests is within the City’s home rule authority as specified in Article VIII, Section 2(b), Fla. Const.; and

WHEREAS, the City and DTC mutually desire to set forth the terms and conditions under which such an exchange of real property interests may occur;

NOW THEREFORE, based upon good and valuable consideration and the mutual covenants of the parties, the receipt and sufficiency of which are hereby acknowledged, the parties hereby acknowledge and agree as follows:

1. **INCORPORATION OF RECITALS.** The recitals stated above are true and correct and by this reference are incorporated herein as a material part of this Agreement.
2. **INSPECTION PERIOD.** DTC and the City shall be entitled to an inspection period of ninety (90) days from the Effective Date to inspect the City Parcel and the DTC Easement Parcels, respectively (collectively referred to as the “Exchange Parcels”), to determine the suitability of the Exchange Parcels for the respective uses intended by each of the parties. During the Inspection Period, and at any time prior to completion of the exchange contemplated by this Agreement, DTC, the City and their agents shall have the right to enter the Exchange Parcels as needed to conduct any studies or investigations needed in connection with the evaluation of the individual Exchange Parcels for the use intended by

the City and DTC for the respective parcels, including without limitation investigation of, available utilities, soil conditions, engineering, planning, environmental, permitting, zoning, economic feasibility and other studies. Each party shall coordinate with the other with regard to access to the Exchange Parcels.

3. **CONVEYANCE BY THE CITY.** Within thirty (30) days of the completion of the Inspection Period, the City shall convey the City Parcel to DTC, subject to encumbrances and other matters in existence at the time of the City's acquisition of the City Parcel from Volusia County and subject to matters contemplated by this Agreement.

4. **CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS.** On or before the earlier to occur of (a) DTC's construction of commercial square footage greater than the square footage shown on the retail development plan attached as **Exhibit "C"** (the "Shopping Center Parcel") consisting of 60,287 square feet of grocery or other anchor retail and associated inline retail space, plus DTC's receipt of permits to construct a combined additional 12,500 square feet of non-residential development on one or more of the three (3) commercial outparcels on the Shopping Center Parcel or the remaining commercial outparcels in DTC's project, or (b) the development of any outparcel located on DTC's property adjacent to the north side of the planned intersection of Ft. Florida Road and U.S. 17-92 as identified on **Exhibit "D"** (the "Ft. Florida Road Parcels"), in any combination, or (c) two (2) years after the date of receipt by DTC of a certificate of occupancy for the grocery anchor retail space on the Shopping Center Parcel but subject to extension at the request of DTC as may be approved by the City in the City's sole, but reasonable,

discretion, DTC shall construct, to the City's specifications as approved in the master plan or development order issued by the City, the following improvements on the following parcels and shall have complied with the requirements of Section 5 below:

a. Upon the City Parcel, the road, trail, sidewalks, curbs, gutters and stormwater drainage improvements (the "City Parcel Easement Improvements");

b. Upon the DTC Easement Parcels, the road, trail, sidewalks, curbs, gutters, and stormwater drainage improvements including the retention ponds (the "DTC Parcels Easement Improvements").

Upon the first to occur of items 4(a) or (b) above, in the event DTC has not completed construction of the City Parcel Easement Improvements and the DTC Parcels Easement Improvements, City may withhold issuance of any further certificates of occupancy for the properties as set forth on Exhibits "C" or "D" until completion and acceptance by the City of such improvements.

c. All trails and related improvements constructed in DTC's project that are included in the City's TOD Mobility Plan shall be eligible for reimbursement in the form of mobility fee credits or reimbursement from mobility fee revenues in the manner provided by Section 2-230 of the City's Code of Ordinances.

5. **CONVEYANCE BY DTC.** Upon completion of construction by DTC of the City Parcel Easement Improvements, the DTC Parcels Easement Improvements, the Mobility Improvements, and acceptance of all of the foregoing by the City, DTC shall convey to the City the City Parcel Easement Improvements, the DTC Parcels Easement Improvements and Mobility Improvements, together with the land upon which such improvements are

located along with the DTC Easement Parcels free and clear of all encumbrances and other matters except the conveyance will reserve a perpetual easement in favor of DTC for the repair, maintenance and replacement of such improvements and shall provide for the assumption by DTC and its successors and assigns of the perpetual obligation to repair, maintain and replace such improvements all in a form and provisions acceptable to the City.

6. DTC CONTRIBUTION TO REPLACEMENT MITIGATION PROPERTY. As a condition of the release of a current conservation easement that encumbers the City Parcel, the District is requiring the acquisition and conservation of additional environmentally sensitive lands and the dedication of a conservation easement to the District. The District, City and DTC have identified a suitable replacement parcel that the City has under contract to purchase and preserve as stormwater mitigation and passive open space. The property is identified with parcel number _____ (the "Replacement Parcel"). DTC has agreed, as part of its obligations to the District, to contribute \$390,000.00 to the City to be used solely to close on the Replacement Parcel. The City and DTC hereby agree that the City will accept the contribution of funds from DTC for the specific purpose of partially funding the City's acquisition of the Replacement Parcel and simultaneous dedication of a conservation easement over that portion of the 24 acres included in the Replacement Parcel to the District needed to obtain the release of the current conservation easement over the City Parcel subject to the City's approval of the acreage, area, and terms and conditions of the conservation easement. It is the intent of the parties that the transfer of the City Parcel from the County to the City, the release of the existing conservation easement on the City Parcel by the District, the conveyance of the City Parcel by the City to DTC, the acquisition

of the Replacement Parcel by the City, dedication of the conservation easement by the City to the District on the Replacement Parcel and the contribution of the funds referenced herein by DTC to the City occur at a simultaneous closing coordinated by the City and DTC with the various parties involved. Neither DTC nor the City shall have any obligation hereunder unless all transactions contemplated by this Agreement occur simultaneously.

7. RESERVATION OF RIGHTS AND RESPONSIBILITIES. DTC and the City's respective conveyances, as set forth above, are subject to the following terms:

- a. The City's obligation to convey the City Parcel to DTC is contingent upon Volusia County conveying the City Parcel to the City;
- b. To the extent requested by Volusia County, the City shall provide an easement to Volusia County across the City Parcel for access and utilities from Fort Florida Road to the County's property located east of the City Parcel and the City's conveyance of the City Parcel to DTC shall be subject to such easement;
- c. The City shall process an administrative amendment to the DTC TOD Master Plan to incorporate the City Parcel into the terms of the TOD Master Plan Development Agreement.

8. DEFAULT. A default by either party under this Agreement shall entitle the other party to all remedies available at law or in equity.

9. AMENDMENTS. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both the City and DTC.

10. AUTHORIZATION. The City and DTC each for itself represents and warrants as follows: The execution of this Agreement has been duly authorized by the appropriate body or official of the City and DTC, has complied with all the requirements of law, and it has full power and authority to comply with the terms and provisions of this Agreement.

11. NOTICES. All notices, requests, consents and other communications under this Agreement ("Notices") shall be in writing and shall be (a) personally delivered, (b) transmitted by United States postage prepaid mail, registered or certified mail, return receipt requested, (c) transmitted by electronic mail or facsimile, confirmed in writing by United States postage prepaid mail, or (d) transmitted by reputable overnight carrier service, to the parties, as follows:

If to the City:

City of DeBary

16 Columba Road

DeBary, Florida 32713

Attn: City Manager

With a copy to: A. Kurt Ardaman, Esquire
Fishback Dominick LLP
1947 Lee Road
Winter Park, Florida 32789

If to the DTC: DeBary Town Center, LLC
444 Seabreeze Avenue
Suite 1000
Daytona Beach, Florida 32118
Attn: Steve Costa

With a copy to: Cobb Cole
231 N. Woodland Boulevard
Deland, Florida 32720
Attn: Mark A. Watts, Esq.

12. ARM'S LENGTH TRANSACTION. This Agreement has been negotiated fully between the City and the DTC as an arm's length transaction. Both parties participated in the preparation of this Agreement and received the advice of counsel. In the case of a dispute concerning the interpretation of any provision of this Agreement, the parties are deemed to have drafted, chosen and selected the language, and the doubtful language will not be interpreted or construed against either the City or the DTC.

13. SUCCESSORS. The rights and obligations created by this Agreement shall be binding upon and inure to the benefit of the City and DTC, their receivers, trustees, successors and assigns.

14. ASSIGNMENT. This Agreement may not be assigned by either party without the prior written approval of the non-assigning party. Such approval by either party shall not be unreasonably withheld. Notwithstanding the foregoing, DTC may assign its rights and obligations under this Agreement to a related entity or subsidiary without seeking prior written approval from the City, provided DTC and DTC's assignee will remain jointly and severally liable for DTC's obligations under this Agreement.

15. CONSTRUCTION OF TERMS. Whenever used the singular number shall include the plural, the plural the singular; the use of any gender shall include all genders, as the context requires; and the disjunctive shall be construed as the conjunctive, the conjunctive as the disjunctive, as the context requires.

16. CONTROLLING LAW AND VENUE. This Agreement and the provisions contained in this Agreement shall be construed, interpreted, and controlled according to the laws of the State of Florida, and venue for any judicial proceedings related to this Agreement will be in Volusia County, Florida.

17. PUBLIC RECORDS. All documents of any kind provided to the City in connection with this Agreement are public records and are treated as such in accordance with Florida law.

18. SEVERABILITY. The invalidity or unenforceability of any one or more provisions of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part of this Agreement not held to be invalid or unenforceable.

19. SOVEREIGN IMMUNITY. DTC agrees that nothing in this Agreement shall constitute or be construed as a waiver of the City's limitations on liability to the extent contained in Section 768.28, Florida Statutes, as amended, or other statutes or law. All other remedies at law or in equity, including but not limited to specific performance, are available to the parties to enforce the terms of this Agreement.

20. HEADINGS FOR CONVENIENCE ONLY. The descriptive headings in this Agreement are for convenience only and shall not control nor affect the meaning or construction of any of the provisions of this Agreement.

21. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute, but one and the same instrument. Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document.

22. **RECORDING.** This Agreement shall be recorded in the Public Records of Volusia County, Florida.

IN WITNESS WHEREOF, the parties hereto execute this Agreement and further agree that it shall take effect as of the Effective Date first above written.

{Signatures on following pages}

Attest:

THE CITY OF DEBARY, a Florida municipal corporation

Carman Rosamonda, City Manager

By: _____
Karen Chasez, Mayor

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 2023, by _____ as Mayor of the City of DeBary, who is personally known and/or produced _____ as identification and who being duly sworn, deposes and says that the aforementioned is true and correct to his or her best knowledge.

[SEAL]

Notary Public Commission:

Witnesses:

Amy M. Reynolds
Name

Amy M. Reynolds
Print Name

Louise Foggia
Name

Louise Foggia
Print Name

DEBARY TOWN CENTER, LLC,
a Florida limited liability company

By: [Signature]

Name: Richard Stern Costa Jr

Title: Manager

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 14th day of June, 2023, by Richard Stern Costa, Jr. as Manager of DeBary Town Center, LLC, who is personally known and/or produced _____ as identification and who being duly sworn, deposes and says that the aforementioned is true and correct to his or her best knowledge.

[SEAL]

[Signature]
Notary Public Commission:

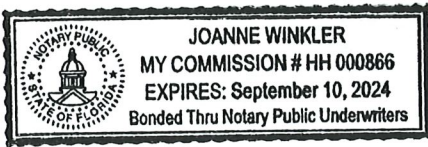


Exhibit A
“City Parcel”

LEGAL DESCRIPTION

A portion of the South 1/2 of the Northeast 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, lying Easterly of U.S. Highway 17-92, being more particularly described as follows:

COMMENCING at the Northeast corner of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; thence run South 00°11'03" West, along the East line of the Northeast 1/4 of said Section 9, for a distance of 1318.97 feet to a point on the North line of the South 1/2 of the Northeast 1/4 of the Northeast 1/4 of said Section 9; thence departing said East line, run South 89°57'15" West, along said North line, for a distance of 1801.81 feet to the POINT OF BEGINNING; thence continue South 89°57'15" West, along said North line, for a distance of 262.72 feet to a point on the Easterly right of way line of U.S. Highway 17-92 as shown on Florida Department of Transportation Right of Way Map Section 79040-2544, said point being a point on a curve, concave Southeasterly, having a radius of 5673.58 feet, a chord bearing on North 15°25'28" East and a chord distance of 381.05 feet; thence departing said North line, run Northeasterly along the arc of said curve through a central angle of 3°50'56" for an arc distance of 381.12 feet; thence departing said Easterly right of way line, run South 72°39'27" East for a distance of 300 feet; thence run South 24°13'55" West for a distance of 304.42 feet to the POINT OF BEGINNING.

Containing 94,404 square feet, or 2.17 acres, more or less.

SAJ-200-01871(MOD-AWP)

January 17, 2019

Drawing 2 of 4

SHEET 1 OF 2



16 EAST PLANT STREET
Winter Garden, Florida 34787 • (407) 654-5355

SURVEYOR'S NOTES:

1. THIS IS NOT A BOUNDARY SURVEY.
2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, AS BEING SOUTH 00°11'03" WEST.

JOB NO.: 20160490
DATE: 11/21/18
SCALE: 1" = 100'
FIELD BY: N/A

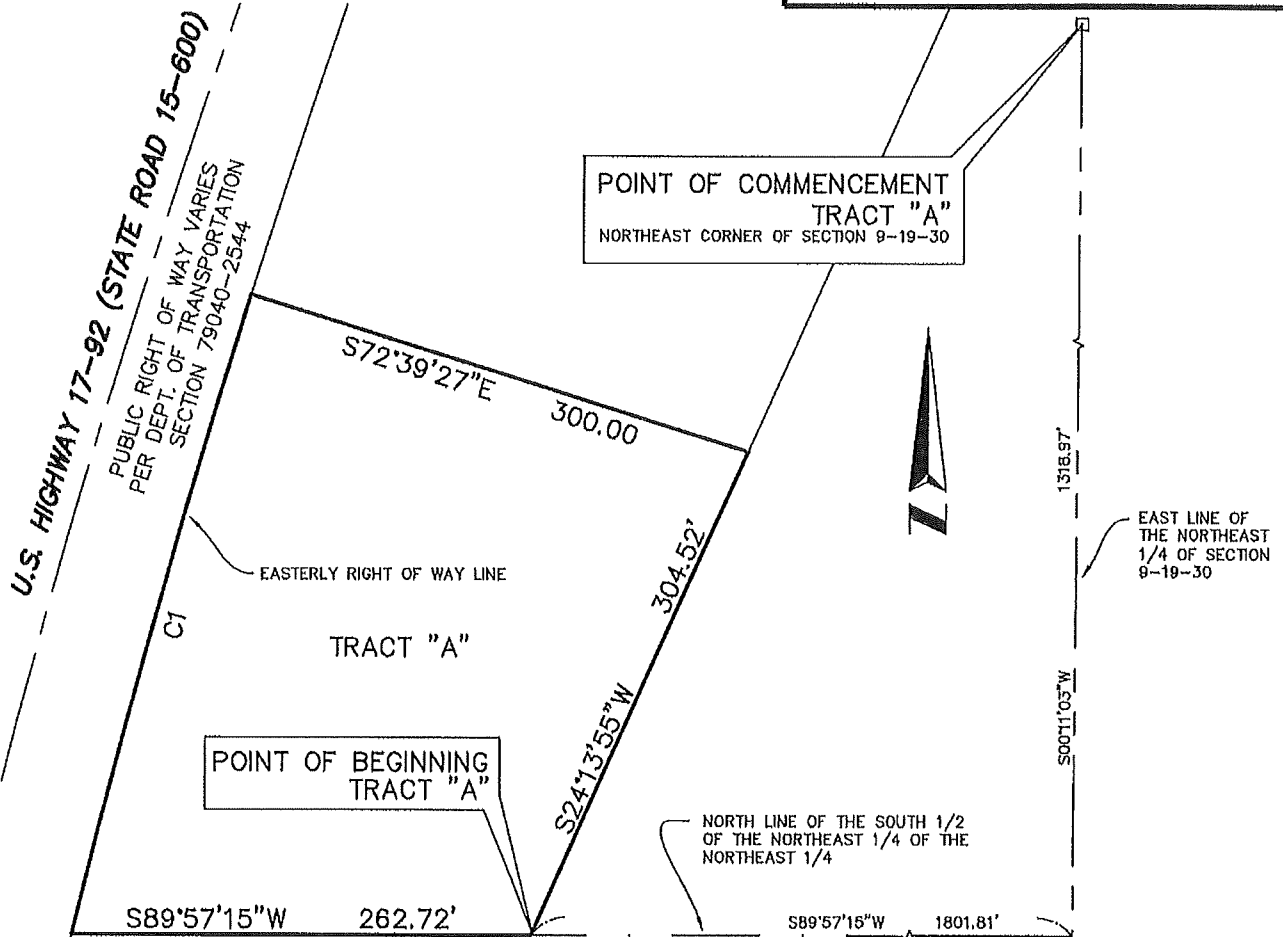
CALCULATED BY: EGT
DRAWN BY: EGT
CHECKED BY: GMJ

FOR THE LICENSED BUSINESS #6723 BY:

GERALD M. JOHNSTON, PSM #5570

FIGURE 2

SKETCH OF DESCRIPTION



SAJ-200-01871(MOD-AWP)
 January 17, 2019
 Drawing 3 of 4

CURVE TABLE					
CURVE	RADIUS	LENGTH	CHORD	CHORD BEARING	DELTA
C1	5673.58'	381.12'	381.05'	N15°25'28"E	3°50'56"

SHEET 2 OF 2



16 EAST PLANT STREET
 Winter Garden, Florida 34787 • (407) 684-5355

SURVEYOR'S NOTES:

1. THIS IS NOT A BOUNDARY SURVEY.
2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, AS BEING SOUTH 00°11'03" WEST.

JOB NO. 20160490
 DATE: 11/21/18
 SCALE: 1" = 100'
 FIELD BY: N/A

CALCULATED BY: EGT
 DRAWN BY: EGT
 CHECKED BY: GMJ

Figure 2

Exhibit B
“DTC Easement Parcels”

SKETCH AND DESCRIPTION

LEGAL DESCRIPTION:

A PORTION OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE 30 EAST, ALL SITUATED IN VOLUSIA COUNTY, FLORIDA

COMMENCE AT THE NORTHEAST CORNER OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA; THENCE RUN SOUTH 89°54'12" WEST, ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 9, FOR A DISTANCE OF 456.21 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1172.21 FEET, A CHORD BEARING OF SOUTH 64°16'56" WEST, AND A CHORD DISTANCE OF 1013.79 FEET; THENCE DEPARTING SAID NORTH LINE, RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 51°14'36" FOR AN ARC DISTANCE OF 1048.38 FEET TO A POINT OF NON-TANGENCY; THENCE RUN NORTH 66°34'07" WEST, FOR A DISTANCE OF 113.06 FEET TO THE POINT OF BEGINNING.

THENCE RUN SOUTH 24°13'36" WEST, FOR A DISTANCE OF 338.81 FEET TO A POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 599.97 FEET, A CHORD BEARING OF SOUTH 12°58'50" WEST, AND A CHORD DISTANCE OF 234.01 FEET; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 22°49'19" FOR AN ARC DISTANCE OF 235.52 FEET TO A POINT OF A COMPOUND CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 8.01 FEET, A CHORD BEARING OF SOUTH 37°41'15" EAST, AND A CHORD DISTANCE OF 10.17 FEET; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 78°84'42" FOR AN ARC DISTANCE OF 11.02 FEET TO A POINT OF NON-TANGENCY; THENCE RUN SOUTH 65°46'05" EAST, FOR A DISTANCE OF 21.42 FEET; THENCE RUN SOUTH 24°13'55" WEST, FOR A DISTANCE OF 406.68 FEET; THENCE RUN SOUTH 89°57'15" WEST, FOR A DISTANCE OF 262.72 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 17 AND 92, ALSO KNOWN AS STATE ROAD 15 AND 600, SAID POINT ALSO BEING A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 41.96 FEET, A CHORD BEARING OF NORTH 60°38'05" EAST, AND A CHORD DISTANCE OF 39.23 FEET; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, AND DEPARTING SAID EASTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 55°74'31" FOR AN ARC DISTANCE OF 40.82 FEET TO A POINT OF NON-TANGENCY; THENCE RUN SOUTH 89°19'41" EAST, FOR A DISTANCE OF 37.93 FEET TO A POINT OF CURVATURE OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 244.00 FEET, A CHORD BEARING OF NORTH 54°58'12" EAST, AND A CHORD DISTANCE OF 284.78 FEET; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE

SEE SHEETS 3-6 FOR SKETCH
SEE SHEET 7 FOR LINE AND CURVE TABLE



16 EAST PLANT STREET
Winter Garden, Florida 34787 * (407) 654-5355

SURVEYOR'S NOTES:

SHEET 1 OF 7

1. THIS IS NOT A BOUNDARY SURVEY.
2. THIS SKETCH IS NOT VALID UNLESS SIGNED AND SEALED WITH AN EMBOSSED SURVEYOR'S SEAL.
3. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE N.E. 1/4, SECTION 9, TOWNSHIP 19 SOUTH, RANGE 30 EAST AS HAVING AN ASSUMED BEARING OF SOUTH 89°54'12" WEST.

JOB NO. 20200529
DATE: 04-19-2021
SCALE: N/A
REVISED DATE:

CALCULATED BY: SCS
DRAWN BY: SCS
CHECKED BY: MAF

FOR THE LICENSED BUSINESS #6723 BY:

MARK A. FOLLIS, P.S.M. #6000

SKETCH AND DESCRIPTION

LEGAL DESCRIPTION: (CONTINUED)

THROUGH A CENTRAL ANGLE OF 71°40'39" FOR AN ARC DISTANCE OF 304.08 FEET TO A POINT OF NON TANGENCY; THENCE RUN NORTH 62°48'15" EAST, FOR A DISTANCE OF 11.42 FEET; THENCE RUN NORTH 17°20'14" EAST, FOR A DISTANCE OF 88.43 FEET; THENCE RUN NORTH 27°39'46" WEST, FOR A DISTANCE OF 11.31 FEET; THENCE RUN NORTH 17°20'14" EAST, FOR A DISTANCE OF 22.84 FEET; THENCE RUN NORTH 62°20'52" EAST, FOR A DISTANCE OF 11.31 FEET; THENCE RUN NORTH 17°20'14" EAST, FOR A DISTANCE OF 23.80 FEET TO A POINT CURVATURE OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 322.00 FEET, A CHORD BEARING OF NORTH 11°21'38" EAST, AND A CHORD DISTANCE OF 67.06 FEET; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°95'38" FOR AN ARC DISTANCE OF 67.18 FEET TO A POINT OF NON-TANGENCY; THENCE RUN NORTH 05°23'01" EAST, FOR A DISTANCE OF 57.96 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 278.00 FEET, A CHORD BEARING OF NORTH 10°39'55" EAST, AND A CHORD DISTANCE OF 51.18 FEET; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°56'32" FOR AN ARC DISTANCE OF 51.25 FEET TO A POINT OF NON-TANGENCY; THENCE RUN NORTH 35°58'23" WEST, FOR A DISTANCE OF 10.08 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 277.34 FEET, A CHORD BEARING OF NORTH 20°45'50" EAST, AND A CHORD DISTANCE OF 35.09 FEET; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 07°25'35" FOR AN ARC DISTANCE OF 35.11 FEET TO A POINT OF NON-TANGENCY; THENCE RUN NORTH 24°12'43" EAST, FOR DISTANCE OF 427.00 FEET; THENCE RUN SOUTH 66°34'07" EAST, FOR A DISTANCE OF 27.50 FEET TO THE POINT OF BEGINNING.

CONTAINING 41443 SQUARE FEET OF LAND, MORE OR LESS.

SEE SHEETS 3-6 FOR SKETCH
SEE SHEET 7 FOR LINE AND CURVE TABLE



16 EAST PLANT STREET
Winter Garden, Florida 34787 * (407) 654-5355

SURVEYOR'S NOTES:

SHEET 2 OF 7

1. THIS IS NOT A BOUNDARY SURVEY.
2. THIS SKETCH IS NOT VALID UNLESS SIGNED AND SEALED WITH AN EMBOSSED SURVEYOR'S SEAL.
3. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE N.E. 1/4, SECTION 9, TOWNSHIP 19 SOUTH, RANGE 30 EAST AS HAVING AN ASSUMED BEARING OF SOUTH 89°54'12" WEST.

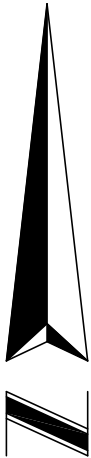
JOB NO. 20200529
DATE: 04-19-2021
SCALE: N/A
REVISED DATE: _____

CALCULATED BY: SCS
DRAWN BY: SCS
CHECKED BY: MAF

FOR THE LICENSED BUSINESS #6723 BY:

MARK A. FOLLIS, P.S.M. #6000

SKETCH AND DESCRIPTION



INTEGRA 289 EXCHANGE
 PARCEL #900900000013
 INSTRUMENT #2018198072

NOT PLATTED

POINT OF COMMENCEMENT

NORTHEAST CORNER OF SECTION
 9-19-30 FOUND 4"X4"
 CONCRETE MONUMENT CERTIFIED
 CORNER RECORD #63919

(BEARING BASE)
 S89°54'12"W

456.21'

NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 9

P.C.

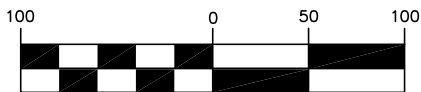
MATCH LINE SEE SHEET 4

NOT PLATTED

COUNTY OF VLOUSHIA
 PARCEL #9009000000010
 INSTRUMENT #2017079568

SECTION 9-19-30
 SECTION 10-19-30

GRAPHIC SCALE



(IN FEET)

1 inch = 100 ft.

SEE SHEETS 1-2 FOR LEGAL DESCRIPTION
 SEE SHEET 7 FOR LINE AND CURVE TABLE



16 EAST PLANT STREET
 Winter Garden, Florida 34787 * (407) 654-5355

LEGEND:

- P.C. POINT OF CURVATURE
- P.C.C. POINT OF COMPOUND CURVE
- N.T. NON-TANGENT
- ⊕ CENTERLINE
- CHANGE IN DIRECTION

SHEET 3 OF 7

JOB NO. 20180042

CALCULATED BY: SCS

DATE: 04-19-2021

DRAWN BY: SCS

SCALE: 1"=100'

CHECKED BY: MAF

REVISED DATE:

SKETCH AND DESCRIPTION

INTEGRA 289 EXCHANGE
 PARCEL #900900000013
 INSTRUMENT #2018198072

NOT PLATTED

NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 9

P.C.

INTEGRA 289 EXCHANGE
 PARCEL #900900000013
 INSTRUMENT #2018198072

NOT PLATTED

COUNTY OF VLOUSHIA
 PARCEL #900900000010
 INSTRUMENT #2017079568

NOT PLATTED

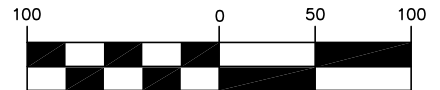
R=1172.21'
 $\Delta=51^{\circ}14'36''$
 L=1048.38'
 CB=S64^{\circ}16'56''W
 C=1013.79'

MATCH LINE SEE SHEET 5

MATCH LINE SEE SHEET 3



GRAPHIC SCALE



(IN FEET)
 1 inch = 100 ft.

SEE SHEETS 1-2 FOR LEGAL DESCRIPTION
 SEE SHEET 7 FOR LINE AND CURVE TABLE



16 EAST PLANT STREET
 Winter Garden, Florida 34787 * (407) 654-5355

LEGEND:

- P.C. POINT OF CURVATURE
- P.C.C. POINT OF COMPOUND CURVE
- N.T. NON-TANGENT
- ⊙ CENTERLINE
- CHANGE IN DIRECTION

SHEET 4 OF 7

JOB NO. 20180042

CALCULATED BY: SCS

DATE: 04-19-2021

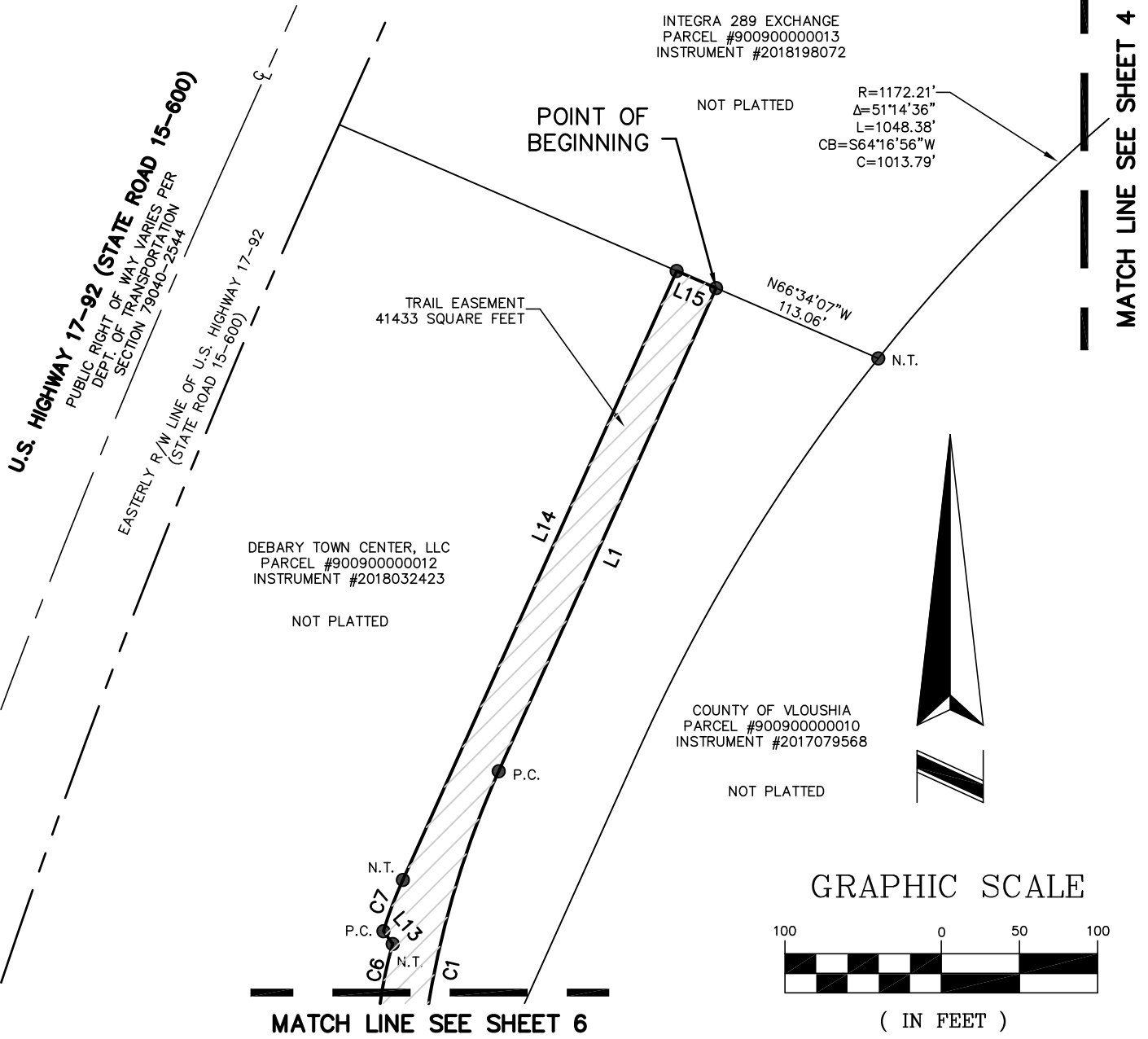
DRAWN BY: SCS

SCALE: 1"=100'

CHECKED BY: MAF

REVISED DATE: _____

SKETCH AND DESCRIPTION



SEE SHEETS 1-2 FOR LEGAL DESCRIPTION
SEE SHEET 7 FOR LINE AND CURVE TABLE



16 EAST PLANT STREET
Winter Garden, Florida 34787 * (407) 654-5355

LEGEND:

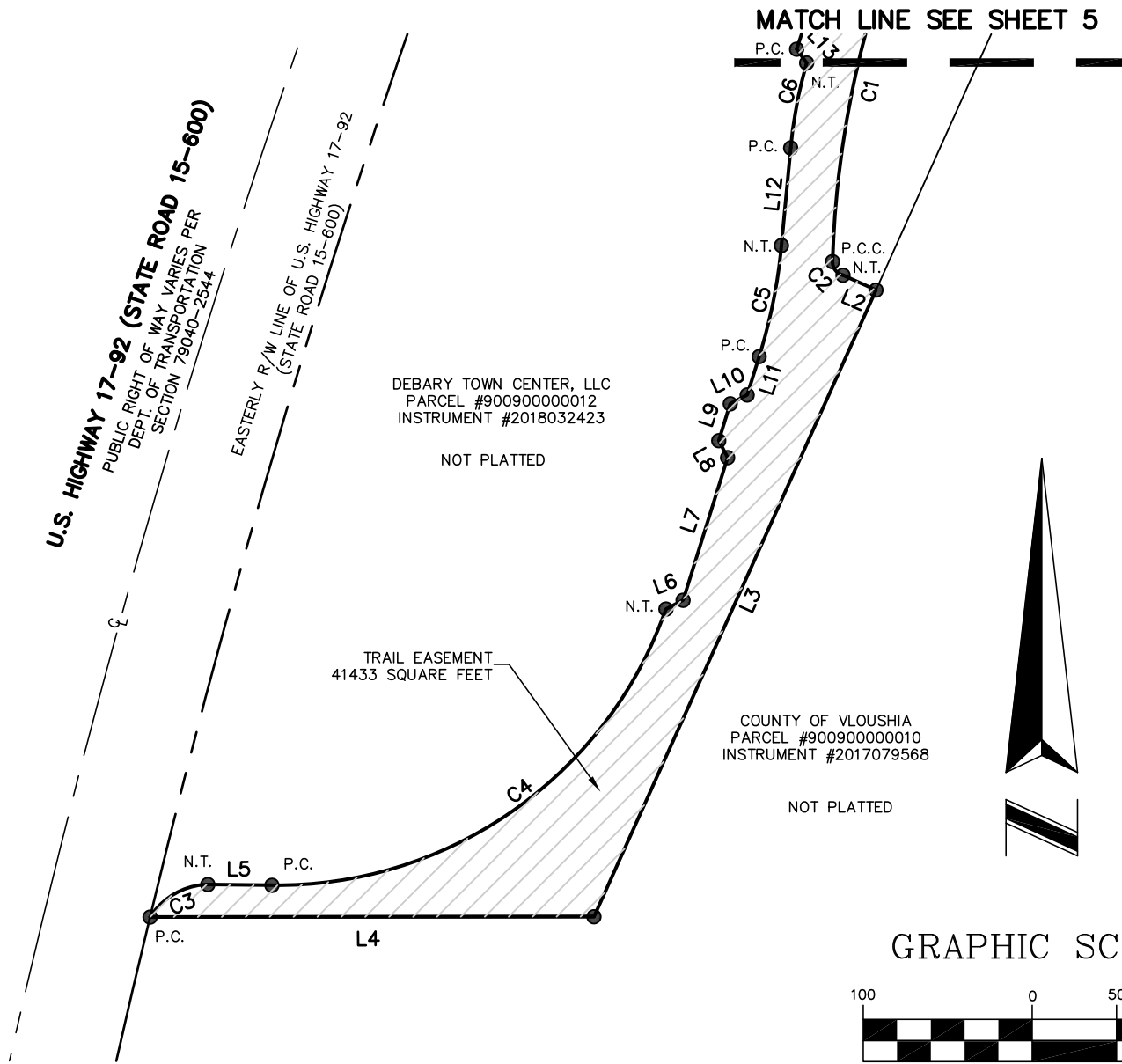
- P.C. POINT OF CURVATURE
- P.C.C. POINT OF COMPOUND CURVE
- N.T. NON-TANGENT
- ⊕ CENTERLINE
- CHANGE IN DIRECTION

SHEET 5 OF 7

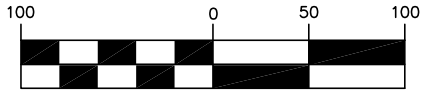
JOB NO. 20180042
DATE: 04-19-2021
SCALE: 1"=100'
REVISED DATE: _____

CALCULATED BY: SCS
DRAWN BY: SCS
CHECKED BY: MAF

SKETCH AND DESCRIPTION



GRAPHIC SCALE



(IN FEET)
1 inch = 100 ft.

SEE SHEETS 1-2 FOR LEGAL DESCRIPTION
SEE SHEET 7 FOR LINE AND CURVE TABLE

LEGEND:

- P.C. POINT OF CURVATURE
- P.C.C. POINT OF COMPOUND CURVE
- N.T. NON-TANGENT
- ☉ CENTERLINE
- CHANGE IN DIRECTION

SHEET 6 OF 7



16 EAST PLANT STREET
Winter Garden, Florida 34787 * (407) 654-5355

JOB NO. 20180042
DATE: 04-19-2021
SCALE: 1"=100'
REVISED DATE: _____

CALCULATED BY: SCS
DRAWN BY: SCS
CHECKED BY: MAF

SKETCH AND DESCRIPTION

CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING
C1	235.52	599.97	22°49'19"	234.01	S12°58'50"W
C2	11.02	8.01	78°84'42"	10.17	S37°41'15"E
C3	40.82	41.96	55°74'31"	39.23	N60°38'05"E
C4	304.08	244.00	71°40'39"	284.78	N54°58'12"E
C5	67.18	322.00	11°95'38"	67.06	N11°21'38"E
C6	51.25	278.00	10°56'32"	51.18	N10°39'55"E
C7	35.11	277.34	07°25'35"	35.09	N20°45'50"E

LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	338.81	S24°13'36"W
L2	21.42	S65°46'05"E
L3	406.67	S24°13'55"W
L4	262.72	S89°57'15"W
L5	37.93	S89°19'41"E
L6	11.42	N62°48'15"E
L7	88.43	N17°20'14"E
L8	11.31	N27°39'46"W

LINE TABLE		
LINE #	LENGTH	DIRECTION
L9	22.84	N17°20'14"E
L10	11.31	N62°20'52"E
L11	23.80	N17°20'14"E
L12	57.96	N05°23'01"E
L13	10.08	N35°58'23"W
L14	427.00	N24°12'43"E
L15	27.50	S66°34'07"E

SEE SHEETS 1-2 FOR LEGAL DESCRIPTION
SEE SHEETS 3-6 FOR SKETCH

SHEET 7 OF 7

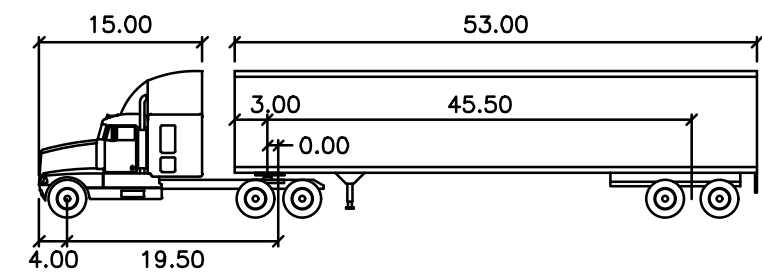


16 EAST PLANT STREET
Winter Garden, Florida 34787 * (407) 654-5355

JOB NO. 20180042
DATE: 04-19-2021
SCALE: N/A
REVISED DATE:

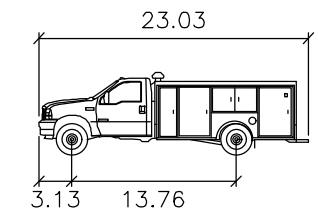
CALCULATED BY: SCS
DRAWN BY: SCS
CHECKED BY: MAF

Exhibit C
“the Shopping Center Parcel”



WB-67

feet	
Tractor Width	: 8.00
Trailer Width	: 8.50
Tractor Track	: 8.00
Trailer Track	: 8.50
Lock to Lock Time	: 6.0
Steering Angle	: 28.4
Articulating Angle	: 75.0

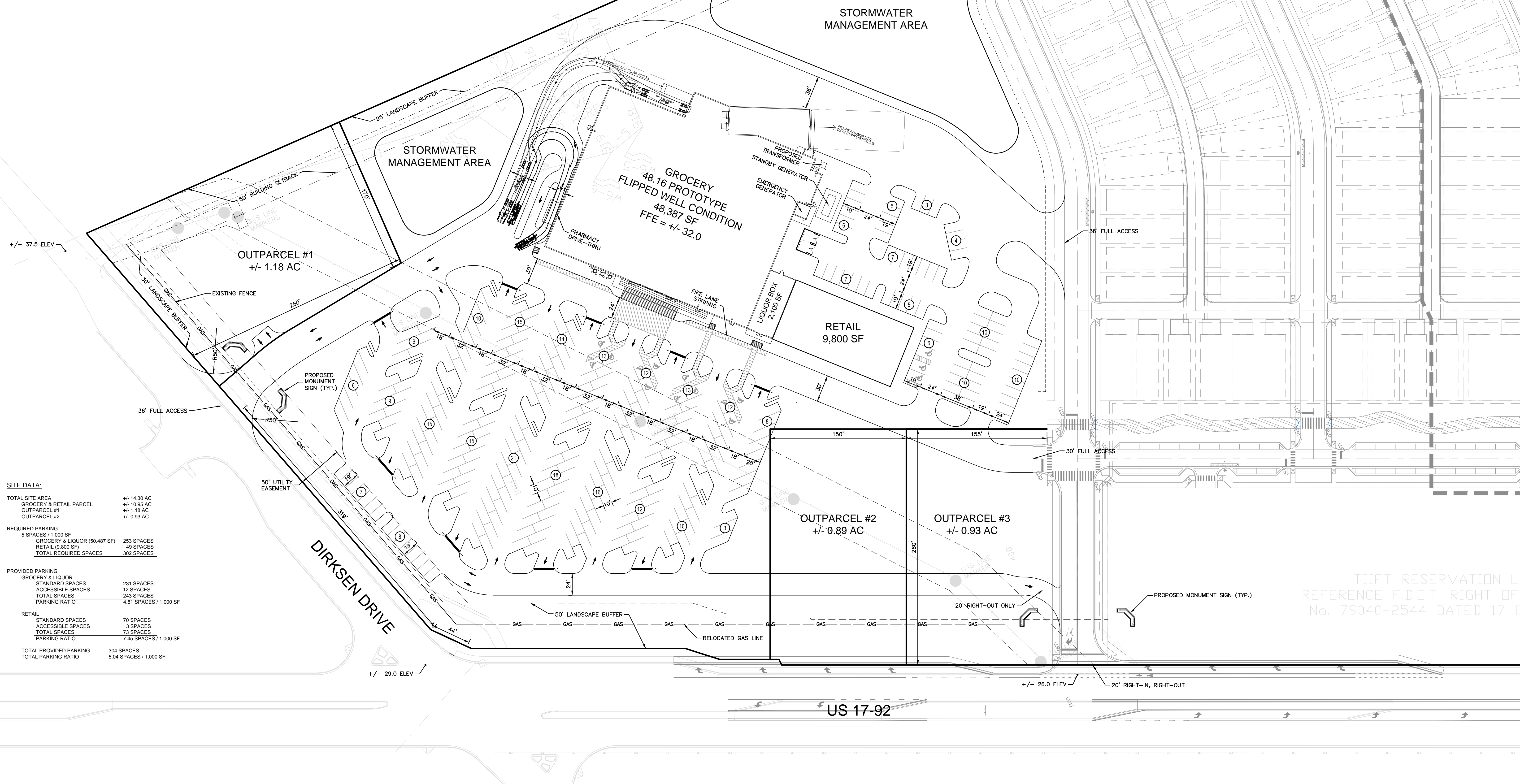


McCoy Mini-Rescue

feet	
Width	: 7.83
Track	: 7.68
Lock to Lock Time	: 6.0
Steering Angle	: 34.4

SITE CIRCULATION

PHARMACY DRIVE THRU



SITE DATA:

TOTAL SITE AREA	+/- 14.30 AC
GROCERY & RETAIL PARCEL	+/- 10.95 AC
OUTPARCEL #1	+/- 1.18 AC
OUTPARCEL #2	+/- 0.89 AC
OUTPARCEL #3	+/- 0.93 AC

REQUIRED PARKING	5 SPACES / 1,000 SF
GROCERY & LIQUOR (60,487 SF)	253 SPACES
RETAIL (9,800 SF)	49 SPACES
TOTAL REQUIRED SPACES	302 SPACES

PROVIDED PARKING	GROCERY & LIQUOR
STANDARD SPACES	231 SPACES
ACCESSIBLE SPACES	12 SPACES
TOTAL SPACES	243 SPACES
PARKING RATIO	4.81 SPACES / 1,000 SF

RETAIL	70 SPACES
STANDARD SPACES	3 SPACES
ACCESSIBLE SPACES	3 SPACES
TOTAL SPACES	73 SPACES
PARKING RATIO	7.45 SPACES / 1,000 SF

TOTAL PROVIDED PARKING	304 SPACES
TOTAL PARKING RATIO	5.04 SPACES / 1,000 SF

TIIFT RESERVATION L
 REFERENCE F.D.O.T. RIGHT OF
 No. 79040-2544 DATED 17 0

K:\ORL_Civil\049663000-Publix @ The Junction\CADD\CONCEPT\SP-07.dwg

Exhibit D
“Ft. Florida Road Parcels”

AGREEMENT FOR SALE AND PURCHASE

THIS AGREEMENT FOR SALE AND PURCHASE ("Agreement") is made and entered into as of the Effective Date of this Agreement (as hereinafter defined), by and between the CITY OF DEBARY, a Florida municipal corporation ("**Purchaser**"), and THE N.O.W. MATTERS MORE FOUNDATION, INC., a Florida not-for-profit corporation ("**Seller**").

WITNESSETH:

WHEREAS, Seller is the fee simple owner of the real property more particularly described on Exhibit "A" attached hereto and any other real property in which Seller has any interest that abuts or is proximate to the real property described on Exhibit "A" including all and singular the rights and appurtenances pertaining to the property including without limitation, any and all improvements and fixtures situated thereon, all air or air space rights, all subsurface rights, all riparian rights, title and interest of Seller in and to adjacent roads, rights-of-way, alleys, drainage facilities, easements, utility facilities, impact fee credits, concurrency rights, development rights, sewer or water reservations or tap-in rights, studies, reports, plans and any and all similar development rights incident or related to the Property in any respect (the "**Property**"); and

WHEREAS, Seller desires to sell the Property to Purchaser, and Purchaser desires to purchase the Property from Seller, upon and subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and ten dollars and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties do hereby covenant and agree as follows:

1. **RECITALS**. The foregoing recitals are true and correct and are incorporated herein by this reference.

2. **AGREEMENT TO BUY AND SELL**. Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller the Property in the manner and upon the terms and conditions set forth in this Agreement.

3. **EARNEST MONEY**.

A. Within five (5) business days after the Effective Date, Purchaser shall deliver to Fishback Law Firm (the "**Escrow Agent**") with notice to Seller an earnest money deposit in the amount of Twenty Thousand and No/100 Dollars (\$20,000.00) (the "**Earnest Money Deposit**"), which Earnest Money Deposit shall be in the form of a federal wire transfer or cashier's check issued by a bank whose deposits are federally insured.

B. The Earnest Money Deposit shall be held in escrow by the Escrow Agent and invested in a non-interest-bearing account, and held and disbursed in accordance with the terms and provisions of this Agreement.

D. The Earnest Money Deposit shall become non-refundable to Purchaser following expiration of the Inspection Period, except by reason of an uncured Seller default hereunder or pursuant to any other provision in this Agreement explicitly requiring the return of the Earnest Money Deposit.

4. **PURCHASE PRICE.** The purchase price to be paid by Purchaser to Seller for the Property shall be Nine Hundred Seventy-Five Thousand and 00/100 Dollars (\$975,000.00) (the "**Purchase Price**"). The Purchase Price shall be paid by Purchaser to Seller at the Closing by federal wire transfer of funds, subject to appropriate credits, adjustments and prorations as may be provided herein.

5. **INSPECTION PERIOD.**

A. Purchaser shall have thirty (30) days after the Effective Date (the "**Inspection Period**"), to determine, in Purchaser's sole and absolute discretion, that the Property is suitable and satisfactory for Purchaser's Intended Use. Purchaser shall have the unconditional and absolute right to terminate this Agreement for any reason whatsoever during the Inspection Period. In order to terminate the Agreement, Purchaser must provide the Seller with written notice so stating no later than the expiration of the Inspection Period. If the Purchaser elects to terminate the Agreement during the Inspection Period, then Escrow Agent shall return the Earnest Money Deposit to Purchaser, and thereafter the parties shall have no further duties, obligations or responsibilities hereunder, except for those specified herein to survive termination of this Agreement.

B. From the Effective Date through Closing, Purchaser shall have the right of going upon the Real Property with its agents and engineers as needed to inspect, examine and otherwise undertake those actions which Purchaser, in its discretion and at its sole cost and expense, deems necessary or desirable to determine the suitability of the Property for Purchaser's intended uses; including without limitation, the right to perform soil tests, borings, percolation tests, compaction tests, environmental tests, surveys and tests to obtain any other information relating to the surface, subsurface and topographic conditions of the Property. Purchaser shall promptly restore any physical damage caused to the Property by the aforesaid inspections, tests and other activities, and Purchaser shall indemnify and hold Seller harmless from and against any suits, claims, damages, costs, expenses and liabilities asserted against or incurred by Seller as a result of the exercise by Purchaser of its rights under this Section 5.B. The foregoing repair, indemnity and defense obligations do not apply to (a) any loss, liability cost or expense to the extent arising from or related to the acts or omissions of Seller, or its agents or consultants, (b) any diminution in value in the Property arising from or relating to matters discovered by Purchaser during its investigation of the Property, (c) any latent defects in the Property discovered by Purchaser, or (d) the release or spread of any Hazardous Substances (hereinafter defined) which are discovered (but not

deposited) on or under the Property by Purchaser. The provisions of this Section 5.B shall survive the Closing or earlier termination of this Agreement until the later of: (i) expiration of all applicable statutes of limitations; (ii) and the final resolution of any claims, litigation and appeals that may have been made or filed.

C. Seller agrees to deliver or otherwise make available to Purchaser, within five (5) days after the Effective Date, copies in Seller's possession, if any, of title insurance policies, title insurance commitments, surveys, environmental reports, permits, applications, remedial action plans, contamination assessment reports, notices and orders and determinations relating to any contamination or assessment or cleanup or monitoring of the Property, subdivision plans, development plans, technical data, studies, site plans, utility capacity information, soils reports, surveys, hydrological reports, zoning confirmations, concurrency information, and any other documentation pertaining to the Property which will facilitate Purchaser's investigation of the Property during the Inspection Period.

6. SURVEY AND TITLE MATTERS.

A. Within sixty (60) days after the Effective Date, Purchaser may, at Purchaser's expense, obtain a survey of the Property ("**Survey**") in a form and substance acceptable to Purchaser and sufficient to delete the standard survey exception from the Title Policy, certified to Purchaser and the Title Company (as hereinafter defined).

B. Within fifteen (15) days after the Effective Date, Purchaser shall obtain, at Purchaser's expense, a current title insurance commitment for the Property ("**Title Commitment**") issued by Fishback Law Firm, as agent for Stewart Title Guaranty Company, or such other title insurance company acceptable to Purchaser ("**Title Company**"), and copies of all exceptions referred to therein. The Title Commitment shall obligate the Title Company to issue an Owners title insurance policy in favor of Purchaser for the amount of the Purchase Price (the "**Title Policy**"). The Title Policy shall insure Purchaser's fee simple title to the Property, subject only to the Permitted Exceptions, as hereinafter defined.

C. Within fifteen (15) days after the receipt of each of the Title Commitment and Survey, Purchaser shall provide Seller with notice of any matters set forth in the Title Commitment or Survey (as applicable) which are unacceptable to Purchaser ("**Title Defects**"). Any matters set forth in the Title Commitment or Survey to which Purchaser does not timely object shall be referred to collectively herein as the "**Permitted Exceptions**".

D. Within five (5) days after receipt of notice from Purchaser, Seller shall notify Purchaser whether Seller will attempt to cure such Title Defects. In the event Seller fails to notify Purchaser of its intent to cure the Title Defects within said five (5) day period, Seller shall be deemed to have refused to cure the Title Defects. If Seller elects to attempt to cure such Title Defects, Seller shall have sixty (60) days in which to use its best efforts to cure such Title Defects to the satisfaction of the Purchaser and the

Title Company; provided, however, Seller shall not be obligated to bring suit or expend funds to cure any Title Defects. In the event Seller refuses or fails to cure any Title Defect as set forth hereinabove, then Purchaser, at its option, by providing Seller with written notice within five (5) days after the expiration of the applicable period as described above, may (i) terminate this Agreement, and no party hereto shall have any further rights, obligations or liability hereunder except as expressly provided otherwise whereupon all Earnest Money Deposit shall be returned to Purchaser; or (ii) accept title to the Property subject to such Title Defect without reduction of the Purchase Price and proceed to Closing.

7. **CONDITIONS TO CLOSING.**

A. Purchaser's obligation to purchase the Property shall be expressly conditioned upon the fulfillment of each of the following conditions precedent (the "**Closing Conditions**"):

1. Approval of Purchaser's City Council of this Agreement.
2. Approval of the St Johns River Water Management District of the Property as a replacement mitigation area and conservation easement over the Property.
3. Approval of Purchaser's City Council of an Agreement for Exchange of Real Property (the "Exchange Agreement") between Purchaser and Debary Town Center, LLC ("DTC")
4. Payment by DTC of Three Hundred Ninety Thousand and no/100 Dollars (\$390,000.00) which will be utilized by Purchaser for the purchase of the Property.
5. The material representations and warranties of Seller contained in this Agreement shall be true and correct as of the Closing Date.
6. Seller shall have performed and complied with all material covenants and agreements contained herein which are to be performed and complied with by Seller at or prior to Closing.

B. In the event any of the foregoing Closing Conditions are not satisfied to the Purchaser's reasonable satisfaction prior to the Closing Date, then Purchaser shall provide Seller with written notice thereof, and Purchaser shall have the right, but not obligation, to terminate this Agreement whereupon Escrow Agent shall pay the Purchaser the Earnest Money Deposit within five (5) days of the termination.

C. Seller's obligation to sell the Property shall be expressly conditioned upon the fulfillment of each of the following conditions precedent (the "**Closing Conditions**"):

1. Purchaser's City Council approving this Agreement.

2. The material representations and warranties of Purchaser contained in this Agreement shall be true and correct as of the Closing Date.

3. Purchaser shall have performed and complied with all material covenants and agreements contained herein which are to be performed and complied with by Seller at or prior to Closing.

D. In the event any of the foregoing Closing Conditions are not satisfied to the Seller's reasonable satisfaction prior to the Closing Date, then Seller shall provide Purchaser with written notice thereof, and Seller shall have the right, but not obligation, to terminate this Agreement whereupon Escrow Agent shall pay the Purchaser the Earnest Money Deposit within five (5) days of the termination.

8. **CLOSING.**

A. Closing Date. The Property shall be closed no later than ten (10) days after the Satisfaction of the Closing Conditions, but in any event no later than December 15, 2023 (the "**Closing**" or "**Closing Date**") at the offices Fishback Law Firm., 1947 Lee Road, Winter Park, Florida 32789, or the parties may, at their election, effectuate the closing by mail. Purchaser may elect to close earlier on not less than ten (10) days written notice.

B. Conveyance of Real Property. At Closing, Seller shall execute and deliver to Purchaser a Warranty Deed ("**Deed**") conveying fee simple record title to the Property to Purchaser, free and clear of all liens, special assessments, easements, reservations, restrictions and encumbrances whatsoever, excepting only the Permitted Exceptions. In the event any mortgage, monetary lien or other monetary encumbrance (not created by the actions or inactions of Purchaser) encumbers the Property and is not paid and satisfied by Seller, such mortgage, monetary lien or monetary encumbrance, at Purchaser's election, shall be satisfied and paid with the proceeds of the Purchase Price. Seller and Purchaser agree that such documents, resolutions, certificates of good standing and certificates of authority as may be necessary to carry out the terms of this Agreement shall be executed and/or delivered by such parties at the time of Closing, including, without limitation, an owner's affidavit in form sufficient to enable the Title Company to delete all standard title exceptions other than survey exceptions from the Title Policy, a certificate duly executed by Seller certifying that Seller is not a foreign person for purposes of the Foreign Investment in Real Property Tax Act (FIRPTA), which certificate shall include Seller's taxpayer identification number and address, and an assignment from Seller to Purchaser assigning all of Seller's right, title and interest in and to the development approvals, permits, entitlements and other rights benefitting the Property.

C. Prorating of Taxes and Assessments. All real property ad valorem taxes and general assessments applicable to the Property shall be prorated as of the Closing Date between Seller and Purchaser, said proration to be based upon the most recently available tax or general assessment rate and valuation with respect to the Property at

the November discounted amount. There shall not be any reপরations after Closing. All past due real estate taxes, and special assessments which have been levied or certified prior to Closing shall be paid in full by Seller.

D. Closing Costs and Expenses. Seller shall, at the Closing, pay the cost to record any corrective documents or any documents necessary to confirm Seller's authority to convey the Property to Purchaser. Purchaser shall pay cost of documentary stamps to be affixed to the Deed and the the cost of recording the Deed, the cost of the Survey and the cost of the owner's title insurance policy and related costs. Each party shall pay its own attorneys' fees and costs.

9. WARRANTIES AND REPRESENTATIONS OF SELLER.

A. To induce Purchaser to enter into this Agreement, Seller hereby makes the following representations and warranties:

1. Seller is the owner of the Property, and, at Closing the Property will be free and clear of all liens, special assessments, easements, reservations, restrictions and encumbrances other than ad valorem real property taxes, and the Permitted Exceptions.

2. To Seller's knowledge, there is no governmental or quasi-governmental agency requiring the correction of any condition with respect to the Property, or any part thereof, by reason of a violation of any regulation, statute, law, or otherwise or with respect to any pending or contemplated condemnation action with respect to the Property, including, without limitation, any environmental or contamination matter affecting the Property.

3. There is no pending or, to Seller's knowledge, contemplated change in any regulation or private restriction applicable to the Property, or any pending or threatened judicial administrative action, or of any action pending or threatened by adjacent land owners or other persons, any of which would result in any material change in the condition of the Property, or any part thereof, or in any way prevent, limit or impede residential construction.

4. Except for debts, liabilities and obligations for which provision is herein made for proration or other adjustment at Closing, there will be no debts, liabilities or obligations of Seller with respect to the Property for which Purchaser will be responsible after the conveyance and Closing.

5. The execution and delivery of this Agreement, the consummation of the transaction herein contemplated, and the compliance with the terms of this Agreement will not conflict with, or with or without notice or the passage of time, or both, result in a breach of, any of the terms or provisions, of or constitute a default under, any indenture, mortgage, loan agreement, or instrument to which Seller is a party or by

which Seller or the Property is bound, any applicable regulation, or any judgment, order, or decree of any court having jurisdiction over Seller or the Property.

6. There are no attachments, executions, assignments for the benefit of creditors, or voluntary or involuntary proceedings in bankruptcy or under any other debtor relief laws contemplated by or pending or threatened against Seller or, to the best of Seller's knowledge, the Property.

7. Seller will have at Closing the full right, power, and authority to sell and convey the Property to Purchaser as provided in this Agreement and to carry out Seller's obligations hereunder. All requisite corporate actions necessary to authorize Seller to enter into this Agreement and to perform his obligations hereunder have been taken.

8. At the Closing, Purchaser will have no duty to collect withholding taxes for Seller pursuant to the Foreign Investment in Real Property Tax Act of 1980, as amended.

9. Seller shall not enter into any agreements or leases during the term of this Agreement, affecting the Property, without the prior written consent of Purchaser.

10. To the best of Seller's knowledge, no fact or condition exists which would result in the termination of the current access between the Property and any presently existing highways and roads adjoining or situated on the Property.

The covenants and agreements contained in this Section 9 shall survive the Closing.

10. **WARRANTIES AND REPRESENTATIONS OF PURCHASER.**

A. To induce Seller to enter into this Agreement, Purchaser hereby makes the following representations and warranties:

1. Purchaser has the full right, power and authority to enter into and deliver this Agreement and to consummate the purchase of the Property in accordance herewith and to perform all covenants and agreements of Purchaser hereunder.

2. The execution and delivery of this Agreement and the consummation of the transaction contemplated herein shall not and do not constitute a violation or breach by Purchaser of any provision of any agreement or other instrument to which Purchaser is a party, nor result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against Purchaser.

The covenants and agreements contained in this Section 10 shall survive the Closing.

11. **ENVIRONMENTAL MATTERS/HAZARDOUS SUBSTANCES.**

A. **Definition of Hazardous Substances.** "Hazardous Substances" shall mean and include all hazardous or toxic substances, wastes or materials, and all pollutants and contaminants, including but not limited to petroleum based substances and those elements or compounds which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency ("EPA") and the list of toxic pollutants designated by Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability (including strict liability) or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or any time hereinafter in effect.

B. **Clean-up.** If Purchaser's environmental inspections of the Property reveal the existence of any Hazardous Substance on, in, at, about or under the Property, then Seller may at Seller's sole and absolute option elect, at Seller's sole expense, to complete the clean-up of the same prior to Closing and in accordance with all applicable governmental standards or Purchaser may terminate this Agreement prior to expiration of the Inspection Period. If Seller elects to complete the clean-up and such clean-up is not completed, and written certification thereof by all applicable governmental authorities is not received by Purchaser, prior to Closing, then Purchaser may: (1) terminate this Agreement, whereupon Escrow Agent shall return the Earnest Money Deposit to Purchaser; (2) accept the condition of the Property notwithstanding such incomplete clean-up and proceed to Closing without any reduction in the Purchase Price or further obligation on the part of Seller to complete such clean-up; or (3) extend the Closing Date until such time that Seller has completed the clean-up. Consistent with section 5.C of this Agreement, within five (5) days after the Effective Date, Seller shall provide Purchaser with all studies, contamination assessments, reports, remedial action plans, monitoring orders and contracts, closure orders, other orders and notices relating to any contamination, cleanup, and related matters.

12. **DEFAULTS.**

A. In the event Seller breaches any warranty or representation contained in this Agreement or fails to comply with or perform any of the covenants, agreements or obligations of a material nature to be performed by Seller under the terms and provisions of this Agreement, Purchaser, in Purchaser's sole discretion, shall be entitled to: (i) terminate the Agreement and receive an immediate return of the Earnest Money Deposit; or (ii) enforce specific performance of this Agreement against Seller; or (iii) maintain an action for damages.

B. In the event Purchaser breaches any warranty or representation contained in this Agreement or fails to comply with or perform any of the covenants, agreements or obligations of a material nature to be performed by Purchaser under the terms and provisions of this Agreement, Seller's sole and exclusive remedy for any such default shall be to receive the Earnest Money Deposit as full liquidated damages, whereupon this Agreement and all rights and obligations created hereby shall automatically

terminate and be null and void and of no further force or effect whatsoever. Purchaser and Seller acknowledge that it would be difficult or impossible to ascertain the actual damages suffered by Seller as a result of any default by Purchaser and agree that such liquidated damages are a reasonable estimate of such damages. Seller further acknowledges and agrees that Purchaser was materially induced to enter into this Agreement in reliance upon Seller's agreement to accept such Earnest Money Deposit as Seller's sole and exclusive remedy and that Purchaser would not have entered into this Agreement but for Seller's agreement to so limit Seller's remedies.

C. Notwithstanding subsections A. and B. above, from and after the Closing, each party shall have the right to pursue its actual (but not consequential or punitive) damages against the other party for: (i) a breach of any covenant or agreement contained herein that is performable after or that survives the Closing or termination of this Agreement (including, but not limited to any indemnification and hold harmless obligations), and (ii) any breach of any representation or warranty in this Agreement that survives Closing. This subsection shall not apply to any obligation of Purchaser to purchase the Property.

13. **ASSIGNMENT**. The Purchaser may assign this Agreement; provided, however, Purchaser, as assignor, remains liable for assignee's failure to honor Purchaser's obligations under this Agreement. Assignment shall not be made to an entity for commercial use.

14. **POSSESSION OF PROPERTY**. Seller shall deliver to Purchaser full and exclusive possession of the Property on the Closing Date.

15. **CONDEMNATION**. In the event the Property or any material portion or portions thereof shall be taken or condemned or be the subject to a bona fide threat of condemnation by any governmental authority or other entity (other than Purchaser) prior to the Closing Date, Purchaser shall have the option of (i) terminating this Agreement by giving written notice thereof to Seller whereupon the Earnest Money Deposit shall be immediately returned to Purchaser, and this Agreement shall terminate except as expressly provided otherwise, (ii) requiring Seller to convey the portions of the Property remaining after the taking or condemnation based on a reduced price calculated pro-rata on the acreage lost as a result of the taking or condemnation, and Seller shall retain all of the right, title and interest of Seller in and to any award made or to be made by reason of such taking or condemnation, or (iii) requiring Seller to convey the entirety of the Property to Purchaser for the full Purchase Price if the taking or condemnation has not yet occurred, pursuant to the terms and provisions hereof, and to transfer and assign to Purchaser at the Closing all of the Seller's right, title and interest in and to any award made or to be made by reason of such taking or condemnation. Seller and Purchaser further agree that Purchaser shall have the right to participate in all negotiations with any such governmental authority relating to the Property or to the compensation to be paid for any portion or portions thereof condemned by such governmental authority or other entity.

16. **REAL ESTATE COMMISSION.** Purchaser and Seller hereby represent and warrant to each other that neither has engaged or dealt with any agent, broker or finder in regard to this Agreement other than Frederick Bertel with Florida Homes Realty and Mortgage (FHRM Commercial) who was retained by and is being paid by the Seller per listing agreement dated 12/2/2019, which Seller agrees is hereby extended through Closing under this Agreement and is incorporated herein. Buyer shall have no responsibility for the commission.

17. **NOTICES.** Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are actually received, whether same are personally delivered, transmitted electronically or sent by United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or sent by Federal Express or other overnight delivery service from which a receipt may be obtained evidencing the date and time delivery was made, and addressed as follows:

To Seller at the following address:

The N.O.W. Matters More Foundation, Inc.
541 N. Palmetto Ave
Sanford, FL 32771
Email: trinityp@nowmattersmore.org
thedopedoctor@gmail.com

To Purchaser at the following address:

City of DeBary
Attn: Carmen Rosamonda, City Manager
16 Colomba Road
DeBary, Florida 32713
Telephone: 386-668-2040
Email: crosamonda@debary.org

With a copy to:

Fishback Law Firm
Attn: A. Kurt Ardaman, Esquire
1947 Lee Road
Winter Park, Florida 32789
Telephone: 407 262-8400
E-mail: ardaman@fishbacklaw.com

Escrow Agent:

Fishback Law Firm
Attn: A. Kurt Ardaman, Esquire
1947 Lee Road
Winter Park, Florida 32789
Telephone: 407 262-8400
E-mail: ardaman@fishbacklaw.com

or to such other address as either party hereto shall from time to time designate to the other party by notice in writing as herein provided.

18. **GENERAL PROVISIONS.** No failure of either party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof. This Agreement contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral and otherwise, between the parties not embodied herein shall be of any force or effect. No amendment to this Agreement shall be binding upon any of the parties hereto unless such amendment is in writing and executed by Seller and Purchaser. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns. Time is of the essence of this Agreement. Wherever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday or federal banking holiday, such time for performance shall be extended to the next day that is not a Saturday, Sunday or federal banking holiday. Facsimile copies or PDF copies sent by email of the Agreement and any amendments hereto and any signatures thereon shall be considered for all purposes as originals. This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same agreement. The headings inserted at the beginning of each paragraph are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph. Seller and Purchaser do hereby covenant and agree that such documents as may be legally necessary or otherwise customarily appropriate to carry out the terms of this Agreement shall be executed and delivered by each party at the Closing. This Agreement shall be interpreted under the laws of the State of Florida.

19. **SURVIVAL OF PROVISIONS.** Except as otherwise specified herein to the contrary, the covenants, representations and warranties set forth in this Agreement shall survive the Closing or any earlier termination of this Agreement.

20. **SEVERABILITY.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstances shall, for any reason and to the extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

21. **RECORDING OF AGREEMENT.** Neither this Agreement nor a record or a memorandum thereof may be recorded in the Public Records of any county in the State of Florida.

22. **ATTORNEYS' FEES AND VENUE.** In the event of any dispute hereunder or of any action to interpret or enforce this Agreement, any provision hereof or any matter arising here from, the prevailing party shall be entitled to recover from the non-prevailing party, the prevailing party's reasonable costs, fees and expenses, including, but not

limited to, witness fees, expert fees, consultant fees, attorney, paralegal and legal assistant fees, costs and expenses and other professional fees, costs and expenses whether suit be brought or not, and whether in settlement, in any declaratory action, at trial or on appeal. Proper venue for any litigation regarding this Agreement shall be in Volusia County, Florida.

23. **TIME FOR ACCEPTANCE.** Seller shall execute and deliver this Agreement to Purchaser and Purchaser shall submit the same for approval to the Purchaser's City Council. The Agreement shall remain a valid and binding offer provided the same is approved by the Purchaser's City Council and then executed by the Mayor or other authorized representative of the Purchaser on or before June 15, 2023.

24. **EFFECTIVE DATE.** When used herein, the term "**Effective Date**" or the phrase "**the date hereof**" or "**the date of this Agreement**" shall mean the date Purchaser's City Council approves this Agreement and the Agreement is thereafter signed by an authorized representative of the Purchaser.

25. **EXECUTION AND COUNTERPARTS.** To facilitate execution, the parties hereto agree that this Agreement may be executed and electronically mailed to the other party and that the executed telecopy shall be binding and enforceable as an original. This Agreement may be executed in as many counterparts as may be required and it shall not be necessary that the signature of, or on behalf of, each party or that the signatures of all persons required to bind any party, appear on each counterpart; it shall be sufficient that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single agreement.

26. **FURTHER ACTS AND RELATIONSHIP.** In addition to the acts and deeds recited herein and contemplated and performed, executed, and/or delivered by Seller and Purchaser, Seller and Purchaser agree to perform, execute, and/or deliver or cause to be performed, executed, and/or delivered at the Closing or after the Closing any and all such further acts, deeds, and assurances as may be reasonably necessary to consummate the transactions contemplated hereby. Nothing contained in this Agreement shall constitute or be construed to be or create a partnership, joint venture or any other relationship between Seller and Purchaser.

27. **RADON GAS.** Pursuant to the provisions of Section 404.058(8), Florida Statutes, Seller hereby notifies Purchaser as follows with respect to the Property:
"RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT."

28. **WAIVER OF JURY TRIAL.** Both parties hereby waive trial by jury in any action, proceeding, claim or counter claim brought by either party or any matters arising out of or in any way in connection with this Agreement.

29. **HANDLING OF ESCROW.** Escrow Agent agrees to perform its duties as required by this Agreement. At the time of Closing, the Escrow Agent shall pay over to the Seller the Earnest Money Deposit held by the Escrow Agent under this Agreement, as provided in Paragraph 3 hereof. In the event of a dispute as to the payment of the Earnest Money Deposit or if the Escrow Agent is in doubt as to its duties or liabilities under the provisions of this Agreement, the Escrow Agent shall continue to hold the Earnest Money Deposit until the parties mutually agree as to the distribution thereof or until a judgment of a court of competent jurisdiction determines the rights of the parties thereto. Alternatively, the Escrow Agent may interplead the Earnest Money Deposit into the Registry of the Circuit Court of Volusia County, Florida, without further liability or responsibility on the Escrow Agent's part. In the event of any suit between the Purchaser and Seller wherein the Escrow Agent is made a party by virtue of acting as such Escrow Agent or in the event of any suit in which the Escrow Agent interpleads the subject matter of this escrow, the Escrow Agent shall be entitled to recover its costs in connection therewith, including reasonable attorneys' fees and costs incurred in all trial, appellate and bankruptcy court proceedings, said fees and costs to be charged and assessed as court costs in favor of the prevailing party, All parties agree that the Escrow Agent shall not be liable to any party or person whomsoever for misdelivery to Purchaser or Seller of monies subject to this escrow, unless such misdelivery shall be due to willful breach of this Agreement or gross negligence on the part of the Escrow Agent. The Seller and the Purchaser agree that the status of the Purchaser's legal counsel as the Escrow Agent under this Agreement does not disqualify such law firm from representing the Purchaser in connection with this transaction in any dispute that may arise between the Purchaser and the Seller concerning this transaction, including any dispute or controversy with respect to the Earnest Money Deposit. This Section 29 survives termination of this Agreement and the Closing.


30. **1031 EXCHANGE.** The parties acknowledge that either party hereto may desire to exchange other property of like kind and qualifying use within the meaning of Section 1031 of the Internal Revenue Code and the Regulations promulgated thereunder, for fee title in the Property. Each party hereby reserves the right to assign its rights, but not its obligations, under this Agreement to a qualified intermediary as provided in IRC Reg. 1.1031(k)-1(g)(4) at any time on or before the Closing. Each party shall reasonably cooperate with the other party in effectuating such exchange; provided, any such like kind exchange shall not delay such Closing or cause the party not a party to the exchange to incur any expenses relating thereto nor take title to any other property.

[Signatures on following pages]

IN WITNESS WHEREOF, Purchaser and Seller have caused this Agreement to be executed as of the dates set forth below.

SELLER:

THE N.O.W. MATTERS MORE
FOUNDATION, INC., a Florida not-for-
profit corporation

By: 

Trinity Phillips

(Print Name)

Its: President

Date: 04/14/23

PURCHASER:

CITY OF DEBARY
a Florida municipal corporation

By: 

Karen Chasez

(Print Name)

Its: Mayor

Date: May 3, 2023

ESCROW ACKNOWLEDGMENT

The Escrow Agent hereby acknowledges receipt of the Twenty Thousand and 00/100 Dollars (\$20,000.00) Earnest Money Deposit. The undersigned agrees to hold said Earnest Money Deposit and disburse it in accordance with the terms of the foregoing Agreement.

FISHBACK LAW FIRM

By: _____

Paul "JJ" Johnson
Partner

EXHIBIT "A"

PARCEL 1

THAT PART OF THE NORTHEAST 1/4 OF SECTION 2, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT A CONCRETE MONUMENT MARKING THE NORTHWEST CORNER OF LOT 43, BLOCK A, PLANTATION ESTATES UNIT 5, ACCORDING TO MAP IN MAP BOOK 11, PAGE 239, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, RUN THENCE SOUTH 72°39' EAST ALONG THE NORTHERLY BOUNDARY OF SAID BLOCK A, A DISTANCE OF 511.58 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 400; THENCE NORTH 14°32' WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 16.38 FEET TO A POINT OF CURVE, SAID CURVE HAVING A DELTA OF 88°10' AND A RADIUS OF 400 FEET; THENCE CONTINUE ALONG SAID CURVE A DISTANCE OF 615.53 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE NORTH 73°38' WEST A DISTANCE OF 787.13 FEET TO THE EASTERLY LINE OF PALM ROAD AS NOW LAID OUT; THENCE SOUTH 17°21' WEST ALONG SAID EASTERLY LINE OF PALM ROAD, A DISTANCE OF 624.52 FEET TO THE POINT OF BEGINNING.

PARCEL 2

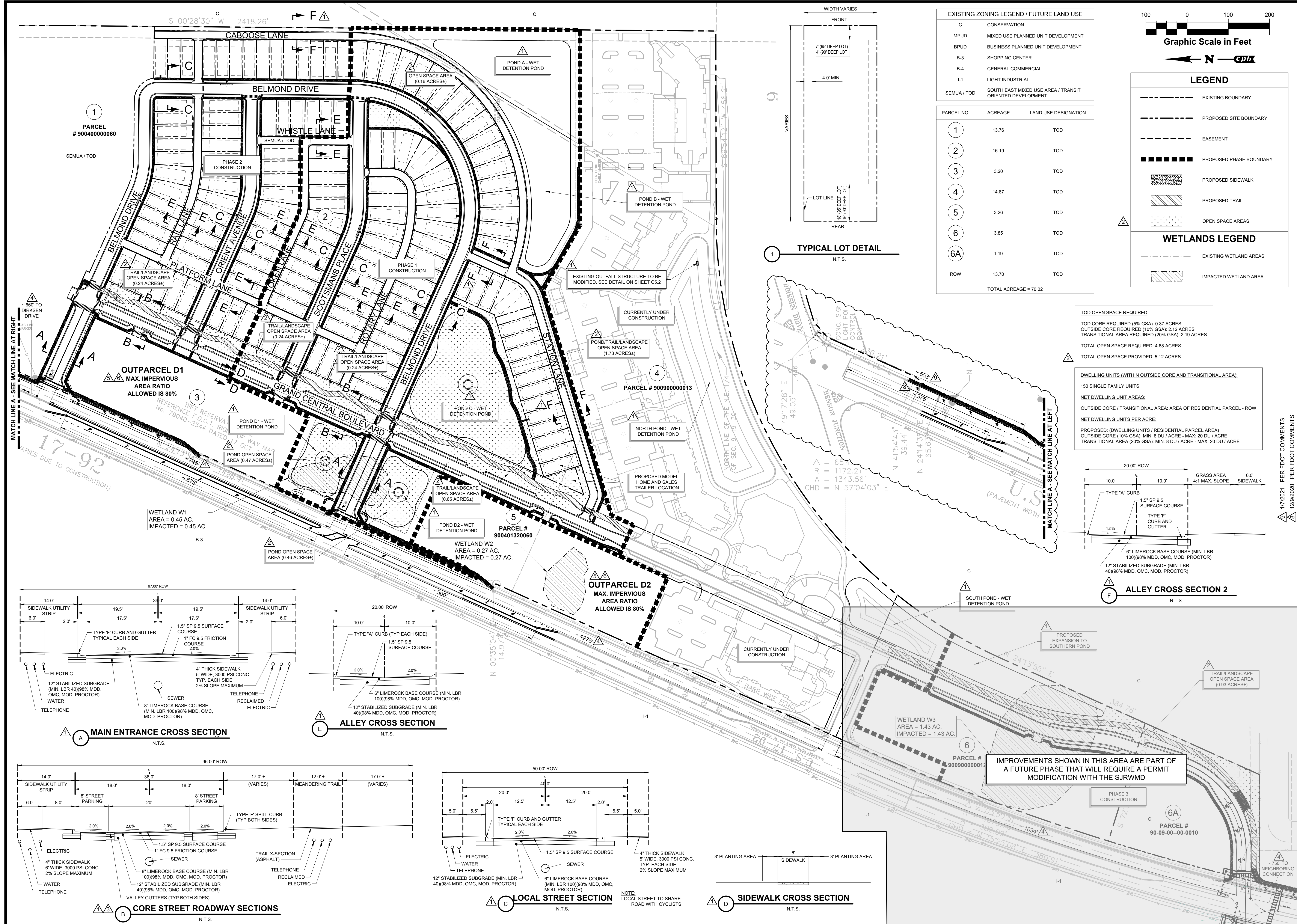
THAT PART OF THE NORTHEAST 1/4 OF SECTION 2, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, AS FOLLOWS:

FROM THE NORTHWEST CORNER OF LOT 43, BLOCK A, PLANTATION ESTATES UNIT 5, ACCORDING TO A MAP IN MAP BOOK 11, PAGE 239, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE NORTH 12°32'45" EAST, ALONG THE EASTERLY RIGHT OF WAY LINE OF PALM ROAD, 624.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 12°32'45" EAST ALONG SAID EASTERLY RIGHT OF WAY LINE, 188.67 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF GARDENIA AVENUE AS SHOWN ON THE PLAT OF PLANTATION ESTATES UNIT 25, ACCORDING TO A MAP IN MAP BOOK 23, PAGE 91, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE NORTH 64°27'15" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 1539.17 FEET TO THE WESTERLY RIGHT OF WAY LINE OF INTERSTATE HIGHWAY NO. 4; THENCE THE FOLLOWING COURSES AND DISTANCES ALONG SAID WESTERLY RIGHT OF WAY LINE: SOUTH 15°37'15" WEST, 582.21 FEET; SOUTHWESTERLY ALONG A CURVE, NON-TANGENT, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 2,784.79 FEET, A CENTRAL ANGLE OF 3°47'25", AN ARC DISTANCE OF 184.22 FEET AND A CHORD BEARING OF SOUTH 28°04'08" WEST; SOUTHWESTERLY ALONG A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 610.00 FEET, A CENTRAL ANGLE OF 16°36'27", AN ARC DISTANCE OF 176.81 FEET AND A CHORD BEARING OF SOUTH 38°16'05" WEST; SOUTHWESTERLY ALONG A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 350.00 FEET, A CENTRAL ANGLE OF 31°51'39", AN ARC DISTANCE OF 194.62 FEET AND A CHORD BEARING OF SOUTH 62°30'08" WEST; SOUTH 73°22'19" WEST, 155.49 FEET; THENCE DEPARTING SAID WESTERLY RIGHT OF WAY LINE, NORTH 77°27'15" WEST, 810.98 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED LANDS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND SITUATED IN SECTION 35, TOWNSHIP 18 SOUTH, RANGE 30 EAST AND SECTION 2, TOWNSHIP 19 SOUTH, RANGE 30 EAST IN VOLUSIA COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

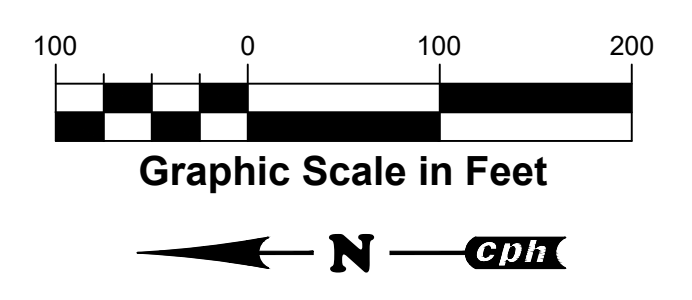
BEGIN AT THE NORTHWEST CORNER OF LOT 43, BLOCK A, PLANTATION ESTATES UNIT 5, ACCORDING TO A MAP IN MAP BOOK 11, PAGE 239, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE ALONG THE EASTERLY RIGHT OF WAY LINE OF PALM ROAD RUN NORTH 13°15'20" EAST A DISTANCE OF 813.33 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF GARDENIA AVENUE PER THE PLAT OF PLANTATION ESTATES UNIT 25 AS RECORDED IN MAP BOOK 23, PAGE 91, OF SAID PUBLIC RECORDS; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE OF GARDENIA AVENUE RUN NORTH 65°00'00" EAST A DISTANCE OF 1524.71 FEET TO A POINT ON THE WESTERLY LIMITED ACCESS RIGHT OF WAY LINE OF STATE ROAD 400 (INTERSTATE HIGHWAY NO. 4) PER STATE OF FLORIDA STATE ROAD DEPARTMENT RIGHT OF WAY MAP SECTION NO. 79000-2871, SECTION NO. 7716-401 AND 7911-401; THENCE DEPARTING SAID SOUTHEASTERLY RIGHT OF WAY LINE ALONG SAID WESTERLY LIMITED ACCESS RIGHT OF WAY LINE RUN THE FOLLOWING SEVEN (7) COURSES AND DISTANCES, (1) SOUTH 15°37'15" WEST A DISTANCE OF 567.41 FEET (2) TO A POINT ON A NON-TANGENT CURVE TO THE RIGHT, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 2784.79 FEET AND A CENTRAL ANGLE OF 03°47'25"; AND A CHORD DISTANCE OF 184.19 FEET WHICH BEARS SOUTH 23°15'53" WEST; THENCE RUN SOUTH WESTERLY ALONG THE ARC OF SAID CURVE AN ARC LENGTH OF 184.22;(3) TO A POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT CONCAVE NORTHWESTERLY HAVING A RADIUS OF 610.00 FEET AND A CENTRAL ANGLE OF 16°36'27"; AND A CHORD DISTANCE OF 176.19 FEET THAT BEARS SOUTH 33°27'50" WEST; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AN ARC LENGTH OF 176.81 FEET;(4) TO A POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT CONCAVE NORTHWESTERLY HAVING A RADIUS OF 350.00 FEET AND A CENTRAL ANGLE OF 31°51'39"; AND A CHORD DISTANCE OF 192.13 FEET THAT BEARS SOUTH 57°41'53" WEST; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AN ARC LENGTH OF 194.62 FEET; (5) THENCE DEPARTING SAID CURVE ALONG A TANGENT LINE RUN SOUTH 73°37'42" WEST A DISTANCE OF 320.00 FEET;(6) TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 400.00 FEET, AND A CENTRAL ANGLE OF 88°26'57", AND A CHORD DISTANCE OF 557.98 FEET WHICH BEARS SOUTH 30°7'35" WEST; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AN ARC LENGTH OF 617.49 FEET; (7) THENCE DEPARTING SAID CURVE RUN SOUTH 13°50'04" EAST A DISTANCE OF 16.38 FEET TO A POINT ON THE NORTHERLY LINE OF AFOREMENTIONED BLOCK A OF THE PLAT OF PLANTATION ESTATES UNIT 5; THENCE DEPARTING AFORESAID WESTERLY LIMITED ACCESS RIGHT OF WAY LINE AND ALONG SAID NORTHERLY LINE OF BLOCK A RUN NORTH 80°39'40" WEST A DISTANCE OF 4.29 FEET TO A POINT AT A CHANGE OF DIRECTION ALONG SAID NORTHERLY LINE OF BLOCK A; THENCE ALONG SAID NORTHERLY LINE OF BLOCK A RUN NORTH 76°44'40" WEST A DISTANCE OF 508.00 FEET RETURNING TO THE POINT OF BEGINNING.



EXISTING ZONING LEGEND / FUTURE LAND USE

C	CONSERVATION
MPUD	MIXED USE PLANNED UNIT DEVELOPMENT
BPUD	BUSINESS PLANNED UNIT DEVELOPMENT
B-3	SHOPPING CENTER
B-4	GENERAL COMMERCIAL
I-1	LIGHT INDUSTRIAL
SEMUA / TOD	SOUTH EAST MIXED USE AREA / TRANSIT ORIENTED DEVELOPMENT

PARCEL NO.	ACREAGE	LAND USE DESIGNATION
1	13.76	TOD
2	16.19	TOD
3	3.20	TOD
4	14.87	TOD
5	3.26	TOD
6	3.85	TOD
6A	1.19	TOD
ROW	13.70	TOD
TOTAL ACREAGE = 70.02		



LEGEND

- EXISTING BOUNDARY
- - - PROPOSED SITE BOUNDARY
- - - EASEMENT
- ▬▬▬ PROPOSED PHASE BOUNDARY
- ▨ PROPOSED SIDEWALK
- ▨ PROPOSED TRAIL
- ▨ OPEN SPACE AREAS

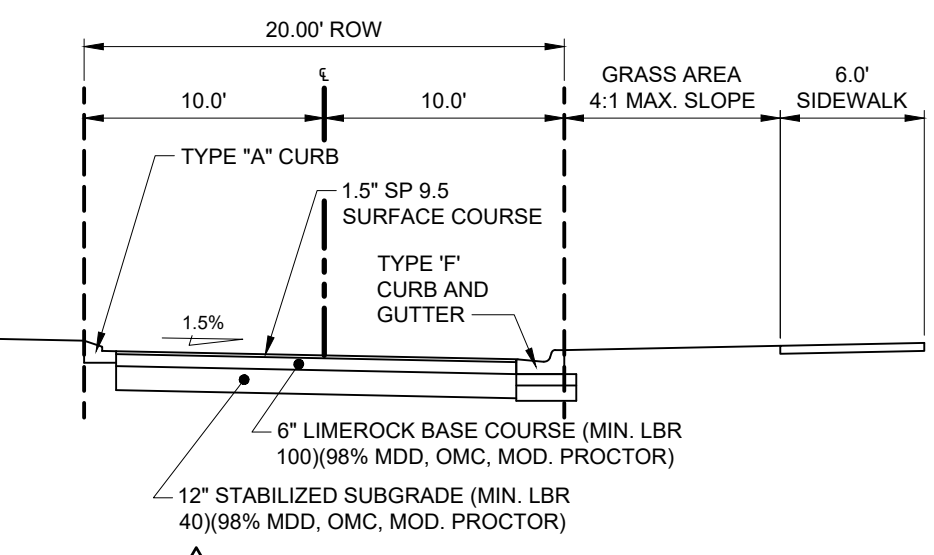
WETLANDS LEGEND

- ▨ EXISTING WETLAND AREAS
- ▨ IMPACTED WETLAND AREA

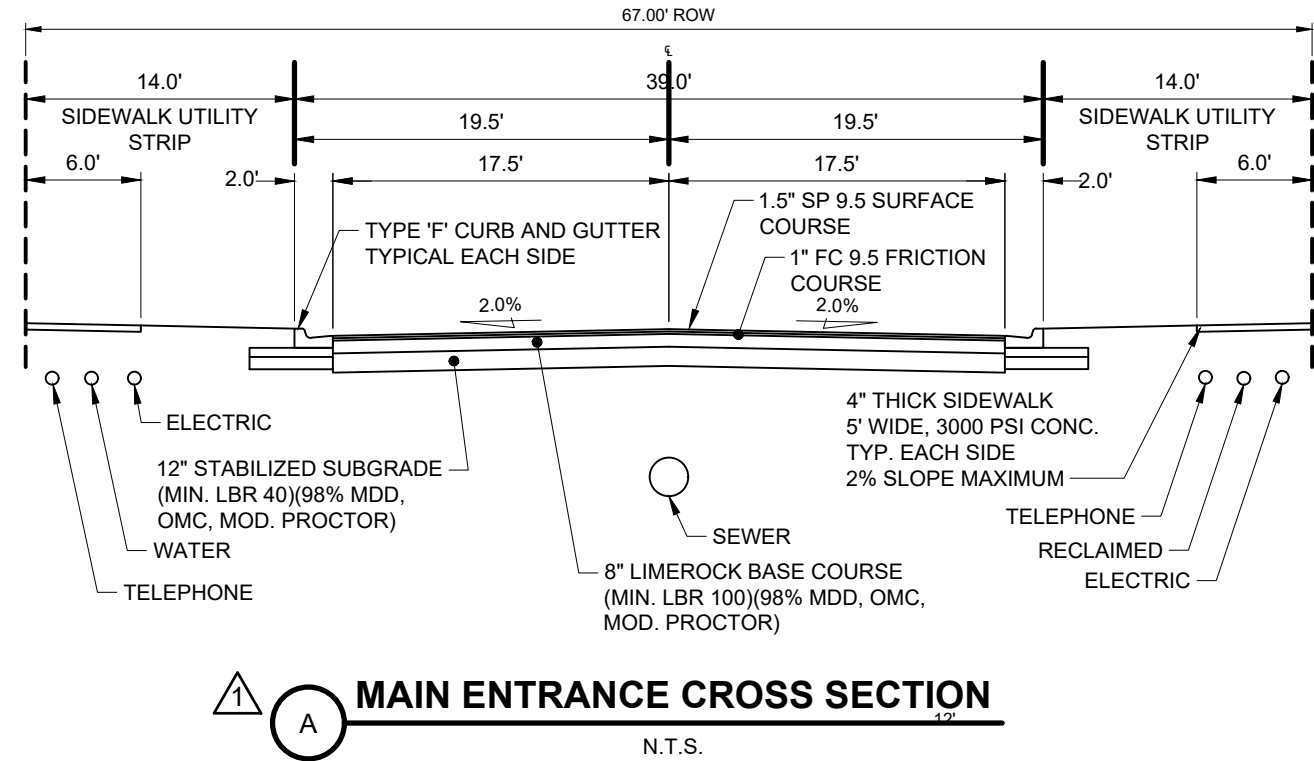
1 TYPICAL LOT DETAIL
N.T.S.

TOD OPEN SPACE REQUIRED
 TOD CORE REQUIRED (5% GSA): 0.37 ACRES
 OUTSIDE CORE REQUIRED (10% GSA): 2.12 ACRES
 TRANSITIONAL AREA REQUIRED (20% GSA): 2.19 ACRES
 TOTAL OPEN SPACE REQUIRED: 4.68 ACRES
 TOTAL OPEN SPACE PROVIDED: 5.12 ACRES

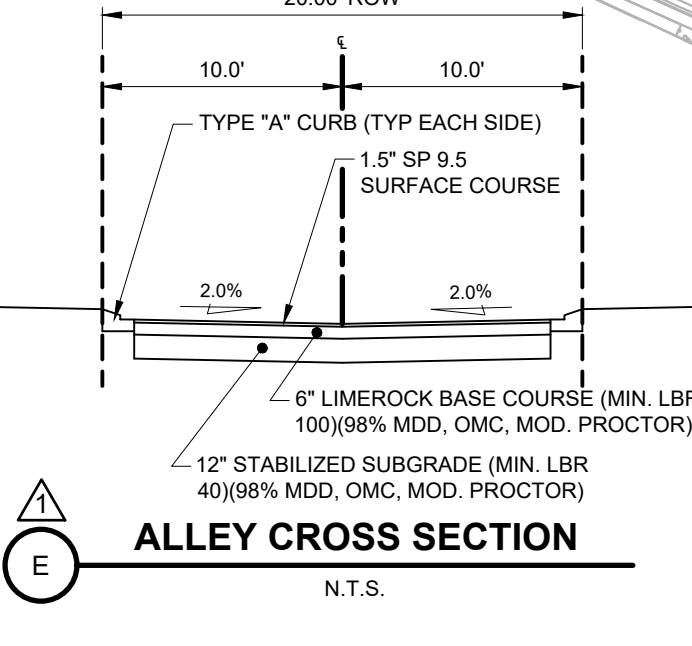
DWELLING UNITS (WITHIN OUTSIDE CORE AND TRANSITIONAL AREA):
 150 SINGLE FAMILY UNITS
 NET DWELLING UNIT AREAS:
 OUTSIDE CORE / TRANSITIONAL AREA: AREA OF RESIDENTIAL PARCEL - ROW
 NET DWELLING UNITS PER ACRE:
 PROPOSED: (DWELLING UNITS / RESIDENTIAL PARCEL AREA)
 OUTSIDE CORE (10% GSA): MIN. 8 DU / ACRE - MAX. 20 DU / ACRE
 TRANSITIONAL AREA (20% GSA): MIN. 8 DU / ACRE - MAX. 20 DU / ACRE



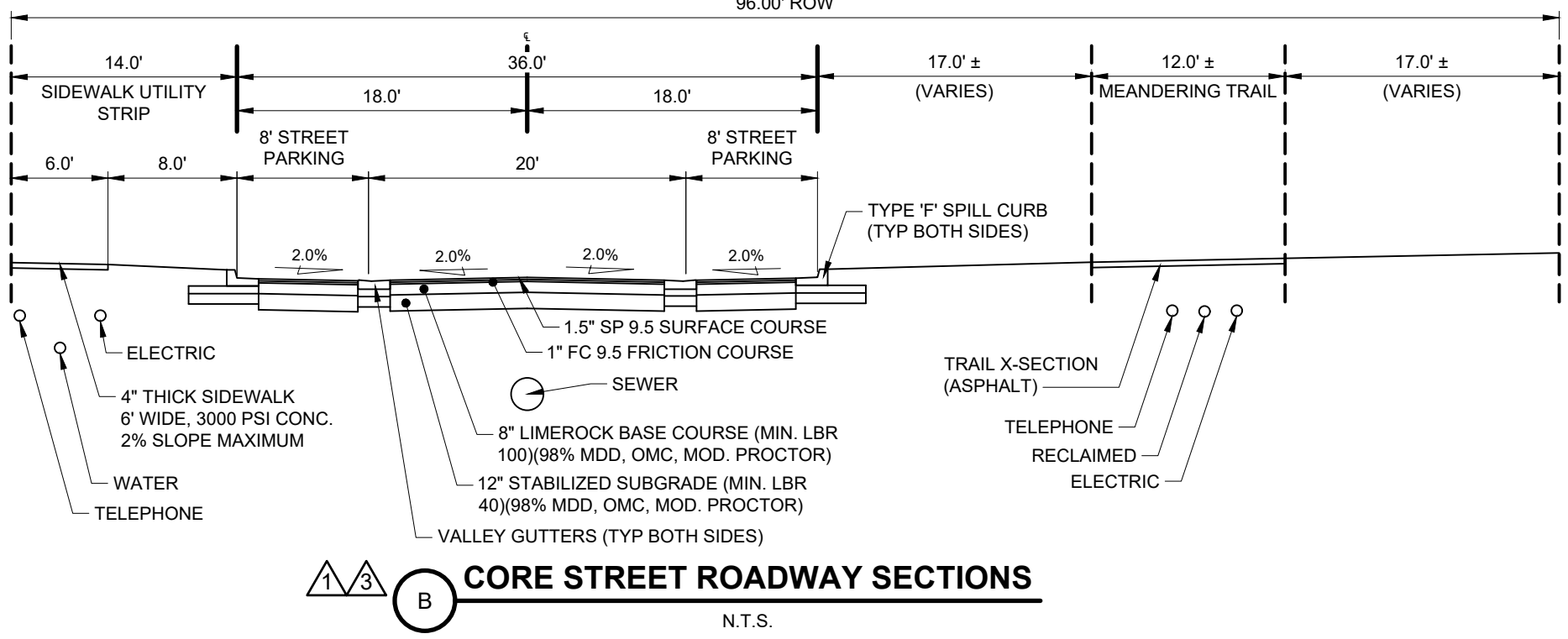
F ALLEY CROSS SECTION 2
N.T.S.



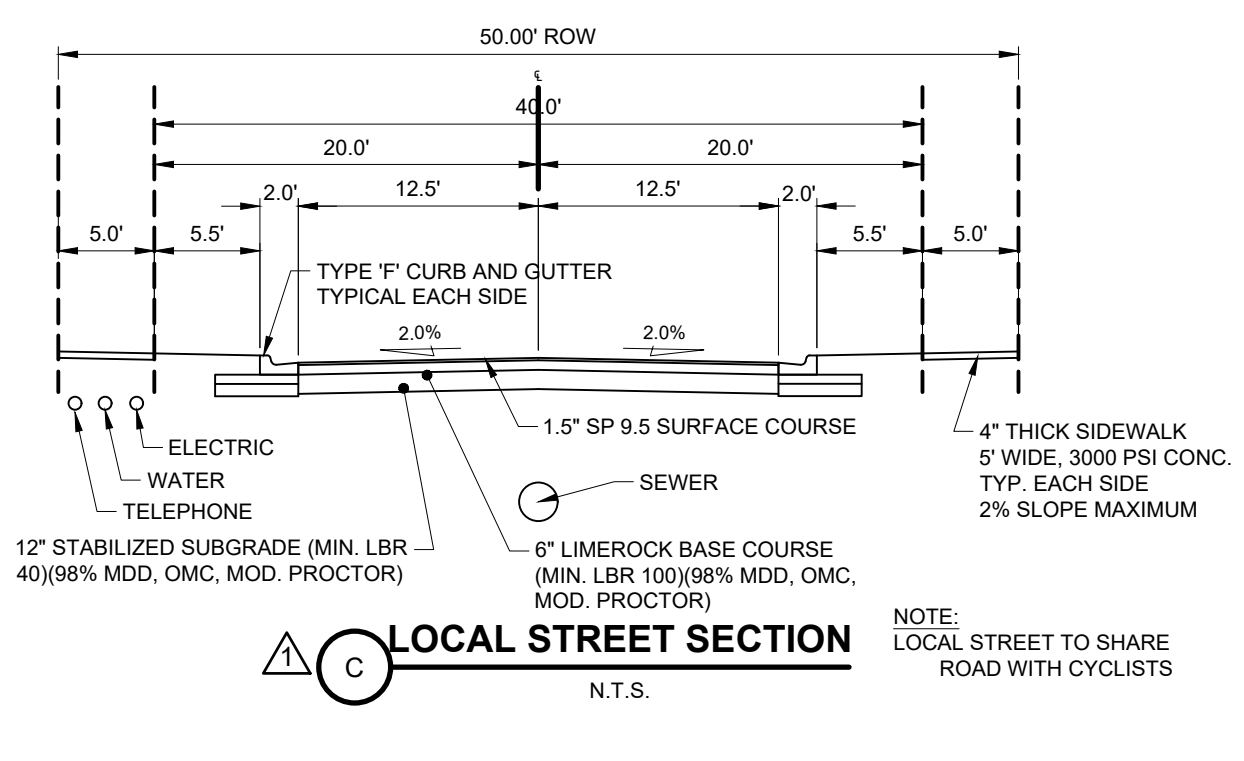
A MAIN ENTRANCE CROSS SECTION
N.T.S.



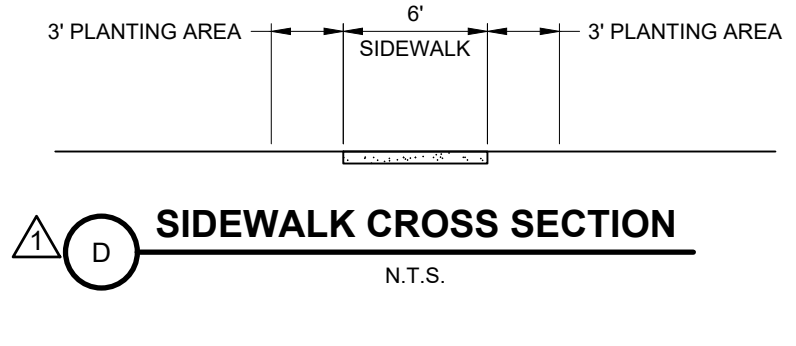
E ALLEY CROSS SECTION
N.T.S.



B CORE STREET ROADWAY SECTIONS
N.T.S.



C LOCAL STREET SECTION
N.T.S.



D SIDEWALK CROSS SECTION
N.T.S.

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 www.cphcorp.com
 A Full Service A & E Firm
 500 West Fulton Street
 Sanford, FL 32771
 Ph: 407.322.6841

Plans Prepared By:
 CPH, Inc.
 State of Florida Licenses:
 Engineer No. 3215
 Surveyor No. LB7143
 Architect No. AA26000926
 Landscape No. LC000298

HOWARD L. WRAY
 5557
 11/11/2021

Date	Revision
12/20/19	PER CITY COMMENTS
12/20/19	PER CITY COMMENTS
3/16/2020	PER CITY COMMENTS
4/7/2020	PER CITY COMMENTS
5/19/2020	PER FOOT COMMENTS
6/26/2020	PER FOOT COMMENTS
7/24/2020	PER FOOT COMMENTS
9/3/2020	PER FOOT COMMENTS
12/9/2020	PER FOOT COMMENTS
1/7/2021	PER FOOT COMMENTS

Designed: D. WALSHAW
 Drawn: R. CARPENTIER
 Checked: D. WALSHAW
 Job No.: D14503
 Date: 05/10/2019 © 2021

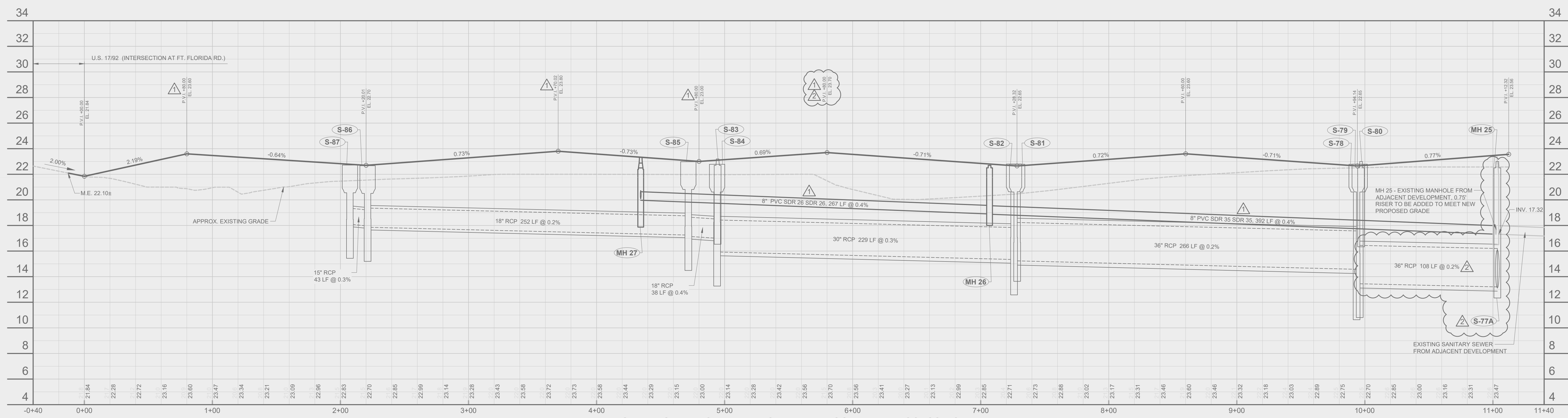
OVERALL SITEPLAN
 THE JUNCTION
 DEBARY / VOLUSIA COUNTY / FLORIDA

THIS SHEET NOT VALID FOR CONSTRUCTION WITHOUT COMPLETE SET OF PLANS. SEE GENERAL NOTES FOR MASTER LEGEND.

Sheet No.
C1.1



IMPROVEMENTS SHOWN ON THIS PAGE ARE PART OF
 A FUTURE PHASE THAT WILL REQUIRE A PERMIT
 MODIFICATION WITH THE SJRWMD



PROFILE - GRAND CENTRAL BOULEVARD (SOUTHERN ACCESS ROAD)

SCALE: 1" = 40' HORIZ
 1" = 4' VERT

No.	Date	Revision
1	12/20/19	PER CITY COMMENTS
2	4/7/2020	PER CITY COMMENTS

Designed: D. WALSHAW
 Drawn: R. CARPENTIER
 Checked: D. WALSHAW
 Job No.: D14503
 Date: 05/10/2019 © 2021

PLAN AND PROFILE

THE JUNCTION

DEBARY / VOLUSIA COUNTY / FLORIDA

THIS SHEET NOT VALID FOR
 CONSTRUCTION WITHOUT
 COMPLETE SET OF PLANS.
 SEE GENERAL NOTES FOR
 MASTER LEGEND.



City Council Meeting City of DeBary AGENDA ITEM

Subject: Resolution 2023-15; Enacting Golf Cart Crossing at Dogwood Trail & N. Pine Meadow Drive	Attachments: <input type="checkbox"/> Ordinance
From: Carmen Rosamonda, City Manager	<input checked="" type="checkbox"/> Resolution
Meeting Hearing Date July 5, 2023	<input type="checkbox"/> Supporting Documents/ Contracts
	<input type="checkbox"/> Other

REQUEST

City Manager is requesting City Council adopt Resolution 2023-15 enacting the Highway 17-92 Golf Cart Crossing at Dogwood Trail and N. Pine Meadow Drive.

PURPOSE

The purpose is to enact the Highway 17-92 golf cart crossing at Dogwood Trail and N. Pine Meadow Drive intersection.

CONSIDERATIONS

- City passed Ordinance #04-2022 on December 15, 2021 modifying the City's regulations pertaining to the operation of golf carts within city limits. The City amended the golf cart regulations with Ordinance #10-2022, passed on or about September 21, 2022.
- In Ordinance #10-2022, Section 50-102, it is required that the City Council approve a Resolution to enact a golf cart crossing on Highway 17-92, which is a state road.
- In June 2022, the City hired Stanley Consultants to conduct a study on both Dogwood/Pine Meadow and Colomba/Lake intersections. This study is required to obtain the FDOT permit. FDOT has approved the Dogwood/N. Pine Meadow intersection.
- The Colomba/Lake intersection still awaits approval from FDOT. This approval had to be sent to Tallahassee due to Lake Drive does not intersect Highway 17-92 at 90 degrees. Per FDOT regulations, this variance requires Tallahassee approval.
- At Dogwood Trail and N. Pine Meadow Drive, all of the signage has been installed. Upon adopting this Resolution, the golf cart crossing becomes active.
- The City has prepared a written document and instructional video explaining crossing procedures.

COST/FUNDING

There is no cost to enact this Resolution.

RECOMMENDATION

It is recommended that the City Council adopt Resolution 2023-15 enacting the Highway 17-92 Golf Cart Crossing at Dogwood Trail and N. Pine Meadow Drive.

IMPLEMENTATION

Immediately upon adoption

ATTACHMENTS

Resolution 2023-15
Ordinance #10-2022

RESOLUTION # 2023-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEBARY, FLORIDA, APPROVING INTERSECTION AT WHICH GOLF CARTS WILL BE AUTHORIZED TO LAWFULLY CROSS STATE-CONTROLLED U.S. HIGHWAY 17/92 PURSUANT TO SECTION 50-102, CITY OF DEBARY CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, § 50-102(2), City of DeBary Code of Ordinances requires that upon receiving approval from the Florida Department of Transportation (“FDOT”) for golf carts to cross U.S. Highway 17/92, the City will pass a Resolution designating the appropriate intersection for golf carts to cross such highway, as approved by FDOT;

WHEREAS, the City has obtained FDOT’s approval for a golf cart crossing at the intersection of Dogwood Trail / North Pine Meadow Drive and U.S. Highway 17/92 (a/k/a North Charles Richard Beall Boulevard) (the “Intersection”); and

WHEREAS, the City desires to enact this Resolution to authorize golf carts to cross at the Intersection, subject to any applicable rules and signage or signalization placed at such intersection.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1: Recitals. The foregoing recitals are ratified and confirmed as being true and correct to the best of the City Council’s knowledge and are hereby made a part of this Resolution.

SECTION 2: Designation of Cross Intersection. The City hereby designates and approves the intersection of Dogwood Trail / North Pine Meadow Drive and U.S. Highway 17/92 (a/k/a North Charles Richard Beall Boulevard) as an intersection where golf carts may, subject to applicable traffic laws, ordinances, rules, signage, and signalization, lawfully traverse across U.S. Highway 17/92.

SECTION 3 Severability. If any section, subsection, sentence, clause, phrase, word, or provision of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion will be deemed a separate, distinct, and independent provision, and such holding will not affect the validity of the remaining portions of this Resolution.

SECTION 4. Conflicts. In the event of a conflict or conflicts between this Resolution or and any other resolution or provision of law, this Resolution governs and controls to the extent of such conflict.

SECTION 5. Effective Date. This Resolution will become effective immediately upon adoption by the City Council of the City of DeBary, Florida.

ADOPTED this ____ day of _____, 2023, by the City Council of the City of Debary, Florida.

CITY COUNCIL
CITY OF DEBARY

Karen Chasez, Mayor

ATTEST:

Annette Hatch, City Clerk

Date

ORDINANCE NO. 10-2022

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, AMENDING ARTICLE III OF CHAPTER 50 OF THE CITY OF DEBARY CODE OF ORDINANCES; MODIFYING THE CITY'S REGULATIONS PERTAINING TO THE OPERATION AND PERMITTING OF GOLF CARTS UPON CERTAIN STREETS, ROADS, AND SIDEWALKS WITHIN THE CITY; AND PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, § 316.212(1), Florida Statutes, permits municipalities to allow golf carts to be operated on municipal roads, streets, and sidewalks provided that they first determine that such carts may safely travel on or cross such public roads, streets and sidewalks upon considering the speed, volume, and character of motor vehicle traffic using those roads or streets; and

WHEREAS, § 316.212(5), Florida Statutes, states that golf carts may be operated only on such public roads or streets during the hours between official sunrise and official sunset, unless the governmental agency specifically determines that such golf carts may also be operated during the hours between official sunset and official sunrise and that golf carts being operated at such times possess headlights, brake lights, turn signals, and windshields; and

WHEREAS, § 316.212(8), Florida Statutes, allows municipalities to enact restrictions and regulations regarding golf cart operations that are more restrictive than those contained in the State Statutes as long as appropriate signage is installed as may be specifically required in accordance with the requirements of controlling law or the residents are otherwise informed that the regulation of golf cart operation in the designated area will be in accordance with a stricter local ordinance; and

WHEREAS, the DeBary City Council appointed a Golf Cart Citizen Advisory Committee, which conducted a study, evaluated the actions of other local governments with regard to the authorization and regulation of golf carts, and presented a business case with recommendations determining that golf carts may safely travel on or cross municipal roads, streets, and sidewalks considering the following factors: speed, volume, and the character of motor vehicle traffic using the relevant roads or streets; and

WHEREAS, the city council determined that golf carts are a valid form of transportation and are commonly used as a mode of mobility from place-to-place and for utility purposes; and

WHEREAS, the city council has evaluated numerous materials developed by other local governments during the course of considering the enactment of this ordinance; and

WHEREAS, the city council determined that the use of golf carts is an environmentally friendly mode of transportation; and

WHEREAS, the city council found that golf carts generally operate at low speeds and are generally operated safely when driven properly and fitted with properly installed safety equipment; and

WHEREAS, the city council found that the City of DeBary is a community that is well suited and will be benefitted by the appropriate use of golf carts for the purpose of transportation within appropriate areas of the city; and

WHEREAS, the city council determined that golf carts may safely be operated on certain city roads, streets and sidewalks; and

WHEREAS, pursuant to such and other legislative findings, the city council enacted Ordinance 04-2022 on December 15, 2021, authorizing the operation of golf carts upon certain designated streets, roads, and sidewalks within the City; and

WHEREAS, the City has continued to monitor and evaluate the regulations contained in such ordinance and the implementation thereof; and

WHEREAS, the City has determined that additional adjustments and modifications to Ordinance 04-2022 are necessary; and

WHEREAS, the City of DeBary has complied with all requirements and procedures of Florida law in processing and advertising this ordinance; and

WHEREAS, the city council believes that modifications proposed in this ordinance promote and enhance the health, safety and welfare of its citizens; and

WHEREAS, § 2(b), Art. VIII of the Florida Constitution and § 166.021(1), Florida Statutes, establishes the home rule powers of Florida cities and provides that municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, this Ordinance implements and is enacted under the home rule powers vested in Florida cities by the Constitution of the State of Florida.

NOW THEREFORE, it is hereby ordained by the City of DeBary as follows:

SECTION 1. Legislative Purposes, Findings and Intent. The foregoing recitals (whereas clauses) to this ordinance are hereby adopted as the legislative findings of the DeBary City Council and are incorporated into this ordinance as if set fully set forth herein.

SECTION 2. City Code Amendment. Certain portions of Article III of Chapter 50 of the City of DeBary Code of Ordinances pertaining to the use of golf carts within the City of DeBary are hereby amended (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

ARTICLE III. – GOLF CARTS

Sec. 50-100. Definitions. The following terms shall have the following meanings in the application and enforcement of this Ordinance:

- (1) The term “ATV” shall have the same definition as set forth for such term in § 317.0003, Florida Statutes.
- (2) The term “bicycle path” means that part of any road or street that has been designated or physically separated from the area used by motor vehicles by striping, signing, or pavement markings for the preferential and exclusive use of bicyclists.
- (3) The term “city manager” shall mean and refer to the chief administrative officer of the city as appointed pursuant to Article VI of the Charter of the City of DeBary.
- (4) The term “county” shall mean and refer to Volusia County, Florida.
- (5) The term “county road” shall mean and refer to roads and streets over which the county has original jurisdiction pursuant to § 316.006, Florida Statutes, or that are part of the “county road system” as defined in § 316.003, Florida Statutes.
- (6) The terms “designated municipal street, road, sidewalk, or trail” refer to the paved area of an improved street, road, sidewalk, or trail, as applicable, which has been determined by the city council as a street, road, sidewalk, or trail on which golf carts may be operated under the provisions of this ordinance.
- (7) The term “golf cart” shall have the same definition as set forth for such term in § 320.01, Florida Statutes. Golf carts operating within the City of DeBary must meet minimum equipment standards as set forth in controlling law and may not be modified to have increased power, wheel base, or tire modifications from a standard manufactured gas or electric golf cart.
- (8) The terms “low speed vehicle” and “LSV” shall have the same definition as set forth for such terms in § 320.01, Florida Statutes.
- (9) The term “municipal road” shall mean and refer to those roads and streets over which the city has original jurisdiction pursuant to § 316.006, Florida Statutes, including any private roads and streets over which the city or its proxy has been granted municipal traffic enforcement authority, whether by easement or other contractual arrangement.

- (10) The terms “off-highway motorcycle” and “OHM” shall have the same definition as set forth for such terms in § 317.0003, Florida Statutes.
- (11) The term “off-highway vehicle” shall have the same definition as set forth for such term in § 317.0003, Florida Statutes.
- (12) The term “operator” means the person registering a golf cart with the City of DeBary for use within the city or any person who is using a golf cart within the city.
- (13) The term “ROV” shall have the same definition as set forth for such term in § 317.0003, Florida Statutes.
- (14) The term “sidewalk” shall have the same definition as set forth for such term in § 316.003, Florida Statutes.
- (15) The term “state” shall mean and refer to the State of Florida.
- (16) The term “state road” shall have the same definition as set forth for such term in § 316.003, Florida Statutes.
- (17) The term “trailer” shall mean and refer to a trailer or cart towed behind a golf cart that is designed to carry material, equipment, fill, tools, or other items.
- (18) The definitions set forth in § 334.03, Florida Statutes, are incorporated herein by reference and are be applicable to the extent applicable in the context of the provisions of this Ordinance.

Sec. 50-101. Authorized Use of Golf Carts on Municipal Roads, Streets and Sidewalks.

- (1) Golf carts may be operated on all municipal roads, streets and sidewalks in accordance with § 316.212, Florida Statutes, but only as implemented and permitted by the provisions of this article.
- (2) In addition to the requirements of § 316,212, Florida Statutes, which is applicable to the operation of golf carts on the aforementioned designated roads, streets, and sidewalks, the following restrictions shall also apply:
 - a. Golf carts are the only motorized vehicles that may travel on designated municipal sidewalks and trails.
 - b. LSVs and ROVs are prohibited from traveling on municipal sidewalks and trails, regardless of designation for golf cart use.

- c. ATVs and other off-highway vehicles and off-highway motorcycles are prohibited from traveling on municipal roads, sidewalks, and trails, regardless of designation for golf cart use.
- (3) This article applies to the operation of golf carts and other motorized vehicles on municipal roads, streets, and sidewalks and does not otherwise apply to:
- a. The operation of any golf carts or other motorized vehicles on lands owned, controlled, or otherwise managed by the state or county, which operation, if any is permitted, will be governed by applicable state or county laws, rules, or policies pertaining to same;
 - b. The operation of any golf carts or other motorized vehicles when operated solely on private property, which property does not meet the definition of a municipal road or sidewalk adjacent thereto, such as private golf courses and other privately owned lands; or
 - c. The operation of any golf carts or other motorized vehicles owned by the city when operated by city employees, contractors, or agents on city owned, controlled, or managed lands in connection with the conduct of city business.

Sec. 50-102. Designation of Municipal Roads, Streets and Sidewalks for Golf Cart Use.

- (1) Highway 17/92, also known as Charles Richard Beall Boulevard is a state road. Until such time as the state grants authorization to the city and the city approves same via adoption of a resolution, all golf carts are prohibited from being operated on such road or the sidewalk(s) adjacent thereto.
- (2) Upon review and approval by the Florida Department of Transportation and upon adoption of a resolution by the city approving same, golf carts are permitted to cross Highway 17/92 at a 90-degree angle only at those intersections and locations designated and equipped for such purposes in accordance with § 316.212(2), Florida Statutes, as amended or transferred. A person crossing in such a manner must comply with any signaling and signage posted or installed at such intersections.
- (3) Saxon Boulevard, Enterprise Road, and Dirksen Drive are county roads. Until such time as the county permits the city to authorize the use of golf carts upon or adjacent to such roads and the city adopts a resolution approving same, all golf carts are prohibited from being operated on such county roads or on the sidewalk(s) adjacent thereto.

(4) All other roads within the city limits are municipal roads. There are two types of municipal road designations:

a. *Arterial Roads.* Arterial roads are roads or streets designated by the city as high-traffic designated roads. Golf carts are not authorized to travel on arterial roads. Instead, golf carts are authorized to travel on the adjacent sidewalks and trails of designated arterial roads as defined herein.

i. Arterial roads are identified as having center lane striping.

ii. Sidewalks and trails on arterial roads are shared sidewalks with pedestrians, bicycles and golf carts. Right-of-way on these sidewalks and trails is prioritized as follows, with (1) being highest priority and (3) being lowest priority: (1) pedestrians, (2) bicycles, and (3) golf carts. Lower priority users must yield to higher priority users.

iii. Golf carts are not permitted to be operated on the shoulder of or adjacent to arterial roads without adjacent sidewalk(s) or trails.

iv. By this Ordinance, golf carts are authorized to travel on the sidewalks and trails adjacent to the following designated arterial roads within the DeBary city limits:

1. DeBary Plantation Blvd.
2. Donald E. Smith Blvd.
3. East Highbanks Road
4. West Highbanks Road
5. Ft. Florida Road
6. North Shell Road
7. South Shell Road, including the future portion known as Main Street
8. Colomba Road, including that portion of Alicante Road running between Colomba Road west of Alicante Road and Colomba Road east of Alicante Road.
9. DeBary Drive
10. Spring Vista Road between Highway 17-92 and South Shell Road.
11. Benson Junction Road.
12. North Pine Meadow Road
13. South Pine Meadow Road.
14. Alexandra Woods Road
15. Barwick Road

- 16. Palm Drive
- 17. Mansion Blvd
- ~~18. Matanzas Road~~
- ~~19.~~18. Amigos Road between East Highbanks Road and Plumosa Road
- ~~20.~~19. Dogwood Trail
- ~~21.~~20. Columbine Trail
- ~~22.~~21. Sunrise Road between Dirksen Drive and Palm Drive
- ~~23.~~22. Summerhaven Drive

- b. *Residential Roads.* Residential roads are roads and streets designated by the city as low traffic roads and lack centerline striping. All municipal roads and streets, whether public or private and which are not arterial roads, are designated as residential roads. The city hereby authorizes the operation of golf carts on residential roads within the city limits of DeBary.

Sec. 50-103. Golf Cart Equipment Regulations.

- (1) For safety, golf carts operated on designated municipal streets, roads, sidewalks, or trails must be appropriately equipped with the following properly functioning items that are in usable and operable condition:
 - a. A clear windshield mounted at the front of the vehicle so as to reasonably protect the face of the golf cart operator from wind and debris while the golf cart is underway. Such windshield must be in good repair, free of cracks, and not be covered, marred, stained, or painted over so as to obstruct the operator's field of vision when operating the golf cart.
 - b. Driver's side exterior mirror.
 - c. Either an interior rear view mirror or a passenger's side exterior mirror.
 - d. Two headlamps mounted on the front of the golf cart and facing forward, which show a white light. An object, material, or covering that alters the headlamp's light color may not be placed, displayed, installed, affixed, or applied over a headlamp. Light bars are prohibited.
 - e. Two tail lamps mounted on the rear of the golf cart facing rearward, which must emit a red light plainly visible from a distance of 1,000 feet to the rear of the vehicle. Such tail lamps must be enabled to additionally function as brake lamps so that they automatically emit

a distinctively brighter red light when the brakes of the golf cart are applied.

- f. Brakes and parking brake.
 - g. Front and rear turn signals. When signaling, front turn signals must emit a flashing amber light while rear facing turn signals must emit a flashing light that is either amber or red in color.
 - h. A reliable steering apparatus.
 - i. Rear and side reflex reflectors.
 - j. A horn installed into the golf cart so as to be easily operated by the operator of the golf cart and that is plainly audible when activated.
 - k. Golf carts may be equipped with a trailer, the dimensions of which may not exceed 40" wide and 60" long. The total weight of the material or other items hauled in the trailer may not exceed the weight limit specified by the manufacturer of the trailer or the manufacturer's towing capacity for the golf cart to which the trailer is attached. Golf carts equipped with trailers must be equipped with a properly installed trailer hitch or hitch pin accessibly that is appropriate to the linkage used by the attached trailer. Golf cart trailers may not be used to transport or otherwise carry (i) passengers or (ii) vehicles such as boats, ATVs, and other motorized vehicles, including additional golf carts. Trailers not otherwise designed to be towed by a golf cart are not permitted.
- (5) The number of occupants in any golf cart operated pursuant to this article is restricted to the number of seats on the golf cart. For the purposes of this provision, both pets and persons qualify as "occupants," and a standard golf cart bench seat is deemed to allow seating for three occupants. No occupants of a golf cart may stand at any time while the golf cart is in motion.

Sec. 50-104. Age Restrictions and Insurance.

- (1) Operators of golf carts on designated streets, roads, sidewalks, and trails within the city must meet the following requirements:
 - a. Operators must be at least 16 years of age and have a valid driver's license.

- b. Operators with a learner's permit may drive a golf cart if accompanied by a passenger of at least 21 years of age with a valid driver's license.
- (2) Owners of golf carts are required to carry and maintain a personal injury and property damage insurance policy covering operation of such carts in the minimum amounts of \$10,000 per occurrence, \$10,000 in the aggregate. Upon registration and permitting, owners must show proof of insurance.

Sec. 50-105. Registration and Permitting.

- (1) Prior to operating a golf cart on designated municipal streets, roads, sidewalks, or trails, an owner of a golf cart must register such cart with the city and obtain a permit as set forth herein.
- (2) Golf carts must be registered prior to use in the City of DeBary pursuant to this article. Registration is required on an annual basis. The manager, or his/her designee, shall implement a registration program and the city manager is hereby authorized to adopt administrative rules and promulgate forms in order to implement the provisions of this article. The city shall charge a registration fee in an amount determined by resolution adopted by the city council as amended from time-to-time.
- (3) Before any golf cart can drive on designated municipal roads, streets, sidewalks, or trails the owner of the golf cart must register and apply for a city permit. The following are the requirements of registration:
 - a. The golf cart permit is a permit issued on an ~~annual~~biennial basis running from January 1st through December 31st of each 2-year municipal registration period~~year~~.
 - b. All golf cart permits must be renewed at the commencement of each 2-year municipal registration period~~every 2 years~~.
 - c. All golf cart permits are ~~annual~~biennial permits, per golf cart with no prorated or partial pricing, which will remain in effect through the end of the current two-year cycle in during which such permit is issued, unless otherwise suspended or revoked. The city council may establish or amend the permit fee by resolution at any time; however, if no such resolution is adopted, such fee shall be \$25.00.
 - d. Each owner, upon approved registration, will receive an ~~annual~~a permit sticker for the current two-year municipal registration cycle to be placed on the windshield of the golf cart on the driver's side, lower corner, and facing outward.

- e. As a requirement of registration, the owner must sign an affidavit certifying that such person is the owner of the golf cart, has read and understood the city's ordinances, Florida Statutes, and general guidelines governing the usage and operation of golf carts on designated municipal streets, roads, sidewalks, and trails of the City of DeBary, and acknowledges and certifies that the golf cart is properly equipped with the equipment required by this article.
 - f. The golf cart owner must provide proof of insurance at the time of each ~~annual~~ registration that such owner is carrying personal injury and property damage insurance for the operation of such golf cart in the minimum per occurrence and aggregate amounts of \$10,000. Insurance must be maintained at all times, and failure to maintain such insurance shall be grounds for revocation of a permit issued hereunder.
 - g. The owner must provide a valid driver license and up to date contact information which includes, but is not limited to, the owner's legal name, physical and mailing addresses, telephone number, and email address.
 - h. For permit renewals and regardless of whether a golf cart owner continues to own a previously permitted and registered golf cart, the owner must complete a new application, execute the requisite affidavit, and provide proof of insurance.
- (4) Driving a golf cart on municipal roads, streets, sidewalks, or trails without a permit or an expired permit will subject the owner to a \$150 fine per incident.
- (5) The city has the right to reject or not renew any permit registration application if the application is incomplete, all of the minimum requirements are not met, or if the applicant has been found in violation of this article two (2) or more times within the past twelve months of the date of his/her annual application.
- (6) The City Manager may revoke a registration via a written revocation letter at any time for the following reasons:
- a. Operating a golf cart in a reckless manner or in such a manner so as to cause injury to pedestrians, other golf cart operators, or bicyclists;
 - b. Operating a golf cart in such a manner so as to result in damage to public or private property;

- c. Operating a golf cart with general disregard of the rules resulting in two or more moving violations involving the operation of a golf cart within a single twelve (12) month period; or
 - d. The person registering a golf cart or applying for a permit falsifies his/her registration of same or affidavit pertaining to such.
- (7) The city manager may issue a revocation letter to the owner of a golf cart. The golf cart owner may appeal the revocation within 30 days of the date of the letter to the city council. Such appeal must be in writing and set forth the specific legal and factual basis as to why the city manager's revocation should not be upheld. The city council will consider the appeal at its next regular city council meeting occurring 30 days or more following the filing of such appeal with the city manager's office.
- (8) Revocation will become final if the golf owner fails to timely file an appeal or the Council upholds the revocation. Upon revocation, a person may not apply for or register a golf cart for a period of one (1) calendar year following revocation.

Sec. 50-106 Moving Violations.

- (1) Golf cart operators shall ensure that their golf carts are maintained and operated in accordance with all applicable local and state traffic laws and may be ticketed or otherwise cited for traffic violations in the same manner as operators of motor vehicles.
- (2) Golf cart operators must comply with all traffic control signs, signals, and applicable laws when operating a golf cart at or across intersections, and it is unlawful for the operator to fail to abide by such signs, signals and laws.
- (3) Golf carts operating subject to this article may be operated only during the hours between sunrise and sunset, unless the golf cart is equipped with 24 hours per day, seven days each week if possessing operational headlights, brake lights, tail lights, turn signals, and windshields, in which case, the golf cart may be operated during the hours between sunset and sunrise. Golf cart operators utilizing their golf carts during the hours between sunset and sunrise shall ensure that the headlights of such golf carts are activated and that they are using turn and braking signals appropriately.
- (4) Golf carts may not be operated on state bike trails or within any other areas where such vehicles are prohibited from operating by law, rule, ordinance, or duly adopted policy.
- (5) Golf carts may be used to cross state and county roads only at crosswalks where there are functioning traffic lights and pedestrian signals equipped.

Any golf cart crossing a state or county road may cross only when indicated by a walk signal and while operating within the designated crosswalk.

- (6) It is a violation of this article to operate a golf cart at a speed in excess of the posted speed or speed mandated by this article.
- (7) It is a violation to operate a golf cart in a reckless manner so as to endanger or cause injury to pedestrians, other golf cart operators or riders, or private or public property.

Sec. 50-107. Signage Related to Golf Carts.

- (1) The city manager or his or her designee shall post signs and other postings as may be required by controlling law to implement the provisions of this article, and all signage installed by the city must be in a form and installed as may be required in accordance with the controlling provisions of law and sound and generally accepted engineering practices and principles as determined by the city; provided, however, that it is not the intent of this article to require the city to install or maintain any signage that is not required by applicable state law.
- (2) Regardless of the foregoing, it is not be a defense to any enforcement action under statute or the provisions of this article, in any forum of any type or nature, that signage was not in place or was not noticed or understood by an operator of a golf cart.
- (3) The posting or failure to post signage under the provisions of this article may not serve as the basis for any liability of any type or nature against the city or any of its officials, officers, or employees.

Section 10. Penalties/Enforcement/Collections.

- (1) Any person determined to be in violation of this article is subject to fines and code enforcement proceedings and citations to the maximum extent permitted by state law, and the City of DeBary may take any enforcement action and seek any legal remedy available under controlling Florida law.
- (2) Under certain circumstances, it is a violation of state law for a person to refuse to take action at the time a citation is issues, and the city shall enforce those laws and pursue statutory violations in accordance with controlling Florida law.
- (3) Without in any way limiting the generality of the provisions of subsections (1) and (2) of this section, a violation of this article constitutes a non-criminal infraction enforceable pursuant to the provisions of § 316.212(9), Florida Statutes (2021), as such may be amended or transferred. The use of

a golf cart resulting in violations of the Florida "Uniform Traffic Control" statute and the Florida "Uniform Disposition of Traffic Infractions Act" are enforceable as provided in Chapters 316 and 318, Florida Statutes. All other city ordinances pertaining to the use of motor vehicles are also applicable to the operation of golf carts to the extent that such may be applied. The city may enforce the provisions of this article in any manner authorized in accordance with applicable law and may seek any legal remedy as may be authorized by applicable law.

- (4) The city manager is hereby authorized to pursue collection activities relative to fines imposed against code violators in such manner, and using such processes, as may be in the best interests of the city and may authorize collection agencies and/or the city attorney to pursue collections in a manner consistent with applicable law.

SECTION 3. Codification. Section 2 of this ordinance is incorporated into the Code of Ordinances of the City of DeBary, Florida. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the substance, construction, or meaning of this ordinance or the city's Code of Ordinances may be freely made.

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase, word, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion will be deemed a separate, distinct, and independent provision, and such holding will not affect the validity of the remaining portions of this ordinance.

SECTION 7. Conflicts. In the event of a conflict or conflicts between this ordinance and any other ordinance or provision of law, this ordinance governs and controls to the extent of such conflict.


SECTION 8. Effective Date. This ordinance will take effect immediately upon adoption, except that to allow for the sunset of the annual permitting regime, the amendments to § 50-105. Registration and Permitting under the City's Code of Ordinances will not take effect until January 1, 2023.

FIRST READING: August 17, 2022

SECOND READING: September 21, 2022

ADOPTED this 21ST day of September, 2022.

CITY COUNCIL
CITY OF DEBARY



Karen Chasez, Mayor

ATTEST:



Annette Hatch, CMC, City Clerk

Date: September 21, 2022

SEAL





VOLUNTEER ADVISORY BOARD/COMMITTEE APPLICATION

Thank you for your interest in serving the City of DeBary. Your completion of this application is necessary so members of the City Council can thoroughly review each application as part of their consideration for your appointment. Please check the Board(s) / Committee(s) you are interested in serving on.

- Bicycle and Pedestrian Advisory Committee to the TPO
- Charter Review Committee
- Citizens Advisory Committee to the TPO
- Golf Cart Review Committee
- Historic Preservation Advisory Board
- Orlandia Heights Neighborhood Improvement District Board
- River of Lakes Heritage Corridor Scenic Highway Board
- Temporary Appointed City Council Member
- Volusia Growth Management Commission

PERSONAL (PLEASE PRINT)

Name: John MacFarlane

Mailing Address: 301 N Pine Meadow Dr

City: DeBary State: FL Zip: 32713

Residence (if different from mailing): 2 Spring Glen Dr, DeBary, FL 32713

Home Phone: 386-837-7087 Cell Business Phone: 386-668-2626

Email Address: John@NextHomeRealtyPros.com

Are you a registered voter in DeBary? Yes No

Length of residency in DeBary: Years 4 Months 7

Occupation: Real Estate Broker

Applicant Name: John MacFarlane

Are you currently serving on any other City advisory boards? Yes _____ No X

Have you ever served on a City advisory board? Yes _____ No X

If yes, when and which board? _____

Have you graduated from DeBary Citizens Academy? Yes 2022 _____ No _____

WORK HISTORY (PLEASE PRINT)

Present Employer Name: NextHome Realty Pros (Broker/Co-Owner) & DeBary Executive Center (Co-Owner)

Employer Address: 301 N Pine Meadow Dr, DeBary, FL 32713

Employer Phone Number: 386-668-2626 Employment Dates: September 2022 to Present

Job Duties:

Training, Retention, Hiring, Marketing, Sales, Budgeting, Legal Compliance, Light Accounting, Motivator, Networking, File Auditing, Advertising, Record Retention

Previous Employer Name: Central Florida Home Pros, LLC (Broker/Co-Owner)

Employer Address: 301 N Pine Meadow Dr, DeBary FL 3271

Employer Phone Number: 386-668-2626 Employment Dates: Dec 2012 to Sept 2022

Job Duties:

Training, Retention, Hiring, Marketing, Sales, Budgeting, Legal Compliance, Light Accounting, Motivator, Networking, File Auditing, Advertising, Record Retention

REFERENCES (May be business and/or personal) (PLEASE PRINT)

NAME, ADDRESS & TELEPHONE NUMBER Peter Kurkjian – 301 N Pine Meadow Dr, DeBary, FL 32713 - 386-837-7086

NAME, ADDRESS & TELEPHONE NUMBER Shari Simmans – 16 Colomba Rd, DeBary, FL 32713

NAME, ADDRESS & TELEPHONE NUMBER Janet Knauff – 120 S Florida Ave, DeLand, FL 32720 – 352-408-0555

Applicant Name: John MacFarlane

EDUCATION

High School: DeLand High School (1985)

College: Daytona State College (some) Degree: No Degree

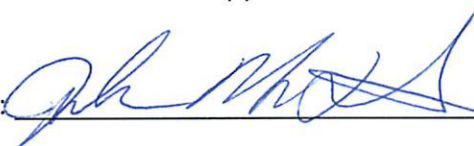
Postgraduate: _____ Degree: _____

ACTIVITIES / COMMUNITY INVOLVEMENT: WV Assoc of Realtors Board of Directors 2014-2015, Committee Chair Liaison for the West Volusia Regional Chamber of Commerce (WVRCC) 2014-2019, Board of Directors WVRCC 2019-2022 – VP 2020-2021 – President 2022, DeLand Chamber of Commerce Ambassador 2022 to present.

WHY DO YOU WANT TO SERVE ON THIS/THESE BOARDS?: I have always enjoyed being involved with the community, as a DeBary Resident I would like to be a part of the development projects. There are great things happening to our beautiful city, and I would like to help ensure that the vision our City leaders have become a reality.

WHAT WOULD YOU WANT TO ACCOMPLISH DURING YOUR TERM?: The growth and development of our city and the surrounding areas is inevitable, keeping the feeling and culture of DeBary during this time would be essential.

I understand the responsibilities associated with being a board/committee member and I have adequate time to serve if appointed.

Signature:  Date: 6/21/2023

RETURN COMPLETED APPLICATION TO:

City Clerk
City of DeBary
16 Colomba Road
DeBary, Florida 32713
(386) 601-0219
ahatch@debary.org