



## SPECIAL CITY COUNCIL MEETING

June 21, 2023 at 6:30 PM

City Council Chambers, 16 Colomba Rd.

DeBary, Florida 32713

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### 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)

#### CONSENT AGENDA

1. The Parks and Recreation Department is requesting Council approve the attached grant application submitted by the DeBary Babe Ruth 8U Softball All Star Team.
2. Staff is requesting authorization to dispose of surplus property and remove the property from the City's capital inventory.

#### PUBLIC HEARINGS

3. The applicant, Stephen Maxwell, is requesting City Council approve a Special Exception to allow for a garage apartment at 30 Sanctuary Avenue (Quasi-Judicial).
4. Staff is requesting City Council approve the first reading of Ordinance No. 05-2023, amending the Progress Industry Park Industrial Planned Unit Development (IPUD) to permit a Hydrogen Production and Storage Facility (The Facility) project. (Quasi-Judicial)
5. Staff is requesting City Council approve the first reading of Ordinance No. 06-2023, amending the Code of Ordinances and the Land Development Code (LDC) to provide for regulations of mobile food dispensing vehicles (food trucks).

#### NEW BUSINESS

6. City Staff is requesting City Council award the initial Construction Assessment Contract for the Glen Abbey/Summerhaven Stormwater System Rehabilitation to Dale Beasley Construction, Inc. in the amount of \$69,774.25.
7. The Public Works Department is requesting City Council approve the purchase of a used 100-kilowatt generator from United Rentals.
8. City Council is requesting City Council adopt Resolution No. 2023-14, amending the rules of procedure and by-laws of the Historic Preservation Board.

## **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 July 5, 2023, 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

<b>Subject:</b> Grant Application – DeBary Babe Ruth 8U Softball All Star Team	<b>Attachments:</b> <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
<b>From:</b> Jason Schaitz, Parks and Recreation Director	
<b>Meeting Hearing Date</b> 6/21/2023	

### **REQUEST**

The Parks and Recreation Department is requesting Council approve the attached grant application submitted by the DeBary Babe Ruth 8U Softball All Star Team.

### **PURPOSE**

The DeBary Babe Ruth 8U Softball All Star Team is raising money to be able to take the team to the All Star Tournament and help cover expenses such as lodging, food, and tournament fees. They are requesting \$500 in matching funds to go towards their tournament expenses.

### **CONSIDERATIONS**

The DeBary Babe Ruth 8U Softball All Star Team has met all the criteria to be eligible for the matching grant program. They have also completed the grant request application as well as provided all the necessary attachments that are required with the application.

### **COST/FUNDING**

Funding for the matching grant program was approved in the FY 22/23 budget in line item 001-1100-511-8200. This request would cost \$500.

### **RECOMMENDATION**

It is recommended that the City Council approve the attached grant application in the amount of \$500 to the DeBary Babe Ruth 8U Softball All Star Team.

**IMPLEMENTATION**

Upon approval the Parks and Recreation Department will submit a check request to the finance department in the amount of \$500 for the 8U Softball Team.

**ATTACHMENTS**

Attachment A: Grant Application DeBary Babe Ruth 8U Softball All Star Team



16 Colomba Road  
 DeBary, FL 32713  
 Phone: (386) 668-2040  
 Fax: (386) 668 - 3523

# GRANT REQUEST APPLICATION

## Applicant Information

Legal Entry Name Leia LaCombe

D/B/A Subgroup: West Volusia Athletic Club

Physical Address (No PO Box): 338 Colomba Rd.

City/State/Zipcode: DeBary, FL 32713

Contact Person: Leia LaCombe Title: Fundraising Coordinator

Primary Phone Number: — Cell Phone Number: 386-662-2313

E-Mail: leiamazing@yahoo.com

Tax Status: 501c3 (Attach Exempt Certificate)

Grant Information:

TYPE: Monetary Contribution  In Kind Services  Waiver of Fees

Total Value of the Request (cannot exceed \$500): \$ 500

Description of Event, Include Date and Location:

All star state softball tournament fees and lodging  
in Lake City, FL June 21-24

Will Admission Fees be Charged at your Event: Yes  No

If Yes, Admission Charge: \$            Per

Page Two

Are Other Donations Being Solicited or Been Received: Yes  No

If Yes, Please Provide Information we've done some bucket drops and a  
calendar fundraiser.

Have Legal Entity or Subgroup Applied for a Grant Request from the City of DeBary within the last twelve months?: Yes  No

## Required Attachments

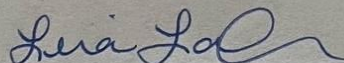
1. Tax Exempt Certificate
2. W-9 Request for Taxpayer Identification Number and Certification
3. Insurance Certificate listing City of DeBary as an additional named insured
4. A letter on organization letterhead outlining the details of your request. Please make sure to answer the following questions:
  - a. Describe your organization and the purpose/goals of your event.
  - b. How will any monetary contributions, in kind services, or waiver of fees be used?
  - c. How will the grant benefit the City?
5. Event Budget (monetary or waiver of fees only). Budget must include the following:
  - a. All event expenses
  - b. Projected event revenue
6. Event Summary Statement

**I/we have read and have been given a copy of the Special Event Policy and agree to abide by the regulations of the City of DeBary.**

I hereby state the above information is true and accurate to the best of my knowledge. I further understand and agree to any and all conditions of the required application.

I understand that the City of DeBary assumes no liability for this event. I hereby agree to defend, hold harmless, and indemnify the City, at the City's option, from any and all demands, claims, suits, actions and legal proceedings brought against the City of DeBary in connection with this event, whether threatened or otherwise, to the full extent as permitted by the law of the State of Florida.

This provision shall survive the term of the Agreement and shall remain in full force and effect until the expiration of the time for the institution of any action at law or equity or administrative action against the City of DeBary under either federal law or the laws of Florida.



Signature of Applicant

5/31/23

Date signed

Submission of this application DOES NOT guarantee a grant or event approval. You will be contacted by the appropriate person to confirm the details of your proposed event.

### INTAKE ACCEPTANCE (Office Use Only)

Name of Event: \_\_\_\_\_ Organization/Person: \_\_\_\_\_

Application # \_\_\_\_\_ Application Complete: YES NO

Received By/Title: \_\_\_\_\_ Date Accepted: \_\_\_\_\_ Initial: \_\_\_\_\_

**SPONSORSHIP APPROVED or DENIED** Date \_\_\_\_\_



To Whom it May Concern,

I am representing the 8U softball all start team at West Volusia Athletic Club. We are the largest youth sports organization in the county, and we are based in here in Debarry. Our girls play at Rob Sullivan part on Highbanks. Sullivan also is the home of flag football, soccer, kickball, cheer, and many other sports.

Debarry's softball program has a reputation as a force to be reckoned with across the state. We have the 13 best players in our 8U softball division as a part of our all-star team representing Debarry's WVAC in the state tournament in Lake City this summer. Our goal is to travel to the tournament and come home with gold- our girls have already come home with gold at our district tournament which took place last weekend in Ocoee (a collective score of 61-2 spanning across 4 games with 4 different teams). We have established that WVAC is the play to go if you want to see success in softball. The 8U division was created this past fall- starting with only 2 teams. Now we are in the spring season and have already increased to 3 teams.

The monetary contributions we receive will go towards lodging and meal costs for our players and their families. We know that not all families on our team are financially capable to pay for 4-5 nights in a hotel and meals for the same time period. We are trying to lessen the cost for everyone by raising as much money as we can.

The grant will help the league be recognized and grow more than it already is. This will bring more funds to the city of Debarry in terms of registration to play a sport with WVAC, people stopping in local businesses, grocery stores, gas stations, maybe even moving to the city.

If there is any other information you require, please do not hesitate to contact me at 386-562-2313 or via email at [leiamazing@yahoo.com](mailto:leiamazing@yahoo.com)

Thank you,

Leia LaCombe

WVAC 8U All- Star Fundraising Coordinator





## Event Summary

### **Wednesday, June 21**

Managers meeting in Lake City

### **Thursday, June 22**

Breakfast

First game of tournament (pool play)

Team bonding

Dinner

Bed

### **Friday, June 23**

Breakfast

Second game of tournament (pool play)

Team bonding

Dinner

Bed

### **Saturday, June 24**

Breakfast

Tournament games begin, seeding depends on previous days pool play

Play at least one game- if we lose, we go home. If we win, we play again later or Sunday.\*

Team bonding\*

Dinner\*

Bed\*

### **Sunday, June 25**

\*This depends on how we played yesterday\* \*There is also the possibility of playing Monday, June 26<sup>th</sup>, but we won't know until we play in the tournament and see how we do. \*

Could be a minimum of one game.

Game times have not been released yet. They will be given to the managers at the managers meeting.



8U Softball All Star Team Budget:

Our current dollar amount in our bank account is \$1,828.47.

We are trying to raise \$9,000 to cover the hotel costs, tournament fees, and food for a softball tournament in Lake City, FL for our families. We have 12 team members who will be staying in a hotel. Each hotel room is \$149.00 per night. We will be staying in Lake City 5 nights (Wednesday, June 21- Monday, June 26). The total cost of 13 rooms for 5 nights is \$9,685.

I'm providing the hotel information, just in case. Attached also you will find the hotel agreement. Our point of contact for hotel costs is Monica Emerson.

The hotel information is:

**Hampton Inn & Suites**

15930 NW 163<sup>rd</sup> LN  
Alachua, FL 32615

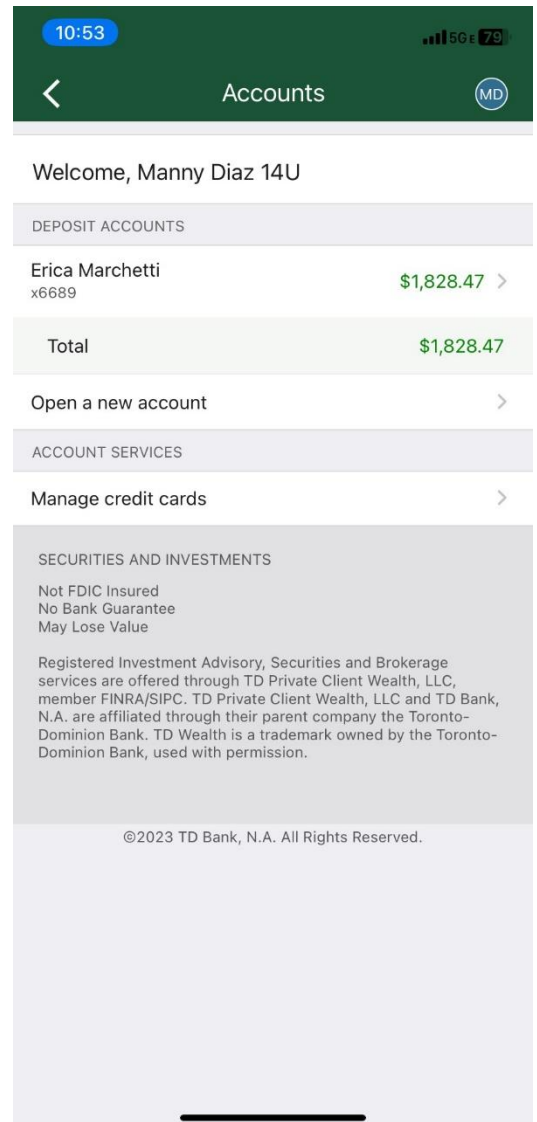
Clarification: This account is a part of West Volusia Athletic Club. Each All-Star team has their own account under their umbrella. Our manager of the team is Erica Marchetti.

If there is any other information you require, please do not hesitate to contact me at 386-562-2313 or via email at [leiamazing@yahoo.com](mailto:leiamazing@yahoo.com)

Thank you,

Leia LaCombe

WVAC 8U All- Star Fundraising Coordinator



ACORD™

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
2/2/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> K&K INSURANCE GROUP, INC. 1712 MAGNAVOX WAY PO BOX 2338 FORT WAYNE IN 46801		<b>CONTACT NAME:</b> Nick Davey <b>PHONE (A/C, No, Ext):</b> 800-736-7358 <b>E-MAIL ADDRESS:</b> Nick.Davey@kandkinsurance.com		<b>FAX (A/C, No):</b> 847-953-2873
<b>INSURED</b>  MEMBER NO.  WEST VOLUSIA ATHLETIC CLUB BABE RUTH LEAGUE DBA: West Volusia Athletic Club PO Box 530035 DeBary, FL, 32713		<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
		<b>INSURER A:</b> New Hampshire Insurance Company		23841
		<b>INSURER B:</b> National Union Fire Ins Co of Pittsburgh		19445
		<b>INSURER C:</b>		
		<b>INSURER D:</b>		
		<b>INSURER E:</b>		
		<b>INSURER F:</b>		

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER			AIL0003450194701	02/02/2023 12:01 AM	02/01/2024 12:01 AM	EACH OCCURRENCE	\$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
							MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$5,000,000
							PRODUCTS-COMPIOP AGG	\$1,000,000
							PARTICIPANT LEGAL LIABILITY	\$1,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			AIL0003450194701	02/02/2023 12:01 AM	02/01/2024 12:01 AM	COMBINED SINGLE LIMIT (Ea Accident)	\$1,000,000
							BODILY INJURY (Per person)	
							BODILY INJURY (Per accident)	
							PROPERTY DAMAGE (Per accident)	
	<input type="checkbox"/> UMBRELLA LIAB # OCCUR <input type="checkbox"/> EXCESS LIAB # CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION						EACH OCCURRENCE	
							AGGREGATE	
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N		N/A			PER STATUTE	OTHER
							E.L. EACH ACCIDENT	
							E.L. DISEASE - EA EMPLOYEE	
							E.L. DISEASE - POLICY LIMIT	
B	<b>PARTICIPANT ACCIDENT</b>			AID0003450195201	02/02/2023 12:01 AM	02/01/2024 12:01 AM	Excess Medical	\$250,000
							AD&D	\$ 15,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

ADDITIONAL INSURED: ANY PERSON, ORGANIZATION OR ENTITY WHO IS ENGAGED IN PROVIDING THE PREMISES, IS A SPONSOR OR CO-PROMOTER, BUT SOLELY WITH RESPECT TO THE OPERATIONS OF THE NAMED INSURED.

SEXUAL ABUSE/MOLESTATION: \$1,000,000 PER OCCURRENCE/\$2,000,000 AGGREGATE

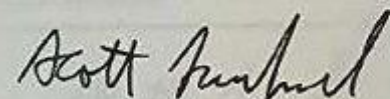
## CERTIFICATE HOLDER

## CANCELLATION

Evidence of Coverage

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE





Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities  
P.O. Box 2508  
Cincinnati, OH 45201

WEST VOLUSIA ATHLETIC CLUB INC  
PO BOX 530035  
DEBARY, FL 32753-0001

Date:  
07/06/2021  
Employer ID number:  
61-1579686  
Person to contact:  
Name: Ms. Chien  
ID number: 32071  
Telephone: (877) 829-5500  
Accounting period ending:  
September 30  
Public charity status:  
509(a)(2)  
Form 990 / 990-EZ / 990-N required:  
Yes  
Effective date of exemption:  
February 16, 2021  
Contribution deductibility:  
Yes  
Addendum applies:  
No  
DLN:  
26053449004921

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to [www.irs.gov/charities](http://www.irs.gov/charities). Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements



## City Council Meeting City of DeBary AGENDA ITEM

<b>Subject:</b> Surplus Property	<b>Attachments:</b> <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Supporting Documents/ Contracts <input checked="" type="checkbox"/> Other
<b>From:</b> Elizabeth Bauer, Finance Director	
<b>Meeting Hearing Date</b> June 21, 2023	

### **REQUEST**

Staff is requesting authorization to dispose of surplus property and remove from capital inventory.

### **PURPOSE**

Florida Statutes Chapter 274 requires the authority for disposal of property to be recorded in the minutes of the governmental unit.

### **CONSIDERATIONS**

City staff has identified specific items as detailed in the attached listing that are obsolete, no longer serviceable and/or serve no useful function. The surplus property has no commercial value. The items will be removed from capital inventory.

Florida Statutes Chapter 274 authorizes the disposal of surplus property in several ways. If the property has an estimated value of less than \$5,000, it may be disposed of in the most efficient and cost effective means as determined by the governmental unit. If the property has no commercial value, it may be donated, destroyed or abandoned. The tag readers have been replaced by the Sheriff with a new, more efficient system.

### **COST/FUNDING**

N/A

### **RECOMMENDATION**

It is recommended that the City Council approve the disposal of surplus property as detailed in the attached listing and removal from capital inventory.

### **ATTACHMENTS**

Surplus property listing

City of Debarry  
 Surplus Capital Equipment  
 06/21/23 Council Meeting

<u>Asset #</u>	<u>Asset Description</u>	<u>Date Acquired</u>	<u>Acquisition Cost</u>	<u>Useful Life</u>	<u>Remaining Useful Life</u>	<u>Depreciation Taken</u>	<u>Remaining Value</u>	<u>Removal Reason</u>
729	Equip - Mower Kubota ZTR 31hp w/60 Deck	11/15/2013	12,327.33	5	0	12,327.33	0.00	Unserviceable
19-0034	Tag Readers (3)	06/01/2019	66,001.21	5	1.33	48,424.99	17,576.22	Obsolete / No Longer Supported
21-0029	Tag Reader	05/27/2021	27,230.50	5	3.3	9,161.38	18,069.12	Obsolete / No Longer Supported
16-0041	Server Room Mini Split A/C	09/30/2016	4,850.00	5	0	4,850.00	0.00	Unserviceable / Replaced
761	RSP Concession Stand A/C Unit	06/06/2014	2,695.00	5	0	2,695.00	0.00	Replaced by Operations Ctr
707	FKL Commodes (5)	03/15/2013	2,525.00	10	0	2,525.00	0.00	Renovations Underway
429-433	800 MHZ Radios (5)	06/03/2008	9,131.25	5	0	9,131.25	0.00	Band No Longer Supported
293	800 MHZ Radios (8)	08/05/2005	14,810.18	5	0	14,810.18	0.00	Band No Longer Supported
			139,570.47			103,925.13	35,645.34	

Non Capital:  
 Dyna Generator 6000 Serial #101986AO5  
 Dyna Generator 6000 Serial #101106MO5  
 Gravely Edger SP-170001099  
 Ariens Edger Mod# 986103 002977  
 Robin EX17 Portable Pump Ser# 2114349  
 Robin EX17 Portable Pump Ser# 2114350  
 Robin EX17 Portable Pump Ser# 2114302  
 Air Compressor - Kobalt 30 Gal LA/1/2013-81955  
 Pressure Washer 3300 PSI T1037435  
 RSP Concession Stand Trailer



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

<b>Subject:</b> Special Exception 30 Sanctuary Avenue	<b>Attachments:</b> ( ) Ordinance ( ) Resolution ( ) Supporting Documents/ Contracts (X) Other
<b>From:</b> Steven E. Bapp, AICP Growth Management Director	
<b>Meeting Hearing Date</b> June 21, 2023	

**REQUEST**

The applicant, Stephen Maxwell, is requesting City Council approve a Special Exception to allow for a garage apartment at 30 Sanctuary Avenue (Quasi-Judicial).

**PURPOSE**

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

**CONSIDERATIONS**

The subject site is located at 30 Sanctuary Avenue. The applicant is requesting a Special Exception to permit them to convert an existing accessory structure located in the rear yard into a garage apartment. The Future Land Use for the subject property is Residential/Low-Density.

Land Development Code Section 3-90(c) allows for garage apartments to be permitted by Special Exceptions in the R-1, Urban Single-Family Residential zoning classification.

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 set forth in Section 1-9(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 Special Exception is consistent 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 Special Exception would not be detrimental to or endanger the public health, safety, or general 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 Special Exception would not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the R-1 zoning classification. It is also consistent with the character of the immediate neighborhood.*

- 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 Special Exception 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 Special Exception 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. **No additional buffers are required.***
- 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 proposed Special Exception meets the lot and building requirements of the R-1 zoning classification.***
- 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 of garage apartment will comply if the Special Exception is approved.***

#### **COST/FUNDING**

None

#### **RECOMMENDATION**

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

#### **IMPLEMENTATION**

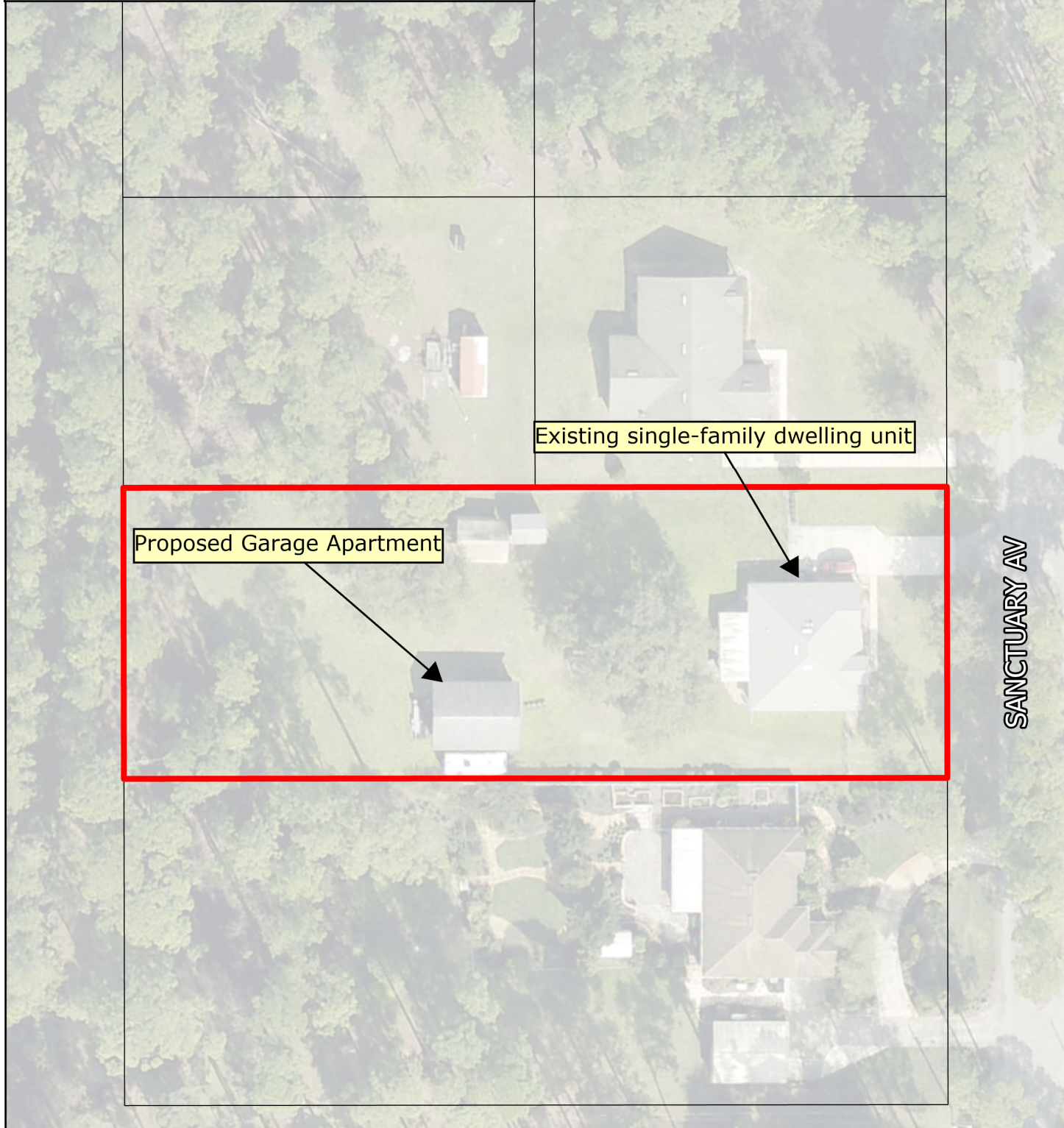
A Development Order would be issued for the Special Exception. The applicant would be required to apply for any applicable permits.

#### **ATTACHMENTS**

- Map
- Survey
- Photograph of existing accessory structure.
- Floor plan sketch



# 30 Sanctuary Avenue





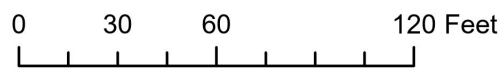
Proposed Garage Apartment

Existing single-family dwelling unit

SANCTUARY AV

## Legend

-  Subject Property
-  Parcel Lines



N



LEGAL DESCRIPTION: LOTS 6 AND 9, BLOCK 6, ST. JOHNS RIVER ESTATES UNIT ONE, ACCORDING TO THE PLAT THEREOF, RECORDED IN MAP BOOK 27, PAGE 42, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.



30 SANCTUARY AVENUE  
DEBARY, FL.

**LONG SURVEYING, INC.**

**Long Surveying, Inc.**

"Specializing in Residential Surveying"

LB No. 7371

1061 S. Sun Dr. Ste. #1113

Lake Mary, FL 32746

Office 407-330-9717 or 407-330-9716

Fax 407-330-9775

www.longsurveying.com

DRAWN BY:  
KZR AK

CHECKED BY:  
BRETT

CERTIFIED TO:

STEPHEN M MAXWELL & KAREN MAXWELL

COMMUNITY NO:

120672

PANEL:

0615

SUFFIX:

J

F.I.R.M. DATE:

02/19/14

FLOOD ZONE:

X

SURVEY NO.

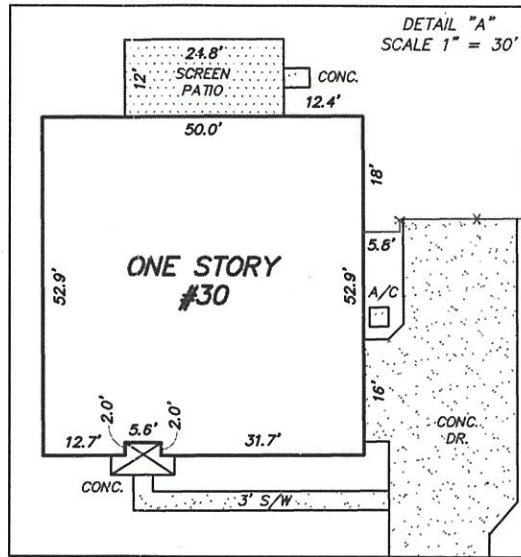
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FIELD DATE:

03/14/23

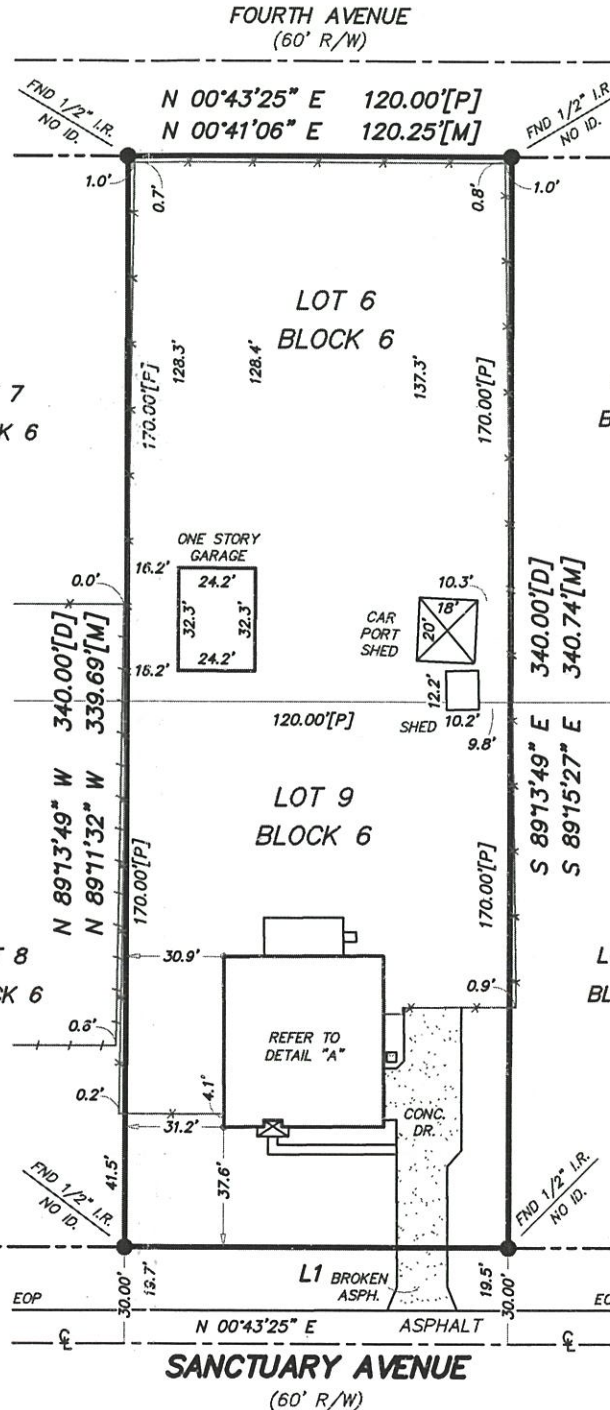
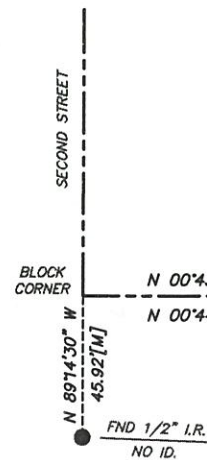
# Boundary Survey

SCALE: 1"=60'



LINE TABLE [P]		
LINE	LENGTH	BEARING
L1	120.00'	S 00°43'25" W

LINE TABLE [M]		
LINE	LENGTH	BEARING
L1	121.40'	S 00°43'31" W



- A/C - AIR CONDITIONER
- A.E. - ALLEY EASEMENT
- B.C. - BLOCK CORNER
- BLK - BLOCK
- C.B. - CONCRETE BLOCK
- C.B.S. - CONCRETE BLOCK STRUCTURE
- C.M. - CONCRETE MONUMENT
- CONC. - CONCRETE
- D - DEED
- D.E. - DRAINAGE EASEMENT
- E.O.P. - EDGE OF PAVEMENT
- F.C.C. - FOUND CROSS CUT
- F.F.E. - FINISHED FLOOR ELEVATION
- FND - FOUND
- ID. - IDENTIFICATION
- I.P. - IRON PIPE
- I.R. - IRON ROD
- I.R.C. - IRON ROD & CAP
- L - ARC LENGTH
- L.B. - LAND SURVEYING BUSINESS
- L.S. - LAND SURVEYOR
- L.E. - LANDSCAPE EASEMENT
- M - MEASURED
- M.E. - MAINTENANCE EASEMENT
- N&D - NAIL AND DISK
- P - PLAT
- P.E. - PEDESTRIAN EASEMENT
- P.C. - POINT OF CURVATURE
- P.C.C. - POINT OF COMPOUND CURVATURE
- P.C.P. - PERMANENT CONTROL POINT
- P.L. - PROPERTY LINE
- P.O.B. - POINT OF BEGINNING
- P.O.C. - POINT OF COMMENCEMENT
- P.O.L. - POINT ON LINE
- P.R.C. - POINT OF REVERSE CURVE
- P.R.M. - PERMANENT REFERENCE MONUMENT
- P.D.A.E. - PRIVATE DRAINAGE AND ALLEY EASEMENT
- PK NAIL - PARKER-KALON COMPANY NAIL
- P.T. - POINT OF TANGENT
- R - RADIUS
- R.P. - RADIAL POINT
- R/W - RIGHT OF WAY
- S/W - SIDEWALK
- U.E. - UTILITY EASEMENT
- W.F.S. - WOOD FRAME STRUCTURE

- RIGHT-OF-WAY LINE
- CENTERLINE
- x- BARB WIRE FENCE
- /// WOOD FENCE
- x- CHAIN LINK FENCE
- x- PLASTIC FENCE

BEARINGS SHOWN HEREON ARE BASED UPON THE CENTERLINE OF DUMAINE AVENUE BEING S 89°41'53" W PER PLAT

- NOTES:
- 1) This survey is based on the legal description as provided by the Client
  - 2) This Surveyor has not abstracted the land shown hereon for easements, rights of way or restrictions of record which may affect the title or use of the land
  - 3) Do not reconstruct property lines from building ties
  - 4) No footing or overhangs have been located except as shown
  - 5) No improvements or utilities have been located except as shown
  - 6) Not valid without a signature and the authenticated electronic seal or the original raised seal of a Florida licensed Surveyor and Mapper

OFFICE #407-330-9717

Certification: I certify that this survey was made under my direction and that it meets the minimum technical standards set forth by the Board of Professional Land Surveyors and Mappers in Chapter 5J-17.052, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.



LOUIS RAMIREZ L.S. NO. 6304

# Boundary Survey

LEGAL DESCRIPTION: LOTS 6 AND 9, BLOCK 6, ST. JOHNS RIVER ESTATES UNIT ONE, ACCORDING TO THE PLAT THEREOF, RECORDED IN MAP BOOK 27, PAGE 42, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.



30 SANCTUARY AVENUE  
DEBARY, FL.

**LONG  
SURVEYING,  
INC.**

**Long Surveying, Inc.**

*"Specializing in Residential Surveying"*

L.B. No. 7371

1061 S. Sun Dr. Ste. #1113

Lake Mary, FL 32746

Office 407-330-9717 or 407-330-9716

Fax 407-330-9775

www.longsurveying.com

DRAWN BY:  
KZR AK

CHECKED BY:  
BRETT

CERTIFIED TO:

STEPHEN M MAXWELL & KAREN MAXWELL

COMMUNITY NO:  
120672

PANEL:  
0615

SUFFIX:  
J

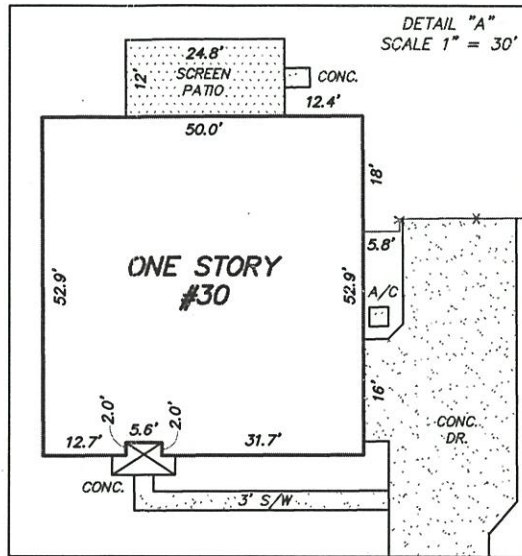
F.I.R.M. DATE:  
02/19/14

FLOOD ZONE:  
X

SURVEY NO.  
128658

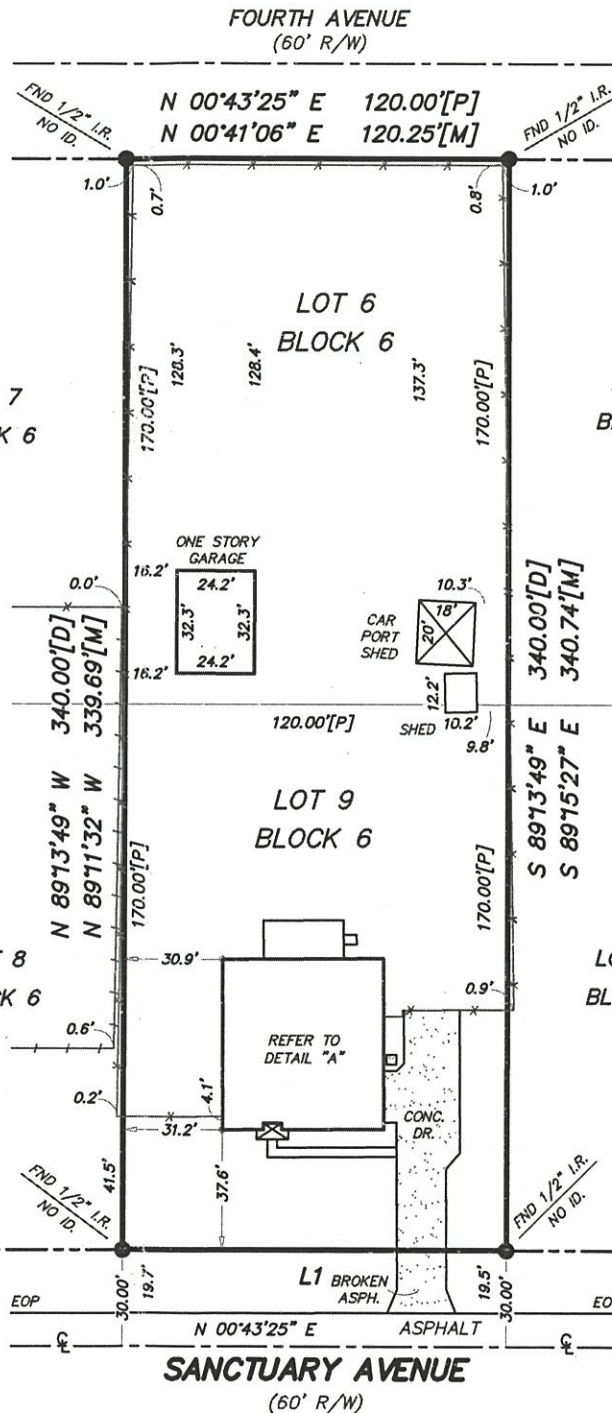
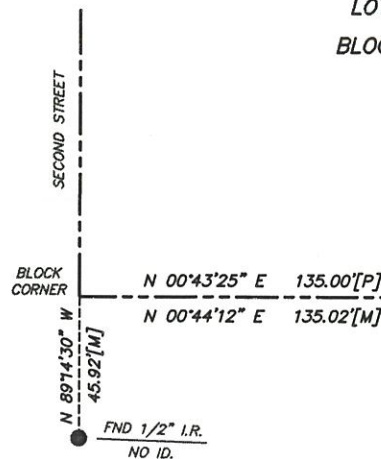
FIELD DATE:  
03/14/23

SCALE: 1"=60'



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OFFICE #407-330-9717

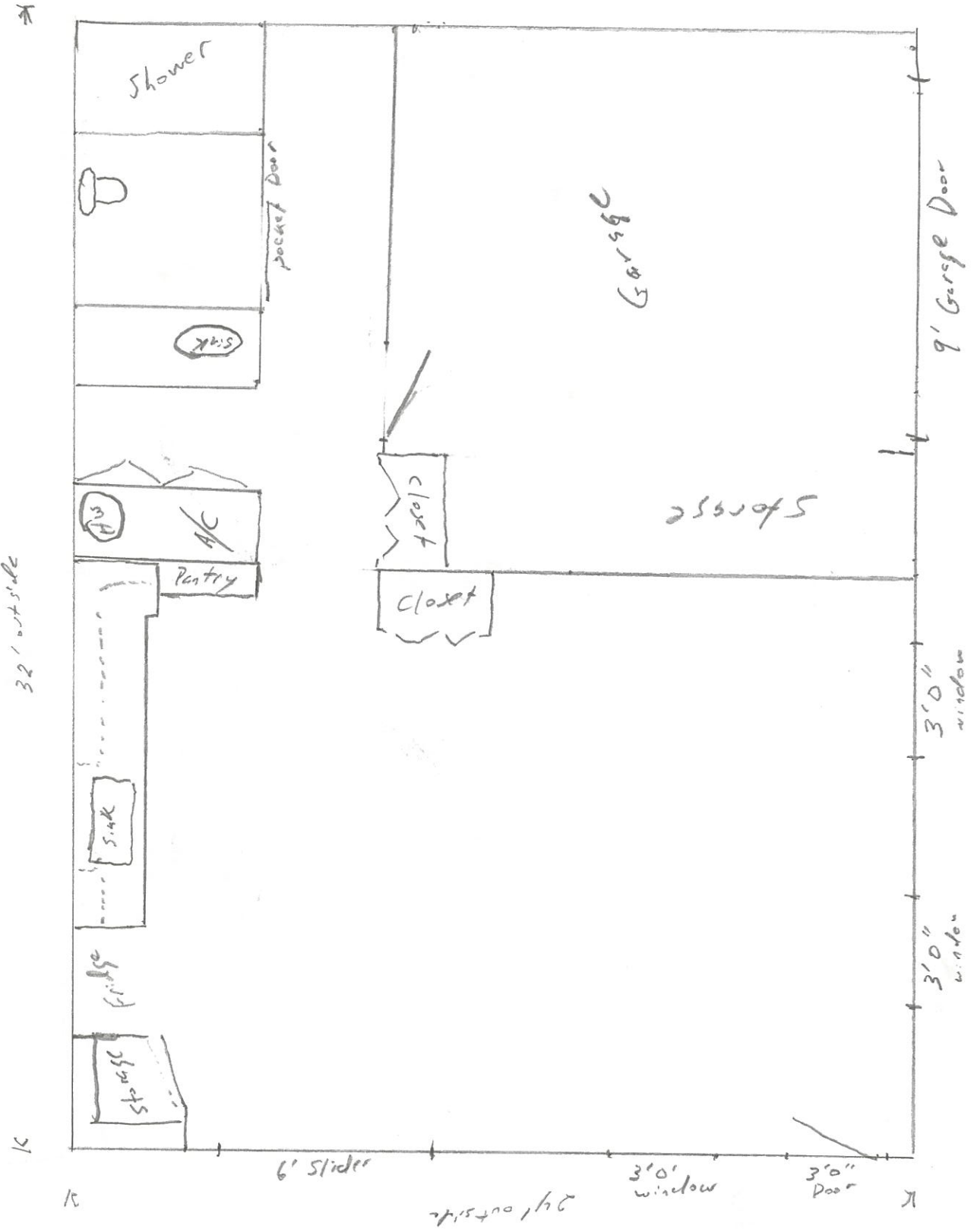
Certification: I certify that this survey was made under my direction and that it meets the minimum technical standards set forth by the Board of Professional Land Surveyors and Mappers in Chapter 5J-17.052, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.



LOUIS RAMIREZ L.S. NO. 6304



1/4" = 1'





## City Council Meeting City of DeBary AGENDA ITEM

<b>Subject:</b> Ordinance # 05-2023	<b>Attachments:</b> <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
<b>From:</b> Steven E. Bapp, AICP Growth Management Director	
<b>Meeting Hearing Date</b> June 21, 2023	

### **REQUEST**

Staff is requesting the City Council approve the first reading of Ordinance # 05-2023, amending the Progress Industry Park Industrial Planned Unit Development (IPUD) to permit a Hydrogen Production and Storage Facility (the Facility) project. (Quasi-Judicial)

### **PURPOSE**

To add a Hydrogen Production and Storage Facility Plan to the Master Development Plan (MDP) of the IPUD and to provide for sewage disposal in relation to the Facility.

### **CONSIDERATIONS**

The property is located at 176 West Highbanks Road. Five sections of the Development Agreement (DA) are amended.

#### **Exhibits**

The applicant is requesting to amend the IPUD to add attached Exhibit F to the DA, which depicts the location of the Facility as well as some extra details regarding the organization of the site.

#### **Development Concept**

Section A.1 of the DA is amended to add the Facility into the MDP and the legal description of the Facility into Attachment A (legal description of IPUD boundaries). The Facility Plan (Exhibit F) would control the development of the Facility.

#### **Phases of Development**

Section C of the DA is amended to add the Facility as Phase IV of the MDP. Phase IV's boundaries would be within a portion of Phase III.

#### **Access and Transportation System Improvements**

Section I of the current DA is deleted and replaced with Section I of the proposed new DA to add the Facility into the DA.

## Sewage Disposal

Section G of the DA is revised to add language regulating the Facility's operations. The Facility shall not use ground water to create hydrogen or in the electricity generation process except during one of the following circumstances:

- Limited emergency basis; and
- During the period of time between the expected in-service date of the Facility and 12/31/2026.

Regarding emergencies, those are defined in the DA as *"a period of time when reclaimed water is not available from and as determined by Volusia County (reclaimed water provider) due to exigent conditions outside of Duke Energy's or its contractors' employees' and agents' control, including but not limited to, issues with reclaimed water quantity, quality considerations, equipment malfunctions, weather, and other circumstances that would render the reclaimed water unavailable or unusable"*.

The revised language provides for a condition requiring Duke Energy to convert the primary water supply for the existing DeBary power plant from the present groundwater sources to reclaimed water by 2027. It also provides for procedures concerning the implementation of this condition.

An additional condition provided in the DA requires Duke Energy to provide the City with written proof and on onsite visual inspection of the Reclaimed Water Supply Conversion once complete.

## COST/FUNDING

None.

## RECOMMENDATION

It is recommended the City Council: Perform the first reading of Ordinance # 05-2023, the proposed major IPUD amendment to amend the DA to permit the Facility.

## IMPLEMENTATION

If the Council performs the first reading of the ordinance, Staff will advertise the public hearing for the second reading in the *Orlando Sentinel*. In addition, the applicant will once again notice all adjoining property owners within 1,000 feet of the subject property's boundaries and post a sign on the property noticing the public hearing.

## ATTACHMENTS

- Ordinance # 05-2023
- Development Agreement with exhibits

**ORDINANCE NO. 05-2023**

**AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, AMENDING ORDINANCE NO. 08-99 AS AMENDED BY ORDINANCE NO. 05-18 AND ORDINANCE NO. 02-19, APPROVING A MAJOR AMENDMENT TO THE PROGRESS INDUSTRY PARK PLANNED UNIT DEVELOPMENT GOVERNING THE DEVELOPMENT OF APPROXIMATELY 1,121 ACRES OF LAND LOCATED NORTH OF HIGHBANKS ROAD AND ON THE WEST AND EAST SIDES OF DUTCHMEN'S BEND ROAD OWNED BY DUKE ENERGY FLORIDA, LLC WHICH WAS FORMERLY OWNED BY FLORIDA POWER CORPORATION; APPROVING A SECOND AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT AN AMENDMENT TO THE MASTER DEVELOPMENT PLAN TO APPROVE A HYDROGEN PRODUCTION AND STORAGE FACILITY PROJECT ON AN APPROXIMATELY 1.77 +/- ACRE PORTION OF THE IPUD HAVING VOLUSIA COUNTY TAX PARCEL IDENTIFICATION NUMBERS 802800000020, 802100000010, 802100000012, AND 802900000050; PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND RECORDING.**

**WHEREAS**, Duke Energy Florida, LLC, a Florida limited liability company d/b/a Duke Energy, (herein "Applicant"), is the fee simple owner of that certain parcel of land consisting of approximately 1,121 +/- acres located in DeBary, Volusia County, Florida as legally described in **Attachment "A"** attached hereto and incorporated herein by this reference ("herein the "Property" or "Subject Property"); and

**WHEREAS**, the City of DeBary City Council previously rezoned the Property to Progress Industry Park Planned Unit Development pursuant to Ordinance No. 08-99 and the Development Agreement and Master Development Plan recorded at Official Records Book 4516 Page 3761, et. seq. of the Public Records of Volusia County, Florida, and as amended and restated by that major amendment approved by Ordinance No. 05-18 and the Amended and Restated Development Agreement recorded at Official Records Book 7548, Page 2133, et. seq. of the Public Records of Volusia County, Florida, and as further amended by that major amendment approved by Ordinance No. 02-19 and the First Amendment to Amended and Restated Development Agreement recorded at Official Records Book 7684, Page 1396, et. seq. of Public Records of Volusia County, Florida (collectively the "Progress Industry Park IPUD"); and

**WHEREAS**, the Applicant is requesting a major amendment to Progress Industry Park IPUD to modify the IPUD to approve the construction of a hydrogen production and storage facility project on an approximately 1.77 +/- acre portion of the Property as further described in the Second Amendment to Amended and Restated Development Agreement being approved by this Ordinance (the "Hydrogen Production and Storage Property"); and



**WHEREAS**, the Applicant desires to substantially change the Amended and Restated Development Agreement and Master Development Plan to add the hydrogen production and storage facility project to be constructed upon the Hydrogen Production and Storage Property; and

**WHEREAS**, the Applicant is requesting a major amendment to Progress Industry Park IPUD to modify the IPUD as set forth in the Second Amendment to Amended and Restated Development Agreement and incorporated amendment to the Master Development Plan; and

**WHEREAS**, this Ordinance has been advertised and noticed in accordance with the requirements of state law and Section 1-10 of the City of DeBary Land Development Code; and

**WHEREAS**, the City Council finds that this Ordinance and the major amendment to The Progress Industry Park IPUD approved herein is consistent with the City of DeBary Comprehensive Plan and Land Development Code and promotes the public health, safety and welfare; and

**WHEREAS**, the City of DeBary City Council acting as both the Land Planning Agency and the Governing Body has conducted the necessary public hearings on this Ordinance.

**IT IS HEREBY ORDAINED BY THE CITY OF DeBARY AS FOLLOWS:**

**SECTION 1.** Recitals. The above recitals are true and accurate and are incorporated herein as findings of the City Council.

**SECTION 2.** Major Amendment Granted. The Applicant's request for a major amendment of Progress Industry Park IPUD is hereby granted. The Progress Industry Park IPUD is hereby amended as described in the Second Amendment to the Amended and Restated Development Agreement and its corresponding exhibits (including the amendment to the Master Development Plan) attached hereto as **Attachment "B"**. The Mayor and City Clerk are authorized to execute the Second Amendment to the Amended and Restated Development Agreement. The Amended and Restated Development Agreement as amended by the Second Amendment to the Amended and Restated Development Agreement approved by this Ordinance shall control and govern the development of the Property.

**SECTION 3.** Recording. The City Clerk is hereby directed to record this Ordinance and the Second Amendment to Amended and Restated Development Agreement – The Progress Industry Park IPUD and its exhibits in the Public Records of Volusia County, Florida. The IPUD as amended by this Ordinance and attached Second Amendment to Amended and Restated Development Agreement and Amendment to the Master Development Plan affecting the Property

shall run with the land and shall be applicable to and binding on the Applicant and any and all successors and assigns in interest.

**SECTION 4.** Severability. If any portion of this Ordinance is finally determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable or void, the balance of the Ordinance shall continue in full force and effect.

**SECTION 5.** Effective Date. This Ordinance shall take effect immediately upon adoption.

**FIRST READING HELD on \_\_\_\_\_, 2023**

**ADOPTED AFTER SECOND READING on this \_\_\_ day of \_\_\_\_\_, 2023.**

**CITY COUNCIL**

**CITY OF DEBARY, FLORIDA**

\_\_\_\_\_  
Karen Chasez, Mayor

ATTEST:

\_\_\_\_\_  
Annette Hatch, City Clerk

Attachments – **Attachment “A”** – Legal Description of Property within IPUD

**Attachment “B”** – Second Amendment to Amended and Restated Development Agreement.

## **EXHIBIT F continued**

### **LEGAL DESCRIPTION- Hydrogen System**

Volusia County Parcel Number 802800000020

A portion of a parcel recorded in Official Records Book 1647, Page 306, public records of Volusia County, Florida, lying in Section 28, Township 18 South, Range 30 East, being described as follows:

Commence at the northwest corner of said Section 28; thence South 00°11'52" East, along the west line of said Section 28, a distance of 399.83 feet; thence North 90°00'00" East, a distance of 114.15 feet to the Point of Beginning; thence North 90°00'00" East, a distance of 441.00 feet; thence South 00°00'00" East, a distance of 175.00 feet; thence North 90°00'00" West, a distance of 441.00 feet; thence North 00°00'00" East, a distance of 175.00 feet to the Point of Beginning.

Contains 1.77 acres (77,175 square feet)

After Recording Return to:

City Clerk  
City of DeBary  
16 Colomba Road  
DeBary, Florida 32713

**SECOND AMENDMENT TO AMENDED AND  
RESTATED DEVELOPMENT AGREEMENT  
(PROGRESS INDUSTRY PARK INDUSTRIAL PLANNED UNIT DEVELOPMENT)**

**THIS SECOND AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT** (the "Amendment") is made and entered into by and between the **CITY OF DEBARY**, a Florida municipal corporation (herein "City"), and **Duke Energy Florida, LLC**, a Florida limited liability company d/b/a Duke Energy (herein "Applicant").

**WHEREAS**, the City and Applicant previously entered into that certain Amended and Restated Development Agreement concerning the Progress Industry Park Industrial Planned Unit Development, which was approved pursuant to City of DeBary Ordinance No. 05-18 and was recorded on May 22, 2018 at Official Records Book 7548, Page 2133, et. seq., Public Records of Volusia County ("Amended & Restated Development Agreement"), which along with its corresponding master development plan governs the development of the 1,121 acre Property described in Exhibit A attached to the Development Agreement ("Property"); and

**WHEREAS**, the Development Agreement was previously amended by the First Amendment to Amended and Restated Development Agreement approved pursuant to City of DeBary Ordinance No. 02-19 adopted on March 6, 2019 ("First Amendment"); and

**WHEREAS**, the Amended & Restated Development Agreement and First Amendment are collectively herein referred to as the "Development Agreement"; and

**WHEREAS**, Applicant requests a major amendment to Progress Industry Park Industrial Planned Unit Development and its corresponding Development Agreement and master development

plan to allow for construction of a hydrogen production and storage facility upon an approximately 1.77 acre portion of the Property (“Hydrogen Production and Storage Property”); and

**WHEREAS**, the due public notice and public hearing requirements of the City of DeBary Land Development Code and this Development Agreement have been met; and

**WHEREAS**, the City Council of the City of DeBary, Florida, finds that this Amendment is consistent with the City of DeBary Comprehensive Plan and Land Development Code, promotes the public health, safety and welfare and is consistent with its authority under Chapter 166, Florida Statutes, Section 2(b) of the State Constitution, and the City's police powers.

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

1. **Exhibits and Whereas Amendment.** The Development Agreement is amended to add Exhibit “F” attached to this Amendment as Exhibit “F” to the Development Agreement.

2. **Master Development Plan Amendment.** Section A.1. of the Development Agreement is hereby amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

A. Development Concept: The Property shall be developed as an IPUD substantially in accordance with the Master Development Plan and this Development Agreement. The Master Development Plan and this Development Agreement shall govern the development of the Property as an IPUD and shall regulate the future land use of this parcel.

1. Master Development Plan. The Master Development Plan shall consist of: (i) the Preliminary Plan dated May 14, 1999 attached hereto as **Exhibit “B”** which is the same master development plan attached to City of DeBary Ordinance No. 08-99 and its corresponding development agreement (“Original MDP”), (ii) the Highbanks Substation Plan prepared by Dewberry Engineers, Inc. dated July 21, 2017 attached hereto as **Exhibit “C”** (“Highbanks Substation Plan”) providing for the development

of an electrical substation on the Substation Property, ~~and~~ (iii) the Solar Power Generation Plan prepared by Golder Associates dated January 29, 2019 attached hereto as **Exhibit “E”** (“Solar Power Generation Plan”), and (iv) the Hydrogen Production and Storage Facility Plan prepared by Golder Associates dated August 29, 2022 attached hereto as Exhibit “F” (“Hydrogen Plan”). The Original MDP, Solar Power Generation Plan, ~~and~~ Highbanks Substation Plan, and the Hydrogen Production and Storage Facility are collectively referred to herein as the “Master Development Plan” and such shall govern the development of the Property. The Highbanks Substation Plan shall control the development of the Substation Property and to the extent of any conflicts with the Original MDP. The Solar Power Generation Plan shall control the development of the Solar Power Property and to the extent of any conflicts with the Original MDP. The Hydrogen Production and Storage Facility Plan shall control the development of the Hydrogen Production and Storage Property and to the extent of any conflicts with the Original MDP. The Hydrogen Plan shall be filed and retained for public inspection in the office of the City of DeBary and it shall constitute a supplement to the Official Zoning Map of the City of DeBary.

3. **Section C. Amendment.** Section C. (Phases of Development) of the Development Agreement is hereby amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

C. Phases of Development. Whereas Phases I, II, and III of the initial development as described under Ordinance No. 08-99 have been completed. There has been additional development of (i) an electrical substation on the Substation Property consistent with the Highbanks Substation Plan within the portion identified previously as Phase I identified on the Original MDP, located to the north of the existing Volusia County Water Treatment Facility as Phase IV of the IPUD, ~~and~~ (ii) a Solar Power Generation Project (or sometimes called the “Solar PV Project”) on the Solar Power Property

consistent with the Solar Power Generation Plan as Phase V of the IPUD. A Hydrogen Production and Storage Facility will be developed and located within a portion of Phase III of the Original MDP as Phase VI of the IPUD. Any proposed future phases of development of the Property shall be submitted and reviewed as a major amendment to this IPUD.

4. **SECTION I. Amendment.** SECTION I. (Access and Transportation System Improvements) of the Development Agreement is hereby amended to be deleted and replaced with the following):

I. Access and Transportation System Improvements. All access and transportation system improvements shall be provided in accordance with the City of DeBary Comprehensive Plan, Land Development Regulations, as amended. The Property shall be developed in substantial accordance with the following access and transportation system improvements:

1. Access. Applicant shall utilize the Saxon Road extension as the exclusive point of ingress and egress for any development projects outside the existing powerplant, Phase IV Highbanks Substation and Phase V – Solar PV Project. The current Highbanks Road access drive shall continue to serve all existing and future public utility uses within the IPUD (including the existing power plant, the Highbanks Substation, the Solar PV Project and the Hydrogen Production and Storage Facility Property which occupies a portion of the existing power infrastructure). In addition, Highbanks Road may be utilized as emergency access. Subject to further review and approval by the City during a site plan or other appropriate development order or permit approval process, the Property may utilize for access any future public road improvements that are constructed adjacent to the Property if and when available. Applicant may utilize Donald E. Smith Boulevard to access the existing access road used by

the Volusia County Water Treatment Facility during construction activities upon the Property for construction access and delivery of limited equipment and for ingress and egress to travel north within Phase I to Duke Energy's Highbanks substation (Phase IV), and the Solar PV Project (Phase V). Such access from Donald E. Smith Boulevard is limited to as necessary to access said electrical substation on the Substation Property or the Solar Power Property as noted on the Solar Power Generation Plan, and Donald E. Smith Boulevard shall not be utilized to access development outside of the Substation Property except during construction of the Solar PV Project and emergency access and replacement of solar substation equipment.

4. **SECTION G. Amendment.** SECTION G. (Sewage Disposal and Potable Water) of the Development Agreement is hereby amended to be revise as follows (underlined language are additions and ~~stricken through~~ language are deletions):

G. Sewage Disposal, Reclaimed Water and Potable Water. Provision for sewage disposal and potable water needs of the IPUD will be provided in accordance with the City of DeBary Comprehensive Plan, as amended, the City of DeBary Land Development Code, as amended, and State of Florida Administrative Code 10-D6.

The Hydrogen Production and Storage Facility shall not use ground water to create hydrogen or in the electricity generation process, except (a) on a limited emergency basis as set forth herein; or (b) during the period of time between the expected in-service date of the Hydrogen Production and Storage Facility and 12/31/26. For purposes of this section, "emergency" is defined as a period of time when reclaimed water is not available from and as determined by Volusia County (reclaimed water provider) due to exigent conditions outside of Duke Energy's or its contractors', employees' and agents' control, including but not limited to, issues with reclaimed water quantity, quality considerations, equipment malfunctions, weather, and other circumstances that would render the reclaimed water unavailable or unusable. A condition of approval of this amendment requires that Applicant (Duke Energy) will, at its expense, and in compliance with



an order from the St. John's River Water Management District (SJRWMD), convert the primary water supply for the existing DeBary power plant from the present groundwater sources to reclaimed water acquired from the Volusia County's Southwest Reclaimed Water Facility by 2027 ("Reclaimed Water Supply Conversion"). If the Reclaimed Water Supply Conversion does not occur, the Hydrogen Production and Storage Facility is not permitted to be operated beyond the end of 2026. The Reclaimed Water Supply Conversion will involve cooperation by certain stakeholders including Volusia County and SJRWMD. Coordination will need to occur between SJRWMD and Duke Energy to modify the existing Consumptive Use Permit 9482-4 and any other necessary approvals to eliminate ground water as a primary source of water and require the use of reclaimed water as the primary water source for electric generation plant processes. The risk is solely on the Applicant (Duke Energy) concerning the potential inability or failure to obtain the necessary approvals to modify the Consumptive Use Permit or otherwise move forward with the Reclaimed Water Supply Conversion and by extension, the Hydrogen Production and Storage Facility.

The Applicant shall provide the City with written proof and an onsite visual inspection of the Reclaimed Water Supply Conversion once complete. Except for drinking water purposes as set forth below, groundwater from existing onsite groundwater wells may only be allowed on a temporary basis not to exceed the period of an emergency (as defined above) or during the period of time between the expected in-service date of the Hydrogen Production and Storage Facility and 12/31/26. Applicant (Duke Energy) will still utilize groundwater sources for toilets, sinks, water fountains, ice makers, eye wash stations and other human drinking water purposes.

5. **Full Force & Effect; Binding.** The Development Agreement shall remain in full force and effect except as expressly modified by this Amendment. This Amendment shall run with the land and be binding upon, and inure to the benefit of, the parties hereto, their respective heirs, successors, assigns and anyone claiming by, through or under any of them.

6. **Effective Date.** The effective date of this Amendment shall be the date approved by the City Council.

**[REMAINDER OF PAGE LEFT BLANK]**

**AGREED** to by the City Council of the City of DeBary, Florida and the Applicant on this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

**ATTEST:**

**CITY OF DEBARY CITY COUNCIL**

\_\_\_\_\_  
Annette Hatch, City Clerk

\_\_\_\_\_  
Karen Chasez, Mayor

City Council Approved on \_\_\_\_\_, 2023.

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by physical presence this \_\_\_\_ day of \_\_\_\_\_ 2023, by Karen Chasez as Mayor, on behalf of the City of DeBary, and who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

Type or print Name: \_\_\_\_\_

Commission No.: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

APPLICANT:

DUKE ENERGY FLORIDA, LLC, a Florida limited liability company

By: \_\_\_\_\_

Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day \_\_\_\_\_, 2023 by \_\_\_\_\_, as \_\_\_\_\_ of DUKE ENERGY FLORIDA, LLC, a Florida limited liability d/b/a Duke Energy, on behalf of said company. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

(Affix Seal)

\_\_\_\_\_  
Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Attachment A

DESCRIPTION:

BEGIN AT THE SE. CORNER OF THE SE ¼ OF SECTION 29, TOWNSHIP 18 SOUTH, RANGE 30 EAST; THENCE N 89°49'23" W., ALONG THE SOUTH BOUNDARY OF SAID SE ¼, A DISTANCE OF 2389.13 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD; THENCE CONTINUE N. 89°49'23" W., ALONG SAID SOUTH BOUNDARY 100.25 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID RAILROAD; THENCE CONTINUE N. 89°49'23" W., ALONG SAID SOUTH BOUNDARY 179.21 FEET TO THE SE. CORNER OF THE SW. ¼, OF SAID SECTION 29; THENCE N. 89°53'27" W., ALONG THE SOUTH BOUNDARY OF SAID SW. ¼, A DISTANCE OF 1333.96 FEET TO THE SW. CORNER OF THE EAST ½, OF SAID SW. ¼; THENCE N. 0°05'41" E., ALONG THE WEST BOUNDARY OF SAID EAST ½, A DISTANCE OF 2658.33 FEET TO THE NW. CORNER OF SAID EAST ½; THENCE S. 89° 56' 09" E., A DISTANCE OF 350 FEET; THENCE N 34° 56' 09" E., A DISTANCE OF 1650 FEET; THENCE N 00° 04' 51" W., A DISTANCE OF 1600 FEET; THENCE N 89° 56' 09" E., A DISTANCE OF 830 FEET; THENCE N 19° 56' 09" E., A DISTANCE OF 910 FEET; THENCE N., 00° 04' 51" W., A DISTANCE OF .2255 FEET; THENCE N 89° 56' 09" E., TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID RAILROAD; THENCE CONTINUE N. 15° 14' 42" E., ALONG SAID RIGHT-OF-WAY LINE, 50.00 FEET FROM AND PARALLEL WITH THE CENTERLINE OF SAID RAILROAD, A DISTANCE OF 977 FEET MORE OR LESS TO THE POINT OF CURVATURE OF A RIGHT-OF-WAY LINE CURVE THAT IS CONCAVE NORTHWESTERLY, SAID CURVE HAVING A RADIUS OF 2914.93 FEET AND AN ARC LENGTH OF 762.53 FEET; THENCE ALONG THE ARC OF SAID CURVE, 50 FEET FROM THE CENTERLINE OF SAID RAILROAD, A CHORD BEARING AND DISTANCE OF N. 7° 45' 03" E., 760.36 FEET TO THE POINT OF TANGENCY OF SAID CURVE;

THENCE N. 0°15'24" E., ALONG SAID RIGHT-OF-WAY LINE, 50.00 FEET FROM AND PARALLEL WITH SAID CENTERLINE, A DISTANCE OF 205.42 FEET TO A POINT ON THE NORTH BOUNDARY OF SAID NE. ¼; THENCE S. 89°10'48" E., ALONG SAID NORTH BOUNDARY, 282.05 FEET TO THE NW. CORNER OF THE NW. ¼ OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 30 EAST; THENCE N. 89°56'24" E., ALONG THE NORTH BOUNDARY OF SAID NW. ¼, A DISTANCE OF 1310.60 FEET TO THE SW. CORNER OF THE SE. ¼ OF THE SW. ¼ OF SECTION 16, TOWNSHIP 18 SOUTH, RANGE 30 EAST; THENCE N. 0° 14' 51" E., ALONG THE WEST BOUNDARY OF SAID SE. ¼, A DISTANCE OF 1335.40 FEET TO THE NW. CORNER OF SAID SE. ¼; THENCE N. 89°59'12" E., ALONG THE NORTH BOUNDARY OF SAID SE. ¼, A DISTANCE OF 1310.75 FEET TO THE NE. CORNER OF SAID SE. ¼; THENCE S. 0°15'14" W., ALONG THE EAST BOUNDARY OF SAID SE. ¼, A DISTANCE OF 1334.33 FEET TO THE NE. CORNER OF THE NW. ¼ OF SAID SECTION 21; THENCE S. 0°43'46" E., ALONG THE EAST BOUNDARY OF SAID NW. ¼, A DISTANCE OF 2669.89 FEET TO THE NE. CORNER OF THE SW. ¼ OF SAID SECTION 21; THENCE CONTINUE S. 0°43'46" E., ALONG THE EAST BOUNDARY OF SAID SW. ¼, A DISTANCE OF 2662.92 FEET TO THE NE. CORNER OF THE NW. ¼ OF SECTION 28, TOWNSHIP 18 SOUTH, RANGE 30 EAST; THENCE S. 0°08'01" E., ALONG THE EAST BOUNDARY OF SAID NW ¼, A DISTANCE OF 2651.66 FEET TO THE NE. CORNER OF THE

SW. ¼ OF SAID SECTI 28; THENCE CONTINUE S. 0°08' E., ALONG THE EAST BOUNDARY OF SAID SW. ¼, A DISTANCE OF 1522.62 FEET TO A POINT THAT IS N.0°08'01"W., 1134.02 FEET FROM THE SE. CORNER OF SAID SW. ¼; THENCE N. 89°48'39" W., 1134.00 FEET FROM AND PARALLEL WITH THE SOUTH BOUNDARY OF SAID SW. ¼, A DISTANCE OF 2630.21 FEET TO A POINT ON THE WEST BOUNDARY OF SAID SW. ¼; THENCE S. 0°11'51" E., ALONG SAID WEST BOUNDARY 1134.03 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THAT PORTION OF SECTION 21 DESCRIBED AS FOLLOWS: THE NORTH 2050.00 FEET OF THE EAST ½ OF THE SW. ¼, OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA: LESS AND EXCEPT AND EXCEPT THE WEST 215' THEREOF AND EXCEPT THE EAST 100' THEREOF; SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD. SAID PARCEL CONTAINING 47.08 ACRES MORE OR LESS.

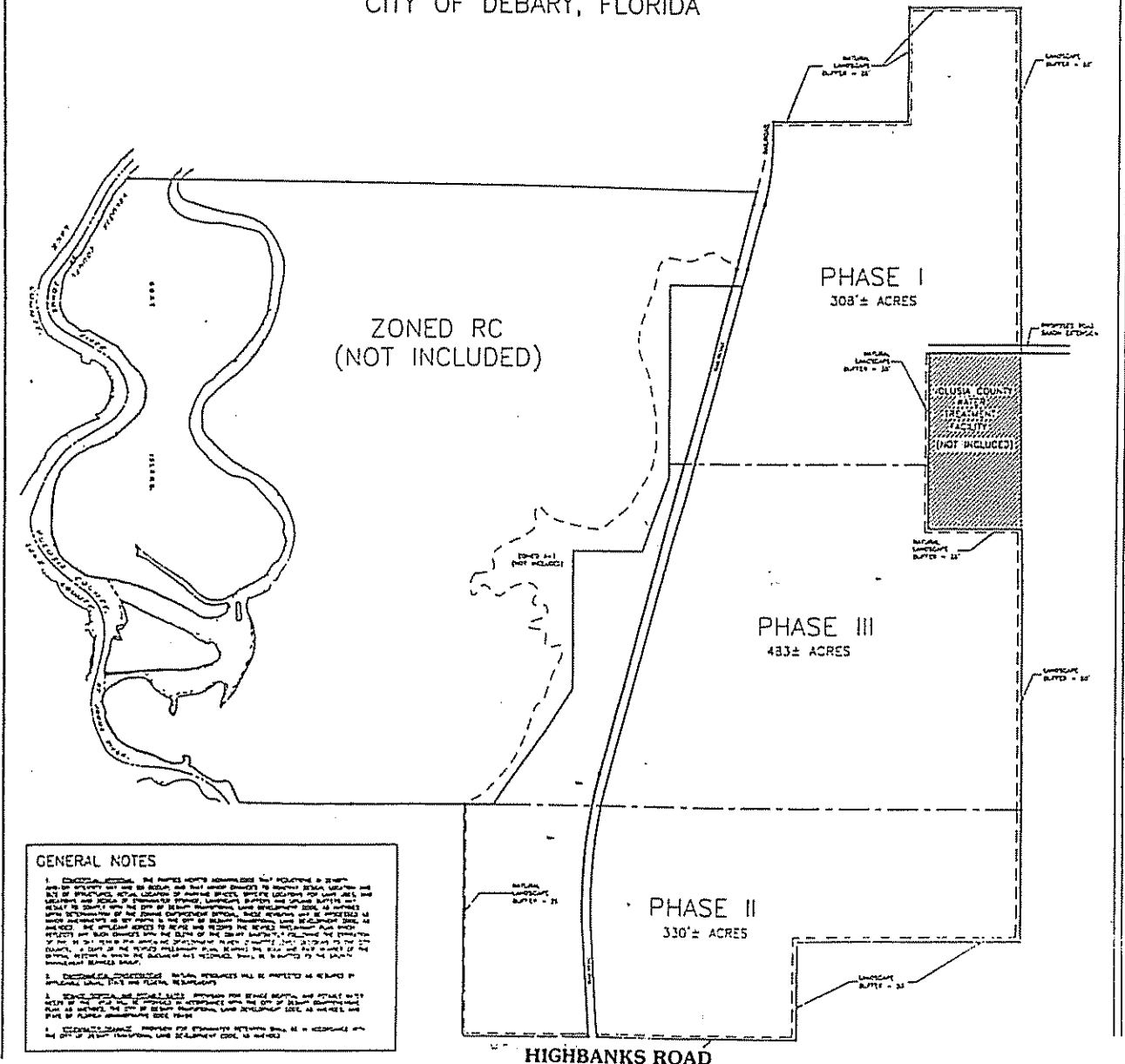
ALL BEING IN TOWNSHIP 18 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, SUBJECT TO RIGHTS-OF-WAY OF RECORD.

CONTAINING 1121 ACRES, MORE OR LESS, EXCLUDING RAILROAD RIGHT-OF-WAY AND RIGHT-OF-WAY OF Highbanks Road. SUBJECT TO RIGHTS-OF-WAY OF RECORD.



EXHIBIT "B"

PRELIMINARY PLAN  
PROGRESS INDUSTRY PARK  
CITY OF DEBARY, FLORIDA



**GENERAL NOTES**

1. GENERAL NOTES: THE ABOVE NOTES APPLY TO THE ENTIRE PLAN. THE NOTES ARE INTENDED TO PROVIDE ADDITIONAL INFORMATION TO THE USER OF THIS PLAN. THE USER SHOULD CONSULT THE CITY ENGINEER FOR A COMPLETE LIST OF NOTES AND SPECIFICATIONS. THE USER SHOULD ALSO CONSULT THE CITY ENGINEER FOR A COMPLETE LIST OF NOTES AND SPECIFICATIONS. THE USER SHOULD ALSO CONSULT THE CITY ENGINEER FOR A COMPLETE LIST OF NOTES AND SPECIFICATIONS.
2. GENERAL NOTES: THE ABOVE NOTES APPLY TO THE ENTIRE PLAN. THE NOTES ARE INTENDED TO PROVIDE ADDITIONAL INFORMATION TO THE USER OF THIS PLAN. THE USER SHOULD CONSULT THE CITY ENGINEER FOR A COMPLETE LIST OF NOTES AND SPECIFICATIONS. THE USER SHOULD ALSO CONSULT THE CITY ENGINEER FOR A COMPLETE LIST OF NOTES AND SPECIFICATIONS. THE USER SHOULD ALSO CONSULT THE CITY ENGINEER FOR A COMPLETE LIST OF NOTES AND SPECIFICATIONS.
3. GENERAL NOTES: THE ABOVE NOTES APPLY TO THE ENTIRE PLAN. THE NOTES ARE INTENDED TO PROVIDE ADDITIONAL INFORMATION TO THE USER OF THIS PLAN. THE USER SHOULD CONSULT THE CITY ENGINEER FOR A COMPLETE LIST OF NOTES AND SPECIFICATIONS. THE USER SHOULD ALSO CONSULT THE CITY ENGINEER FOR A COMPLETE LIST OF NOTES AND SPECIFICATIONS. THE USER SHOULD ALSO CONSULT THE CITY ENGINEER FOR A COMPLETE LIST OF NOTES AND SPECIFICATIONS.

**REVISED**





**ORDINANCE NO. 05-18**

**AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, AMENDING ORDINANCE NO. 08-99, APPROVING A MAJOR AMENDMENT TO THE PROGRESS INDUSTRY PARK PLANNED UNIT DEVELOPMENT GOVERNING THE DEVELOPMENT OF APPROXIMATELY 1,121 ACRES OF LAND LOCATED NORTH OF Highbanks Road AND ON THE WEST AND EAST SIDES OF DUTCHMEN'S BEND ROAD OWNED BY DUKE ENERGY FLORIDA, LLC WHICH WAS FORMERLY OWNED BY FLORIDA POWER CORPORATION; APPROVING AN AMENDED AND RESTATED DEVELOPMENT AGREEMENT, AN AMENDMENT TO THE MASTER DEVELOPMENT PLAN AND THE LIMITED ACCESS FROM DONALD E. SMITH BOULEVARD TO A PROPOSED SUBSTATION HAVING VOLUSIA COUNTY TAX PARCEL IDENTIFICATION NUMBER 21-18-30-00-0012; PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND RECORDING.**

**WHEREAS**, Duke Energy Florida, LLC, a Florida limited liability company d/b/a Duke Energy, (herein "Applicant"), is the fee simple owner of that certain parcel of land consisting of approximately 1,121 +/- acres located in DeBary, Volusia County, Florida as legally described in **Attachment "A"** attached hereto and incorporated herein by this reference ("herein the "Property" or "Subject Property"); and

**WHEREAS**, the City of DeBary City Council previously rezoned the Property to Progress Industry Park Planned Unit Development pursuant to Ordinance No. 08-99 and the Development Agreement and Master Development Plan recorded at Official Records Book 4516 Page 3761, et. seq. of the Public Records of Volusia County, Florida (collectively the "Progress Industry Park IPUD"); and

**WHEREAS**, the Applicant is requesting a major amendment to Progress Industry Park IPUD to modify the IPUD to allow access to a proposed substation on that certain 4.59192 acre portion of the Property having Volusia County Tax Parcel Identification Number 21-18-30-00-0012 and legally described on **Attachment "B"** attached hereto and incorporated herein by this reference (the "Substation Property"); and

**WHEREAS**, the Applicant desires to substantially change the Master Development Plan to set forth the development standards for its proposed electrical substation to be constructed upon the Substation Property; and

**WHEREAS**, the Applicant is requesting a major amendment to Progress Industry Park IPUD to modify the IPUD as set forth in the Amended and Restated Development Agreement and incorporated Amendment to the Master Development Plan; and

**WHEREAS**, this Ordinance has been advertised and noticed in accordance with the requirements of state law and Section 1-10 of the City of DeBary Land Development Code; and

**WHEREAS**, the City Council finds that this Ordinance and the major amendment to The Progress Industry Park IPUD approved herein is consistent with the City of DeBary Comprehensive Plan and Land Development Code and promotes the public health, safety and welfare; and

**WHEREAS**, the City of DeBary City Council acting as both the Land Planning Agency and the Governing Body has conducted the necessary public hearings on this Ordinance.

**IT IS HEREBY ORDAINED BY THE CITY OF DeBARY AS FOLLOWS:**

**SECTION 1. Recitals.** The above recitals are true and accurate and are incorporated herein as findings of the City Council.

**SECTION 2. Major Amendment Granted.** The Applicant's request for a major amendment of Progress Industry Park IPUD is hereby granted. The Progress Industry Park IPUD is hereby amended with respect to the Property as described in the Amended and Restated Development Agreement attached hereto as **Attachment "C"**. Specifically, the Progress Industry Park IPUD is amended to allow limited access to the Substation Property from Donald E. Smith Boulevard. The Mayor and City Clerk are authorized to execute the Amended and Restated Development Agreement. The Amended and Restated Development Agreement approved by this Ordinance shall control and govern the development of the Property.

**SECTION 3. Recording.** The City Clerk is hereby directed to record this Ordinance and the Amended and Restated Development Agreement – The Progress Industry Park IPUD and its exhibits in the Public Records of Volusia County, Florida. The IPUD as amended by this Ordinance and attached Amended and Restated Development Agreement and Amendment to the Master Development Plan affecting the Property shall run with the land and shall be applicable to and binding on the Applicant and any and all successors and assigns in interest.

**SECTION 4. Severability.** If any portion of this Ordinance is finally determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable or void, the balance of the Ordinance shall continue in full force and effect.


**SECTION 5. Effective Date.** This Ordinance shall take effect immediately upon adoption.

FIRST READING HELD on 4-18, 2018

ADOPTED AFTER SECOND READING on this 2<sup>nd</sup> day of May, 2018.

CITY COUNCIL

CITY OF DEBARY, FLORIDA

  
Bob Garcia, Mayor

ATTEST:

  
Warren Graham, City Clerk

Attachments – **Attachment “A”** – Legal Description of Property within IPUD

**Attachment “B”** – Legal Description of Electrical Substation Property

**Attachment “C”** – Amended and Restated Development Agreement.

EXHIBIT "A"

DESCRIPTION:

BEGIN AT THE SE. CORNER OF THE SE  $\frac{1}{4}$  OF SECTION 29, TOWNSHIP 18 SOUTH, RANGE 30 EAST; THENCE N  $89^{\circ}49'23''$  W., ALONG THE SOUTH BOUNDARY OF SAID SE  $\frac{1}{4}$ , A DISTANCE OF 2389.13 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD; THENCE CONTINUE N.  $89^{\circ}49'23''$  W., ALONG SAID SOUTH BOUNDARY 100.25 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID RAILROAD; THENCE CONTINUE N.  $89^{\circ}49'23''$  W., ALONG SAID SOUTH BOUNDARY 179.21 FEET TO THE SE. CORNER OF THE SW.  $\frac{1}{4}$ , OF SAID SECTION 29; THENCE N.  $89^{\circ}53'27''$  W., ALONG THE SOUTH BOUNDARY OF SAID SW.  $\frac{1}{4}$ , A DISTANCE OF 1333.96 FEET TO THE SW. CORNER OF THE EAST  $\frac{1}{2}$ , OF SAID SW.  $\frac{1}{4}$ ; THENCE N.  $0^{\circ}05'41''$  E., ALONG THE WEST BOUNDARY OF SAID EAST  $\frac{1}{2}$ , A DISTANCE OF 2658.33 FEET TO THE NW. CORNER OF SAID EAST  $\frac{1}{2}$ ; THENCE S.  $89^{\circ}56'09''$  E., A DISTANCE OF 350 FEET; THENCE N  $34^{\circ}56'09''$  E., A DISTANCE OF 1650 FEET; THENCE N  $00^{\circ}04'51''$  W., A DISTANCE OF 1600 FEET; THENCE N  $89^{\circ}56'09''$  E., A DISTANCE OF 830 FEET; THENCE N  $19^{\circ}56'09''$  E., A DISTANCE OF 910 FEET; THENCE N.,  $00^{\circ}04'51''$  W., A DISTANCE OF .2255 FEET; THENCE N  $89^{\circ}56'09''$  E., TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID RAILROAD; THENCE CONTINUE N.  $15^{\circ}14'42''$  E., ALONG SAID RIGHT-OF-WAY LINE, 50.00 FEET FROM AND PARALLEL WITH THE CENTERLINE OF SAID RAILROAD, A DISTANCE OF 977 FEET MORE OR LESS TO THE POINT OF CURVATURE OF A RIGHT-OF-WAY LINE CURVE THAT IS CONCAVE NORTHWESTERLY, SAID CURVE HAVING A RADIUS OF 2914.93 FEET AND AN ARC LENGTH OF 762.53 FEET; THENCE ALONG THE ARC OF SAID CURVE, 50 FEET FROM THE CENTERLINE OF SAID RAILROAD, A CHORD BEARING AND DISTANCE OF N.  $7^{\circ}45'03''$  E., 760.36 FEET TO THE POINT OF TANGENCY OF SAID CURVE;

THENCE N.  $0^{\circ}15'24''$  E., ALONG SAID RIGHT-OF-WAY LINE, 50.00 FEET FROM AND PARALLEL WITH SAID CENTERLINE, A DISTANCE OF 205.42 FEET TO A POINT ON THE NORTH BOUNDARY OF SAID NE.  $\frac{1}{4}$ ; THENCE S.  $89^{\circ}10'48''$  E., ALONG SAID NORTH BOUNDARY, 282.05 FEET TO THE NW. CORNER OF THE NW.  $\frac{1}{4}$  OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 30 EAST; THENCE N.  $89^{\circ}56'24''$  E., ALONG THE NORTH BOUNDARY OF SAID NW.  $\frac{1}{4}$ , A DISTANCE OF 1310.60 FEET TO THE SW. CORNER OF THE SE.  $\frac{1}{4}$  OF THE SW.  $\frac{1}{4}$  OF SECTION 16, TOWNSHIP 18 SOUTH, RANGE 30 EAST; THENCE N.  $0^{\circ}14'51''$  E., ALONG THE WEST BOUNDARY OF SAID SE.  $\frac{1}{4}$ , A DISTANCE OF 1335.40 FEET TO THE NW. CORNER OF SAID SE.  $\frac{1}{4}$ ; THENCE N.  $89^{\circ}59'12''$  E., ALONG THE NORTH BOUNDARY OF SAID SE.  $\frac{1}{4}$ , A DISTANCE OF 1310.75 FEET TO THE NE. CORNER OF SAID SE.  $\frac{1}{4}$ ; THENCE S.  $0^{\circ}15'14''$  W., ALONG THE EAST BOUNDARY OF SAID SE.  $\frac{1}{4}$ , A DISTANCE OF 1334.33 FEET TO THE NE. CORNER OF THE NW.  $\frac{1}{4}$  OF SAID SECTION 21; THENCE S.  $0^{\circ}43'46''$  E., ALONG THE EAST BOUNDARY OF SAID NW.  $\frac{1}{4}$ , A DISTANCE OF 2669.89 FEET TO THE NE. CORNER OF THE SW.  $\frac{1}{4}$  OF SAID SECTION 21; THENCE CONTINUE S.  $0^{\circ}43'46''$  E., ALONG THE EAST BOUNDARY OF SAID SW.  $\frac{1}{4}$ , A DISTANCE OF 2662.92 FEET TO THE NE. CORNER OF THE NW.  $\frac{1}{4}$  OF SECTION 28, TOWNSHIP 18 SOUTH, RANGE 30 EAST; THENCE S.  $0^{\circ}08'01''$  E., ALONG THE EAST BOUNDARY OF SAID NW  $\frac{1}{4}$ , A DISTANCE OF 2651.66 FEET TO THE NE. CORNER OF THE

SW. ¼ OF SAID SECTION 28; THENCE CONTINUE S. 0°08' E., ALONG THE EAST BOUNDARY OF SAID SW. ¼, A DISTANCE OF 1522.62 FEET TO A POINT THAT IS N.0°08'01"W., 1134.02 FEET FROM THE SE. CORNER OF SAID SW. ¼; THENCE N. 89°48'39" W., 1134.00 FEET FROM AND PARALLEL WITH THE SOUTH BOUNDARY OF SAID SW. ¼, A DISTANCE OF 2630.21 FEET TO A POINT ON THE WEST BOUNDARY OF SAID SW. ¼; THENCE S. 0°11'51" E., ALONG SAID WEST BOUNDARY 1134.03 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THAT PORTION OF SECTION 21 DESCRIBED AS FOLLOWS: THE NORTH 2050.00 FEET OF THE EAST ½ OF THE SW. ¼, OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA: LESS AND EXCEPT AND EXCEPT THE WEST 215' THEREOF AND EXCEPT THE EAST 100' THEREOF; SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD. SAID PARCEL CONTAINING 47.08 ACRES MORE OR LESS.

ALL BEING IN TOWNSHIP 18 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, SUBJECT TO RIGHTS-OF-WAY OF RECORD.

CONTAINING 1121 ACRES, MORE OR LESS, EXCLUDING RAILROAD RIGHT-OF-WAY AND RIGHT-OF-WAY OF Highbanks Road. SUBJECT TO RIGHTS-OF-WAY OF RECORD.



**ATTACHMENT "B"**

THE NORTH 500 FEET OF THE SOUTH 710 FEET OF THE EAST 400 FEET OF THE NORTHWEST ONE-QUARTER OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 30 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCE** AT THE SOUTHWEST CORNER OF THE NORTHWEST ONE-QUARTER OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 30 EAST; THENCE SOUTH 89°50'41" EAST, ALONG THE SOUTH LINE OF SAID NORTHWEST ONE-QUARTER, A DISTANCE OF 2628.05 FEET TO THE SOUTHEAST CORNER OF SAID NORTHWEST ONE-QUARTER OF SECTION 21; THENCE NORTH 00°43'43" WEST, ALONG THE EAST LINE OF SAID NORTHWEST ONE-QUARTER OF SECTION 21, A DISTANCE OF 210.02 FEET TO AN INTERSECTION WITH A LINE BEING 210 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST ONE-QUARTER OF SECTION 21; THENCE NORTH 89°50'41" WEST, DEPARTING SAID EAST LINE, AND ALONG SAID PARALLEL LINE, A DISTANCE OF 100.01 FEET TO AN INTERSECTION WITH A LINE BEING 100 FEET WEST OF AND PARALLEL WITH SAID EAST LINE OF THE NORTHWEST ONE-QUARTER OF SECTION 21 AND THE **POINT OF BEGINNING**; THENCE CONTINUE NORTH 89°50'41" WEST, ALONG SAID PARALLEL LINE, BEING 210 FEET NORTH OF THE SOUTH LINE OF SAID NORTHWEST ONE-QUARTER OF SECTION 21, A DISTANCE OF 400.05 FEET TO AN INTERSECTION WITH A LINE BEING 500 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHWEST ONE-QUARTER OF SECTION 21; THENCE NORTH 00°43'43" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 500.06 FEET TO AN INTERSECTION WITH A LINE BEING 710 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST ONE-QUARTER OF SECTION 21; THENCE SOUTH 89°50'41" EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 400.05 FEET TO AN INTERSECTION WITH SAID LINE BEING 100 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF SECTION 21; THENCE SOUTH 00°43'43" EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 500.06 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 200,024 OR 4.59192 ACRES, MORE OR LESS.

After Recording Return to:  
City of DeBary  
Attn: City Clerk  
16 Columba Road  
DeBary, Florida 32713

Ordinance No. 05-18

Attachment "C"

**AMENDED AND RESTATED IPUD DEVELOPMENT AGREEMENT**

**(PROGRESS INDUSTRY PARK INDUSTRIAL PLANNED UNIT DEVELOPMENT)**

**THIS AMENDED AND RESTATED IPUD DEVELOPMENT AGREEMENT**

("Development Agreement," "Agreement," or "Amended and Restated Development Agreement") is made and entered into by and between the **CITY OF DEBARY**, a Florida municipal corporation (herein "City") and **Duke Energy Florida, LLC**, a Florida limited liability company d/b/a Duke Energy (herein "Applicant").

**WHEREAS**, the prior application of Florida Power Corporation for rezoning of the Property, as defined herein, from A-3 (Transitional Agricultural) to IPUD (Industrial Planned Unit Development) was heard by and before the DeBary City Council, Volusia County, Florida, on June 2, 1999 and such was approved pursuant to City of DeBary Ordinance No. 08-99 and its corresponding development agreement and master development plan which are recorded at Official Records Book 4516, Page 3761, Public Records of Volusia County (collectively the "Progress Industry Park IPUD"); and

**WHEREAS**, the Applicant is Florida Power Corporation's successor in interest as the current fee simple owner of that certain real property being approximately 1,121 acres in size, more or less, and legally described in **Exhibit "A"** attached hereto and incorporated herein (herein

the “Property” or “Subject Property”) and being the same property described in City of DeBary Ordinance No. 08-99 and its corresponding development agreement; and

**WHEREAS**, the Applicant is requesting a major amendment to Progress Industry Park IPUD to modify the IPUD to amend the access restrictions to the Subject Property so as to allow for direct access to the proposed electrical substation on that certain 4.59192 acre portion of the Property having Volusia County Tax Parcel Identification Number 21-18-30-00-00-0012 and legally described on **Exhibit “D”** attached hereto and incorporated herein by this reference (the “Substation Property”); and

**WHEREAS**, Property is zoned IPUD and shall be regulated by this Amended and Restated Development Agreement and its corresponding Master Development Plan; and

**WHEREAS**, the Property has a Comprehensive Plan Future Land Use Map designation of Industrial/ Utilities (I/U); and

**WHEREAS**, Ordinance No. 05-18 approving this Amended and Restated Development Agreement has been advertised and noticed in accordance with the requirements of state law and Section 1-10 of the City of DeBary Land Development Code; and

**WHEREAS**, the City Council acting in its capacity as the City of DeBary Local Planning Agency and Governing Body has conducted the necessary public hearings on Ordinance No. 05-18 approving this Amended and Restated Development Agreement; and

**WHEREAS**, based upon competent, substantial evidence presented in the record, Ordinance No. 05-18 and this Amended and Restated Development Agreement have been



determined by the City of DeBary City Council to meet the requirements for rezoning pursuant to Section 1-6, City of DeBary Land Development Code and Comprehensive Plan Policy 5.505 and is consistent with the City of DeBary Comprehensive Plan and Land Development Code; and

**WHEREAS**, the City of DeBary City Council finds that this Amended and Restated Development Agreement promotes the public health, safety, and welfare and is consistent with and authorized by its authority under Chapter 166, Florida Statutes, Article VIII, Section 2 (b) of the State Constitution, and the City's home rule authority and police powers.

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

- A. Development Concept: The Property shall be developed as an IPUD substantially in accordance with the Master Development Plan and this Development Agreement. The Master Development Plan and this Development Agreement shall govern the development of the Property as an IPUD and shall regulate the future land use of this parcel.
  1. Master Development Plan. The Master Development Plan shall consist of: (i) the Preliminary Plan dated May 14, 1999 attached hereto as **Exhibit "B"** which is the same master development plan attached to City of DeBary Ordinance No. 08-99 and its corresponding development agreement ("Original MDP"), and (ii) the Highbanks Substation Plan prepared by Dewberry Engineers, Inc. dated July 21, 2017 attached hereto as **Exhibit "C"** ("Highbanks Substation Plan") providing for the development of an electrical substation on the Substation Property. The Original MDP and Highbanks Substation Plan are collectively referred to herein as the "Master Development Plan" and such shall govern the development of the Property. The Highbanks Substation Plan shall control the development of the Substation Property and to the extent of any conflicts with the Original MDP. The Master Development Plan shall be filed and retained for public inspection in the office of the City of DeBary and it shall constitute a supplement to the Official Zoning Map of the City of DeBary.

2. Amendments. The Master Development Plan is intended to be a conceptual plan to guide development of the Property in compliance with the terms and conditions of this Development Agreement. The parties hereto acknowledge that reductions in density and/or intensity may and do occur; and that minor changes to roadway design, location and size of structures, and locations and design of stormwater storage, landscape buffers and upland buffers may occur during the plat and/or site plan review and approval processes. Proposed revisions to the Master Development Plan that also necessitate revisions to the substantive terms of this Development Agreement shall require approval by the City Council as either a major or minor amendment to this IPUD in accordance with the Land Development Code, as may be amended. The DeBary City Manager shall make determinations as to whether requested revisions to the Master Development Plan rise to the level of a minor or major amendment of this IPUD pursuant to the Land Development Code, or is merely a minor deviation of the Master Development Plan. Minor and major amendments to this IPUD shall be processed in accordance with the Land Development Code, as may be amended. Changes determined by the City Manager to be minor deviations to the Master Development Plan may be approved by the City in the issuance of subsequent development orders. A minor deviation shall be a deviation from the Master Development Plan, which has no substantive effect on the overall goals, purpose and objectives of this Development Agreement and the Master Development Plan. Generally, a minor deviation would be a change that does (a) not conflict with the requirements of the Master Development Plan or any exhibit adopted as part of the Master Development Plan, (b) not conflict with any substantive provision of this Development Agreement, any City ordinance or regulation not superseded by the terms of Ordinance No. 05-18 and this Development Agreement, and (c) not trigger the minor or major amendment PUD provisions of the City of DeBary Land Development Code.
3. Subdivision Approval. After the Master Development Plan is recorded, and prior to any construction, including clearing and landfill, areas to be subdivided shall be submitted for review and approval in the manner required by the

City of DeBary Land Development Regulations, as amended and shall be subject to approval of the City of DeBary City Council.

4. Final Site Plan Approval. After the Master Development Plan is recorded, and prior to issuance of any permits for construction, including clearing and landfill, a Final Site Plan shall be prepared and submitted for review and approval in the manner required by the City of DeBary Land Development Regulations, as amended.
- B. Unified Ownership. The Applicant or his successors shall maintain unified ownership of the subject parcel until after issuance of the Exemptions for areas to be subdivided.
- C. Phases of Development. Whereas Phases I, II, and III of the initial development as described under Ordinance No. 08-99 have been completed, there will be additional development of an electrical substation on the Substation Property consistent with the Highbanks Substation Plan within the portion identified previously as Phase I identified on the Original MDP, located to the north of the existing Volusia County Water Treatment Facility.
- D. Land Uses within IPUD. The development of the property, as described in Exhibit "A", shall be consistent with the uses prescribed for each area within the proposed IPUD. The following land uses shall be allowed as permitted principal uses and structures along with their customary accessory uses and structures:
  - ▶ Business equipment component manufacturing.
  - ▶ Communication towers not exceeding 150 feet in height above ground level.
  - ▶ Electrical equipment component manufacturing.
  - ▶ Electronic device and component manufacturing.
  - ▶ Essential utility services. Helipads.
  - ▶ Laboratories research and testing.

- ▶ Office.
- ▶ Professional or trade schools related to the permitted uses.
- ▶ Publicly owned parks and recreational areas.
- ▶ Public utility uses and structures.
- ▶ Restaurants, type A and B (when contained within the principal industrial building).
- ▶ Semiconductor and/or microchip manufacturing facilities.
- ▶ Electrical substations

E. Development Standards.

1. Minimum lot area: 1 acre
2. Minimum lot width: 300 ft.
3. Minimum yard size (building)
  - A. Front yard: 30 ft.
  - B. Rear yard: 20 ft.
  - C. Side yard: 10 ft.
4. Maximum lot coverage: 60 percent  
(The total area covered with principal and accessory buildings)
5. Maximum building height: 80 ft.
6. IPUD Perimeter Landscape buffer requirements -- To preserve the existing characteristics of this area the existing natural vegetation will be preserved and utilized for the following buffers to the greatest extent possible.
  - A. South, adjacent to residential: 50 ft.
  - B. South, adjacent to right-of-way: 35 ft.
  - C. North, adjacent to residential: 35 ft.
  - D. West, adjacent to residential: 50 ft.
  - E. West, adjacent to non-residential: 50 ft.
  - F. East, adjacent to residential: 50 ft. beyond western edge of the power line easement.
  - G. East adjacent to non-residential: 35 ft.

7. All other applicable landscaping requirements will apply according to Chapter 5 Article I- Landscaping and Buffer Standards of the City of DeBary Land Development Regulations, as amended. The following landscape treatment shall be provided adjacent to building facades.

Landscaping Adjacent To Structures.

- a. Minimum Planting Requirements. Any site, including those areas directly adjacent to structures or described elsewhere within this agreement, shall be landscaped in accordance with the following provisions. Landscape materials required in this subsection are in addition to any landscape materials which may otherwise be required in this regulation, unless stated herein. The measurement of any exterior building to determine the required number of plantings shall not include overhead or loading area doors, openings for motor vehicle bays or entrances, or the perimeter of attached or detached canopies.
  - i. One (1) foundation plant shall be required for every one (1) foot of the front of building.
  - ii. One (1) understory tree shall be required for every twenty (20) feet of the front of building
- b. Planting. Foundation plants required by this subsection may be comprised of shrubs and/or ground covers in any arrangement or combination provided that no less than fifty (50) percent of the total required materials are shrubs.
- c. Location of Landscape Materials. Generally, landscape materials required by this subsection should be located within five (5) to twenty-five (25) feet of the building foundation. Emphasis should be afforded to those areas which are visible from any public or private street or from any public area internal to the site.

8. Perimeter building setbacks (along exterior IPUD boundary): 150 Feet: any buildings over 45 feet in height shall be set back 300 feet adjacent to existing residential development adjoining the eastern boundary.
9. Off-street parking requirements: Meet the minimum requirements of Section 3-129 of the City of DeBary Land Development Regulations, as amended.
10. Signage Requirements: Meet the minimum requirements of Section 5-36 and 5-39 of the City of DeBary Land Development Regulations, as amended.
11. Substation Landscaping, Buffering, and Screening. Substations shall be setback and buffered by all applicable standards described within the aforementioned Development Standards (with an express exemption for understory and canopy trees).
12. Specific landscaping/buffering/screening requirements shall be as follows:
  - a. Perimeter Landscape buffer requirements – All reasonable effort shall be provided for to preserve the existing characteristics of this area. The natural vegetation will be preserved and utilized for buffering in compliance with the Development Standards.
    - i. Fence Buffering. Substation fence buffering shall include a six (6') foot wood fence abutting the substation eastern frontage, as depicted in Exhibit "C" – Highbanks Substation Plan. Additional chain-link fencing with three (3) strands of barbwire, surrounding the substation, may be permissible. The chain-link fencing and three (3) strands of barbwire shall not exceed an overall height of eight (8') feet and adhere to Land Development Code Section 5-62 Fence – Height and Location.

b. Landscaping Requirements -- Substation Landscaping shall adhere to Land Development Code Section 5-7 Landscaping Building Perimeters and Section 3-108 Planned Unit Development standards. The portion of building perimeter landscape area in nonresidential development, and visible from and street, vehicular use area, or neighboring property shall be a minimum depth of 5 feet; including those recommended species from Land Development Code Section 5-9. Unless waived by the development review committee, landscaping placement shall adhere to Exhibit "C" – Highbanks Substation Plan.

c. Landscape Distribution. Landscaping distribution shall adhere to those design standards listed herein Landscaping Adjacent to Structures a-c (with an express exemption for understory and canopy trees).

F. Environmental Considerations. Natural resources will be protected as required by applicable local, state and federal requirements. The Applicant shall meet the minimum environmental standards of the DeBary Land Development Code, as amended.

G. Sewage Disposal and Potable Water Provision for sewage disposal and potable water needs of the IPUD will be provided in accordance with the City of DeBary Comprehensive Plan, as amended, the City of DeBary Land Development Code, as amended, and State of Florida Administrative Code 10-D6.

H. Stormwater Drainage. Provision for stormwater retention shall be in accordance with the City of DeBary Land Development Code, as amended, the St. Johns River Water Management District (SJRWMD) and any other applicable regulatory agency codes, rules and regulations.

I. Access and Transportation System Improvements. All access and transportation system improvements shall be provided in accordance with the City of DeBary Comprehensive Plan, Land Development Regulations, as amended. The Property shall be developed in substantial accordance with the following access and transportation system improvements:

1. Access. Applicant shall utilize the Saxon Road extension as the exclusive point of ingress and egress for Phase II. The current Highbanks Road access drive will continue to serve the existing public utility use occupying Phase III, as shown on Exhibit "B". In addition, Highbanks Road may be utilized for secondary access for emergencies and other such considerations. For Phase I Applicant may utilize the Saxon Road extension for access, as well as limited access from Donald E. Smith Boulevard, whereby Applicant may utilize Donald E. Smith Boulevard to access the Volusia County Water Treatment Facility's existing access road, for ingress and egress to travel north within Phase I to Duke Energy's proposed electrical substation on the Substation Property. Such access from Donald E. Smith Boulevard is limited to as necessary to access said electrical substation on the Substation Property, and Donald E. Smith Boulevard shall not be utilized to access Phases II or III.

J. Internal Roadways. Internal roadways, street systems and right-of-way. Widths will be designed and constructed in accordance to public street standards and the City of DeBary Land Development Regulations, as amended.

K. Park Space & Trail Systems. Progress Industry Park Planned Unit Development surrounds and abuts the existing Rob Sullivan Community Park. The Applicant may select to modify this Agreement to provide for the expansion of Rob Sullivan Community Park, including provisions for a civic space or trail network. The modification of space shall be considered in the same manner as a minor amendment to the IPUD. Further modification may include the right of way abutting Highbanks Road and Donald E. Smith Boulevard to provide for the future Spring to Spring trail connection. The City may administratively seek approval of the aforementioned Park Space & Trail Systems modifications.

L. Development Regulations. The DeBary Land Development Code, as may be amended from time to time, will control the development of the Property regarding any items not specifically covered by Ordinance No. 05-18 and this Development Agreement. The local development approvals and permits required to be approved or issued by the City for the intended use contemplated by this Development Agreement include, but are not limited to, construction



plan approvals, site plans, plats, stormwater drainage, SJRWMD permits, demolition permit, grading, arbor permits, engineering and utility plans, and construction permits for buildings and other structures. These development approvals and permits shall be processed and issued by the City in accordance with procedures with respect to same as otherwise set forth in the City's Land Development Code and subject to this Development Agreement. Failure of this Development Agreement to address a particular permit, condition, term or restriction shall not relieve the Applicant of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions. This Development Agreement does not, and is not intended to prevent or impede the City from exercising its legislative authority as the same may affect the Property. Nothing contained in this Agreement nor in any instruments executed pursuant to the terms of this Agreement shall be construed as a waiver or attempted waiver by the City of its sovereign immunity under the Constitution and laws of the State of Florida and federal law or other any other privilege, immunity or defense afforded under the law to the City or any of its elected or appointed officials, employees and agents.

M. Binding Effect of Plans; Recording and Effective Date. This Development Agreement and the Master Development Plan, including any and all supplementary orders and resolutions, and the Preliminary Plan shall bind and inure to the benefit of the Applicant and its successors and assigns in title or interest. The IPUD zoning, provisions of the "Development Agreement," and all approved plans shall run with the land and shall be administered in a manner consistent with the City of DeBary's Comprehensive Plan and the City of DeBary Land Development Code, as amended. This Amended and Restated Development Agreement shall replace the previous development agreement approved by Ordinance No. 08-99.

The IPUD Ordinance and this Amended and Restated Development Agreement shall be filed with the Clerk of the Court and recorded within forty-five (45) days following execution of the document by the DeBary City Council, in the Official Records of Volusia County, Florida. One copy of the document, bearing the book and page number of the Official Record in which the document was recorded, shall be submitted to the City Manager. The date of approval of Ordinance No. 05-18 shall constitute the effective date of the amended IPUD zoning and this

Amended and Restated Development Agreement. The Applicant shall pay all filing costs for recording documents.

N. Development Review Cost. The Applicant (and its successors and assigns in interests) shall timely pay the City for any and all development review costs concerning the development and the Property in accordance with Section 1-16, City of DeBary Land Development Code. Applicant acknowledges and agrees that Applicant have read § 1-16, DeBary Land Development Code and understand Applicant's responsibilities and obligations under such code provision and this Development Agreement and acknowledges and agrees that Applicant is bound by such code provision for all development applications and approvals relating to the Property.

O. Effective Date/Expiration: This Amended and Restated Development Agreement shall be effective upon the adoption of Ordinance No. 05-18. All provisions of this Amended and Restated Development Agreement and the Master Development Plan shall expire and terminate 720 days following the effective date of this Amended and Restated Development Agreement if a subsequent development order has not been secured in writing by the Applicant within said period of time. In event of expiration and termination of this Amended and Restated Development Agreement and its corresponding Master Development Plan occurs, the Property shall revert back to its previous IPUD zoning designation with the original development agreement and Original MPD approved by City of DeBary Ordinance No. 08-99, and the IPUD entitlements under this Amended and Restated Development Agreement and its corresponding Master Development Plan become null and void.

P. Authority. Each party represents and warrants to the other that it has all necessary power and authority to enter into and consummate the terms and conditions of this Development Agreement, that all acts, approvals, procedures and similar matters required in order to authorize this Development Agreement have been taken, obtained, or followed, as the case may be, that this Development Agreement and the proposed performance of this Development Agreement by such party is not an *ultra vires* act and that, upon the execution of this Development Agreement by all parties, this Development Agreement shall be valid and binding upon the parties and their successors in interest. Furthermore, Applicant represents and warrants to City that Applicant is the sole owner of the Property, in fee simple, free and clear of any monetary encumbrances,

including but not limited to mortgages and liens, in the event such an encumbrance exists, Applicant, Applicant's sole cost, shall obtain the necessary joiners, consents and subordination to this Development Agreement or releases from the appropriate parties with an interest in the property.

Q. Recitals. The recitals herein contained are true and correct and are incorporated herein by reference as material terms of this Development Agreement.

Agreed to by the City Council of the City of DeBary, Florida and the Applicant this 2<sup>nd</sup> day of May, 2018.

ATTEST:

Warren Graham  
Warren Graham, City Clerk

City of DeBary, a Florida municipal corporation  
Bob Garcia  
Bob Garcia, Mayor

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of May, 2018, by Bob Garcia as Mayor of the City of DeBary, and who are personally known to me.

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name: Warren Graham

Commission No: \_\_\_\_\_

My Commission expires: \_\_\_\_\_



APPLICANT:

DUKE ENERGY FLORIDA, LLC, a Florida limited liability company



By:

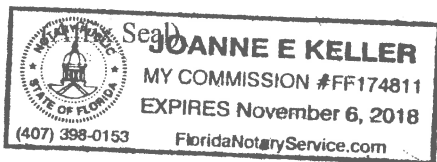
Title: VP - Director of Transmission ENGINEERING, FL.


Printed Name: RAY De Souza

STATE OF FLORIDA

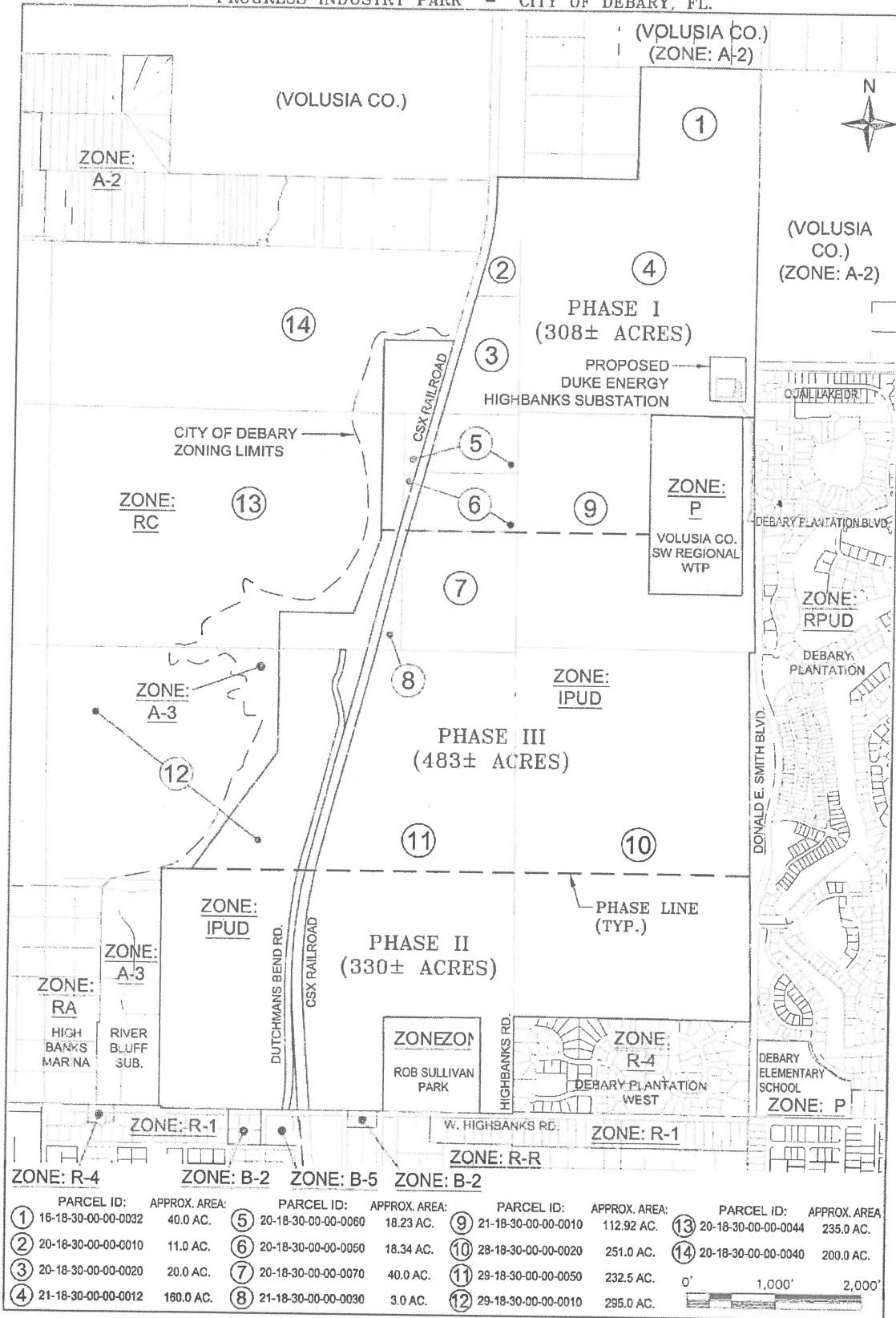
COUNTY OF Seminole

The foregoing instrument was acknowledged before me this 8 day MAY, 2018 by Joanne Keller, as Permit Agent of DUKE ENERGY FLORIDA, LLC, a Florida limited liability d/b/a Duke Energy, on behalf of said company. He/she is personally known to me or has produced \_\_\_\_\_ as identification.



  
Print Name: Joanne Keller  
My Commission Expires: 11/6/2018

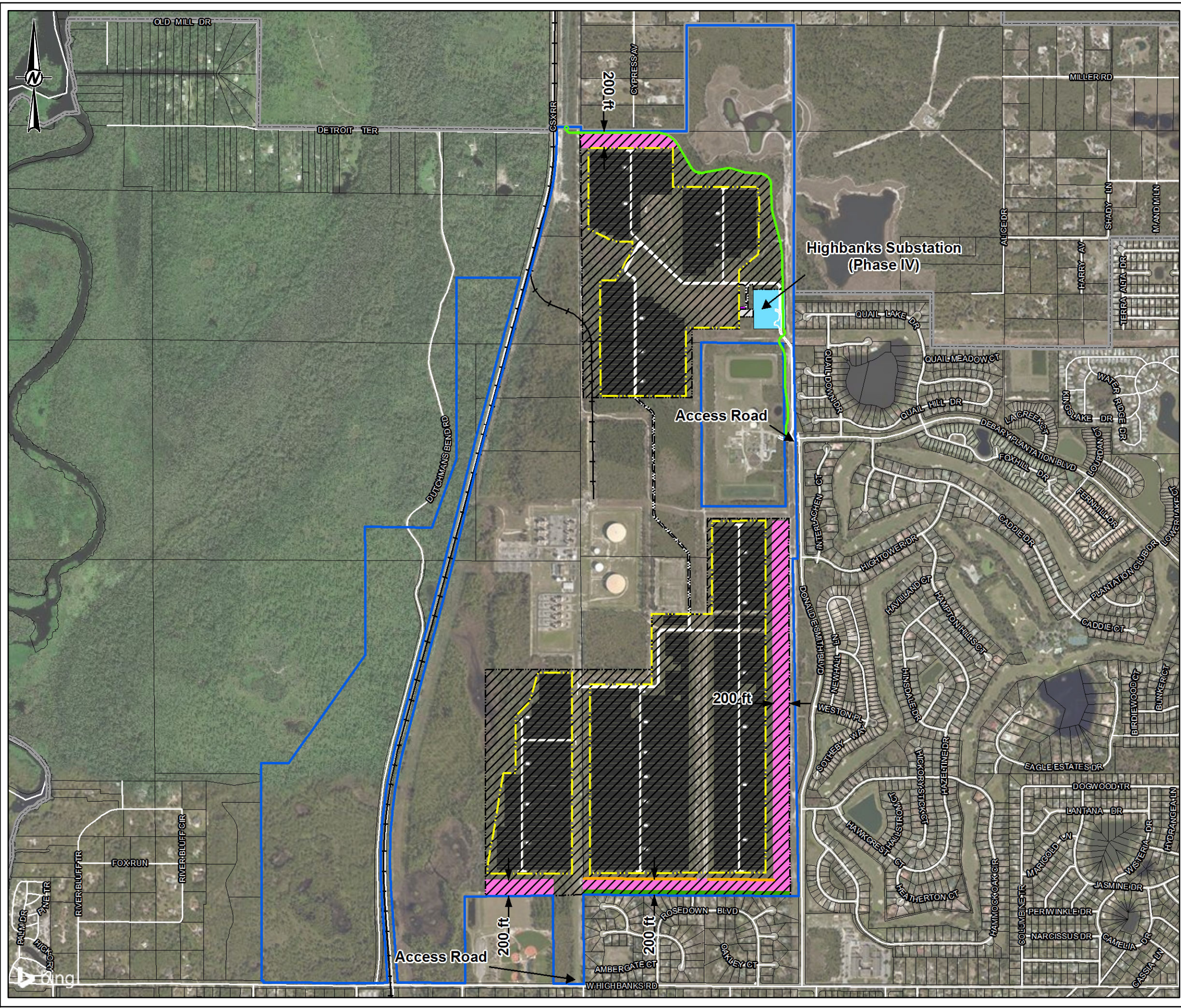
PROGRESS INDUSTRY PARK - CITY OF DEBARY, FL.



PARCEL ID:	APPROX. AREA:	PARCEL ID:	APPROX. AREA:	PARCEL ID:	APPROX. AREA:	PARCEL ID:	APPROX. AREA:
① 16-18-30-00-00-0032	40.0 AC.	⑤ 20-18-30-00-00-0060	18.23 AC.	⑨ 21-18-30-00-00-0010	112.92 AC.	⑬ 20-18-30-00-00-0044	235.0 AC.
② 20-18-30-00-00-0010	11.0 AC.	⑥ 20-18-30-00-00-0050	18.34 AC.	⑩ 28-18-30-00-00-0020	251.0 AC.	⑭ 20-18-30-00-00-0040	200.0 AC.
③ 20-18-30-00-00-0020	20.0 AC.	⑦ 20-18-30-00-00-0070	40.0 AC.	⑪ 29-18-30-00-00-0050	232.5 AC.		
④ 21-18-30-00-00-0012	160.0 AC.	⑧ 21-18-30-00-00-0030	3.0 AC.	⑫ 29-18-30-00-00-0010	295.0 AC.		



DATE	4-24-18	SCALE	AS NOTED	TITLE	P.U.D. PLAN	EXHIBIT
PROJ. NO.	50086496	PROJECT	DUKE ENERGY - IPUD REZONING DEBARY, FL.			A



**LEGEND**

- Duke Property
- Highbanks Substation
- Solar Power Property (445 acres)
- Open Space Perimeter Buffer
- Vegetation Management Area
- Buffer Wall
- Spring-to-Spring Trail
- Parcels
- City of DeBary
- Rail

**Proposed Solar Layout**

- Solar Project Substation
- Solar Panel Array
- Inverters
- O&M Building
- Fence
- Access Roads

0      600      1,200      2,400  
FEET

**NOTE(S)**  
 ACCESS TO BE PROVIDED BY HIGHBANKS ROAD.  
 TOTAL ACREAGE = 1,121 ACRES  
 EXISTING ZONING = IPUD

**IPUD PERIMETER LANDSCAPE BUFFER REQUIREMENTS:**

- SOUTH, ADJACENT TO RESIDENTIAL = 50 FT
- SOUTH, ADJACENT TO RIGHT-OF-WAY = 35 FT
- NORTH, ADJACENT TO RESIDENTIAL = 35 FT
- WEST, ADJACENT TO RESIDENTIAL = 50 FT
- WEST, ADJACENT TO NON-RESIDENTIAL = 50 FT
- EAST, ADJACENT TO RESIDENTIAL = 50 FT BEYOND WESTERN EDGE OF THE POWER LINE EASEMENT
- EAST, ADJACENT TO NON-RESIDENTIAL = 35 FT

**SOLAR PV PROJECT FENCE BUFFERING** SHALL INCLUDE A SIX (6') FOOT MASONRY WALL ABUTTING THE SOUTHERN FRONTAGE, AS DEPICTED IN EXHIBIT "E" - SOLAR POWER GENERATION PLAN. ADDITIONAL CHAIN-LINK FENCING WITH THREE (3) STRANDS OF BARBWARE, SURROUNDING THE PV ARRAY, MAY BE PERMISSIBLE AND MAY BE LOCATED ON THE SIX (6') FOOT MASONRY WALL. THE CHAIN-LINK FENCING SHALL NOT EXCEED AN OVERALL HEIGHT OF EIGHT (8) FEET.

**VEGETATION MANAGEMENT AREA** - DURING CONSTRUCTION OF THE SOLAR PV PROJECT, CERTAIN VEGETATION MANAGEMENT SHALL BE CONDUCTED ALONG THE SOUTHERN PROPERTY BOUNDARY THAT ABUTS RESIDENTIAL PROPERTIES BETWEEN HOLLADAY ROAD AND DONALD E. SMITH BLVD. APPLICANT SHALL PERFORM UNDERSTORY MANAGEMENT WITHIN THE AREA THAT IS SIXTY FEET (60') FROM THE PROPERTY BOUNDARY BY REMOVING ALL TREES OR BRUSH THAT ARE THREE INCHES (3") IN DIAMETER OR LESS, WHILE LEAVING LARGER MORE MATURE VEGETATION INTACT.

**REFERENCE(S)**

1. DUKE PROPERTY, SOLAR PV, SUBSTATIONS, PERIMETER LANDSCAPE BUFFER, DUKE ENERGY, 2018.
2. PARCELS, VOLUSIA COUNTY AND FLORIDA DEPARTMENT OF REVENUE, 2017.
3. CITY LIMITS, UNIVERSITY OF FLORIDA GEOPLAN CENTER, 2015.
4. ROADS, VOLUSIA COUNTY, 2013.
5. SERVICE LAYER CREDITS: © 2019 MICROSOFT CORPORATION © 2019 DIGITALGLOBE © CNES (2019) DISTRIBUTION AIRBUS DS

COORDINATE SYSTEM: NAD 1983 STATEPLANE FLORIDA EAST FIPS 0901 FEET  
 PROJECTION: TRANSVERSE MERCATOR  
 DATUM: NORTH AMERICAN 1983

CLIENT  
**DUKE ENERGY**

PROJECT  
**DEBARY SOLAR PROJECT**

TITLE  
**EXHIBIT E: MDP – SOLAR POWER GENERATION PLAN**

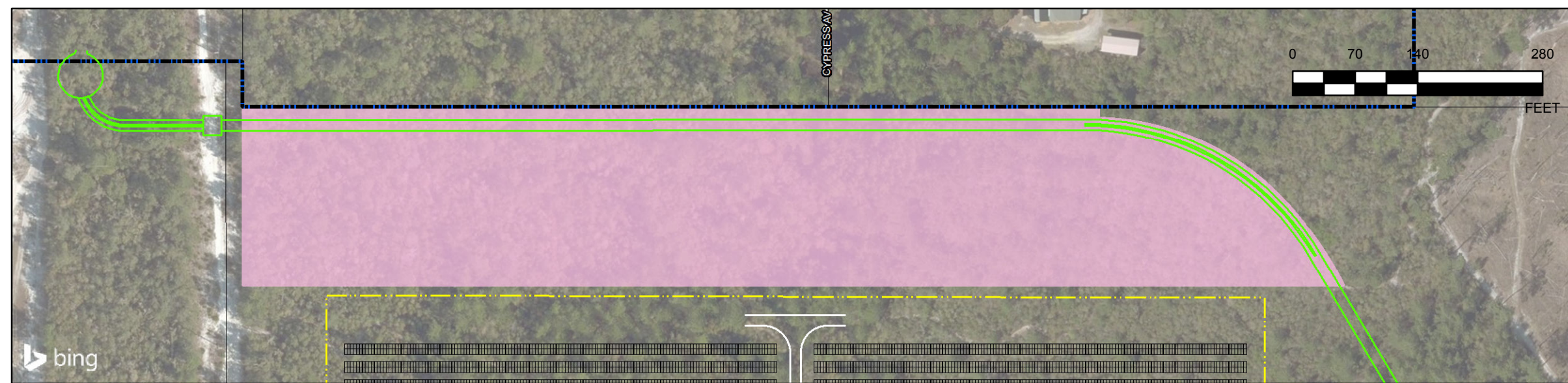
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YYYY-MM-DD	2019-02-25
DESIGNED	GFD
PREPARED	GFD
REVIEWED	RAZ
APPROVED	RAZ

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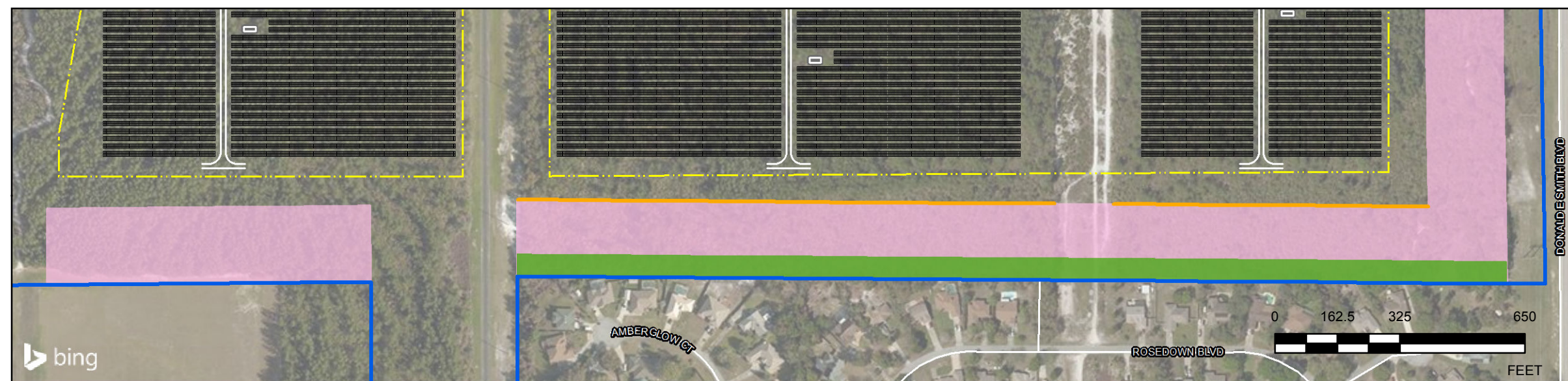
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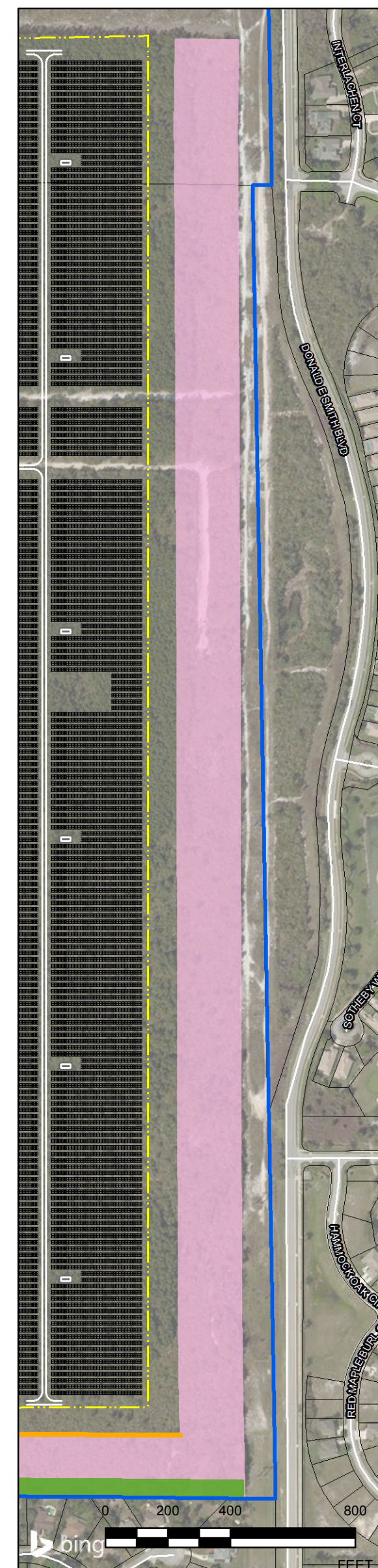
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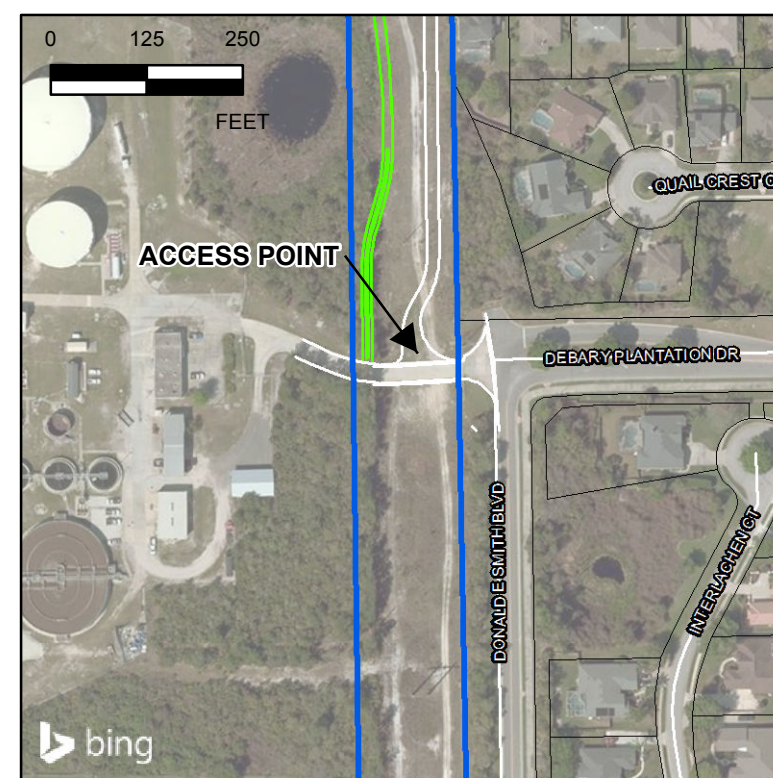
### SOUTH BUFFER



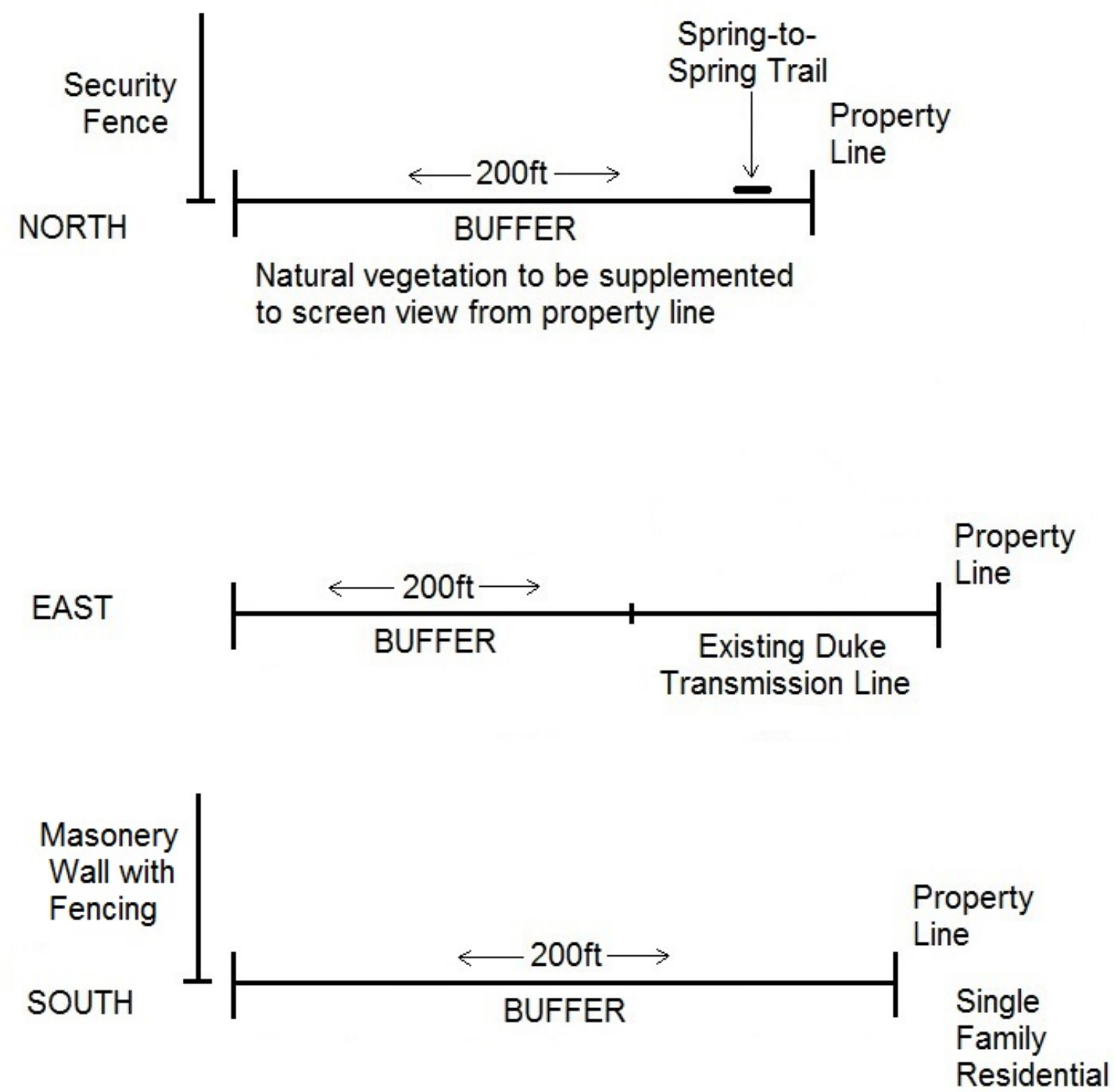
### EAST BUFFER



### DONALD E SMITH BLVD ACCESS



### W HIGHBANKS RD ACCESS



NOTE: PROFILE DETAILS NOT TO SCALE

### LEGEND

- Solar Project Boundary
- Proposed Solar Layout**
- Solar Panel Array
- Inverters
- Fence
- Access Roads
- Planned Spring-to-Spring Trail
- Buffer Wall
- Open Space Perimeter Buffer
- Vegetation Management Area
- Parcels
- City of DeBary
- Rail

**NOTE(S)**  
 SOLAR PV PROJECT FENCE BUFFERING SHALL INCLUDE A SIX (6) FOOT MASONRY WALL ABUTTING THE SOUTHERN FRONTAGE, AS DEPICTED IN EXHIBIT "E" - SOLAR POWER GENERATION PLAN. ADDITIONAL CHAIN-LINK FENCING WITH THREE (3) STRANDS OF BARBWARE, SURROUNDING THE PV ARRAY, MAY BE PERMISSIBLE AND MAY BE LOCATED ON THE SIX (6) FOOT MASONRY WALL. THE CHAIN-LINK FENCING SHALL NOT EXCEED AN OVERALL HEIGHT OF EIGHT (8) FEET.

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**REFERENCE(S)**  
 1. PROJECT BOUNDARY, SOLAR PANEL ARRAY, INVERTERS, SUBSTATION, FENCE, ACCESS ROADS, TREE CLEARING BOUNDARY, OPEN SPACE PERIMETER BUFFER, DUKE ENERGY, 2018.  
 2. PARCELS, VOLUSIA COUNTY AND FLORIDA DEPARTMENT OF REVENUE, 2017.  
 3. CITY LIMITS, UNIVERSITY OF FLORIDA GEOPLAN CENTER, 2015.  
 4. ROADS, VOLUSIA COUNTY, 2015.  
 5. SERVICE LAYER CREDITS: © 2019 MICROSOFT CORPORATION © 2019 DIGITALGLOBE © CNES (2019) DISTRIBUTION AIRBUS DS

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 PROJECTION: TRANSVERSE MERCATOR  
 DATUM: NORTH AMERICAN 1983

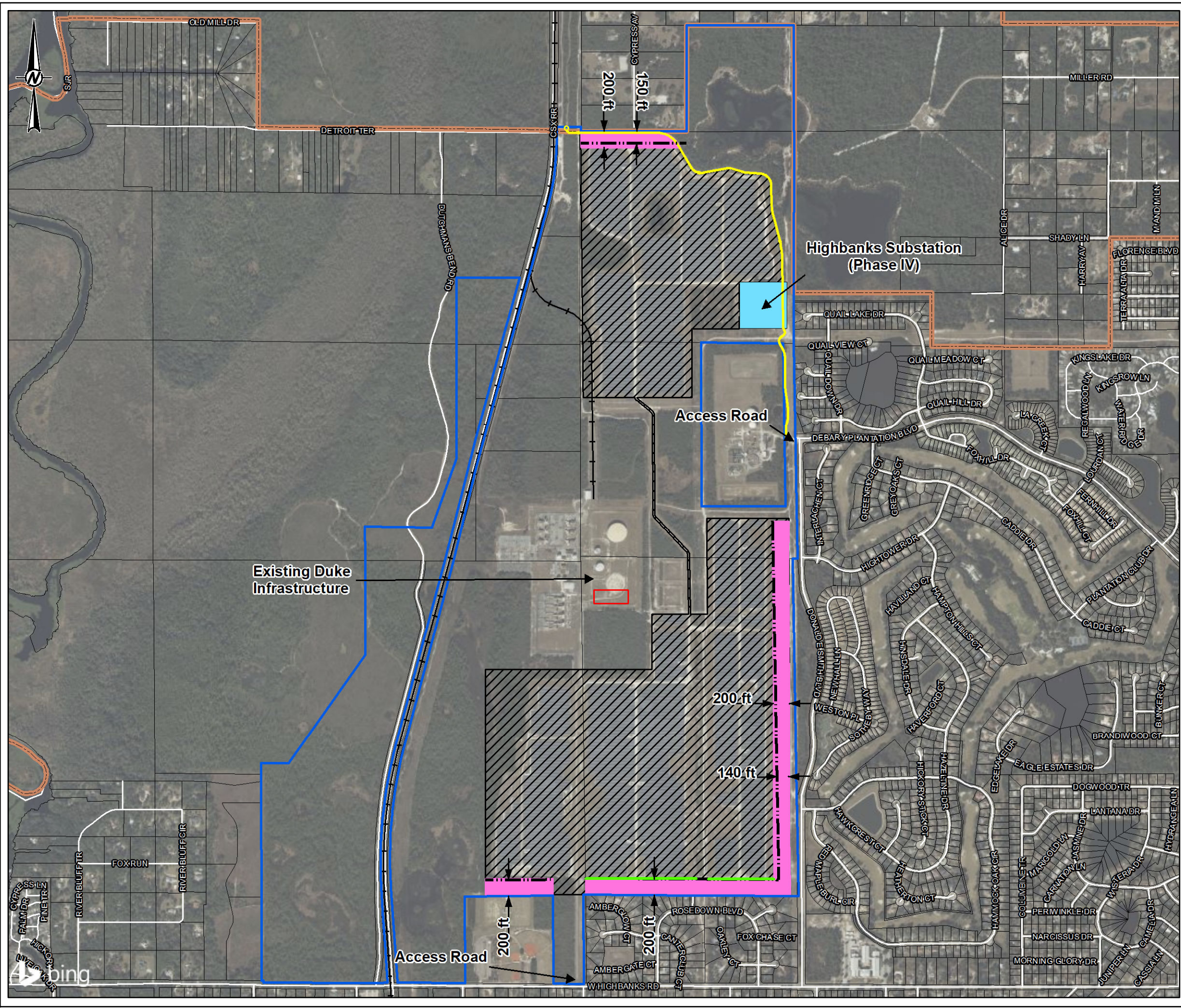
CLIENT  
DUKE ENERGY

PROJECT  
DEBARY SOLAR PROJECT

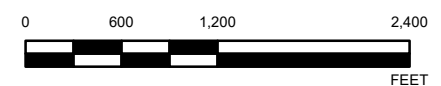
TITLE  
EXHIBIT E: MDP - DETAILS PAGE

CONSULTANT	YYYY-MM-DD	2019-02-25
	DESIGNED	GFD
	PREPARED	GFD
	REVIEWED	RAZ
	APPROVED	RAZ

PROJECT NO. 1896980 CONTROL 8016 REV. 1 FIGURE  
 Exhibit E (Sheet 2 of 2)



- LEGEND**
- Duke Property
  - Hydrogen Project Boundary
  - Highbanks Substation - Phase IV
  - Solar PV Project Area - Phase V
  - Open Space Perimeter Buffer
  - Required Setback
  - Buffer Wall
  - Spring-to-Spring Trail
  - Parcels
  - City of DeBary
  - + Rail



**NOTE(S)**  
 ACCESS TO BE PROVIDED BY HIGHBANKS ROAD.  
 TOTAL ACREAGE = 1,121 ACRES  
 EXISTING ZONING = IPUD

**IPUD PERIMETER LANDSCAPE BUFFER REQUIREMENTS:**  
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 - WEST, ADJACENT TO NON-RESIDENTIAL = 50 FT  
 - EAST, ADJACENT TO RESIDENTIAL = 50 FT BEYOND WESTERN EDGE OF THE POWER LINE EASEMENT  
 - EAST, ADJACENT TO NON-RESIDENTIAL = 35 FT

- REFERENCE(S)**
1. DUKE PROPERTY, SOLAR PV, SUBSTATIONS, PERIMETER LANDSCAPE BUFFER, DUKE ENERGY, 2018.
  2. PARCELS, VOLUSIA COUNTY, 2022.
  3. CITY LIMITS, UNIVERSITY OF FLORIDA GEOPLAN CENTER, 2020.
  4. ROADS, VOLUSIA COUNTY, 2013.
  5. SERVICE LAYER CREDITS: © 2022 MICROSOFT CORPORATION © 2022 MAXAR © CNES (2022) DISTRIBUTION AIRBUS DS

COORDINATE SYSTEM: NAD 1983 STATEPLANE FLORIDA EAST FIPS 0901 FEET  
 PROJECTION: TRANSVERSE MERCATOR  
 DATUM: NORTH AMERICAN 1983

**CLIENT**  
 DUKE ENERGY FLORIDA

**PROJECT**  
 DEBARY HYDROGEN PRODUCTION AND STORAGE PROJECT

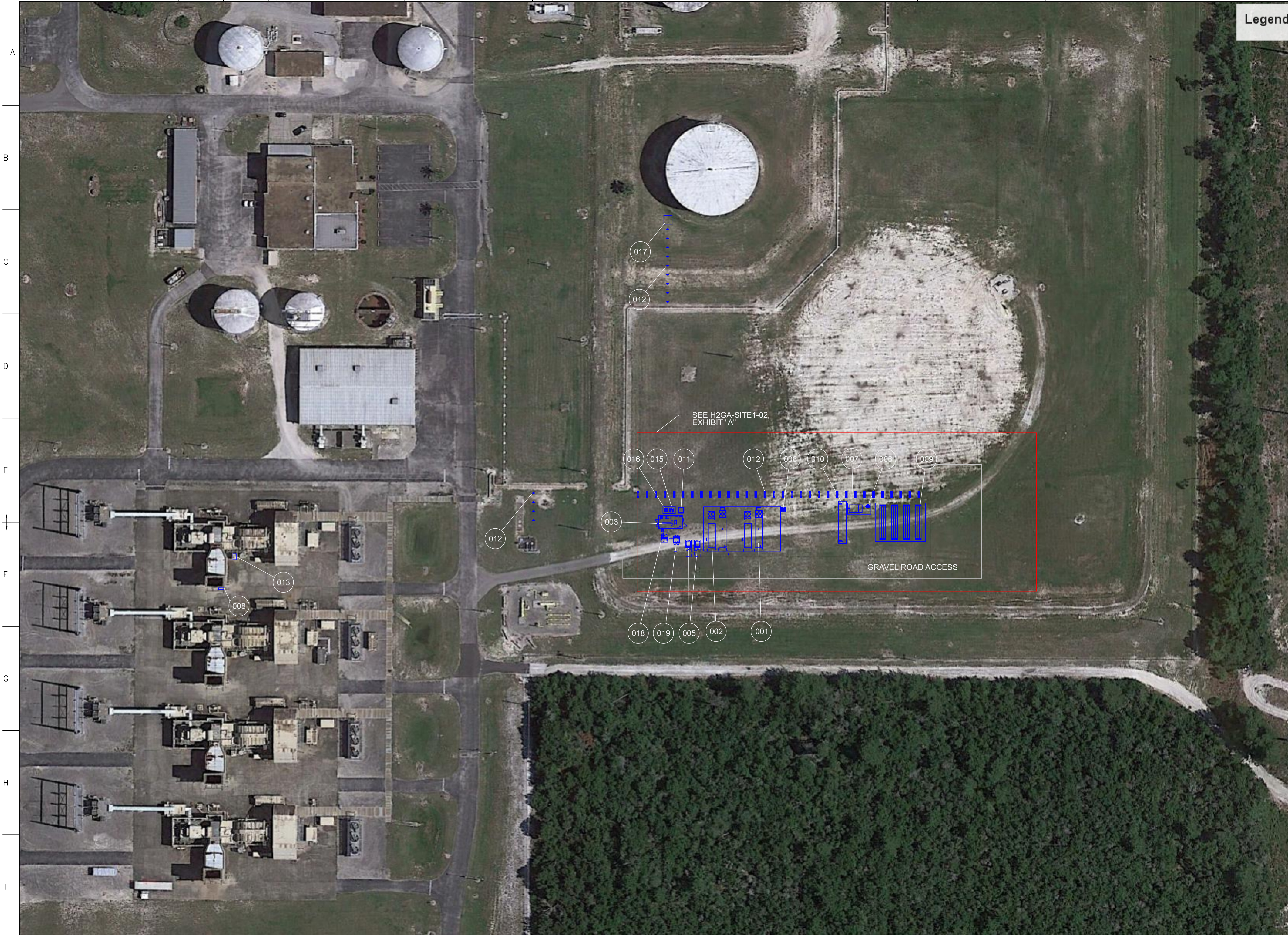
**TITLE**  
 MASTER DEVELOPMENT PLAN

CONSULTANT	DATE	REVISION
YYYY-MM-DD	2022-08-29	
DESIGNED	GFD	
PREPARED	GFD	
REVIEWED	RAZ	
APPROVED	RAZ	

R:\T\G\Projects\Duke Energy\DeBary\08\_P\PROJECTS\31404342\_Duke\_Hydrogen\_Storage\_Permit\02\_Approval\02\_PRODUCTION\MO\31404342\_A006\_MasterDevelopmentPlan.mxd

IF THIS MEASUREMENT DOES NOT MATCH, WHAT IS SHOWN, THE SHEET SIZE HAS BEEN MODIFIED FROM: ANS.B





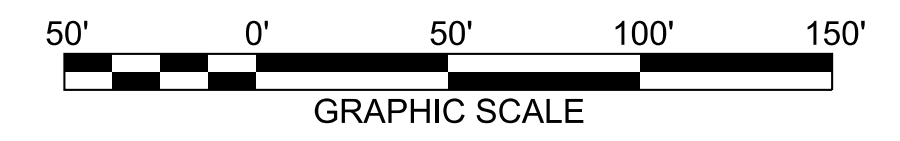
Legend	
001	ELECTROLYZER ELECTRICAL CONTAINERS
002	ELECTROLYZER PROCESS CONTAINERS
003	ELECTRICAL PDC
004	DELETED
005	34.5KV-480V AUXILIARY TRANSFORMERS
006	LOWER PRESSURE BUFFER VESSEL
007	HYDROGEN COMPRESSOR
008	NITROGEN BOTTLE RACKS
009	HIGH PRESSURE HYDROGEN GAS TUBE STORAGE
010	FIRE WALL
011	EFFLUENT WATER SUMP AND PUMPS
012	UTILITY SUPPORTS
013	NATURAL GAS / HYDROGEN GAS BLENDING SKID
014	DELETED
015	AIR DRYER
016	AIR RECEIVER
017	DEMINERALIZED WATER PUMPS
018	750 KVA TRNSFORMER
019	4 WAY DEADBREAK JB

I HEREBY CERTIFY THAT THIS ENGINEERING DOCUMENT WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF FLORIDA.

THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY  
 Jason Wear  
 LICENSE No. 91574  
 STATE OF FLORIDA  
 PROFESSIONAL ENGINEER

ON THE DATE ADJACENT TO THE SEAL, PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES. CERTIFICATE OF AUTHORIZATION CA-6938

NOTE:  
 1. NO NEW BUILDINGS ARE BEING PROPOSED AS A PART OF THIS PROJECT.



DWG NO.	REV.	TITLE	REV.	DESCRIPTION	DRAWN	CHKD	APPRVD	DATE	WOIPROJ#	ACT#
H2GA-SITE1-02	-	DESCRIPTIVE SKETCH, EXHIBIT "A"	0	FOR COMMENTS	RAM	KF	C.J.L.	09/02/2022	-	-
			1	FOR PERMITTING	RAM	KF	C.J.L.	09/06/2022	-	-
			2	FOR PERMITTING	KDF	RAM	C.J.L.	03/07/2023	-	-

CONTRACTOR/VENDOR INFORMATION		SEAL	

CONFIDENTIAL			
REGULATED & RENEWABLE ENERGY			
FACILITY: DEBARY	UNIT: 0	SYSTEM: -	DWG. SUB TYPE: subt
PROJECT NO: -	CC NO: -	W.O. NO: -	APPD BY: C.J.L.
SCALE: 1"=50'	PLOT: 1=1	SIZE: ARCH-D 36"x24"	APPD DATE: 03/07/2023

**DUKE ENERGY**

TITLE: VISION FLORIDA HYDROGEN PRODUCTION & STORAGE PROJECT SITE PERMITTING ARRANGEMENT

DWG NO: DBP-GEN-ARNG-0002

SHT 1 REV. 2

THE ABOVE IS RESERVED FOR VENDOR'S LOGO, NAME, ADDRESS, TELEPHONE NUMBER AND ANY REQUIRED REFERENCE NUMBERS. ALL DRAWINGS TO BE PRODUCED IN MICROSOFT EXCEL OR LATER.

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THIS DRAWING IS THE PROPERTY OF DUKE ENERGY AND IS NOT TO BE REPRODUCED OR USED FOR ANY PURPOSE EXCEPT AS SPECIFIED BY DUKE ENERGY.

DWG NO. DBP-GEN-ARNG-0002

SHT. 1 REV. 2

CADSTARTUPCE.DGN



# City Council Meeting City of DeBary AGENDA ITEM

<b>Subject:</b> Ordinance # 06-2023	<b>Attachments:</b> <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
<b>From:</b> Steven E. Bapp, AICP Growth Management Director	
<b>Meeting Hearing Date</b> June 21, 2023	

### REQUEST

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

### PURPOSE

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

### CONSIDERATIONS

#### Background:

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

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

#### Proposed Amendments:

### **VIOLATIONS AND PENALTIES**

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

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

#### **REGULATIONS FOR OPERATION OF FOOD TRUCKS:**

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

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

#### **DEFINITIONS**

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

#### **ZONING CLASSIFICATIONS:**

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

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

#### **SITING REGULATIONS**

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

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

**SIGNAGE**

LDC Chapter 5, Article II would be amended to create a new Section 5-45 – Mobile food dispensing signs. Permitted signs include mounted, painted, and wrapped. Prohibited signs are all signs or forms of advertising not located or mounted on the food truck or trailer.

**COST/FUNDING**

None.

**RECOMMENDATION**

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

**IMPLEMENTATION**

If the Council performs the first reading of the ordinance, Staff will advertise the public hearing for the second reading in the *Orlando Sentinel*.

**ATTACHMENTS**

- Ordinance # 06-2023
- Map of the City depicting under what conditions food trucks may operate

**ORDINANCE NO. 06-2023**

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

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

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

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

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

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

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

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

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

Section 18-310	Mobile Food Dispensing Vehicles	Class II
----------------	---------------------------------	----------

**SECTION 3 ADOPTION.** Article VIII is hereby added to Chapter 18 of the City of DeBary Code of Ordinances as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

**ARTICLE VIII. – MOBILE FOOD DISPENSING VEHICLES**

**Sec. 18-310 – Mobile Food Dispensing Vehicles.**

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

(a) Construction.

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

(b) Business tax receipt procedures.

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

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

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

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

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



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

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

\*\*\*

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

\*\*\*

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

\*\*\*

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

Sec. 3-83 – P Public Use Classification.

\*\*\*

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

\*\*\*

Mobile food dispensing vehicles.

\*\*\*

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

\*\*\*

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

\*\*\*

Mobile food dispensing vehicles.

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

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

\*\*\*

Mobile food dispensing vehicles.

\*\*\*

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

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

\*\*\*

Mobile food dispensing vehicles.

\*\*\*

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

\*\*\*

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

\*\*\*

Mobile food dispensing vehicles.

\*\*\*

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

\*\*\*

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

\*\*\*

Mobile food dispensing vehicles.

\*\*\*

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

\*\*\*

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

\*\*\*

Mobile food dispensing vehicles.

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

\*\*\*

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

\*\*\*

Mobile food dispensing vehicles with standard permitted uses.

\*\*\*

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

Sec. 3-140 – Mobile Food Dispensing Vehicles.

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

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

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

- i. Unimproved properties.
- ii. Properties that do not contain an active commercial or industrial principal use.
- iii. Sites that are within one-hundred fifty (150) feet of the boundaries of any parcel that is zoned for residential use or that contains an active residential use.
- iv. Sites that are within three hundred (300) feet of the front entrance of any licensed restaurant located in a principal structure during the hours said restaurant is open for business.
- v. Otherwise permissible properties and sites where the existing paved parking area does not meet the standards of this code, or if the placement of the mobile food dispensing vehicle on such property or site would reduce available parking below the minimum number of spaces required by this code.

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

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

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

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

(d) Exceptions

(1) To the extent that a conflict exists between the terms of a Special Event permit and the requirements of this code, the terms of the Special Event permit will govern and control to the extent any such

conflict exists. The terms of the Special Event permit may differ from subsections (d), (e), and (f) of this section.

- (2) Mobile food dispensing vehicles are exempt from this code when operated in conjunction with a private catering event conducted on a residentially zoned property.
- (3) Mobile food dispensing vehicles operated pursuant to an existing contract with the owner or lessee of a commercial or industrial zoned property are exempt from this code. For the purposes of this paragraph, a contract is existing if it is a valid and binding contract that is in effect at the time this ordinance is enacted.

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

Sec. 5-45– Mobile food dispensing signs

- (a) *Permitted signs.* The following signage, when used in connection with the operation of a mobile food dispensing vehicle, is permitted:
  - (1) *Mounted signs.* Mounted signs shall be allowed as long as they are affixed to the mobile food dispensing vehicle.
  - (2) *Painted signs.* Painted signs are allowed as long as they are placed upon the mobile food dispensing vehicle.
  - (3) *Wrapped signs.* Wrapped signs laminated or otherwise affixed upon the mobile food dispensing vehicle
- (b) *Prohibited signs.*
  - (1) Any signs or forms of advertising that are not otherwise located or mounted upon a mobile food dispensing vehicle.

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

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

**SECTION 10. CODIFICATION.** Sections 2 and 3 of this Ordinance are to be codified and made a part of the City of DeBary Code of Ordinances. Sections 4, 5, 6, and 7 of this Ordinance are to be codified and made a part of the City of DeBary Land Development Code. The City Clerk is given liberal authority to correct typographical errors and to renumber the sections

and subsections as may be necessary to codify the ordinance into the existing codes. Grammatical, typographical and similar like errors may be corrected, including additions, alterations, and omissions that do not otherwise affect the construction, intent, or meaning of this Ordinance.

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

**APPROVED** on first reading on \_\_\_\_ day of \_\_\_\_\_ 2023.

**ADOPTED** at the second reading on \_\_\_\_ day of \_\_\_\_\_ 2023.

**CITY COUNCIL  
City of DeBary**

---

Karen Chasez, Mayor

Attest:

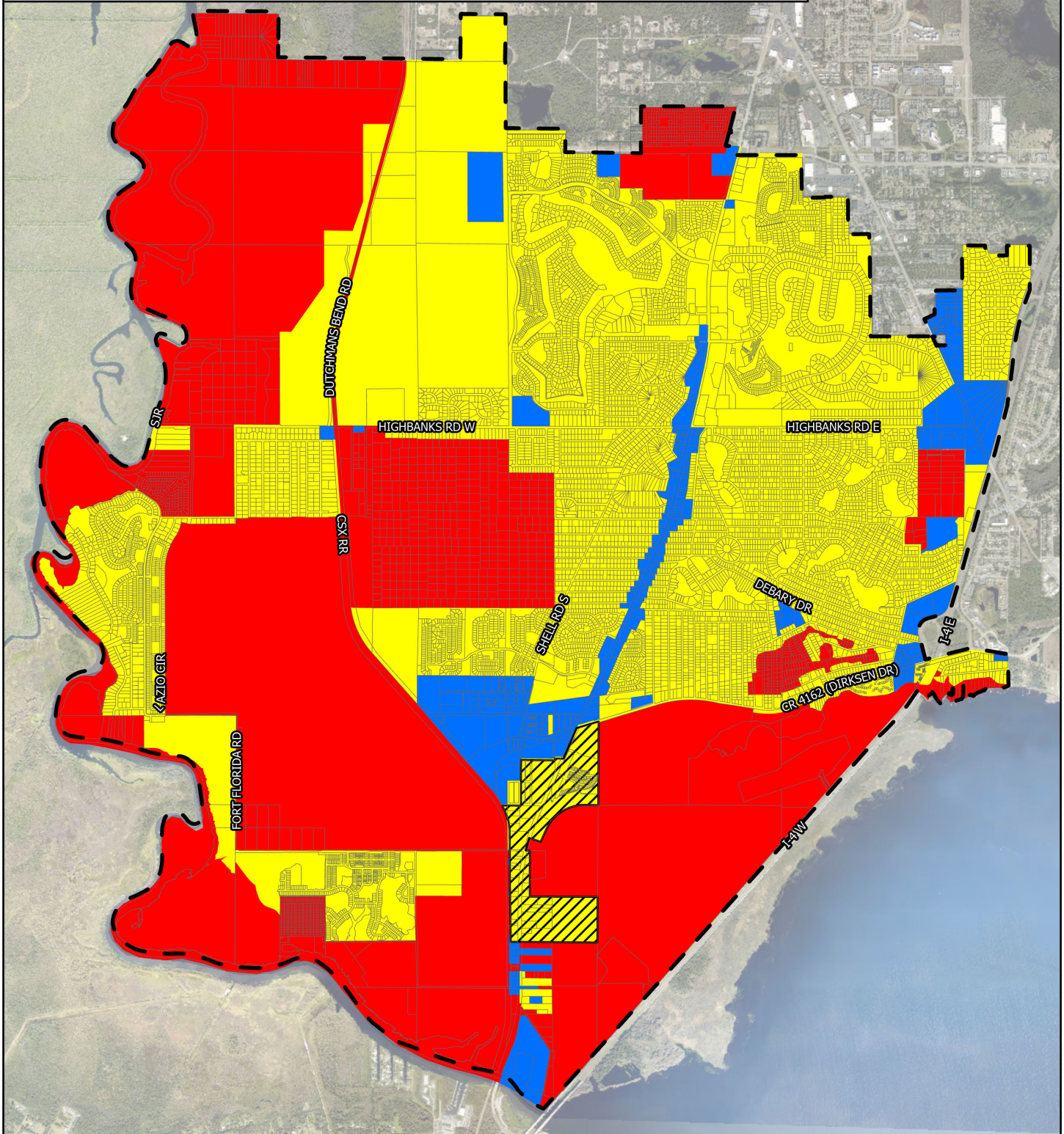
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Annette Hatch, CMC, City Clerk





Date: \_\_\_\_\_

SEAL:

# Areas permitted for food trucks



## Legend

-  Permitted By-Right
-  Permitted by Special Event
-  Permitted at City's Discretion
-  TOD

0 0.4 0.8 1.6 Miles







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

<b>Subject:</b> Glen Abbey / Summerhaven Storm Sewer Rehabilitation	<b>Attachments:</b> <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
<b>From:</b> Richard Villaseñor, City Sr. Engineer	
<b>Meeting Hearing Date</b> June 21, 2023	

**REQUEST**

City Staff is requesting City Council to Award the initial Construction Assessment Contract for the Glen Abbey/Summerhaven Stormwater System Rehabilitation to Dale Beasley Construction, Inc. in the amount of \$69,774.25.

**PURPOSE**

The purpose of this work is to continue previous efforts of addressing the aging, deteriorating, and occasional stormwater structure failures within the Glen Abbey and Summerhaven communities.

**CONSIDERATIONS**

- The City received a Legislative Appropriation for FY 2022-23 in the amount of \$750,000 for the damaged stormwater system in Glen Abbey and Summerhaven subdivisions.
- This project consists of a two stage process which includes an initial assessment followed by the execution of the identified rehabilitation work. The initial stage is needed to identify the rehabilitation options, materials, and limits that will form the basis of the quote for the second stage or the actual rehabilitation work up to the total amount of the available grant.
- The Dale Beasley Construction Company contract with the City of DeBary is a continuing services contract from “Piggy-Back” to the City of Winter Garden RFP21-001 competitive bidding for Continuing Services Contract for infrastructure improvements.
- The City received a \$750,000 legislative appropriation in FY 2020-21. This project was completed in June of last year, 2022, for a portion within S Pine Meadow.
- Given the current construction costs and grant funding limits, subsequent effort(s) will be continued in the following years until the infrastructure is rehabilitated in both communities.

**COST/FUNDING**

The cost for these assessment services is \$69,774.25 which will be allocated to the Stormwater Fund. These costs will be reimbursed by FDEP as part of the \$750,000.00 appropriation.

## **RECOMMENDATION**

It is recommended that the City Council approve Construction Assessment Contract for the Glen Abbey/Summerhaven Stormwater System Rehabilitation to Dale Beasley Construction, Inc. in the amount of \$69,774.25.

## **IMPLEMENTATION**

Upon City Council approval, the ninety (90) day project is expected to begin in early July 2023 and to be completed in September 2023.

## **ATTACHMENTS**

Work Quote, Dale Beasley Construction

# Dale Beasley Construction

111 E CENTRAL AVE  
 HOWEY IN THE HILLS, FL 34711  
 PHONE 407-616-8769



City Of Debarry Attn: Richard Villasenor

<b>Proposal For:</b>	<b>Date</b>	<b>Job No.</b>
Glen Abey & Summerhaven	6/5/2023	
<b>Engineer</b>	<b>Plan Date</b>	<b>Revision</b>
Debarry Atlas Maps/ Pegasus	2/1/2019	6/5/2023

		# OF UNITS	UNIT TYPE	UNIT PRICE	TOTAL
<b>A</b>					
1	MOBILIZATION/DEMOB	1	LS	\$ 2,536.30	\$2,536.30
2	MOT	1	LS	\$ 2,536.30	\$2,536.30
	<b>SUB-TOTAL</b>				<b>\$5,072.60</b>
<b>B</b>					
3	DESILT 0 - 24"	6,759	LF	\$ 4.25	\$28,725.75
4	DESILT 25 - 36"	0	LF	\$ 8.25	\$0.00
5	DESILT 37 - 48"	184	LF	\$ 12.00	\$2,208.00
6	STORM CCTV INSPECTION	6,943	LF	\$ 3.00	\$20,829.60
7	PUMP & PLUGGING BUDGET	1	LS	\$ 6,468.00	\$6,468.00
8	EASEMENT MACHINE & OPERATOR	5	DY	\$ 1,294.06	\$6,470.30
	<b>SUB-TOTAL</b>				<b>\$64,701.65</b>
	<b>TOTAL</b>				<b>\$69,774.25</b>

## NOTES

### SITWORK/UTILITES

- 1) Certified as-builts not included.
- 2) No handling or removal of Hazardous waste or substandard soil (MUCK) removal included unless specified.
- 3) No allowance has been made for the relocation of endangered plants or animals.
- 4) Relocation conflicting utilities by others, if required (power poles, conduits, etc.)
- 5) Observation / inspection fees by others

### OWNER PROVIDED CONTINGENCIES

- 1) 2" Water meter, backflow, and suitable water for cleaning operations to be provided within 10 mins of the site
- 2) Suitable access to be provided to work site including location and uncovering of manholes & cleanouts.
- 3) Adequate maps and drawings with manholes and line sections to be clearly identified to be provided.
- 4) An approved dumpsite located close to worksite for materials removed during the cleaning process.

### ADMINISTRATION

- 1) This proposal is valid for 30 days from bid date.
- 2) Proposal inclusive of line items only.
- 3) No permits included, If required they can be obtained and charged by change order
- 4) Billing to reflect actual field verified quantities and diameters.

MATTHEW BEASLEY  
 APPROVED FOR DBC

6/6/2023  
 DATE

\_\_\_\_\_  
 APPROVED

\_\_\_\_\_  
 DATE

# CITY OF DEBARY STORMWATER INFRASTRUCTURE ATLAS MAP



## STORMWATER INFRASTRUCTURE ASSET MANAGEMENT

### STORMWATER STRUCTURES 3,671 UNITS

Pipe End - 104 Units	Staff Gauge - 57 Units	Other Device - 22 Units
Control Structure - 122 Units	Sluice Gate - 9 Units	Slab Top Inlet - 24 Units
Curb Inlet - 1,097 Units	Headwall - 209 Units	Force Main Pump Stations - 5 Units
DBI w/ Weir - 13 Units	Manhole - 476 Units	Force Main Pump Manifolds - 9 Units
Ditch Bottom Inlet - 1,260 Units	Mitered End Section - 301 Units	Force Main Butterfly Valve - 20 Units

### STORMSEWER SYSTEM 102.9 MILES

Culvert - 339,284 Linear Feet (64.3 Miles)	Under Drain - 13,935 Linear Feet (2.6 Miles)	Open Channel - 158,213 Linear Feet (29.9 Miles)
Force Main - 63,233 Linear Feet (12.0 Miles)	Dry Line - 21,548 Linear Feet (4.1 Miles)	Trench Drain - 180 Linear Feet (0.03 Miles)

### STORMWATER MANAGEMENT SYSTEM 194 WATER QUALITY TREATMENT PONDS

Dry Pond - 105 Each	Wet Pond - 75 Each	Underground Pond - 14 Each
---------------------	--------------------	----------------------------

## LEGEND

### STORMWATER INFRASTRUCTURE

●	Force Main Pump Station	●	Staff Gauge	—	Trench Drain
●	Force Main Butterfly Valve	■	DBI w/ Weir	→	Culvert
◀	Force Main Pumping Manifold	■	Ditch Bottom Inlet	→	Open Channel
u	Pipe End	—	Headwall	—	Force Main
⌞	Control Structure	●	Manhole	—	Dry Line
▲	Curb Inlet	■	Mitered End Section	—	Under Drain
■	Sluice Gate	■	Other Device	□	Stormwater Pond
□	Slab Top Inlet				

AERIAL: FDOT, (2018)  
TOPO: VOLUSIA COUNTY GIS, NAVD 88 (2007)

ATTENTION IS DIRECTED TO THE FACT THAT THESE PLANS  
MAY HAVE BEEN CHANGED IN SIZE BY REPRODUCTION.  
THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.

-11" X 17" DRAWINGS - TO SCALE  
-12" X 18" DRAWINGS - NOT TO SCALE  
-24" X 36" DRAWINGS - DOUBLE SCALE



FEBRUARY 2019



NOT TO SCALE

STORMWATER INFRASTRUCTURE  
ATLAS MAPS

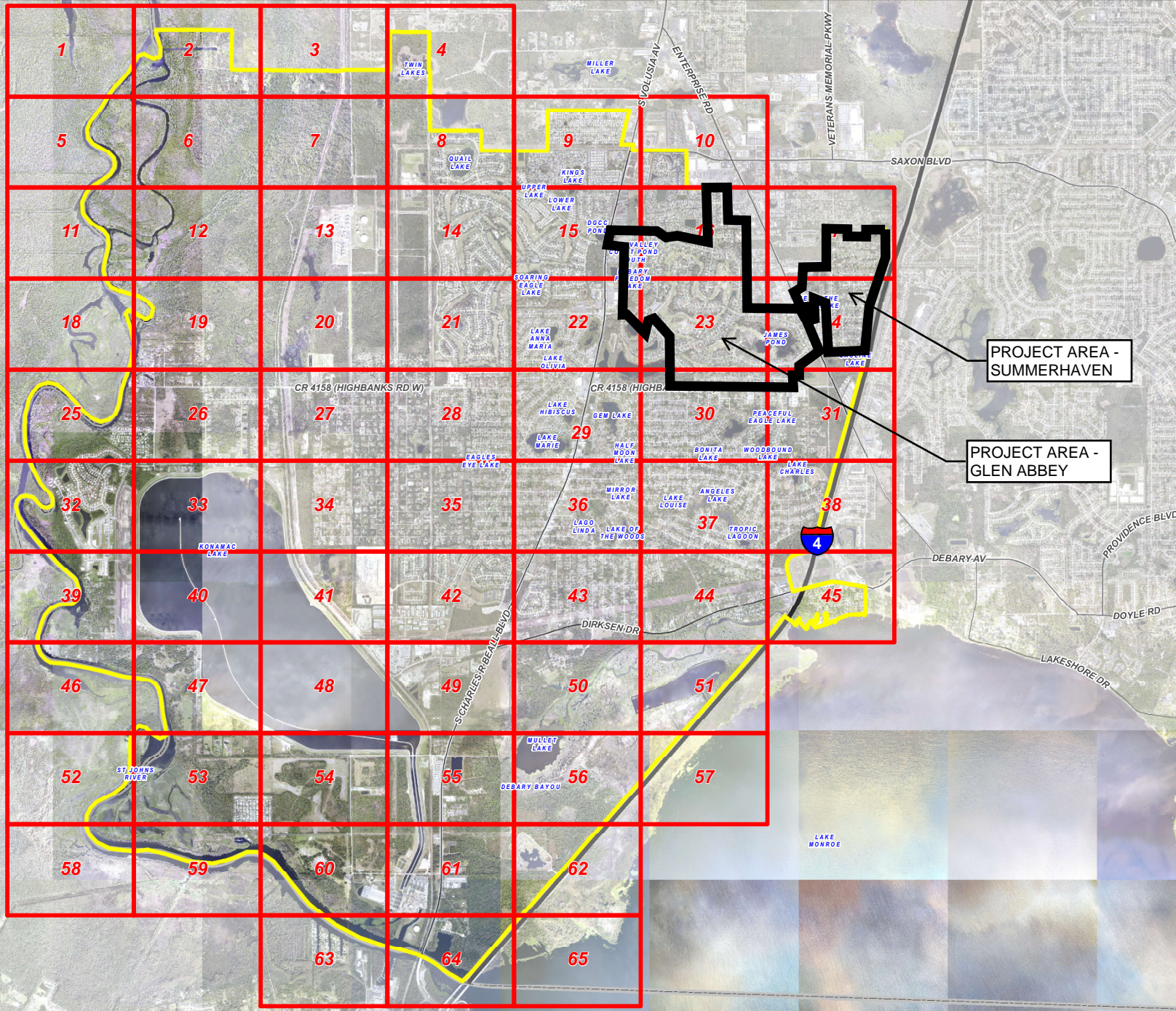
CITY OF DEBARY, FLORIDA



**Pegasus**  
ENGINEERING  
301 WEST STATE ROAD 434, SUITE 309  
WINTER SPRINGS, FL 32708  
TEL: 407.992.8160 • FAX: 407.368.5155  
WEB: WWW.PEGASUSENGINEERING.NET

JOB NO.: DYC-001  
DATE: 02/2019

INDEX



SCALE: 1" = 300'

**STORMWATER INFRASTRUCTURE  
ATLAS MAPS**

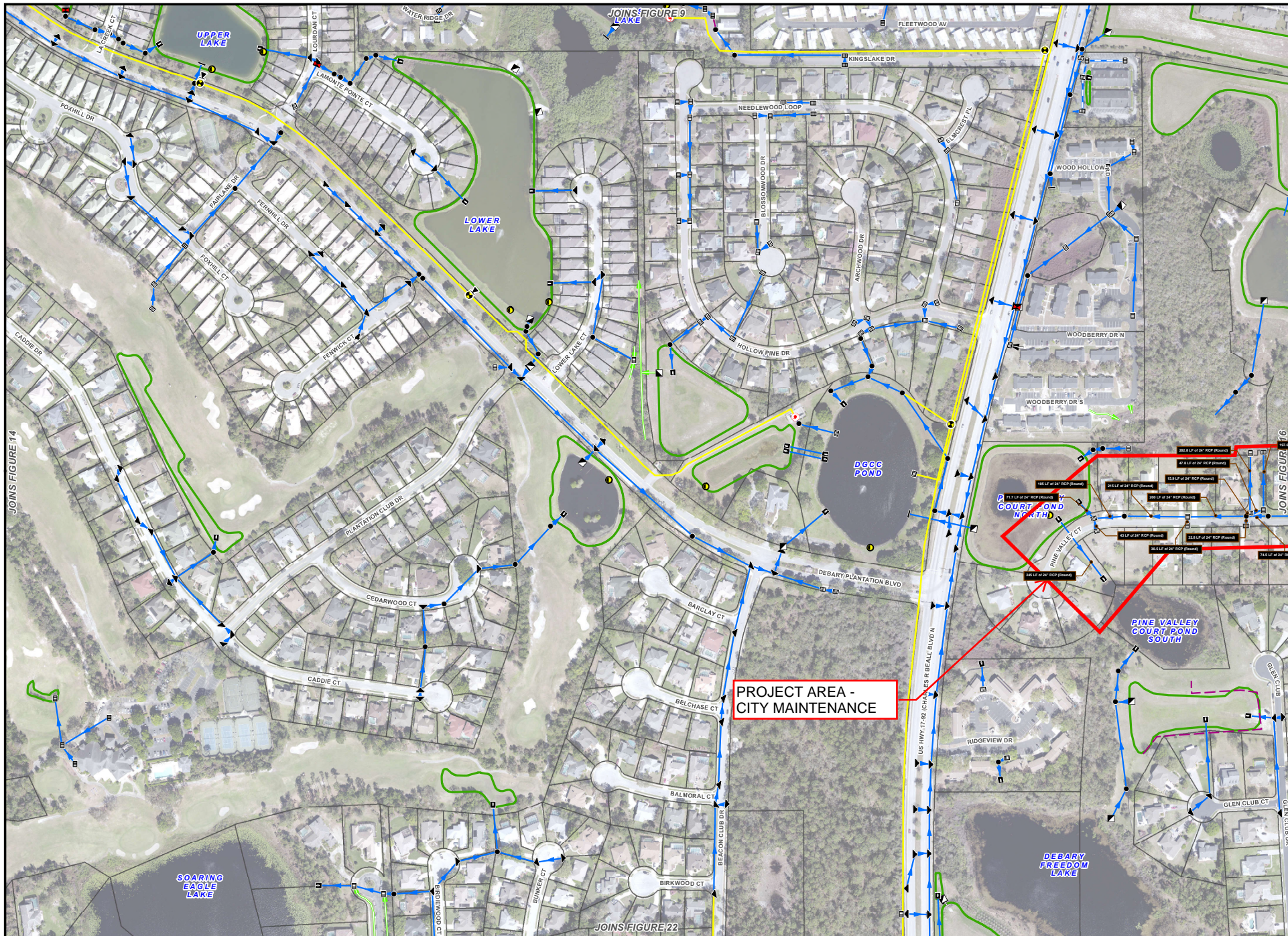
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JOB NO.: DYC-001  
DATE: 02/2019

**FIGURE  
15**



**PROJECT AREA -  
CITY MAINTENANCE**

JOINS FIGURE 10

SCALE: 1" = 300'

**STORMWATER INFRASTRUCTURE  
ATLAS MAPS**

CITY OF DEBARY, FLORIDA

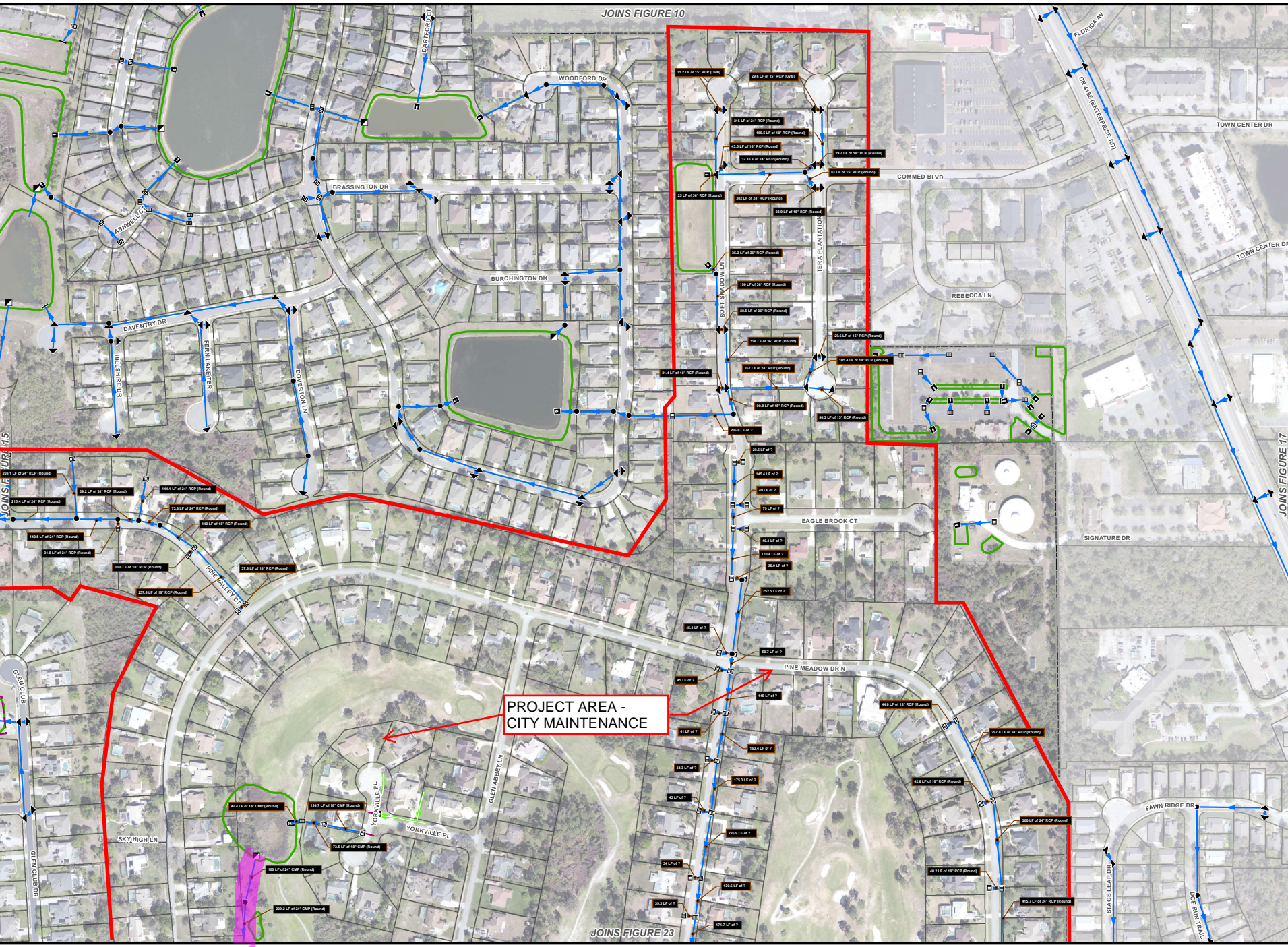


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**FIGURE  
16**



**PROJECT AREA -  
CITY MAINTENANCE**

JOINS FIGURE 23

JOINS FIGURE 17



SCALE: 1" = 300'



# STORMWATER INFRASTRUCTURE ATLAS MAPS

CITY OF DEBARY, FLORIDA

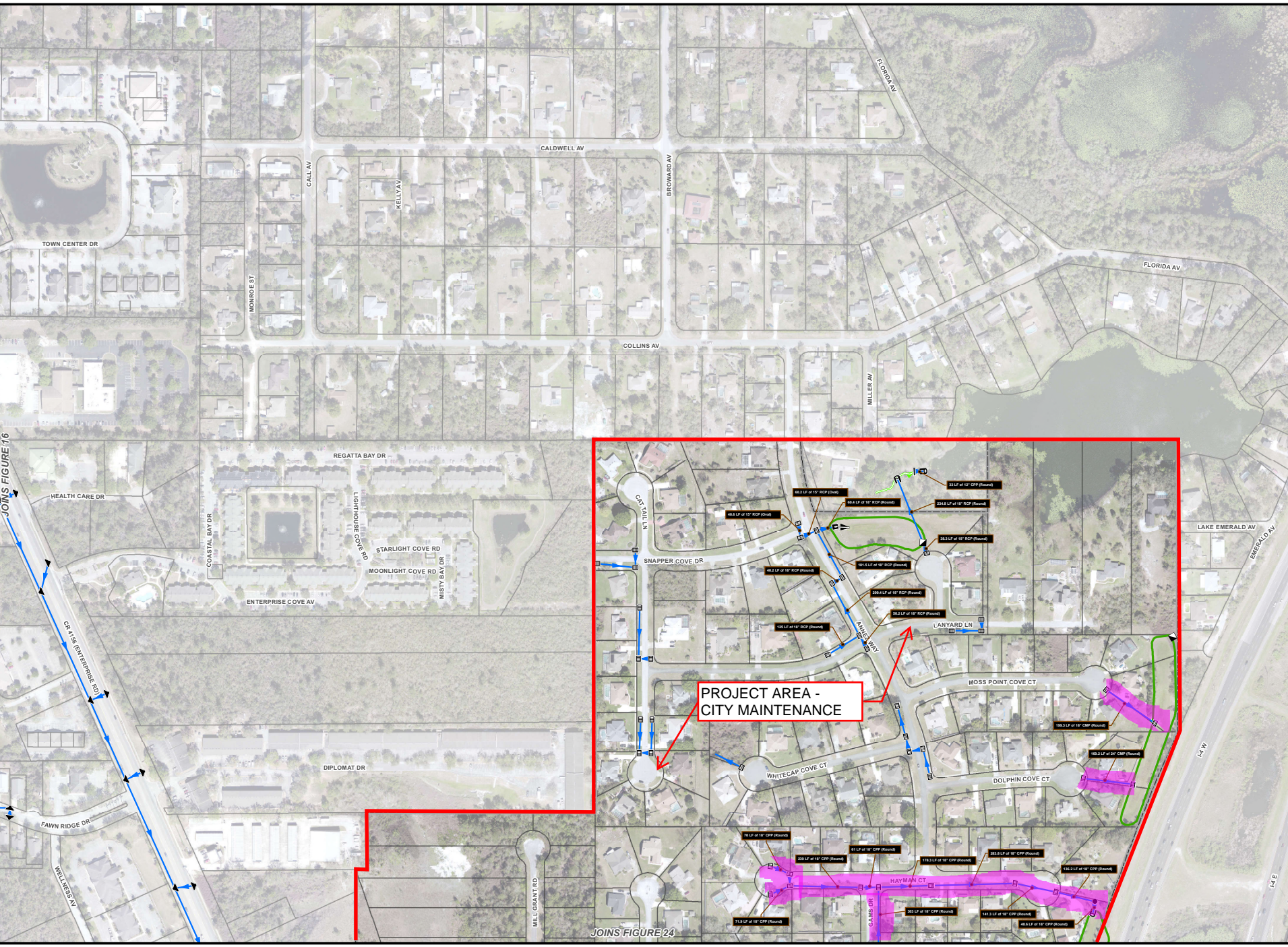


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WINTER SPRINGS, FL 32708  
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JOB NO.: DYC-001  
DATE: 02/2019

FIGURE

17



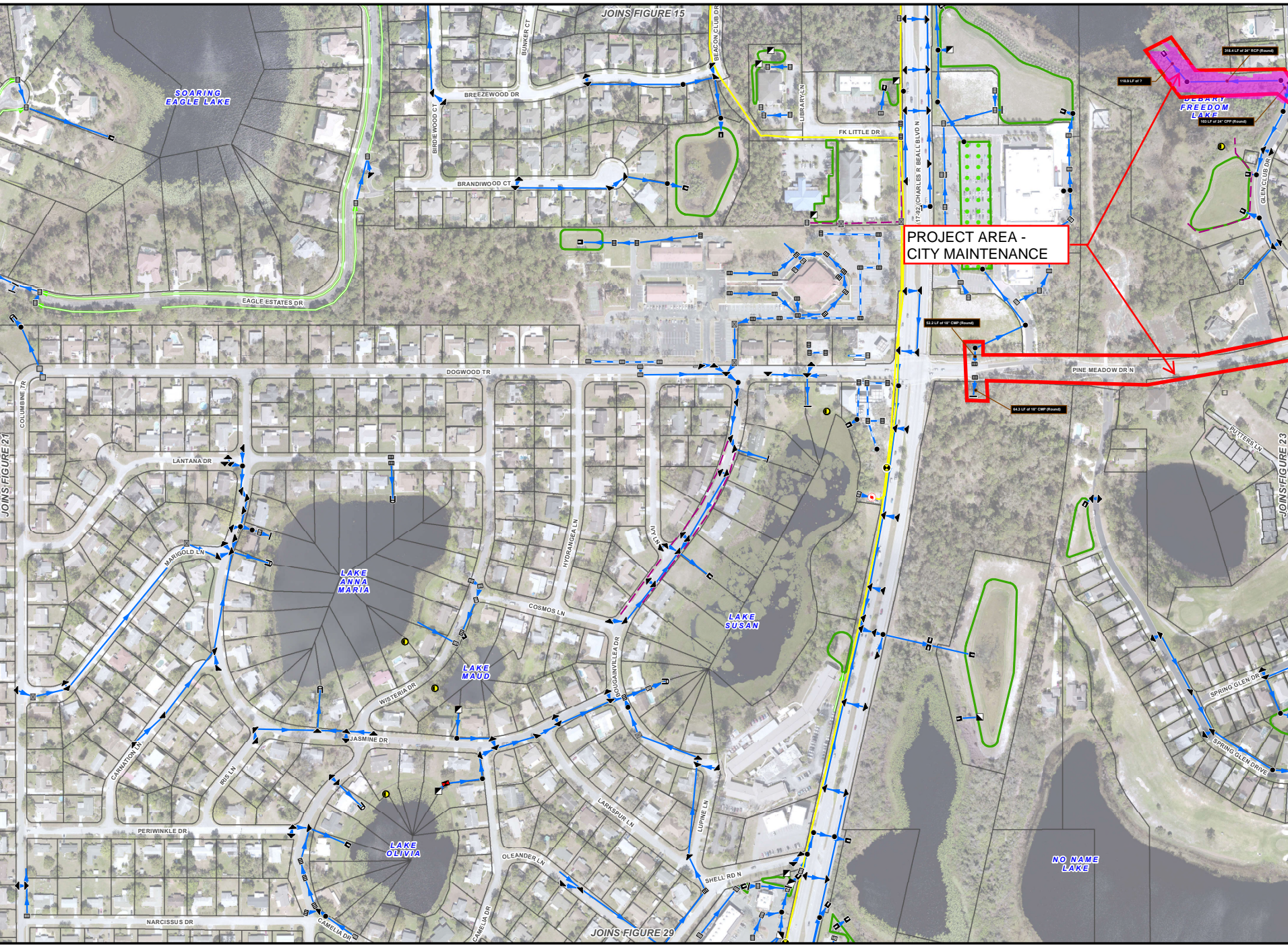
JOINS FIGURE 16

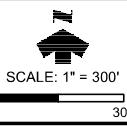
JOINS FIGURE 24





PROJECT AREA -  
CITY MAINTENANCE





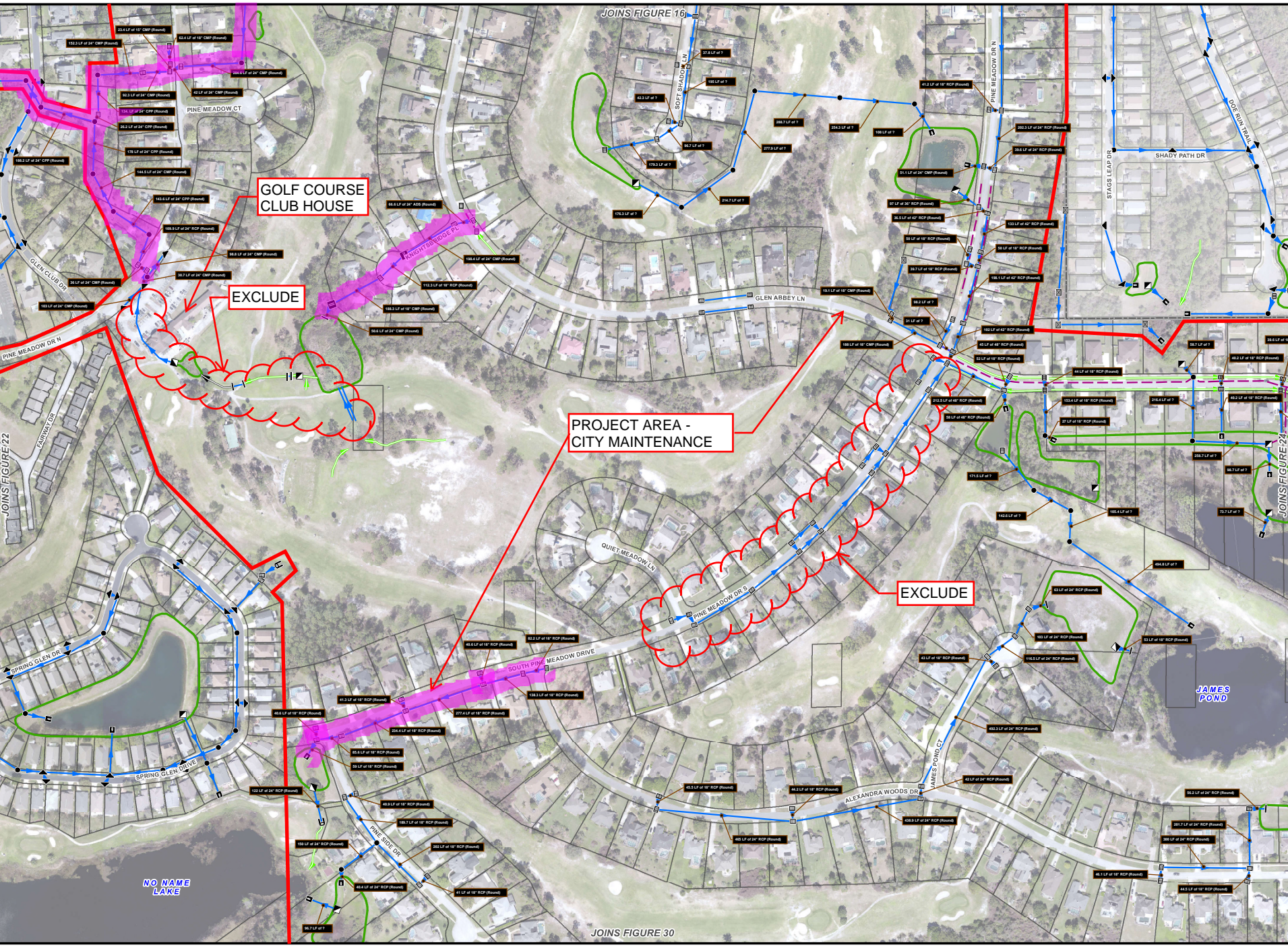
**STORMWATER INFRASTRUCTURE  
ATLAS MAPS**  
CITY OF DEBARY, FLORIDA



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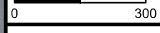
FIGURE  
**23**







SCALE: 1" = 300'



**STORMWATER INFRASTRUCTURE  
ATLAS MAPS**

CITY OF DEBARY, FLORIDA

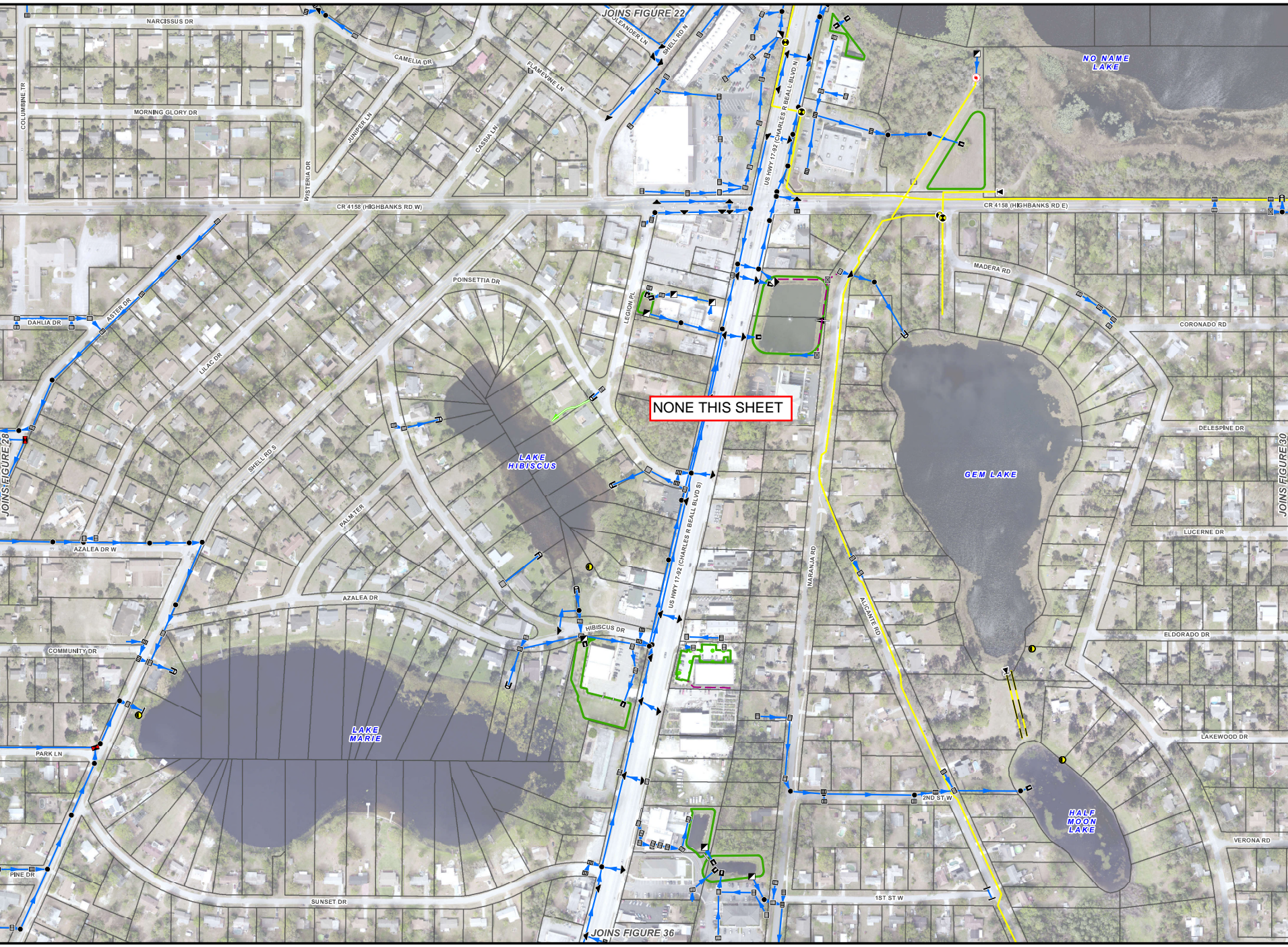


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JOB NO.: DYC-001  
DATE: 02/2019

FIGURE

**29**



PROJECT AREA - CITY MAINTENANCE

JOINS FIGURE 23

SCALE: 1" = 300'

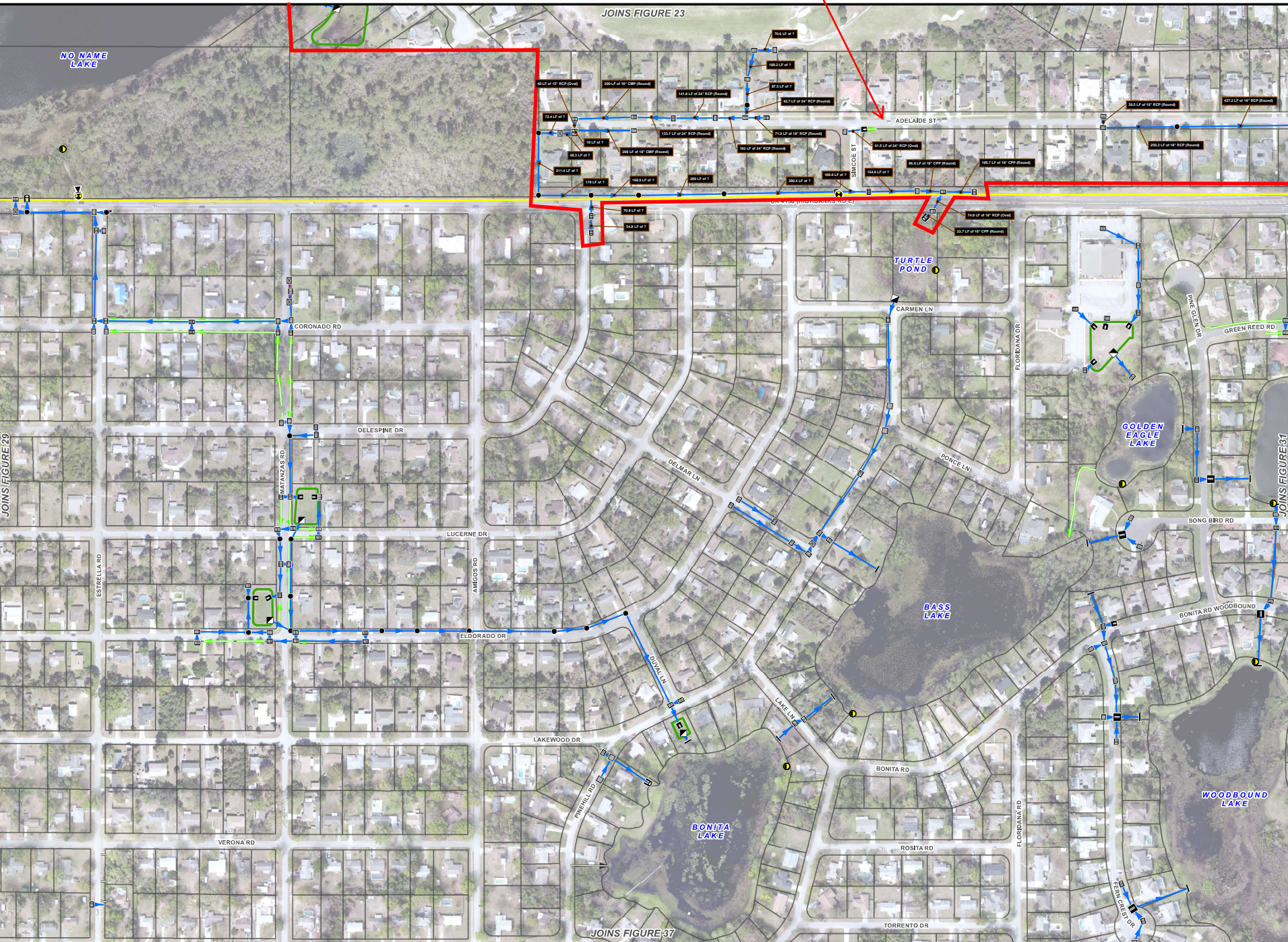
STORMWATER INFRASTRUCTURE  
ATLAS MAPS  
CITY OF DEBARY, FLORIDA



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DATE: 02/2019

FIGURE  
**30**

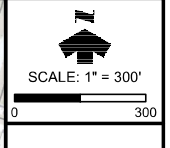
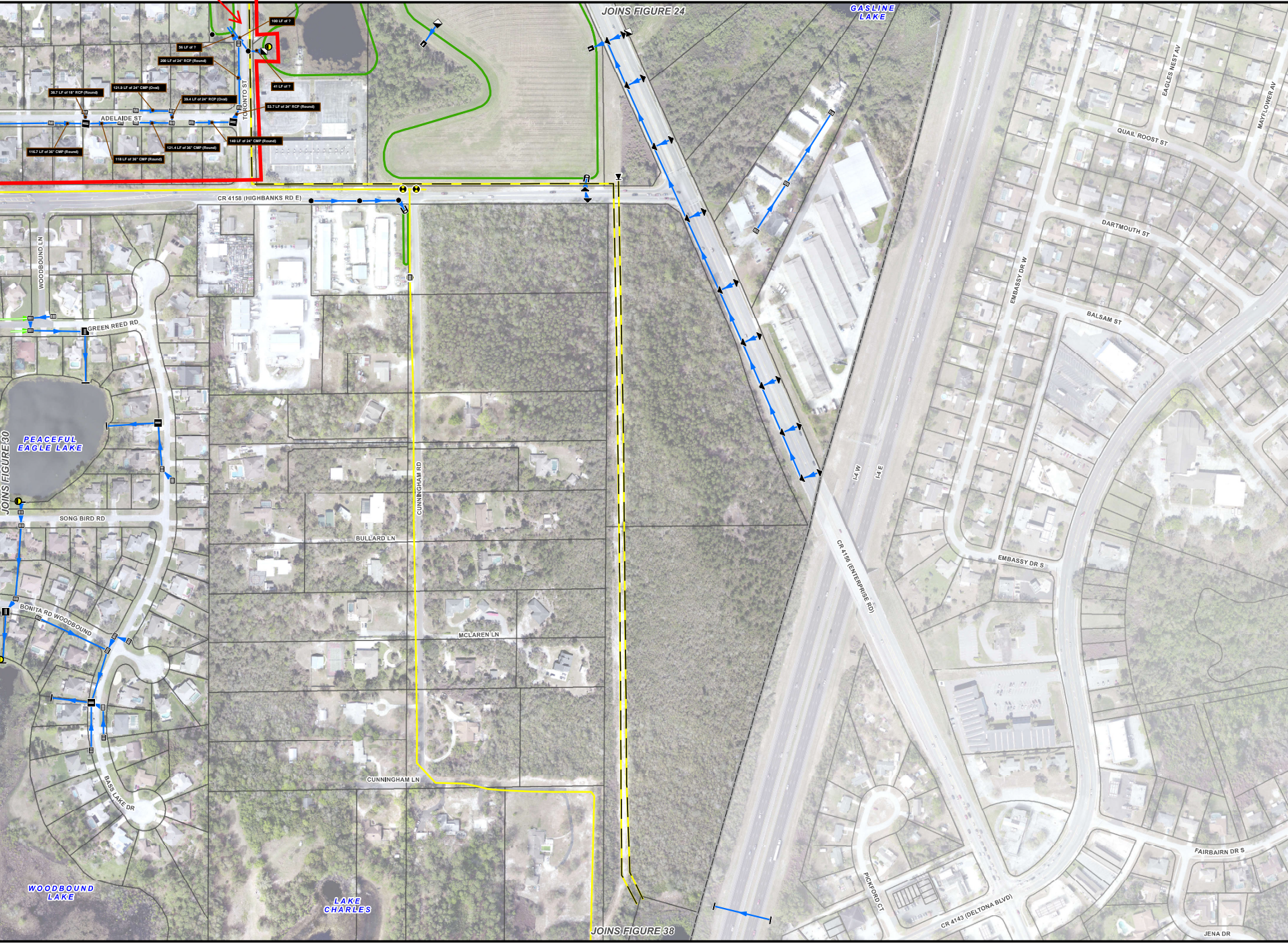


JOINS FIGURE 29

JOINS FIGURE 31

JOINS FIGURE 37

**PROJECT AREA - CITY MAINTENANCE**



**STORMWATER INFRASTRUCTURE  
ATLAS MAPS**

CITY OF DEBARY  
FLORIDA  
1993

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JOB NO.: DYC-001  
DATE: 02/2019

**FIGURE**  
**31**



## City Council Meeting City of DeBary AGENDA ITEM

<b>Subject:</b> Emergency 100 Kilowatt Generator Purchase	<b>Attachments:</b> <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
<b>From:</b> Amy Long, Deputy Public Works Director	
<b>Meeting Hearing Date:</b> June 21, 2023	

### **REQUEST**

The Public Works Department is requesting the City Council approve the purchase of a 100 kilowatt used Generator from United Rentals.

### **PURPOSE**

The request is needed at this time to meet our emergency management needs at Woodbound pump station in the event it should lose power.

### **CONSIDERATIONS**

- The City Manager issued a Letter of Intent to hold the used generator until June 22, 2023.
- This generator can also serve as a backup to the City's other 7 critical pump stations.
- This generator can also serve as backup to Sheriff's Office, Fire Station and City Hall (running basic functions).

### **COST/FUNDING**

The generator costs \$30,480.00. We are also recommending purchasing the United Guard/Extended Warranty for an additional \$2,743.20. The total cost is \$33,223.00. The purchase will come out of Fund 120 – Stormwater Management and will be in next budget amendment.

### **RECOMMENDATION**

It is recommended that the City Council approve the purchase of a 100 kilowatt used Generator from United Rentals and the United Guard/Extended Warranty for a total of \$33,223.00.

### **IMPLEMENTATION**

Upon approval, the Public Works Department will send Purchase Order to United Rentals and pick up generator within the week.

## **ATTACHMENTS**

Attachment A – Letter of Intent

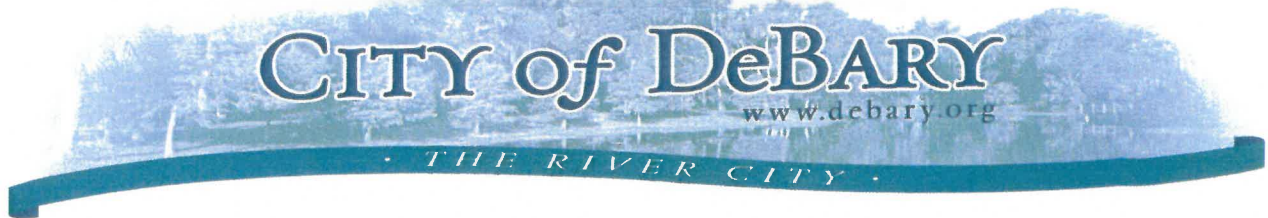
Attachment B – Sale Quote

Attachment C – Equipment Description/Photos

Attachment D – Equipment Specification Sheet

Attachment E – United Guard Coverage/Extended Warranty





## 100KW Generator Purchase — Letter of Intent

June 7, 2023

Gene Lathrop III, Territory Manager  
United Rentals  
500 Aero Lane  
Sanford, FL 32771  
[elathrop@ur.com](mailto:elathrop@ur.com)  
321-247-2495

Dear Mr. Lathrop,

Thank you for your effort in finding the City of DeBary a 2017 Cummins 100KW Generator, Model # C100D6RG to meet our emergency management needs. This letter is to provide written confirmation of our intent to purchase this generator and the associated United Guard Service Contract for \$33,223.20.

In order for us to purchase the generator and service contract, it must be approved by our City Council. This agenda item will go to them at the 6/21/23 Council meeting. Upon approval, we will reach out as early as June 22nd to initiate the purchase.

We are kindly requesting that you hold the generator until that time. If you have any questions or comments, you can reach out to us 386-668-2040.

Thank You,

**Carmen Rosamonda**  
City Manager



Attachment B



SALE QUOTE

BRANCH 19F  
500 AERO LANE  
SANFORD FL 32771  
407-320-9990  
407-321-0571 FAX

# 220435907

**Job Site**  
CITY OF DEBARY  
16 COLOMBA RD  
DEBARY FL 32713-3322  
  
Office: 386-668-2040 Cell: 352-805-8463

Customer #	: 1449004
Quote Date	: 06/04/23
UR Job Loc	: 16 COLOMBA RD, DEBAR
UR Job #	: 7
Customer Job ID:	
P.O. #	: TBD
Ordered By	: AMY LONG
Written By	: EUGENE LATHROP
Salesperson	: EUGENE LATHROP

CITY OF DEBARY  
16 COLOMBA RD  
DEBARY FL 32713-3322

**This is not an invoice  
Please do not pay from this document**

Qty	Equipment #	Price	Amount		
1	10648023 GENERATOR 125-149 KVA Make: CUMMINS Model: C100D6RG Model Year: 17 HR OUT: 12999.000 AERIAL/OTHER-6MONTHS/800HRS	CC: 240-3231 Serial #: F170206066	30480.00 30480.00		
<b>SALES ITEMS:</b>					
Qty	Item number	Stock class	Unit	Price	Amount
1	UNITED GUARD SERVICE CONTRACT	MCI	EA	2743.20	2743.20
	UM: (EA) EACH				
				Sub-total:	33223.20
				Total:	33223.20

CONTACT: AMY LONG  
CELL#: 352-805-8463

Note: This proposal may be withdrawn if not accepted within 30 days.

WHERE PERMITTED BY LAW, UNITED RENTALS MAY IMPOSE A SURCHARGE OF 1.8% FOR CREDIT CARD PAYMENTS ON CHARGE ACCOUNTS. THIS SURCHARGE IS NOT GREATER THAN OUR MERCHANT DISCOUNT RATE FOR CREDIT CARD TRANSACTIONS AND IS SUBJECT TO SALES TAX IN SOME JURISDICTIONS. THIS IS NOT A SALE AGREEMENT/INVOICE. THE ITEMS LISTED ABOVE ARE SUBJECT TO AVAILABILITY AND ACCEPTANCE OF THE TERMS AND CONDITIONS OF UNITED'S SALE AGREEMENT/INVOICE WHICH ARE AMENDED FROM TIME TO TIME AND POSTED ONLINE AT <https://www.unitedrentals.com/legal/sale-agreement> AND INCORPORATED HEREIN BY REFERENCE. A PAPER COPY OF THE SALE AGREEMENT/INVOICE TERMS IS AVAILABLE UPON REQUEST.

# Used Equipment from United Rentals

**Customer:** CITY OF DEBARY

**Sales Representative:** Eugene Lathrop

elathrop@ur.com - 321-247-2495



Valid through 07/05/2023  
**UnitedRentals.com | 800.UR.RENTS**

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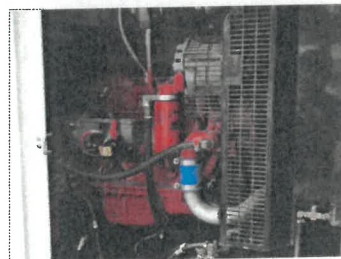
# Quality used equipment for sale

2017 CUMMINS C100D6RG - PRICE \$30,480 (USD)

Description:	GENERATOR 125-149 KVA
Make/Model:	CUMMINS C100D6RG
Year:	2017
Serial #:	F170206066
Meter:	12999
Equipment #:	10648023
Location:	G35 - ORLANDO, FL

**UNITED RENTALS (Store 19F)**  
500 AERO LANE  
SANFORD, FL 32771  
Mon-Fri: 7:00AM-5:00PM Sat: CLOSED Sun: CLOSED

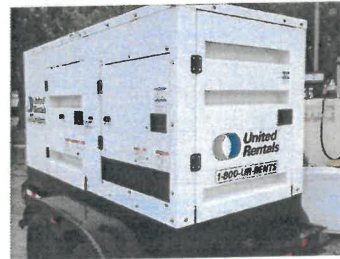
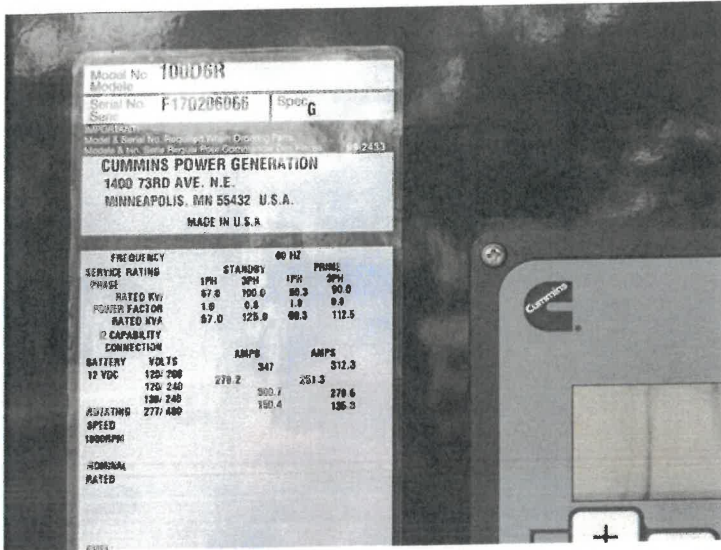
**Sales Contact:**  
Eugene Lathrop  
321-247-2495  
elathrop@ur.com



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**2017 CUMMINS C100D6RG**  
**Price: \$30,480 (USD)**  
**SANFORD, FL**  
**321-247-2495**



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# Equipment Financing Quote

Flexible financing powered by Captive Capital.

<b>Equipment Description:</b> 2017 CUMMINS C100D6RG GENERATOR 125-149 KVA	<b>Equipment Number:</b> 10648023	<b>Equipment Sales Price:</b> \$30,480 USD
<b>Sales Contact: Eugene Lathrop 321-247-2495</b>		

With the United Rentals Customer Finance program facilitated through Captive Capital, you get the financing you want under a brand you trust. The program offers a variety of financing structures and terms, plus knowledgeable financing specialists to help guide you through the application process.

Qualified customers are eligible for 5.99% financing for 12 months on transactions over \$5,000.

Own this equipment for a low monthly finance payment\*

Term Length / Months	Monthly Payment**
12	\$2,623
24	\$1,378
36	\$963
48	\$759
60	\$646

**Notes**

- First & last payment or advance payment may be due at signing
- Available terms may vary based on the age of the equipment
- 5.99% financing only available for 12 months on transactions over \$5,000
- Must be approved by credit to participate in the financing program

\*United Rentals Customer Finance - facilitated by Captive Capital  
 \*\*Plus any applicable sales/use tax



# United Guard™

Safeguard your used equipment with protection you can trust.

Equipment Description:	Equipment Number:	Equipment Sales Price:
2017 CUMMINS C100D6RG GENERATOR 125-149 KVA	10648023	\$30,480 USD
<b>Sales Contact: Eugene Lathrop 321-247-2495</b>		

With United Guard, you'll benefit from reduced downtime, higher resale value and fewer service interruptions.

## With United Guard You'll Receive:

- Repairs on listed components
- No co-pays on any covered repairs
- Service at any of our more than 1,000 locations in North America

Term Length	Price
3 mo./400 hours	\$1,524
6 mo./800 hours	\$2,743
12 mo./1600 hours	\$4,267

## United Guard Eligibility Requirements

- Equipment must have a sale price of at least \$2,500 and must be less than 10 years old at the time of sale
- Equipment must be geographically located within the United Rentals range of service
- United Guard is only for the benefit of the original purchaser and is not transferable
- Entities that intend to sell or rent the equipment purchased are not eligible for United Guard
- United Guard must be purchased within 72 hours of equipment purchase
- United Rentals, Inc. (and its subsidiaries) makes no warranties to those defined as consumers in the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act
- Powered vehicles, trailers and trenchers are not eligible

Coverage is contingent upon customer fully servicing equipment in accordance with the manufacturer's service instructions, at the intervals recommended by the manufacturer. Proper documentation of services should be maintained.



Valid through 07/05/2023  
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## Specification sheet



# Rental Power 100 kW



## Description

This Cummins Power Generation rental package is a fully integrated mobile power generation system, providing optimum performance, reliability, and versatility for standby and prime power applications.

## Features

### Cummins diesel engines

- U.S. EPA Tier III compliant
- Rugged 4-cycle industrial diesel engine with excellent transient performance
- Lightweight, compact and excellent fuel economy
- 2-stage spin on fuel filter w/pre-filter water separator with drain
- Equipped with heavy duty, 2-stage air cleaners with dust ejector

### Control features

- The most advanced, reliable and capable generator set control system on the market today
- Controls provide precise frequency and voltage regulation, alarm and status message display in one easy to operate customer interface
- Remote monitoring and operation ready
- Auto shutdown at fault detection

### Engine controls

- Oil Pressure and Water Temp Gauge
- Fuel Level Gauge & Battery Voltage Gauge
- Hour meter

### Stamford alternators

- 12-lead reconnectable alternators fitted with voltage selection switch
- Permanent magnet excitation for improved performance in non-linear load applications

### Rental package enclosure

- Heavy duty trailer package with pintle hitch and electric or hydraulic brakes
- Sound attenuated, white powder coated lockable enclosure
- 22 hour fuel tank (100% prime) with gauge
- Roof mounted, single point lift
- Cooling system rated for 122° F (50° C) ambient
- Complete engine fluid containment reservoir
- DOT approved trailer with light package, replaceable fenders and jack stand
- Voltage selector switch
- Shore power (120 VAC) - No breakers in shore power connection. Shore power loads are coolant heater (option) and battery charger (option). Connection: 15A/120V flanged male receptacle (5-20 flanged inlet).

Model	Voltages (V)	Standby Rating		Prime Rating		Engine model	Alternator model
		60 Hz kW (kVA)	50 Hz kW (kVA)	60 Hz kW (kVA)	50 Hz kW (kVA)		
C100D6R	208/480	100 (125)		90 (112)		QSB5-G4	UCI274D
	480/600 switchable	100 (125)		90 (112)		QSB5-G4	UCI274E

Our energy working for you.™

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[cumminspower.com](http://cumminspower.com)



## Engine specifications

Engine model	QSB5-G5
Alternator data sheet	UCI274D (208/480), UCI274E (480/600 switchable)
Engine data sheet	DS-92384
Tier rating	TPEM (Tier III)
Design	4 cycle, In-Line, turbocharged and charge air cooled
Bore	107 mm (4.21 in.)
Stroke	124 mm (4.88 in.)
Displacement	4.5 liters (272 in <sup>3</sup> )
Cylinder block	Cast iron, In-Line 4 cylinder
Battery capacity	1000 cca GR31
Battery charging alternator	100 amps
Starting voltage	12 volt, negative ground
Fuel system	Direct injection: number 2 diesel fuel
Fuel filter	2-stage spin on fuel filter with water separator
Air cleaner type	2-stage, dry replaceable element with dust ejector
Lube oil filter type(s)	Single spin-on, full flow
Standard cooling system	122° F (50° C) ambient radiator

## Alternator specifications

Design	Brushless, 4 pole, drip proof revolving field
Stator	2/3 pitch
Rotor	Single bearing, flexible disc
Insulation system	Class F per NEMA MG1-1.65
Standard temperature rise	95/50° C prime
Exciter type	PMG (permanent magnet generator)
Phase rotation	A (U), B (V), C (W)
Alternator cooling	Direct drive centrifugal blower fan
AC waveform total harmonic distortion	< 1.5% no load, < 5% non-distorting balanced linear load
Telephone influence factor (TIF)	< 50 per NEMA MG1-22.43
Telephone harmonic factor (THF)	< 2%

## Power capability specifications (Assume power factor = 0.80 for 3 phase amps)

	Standby rating			
	240 V, 1 phase Amps	208 V, 3 phase Amps	480 V, 3 phase Amps	600 V, 3 phase Amps
<b>C100D6R</b>	300	347	150	120

## Electrical power panel specifications

Model voltage	120 V duplex receptacles	240 V twist	Load lug connection (stud diameter)	Load lug circuit breakers
<b>120/480 Volt</b>	2 - 20 Amp	3 - 50 Amp	1/2 inch	400 Amp
<b>480/600 Volt switchable</b>	0	0	1/2 inch	225 Amp

## Site derating factors

Standby Application: The engine may be operated at 1800 rpm up to 2550 ft (777 m) and 122° F (50° C) without power deration. For sustained operation above these conditions, derate by 2% per 1,000 ft (300 m), and 16% per 10° C (18° F).

Prime Application: The engine may be operated at 1800 rpm up to 400 ft (122M) and 122° F (50° C) without power duration. For sustained operation above these conditions, derate by 2% per 1000 ft (300m), and 19% per 10° C (18° F).

## Control system

### PowerCommand control

- Integrated automatic voltage regulator and engine speed governor
- Control components designed to withstand the vibration levels typical in generator sets

### Standard control description

- Analog AC frequency meter
- Analog AC voltage meter
- Cycle cranking control
- Digital display panel
- Idle mode control
- Menu switch
- Panel backlighting
- Remote starting, 12 V, 2 wire
- Reset switch
- Run-off-auto switch
- Sealed front panel, gasketed door
- Self diagnostics

### Standard performance data warnings

- High coolant temperature
- High DC voltage
- Low coolant temperature
- Low DC voltage
- Low oil pressure
- Over current
- Weak battery
- Over speed
- Under frequency
- Intake manifold temperature OOR high/low
- Intake manifold temperature high
- Water in fuel OORH/OORL
- General engine fault
- Coolant level OOR high/low

### Standard protection functions

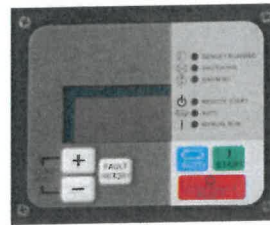
- Voltmeter/ammeter phase selector
- Warnings
- High coolant temperature
- High DC voltage
- Low coolant temperature
- Low DC voltage
- Low oil pressure
- Over current
- Weak battery

### Shutdowns

- Emergency stop local/remote
- Fail to crank
- High AC voltage
- High coolant temperature
- Low coolant level
- Low AC voltage
- Low oil pressure
- Over current
- Over speed
- Under frequency
- Intake manifold temperature high
- Fail to start/stop
- Over frequency
- Alternator reconnecting switch operated (breaker closed)

## Agency approvals

- NFPA110 for Levels 1 or 2 systems
- ISO 8528-4: 1993 Compliance, Controls and Switchgear
- CE Marking
- EN 50081-1, 2 Residential/Light Industrial Emissions or Industrial Emissions
- EN 50082-1.2
- ISO 7637-2, Level 2: DC supply surge test
- Mil Std 202C, Method 101 and ASTM B117: Salt Fog Test
- Designed and manufactured in ISO 9001 certified facilities. Suitable for use on generator sets that are UL 2200 Listed



## Standard generator electrical features

- Multiple voltage selector switch (480/277 VAC/3 phase or 240/139 VAC/3 phase or 240/120 VAC/1 phase)
- Potentiometer adjustable to 208/120 VAC/3 phase
- Single phase convenience receptacles
- Voltage adjustment potentiometer
- Distribution panel with L1, L2, L3 neutral and ground
- Main line shunt trip type circuit breaker
- Auto start-stop with remote contacts
- Over current sensing
- 3 available auxiliary connections

## Additional rental package features

- Heavy duty jack stand – center mounted
- Tank style coolant heater
- Low coolant shutdown system
- Phase selector switch on control panel
- Battery disconnect switch
- Cam lock distribution panel
- 110 Volt, 5 Amp battery charger
- Base mount generator – no trailer

## Rental package options

- Electric brake trailer with heavy duty center mounted jack
- Hydraulic brake trailer with heavy duty center mounted jack
- 600 Volt/480 Volt switchable with Transport Canada UN31A compliant fuel tank

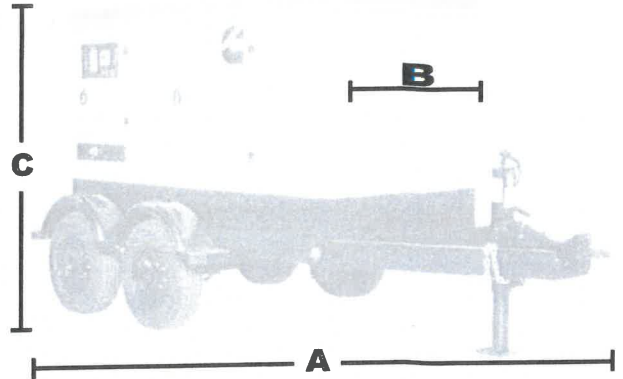
## Ratings definitions

### Standby:

Applicable for supplying emergency power for the duration of normal power interruption. No sustained overload capability is available for this rating. (Equivalent to Fuel Stop Power in accordance with ISO3046, AS2789, DIN6271 and BS5514). Nominally rated.

### Prime (unlimited running time):

Applicable for supplying power in lieu of commercially purchased power. Prime power is the maximum power available at a variable load for an unlimited number of hours. A 10% overload capability is available for limited time. (Equivalent to Prime Power in accordance with ISO8528 and Overload Power in accordance with ISO3046, AS2789, DIN6271, and BS5514).



## Dimensions

Model	Dim "A" mm (in.)	Dim "B" mm (in.)	Dim "C" mm (in.)	Weight w/o fuel kg (lbs)	Weight with fuel kg (lbs)	Fuel capacity liters (gal)
<b>C100D6R</b>	<b>2794</b> (110)	<b>1194</b> (47)	<b>1626</b> (64)	<b>1888</b> (4164)	<b>2404</b> (5300)	<b>606</b> (160)
<b>With trailer</b>	<b>4495</b> (177)	<b>1905</b> (75)	<b>2083</b> (82)	<b>2466</b> (5437)	<b>2981</b> (6573)	<b>606</b> (160)

## Fuel consumption

60 Hz Ratings, kW (kVA)	Load	Standby 100 (125)				Prime 90 (112)			
		1/4	1/2	3/4	Full	1/4	1/2	3/4	Full
		US Gal/hr	2.6	4.5	6.5	8.2	2.3	3.9	5.8
	L/hr	9.8	17.0	24.6	31.0	8.7	14.8	22.0	27.3

## Specifications

Model	KW rating		Sound level at full load dB(A) @ 7 m	Tier rating Standby	Hours of operation (75% load)	
	Standby	Prime			Standby	Prime
<b>C100D6RT</b>	100	90	70	Tier III	24	27

## Trailer information

Model	Tire size	Tire type	Load range	Number of tires per trailer	Lug pattern
<b>C100D6R</b>	225/75-R15	Radial	D	4	6 on 5.5" bolt

## Certifications

These generator sets are certified to following standards by Intertek:



CAN/CSA STD C22.2 NO. 100-04  
CAN/CSA STD C22.2 NO. 14-05

North America  
1400 73rd Avenue N.E.  
Minneapolis, MN 55432  
USA

Phone 763 574 5000  
Fax 763 574 5298

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S-1541f (4/12)



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Access to equipment safety training programs available onsite or online

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## Expertly Maintained

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- No co-pays on any covered repairs



## Quality Equipment

- Service at any of our over 1,000 locations in North America



## Safety as our top priority

- We are united in safety
- We are focused on our customers



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# Safeguard your used equipment.

## UNITED GUARD ELIGIBILITY REQUIREMENTS

- Equipment must have a sale price of at least \$2,500 and must be less than 10 years old at the time of sale
- Equipment must be geographically located within the United Rentals range of service
- United Guard is only for the benefit of the original purchaser and is not transferable
- Entities that intend to sell or rent the equipment purchased are not eligible for United Guard
- United Guard must be purchased within 72 hours of equipment purchase
- United Rentals, Inc. (and its subsidiaries) makes no warranties to those defined as consumers in the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act
- Powered vehicles, trailers and trenchers are not eligible

## UNITED GUARD COVERAGE

Coverage is contingent upon customer fully servicing equipment in accordance with the manufacturer's service instructions, at the intervals recommended by the manufacturer. Proper documentation of services should be maintained.

### Engine:

Engine Block  
Cylinder Liners  
Piston  
Piston Rings  
Piston Pins  
Cylinder Heads  
Head Gasket  
Crankshaft  
Main Bearings  
Con Rods  
Con Rod Bearings  
Balance Assemblies  
Camshaft  
Push Rods  
Tappets  
Valves  
Springs  
Guides  
Timing Gears  
Lubrication Pump  
Drive Components  
Casting Assembly  
Thrust Bearings  
Internal Oil Seals  
External Oil Seals (internal failure)  
Bushes  
External Pump Drive Gear  
**Transmission/Transaxle:**  
Charging Pumps  
Gear Train  
Shafts  
Thrust Washers  
Bushes  
Needle Roller Bearings  
Bearings  
Gears  
Internal Seals  
Input & Output Seals (internal failure)

Clutch Packs  
Couplings  
Oil Lubrication Pumps  
Main Control Valves  
Relief Valves  
Torque Converter  
Gearshift Controller  
Electronic Control (black-box)  
Transmission Casing  
PTO Drives  
**Drive Lines:**  
Main Shafts  
Sliding Points  
Flange/Yoke end of Drive Lines  
Pivot Shaft  
Pivot Shaft Support Bearings  
**Drive Axle/Final Drives**  
Bearings  
Shafts  
Thrust Washers  
Seals  
Input Seals (internal failure)  
Tension Springs  
Bull Gears  
Pinions  
Ring Gears  
Crown Wheels  
Internal Differential Gears and Locks  
Axle Case  
Differential Case  
Yokes  
Wheel Hubs  
**Electrical:**  
Batteries  
Wiring  
Motors  
Solenoids  
Solenoid Valves

Electric Instrument Panel  
Switches  
Relays  
Sender Units  
Hour Meters  
Gauges  
Sensors  
Black-box  
Microprocessor/ECU/ECM  
Starter Motor  
Alternator  
Regulators  
Controllers  
Generators  
Coils

### Cooling System:

Hoses  
Fan Belts  
Blowers  
Fans  
Fan Belt Tensioners  
Water Pump  
Internal Bearings & Seals  
Fan Thermostat  
Thermostat  
Oil Coolers  
Radiators  
Cab Heating Assembly  
Intercoolers  
Aftercoolers  
Heat Exchangers  
Air Conditioners

### Fuel Systems:

Injectors  
Fuel Injection Pump  
Fuel Lift Pump  
Engine Priming Pump  
Fuel Tanks  
Carburetors  
Propane regulators  
Hoses and Fittings

### Hydraulics:

Hoses  
"O"-rings  
External Seals  
Exposed Pipes  
Rubber Mountings  
Hydraulic Tank Breathers  
Hydraulic/Hydrostatic Motors  
Hydraulic/Hydrostatic Pumps  
Hydraulic Control Valves  
Relief Valves  
Accumulators  
Shuttle Valve  
Hydraulic Tank and Mounting  
Hydraulic Cylinders (rams)  
Electro/Hydraulic Valves  
Check Valves

### Main Frame/Chassis:

Chassis  
Mainframe  
Track Frames  
Equalizer Bars/Pivot  
Cylinder Mountings  
Pins  
Bearings  
Bushes  
Seals  
Trunion, Trunion Housing & Trunion Brackets  
Axle Mountings  
Steering Cylinder Mountings  
Axle Trunion  
Mast  
Mast Rollers  
Carriage  
Carriage Rollers  
Boom  
Tele-boom  
Boom Mountings  
Boom Cylinder Mountings  
Stabilizer

### Casting & Casings, Undercarriage, Idlers, Track Adjusters, Running Gear:

Bearings  
Shaft  
Thrust Washers  
Seals  
Input Seals (internal failure)  
Front Idlers  
Idler Shafts  
Track Adjuster Assembly  
Tension Springs  
Bull Gears  
Pinions  
Crown Wheels  
Yokes  
Steering and Brake Controls  
Final Drive Shaft  
Sprockets/Segments (for breakage where applicable)  
**Other Components:**  
Compressor Air End Components  
Generator/Welder Electrical End Components  
Water Pump - Pump End Components  
ROPS & FOPS Structures

### UNITED GUARD EXCLUSIONS

#### Exclusions:

The following wear items/parts are excluded:  
Air Filter  
Oil Filter  
Fuses  
Tires and Tubes  
Cosmetic Items  
Non-functional Parts



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

<b>Subject:</b> Resolution 2023-14; Amending Rules of Procedures and By-Laws of the Historic Preservation Board	<b>Attachments:</b> <input type="checkbox"/> Ordinance
<b>From:</b> Carmen Rosamonda, City Manager	<input checked="" type="checkbox"/> Resolution
<b>Meeting Hearing Date</b> 6/21/2023	<input type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other

**REQUEST**

City Council is requesting City Council adopt Resolution # 2023-14, amending the rules of procedure and by-laws of the Historic Preservation Board.

**PURPOSE**

The purpose is to update the rules of procedure and by-law of the Board.

**CONSIDERATIONS**

- The Historic Preservation Board was established in 1997 by City Council.
- Over the last 5 years, the Board operations have been stagnant due to the lack of interest serving on the Board.
- In April 2023, The City Manager requested and City Council agreed to re-advertise for Board position. We received 8 applications.
- At the June 7, 2023 Council Meeting, the City Council voted to approve all 8 applicants to the Board, contingent upon revising the Resolution governing the rules of procedure and by-laws.

**COST/FUNDING**

N/A

**RECOMMENDATION**

It is recommended that the City Council adopt Resolution # 2023-14, amending the rules of procedure and by-laws of the Historic Preservation Board.

**IMPLEMENTATION**

Effective immediately upon adoption.

**ATTACHMENTS**

Resolution # 2023-14



**RESOLUTION NO. 2023-14**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEBARY, FLORIDA, FORMALLY AMENDING THE RULES OF PROCEDURE AND BY-LAWS OF THE HISTORIC PRESERVATION ADVISORY BOARD TO ALLOW ADDITIONAL MEMBERS TO BE APPOINTED AND PROVIDING FOR AN EFFECTIVE DATE.**

**RECITALS**

**WHEREAS**, the Rules of Procedure and By-Laws of DeBary Historic Preservation Advisory Board were approved by the DeBary Historic Preservation Advisory Board by motion on November 20, 1997 and formally adopted on December 10, 1997 via Resolution 97-25;

**WHEREAS**, such by-laws established that the Historic Preservation Advisory Board (“Board”) was to consist of five (5) members;

**WHEREAS**, the City Council believes that up to 3 additional members should be appointed if deemed appropriate or desirable by the City Council; and

**WHEREAS**, the City Council desires to amend the by-laws to reflect such change and allow the City Council to appoint between five (5) and eight (8) members to the Board as determined by the Council.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF DEBARY, FLORIDA:**

**SECTION 1.** That Section 1 of the by-Laws of the DeBary Historic Preservation Advisory Board, are hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

**SECTION 1 MEMBERSHIP** – The DeBary Historic Preservation Advisory Board membership shall consist of no less than five (5) but no more than eight (8) members appointed by the City Council as desired. A majority of the voting members appointed shall constitute a quorum at meetings. Members shall be residents of the City of DeBary regardless of race, creed, color or religion.

**SECTION 5. Severability.** If any portion, word, phrase, clause, or sentence of this Resolution is determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable or void, then the balance of this Resolution shall remain in full force and effect.

**SECTION 6. Conflicts.** This Resolution shall be supplemental to Resolution No.: 97-25 relating to the Rules of Procedure and By-Laws of the DeBary Historic Preservation Board, and this Resolution shall govern and control to the extent of any conflict with Resolution No.: 97-25 in relation to such procedures and by-laws.

**SECTION 7. Effective Date.** This Resolution shall take effect immediately upon adoption.

**ADOPTED BY** the City Council of the City of DeBary, Florida this \_\_\_\_ day of June, 2023.

**CITY COUNCIL  
CITY OF DEBARY, FLORIDA**

\_\_\_\_\_  
Karen Chasez, Mayor

ATTEST:

\_\_\_\_\_  
Annette Hatch, CMC, City Clerk