SPECIAL CITY COUNCIL MEETING
April 20, 2022 at 6:30 PM
City Council Chambers, 16 Colomba Rd.
DeBary, Florida 32713

AMENDED AGENDA

CALL TO ORDER
   Invocation
   Flag Salute

ROLL CALL

PUBLIC PARTICIPATION: For any 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.

DELETIONS OR AMENDMENTS TO THE AGENDA (City Charter Sec. 4.11)

PUBLIC HEARINGS

1. The applicant, Michael McCrary, is requesting City Council approve a Special Exception to allow for a garage apartment at 70 Catalina Drive (Quasi-Judicial).

GROWTH MANAGEMENT AND DEVELOPMENT

2. The applicant, Dean Barberree of HR Rivington, LLC, is seeking final plat approval for Rivington Phase 2A, which consists of lots 305-356.

NEW BUSINESS

3. The City Manager is requesting City Council award the construction contract for the Woodbound Lake Outfall System Improvements – Phase 2 and Phase 3, Bid No. 10-21, to the lowest responsive and responsible bidder, Carr and Collier, Inc. of Okahumpka, Florida.

4. The Parks and Recreation Department is requesting City Council award RFQ 11-21 Rob Sullivan Operations Center to D & A Construction Group, Inc for the amount of $240,000.

5. City Manager is requesting City Council approval to increase City Manager’s annual salary to $180,000 effectively immediately.

COUNCIL MEMBER REPORTS / COMMUNICATIONS

Member Reports/ Communications
   A. Mayor and Council Members
   B. City Manager
   C. City Attorney
DATE OF UPCOMING MEETING / WORKSHOP

Regular City Council Meeting May 4, 2022, 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  
City of DeBary  
AGENDA ITEM

<table>
<thead>
<tr>
<th>Subject: Special Exception - 70 Catalina Drive</th>
<th>Attachments:</th>
</tr>
</thead>
<tbody>
<tr>
<td>From: Carmen Rosamonda, City Manager</td>
<td>( ) Ordinance</td>
</tr>
<tr>
<td>Meeting Hearing Date April 20, 2022</td>
<td>( ) Resolution</td>
</tr>
<tr>
<td></td>
<td>( ) Supporting Documents/ Contracts</td>
</tr>
<tr>
<td></td>
<td>(X) Other</td>
</tr>
</tbody>
</table>

REQUEST

The applicant, Michael McCrary, is requesting that City Council approve a Special Exception to allow for a garage apartment at 70 Catalina Drive (Quasi-Judicial).

PURPOSE

The purpose of the proposed Special Exception is to allow the applicant to convert an existing shed into a garage apartment.

CONSIDERATIONS

- This agenda item was originally scheduled for April 6, 2022 Council Meeting. Due to posting errors on the property, the hearing was continued to April 20, 2022 at 6:30pm.

- The subject site is located at 70 Catalina Drive. The applicant is requesting a Special Exception to permit them to convert an existing shed located in their rear yard into a garage apartment. The Future Land Use for the subject property is Agriculture/Rural and the zoning is Rural Residential (RR).

- Land Development Code Sec 3-88(c) allows for garage apartments to be permitted as Special Exceptions.

- Pursuant to Land Development Code Section 1-9, Special Exceptions are certain uses or development situations that may involve consideration of special circumstances or factors to determine that they are appropriate to the specific location and property. In considering a request for a special exception, the City Council shall evaluate the request against the criteria put forth in Section 1-9 (2) Criteria for Special Exceptions attached as Exhibit A.

(2) Criteria for special exceptions. All applications for special exceptions shall be reviewed and approved in accordance with the following criteria:

a. The proposal shall be consistent with the Comprehensive Plan. The proposed use does not conflict with the Comprehensive Plan.
b. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare. The proposed use will not likely cause undue harm to the public health, safety or welfare.

c. The proposed use shall not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the district and shall be consistent with the character of the immediate neighborhood. The proposed use will not affect the character of the area.

d. Adequate measures shall be taken for ingress, egress and parking in a manner consistent with traffic operations and safety. There will be no paving of a driveway.

e. The proposal shall not have a substantial adverse effect on any known archaeological, historical, or cultural resource located on or off the site. The proposed garage apartment will not have a substantial adverse effect on any known archaeological, historical, or cultural resource.

f. The proposed design shall minimize adverse effects of the use on adjacent property, including visual impacts. The proposed use would not have any substantial adverse effects on the use of adjacent property.

g. Adequate provision shall be made for buffers, landscaping, public open space, and other improvements necessitated by the proposal. The proposed structure would be naturally buffered from the right-of-way.

h. The use shall meet the lot and building requirements of the district in which it is located unless the requirements are specifically modified by the City Council. A special exception shall meet any specific requirements identified in this Code and no variance shall be granted from these requirements. The applicant is able to meet the lot and building requirements of the district in which it is located.

i. The use shall comply at all times with the approved development plan, and any conditions imposed for establishment and operation of the use. The use will comply if the Special Exception is approved.

• The proposed Special Exception was noticed in the Orlando Sentinel on Saturday, March 26, 2022. Additionally, the applicant has sent out notification to all neighbors within 1,000 feet as required by the City Ordinance.

FINDINGS OF FACT:

• Land Development Code Section 3-88(c) allows for garage apartments to be permitted as Special Exceptions.
• The Proposed Special Exception meets the review criteria provided by Land Development Code Sec 1-9.
• The Development Review Committee met on February 15th, 2022 and recommended to approve the requested Special Exception.
COST/FUNDING
N/A

RECOMMENDATION
It is recommended that the City Council approve the proposed Special Exception for a garage apartment.

IMPLEMENTATION
The applicant would be required to apply for any applicable permits.

ATTACHMENTS
- Survey
- Site plan
- Floor plan
Boundary Survey

From the southwest corner of section 33, township 19 south, range 30 east, Volusia County, Florida. Run north along the west line of said section 33 a distance of 1116 feet. Thence run east 905 feet for a point of beginning. Thence run north 235 feet. Thence run east 290.25 feet to the east line of the west 1/4 of the east 1/4 of said section 33. Thence run south 00° 08' 25" east along said east line 212.8 feet. Thence run south 85° 36' 12" west 281.7 feet to the point of beginning. Subject to an easement for road purposes over the south 38 feet and the east 70 feet thereof. Also known as lot 391, Orlando Heights (Unrecorded Subdivision #241).

Legal Description:

Michael K. Moeller & Kimberly Moeller, City Title Services, Alliant National Title Insurance Company, The Mortgage Bank Inc.

Certified To:

By performing a search with the local governing municipality or www.fema.gov, the property appears to be located in zone X. This property was located in the City of Daytona, community number 125007, dated 2/19/2014.

Proposed garage apartment

Lot Numbers Are Based Upon The Unrecorded Plat of Orlando Heights, Volusia County.
REQUEST

The applicant, Dean Barberree of HR Rivington, LLC, is seeking final plat approval for Rivington Phase 2A, which consists of lots 305-356.

PURPOSE

The Applicant is requesting approval of a final plat for the purpose of recording the plat and permitting sellable lots.

CONSIDERATIONS

On October 3, 2018 the DeBary City Council adopted Ordinance No. 11-18, approving Reader & Partners, LLC’s, Mixed-Use Planned Unit Development Amendment (MPUD), known as the Rivington project. With this approval, City Council authorized the entitlements specified within the development agreement which included the development of up to 700 single family attached and detached residential units and up to 30,000 square feet of neighborhood commercial. On February 2, 2021, the Development Review Committee approved the Phase 2 Rivington Preliminary Plat and Construction Plans and a Development Order was issued on August 19, 2021.

The Applicant is now requesting a Final Plat approval for Rivington, Phase 2A, which includes lots 305-356 of the total developable 700 units on the original Rivington tract. The Applicant wishes to develop the collective lots into single family homes, as previously permitted in the Preliminary Plat and Construction Plans.

Much of the required infrastructure improvements for this phase of the project are completed, but not all of the improvements have been installed. A certified engineer’s opinion of cost for the remaining required improvements has been provided and verified by the City Engineer. A performance guarantee, for this amount, and according to Land Development Code (LDC) Sec 4-111(a)(1), have been provided to the City for the remaining infrastructure that is not complete prior to the recording of the plat in public records.

FINDINGS OF FACT

The City of DeBary Development Review Committee and City Attorney reviewed the request and provide for the following findings of fact:
• All requirements per local and state codes have been addressed;
• The City’s Surveyor, in conformity with Chapter 177 of the Florida Statutes, has reviewed the final plat and the City Attorney has conducted a legal review of the final plat and the title opinion.
• A performance guarantee in accordance with the Land Development Code (LDC) Sec 4-111(a)(1), have been provided to the City for the remaining infrastructure that is not complete.
• On February 1, 2022, the City’s Development Review Committee reviewed and recommended approval to the City Council of the proposed plat contingent on addressing outstanding comments.

**COST/FUNDING**

N/A

**RECOMMENDATION**

It is recommended that the City Council approve the Final Plat for Rivington Phase 2A subject to staff conditions of approval including the following:

• Payment of all required fees, deposits, and costs as may be applicable or required pursuant to the Land Development Code, and other applicable laws, ordinances, and regulations shall be paid to the City prior to final plat approval and recording. The applicant shall be responsible for all recording costs associated with the plat and related documents.
• The original signed plat Mylar and all original executed plat related documents are to be promptly recorded in the Public Records of Volusia County, Florida, after final plat approval and only after satisfaction of all conditions of plat approval. Upon recording of the plat and plat related documents, the applicant shall provide the City with a recorded copy of the plat and plat documents to evidence proper recording.
• It is the responsibility of the entity subdividing the land to ensure that all applicable requirements of the Land Development Code and Florida Statutes relative to the subdividing and development of property are met prior to the final plat approval and recording. The lots on the plat shall not be conveyed unless and until the conditions of approval have been satisfied and the plat as well as the plat related documents have been fully executed and recorded in the public records.

**IMPLEMENTATION**

The Plat will be recorded with the Volusia County Clerk of the Courts.

**ATTACHMENTS**

• Rivington, Phase 2A Final Plat
• Final Performance and Maintenance Guarantee
• Declaration of Emergency Access Easement
PERFORMANCE AND MAINTENANCE GUARANTEE AGREEMENT

This Performance and Maintenance Guarantee Agreement for Rivington Phase 2a Plat (the "Agreement") is made and entered into this __________ day of ______________, 2022 (the "Effective Date"); by and between:

RIVINGTON COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established pursuant to the Uniform Community Development District Act of 1980, as codified in Chapter 190, Florida Statutes ("Uniform Act"), being situated in the City of DeBary, County of Volusia, Florida, and whose mailing address is 313 Campus Street, Celebration, FL 34747 (the "District");

HR RIVINGTON, LLC, a Florida limited liability company, the owner of the lands within the boundaries of the District, whose mailing address is 5850 T.G. Lee Blvd, Ste 200, Orlando, FL 32822 (the “Landowner”); and

CITY OF DEBARY, a municipality of the State of Florida, whose mailing address is 16 Colomba Road, Debary, FL 32713 (the “City”).

RECITALS

WHEREAS, the District was established by Ordinance No. 12-18 enacted by the City Commission of the City of DeBary, Florida, on October 3, 2018 for the purpose of planning, financing, constructing, installing, operating, acquiring and/or maintaining certain infrastructure within and outside of the boundaries of the premises to be governed by the District as more fully described in the Improvement Plan (as defined below); and

WHEREAS, the District has adopted an improvement plan for the planning, design, acquisition, construction, and installation of various infrastructure improvements and facilities within and outside of the boundaries of the District as described in the Rivington CDD – Engineer’s Report, Capital Improvement Plan dated September 17, 2019 and as supplemented by the First Supplemental Engineer’s Report dated November 26, 2019 (collectively, the "Improvement Plan") prepared by Kimley-Horn and Associates Inc., (the "District Engineer") and

WHEREAS, the District has imposed and will impose special assessments on the lands within the District to secure financing for the acquisition, operation, maintenance and construction of the improvements set forth in the Improvement Plan; and

WHEREAS, the District has accepted or plans to accept performance and maintenance obligations associated with certain public improvements to be dedicated to the District, as illustrated on the Final Plat, which is the subject of Development Application # 21-01-FRP-Rivington, Phase 2a (the “Plat”); and

WHEREAS, the District is authorized by Chapter 190, Florida Statutes, to levy and impose special assessments to pay all, or any part of, the cost of such infrastructure projects as contemplated by the Plat; and
WHEREAS, the District will impose special assessments on the lands within the District to secure financing for the acquisition, operation, maintenance and construction of the certain improvements and right-of-ways illustrated on the Plat; and

WHEREAS, pursuant to the Completion Agreement between the District and Landowner, attached hereto as Exhibit A, Landowner agrees to complete or cause to be completed, or to provide funds to the District in an amount sufficient to allow the District to complete or cause to be completed, those portions of the Improvement Plan which remain unfunded by bond proceeds, as more particularly described in Exhibit B; and

WHEREAS, the City’s Land Development Code, Section 4-111(a)(1), requires the Landowner to guarantee the performance of the Improvement Plan shown on the Plat in a form acceptable to the City Attorney; and

WHEREAS, the City’s Land Development Code, Section 4-112(d)(3), further requires that the District or Landowner provide a maintenance guarantee for all infrastructure that is part of the Improvement Plan during the maintenance period that will be dedicated to the City on the Plat in a form acceptable to the City Attorney; and

WHEREAS, the parties agree that the District’s obligations to construct and maintain the Improvement Plan shown on the Plat and to impose special assessments for the construction and maintenance of the Improvement Plan, together with the Landowner’s obligations to fund any portions of the Improvement Plan not fully funded by the bond proceeds raised by the District, provide an acceptable performance and maintenance guarantee during the maintenance period as required by Section 4-111(a)(1) and Section 4-112(d)(3) of the City’s Land Development Code.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration between the parties, the receipt and sufficiency of which are hereby acknowledged by the parties, and subject to the terms and conditions hereof, the parties agree as follows:

1. INCORPORATION OF RECITALS. The recitals stated above are true and correct and by this reference are incorporated by reference as a material part of this Agreement.

2. CONSTRUCTION AND MAINTENANCE OF PUBLIC IMPROVEMENTS. The Board of Supervisors of the District has caused the District to impose Special Assessments within the District and issued bonds supported by the pledge of Special Assessment revenues to finance the construction and maintenance of the public improvements illustrated on the Plat. Elements of the Improvement Plan included in the Plat shall be completed on or before July 30, 2022 with good workmanship, use quality materials, be in functioning working order, be free from defects, and be in accordance with approved plans on file with the City. The District shall promptly make all payments to all persons or entities supplying District and the District’s agents, contractors with labor, materials or supplies, used directly or indirectly by District in the performance of the District’s obligations and work provided for herein. Once completed, the elements of the Improvement Plan to be owned and maintained by the District shall be maintained by the District in good, clean, safe condition and repair, free from defects that may pose a risk of damage to
property, including property of other persons and the City, Volusia County, other governmental agencies and utility owners authorized to locate their facilities within the District owned roads and rights-of-way, or a risk or bodily injury or death to any person. All elements of the Improvement Plan located in City owned or controlled public right-of-ways will be transferred to the City as contemplated by the Plat and Improvement Plan.

3. **DISTRICT'S SOLE COST.** The performance activities referenced herein, and any repair, relocation, or removal required, will be at the District’s sole cost, and without recourse to the City. In the event the proceeds of any bonds issued by the District to fund construction of the Improvement Plan are exhausted prior to completion of the portions of the Improvement Plan included in the Plat, the Landowner is obligated to provide sufficient funds to the District to complete construction of the Improvement Plan in accordance with the terms of the Completion Agreement between the Landowner and District.

4. **ENFORCEMENT.** The City may seek specific performance of this Agreement, injunctive relief or bring an action for damages in a court within Volusia County, Florida, if this Agreement is breached by the District or Landowner. In addition to other remedies that the City may have to enforce this Agreement, the City shall have the right to compel the District to impose and collect additional special assessments against property owners (including the Landowner) within the District to fund the completion, correction or repair of the Improvement Plan or any portion thereof. Further, the City shall have the right (but not the obligation) to cause the completion, correction, or repair of the Improvement Plan or any elements or portions thereof, including without limitation, through the City’s own efforts and use of contractors at the District’s expense. The Landowner specifically consents to the City being considered an intended third-party beneficiary of the Completion Agreement for purposes of granting the City authority to compel specific performance, injunctive relief and monetary damages against the Landowner to fund completion of the Improvement Plan in the event funds available to the District for such purpose are exhausted. In the event that enforcement of this Agreement by the City becomes necessary, and the City is successful in such enforcement, the District and Landowner shall be jointly and severally responsible for the payment of all of the City’s costs and expenses, including attorney fees (with attorneys selected by the City) experts’ fees and regarding any actions taken by the City to cause the completion, correction or repair of the Improvement Plan or any elements or portions thereof, whether or not litigation is necessary and, if necessary, both at trial and on appeal. In the event of an injunction action, the District and Landowner waive any requirement for the City to post a bond.

5. **DURATION.** Unless all necessary parties hereto otherwise agree, this Agreement will continue until perpetuity or until such time as all improvements are transferred to City.

6. **LAW GOVERNING; VENUE.** This Agreement will be governed by the laws of the state of Florida without regard to any choice of law principles that could result in application of the laws of any other jurisdiction. Jurisdiction and venue for any legal action or proceeding arising out of this Agreement will be exclusively in the Circuit Court for the Seventh Judicial Circuit in and for Volusia County. The Parties hereby waive any right to stay or dismiss any action.
or proceeding brought under or in connection with the Agreement that is brought before the above-referenced court on the basis of forum non-conveniens.

7. ENTIRE AGREEMENT; AMENDMENTS. This Agreement supersedes all previous agreements or representations, either verbal or written, if any, heretofore in effect between the District and City. No additions, alterations or variations of the terms of this Agreement shall be valid, nor can provisions of the Agreement be waived by either party, unless such additions, alterations, variations or waivers are expressed in writing, with the same level of formality as the original approval of this Agreement.

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.

[This area intentionally left blank. Signature pages to follow]
Witness:

Print Name: [Signature]

RIVINGTON COMMUNITY DEVELOPMENT DISTRICT

By: [Signature]
Jeffrey Reader, Chair

_6_ day of _JANUARY_, 2022

STATE OF FLORIDA
CITY OF ____________

The foregoing instrument was acknowledged before me by means of □ physical presence or □ online notarization this _6_ day of _JANUARY_, 2022, by Jeffrey Reader as Chair of the Board of Supervisors for RIVINGTON COMMUNITY DEVELOPMENT DISTRICT, 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]

MARLENE DEMARCO
MY COMMISSION # GG 213565
EXPIRES: June 8, 2022
Bonded thru Notary Public Underwriters

Notary Public Commission:
HR RIVINGTON, LLC,
a Florida limited liability company

By: HR Southeast, LLC, a Delaware limited liability company, Sole Member

By: RP Investors Southeast, LLC a Florida limited liability company, Sole Managing Member

By: Reader & Partners, LLC, a Florida Limited Liability Company, Sole Manager

Witnesses:

Print Name: [Signature]

By: [Signature]

Name: Dean Barberree
Title: President

STATE OF FLORIDA
CITY OF _______________

The foregoing instrument was acknowledged before me by means of □ physical presence or □ online notarization this ___ day of JANUARY, 2022, by Dean Barberree, as President of Readers & Partners, LLC, a Florida Limited Liability Company, 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:
CITY OF DEBARY

Attest:

Annette Hatch, City Clerk

By: Karen Chasez, Mayor

___ day of ____________, 2022

STATE OF FLORIDA
CITY OF ____________

The foregoing instrument was acknowledged before me by means of □ physical presence or □ online notarization this ___ day of ____________, 2022, by Karen Chasez 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:

STATE OF FLORIDA
CITY OF ____________

The foregoing instrument was acknowledged before me by means of □ physical presence or □ online notarization this ___ day of ____________, 2022, by Annette Hatch as Clerk for 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:

Approved as to Form:

____________________, City Attorney
Exhibit A: Completion Agreement
COMPLETION AGREEMENT

This Completion Agreement (the "Agreement") is made and entered into this 12th day of February, 2020 (the "Effective Date"), by and between:

RIVINGTON COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established pursuant to the Uniform Community Development District Act of 1980, as codified in Chapter 190, Florida Statutes ("Uniform Act"), being situated in the City of DeBary, County of Volusia, Florida, and whose mailing address is 313 Campus Street, Celebration, Florida 34747 (the "District"); and

HR RIVINGTON, LLC, a Florida limited liability company, the owner of the lands within the boundaries of the District, whose address is 5850 T. G. Lee Boulevard, Suite 200 Orlando, Florida 32822 (the "Landowner").

WHEREAS, the District was established by Ordinance No. 12-18 (the "Establishing Ordinance") enacted by the City Commission of the City of DeBary, Florida (the "City") on October 3, 2018. The District was established, for the purpose of planning, financing, constructing, installing, operating, acquiring and/or maintaining certain infrastructure, including without limitation certain water distribution and sanitary sewer collection and transmission systems and facilities, a stormwater management system, roads, roadway and transportation improvements, and related improvements a more fully described in the Improvement Plan (as defined below); and

WHEREAS, District has adopted an improvement plan for the planning, design, acquisition, construction, and installation of various public infrastructure improvements and facilities within and without the boundaries of the District as described in the Rivington CDD -- Engineer’s Report, Capital Improvement Plan dated September 17, 2019 and as supplemented by the First Supplemental Engineer’s Report dated November 26, 2019 (the "Improvement Plan") prepared by Kimley Horn and Associates, Inc. (the "District Engineer") and attached hereto as Exhibit A; and

WHEREAS, the District has imposed special assessments on certain of the lands within the District and anticipates that it will impose special assessments on certain additional lands within the District to secure financing for the acquisition, operation and maintenance and construction of the public improvements set forth in the Improvement Plan and has validated up to $45,000,000.00 in special assessment bonds ("Bonds") to fund the planning, design, permitting, construction and/or acquisition of such improvements; and

WHEREAS, the District intends to ultimately undertake public improvements [and acquire right-of-way in connection therewith] as contemplated in the Improvement Plan (the "Public Improvements"), in part, through the use of proceeds from the sale of a series of its Bonds designated as Rivington Community Development District Special Assessment Revenue Bonds, Series 2020 (the "Series 2020 Bonds") being issued on the date hereof pursuant to a Master Trust
Indenture dated as of February 1, 2020 (the "Master Indenture"), from the District to U.S. Bank National Association, as trustee (the "Trustee"), as supplemented by a First Supplemental Trust Indenture, dated as of February 1, 2020 from the District to the Trustee (the "First Supplemental Indenture" and together with the Master Indenture, the "Indenture"); and

WHEREAS, in connection with the Series 2020 Bonds, the District has adopted the assessment proceedings (collectively, the "Assessment Proceedings") necessary to levy non-ad valorem special assessments on land in the District designated as the "2020 Assessment Area," which is planned to be developed with 304 residential units; and

WHEREAS, Landowner is the owner of all of the lands located within the boundaries of the District to be developed as a residential community known as "Rivington" (the "Development"), the first phase of which is located within the 2020 Assessment Area; and

WHEREAS, Table 4A in the First Supplemental Engineer’s Report dated November 26, 2019 (the “Supplemental Engineer’s Report”) reflects the portion of the Improvement Plan to be implemented in connection with the 2020 Assessment Area (the “2020 Project”) and the portion of the Improvement Plan to be implemented in connection with future phase(s) of the Development (the “Future Project”); and

WHEREAS, the Series 2020 Bonds will only fund a portion of the costs of the 2020 Project; and

WHEREAS, the 2020 Project and the Future Project each contain costs associated with a clubhouse and other recreational amenities (the “Amenities”), for a total cost of $2,125,000 (the “Amenities Costs”); and

WHEREAS, Table 4B in the First Supplemental Engineer’s Report reflects certain improvements needed to be implemented by the Landowner rather than the District for the 2020 Assessment Area (the “2020 Landowner Improvements”) and future phases of the Development (the “Future Landowner Improvements” and, collectively with the 2020 Landowner Improvements, the “Landowner Improvements”); and

WHEREAS, in order to ensure that the Public Improvements (including the Amenities) needed to serve the 2020 Assessment Area and the Landowner Improvements needed to serve the 2020 Assessment Area are completed and funding is available in a timely manner to provide for their completion, the District and the Landowner desire to arrange herein for the Landowner to provide the additional funds needed for the completion of the Public Improvements (including the Amenities) needed to serve the 2020 Assessment Area over and above proceeds of the Series 2020 Bonds available for that purpose and to agree to complete the Landowner Improvements needed to serve the 2020 Assessment Area; and

WHEREAS, the portion of the Development within the 2020 Assessment Area (i) depends on and will be significantly benefited by the completion of the Public Improvements needed to serve the 2020 Assessment Area (including the Amenities), a portion of which will be acquired by the District under the terms and conditions provided in the Acquisition Agreement.
between the Landowner and District dated of even date herewith (the "Acquisition Agreement") and (ii) depends on the completion of certain of the Landowner Improvements in order for vertical construction of homes to 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 District and the Landowner hereby acknowledge and agree as follows:

1. INCORPORATION OF RECITALS. The recitals stated above are true and correct and by this reference are incorporated as a material part of this Agreement.

2. BOND ISSUANCE AND COMPLETION OF PUBLIC IMPROVEMENTS. The District shall dedicate a portion of the Series 2020 Bond proceeds to finance or refinance a portion of the costs of the Series 2020 Project, including, but not limited to, all administrative, legal, warranty, engineering, permitting and other related soft costs, whether pursuant to existing contracts, change orders, contracts assigned by the Landowner to the District, or future contracts. The proceeds realized from the sale of such Series 2020 Bonds are insufficient to fully pay for the costs of the Series 2020 Project and the balance of the costs of the Amenities included in the Public Improvements. The Landowner hereby agrees to complete or cause to be completed, or to provide funds to the District in an amount sufficient to allow the District to complete or cause to be completed: (i) the Public Improvements that are needed to serve the 2020 Assessment Area, which, at a minimum, shall include the costs of the Series 2020 Project which are unfunded by Series 2020 Bond proceeds and the balance of the cost of the Amenities which are included in the Future Project; and (iii) the Landowner Owner Improvements needed to serve the 2020 Assessment Area, which, at a minimum, shall include the 2020 Landowner Improvements (collectively, the "Remaining Improvements"). Nothing herein shall cause or be construed to require the District to issue additional bonds or indebtedness to provide funds for any portion of the Remaining Improvements. The District's execution of and performance of its obligations under this Agreement constitutes the manner and means by which the District has elected to provide any and all portions of the Remaining Improvements.

(a) When all or any portion of the Remaining Improvements are the subject of an existing District contract, the Landowner shall provide funds directly to the District as and when actually needed by the District to pay costs, in an amount sufficient to complete the Remaining Improvements pursuant to such contract, including change orders thereto.

(b) When any portion of the Remaining Improvements are not the subject of an existing District contract, the Landowner may choose to complete or cause to be completed, or to provide funds to the District, as and when actually needed by the District to pay costs, in an amount sufficient to allow the District to complete or cause to be completed, those Remaining Improvements, subject to a formal determination by the District's Board of Supervisors that the option selected by the Landowner will not materially and adversely impact the District, and is in the District's best interests.
(c) Funds to be provided by Landowner to the District pursuant to (a), (b) and (c), above, shall be provided by Landowner after Landowner's receipt of any and all information reasonably requested by Landowner relating to any request by the District for such funding.

(d) According to the First Supplemental Assessment Report for Rivington Community Development District—2020 Assessment Area ("Supplemental Assessment Report") report dated January 22, 2020, the Landowner's contribution toward the Remaining Improvements is anticipated to be $8,410,274.47. The Landowner's contribution detailed in the Supplemental Assessment Report is an estimate and the final contributions required shall be based on the actual cost of the Remaining Improvements.

3. OTHER CONDITIONS AND ACKNOWLEDGMENTS.

(a) The exact location, size, configuration and composition of the Public Improvements may change from that described in the Improvement Plan, depending upon final design of the development, permitting or other regulatory requirements over time, or other factors. The exact location, size, configuration and composition of the Landowner Improvements may change from that described in the Supplemental Engineer's Report, depending upon final design of the development, permitting or other regulatory requirements over time, or other factors. Material changes to the Public Improvements and/or Landowner Improvements shall be made by a written amendment to the Supplemental Engineer's Report, which shall include an estimate of the cost of the changes.

(b) For any and all portions of the Remaining Improvements which are constructed, or caused to be constructed, by the Landowner for the benefit of the District shall be conveyed to the District or such other appropriate unit of local government as is designated in the Improvement Plan or otherwise in the Supplemental Engineer's Report or required by governmental regulation or development approval. All conveyances to another governmental entity shall be in accordance with and in the same manner as provided in any agreement between the District and the appropriate unit of local government. All conveyances to the District shall be in accordance with an agreement or agreements governing conveyances between the Landowner and District.

(c) Notwithstanding anything to the contrary contained in this Agreement, the payment or performance by the Landowner of its completion obligations hereunder with respect to the Remaining Improvements are expressly subject to and dependent and conditioned upon (i) the District having expended all available proceeds of the Series 2020 Bonds to pay for costs of the Series 2020 Project as permitted by the Indenture, and (iii) the scope, configuration, size and/or composition of the Remaining Improvements not materially changing without the consent of the Landowner; provided, however, that such consent is not necessary and the Landowner must meet its Remaining Improvements completion obligations when the scope, configuration, size and/or composition of the Public Improvements and Landowner Improvements is/are materially changed in response to a requirement imposed by a regulatory agency.
4. DEFAULT AND PROTECTION AGAINST THIRD PARTY INTERFERENCE. A default by either party under this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of damages and/or specific performance. The District shall be solely responsible for enforcing its rights under this Agreement against any interfering person not a party to this Agreement, and nothing in this Agreement shall limit or impair the District's rights to protect its rights from interference by such persons. In the event the Landowner is in default under this Agreement, the District shall be entitled to suspend its performance under the terms of the Acquisition Agreement, i until the Landowner's default is cured.

5. AUTHORIZATION. The District and the Landowner 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 District and the Landowner, has complied with all the requirements of law, and it has full power and authority to comply with the terms and provisions of this instrument.

6. 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:

(a) If to the District: Rivington Community Development District
                             313 Campus Street
                             Celebration, Florida 34747
                             Attn: District Manager
                             Email: admin@RivingtonCDD.org

                             With a copy to: Cobb Cole
                                             231 North Woodland Boulevard
                                             Deland, Florida 32720
                                             Attn: Mark A. Watts, Esq.
                                             Email: Mark.Watts@CobbCole.com

                             If to the Developer: HR Rivington, LLC
                                                  5850 T.G. Lee Boulevard, Suite 200
                                                  Orlando, Florida 32822
                                                  Attn: Dean Barberree
                                                  Email: dean@readercommunities.com

                             With a copy to: Cobb Cole
                                             231 North Woodland Boulevard
                                             Deland, Florida 32720
                                             Attn: Mark A. Watts, Esq.
                                             Email: Mark.Watts@CobbCole.com
Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the District and counsel for the Landowner may deliver Notice on behalf of the District and the Landowner. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addresssees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addresssees set forth herein.

7. ARM'S LENGTH TRANSACTION. This Agreement has been negotiated fully between the District and the Landowner as an arm's length transaction. Both parties participated fully 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 District or the Landowner.

8. THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the formal parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto other than the holders of the Series Bonds, who shall be express third party beneficiaries hereof. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the parties hereto, the Trustee and the holders of the Series 2020 Bonds, any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the parties hereto and their respective representatives, successors and assigns.

Notwithstanding anything in this Agreement to the contrary, the Trustee for the Series 2020 Bonds shall be a direct third party beneficiary of the terms and conditions of this Agreement and, acting at the direction of and on behalf of the bondholders owning a majority of the aggregate principal amount of the Series 2020 Bonds then outstanding, shall be entitled to directly enforce the Landowner's obligations hereunder. The Trustee shall not be deemed to have assumed any obligations under this Agreement.

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

10. ASSIGNMENT. Neither the District nor the Landowner may assign this Agreement or any monies to become due hereunder without the prior written approval of the other and the Trustee and Bondholders owning a majority of the aggregate principal amount of the Bonds outstanding, which consent shall not be unreasonably withheld. Such consent shall not be required
in the event of a sale of the majority of the lands within the District then owned by the Landowner pursuant to which the unaffiliated purchaser agrees in writing to assume any remaining obligations of the Landowner under this Agreement, provided however that no such assignment shall be valid where the assignment is being made for the purpose of avoiding the Landowner’s obligations hereunder.

11. AMENDMENT. 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 District and the Landowner. This Agreement may not be amended without the prior written consent of the Trustee, acting on behalf and at the direction of the bondholders owning a majority of the aggregate principal amount of the Series 2020 Bonds then outstanding.

12. 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.

13. CONTROLLING LAW. This Agreement and the provisions contained in this Agreement shall be construed, interpreted, and controlled according to the laws of the State of Florida.

14. PUBLIC RECORDS. Unless legally specified by the Landowner to the contrary, all documents of any kind provided to the District in connection with this Agreement are public records and are treated as such in accordance with Florida law.

15. 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.

16. SOVEREIGN IMMUNITY. Landowner agrees that nothing in this Agreement shall constitute or be construed as a waiver of the District's limitations on liability to the extent contained in Section 768.28, Florida Statutes, as amended, or other statutes or law.

17. 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.

18. 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.

[SIGNATURES ON THE FOLLOWING PAGE]
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.

RIVINGTON COMMUNITY DEVELOPMENT DISTRICT

Attest:

Secretary/Assistant Secretary

By: [Signature]

Jeffrey Reader, Chairman

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 29th day of January, 2020, by Jeffrey Reader as Chairman/Vice-Chairman of the Board of Supervisors for RIVINGTON COMMUNITY DEVELOPMENT DISTRICT, √ who is personally known or □ produced ________________ as identification.

[SEAL]

LYNNIE G. FIGENSCHER
Commission # GG 330766
Expires May 5, 2023
Bonded thru Troy Pala Insurance 800-385-7519

Notary Public Commission:

LYNNIE G. FIGENSCHER
Commission # GG 330766
Expires May 5, 2023
Bonded thru Troy Pala Insurance 800-385-7519

Notary Public Commission:

The foregoing instrument was acknowledged before me this 29th day of January, 2020, by GARY MOYER as Secretary/Assistant Secretary of the Board of Supervisors for RIVINGTON COMMUNITY DEVELOPMENT DISTRICT, √ who is personally known or □ produced ________________ as identification.

[SEAL]
HR RIVINGTON, LLC,
a Florida Limited Liability Company

By: HR Southeast, LLC, a Delaware limited liability company, Its Sole Member

By: Reader & Partners, LLC, a Florida limited liability company, Its Managing Member

Witnesses:

[Signature]
Print Name: [Signature]

[Signature]
Print Name: [Signature]

Name: Dean Barberree
Title: President

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 29th day of January, 2020 by Dean Barberree as President of READER & PARTNERS, LLC, a Florida Limited Liability Company, who is personally known or a 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:

LYNNE G. FIGENSCHER
Commissioned # GG 330766
Expires May 5, 2023
Bonded thru Troy Felt Insurance 888-315-7009

[Signature]
Rivington Community Development District

ENGINEER'S REPORT
CAPITAL IMPROVEMENT PLAN

Prepared for
Board of Supervisors
Rivington Community Development District

Prepared by:
Kimley-Horn and Associates, Inc.
Orlando, Florida
049025000

September 17, 2019

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Kimley® Horn
BACKGROUND

The Rivington Community Development District (the "Rivington CDD" or the "District") consists of approximately 296.2 +/- acres located on the southwest corner of Fort Florida Road and Barwick Road, in the City of DeBary, Florida (see Exhibit 1 for the Location Map). The District is being developed by a master developer, Reader & Partners, LLC ("Developer"), as a Mixed-Use Planned Unit Development (MPUD) project known as Rivington. The development within the CDD boundary would include the following:

<table>
<thead>
<tr>
<th>TYPE</th>
<th>ACREAGE (AC)</th>
<th>RESIDENTIAL UNITS</th>
<th>COMMERCIAL (SF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial</td>
<td>2.00</td>
<td>-</td>
<td>10,000</td>
</tr>
<tr>
<td>Residential SFR</td>
<td>83.08</td>
<td>700</td>
<td>-</td>
</tr>
<tr>
<td>Road Right-of-Way</td>
<td>32.90</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Wetland Preservation</td>
<td>87.47</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Stormwater Ponds</td>
<td>34.90</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Open Space / Community Areas</td>
<td>55.87</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Exhibit 2 shows the current Metes and Bounds description of the CDD boundary. Exhibit 3 shows the anticipated phasing of development in the CDD. Refer to Exhibit 4 for a current District Boundary as shown on the CDD Master Site Plan.

In order to serve the residents of the CDD, the District has developed the following Capital Improvement Plan (CIP) to allow it to finance and construct certain utility, drainage, roadway and other CIP Improvements within and adjacent to the District as further detailed herein ("CIP Improvements"). The CIP is intended to function as a system of CIP Improvements benefitting all lands within the District. The CIP Improvements proposed have achieved some regulatory approval to date and the remaining approvals are underway. A summary of the permit status is shown on Table 2. A summary of the proposed CIP and corresponding cost estimates follows in Table 3. A detailed description and basis of costs for each improvement is included in the body of this report.
CDD Capital Improvement Plan

The CIP contained in this report reflects the present intentions of the Rivington CDD. However, the CIP may be subject to modification in the future. The CDD Master Utility Plans are included as Exhibits 5 through 8. The implementation of any CIP Improvement outlined within the CIP requires final approval by the CDD Board of Supervisors. This CIP was prepared in anticipation that the bonds to finance acquisition or construction of improvements will be issued in one or more series. The District may allow assignment of an active construction contract to the District for completion of some CIP Improvements. Developer financing options may be considered by the District.

Overall CDD Capital Improvement Plan

The overall CIP for the District includes the construction of the main site entrance on Fort Florida Road with associated Fort Florida Road improvements, secondary site access on Barwick Road, offsite turn lane improvements on Fort Florida Road at the intersection of Fort Florida Road and US 17-92, offsite utility extension of Volusia County Utilities (Water, Force Main, and Reuse) down Fort Florida Road from connection point east of the train tracks to Barwick Road, all local roads, stormwater management facilities (all ponds, stormwater collection system and outfall structures), the Volusia County Utilities (VCU) wet utilities (water, sewer, reuse), landscape/hardscape, amenity area, community mews/open space and the wetland mitigation required for these improvements.

The long-term ownership and maintenance of the CIP Improvements by the CDD will only encompass the stormwater facilities (ponds and outfall structures), recreation improvements and entry features (signage, hardscape, landscape, irrigation and lighting). The other CDD funded CIP elements (VCU wet utilities) are anticipated to be dedicated to Volusia County for ownership and long-term maintenance. However, the City or CDD may operate and maintain all or portions of the roadways. See Table 4 for anticipated entities responsible for construction and maintenance of the improvements.

Anticipated Plan for the First Phase

Under the anticipated Phase 1 of the CIP ("Phase 1"), it is the intent of the District to construct or acquire the Phase 1 CDD improvements ("Phase 1 CDD Improvements") as indicated on the master site plan. The following is a description of the anticipated Phase 1 CDD Improvements:

- Fort Florida Road project main entrance along with associated Fort Florida Road Improvements.
- Local roadway improvements within Phase 1.
- The Amenity Center.
- Volusia County Utilities (Water, Sewer, and Reuse) within Phase 1.
• Volusia County Utilities Sanitary Sewer Lift Stations (2) to support Phase 1 and the Future Phase.
• Offsite Utility Extension of Volusia County Utilities (Water, Force Main, and Reuse) down Fort Florida Road from connection point east of the train tracks to Barwick Road.
• Offsite Turn Lane Improvements on Fort Florida Road at the intersection of Fort Florida Road and US 17-92.
• Stormwater facilities and drainage collection system to support Phase 1.
• Entry Features adjacent to Fort Florida Road at the main entrance.
• Appropriate design and permit fees as required to design and construct the CDD improvements.
• Wetland Mitigation Fees.
• Prepaid Water and Sewer Connection and CIAC Fees.

Anticipated Plan for the Future Phase(s)
Under the anticipated future phase(s) (the "Future Phase(s)") or balance of the CIP, it is the intent of the District to construct or acquire the future phase(s) CDD improvements (the "Future Phase(s) CDD Improvements") as indicated on the master site plan. The following is a description of the anticipated Future Phase(s) CDD Improvements:

• Barwick Road project secondary entrance.
• Internal collector roadway looping around the existing western wetland.
• Local roadway improvements within the Future Phase(s).
• Volusia County Utilities (Water, Sewer and Reuse) within the Future Phase(s).
• Stormwater facilities and drainage collection system to support Future Phase(s).
• Approximate design and permit fees as required to design and construct the CDD improvements.
• Initial Phase Improvements not completed or funded through bond issuance in Phase 1.

This list may be revised as needed by the Board and will be the subject of future "Supplemental Engineer Reports" as directed by the Board. See Table 5 for Timetable of Construction.

Permitting for the improvements outlined in this CIP is ongoing. Jurisdictional wetland delineation for the entire District has been completed and accepted by the St. Johns River Water Management District (SJRWMD) and the impacts and mitigation of these wetlands have been permitted by SJRWMD and U.S. Army Corps of Engineers (USACOE). SJRWMD permit for the stormwater management facility is in progress and construction plan approval from the City of Debary is also in progress. Initial construction of these CIP Improvements is anticipated to start around November 2019. There is a reasonable expectation that the permits for the balance of the District improvements are obtainable; however, all permits are subject to final agency action.
The permit status for the proposed CIP Improvements is as follows:

**TABLE 2**

**SUMMARY OF REGULATORY REVIEW**

**RIVINGTON CDD**

<table>
<thead>
<tr>
<th>PERMIT DESCRIPTION</th>
<th>REGULATORY AGENCY</th>
<th>STATUS</th>
<th>DATE APPROVED</th>
<th>EXPIRATION DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Debary ODP Subdivision Permit (Case #18-03-ODP-Riv)</td>
<td>City of Debary</td>
<td>Approved</td>
<td>4/2/2019</td>
<td></td>
</tr>
<tr>
<td>City of Debary PPR Subdivision Permit (Case #19-02-PPR-Riv)</td>
<td>City of Debary</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SJRWMD Import Fill Permit #102740-3</td>
<td>SJRWMD</td>
<td>Issued</td>
<td>10/17/2018</td>
<td>10/17/2023</td>
</tr>
<tr>
<td>SJRWMD Conceptual Permit #102740-4</td>
<td>SJRWMD</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SJRWMD ERP Individual Permit #102740-4</td>
<td>SJRWMD</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ACOE Impact Permit SAJ-2018-00882</td>
<td>ACOE</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FDEP Water Permit</td>
<td>FDEP</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FDEP Sewer Permit</td>
<td>FDEP</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FDEP NPDES NOI</td>
<td>FDEP</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Expiration date is vested upon commencement of Phase 1.*

It is our opinion that construction of the CIP Improvements are feasible and that the estimated costs stated herein are reasonable and consistent with market rates subject to the qualifications stated herein. Cost estimates contained in this report are based upon year 2019 dollars and have been prepared based on commonly acceptable information and in some cases without the benefit of engineering design or environmental permitting. An inflation factor has not been utilized but is considered to be a part of the improvements budget contingency factor. Kimley-Horn and Associates, Inc. believes the enclosed estimates to be adequate for the CIP Improvements based upon the available information. Actual costs will vary based on final engineering, planning and approvals from regulatory authorities. Improvements required by any development orders and deeds over to the City, County or State may be considered a part of the CIP plan.

The summary of costs that follows outlines the total contemplated CIP Improvements. It is the intent of the District to secure funds through the issuance of capital improvement revenue bonds to fund or acquire all or a portion of the Phase 1 Improvements. Once the funds are exhausted the remaining CIP Improvements will be funded by an additional bond issuance or by the Developer.
### TABLE 3
ESTIMATE OF COSTS
RIVINGTON CDD

#### CDD PROJECT RELATED EARTHWORK

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Mobilization</td>
<td>1</td>
<td>LS</td>
<td>$1,000,000.00</td>
<td>$1,000,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Silt Fence</td>
<td>29,289</td>
<td>LF</td>
<td>$3.00</td>
<td>$87,867.00</td>
</tr>
<tr>
<td>3</td>
<td>Site Clearing</td>
<td>198</td>
<td>AC</td>
<td>$5,300.00</td>
<td>$980,800.00</td>
</tr>
<tr>
<td>4</td>
<td>Stripping</td>
<td>158,107</td>
<td>CY</td>
<td>$3.50</td>
<td>$553,374.50</td>
</tr>
<tr>
<td>5</td>
<td>Pond Excavation (Cut)</td>
<td>460,004</td>
<td>CY</td>
<td>$3.30</td>
<td>$1,518,013.20</td>
</tr>
<tr>
<td>6</td>
<td>Import Fill</td>
<td>108,580</td>
<td>CY</td>
<td>$15.50</td>
<td>$1,651,880.00</td>
</tr>
<tr>
<td>7</td>
<td>Sodding (pond berms, banks, behind curb, open space)</td>
<td>632,717</td>
<td>SF</td>
<td>$0.40</td>
<td>$253,086.80</td>
</tr>
<tr>
<td>8</td>
<td>Sealed and Mulch (disturbed areas that are not sodded)</td>
<td>49,850</td>
<td>SY</td>
<td>$0.40</td>
<td>$19,940.00</td>
</tr>
<tr>
<td>9</td>
<td>Construction Layout, As-Built and Testing</td>
<td>1</td>
<td>LS</td>
<td>$800,000.00</td>
<td>$800,000.00</td>
</tr>
<tr>
<td>10</td>
<td>Dewatering</td>
<td>1</td>
<td>LS</td>
<td>$1,000,000.00</td>
<td>$1,000,000.00</td>
</tr>
</tbody>
</table>

Sub-Total $7,054,311.50

#### ON-SITE ROADWAY PAVING AND IMPROVEMENTS

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1.5&quot; Asphalt Structural Course</td>
<td>95,000</td>
<td>SY</td>
<td>$15.50</td>
<td>$1,474,415.00</td>
</tr>
<tr>
<td>2</td>
<td>8&quot; Compacted Crushed Concrete Base Course</td>
<td>88,419</td>
<td>SY</td>
<td>$15.50</td>
<td>$1,408,913.50</td>
</tr>
<tr>
<td>3</td>
<td>12&quot; Stabilized Subgrade</td>
<td>88,419</td>
<td>SY</td>
<td>$6.50</td>
<td>$574,723.50</td>
</tr>
<tr>
<td>4</td>
<td>Pavement Markings and Signage</td>
<td>1</td>
<td>LS</td>
<td>$65,000.00</td>
<td>$65,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Curb and Gutter</td>
<td>47,316</td>
<td>LF</td>
<td>$17.00</td>
<td>$804,372.00</td>
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<tr>
<td>6</td>
<td>Sidewalk</td>
<td>66,431</td>
<td>SF</td>
<td>$4.75</td>
<td>$310,647.25</td>
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<tr>
<td>7</td>
<td>Multi-Use Trail</td>
<td>8,904</td>
<td>SY</td>
<td>$33.00</td>
<td>$293,802.00</td>
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</tbody>
</table>

Sub-Total $4,812,393.25

#### DRAINAGE

<table>
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<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Storm Drain Collection Per LF of System</td>
<td>29,518</td>
<td>LF</td>
<td>$170.00</td>
<td>$5,018,060.00</td>
</tr>
<tr>
<td>2</td>
<td>Pond Outfall Structures</td>
<td>8</td>
<td>EA</td>
<td>$8,500.00</td>
<td>$68,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Pond Retaining Wall</td>
<td>399</td>
<td>SY</td>
<td>$80.00</td>
<td>$31,120.00</td>
</tr>
</tbody>
</table>

Sub-Total $5,117,180.00

#### WATER

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Potable Water per LF of System</td>
<td>24,852</td>
<td>LF</td>
<td>$85.00</td>
<td>$2,112,420.00</td>
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</table>

Sub-Total $2,112,420.00
### RECLAIMED WATER

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Reuse Water per LF of System</td>
<td>22,897</td>
<td>LF</td>
<td>$79.00</td>
<td>$1,702,275.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Sub-Total</strong>: $1,702,275.00</td>
</tr>
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</table>

### SANITARY

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Sanitary Sewer per LF of System</td>
<td>23,174</td>
<td>LF</td>
<td>$95.00</td>
<td>$2,201,530.00</td>
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<tr>
<td>2</td>
<td>Force main per LF of System</td>
<td>6,562</td>
<td>LF</td>
<td>$55.00</td>
<td>$325,100.00</td>
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<tr>
<td>3</td>
<td>Sanitary Lift Station</td>
<td>2</td>
<td>EA</td>
<td>$360,000.00</td>
<td>$720,000.00</td>
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<tr>
<td></td>
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<td></td>
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### FORT FLORIDA ROAD OFFSITE IMPROVEMENTS

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Fort Florida Utility Extension</td>
<td>1</td>
<td>LS</td>
<td>$1,875,000.00</td>
<td>$1,875,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Fort Florida Road &amp; 1792 Offsite Turn Lane</td>
<td>1</td>
<td>LS</td>
<td>$1,125,000.00</td>
<td>$1,125,000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Sub-Total</strong>: $3,000,000.00</td>
</tr>
</tbody>
</table>

### LANDSCAPE AND HARDSCAPE FEATURES IN COMMON AREAS

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Landscaping, Irrigation &amp; Hard scape in Common Areas</td>
<td>1</td>
<td>LS</td>
<td>$2,500,000.00</td>
<td>$2,500,000.00</td>
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<tr>
<td>2</td>
<td>Project Entry Features</td>
<td>1</td>
<td>LS</td>
<td>$625,000.00</td>
<td>$625,000.00</td>
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<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td><strong>Sub-Total</strong>: $3,125,000.00</td>
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</table>

### AMENITY CLUB

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Central Swim Club Amenity</td>
<td>1</td>
<td>LS</td>
<td>$3,125,000.00</td>
<td>$3,125,000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Sub-Total</strong>: $3,125,000.00</td>
</tr>
</tbody>
</table>
## WETLAND MITIGATION

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Wetland Mitigation</td>
<td>1</td>
<td>LS</td>
<td>$750,000.00</td>
<td>$750,000.00</td>
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</table>

Sub-Total: $750,000.00

## PROJECT FRONTAGE IMPROVEMENTS

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Project Frontage Improvements on Fort Florida Rd</td>
<td>1</td>
<td>LS</td>
<td>$825,000.00</td>
<td>$825,000.00</td>
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Sub-Total: $825,000.00

## WATER & SEWER CAPACITY RELATED FEES

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Prepaid Water &amp; Sewer Capacity and CIAC Fees</td>
<td>1</td>
<td>LS</td>
<td>$855,000.00</td>
<td>$855,000.00</td>
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Sub-Total: $855,000.00

**GRAND TOTAL**: $36,338,118.75
<table>
<thead>
<tr>
<th>Infrastructure Improvements</th>
<th>Total Cost</th>
</tr>
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<tbody>
<tr>
<td>CDD Project Related Earthwork</td>
<td>$ 7,864,311.50</td>
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<tr>
<td>On-Site Roadway Paving and Improvements</td>
<td>$ 4,812,303.25</td>
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<tr>
<td>Drainage</td>
<td>$ 5,117,100.00</td>
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<tr>
<td>Water</td>
<td>$ 2,112,490.00</td>
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<tr>
<td>Reclaimed Water</td>
<td>$ 1,702,275.00</td>
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<tr>
<td>Sanitary</td>
<td>$ 3,249,530.00</td>
</tr>
<tr>
<td>Fort Florida Road Off-site Improvements</td>
<td>$ 3,000,000.00</td>
</tr>
<tr>
<td>Landscape and Hardscape Features in Common Areas</td>
<td>$ 3,125,000.00</td>
</tr>
<tr>
<td>Amenity Club</td>
<td>$ 3,125,000.00</td>
</tr>
<tr>
<td>Wetland Mitigation</td>
<td>$ 750,000.00</td>
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<tr>
<td>Project Frontage Improvements</td>
<td>$ 625,000.00</td>
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<tr>
<td>Water &amp; Sewer Capacity Related Fees</td>
<td>$ 855,000.00</td>
</tr>
<tr>
<td><strong>Total Cost</strong></td>
<td><strong>$ 36,338,119.75</strong></td>
</tr>
<tr>
<td>Infrastructure Improvements</td>
<td>Constructed by and/or Acquired</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>Stormwater Ponds and Control Structures</td>
<td>CDD</td>
</tr>
<tr>
<td>Roadway Stormwater Conveyance System</td>
<td>CDD</td>
</tr>
<tr>
<td>Roadway Improvements</td>
<td>CDD</td>
</tr>
<tr>
<td>Water, Sewer and Reclaim System</td>
<td>CDD</td>
</tr>
<tr>
<td>Recreation Improvements</td>
<td>CDD</td>
</tr>
<tr>
<td>Landscape and Hardscape Improvements</td>
<td>CDD</td>
</tr>
</tbody>
</table>
BASIS OF COST ESTIMATES

The following is the basis for the infrastructure cost estimates:

- Water, Sewer and Reuse Facilities are designed in accordance with VCU, and Florida Department of Environmental Protection (FDEP) Standards.
- Stormwater design was prepared in accordance with St. Johns River Water Management District (SJRWMD) and the City of DeBary requirements.
- Costs utilized for CDD Infrastructure opinions of probable construction costs were obtained from recent historical bids for similar work in this area or commonly acceptable information for the industry.
- Jurisdictional wetland determinations have been completed for these projects. Wetland impacts and the required mitigation are still in design/permit approval for the specific individual projects by the SJRWMD and USACE.
- The engineering design fees, including geotechnical, engineering and environmental services are included in the estimate.
- For the purposes of this report, a 20% contingency factor has been included for CIP Infrastructure.
- Cost estimates contained in this report are based upon year 2019 dollars and have been prepared based upon commonly acceptable information. Kimley-Horn and Associates, Inc. believes the enclosed estimates to be accurate based upon the available information, however, actual costs will vary based upon final engineering, planning and approvals from regulatory authorities and subcontractor pricing.
APPENDIX

Exhibit No.
1. Location Map
2. CDD Metes and Bounds Description
3. CDD Phasing Plan
4. CDD Master Site Plan
5. CDD Stormwater System
6. CDD Water System
7. CDD Sewer System
8. CDD Reuse System

Excludes pages 23 to 50 of KHA report for Exhibit A - Request from CDD as needed
Exhibit B:
Portion of Phase 2A Unfunded Improvement Plan (Engineers Certified OPC)

WILL PROVIDE
PRIOR TO
PLAT RECORDING
DECLARATION OF EMERGENCY ACCESS EASEMENT

THIS DECLARATION OF EMERGENCY ACCESS EASEMENT ("Declaration") is made and entered into this ___ day of __________, 2022, by HR RIVINGTON, LLC, a Florida limited liability company, with a mailing address of 5850 T.G. Lee Boulevard, Suite 200, Orlando, Florida 32822, (the “Declarant,”) to and in favor of the CITY OF DEBARY, a Florida municipality, with a mailing address of 16 Colomba Road, DeBary, Florida 32713, (the “City”) in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant, on behalf of itself and its successors and assigns, does hereby establish, grant, create, and convey the following easement and covenants which shall run with title to the Emergency Easement Parcel and the Benefitted Property:

1. Recitals. The foregoing recitals are acknowledged to be true and correct and are hereby incorporated into this Agreement.

   A. Declarant owns fee simple title to certain land located in Volusia County, Florida, said land being more particularly described on Exhibit “A” attached hereto and by this reference made a part hereof (hereinafter referred to as the “Emergency Easement Parcel”); and

   B. City has requested, and Declarant has agreed to grant an emergency access easement in favor of the City for the purposes and upon the terms and conditions as more specifically set forth in the following provisions of this Agreement.

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant, on behalf of itself and its successors and assigns, does hereby establish, grant, create, and convey the following easement and covenants which shall run with title to the Emergency Easement Parcel and the Benefitted Property:

1. Recitals. The foregoing recitals are acknowledged to be true and correct and are hereby incorporated into this Agreement.

2. Grant of Emergency Access Easement. Declarant hereby establishes a perpetual non-exclusive easement over, under, and across the Emergency Easement Parcel for the benefit of the City and the Meadowlea on the River development property located to the South and East of the Emergency Easement Parcel (the “Benefitted Property”) for emergency access including vehicular, non-motor, and pedestrian related access, such as police, fire, utility, medical transport, and similar uses for which urgent or emergency access is needed to the Benefitted Property for the purposes of preserving or protecting lives and/or property when other means of ingress and egress to the Benefitted Property are not available (the “Emergency Access Easement”). For purposes of this Agreement the “Emergency Easement Parcel” shall include only that parcel of real property specifically described in Exhibit "A", which is attached hereto and incorporated herein by this reference. This Emergency Access Easement is for emergency ingress and egress over Emergency Easement Parcel to and from the Benefitted Property connecting at the corner of Fern...
Drive and Leisure World Drive North on the Benefited Property to the Terrapin Drive Public Right of Way.

3. **Construction and Maintenance of the Emergency Access Easement.** Declarant shall construct emergency access improvements within the Emergency Access Easement to include a stabilized gravel road. The Declarant shall be responsible for the normal mowing, repair and maintenance of the Emergency Access Easement and the improvements installed upon Easement. However, to the extent the emergency access improvements are used by the Benefitted Property during an emergency and are damaged during said emergency use, the City will be responsible for repair of said damage within a reasonable amount time after the end of the emergency use. The Declarant reserves the right to assign its maintenance obligations to the community development district (the “CDD”) or homeowners association (the “HOA”) upon any conveyance of the Emergency Easement Parcel to the CDD or HOA.

4. **Use of Easement Rights.** The City and any beneficiary of the Emergency Access Easement shall utilize the easement rights granted herein in accordance with the laws, codes, rules, and regulations of, and pursuant to all permits issued by any applicable governmental agencies.

5. **No Third Party Liability/Agencies/Construction Liens.** Declarant shall not be liable by virtue of this Declaration to (and nothing in this Declaration shall constitute an obligation or promise in favor of) any contractor, sub-contractor, materialman, laborer, or others for materials or services furnished or delivered by them, or employed in any such construction and installations, at the request of the City or any beneficiary of the Emergency Access Easement. No rights created herein shall permit or empower the City or any beneficiary of the Emergency Access Easement to encumber the Emergency Easement Parcel with liens arising from any construction, installation, maintenance, repair, and/or replacement of the improvements contemplated herein. Unless specifically agreed to and acknowledged in writing, no party shall be the agent of another for any purpose.

6. **Covenants Running with the Land.** All rights, privileges, benefits, and burdens created herein are covenants and agreements running with the title to the Emergency Access Easement Parcel and shall be binding upon, and inuring to the benefit of the successors, assigns, and successors-in-title of the respective parties herein.

The owners of the Emergency Easement Parcel shall be liable for the obligations contained in this Agreement only during the period of time that they are or were an owner of the respective Emergency Easement Parcel, and for defaults that occurred during such time, after which time, or with respect to which, the liability for such obligations shall rest with the successors in interest of such owners of the Emergency Easement Parcel.

7. **Rights Reserved.** The easement rights granted herein are non-exclusive in nature and are subject to all covenants, restrictions, easements, and other encumbrances and matters of record. The owner(s) of the Emergency Easement Parcel shall have the right to use the Emergency Easement Parcel for any purpose not inconsistent with the use and enjoyment of the rights granted herein.
8. **Paragraph Headings.** The paragraph and sub-paragraph headings as herein used are for convenience of reference only and shall not be deemed to vary the content of this Agreement or limit the provisions or scope of any section herein.

9. **Severability.** This Declaration 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 Declaration or the application thereof to any person or circumstance shall, for any reason or to any extent, be invalid or unenforceable, the remainder of this Declaration and the application of such provision to other persons or circumstances shall not be affected thereby but rather this Declaration shall be enforced to the greatest extent permitted by law.

10. **Governing Law.** This Declaration shall be construed under the laws of the State of Florida. Venue for any action involving this Agreement shall lie only in Volusia County, Florida.

11. **Modification.** This Declaration may be modified or amended only by a written instrument signed by Declarant or its successors and/or assigns. Any modification or amendment of this Declaration shall take effect only upon recordation of the same in the Public Records of Volusia County, Florida.

12. **Remedies.**
   
   a. In the event of a breach of any of the covenants, obligations, promises or requirements set forth in this Declaration, Declarant shall be entitled to pursue and enforce all remedies or rights specified in this Declaration or that also may otherwise be available to them at law or in equity, including, but not limited to, specific performance, resulting from said breach.

   b. The failure to enforce any of the terms or provisions of this Declaration, however long continued, shall in no event be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation occurring prior to or subsequent thereto.

   c. The pursuit of any one remedy shall not operate as an election of remedies prohibiting the pursuit of other remedies. No right, privilege or remedy established herein is intended to be exclusive of any other right, privilege, or remedy available at law or in equity.

13. **Reaffirmation of Declaration.** Until this Declaration is duly terminated, any entity or person acquiring title or any other interest in or to the Emergency Easement Parcel shall be deemed conclusively and automatically to ratify, confirm and reaffirm every grant of easement, obligation, term, and provision set forth herein affecting the Emergency Easement Parcel as a prerequisite to acquiring said title or other interest. Said ratification, confirmation, and reaffirmation shall occur automatically by virtue of acquisition of title or any other interest, in or to any of said premises and need not be set forth expressly or separately in any other instrument.

14. **Notices.** Any notice, request, demand, instruction or other communication to be given to the owner of the Emergency Easement Parcel shall be in writing and shall be hand delivered or sent by Federal Express or other comparable overnight mail service, or mailed by U.S. certified mail, return receipt requested, postage prepaid to (i) if Declarant, the address set forth in the page one to this Declaration, or (ii) if to any successor in title to any of the Emergency
Easement Parcel, the address for such party set forth in the deed conveying title to such Emergency Easement Parcel to such successor as recorded in the Public Records of Volusia County.

15. **No Gift or Dedication to Public Use.** Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Emergency Easement Parcel to the general public or for any public use or purpose whatsoever, it being the intention of Declarant that all rights and easements herein created are solely for emergency purposes.
IN WITNESS WHEREOF, Declarant has caused this instrument to be executed this ___ day of __________, 2022.

Signed, sealed and delivered in the presence of:

“DECLARANT”

HR RIVINGTON, LLC, a Florida limited liability company

By: HR Southeast, LLC, a Delaware limited liability company, sole member

By: RP Investors Southeast, LLC, a Florida limited liability company, sole managing member

By: Reader & Partners, LLC, a Florida limited liability company, sole manager

By: ______________________________________

Print Name: Dean Barberree, President

[Notary Seal]

Signature of Notary Public

Type, Print or Stamp Name of Notary Public

STATE OF FLORIDA )
) ss:
COUNTY OF _________________)

The foregoing instrument was acknowledged before me this ___ day of __________, 2022, by means of (_) physical presence or (_) online notarization by Dean Barberree as President of Reader & Partners, LLC, a Florida limited liability company, the sole manager of RP Investors Southeast, LLC, a Florida limited liability company, the sole managing member of HR Southeast, LLC, a Delaware limited liability company, the sole member of HR Rivington, LLC, a Florida limited liability company, on behalf of the company. He (_) is personally known to me or (_) has produced a driver’s license as identification.

[Notary Seal]
EXHIBIT "A"
(Emergency Easement Parcel)

Tract ____ of the Rivington Phase 2A plat recorded in Plat Book ____, Page ____, Public Records of Volusia County, Florida

And
LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 8, TOWNSHIP 19 SOUTH, RANGE 30 EAST, CITY OF DEBARY, VOLUSIA COUNTY, FLORIDA.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE EAST QUARTER CORNER SAID SECTION 8; THENCE RUN NORTH 89° 51' 23" WEST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 8 FOR A DISTANCE OF 2843.14 FEET TO THE NORTHEAST CORNER OF GOVERNMENT LOT 2 OF SAID SECTION 8; THENCE RUN SOUTH 89° 54' 19" WEST ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 2 FOR A DISTANCE 1319.22 FEET TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 2, ALSO BEING THE POINT OF BEGINNING; THENCE RUN SOUTH 00° 22' 13" EAST FOR A DISTANCE OF 172.74 FEET; THENCE RUN NORTH 27° 46' 24" WEST FOR A DISTANCE OF 28.83 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHEASTERLY HAVING A RADIUS OF 60.00 FEET, WITH A CHORD BEARING OF NORTH 14° 04' 18" WEST, AND A CHORD DISTANCE OF 28.42 FEET; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 27° 24' 11" FOR A DISTANCE OF 28.70 FEET TO A POINT OF TANGENCY; THENCE RUN NORTH 00° 22' 13" WEST FOR A DISTANCE OF 143.63 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 20.00 FEET, WITH A CHORD BEARING OF NORTH 06° 06' 06" WEST, AND A CHORD DISTANCE OF 3.99 FEET; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11° 27' 46" FOR A DISTANCE OF 4.00 FEET TO A POINT OF TANGENCY; THENCE RUN SOUTH 11° 49' 59" EAST FOR A DISTANCE OF 28.57 FEET TO A POINT ON THE NORTH LINE OF GOVERNMENT LOT 3 OF AFORESAID SECTION 8; THENCE RUN NORTH 89° 54' 19" EAST ALONG SAID NORTH LINE OF GOVERNMENT LOT 3 FOR A DISTANCE OF 14.72 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 3,122 SQUARE FEET, OR 0.07 ACRES, MORE OR LESS.

SURVEYOR'S NOTES:
1. THIS IS NOT A SURVEY.
2. THIS SKETCH IS NOT VALID UNLESS SIGNED AND SEALED WITH AN ENGRAVED SURVEYOR'S SEAL.
3. BEARINGS SHOWN HEREBIN ARE BASED ON THE SOUTH LINE OF THE NORTHEAST 1/4 OF SECTION 8-19-30, BEING N. 89° 51' 23" W (ASSUMED FOR ANGULAR DESIGNATION ONLY).
4. THE LEGAL DESCRIPTION WAS PREPARED WITHOUT THE BENEFIT OF TITLE.
5. DESCRIPTION OF THE LANDS SHOWN HEREBIN ARE AS PER THE CLIENT'S INSTRUCTIONS.
6. THE LEGAL DESCRIPTION SHOWN HEREBIN WAS PREPARED BY THE SURVEYOR AT THE CLIENT'S REQUEST.

JOB NO. 20170509  CALCULATED BY:  BF
DATE:  12/15/2021  DRAWN BY:  JD
SCALED:  1" = 50'  CHECKED BY:  MR
FOR THE LICENSED BUSINESS #6723 BY:  JAMES L. RICKMAN, P.S.M. #5833
City Council Meeting
City of DeBary
AGENDA ITEM

Subject: Woodbound Lake Outfall System Improvements – Bid No. 10-21 - Award of Construction Contract
Attachments: ( ) Ordinance
From: Carmen Rosamonda, City Manager
( ) Resolution
( X) Supporting Documents/ Contracts
( ) Other
Meeting Hearing Date April 20, 2022

REQUEST

City Manager is requesting City Council to Award the Construction Contract for the Woodbound Lake Outfall System Improvements – Phase 2 and Phase 3, Bid No. 10-21, to the lowest responsive and responsible bidder, CARR & COLLIER, INC. of Okahumpka, Florida.

PURPOSE

The purpose of the project is to construct a stormwater pump station and force main piping system to automatically control the level of Woodbound Lake.

CONSIDERATIONS

At the direction of City Council, the Woodbound Lake Outfall System Improvements - Phase 2 and Phase 3 project was advertised for bids on March 9, 2022 in the Daytona Beach News-Journal. The Bid Documents were also posted on the City’s web site and the Vendorlink website requesting proposals from Florida Contractors. The public advertisement notified potential bidders that a mandatory Pre-Bid Conference would be held at 10:00 AM on March 18, 2022, at DeBary City Hall. Six (6) Contractors were represented at the mandatory Pre-Bid Conference.

As advertised, on April 1, 2022 at 10:00 AM, the City of DeBary received two (2) sealed bids for Bid No. 10-21 at City Hall. All bids were unsealed and read aloud at the public bid opening with a representative of each bidder present, as well as City Staff. The results of the bid are;

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Bid Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Carr &amp; Collier, Inc.</td>
<td>$836,938.00</td>
</tr>
<tr>
<td>2. GPS Civil Construction</td>
<td>$964,430.00</td>
</tr>
</tbody>
</table>
CARR & COLLIER, INC. is a Florida licensed General Contractor and Underground Utility Contractor that has been an active business for sixteen years. CARR & COLLIER, INC., formerly known as VILLAGES CONSTRUCTION, INC, was the Contractor that constructed the DeBary, No Name Lake Stormwater Pump Station in 2016. The No Name Lake project was completed in an efficient manner within budget and the pump station has functioned well for DeBary. CARR & COLLIER, INC. has performed similar projects for Volusia County, Seminole County, the City of Deltona and numerous other municipalities in Central Florida.

KHARE Construction Services, LLC conducted the public bid opening and tabulated all bids in spreadsheet format, confirming mathematic accuracy and responsiveness with the Instructions to Bidders. Required Bid Documents are received and confirmed.

KHARE Construction Services, LLC, Task Order 0422-01 is attached for City Council approval. The purpose of Task Order 0422-01 is to establish a budget for Construction Management and Inspection Services for the project. The proposed budget amount of Work Order 0422-01 is not to exceed $35,728.00.

**COST/FUNDING**

The Woodbound Project was originally budgeted and funded in the FY2021 Stormwater Management Fund for $1,261,054. Upon receiving ARPA funding with their timing requirements, the Woodbound project will now be funded from the ARPA Capital Project Fund, leaving the Stormwater Management Fund with associated cash reserve.

**RECOMMENDATION**

Recommendation to Award the Contract for Construction of the Woodbound Lake Outfall System Improvements – Phase 2 and Phase 3, to the lowest responsive and responsible bidder, CARR & COLLIER, INC., for the low bid amount of $836,938.00 with a Contingency Budget of 10% or $83,693.80 to be included for the total budgeted amount of $920,631.80.

Recommendation to approve Work Order No. 0422-01 in the amount of $35,728.00, to KHARE Construction Services, LLC for Construction Management and Inspections Services for the Woodbound Lake Outfall System Improvements – Phase 2 and Phase 3.

**IMPLEMENTATION**

The production and delivery of construction materials may have a significant effect on the schedule to complete the project. The project start date is not certain at this time. The Contract completion date is November 30, 2022.

**ATTACHMENTS**

Proposal and Scope of Services – KHARE Construction Services, LLC
Work Order 0422-01 – KHARE - KHARE Construction Services, LLC
April 8, 2022

Carmen Rosamonda, City Manager
City of DeBary
16 Colomba Road
DeBary, Florida 32713

Proposal Construction Management and Inspection Services
Woodbound Lake Outfall System Improvements – Phase 2 and Phase 3

Good day Carmen,

Thank you for the opportunity to make this proposal to the City of DeBary to provide professional Preliminary Construction Management for the Woodbound Lake Outfall System Improvements – Phase 2 and Phase 3. The Scope of Services for Construction Management Services is described below as activities and estimated billable hours of service as necessary to achieve the results as desired by the City.

**CONSTRUCTION MANAGEMENT SERVICES PROVIDED - March 7, 2022 to April 8, 2022**

Detailed Time Sheets provided. 44 hours.

**ESTIMATED SERVICES**

**CONSTRUCTION MANAGEMENT - April 20, 2022 to May 20, 2022**

Description of Services:

- Recommend Award of Contract to CARR & COLLIER to City Council – 8 hours
- Send Two Contracts and Bond Documents to CARR & COLLIER – 1 hour
- Coordinate with CARR & COLLIER and Consultant to prioritize and process long lead time submittals and all submittals. – 8 hours
- Receive executed Contracts and Bonds from C & C – review bonds for compliance. 1 hours
- Coordinate with City Clerk or City Manager for City execution of two originals. 1 hours
- By Letter, return Bond documents and one executed original Contract to C&C. Letter notifies Contractor to have the Bonds recorded at the County Clerk and provide the City with a copy of the recorded Bonds. City Clerk adds the recorded Bonds to the Contract Files for C&C. 2 hours
- Receive and review for compliance – Contractors Certificate of Insurance with City of DeBary named as additionally insured. 1 hours
- Receive Preliminary Schedule and set up Pre-Con with Parks Department. 2 hours
- Conduct Pre-Con Meeting - 2 hours
- Coordinate Notice to Proceed with CARR & COLLIER – 2 hours

Total April 20, 2022 to May 20, 2022 - 28 hours – 4/20/22 TO 5/20/22

**CONSTRUCTION MANAGEMENT AND INSPECTION - UNDERGROUND CONSTRUCTION**

14 weeks – 10 hours per week - 140 hours
CONSTRUCTION MANAGEMENT AND INSPECTION - for LIFT STATION – MECHANICAL – ELECTRICAL – TESTING
8 weeks – 6 hours per week - 48 hours

CONSTRUCTION ADMINISTRATION - PAYMENT APPLICATIONS –
6 PAYMENTS – 8 HOURS EACH – 48 hours

SUMMATION

CONSTRUCTION MANAGEMENT SERVICES PROVIDED - March 7, 2022 to April 8, 2022 – 44 hours
ESTIMATED TOTAL HOURS 5/20/22 to 11/30/22 or Project Completion - 264 hours
TOTAL HOURS – 308

TOTAL WORK ORDER 0422-01 - $35,728.00.

Summary of Limitations
The following items are not applicable to this proposal and the Construction Manager will not be responsible for the following;

1. Project design documents that are signed and sealed by the City’s Consultant Professional Engineer or Subconsultants.
2. Contractor Means and Methods as required for safety and construction of the project in its entirety.

If I may assist in your consideration of this proposal in any way, please let me know. Thanks again.

Kevin J Hare
Construction Services Manager
Exhibit B
WORK ORDER
FOR
MASTER AGREEMENT FOR PUBLIC WORK PROJECTS
CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES
CONSTRUCTION COSTS LESS THAN $2,000,000

WORK ORDER NO.: KHARE – 0422- 01

PROJECT: Woodbound Lake Outfall System Improvements - Phase 2 and Phase 3
Construction Management and Inspection Services

CITY: City of DeBary, Florida

COUNTY: Volusia County

CONSTRUCTION MANAGER: KHARE Construction Services, LLC.

CONSULTANT’S ADDRESS: 1457 Mt. Laurel Drive
Winter Springs, Florida 32708

Execution of the Work Order by CITY shall serve as authorization for the CONSTRUCTION MANAGER to provide for the above project, professional services as set out in the Scope of Services attached to that certain Agreement of January 20, 2021 between the CITY and the CONSTRUCTION MANAGER and further delineated in the specifications, conditions and requirements stated in the following listed documents which are attached hereto and made a part hereof.

ATTACHMENTS:

[ X ] TIME SHEETS
[ ] WORK ORDER
[ X ] MEMORANDUM OF PROPOSAL

The CONSULTANT shall provide said services pursuant to this Work Order, its attachments and the above-referenced Agreement which is incorporated herein by reference as if it had been set out in its entirety. Whenever the Work Order conflicts with said Agreement, the Agreement shall prevail.

TIME FOR COMPLETION: The work authorized by this Work Order is complete as directed by the City Manager.
METHOD OF COMPENSATION:

(a) This Work Order is issued on a:

[ ] FIXED FEE BASIS
[X] TIME BASIS METHOD WITH A NOT-TO-EXCEED AMOUNT
[ ] TIME BASIS METHOD WITH A LIMITATION OF FUNDS AMOUNT

(b) If the compensation is based on a "Fixed Fee Basis", then the CONSTRUCTION MANAGER shall perform all work required by this Work Order for the sum of___________________ DOLLARS ($______). In no event shall the CONSTRUCTION MANAGER be paid more than the Fixed Fee Amount.

(c) If the compensation is based on a "Time Basis Method" with a Not-to-Exceed Amount, then the CONSULTANT shall perform all work required by this Work Order for a sum not to exceed THIRTY FIVE THOUSAND SEVEN HUNDRED TWENTY EIGHT DOLLARS and ZERO CENTS ($35,728.00). The CONSTRUCTION INSPECTION AND MANAGEMENT compensation shall be based on the actual work required by this Work Order as directed by the City Manager.

(d) If the compensation is based on a "Time Basis Method" with a Limitation of Funds Amount, then the CONSULTANT is not authorized to exceed the limitation of Funds amount of __________________ DOLLARS ($______) without prior written approval of the CITY. Such approval, if given by the CITY, shall indicate a new Limitation of Funds amount. The CONSTRUCTION MANAGER shall advise the CITY whenever the CONSTRUCTION MANAGER has incurred expenses on this Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount. The City shall compensate the CONSTRUCTION MANAGER for the actual work performed under this Work Order.

Payment to the CONSTRUCTION MANAGER shall be made by the CITY in strict accordance with the payment terms of the above-referenced Agreement.

It is expressly understood by the CONSTRUCTION MANAGER that this Work Order, until executed by the CITY, does not authorize the performance of any services by the CONSTRUCTION MANAGER and that the CITY, prior to its execution of the Work Order, reserves the right to authorize a party other than the CONSTRUCTION MANAGER to perform the services called for under this Work Order if it is determined that to do so is in the best interest of the CITY.

IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order for the purposes stated herein.

KHARE Construction Services, LLC

By: ____________________________

Kevin J Hare, President

Date: ___________________________

CITY OF DEBARY, FLORIDA

By: ____________________________

Date: ___________________________
REQUEST

The Parks and Recreation Department is requesting the City Council award RFQ 11-21 Rob Sullivan Operations Center to D & A Construction Group, Inc for the amount of $240,000.

PURPOSE

The request for award is needed at this time to ensure we meet the project timeline. This project is to be completed by the end of January 2023 in anticipation for opening day for our spring sports programs.

CONSIDERATIONS

The RFQ was advertised in the Daytona Beach News Journal on Sunday, January 30th. The RFQ documents were available at that time on the City of DeBary website and Vendorlink. A mandatory Pre-Bid meeting was held on February 10th in which three contractors were represented. One sealed bid was submitted to the City by the March 31st deadline. Staff reviewed the RFQ and vetted DACG Inc. the week following the submittal and recommend moving forward.

COST/FUNDING

The cost of the total project was approved in the FY 21/22 budget for the amount of $300,000. There is $240,000 dedicated to the building and $60,000 dedicated to the shade structure, which is in process through another RFP.

RECOMMENDATION

It is recommended the Council award RFQ 11-21 to D & A Construction Group Inc. for the amount of $240,000 to move forward with the project.

IMPLEMENTATION

Upon approval, a Letter of Award will be issued to DACG, Inc. staff will negotiate a contract for the project and then immediately move into the design phase of the project.
ATTACHMENTS

Attachment A: DACG, Inc. RFQ 11-21 submission
Attachment B: RFQ 11-21 tabulation sheet
RFQ 11-21 DESIGN BUILD SERVICES FOR THE ROB SULLIVAN PARK OPERATIONS CENTER

D & A CONSTRUCTION GROUP, INC.
983 EXPLORER COVE
ALTAMONTE SPRINGS, FL 32701
CONTACT: SHANE WOLFE
PHONE: 407-340-4345
SWOLFE@DACGINC.COM
MARCH 25, 2022
LETTER OF INTRODUCTION AND TABLE OF CONTENTS

MARCH 25, 2022

City Counsel Members
16 Colomba Rd,
Debary, FL 32713

Re: RFQ 11-21 Rob Sullivan Park Operations Center
Dear Selection Committee Members,

The D & A Construction Group d/b/a DACG, Inc. team is excited to present our qualifications for the Rob Sullivan Park Operations Center. We understand how important these projects are to the City Counsel and the community. This project will be a great opportunity for our team to deliver our concept - Building Better Partnerships. Our experienced team brings the following beneficial advantages to the City Counsel and community:

• **Highly Experienced Team** – Our project team members bring an unparalleled depth of construction experience with various city parks, campus renovations, and extensive experience working together as a team for decades. Our team will consist of myself, President/CEO, Heather McCandless, Vice President, Jamie McCandless, Project Executive, Shane Wolfe, Pre-Construction, Collier Mullins, Project Managers, Bobby Gilmer, Katie Sarabasa, Superintendents, Jaime Torres, Steve Smith, and Zach Shearer. Understanding the importance of these types of projects, we can assure you our proposed team will be committed to finish this project on time and within budget.

• **Size of Firm** -

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• **Range of Activities** - DACG is not only a Construction Management firm we also are pioneers in the art of self-performing on projects. This unique performance strategy we bring to all of our projects is one of the many ways we differentiate ourselves from our competition. Our local qualified team has proven to our clients time after time to better control quality and schedule, which will ultimately save you money. DACG invests and empowers each one of our team members with the proper training and tools they need to perform at an elite level. We own, house and maintain the necessary tools, equipment, and personnel to perform at a moment's notice. Owning our own equipment ensures our team's performance is not restricted by the current overburdened construction market. DACG can commit a dedicated, local, proven team of craftsmen that have successfully performed over 2500 + projects in the last 10+ years!
LETTER OF INTEREST

· Firms Strength and Stability - D & A Construction Group, Inc. is a privately held corporation founded in 2010 in Altamonte Springs, Florida, and has been providing superior construction services for over ten years in the Central Florida market. Specializing in educational facilities and infrastructure construction, our services include design-build, pre-construction, construction management, general contracting, and subcontractor services. We deliver for both private and public sector clients on time and with extensive attention to detail. DACG, Inc. was founded by Heather McCandless, who envisioned a firm that could deliver on the promise of quality personalized service, with a positive impact on the communities we serve.

· Location of firm - DACG, Inc. is headquartered at 983 Explorer Cove, Altamonte Springs, FL 32701. Our project team resides in various counties in Central Florida and specifically Volusia County, FL.

· Local Presence and Community Involvement – Headquartered in Central Florida, along with many of our team members who live in Volusia County, we are committed to giving back to the communities we serve. For the past 10+ years, we have ranked as one of Central Florida's top Philanthropic Companies by Orlando Business Journal. DACG has volunteered over 550+ hours to local community activities and were even named Seminole County Public Schools - Business Partner of the Year. Since 2010 DACG is consistently ranked Top 25 as Central Florida's largest Minority, Woman-Owned General Contractor. In closing, DACG offers the City of Debary, the values of a family owned business, accompanied with the knowledge, expertise, and resources of a much larger firm. We appreciate your consideration of our firm and we look forward to demonstrating how our Company's slogan, “Building Better Partnerships” rings true.

D & A Construction Group, Inc.
Sincerely,

[Signature]

Heather McCandless
President/CEO
DACG, Inc.

DACG INC RFQ 11-21 Design Build Services for the Rob Sullivan Park Operations Center
1. Project Approach Outline

Over the past decade DACG, Inc. and KMA Design Group have completed several construction projects together that are of comparable size and complexity to our proposed Design of the Rob Sullivan Park - Sullivan Operations Center. As a team we have met to discuss the following design and construction perspective as well as the methods we will use to complete these assigned tasks:

a. Our team brings relevant knowledge, expertise and a dedicated, client focused approach to the design and construction process. KMA Design Group stays intimately involved throughout the construction of the project and attends all Client meetings.

b. With in our current market material costs and lack of work force are increasing from a day to day. With DACG ability to self-perform several scopes of work (concrete, roofing, carpentry, and drywall) for this project eliminates us relying on other trade partners which historically decreases time and cost impacts. This proven approach has saved our clients hundreds of thousands of dollars. We have on hand more than 47 skilled craft workers.

2. Multi-Use Functionality

Within the project budget parameters and current construction availability of materials that have been identified, we believe that our Design Concept which includes an open plan concept which provides a flexible space for multi-usage, doors on opposite ends to allow optimal circulation, 2 fixed windows on north face of building for indirect lighting, 1 operable window at 9’ extended overhang for concession staging, and a storage and custodial space that has been sized according to the desired program. Reference attached design concept floor plan. We look forward to sitting with you and discussing these items more in detail.
# Financial Capability

## Certificate of Liability Insurance

**Date:** 03/30/2022

**Producer:** Stat & Associates Insurance Inc.
110 Carlson Parkway
St. Petersburg, FL 33716

**Insurer:**
- **A:** National Trust Insurance Co
- **B:** FCCI Insurance Company
- **C:** Bridgewell Casualty Ins Co
- **D:** XL Specialty Ins Co

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**Description of Operations / Locations / Vehicles**

City of Debary and Volusia County is included as additional insured with respect to general liability as required by written contract.

**Certificate Holder**

City of Debary
16 Colomba Rd
Debary, FL 32713

**Authorized Representative**

Signature

**Cancellation**

Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**ACORD 25 (2018/03)**

The ACORD name and logo are registered marks of ACORD

**DACG**

RFQ 11-21 Design Build Services for the Rob Sullivan Park Operations Center
STATE OF FLORIDA
DEPARTMENT OF STATE

I certify from the records of this office that D & A CONSTRUCTION GROUP, INC. is a corporation organized under the laws of the State of Florida, filed on July 26, 2010, effective July 26, 2010.

The document number of this corporation is P10000061383.

I further certify that said corporation has paid all fees due this office through December 31, 2022, that its most recent annual report/uniform business report was filed on January 31, 2022, and that its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capital, this the Thirty-first day of January, 2022

[Signature]
Secretary of State

Tracking Number: 301324260ACCC

To authenticate this certificate, visit the following site, enter this number, and then follow the instructions displayed.
https://services.eoble.org/Tebgp/CertCenter/StatusCertificateAuthentication
March 8, 2022

To Whom it May Concern,

Seminole County Public Schools is pleased to submit this letter of recommendation for DACG Inc. as a result of our work together on a number of CM Continuing Service projects. Wekiva Elementary School drainage project is one of the most recent projects in which they were able to address a drainage issue in the parking lot of the school. This project was done on time and within the allotted budget.

As the Project Manager, I appreciate a Contractor that values the intricacies of our facility demands and the need to get projects completed on time and within budget. Even though all of these projects were on occupied campuses and presented unique challenges, they still demonstrated excellent communication skills and delivered highly successful and quality projects. The professionalism, responsiveness and cooperation displayed by their staff as part of the owner-architect-contractor team was vital to the success of the projects. Their Project Executives, Project Managers, and Superintendents all worked collaboratively with the school district and the design team and understood what it took to complete the project safely, on-time and on-budget.

Seminole County Public Schools looks forward to continuing our professional relationship with DACG Inc. and would not hesitate to recommend them to perspective clients on future projects.

Sincerely,

Tim Gough, P.E.
Project Manager
Seminole County Public Schools
Acceptance of Proposal Terms and Conditions

I/we, the undersigned, as authorized signatory to commit the firm, do hereby accept in total all the terms and conditions stipulated and referenced in this RFQ document and do hereby agree that if a contract is offered or negotiated it will abide by the terms and conditions presented in the RFQ document or as negotiated pursuant thereto. The signature(s) below in this Acceptance of Proposal Terms and Conditions are an acknowledgment of my/our full understanding and acceptance of all the terms and conditions set forth in this RFQ document or as otherwise agreed to between the parties in writing.

Respondent/Firm Name: D&A Construction Group, Inc. d/b/a DACG, Inc.

By: [Signature] Title: President/CEO

Print: Heather McCandless Date: 3/31/2022

COUNTY OF Seminole STATE OF Florida
Sworn to and subscribed before me this 31st day of March, 2022, by
Heather McCandless

n/a as identification.

NOTARY PUBLIC – STATE OF Florida
Type or print name: Cynthia Jimenez
Commission No.: GG 351320
Commission Expires 7/2/23 (Seal)
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City Council Meeting  
City of DeBary  
AGENDA ITEM

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**REQUEST**

City Manager is requesting the City Council approval to increase City Manager’s annual salary to $180,000 effectively immediately.

**PURPOSE**

The purpose is to bring the City Manager’s salary to market rate and offset recruiting efforts from other organizations.

**CONSIDERATIONS**

- Setting aside Lake Helen, Oak Hill and Pierson, the DeBary City Manager is lowest salaried City Manager in Volusia County at $133,910.

- Since arriving in April 2019, this City Manager has produced revenues outside the City by bringing in the first State Legislative Appropriation ($300,000), first SJRWMD grant ($281,000) and tentatively in 2022, State Legislative Appropriations totaling $2 million. In addition, negotiated a 15-year contract to increase DeBary’s Gas Tax proportionate share by $120,000 annually.

- The City Manager has improved organization performance, reducing costs and significantly increasing the City’s cash reserves, while maintaining the same 2.9247 property tax rate.

- The City Manager has assisted in eliminating the 15-year stormwater project backlog, set forth a strategy to complete our stormwater system by 2024 and reduced the stormwater fees by 11.4% last year.

- The City Manager has accomplished, set in motion, and/or resolved complex issues during his tenure, such as DeBary Elementary, revitalization of the TOD area, new fire station, Alexander Island and more.

- Other than the salary and associated benefit increase, no other provision in the City Manager’s contract shall change.
COST/FUNDING

The salary expense for FY2021-22 budget will be approximately $23,045, plus the cost of benefits. The additional cost will be allocated from either a budget amendment from the current FY budget or general fund reserves dependent upon availability. The FY 2020-21 financial audit will be presented at the May 4, 2022 Council meeting. The increase in annual cost ($46,090, plus the cost of benefits) for the FY 2022-23 budget will be absorbed in the normal budget process.

RECOMMENDATION

It is recommended that the City Council approve, effective immediately, the City Manager’s new salary of $180,000, plus the cost of benefits and authorize the Mayor to sign an Amendment to the City Manager Employment Contract to be prepared by the City Attorney.

IMPLEMENTATION

Immediately upon adoption

ATTACHMENTS

City Manager Contract
First Amendment to Employment Contract
EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (hereinafter referred to as “Agreement”) is made and entered into on this __________ day of ________________, 2019, by and between the City of DeBary, a Florida municipal corporation (hereinafter referred to as the “City”), and CARMEN ROSAMONDA, an individual (hereinafter referred to as “City Manager” or “Employee”), both of whom understand and agree as follows:

WHEREAS, the CITY desires to employ CARMEN ROSAMONDA as City Manager of the City of DeBary, Florida, as provided for in Article VI, Chapter 6 of the City Charter of the City of DeBary, Florida; and

WHEREAS, the CITY, through the City Council, desires to provide for certain benefits and compensation for the City Manager and to establish conditions of employment applicable to the City Manager; and

WHEREAS, CARMEN ROSAMONDA desires to accept employment as City Manager of the City of DeBary, Florida under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises as set forth in this Agreement, the parties agree as follows:

ARTICLE 1
Appointment of City Manager

The CITY hereby appoints CARMEN ROSAMONDA as City Manager, and CARMEN ROSAMONDA hereby accepts such appointment, subject to the terms and conditions of this Agreement.

ARTICLE 2
Term

Employee’s employment with the City shall commence upon April 1, 2019 (the “Commencement Date”), until terminated by CITY or City Manager as provided in Articles 9 of this Agreement. During the period following the Effective Date of this Agreement and up to the Commencement Date (the “Preparation Period”), the City Council directs and authorizes the current interim City Manager, Ron McLemore, to coordinate with Employee and grant him reasonable access to City facilities, for the purpose of preparing Employee to assume the position of City Manager. During the Preparation Period, Employee shall not constitute an employee of the City, shall not be entitled to any compensation or benefits, and shall at all times be subject to direction by the current City Manager while on City property.

ARTICLE 3
Duties & Obligations
Section 3.1. The City hereby employs, effective on the Commencement Date, Employee as City Manager of said CITY to perform all functions and duties of the City Manager as specified in the City’s Charter, ordinances, regulations, resolutions, this Agreement, and any and all other legally permissible and proper duties and functions as the City Council shall from time to time assign. Employee agrees to perform the aforesaid functions and duties and all other duties of the City Manager in accordance with State and Federal law.

Section 3.2. Powers and Duties: In accordance with Section 6.03 of the City Charter, the powers, duties, and responsibilities of City Manager in the performance of City Manager duties under this Agreement shall be as follows and/or as provided by the City Council:

(a) To hire or fill existing positions and, when the City Manager deems it necessary for the good of the City service, suspend or remove City employees, except as otherwise provided by law or the City Charter.

(b) To direct and supervise the administration of all employees, departments, and agencies of the City, except as otherwise provided by the City Charter or by law.

(c) To attend all Council meetings unless excused by the Council, and shall have the right to take part in discussion but may not vote.

(d) To ensure that all laws, provisions of the City Charter, and acts of the Council, subject to enforcement by the City Manager or by officers subject to the City Manager's direction and supervision, are faithfully executed.

(e) To submit to the Council and make available to the public a complete report on the administrative activities of the City as of the end of each fiscal year.

(f) To make such other reports as the Council may require concerning the operation of City departments, offices, and agencies subject to the City Manager's direction and supervision.

(g) To keep the Council fully advised as to the condition and future needs of the City and to make written recommendations to the Council concerning the affairs of the City.

(h) When needed, to perform the duties of City Clerk in addition to the duties of City Manager during any period of time so appointed by the Council.

(i) To perform such other duties as are specified in this Charter or as may from time to time be assigned by the Council.

Section 3.3. Employee shall devote his full energies, interest, abilities and productive time to the performance of this Agreement, and utilize his best efforts to promote the City’s
interests. Employee shall not engage in any activity, consulting service or enterprise, for compensation or otherwise ("Outside Employment"), which is actually or potentially in conflict with or inimical to, or which materially interferes with, his duties and responsibilities to City. Additionally, Employee shall not undertake any Outside Employment.

Section 3.4. Employee shall at all times under this Agreement reside within the boundaries of the City, and failure to do so shall constitute a breach of this Agreement.

Section 3.5 Adherence and Accountability to the ICMA Code of Ethics. The CITY demands and the City Manager agrees to adhere to the ICMA Code of Ethics, a copy of which is attached to this Agreement and incorporated by reference. Any violation of said Code of Ethics shall constitute a breach of this Agreement.

ARTICLE 4
Compensation & Benefits

Section 4.1 Annual Base Salary: The CITY agrees to pay the City Manager for services rendered an annual base salary of $120,000.00 payable in installments every two weeks in installments similar to other employees employed by the CITY.

a) Upon receiving the ICMA Credentialed designation, the CITY shall increase the City Manager’s current annual base salary at the time of the designation by $10,000.00. The effective date of this salary increase shall be the date the City Manager receives said designation and notifies the City Council in writing.

b) After written notification by Employee to the City Council that Employee has received the ICMA Credentialed designation, any subsequent cost-of-living increases will be provided at the same time to the City Manager consistent with those provided to other CITY employees generally.

c) The City Council, at any time, may in its sole discretion grant a superior performance salary increase or bonus recognizing the outstanding performance and achievement by the City Manager.

Section 4.2 Benefits: Unless otherwise provided in this Agreement, Employee shall be entitled to the same benefits as the other City employees.

Section 4.3 Life Insurance. The CITY shall pay for a life insurance policy for Employee in the amount of two times Employee’s annual base salary. Employee shall have the right to name the beneficiary of the life insurance policy.

Section 4.4 Automobile. City Manager’s duties require that he shall provide, at his expense, the exclusive and unrestricted use of an automobile at all times of his employment with the City. To help defray the expense of operating said automobile, the CITY shall pay the sum of $500.00 per month to the City Manager as an automobile allowance.
In addition, for travel outside Volusia County incurred in the regular course of employment, the City Manager shall receive mileage at the rate prescribed by the Internal Revenue Service or by CITY policy, whichever is less.

The City Manager, at his own expense, shall be responsible for paying for adequate liability, property damage and comprehensive insurance coverage and for the purchase, operation, maintenance, repair and regular replacement of said automobile, whether used for personal or City purposes. Employee shall obtain, keep, and maintain during the course of employment with the City an automobile liability insurance policy with $250,000/$500,000/$100,000 minimum coverage, combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts arising out of the operation of the automobile. Employee shall cause such policy to be endorsed to cover his use of the automobile for City purposes.

Section 4.5 The parties acknowledge and agree that the City Manager is an exempt position under the Federal Fair Labor Standards Act, and shall not be entitled to any overtime pay.

ARTICLE 5
Personal Leave, Work Hours, and Holidays

Section 5.1 Paid Time Off (PTO): The CITY shall allocate to the City Manager 2 days per month for paid time off. The City Manager shall receive the first PTO allotment, in the amount of 24 total days, on the Commencement Date (April 1, 2019) and every anniversary date thereafter. There will be no limit of accrual of Paid Time Off (PTO).

Upon termination of City Manager’s employment with or without cause, the City Manager shall be paid for any unused PTO at the City Manager’s current annual base salary at the time of termination, in accordance with Article 9 of this Agreement and subject to the following limitations. With respect to the 24 days of PTO accruing at the beginning of each year, upon termination the City Manager’s employment, the City Manager shall be entitled to payment for only the pro-rated portion of such 24 days of unused PTO corresponding to the months that City Manager has worked since the last anniversary of the Commencement Date and prior to the date of termination. In no event shall City Manager be paid for more than 60 total days of unused PTO.

Section 5.2 Work Hours & Availability: It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the CITY, and to that end, City Manager shall be allowed to establish an appropriate and flexible work schedule based on City needs. However, the City Manager shall dedicate a minimum of 40 hours per week to the City’s business where he is present at City Hall except where it is necessary or advisable for the City Manager to be outside of the office on City business or in the performance of his duties as City Manager. Further, notwithstanding the amount of PTO to which the City Manager is entitled, City Manager shall not be absent from work at any time for more than two (2) consecutive weeks unless medically required. In all events, the City Manager shall be available to the Mayor, City Council, and City Council members twenty-four (24) hours a day, seven (7) days a week.

ARTICLE 6
Professional Association and Development
Section 6.1 Association Memberships, Dues, Subscriptions, and Professional Development. The CITY agrees to budget and pay for professional memberships, dues and subscriptions in national, state and local associations which includes but is not limited to International City/County Management Association ("ICMA"), Florida City and County Management Associations ("FLCMA") and one civic organization necessary and desirable for the advancement and benefit of the CITY. Based on City Council approved budget, at the discretion of the CITY, the CITY shall pay the tuition, registration fees, travel, and subsistence expenses of City Manager for professional and official travel, short courses, seminars, meetings and occasions adequate to continue the professional development of City Manager adequate for the City Manager to pursue necessary official and other functions for the City. It is the desire of the City Council that the City Manager become a member and be credentialed by the ICMA. Subject to budgeting, the CITY agrees to pay for all costs associated with the membership and credentialing program, including any associated travel expense and attendance at the annual ICMA conference. The City Manager agrees to become a member and pursue and achieve the ICMA Credentials as quickly as the program allows.

ARTICLE 7
Performance Evaluation

Section 7.1 The City Manager and City Council recognize open and honest; two-way communication is one key to the success of any organization. This communication will occur often, providing feedback on the City Manager’s performance.

Section 7.2 At the City Council’s discretion, a formal evaluation of the City Manager’s performance shall occur in a format determined by the City Council.

ARTICLE 8
General Business Expense

Section 8.1 Office Equipment. The CITY shall provide the City Manager with the use of desktop and laptop computers with appropriate software, a cellular telephone (Smartphone) and such other equipment as may be necessary or appropriate for the City Manager to make himself available and perform his duties and to be able to maintain communication with the City Council, City staff and City residents at all times, as approved in the CITY’s budget.

ARTICLE 9
Termination and Severance Pay

Section 9.1 The City Manager shall serve at the pleasure of the City Council, and the City Council may terminate this Agreement and/or the City Manager’s employment at any time, for any reason or no reason. The City Manager shall be an at-will employee during his employment with the City.

Section 9.2 Termination without Cause. Should a majority of the City Council vote to terminate the employment of the City Manager “without cause”, then within ten (10) business
days following the written termination, the CITY shall pay and authorizes the City Financial Director to issue any funds due directly to the City Manager on any accrued and unpaid salary and benefits earned including unused Paid Time Off subject to the limitations in Section 5.1.

Section 9.3 Within forty-five (45) calendar days of termination of employment “without cause”, the CITY shall pay and authorizes the City Financial Director to issue funds directly to the City Manager a lump sum severance pay equal to twenty (20) weeks salary in compliance with Section 215.425(4)(a), Florida Statutes to be paid at the City Manager’s rate of pay on the date of separation from employment.

The CITY shall pay and authorize City Finance Director to pay for City Manager’s health, life and disability benefit premiums as provided in this Agreement for the twenty (20) week period from the date of termination of employment.

The City Manager shall not be entitled to any of the severance pay described under this Section 9.3 or otherwise if he is terminated for misconduct as defined in Section 443.036(29), Florida Statutes, for violation of any ethical rule or regulation promulgated by the ICMA, for commission of any act described in Section 9.4 of this Agreement, or for violation of any material provision of this Agreement.

Further, the City Manager shall not be entitled to, and no severance pay shall be made, unless and until a mutually agreeable severance/separation agreement including a general release from the City Manager to the City for all matters is executed and delivered between the parties.

Section 9.4 Termination with Cause. In the event the City Manager is terminated for just cause, the City shall have no obligation to pay the amounts outlined in Section 9.3 of this Agreement. For purposes of this Agreement, just cause is defined in Section 215.425, Florida Statutes, in addition to any of the following:

a) Misfeasance, malfeasance and or nonfeasance in the performance of his City duties and responsibilities.

b) Conviction or plea of guilty or no contest to a misdemeanor or felony crime, whether or not adjudication is withheld.

c) Neglect of duty, including the inability and unwillingness to properly discharge the responsibilities of office.

d) Violation of any substantive City policy, rule or regulation, which would subject any other City employee to termination.

e) The commission of any fraudulent act against the interest of the City.

f) The commission of any act which involves moral turpitude, or which causes the City disrepute.
g) Violation of the International City/County Management Association Code of Ethics or being found to have committed an ethics violation by the Florida Commission of Ethics.

h) Any other act of a similar nature of the same or greater seriousness.

i) Breach or violation of any material provision of this Agreement.

Section 9.5 In the event the City terminates the employment of the City Manager and the City Council vote is less than unanimous, the City Manager may, within seven days of the dismissal motion by Council, submit to the Mayor a written request for reconsideration. Any action taken by the Council at the reconsideration hearing shall be final.

Section 9.6 In the event the City Council, at any time during the City Manager’s employment, reduces the salary or other benefits of the City Manager, as identified herein, in a greater percentage than an equivalent across-the-board reduction for all full-time City employees, or in the event the City refuses to comply with any other material provision of this Agreement benefiting the City Manager, the City Manager shall notify the City Council in writing of the alleged violation. The City Council shall have forty-five (45) days from such notice within which to cure the violation; otherwise, the City Manager may at his option elect to terminate his employment as a termination “without cause” as of the date of the City’s receipt of written notice of such alleged violation, and the severance pay provision and other termination provisions contained herein shall become applicable at the annual salary and benefit level in effect on the date of the alleged violation.

Section 9.7 The City Manager may terminate his employment under this Agreement at any time by delivering to the City Council a written notice of termination not later than ninety (90) days prior to the effective date of the termination. If the City Manager terminates his employment under this Agreement, the City Manager thereby waives and relinquishes all of this rights under Section 9.3. If the City Manager voluntarily resigns his employment, the City shall pay to the City Manager all accrued compensation due to the City Manager up to the City Manager’s final day of employment including any accrued Paid Time Off, as provided in this Agreement. The City shall have no further financial obligation to City Manager pursuant to this Agreement.

ARTICLE 10
Disability or Death

Section 10.1 Disability. If the City Manager becomes permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four (4) consecutive weeks beyond any accrued leave, the City shall have the option to terminate the City Manager’s employment under this Agreement, subject to the severance pay provisions outline in Section 9.2 and Section 9.3 of this Agreement.

Section 10.2 Death. Upon the City Manager’s death, the City’s obligations under this Agreement shall terminate except for the following:
a) Transfer of ownership of retirement funds, if any to his designated beneficiaries.

b) Payment of accrued leave balances and any accrued unpaid salary in accordance with this Agreement.

c) Any personal items belonging to the City Manager be delivered to his designed beneficiaries.

ARTICLE 11
Legal Defense

Section 11.1 In the event that the City Manager is subject to a lawsuit, criminal or civil action, investigation, ethics complaint, administrative proceedings, or other proceedings necessitating legal representation, the City shall pay the reasonable costs of the City Manager’s legal defense with an attorney mutually agreeable to the parties, except that the City shall not be required to pay such costs if the City Council determines that the matter arises from an action or omission by City Manager that was outside the scope of his employment, was in bad faith, was with malicious purpose, or was in a manner exhibiting wanton and willful disregard of human rights, safety, or property. In the event that the City provides payment for the City Manager’s legal defense or any portion thereof, and it is later determined that the matter arises from an action or omission of the City Manager that was outside the scope of his employment, was in bad faith, was with malicious purpose, or was in a manner exhibiting wanton and willful disregard of human rights, safety, or property, then the City shall be entitled to reimbursement from City Manager for all such costs paid by the City.

Section 11.2 Section 11.1 shall extend beyond the termination of employment and the expiration and termination of this Agreement to provide protection for any such acts undertaken or committed in his capacity as City Manager, regardless of whether the notice of claim or filing of a lawsuit occurs during or following employment with the City.

ARTICLE 12
Attorney’s Fees

If any litigation is commenced between the parties concerning any provision of this Agreement or the rights and duties of the parties in relation thereto, each party in such litigation shall bear their own attorney’s fees and expenses incurred in connection therewith, including appellate fees and expenses.

ARTICLE 13
Bonding

The City agrees to bear the full cost of any fidelity or other bonds required of the City Manager under any policy, regulation, ordinance or law.

ARTICLE 14
General Provisions
Section 14.1 Other Terms. The City, only upon agreement with City Manager, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the City Manager, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City of DeBary Charter, local ordinances or any other law.

Section 14.2 Integration. This Agreement sets forth and establishes the entire understanding between the City and the City Manager relating to the employment of the City Manager by the City. Any prior discussions or representations by or between the City and City Manager are merged into and rendered null and void by this Agreement. The City and City Manager by mutual written Agreement may amend any provision of this Agreement. Such amendments shall be incorporated and made part of this Agreement.

Section 14.3 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the heirs at law or personal representative of City Manager and to the benefit of the City under the current and successor City Councils.

Section 14.4 Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, void or unenforceable by a court of competent jurisdiction, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both the City and City Manager subsequent to the expungement or judicial modification of the invalid provision.

Section 14.5 Precedence. In the event of any conflict between the terms, conditions, and provisions of this Agreement and the provisions of the City’s ordinances or charter or any law or regulation existing as of the effective date of this Agreement (the “Law”), then unless otherwise prohibited by law, the provisions of the Law shall take precedence during the term of this Agreement.

Section 14.6 Authorization to Disburse Funds. In the event of termination of this Agreement or the Employee’s employment with the City, the City Finance Administrator or Finance Director is hereby authorized to disburse funds needed to fulfill all provisions of this Agreement including severance provisions, consistent with the terms and provisions of this Agreement.

Section 14.7. Florida law shall govern this Agreement and any litigation that may arise from this Agreement shall be filed and litigated in Volusia County, Florida.

Section 14.8 The parties acknowledge that each has shared equally in the drafting and preparation of this Agreement and, accordingly, no court construing this Agreement shall construe it more strictly against one party than the other and every covenant, term, and provision of this Agreement shall be construed simply according to its fair meaning. The Employee and the City have had the opportunity to obtain independent and full legal review of this Agreement.
Section 14.9 This Agreement may be executed in duplicate or counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument. No term, condition or covenant of this Agreement shall be binding on either party until both parties have signed it.

Section 14.10 This Agreement contains the entire Agreement of the parties. It may not be changed verbally, but only an Agreement in writing signed by the parties.

Section 14.11 The Effective Date of this Agreement shall be the last date it is executed by either of the parties to this Agreement.

Section 14.12 This Agreement is a contract for personal services between the City and City Manager. This Agreement may not be assigned by either party without the express written consent of the other party.

Section 14.13 Notice. Any notice or demand to be given or that may be given under this Agreement shall be in writing and shall be (i) delivered by hand, or (ii) delivered through United States mail, postage prepaid, certified, return receipt requested and addressed to the parties at the address provided below. Any notice or demand that may be given hereunder shall be deemed complete (i) one (1) day after mailing of such notice or demand in the United States mail with proper postage affixed thereto, certified, return receipt requested, or (ii) upon hand-delivery to the appropriate address as herein provided or in person. Any party hereto may change said address by notice in writing to the other parties in the manner herein provided.

CITY:
DeBary City Council
cc. City Attorney
16 Colomba Rd., DeBary, FL 32713
(Each Council Member to be given Notice)
With a copy to the City Attorney)

EMPLOYEE:
Carmen Rosamonda
21 Rosedown Blvd., DeBary, FL 32713
Article 15
Execution

Executed by the CITY this 20th day of February, 2019.

ATTEST:

City Clerk

Mayor Karen Chasez

WITNESSES:

CITY MANAGER

Carmen Rosamonda
ICMA Code of Ethics with Guidelines

The ICMA Code of Ethics was adopted by the ICMA membership in 1924, and most recently amended by the membership in June 2018. The Guidelines for the Code were adopted by the ICMA Executive Board in 1972, and most recently revised in June 2018.

The mission of ICMA is to advance professional local government through leadership, management, innovation, and ethics. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

Tenet 1. Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.

Tenet 2. Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant.

GUIDELINE
Advice to Officials of Other Local Governments. When members advise and respond to inquiries from elected or appointed officials of other local governments, they should inform the administrators of those communities.

Tenet 3. Demonstrate by word and action the highest standards of ethical conduct and integrity in all public, professional, and personal relationships in order that the member may merit the trust and respect of the elected and appointed officials, employees, and the public.

GUIDELINES
Public Confidence. Members should conduct themselves so as to maintain public confidence in their position and profession, the integrity of their local government, and in their responsibility to uphold the public trust.

Influence. Members should conduct their professional and personal affairs in a manner that demonstrates that they cannot be improperly influenced in the performance of their official duties.

Length of Service. For chief administrative/executive officers appointed by a governing body or elected official, a minimum of two years is considered necessary to render a professional service.
to the local government. In limited circumstances, it may be in the best interests of the local government and the member to separate before serving two years. Some examples include refusal of the appointing authority to honor commitments concerning conditions of employment, a vote of no confidence in the member, or significant personal issues. It is the responsibility of an applicant for a position to understand conditions of employment, including expectations of service. Not understanding the terms of employment prior to accepting does not justify premature separation. For all members a short tenure should be the exception rather than a recurring experience, and members are expected to honor all conditions of employment with the organization.

Appointment Commitment. Members who accept an appointment to a position should report to that position. This does not preclude the possibility of a member considering several offers or seeking several positions at the same time. However, once a member has accepted a formal offer of employment, that commitment is considered binding unless the employer makes fundamental changes in the negotiated terms of employment.

Credentials. A member’s resume for employment or application for ICMA’s Voluntary Credentialing Program shall completely and accurately reflect the member’s education, work experience, and personal history. Omissions and inaccuracies must be avoided.

Professional Respect. Members seeking a position should show professional respect for persons formerly holding the position, successors holding the position, or for others who might be applying for the same position. Professional respect does not preclude honest differences of opinion; it does preclude attacking a person’s motives or integrity.

Reporting Ethics Violations. When becoming aware of a possible violation of the ICMA Code of Ethics, members are encouraged to report possible violations to ICMA. In reporting the possible violation, members may choose to go on record as the complainant or report the matter on a confidential basis.

Confidentiality. Members shall not discuss or divulge information with anyone about pending or completed ethics cases, except as specifically authorized by the Rules of Procedure for Enforcement of the Code of Ethics.

Seeking Employment. Members should not seek employment for a position that has an incumbent who has not announced his or her separation or been officially informed by the appointive entity that his or her services are to be terminated. Members should not initiate contact with representatives of the appointive entity. Members contacted by representatives of the appointive entity body regarding prospective interest in the position should decline to have a conversation until the incumbent’s separation from employment is publicly known.

Relationships in the Workplace. Members should not engage in an intimate or romantic relationship with any elected official or board appointee, employee they report to, one they appoint and/or supervise, either directly or indirectly, within the organization.

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This guideline does not restrict personal friendships, professional mentoring, or social interactions with employees, elected officials and Board appointees.

**Tenet 4. Serve the best interests of the people.**

**GUIDELINES**

**Impacts of Decisions.** Members should inform their governing body of the anticipated effects of a decision on people in their jurisdictions, especially if specific groups may be disproportionately harmed or helped.

**Inclusion.** To ensure that all the people within their jurisdiction have the ability to actively engage with their local government, members should strive to eliminate barriers to public involvement in decisions, program, and services.

**Tenet 5.** Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.

**GUIDELINE**

**Conflicting Roles.** Members who serve multiple roles – working as both city attorney and city manager for the same community, for example – should avoid participating in matters that create the appearance of a conflict of interest. They should disclose the potential conflict to the governing body so that other opinions may be solicited.

**Tenet 6.** Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.

**Tenet 7.** Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.

**GUIDELINES**

**Elections of the Governing Body.** Members should maintain a reputation for serving equally and impartially all members of the governing body of the local government they serve, regardless of party. To this end, they should not participate in an election campaign on behalf of or in opposition to candidates for the governing body.

**Elections of Elected Executives.** Members shall not participate in the election campaign of any candidate for mayor or elected county executive.
Running for Office. Members shall not run for elected office or become involved in political activities related to running for elected office, or accept appointment to an elected office. They shall not seek political endorsements, financial contributions or engage in other campaign activities.

Elections. Members share with their fellow citizens the right and responsibility to vote. However, in order not to impair their effectiveness on behalf of the local governments they serve, they shall not participate in political activities to support the candidacy of individuals running for any city, county, special district, school, state or federal offices. Specifically, they shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office.

Elections relating to the Form of Government. Members may assist in preparing and presenting materials that explain the form of government to the public prior to a form of government election. If assistance is required by another community, members may respond.

Presentation of Issues. Members may assist their governing body in the presentation of issues involved in referenda such as bond issues, annexations, and other matters that affect the government entity's operations and/or fiscal capacity.

Personal Advocacy of Issues. Members share with their fellow citizens the right and responsibility to voice their opinion on public issues. Members may advocate for issues of personal interest only when doing so does not conflict with the performance of their official duties.

Tenet 8. Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.

GUIDELINES
Self-Assessment. Each member should assess his or her professional skills and abilities on a periodic basis.

Professional Development. Each member should commit at least 40 hours per year to professional development activities that are based on the practices identified by the members of ICMA.

Tenet 9. Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.

Tenet 10. Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.

GUIDELINE

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**Information Sharing.** The member should openly share information with the governing body while diligently carrying out the member’s responsibilities as set forth in the charter or enabling legislation.

**Tenet 11.** Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member’s decisions, pertaining to appointments, pay adjustments, promotions, and discipline.

**GUIDELINE**

**Equal Opportunity.** All decisions pertaining to appointments, pay adjustments, promotions, and discipline should prohibit discrimination because of race, color, religion, sex, national origin, sexual orientation, political affiliation, disability, age, or marital status.

It should be the members’ personal and professional responsibility to actively recruit and hire a diverse staff throughout their organizations.

**Tenet 12.** Public office is a public trust. A member shall not leverage his or her position for personal gain or benefit.

**GUIDELINES**

**Gifts.** Members shall not directly or indirectly solicit, accept or receive any gift if it could reasonably be perceived or inferred that the gift was intended to influence them in the performance of their official duties; or if the gift was intended to serve as a reward for any official action on their part.

The term “Gift” includes but is not limited to services, travel, meals, gift cards, tickets, or other entertainment or hospitality. Gifts of money or loans from persons other than the local government jurisdiction pursuant to normal employment practices are not acceptable.

Members should not accept any gift that could undermine public confidence. De minimus gifts may be accepted in circumstances that support the execution of the member’s official duties or serve a legitimate public purpose. In those cases, the member should determine a modest maximum dollar value based on guidance from the governing body or any applicable state or local law.

The guideline is not intended to apply to normal social practices, not associated with the member’s official duties, where gifts are exchanged among friends, associates and relatives.

**Investments in Conflict with Official Duties.** Members should refrain from any investment activity which would compromise the impartial and objective performance of their duties. Members should not invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict of interest, in fact or appearance, with their official duties.
In the case of real estate, the use of confidential information and knowledge to further a member's personal interest is not permitted. Purchases and sales which might be interpreted as speculation for quick profit should be avoided (see the guideline on "Confidential Information"). Because personal investments may appear to influence official actions and decisions, or create the appearance of impropriety, members should disclose or dispose of such investments prior to accepting a position in a local government. Should the conflict of interest arise during employment, the member should make full disclosure and/or recuse themselves prior to any official action by the governing body that may affect such investments.

This guideline is not intended to prohibit a member from having or acquiring an interest in or deriving a benefit from any investment when the interest or benefit is due to ownership by the member or the member's family of a de minimus percentage of a corporation traded on a recognized stock exchange even though the corporation or its subsidiaries may do business with the local government.

Personal Relationships. In any instance where there is a conflict of interest, appearance of a conflict of interest, or personal financial gain of a member by virtue of a relationship with any individual, spouse/partner, group, agency, vendor or other entity, the member shall disclose the relationship to the organization. For example, if the member has a relative that works for a developer doing business with the local government, that fact should be disclosed.

Confidential Information. Members shall not disclose to others, or use to advance their personal interest, intellectual property, confidential information, or information that is not yet public knowledge, that has been acquired by them in the course of their official duties.

Information that may be in the public domain or accessible by means of an open records request, is not confidential.

Private Employment. Members should not engage in, solicit, negotiate for, or promise to accept private employment, nor should they render services for private interests or conduct a private business when such employment, service, or business creates a conflict with or impairs the proper discharge of their official duties.

Teaching, lecturing, writing, or consulting are typical activities that may not involve conflict of interest, or impair the proper discharge of their official duties. Prior notification of the appointing authority is appropriate in all cases of outside employment.

Representation. Members should not represent any outside interest before any agency, whether public or private, except with the authorization of or at the direction of the appointing authority they serve.

Endorsements. Members should not endorse commercial products or services by agreeing to use their photograph, endorsement, or quotation in paid or other commercial advertisements, marketing materials, social media, or other documents, whether the member is compensated or
not for the member’s support. Members may, however, provide verbal professional references as part of the due diligence phase of competitive process or in response to a direct inquiry.

Members may agree to endorse the following, provided they do not receive any compensation: (1) books or other publications; (2) professional development or educational services provided by nonprofit membership organizations or recognized educational institutions; (3) products and/or services in which the local government has a direct economic interest. Members’ observations, opinions, and analyses of commercial products used or tested by their local governments are appropriate and useful to the profession when included as part of professional articles and reports.
FIRST AMENDMENT TO EMPLOYMENT AGREEMENT

THIS FIRST AMENDMENT TO EMPLOYMENT AGREEMENT (hereinafter referred to as “First Amendment”) is made and entered into on this 22nd day of March, 2020, by and between the CITY OF DEBARY, a Florida municipal corporation (hereinafter referred to as the “City”), and CARMEN ROSAMONDA (hereinafter referred to as “City Manager”).

WHEREAS, the City and City Manager entered into that certain Employment Agreement dated February 20, 2019 (“Agreement”); and

WHEREAS, the City and City Manager desire to amend Section 4.1 of the Agreement as set forth herein.

NOW THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and City Manager agree as follows:

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

2. Section 4.1 is of the Agreement is hereby deleted and replaced with the following:

“Section 4.1 Annual Base Salary: The CITY agrees to pay the City Manager for services rendered an annual base salary of $120,000.00 payable in installments every two weeks in installments similar to other employees employed by the CITY.

a) On April 1, 2020, the City shall increase the City Manager’s current annual base salary by $5,000.00. On April 1, 2021, the city shall increase the City Manager’s annual base salary by an additional $5,000.00.

b) Cost of living increases taking effect on or after October 1, 2021, to the City Manager’s annual base salary will be provided consistent with those provided to other City employees generally

c) The City Council, at any time, may in its sole discretion grant a superior performance salary increase or bonus recognizing the outstanding performance and achievement by the City Manager.”

3. No Further Changes. The foregoing terms and conditions are hereby incorporated into the Agreement. Except as set forth in this First Amendment, the Agreement in its original form remains in full force and effect. In the event of any conflict or ambiguity between the Agreement and this First Amendment, this First Amendment controls.
IN WITNESS WHEREOF, the City and the City Manager have hereunto set their hands and seals the day and year above written.

ATTEST:

Karen Chasez, Mayor

City Clerk

CITY OF DEBARY

WITNESSES:

Karen Chasez, Mayor

Carmen Rosamonda

CITY MANAGER

ERIC FRANKTON