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)

PRESENTATION

Legislative Update - Shari Simmans, Economic Development & Government Affairs Director

CONSENT AGENDA

1. The Parks and Recreation Department is requesting Council approve the attached Playground Mulch Piggyback Agreement.

2. The Parks and Recreation Department is requesting Council approve the grant application submitted by DeBary Elementary. The school is requesting a matching grant of $500 from the City of DeBary towards their upcoming 5th Grade Celebration.

3. City Manager is requesting City Council approve Change Order No. 1, and Final Payment according to the Piggyback Agreement with MASI GENERAL CONTRACTOR, INC. for the 2022 Street Resurfacing Project.

NEW BUSINESS

4. City Manager is requesting City Council approve the second reading of Ordinance No. 03-2023, Development Agreement with Mosaic at DeBary, LLC for the DeBary Main Street Project.

5. Staff is requesting City Council approve the City of DeBary Resiliency and Vulnerability Assessment proposal from Stanley Consultants, Inc. in the amount of $250,000.00.

COUNCIL MEMBER REPORTS / COMMUNICATIONS

Member Reports/ Communications

A. Mayor and Council Members

B. City Manager

C. City Attorney
DATE OF UPCOMING MEETING / WORKSHOP

Regular City Council Meeting May 3, 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.
REQUEST

The Parks and Recreation Department is requesting Council approve the attached Playground Mulch Agreement.

PURPOSE

The request is needed at this time in order for us to place our next mulch order to replenish our playgrounds.

CONSIDERATIONS

This type of mulch is a specialized type of product, specifically for playgrounds. The mulch is mechanically blown engineered wood fibers that is ADA certified to reduce liability and maintenance once the mulch is installed. We generally replenish each of our playgrounds with this type of mulch once a year. The piggyback agreement will allow us to lock in lower than normal pricing from a larger municipality for the next three years.

COST/FUNDING

Playground mulch is budgeted in the Parks and Recreation Maintenance budget.

RECOMMENDATION

It is recommended that the City Council approve the attached Playground Mulch Piggyback Agreement with IMulchFL, LLC.

IMPLEMENTATION

Upon approval the Parks and Recreation Department will place our next mulch order and install the mulch in all of the playgrounds that currently need it.
ATTACHMENTS

Attachment A: Playground Mulch Piggyback Agreement
Attachment B: Exhibit A – City of Clearwater Bid Documents and Pricing
AGREEMENT BETWEEN
CITY OF DEBARY, FLORIDA

AND

IMULCHFL INC.

PIGGYBACK AGREEMENT TO CITY OF CLEARWATER, FLORIDA CONTRACT FOR MECHANICALLY BLOWN ENGINEERED WOOD FIBER SERVICES WITH IMULCHFL, INC., AWARDED MARCH 22, 2023

This Agreement (this “Agreement”) is entered into by and between CITY OF DeBARY, a Florida municipal corporation, whose address is 16 Colomba Road, DeBary, Florida 32713 (hereinafter referred to as “City”), and IMULCHFL INC., a Florida Profit Corporation, with its principal office located at 21 North Tubb Street #569, Oakland, FL 34760 (hereinafter referred to as “Contractor”).

Whereas, the City desires to engage a vendor to provide mechanically blown engineered wood fiber services for City parks and facilities; and

Whereas, the City of Clearwater (“Clearwater”) issued ITB #14-23 for mechanically blown engineered wood fiber services (“ITB”), in which it solicited competitive proposals for the provision of such services in connection with the City’s parks and other recreational facilities; and

Whereas, as a result of that ITB, Clearwater awarded the bid to Contractor on March 22, 2023. Together, the awarded bid and all contract documents included therein are referred to herein as the “Original Government Contract”;

Whereas, the City has determined that use and procurement of Contractor’s services pursuant to the terms, conditions, and pricing of the publicly procured Original Government Contract, is cost-effective and in the best interest of the City; and therefore, the City approves this Agreement pursuant to § 14.C. of the City of DeBary Purchasing Policy and Procedures.

Now therefore, for good and valuable consideration, which the parties acknowledge, the City agrees to enter into and does hereby enter into this Agreement with Contractor, and Contractor agrees to enter into and does hereby enter into this Agreement with the City for the Scope of Services as set forth herein:

1. Recitals: The foregoing Recitals are true and correct and are incorporated herein as material provisions of this Agreement by this reference.
2. SERVICES.

(A) Modification of Original Government Contract. Contractor shall provide the City with mechanically blown engineered wood fiber services in accordance with the terms, conditions, and pricing of the Original Government Contract between Clearwater and Contractor, which contract and its associated contract documents are attached hereto as Exhibit “A” and incorporated herein, except that the “City of DeBary” will be substituted for “City,” “City of Clearwater,” “Clearwater,” or other such term(s) as may be used to refer to the original contracting agency, and any references to “City,” “City of Clearwater,” or “Clearwater” staff or other contracting agency personnel and staff will be read to refer to functionally equivalent or corresponding City of DeBary personnel and staff. The scope of services and other terms and conditions of the Original Government Contract are hereby incorporated into this Agreement as material terms and conditions except as otherwise modified by this Agreement. Any references to statutes, ordinances, rules, resolutions, or code provisions not applicable to the City of DeBary will be deemed stricken from the Original Government Contract and not be applied to or in the construction of this Agreement. All notices required to be sent or provided to Clearwater must instead be provided to the City as set forth in paragraph 8 of this Agreement. If the terms of this Agreement conflict with the terms of the Original Government Contract, the terms of this Agreement will control to the extent of such conflict. The City will have no liability or responsibility for or concerning Contractor’s products or services provided to Clearwater, or any other governmental entity or agency piggybacking upon or otherwise utilizing the Original Government Contract. Nothing under this Agreement will require the City to order or otherwise purchase any minimum amount of equipment or services.

(B) Scope of Work as Applied to the City. The City is entering into this Agreement with Contractor for the provision of mechanically blown engineered wood fiber services as solicited and set forth in the Original Government Contract. Contractor shall commence the provision of such mechanically blown engineered wood fiber services upon the receipt of a written task assignment or notice to proceed for such services from the City, and Contractor may not commence any such work or provide any such services until so assigned. Such work and services is to be assigned at the City’s discretion and at such times when the City is prepared to proceed with same given current conditions, staffing, and available funding.

3. TERM/TERMINATION. The initial term of this Agreement will be for one (1) year from the Effective Date, unless terminated earlier in accordance with this Agreement. Thereafter, the City will have the option to extend this Agreement for up to two additional one-year periods upon satisfactory performance by Contractor and as deemed in the best interest by the City. The initial term together with any renewal term hereunder will be collectively referred to in this Agreement as the “Term.” The termination provisions of the Original Government Contract are incorporated herein by this reference.

4. WARRANTY. All the services and products to be provided or performed by Contractor must be in conformance with commonly accepted industry and professional codes and standards, ordinances, resolutions, and standards of the City and the legal compliance provisions of this Agreement.
5. CITY LOGO. Contractor may not use the City’s logo unless otherwise authorized in writing by the City Manager. Contractor’s or its employee’s or agent’s misuse of the City’s logo will constitute a material default of this Agreement and basis for immediate termination of this Agreement upon written notice, and be subject to other rights and remedies that the City may have at law and in equity.

6. INSURANCE. Within ten (10) days from the Effective Date and prior to rendering services to the City, Contractor shall provide the City with any certificates of insurance evidencing insurance coverage as was or is required by the Original Government Contract and as applied to the services provided pursuant to the City under this Agreement. To the extent that Contractor was required to acquire and maintain any such policies by the Original Government Contract, Contractor must acquire and maintain any such policies pursuant to this Agreement. Contractor must list the City as an additional insured or named insured on each such policy if required to do so with regard to Clearwater under the Original Government Contract. Contractor must maintain such required insurance coverages throughout the Term of this Agreement and for such time following the expiration or termination of this Agreement as may be or may have been required by the Original Government Contract.

7. GOVERNING LAW.

   (A) Laws/Venue/Mediation. This Agreement is governed by and to be construed in accordance with the laws of the State of Florida. Regardless of anything herein to the contrary, the sole and exclusive venue for any litigation arising out of or concerning this Agreement, including its exhibits and performance of services hereunder will, if in state court, be in Volusia County, Florida before County Court or Circuit Court (as appropriate) in and for Volusia County, Florida, or, if in federal court, the Middle District of Florida, Orlando Division.

   Any disputes, claims, or counterclaim between City and Contractor arising out of or in connection with this Agreement that cannot be amicably resolved by the parties through good faith negotiations must first be submitted to nonbinding mediation. As a condition precedent to the filing of any suit or other legal proceeding, the parties shall endeavor to resolve claims, disputes, or other matters in question by mediation. The exclusive method to initiate mediation is for either party to serve a written request for same on the other party. The parties shall, by mutual agreement, select a mediator within fifteen (15) days of the date of the request for mediation. If the parties cannot agree on the selection of a mediator, then the City shall select the mediator who, if selected solely by the City, will be a mediator certified by the Supreme Court of Florida. No suit or other legal proceeding may be filed until (i) the mediator declares an impasse, which declaration, in any event, must be issued by the mediator not later than sixty (60) days after the initial mediation conference; or (ii) sixty (60) days has elapsed since the written mediation request was made if the other party refuses to or has not committed to attend mediation; provided however, a lawsuit may be filed prior to the satisfaction of the mediation requirement in order to preserve a claim that will lapse due to an immediate forthcoming expiration of an applicable statute of limitation or repose or to obtain emergency injunctive relief. If a lawsuit is filed prior to the completion of the mediation requirement, the lawsuit must be abated upon motion of either party until the mediation requirement has been satisfied, except in the case of a cause of action for emergency injunctive relief. The parties must share the mediator's fee equally. The mediation must be
held in Volusia County, Florida, unless another location is mutually agreed upon in writing by the parties. Agreements reached in mediation are enforceable as settlement agreements in any court having jurisdiction over same. These alternative dispute resolution procedures supersede and replace any other alternative dispute resolution procedures required or imposed by the Original Government Contract.

(B) **Sovereign Immunity.** Nothing contained in this Agreement or any record or communication arising out of or concerning this Agreement may be considered or deemed a waiver of the City’s sovereign immunity protections or of any other privilege, immunity, or defense afforded to the City and its officials, officers, agents, and employees under law. Regardless of anything set forth in any section, part, or portion of this Agreement to the contrary, nothing in this Agreement may be deemed as a waiver of immunity or limits of liability of the City beyond any statutory limited waiver of immunity or limits of liability that may have been or may be adopted by the Florida Legislature, and the cap on the amount and liability of the City for damages, regardless of the number or nature of claims in tort, equity, or contract, may not exceed the dollar amount set forth by the Florida Legislature for tort. Nothing in this Agreement may inure to the benefit of any third party for the purpose of allowing any claim against the City, which claim would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

(C) **Non-Appropriation.** Regardless of anything to the contrary contained in this Agreement, the City’s payment and performance of obligations under this Agreement for each and every fiscal year of the City’s beyond the fiscal year when the Agreement is executed is subject to discretionary annual appropriation by the City’s City Council of funds therefore. When funds are not appropriated or otherwise made available to support the continuation of payment and performance in a subsequent fiscal period, this Agreement must be deemed terminated on the last day of the fiscal period for which appropriations were made without further cost, penalty, or obligation to the City, provided that the City will remain responsible for all products and services requested by the City and provided by Contractor.

(D) **No Damages Against City for Delay.** Notwithstanding any other provisions of this Agreement, including the Original Government Contract incorporated herein, Contractor’s exclusive remedy for delays, impacts, disruption, acceleration, resequencing, and interruptions in performance of the services or provision of products caused by events beyond Contractor’s and its employees’, materialmen’s, subcontractors’, and agents’ control, including delays, impacts, disruption, acceleration, resequencing and interruptions claimed to be caused by or attributable to the City or its officials, officers, employees and agents (or any combination thereof), will be a claim for and be limited to an equitable extension of time under the applicable service authorization. Without limiting the foregoing, Contractor is not entitled to costs for remobilization after a delay, impact, disruption, acceleration, resequencing, or interruption in the performance of the services has occurred.

(E) **Public Records Law.** In performing services under this Agreement to the City, Contractor shall comply with the Florida’s Public Records Act (Chapter 119, Florida Statutes) including with all “Contractor” provisions of Section 119.0701(2), Florida Statutes.
IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: Annette Hatch, City Clerk, 16 Colomba Road, DeBary, Florida 32713; Email – ahatch@debary.org; Telephone – (386) 601-0219.

By entering into this Agreement, Contractor acknowledges and agrees that any records maintained, generated, received, or kept in connection with, or related to the performance of services provided under, this Agreement are public records subject to the public records disclosure requirements of § 119.07(1), Florida Statutes, and Article I, section 24 of the Florida Constitution. Pursuant to § 119.0701, Florida Statutes, any contractor entering into an agreement for services with the City is required to:

(i) Keep and maintain public records required by the City to perform the services and work provided pursuant to this Agreement.

(ii) Upon request from the City’s custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion or termination of the Agreement if the Agreement does not transfer the records to the City.

(iv) Upon completion or termination of the Agreement, transfer, at no cost, to the City all public records in the possession of Contractor or keep and maintain public records required by the City to perform the service. If Contractor transfers all public records to the City upon completion or termination of the Agreement, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion or termination of the Agreement, Contractor shall meet all applicable requirements for retaining public records as set forth in the applicable retention schedule for State and Local Government Agencies, which schedule is published and maintained by the Florida Department of State, Division of Library and Information Services. All records stored electronically must be provided to the City, upon request from the City’s custodian of public records, in a format that is compatible with the information technology systems of the City.

Requests to inspect or copy public records relating to the Agreement must be made directly to the City. If Contractor receives any such request, Contractor shall instruct the requestor to contact the City. If the City does not possess the records requested, the City shall immediately notify Contractor of such request, and Contractor must provide the records to the City or otherwise allow the records to be inspected or copied within a reasonable time.
Contractor acknowledges that failure to provide the public records to the City within a reasonable time may result in the assessment of penalties under § 119.10, Florida Statutes. Contractor further agrees not to release any records that are statutorily confidential or otherwise exempt from disclosure without first receiving prior written authorization from the City. Contractor agrees to indemnify and hold the City harmless from and against any and all claims, damage awards, penalties, sanctions, and causes of action arising from Contractor’s failure to comply with the public records disclosure requirements of section 119.07(1), Florida Statutes, or by Contractor’s unauthorized disclosure or release of public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorney’s fees and costs arising therefrom. Contractor authorizes the City to seek declaratory, injunctive, or other appropriate relief against Contractor from a Circuit Court in Volusia County, Florida on an expedited basis to enforce the requirements of this section. This paragraph will survive expiration and termination of this Agreement.

(F) Legal Compliance.

(i) Contractor hereby represents and warrants to the City that Contractor has the knowledge, experience, and skill to provide and perform the services required to be performed by it hereunder; that Contractor will comply with all applicable federal, state and local laws and codes, including, without limitation, all professional registration requirements (both corporate and individual for any required basic disciplines); and that it shall perform said services and provide said products in accordance with generally accepted professional standards, in the most expeditious and economical manner, and consistent with the best interest of City.

(ii) Contractor and its employees and agents shall promptly observe, comply with, and execute the provision of any and all present and future federal, state, and local laws, rules, regulations, requirements, ordinances, and orders (including Resolutions, Codes and Ordinances of the City of DeBary) which may pertain or apply to the Services that may be rendered hereto, or to the wages paid by Contractor to its employees. Contractor shall also require, by contract, that all sub-consultants comply with the provisions of this subsection.

(iii) Contractor shall, during the Term of this Agreement, procure and keep in full force, effect, and good standing all necessary licenses, registrations, certificates, and other authorizations as are required by local, state, or federal law, in order for Contractor to render its services, products, or work as may be required herein.

(iv) Contractor may not engage in any action that would create a conflict of interest in the performance of the actions of any City official, officer, employee, or other person during the course of performance of, or otherwise related to, this Agreement or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.
(v) Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement or the Original Government Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the City shall have the right to terminate this Agreement without liability.

(G) Severability. If any provision hereof is determined to be unenforceable or invalid, such unenforceability or invalidity will not affect the remaining provisions of this Agreement, which will remain in full force and effect. To that extent, this Agreement is deemed severable.

(H) Carryover of Certifications and Representations. Contractor represents and warrants that the information contained within the certifications and statements made by Contractor in response to the initial solicitation issued by Clearwater and within the Original Government Contract are true and correct on the Effective Date of this Agreement, and such certifications, representations, and warranties are hereby extended to the City.

(I) False Claims. If Contractor is unable to support any part of a claim against the City and it is determined that such inability is attributable to misrepresentations of fact or fraud on the part of Contractor, Contractor will be liable to the City for an amount equal to such unsupported part of the claim in addition to all costs to the City attributable to the cost of reviewing said part of Contractor’s claim. The City and Contractor acknowledge that the “Florida False Claims Act” provides civil penalties not more than $10,000.00 (or as otherwise may be adjusted pursuant to law) plus remedies for obtaining treble damages against contractors or persons causing or assisting in causing Florida governmental entities to pay claims that are false when money or property is obtained from a Florida governmental entity by reason of a false claim. Contractor agrees to be bound by the provisions of the Florida False Claims Act for purposes of this Agreement and the services performed hereunder.

8. NOTICE. Whenever in this Agreement it is necessary to give notice or demand by either party to the other, such notice or demand must be given in writing and sent by certified or registered mail, return receipt requested, and addressed as follows:

To Contractor:  IMULCHFL INC.
Attn: Steven Richards
210 North Tubb Street #569
Oakland, FL 34760

To City:  City of DeBary
Attn: City Manager
16 Colomba Road
DeBary, Florida 32713
9. E-VERIFY. Contractor shall comply with § 448.095, Florida Statutes, effective January 1, 2021, and register with and utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of all new employees hired by Contractor. Furthermore, any subcontract Contractor enters into with a subcontractor or subrecipient to perform work under this Agreement must contain the following language: “The subcontractor must comply with § 448.095, Florida Statutes, and register with and utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of all new employees hired by Contractor on or after the effective date of this contract and thereafter during the remaining term of such contract.” If Contractor fails to comply with the foregoing or § 448.095 or § 448.09(1), Florida Statutes, the City will take action as required by § 448.095(2)(c), Florida Statutes, which may include termination of this contract. If the City terminates this contract due to Contractor’s or a subcontractor’s (or subrecipient’s) failure to comply with § 448.095 or § 448.09(1), Florida Statutes, Contractor will be liable to the City for any additional costs or expenses incurred by the City as a result of the termination of this Agreement. Furthermore, Contractor agrees to indemnify and hold harmless the City from and against any fines, sanctions, or penalties levied against the City by a governmental agency arising from the Contractor’s failure or alleged failure to comply with this paragraph, including, but not limited to, the City’s loss or repayment of grant funds. Pursuant to § 448.095(2)(d), Florida Statutes, any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination.

10. INDEMNIFICATION (§ 725.06, Florida Statutes). If the Original Government Contract and/or this Agreement constitutes a contract subject to the limitations of § 725.06, Florida Statutes, any indemnification provision contained therein (or herein) will be deemed or otherwise interpreted to provide the indemnification allowed by such statute and require Contractor to indemnify and hold harmless the City, including its officers and employees, from liabilities damages, losses and costs, including, but not limited to, reasonable attorney’s fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor and persons employed or utilized by Contractor in the performance of this Agreement. Furthermore, if applicable law requires that there be a maximum monetary limit of indemnification for which Contractor is responsible so that any such indemnification provision remains enforceable, such limit for any indemnification provision(s) contained within this Agreement or the Original Government Contract is two million dollars ($2,000,000) per occurrence, which the City and Contractor agree bears a commercially reasonable relationship to this Agreement and the work and services to be performed hereunder.

11. EFFECTIVE DATE. The Effective Date of this Agreement shall be the date when the last of the parties has executed this Agreement and upon its approval by the City of DeBary City Council.

12. SURVIVABILITY. Termination or expiration of this Agreement will not affect any rights of either party arising out of any event or occurrence prior to termination, including any obligation of either party to indemnify, defend, or hold harmless one another for acts or omissions performed in connection with this Agreement or to pay any amount which became due
and payable under the terms and conditions of this Agreement prior to expiration or such termination. Furthermore, any terms or conditions that contemplate continued performance beyond expiration or termination of this Agreement (e.g., provisions relating to the maintenance of public records, venue for or jurisdiction over disputes arising from this Agreement, or procedures for resolution of disputes under this Agreement) shall continue in full force and effect subsequent to such termination or expiration.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year entered by the last party executing this Agreement as written below.

IMULCHFL INC.

[Signature]

By: ____________________________

Date: 12/23

Attest: __________________________

By: ____________________________

City of DeBary, a Florida municipal corporation

By: Carmen Rosamonda

Its: City Manager

Approved by the City Council on _____________, 2023.
INVITATION TO BID No. 14-23
Mechanically Blown Engineered Wood Fiber Services
Solicitation Response Listing

FOR THE CITY OF CLEARWATER
Due/Opening: March 7, 2023; 10:00 a.m.

1) American Mulch & Soil
   13838 Hayes Rd
   Spring Hill, FL 34610
   (973) 865-5715

2) IMulchFL Inc
   210 N Tubb St, #569
   Oakland, FL 34760
   (407) 490-9799

3) Mulch Blowers of Florida Inc
   5311 36th Ave E
   Palmetto, FL 34221
   (941) 721-3505

ADVERTISED: TAMPA BAY TIMES POSTED:
Tampa Bay Times myclearwater.com 2/5/2023 2/1/2023
CITY OF CLEARWATER

ITB # 14-23, Mechanically Blown Engineered Wood Fiber Services

DUE DATE: March 7, 2023; 10:00 AM

BID TABULATION

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Description</th>
<th>Unit Price (A)</th>
<th>Unit of Measure</th>
<th>Estimated Quantity (B)</th>
<th>Total Price (A X B)</th>
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</thead>
<tbody>
<tr>
<td>American Mulch &amp; Soil</td>
<td>Mechanically Blown Engineered Wood Fiber Services</td>
<td>$ 45.00</td>
<td>Cubic Yard</td>
<td>2,000</td>
<td>$ 90,000.00</td>
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<tr>
<td>IMulchFL Inc</td>
<td>Mechanically Blown Engineered Wood Fiber Services</td>
<td>$ 43.00</td>
<td>Cubic Yard</td>
<td>2,000</td>
<td>$ 86,000.00</td>
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<td>Mulch Blowers of Florida Inc</td>
<td>Mechanically Blown Engineered Wood Fiber Services</td>
<td>$ 57.00</td>
<td>Cubic Yard</td>
<td>2,000</td>
<td>$ 114,000.00</td>
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REMARKS: Price(s) with star ( ★ ) indicates apparent low bidder, intent to award.
## Procurement Services Information Sheet

**Bid # Title:** ITB2202055 Fiber Engineered Wood Mulch  
**P Category:** 30121800  
**REVISED DATE:** 05-02-22

<table>
<thead>
<tr>
<th>Vendor #</th>
<th>Awarded Vendor</th>
<th>Vendor number</th>
<th>Contact</th>
<th>Email</th>
</tr>
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<tbody>
<tr>
<td>139419</td>
<td>ImulchFl, Inc. (Primary)</td>
<td>407-490-9799</td>
<td>Steven Richards</td>
<td><a href="mailto:stevenimulchfl@gmail.com">stevenimulchfl@gmail.com</a></td>
</tr>
<tr>
<td>132368</td>
<td>Forestry Resources, Inc.</td>
<td>239-425-1153</td>
<td>Kristine (Kriss) Magee</td>
<td><a href="mailto:kmageee@gomulch.com">kmageee@gomulch.com</a></td>
</tr>
<tr>
<td>1023656</td>
<td>National Storm Recovery</td>
<td>262-203-3666</td>
<td>John Schultz</td>
<td><a href="mailto:john@centralfloridaarborcare.com">john@centralfloridaarborcare.com</a></td>
</tr>
<tr>
<td>122697</td>
<td>SiteOne Landscape Supply, LLC.</td>
<td>216-706-9250</td>
<td>Keith McGinty</td>
<td><a href="mailto:bids@siteone.com">bids@siteone.com</a></td>
</tr>
</tbody>
</table>

### Lot 1 - Delivery Only

The Primary Vendor is ImulchFl, Inc. All vendors can be used to obtain product needed, and for all projects over $5000.00 Secondary Quoting should be used.

<table>
<thead>
<tr>
<th>Product ID</th>
<th>Description</th>
<th>UOM</th>
<th>Unit Price</th>
<th>Unit Price</th>
<th>Unit Price</th>
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</thead>
<tbody>
<tr>
<td>25182</td>
<td>Fiber Engineered Wood, as specified, for Playgrounds. Includes all costs to furnish and deliver to any school or facility within Orange County, Florida. (Delivery Only)</td>
<td>Cu. Yard</td>
<td>$24.50</td>
<td>Use during RSQ process only</td>
<td>$45.00</td>
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<td></td>
<td></td>
<td></td>
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<td>$62.82</td>
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### Lot 2 - Delivery & Installation

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<th>Product ID</th>
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<th>UOM</th>
<th>Unit Price</th>
<th>Unit Price</th>
<th>Unit Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>25182</td>
<td>Fiber Engineered Wood, as specified, for Playgrounds. Includes all costs to furnish, deliver and install in playground designated area, to any school or facility within Orange County, Florida. (Delivery &amp; Installation)</td>
<td>Cu. Yard</td>
<td>$45.50</td>
<td>No Bid</td>
<td>$95.00</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>No Bid</td>
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</tbody>
</table>
March 22, 2023

NOTICE OF INTENT TO AWARD

The Parks & Recreation department and the Procurement Division recommend award of ITB No. 14-23, Mechanically Blown Engineered Wood Fiber Services, to IMulchFL Inc. of Oakland, Florida, the lowest most responsible bidder, in accordance with the bid specifications, in the estimated amount of $100,000 annually, for the term of one (1) year, with two (2), one (1) year renewal options.

This award recommendation will be considered by the City of Clearwater’s City Manager.

Inquiries regarding this Intent to Award can be directed to the City’s Procurement Analyst at Kelly.Rogers@myclearwater.com or mailed to City of Clearwater, Attn: Procurement Division, PO Box 4748, Clearwater, FL 33758-4748.

Posted on this date by:
Kelly Rogers
Kelly Rogers
Procurement Analyst
REQUEST

The Parks and Recreation Department is requesting Council approve the grant application submitted by DeBary Elementary. The school is requesting a matching grant of $500 from the City of DeBary towards their upcoming 5th Grade Celebration.

PURPOSE

DeBary Elementary will use the funds towards their 5th Grade Celebration event to provide a fun day of activities for 5th graders during their last week of school.

CONSIDERATIONS

DeBary Elementary meets all the requirements to receive the City's matching grant. They have 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 DeBary Elementary.
IMPLEMENTATION

Upon approval the Parks and Recreation Department will submit a check request to the finance department in the amount of $500 for DeBary Elementary.

ATTACHMENTS

Attachment A: Grant Application DeBary Elementary
GRANT REQUEST APPLICATION

Applicant Information

Legal Entry Name: LeeAnne Hochenberry
D/B/A Subgroup: DeBary Elementary School
Physical Address (No PO Box): 88 West Highbanks Ave.
City/State/Zipcode: DeBary, FL 32713
Contact Person: LeeAnne Hochenberry
Title: 5th Grade Celebration Committee Chair
Primary Phone Number: Cell Phone Number: 863-558-0246
E-Mail: lhochen@volusia.k12.fl.us
Tax Status: (Attach Exempt Certificate)

Grant Information:

TYPE: Monetary Contribution ☑ In Kind Services Waiver of Fees

Total Value of the Request (cannot exceed $500): $500.00

Description of Event, Include Date and Location:

The 5th Grade Celebration will be held on May 30th, 2023 at DeBary Elementary School. This event will be held at our P.E. field and our cafeteria. The first half of the event will include field day-style games. The 2nd half of this event will include a DJ dance party with food, drinks, photo booths, etc.

Will Admission Fees be Charged at your Event: Yes ☐ No ☑
If Yes, Admission Charge: $ _____ Per _____
Are Other Donations Being Solicited or Been Received:  Yes ☑ No __________

If Yes, Please Provide Information: A donation committee was formed and they have reached out to community members, business partners, PTO, and parents of 5th Graders.

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            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 _______
Consumer's Certificate of Exemption
Issued Pursuant to Chapter 212, Florida Statutes

<table>
<thead>
<tr>
<th>Certificate Number</th>
<th>Effective Date</th>
<th>Expiration Date</th>
<th>Exemption Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>85-8012622388C-5</td>
<td>12/31/2019</td>
<td>12/31/2024</td>
<td>SCHOOL-COLLEGE-UNIV</td>
</tr>
</tbody>
</table>

This certifies that

SCHOOL BOARD OF VOLUSIA COUNTY FLORIDA
200 N CLARA AVE
DELAND FL 32720-4207

is exempt from the payment of Florida sales and use tax on real property rented, transient rental property rented, tangible personal property purchased or rented, or services purchased.

Important Information for Exempt Organizations

1. You must provide all vendors and suppliers with an exemption certificate before making tax-exempt purchases. See Rule 12A-1.038, Florida Administrative Code (F.A.C.).

2. Your Consumer's Certificate of Exemption is to be used solely by your organization for your organization's customary nonprofit activities.

3. Purchases made by an individual on behalf of the organization are taxable, even if the individual will be reimbursed by the organization.

4. This exemption applies only to purchases your organization makes. The sale or lease to others of tangible personal property, sleeping accommodations, or other real property is taxable. Your organization must register, and collect and remit sales and use tax on such taxable transactions. Note: Churches are exempt from this requirement except when they are the lessor of real property (Rule 12A-1.070, F.A.C.).

5. It is a criminal offense to fraudulently present this certificate to evade the payment of sales tax. Under no circumstances should this certificate be used for the personal benefit of any individual. Violators will be liable for payment of the sales tax plus a penalty of 200% of the tax, and may be subject to conviction of a third-degree felony. Any violation will require the revocation of this certificate.

6. If you have questions about your exemption certificate, please call Taxpayer Services at 850-488-8800. The mailing address is PO Box 8480, Tallahassee, FL 32314-8480.

RECEIVED
OCT 2 2 2019
BY: __________________________
06/30/2022

The School District of Volusia County
P.O. BOX 2118
DELAND, FL, 32720

Re: Coverage Agreement - PX FLA 0645064 21-20
The School District of Volusia County, Florida
Effective Date: 07/01/2022 TO 07/01/2023

To Whom It May Concern:

Preferred Governmental Insurance Trust is unable to name non-governmental entities as an additional covered party due to Florida Statute 768.28.

Non-governmental entities do not enjoy sovereign immunity protection under Florida law. Coverage through the Preferred Governmental Insurance Trust is predicated upon the concept of sovereign immunity among all its members. Accordingly, entities which are not eligible for sovereign immunity protection under F.S. 768.28 may not be an additional covered party under the Preferred coverage agreement.

We appreciate your understanding.

Margaret E. Gross, CPCU
Director of Underwriting

**If Additional Covered Party status was not requested on the attached certificate, the provisions in this letter do not apply.**
**CERTIFICATE OF COVERAGE**

**ISSUED ON:** 06/30/2022

**PACKAGE AGREEMENT NUMBER:** PX FL4 0645064 21-20

**COVERAGE PERIOD:** 07/01/2022 TO 07/01/2023 12:01 AM

**COVERAGES:** This is to certify that the agreement below has been issued to the designated member for the coverage 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 coverage afforded by the agreement described herein subject to all the terms, exclusions and conditions of such agreement.

<table>
<thead>
<tr>
<th>Mail to: Certificate Holder</th>
<th>Designated Member</th>
</tr>
</thead>
<tbody>
<tr>
<td>The School District of Volusia County</td>
<td>The School District of Volusia County, Florida</td>
</tr>
<tr>
<td>P.O. BOX 2118</td>
<td>200 N. Clara Avenue</td>
</tr>
<tr>
<td>DELAND, FL 32720</td>
<td>Deland, FL 32720</td>
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**LIABILITY COVERAGE**

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<tr>
<th>Description</th>
<th>Limit</th>
<th>Deductible</th>
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<tr>
<td>Comprehensive General Liability, Bodily Injury, Property Damage and Personal Injury</td>
<td>Limit</td>
<td>Deductible</td>
</tr>
<tr>
<td>Employee Benefits Liability</td>
<td>Limit</td>
<td>Deductible</td>
</tr>
<tr>
<td>Employment Practices Liability</td>
<td>Limit</td>
<td>Deductible</td>
</tr>
<tr>
<td>Educators Legal Liability</td>
<td>Limit</td>
<td>Deductible</td>
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<td>Law Enforcement Liability</td>
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**PROPERTY COVERAGE**

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<tr>
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<tr>
<td>Buildings &amp; Personal Property</td>
<td>Per schedule on file with Trust</td>
<td>Deductible</td>
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<tr>
<td>Note: See coverage agreement for wind, flood, and other deductibles.</td>
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<tr>
<td>Rented, Borrowed and Leased Equipment</td>
<td>TIV</td>
<td>See Schedule for Deductible</td>
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<tr>
<td>Total All other Inland Marine</td>
<td>TIV</td>
<td>See Schedule for Deductible</td>
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**CRIME COVERAGE**

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<tr>
<td>Employee Dishonesty</td>
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<tr>
<td>Forgery or Alteration</td>
<td>Limit</td>
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<tr>
<td>Theft Disappearance &amp; Destruction</td>
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<tr>
<td>Computer Fraud</td>
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**WORKERS' COMPENSATION COVERAGE**

**WC AGREEMENT NUMBER:**

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<tr>
<td>Self Insured Workers' Compensation</td>
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<td>Statutory Workers' Compensation</td>
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<td>Employers Liability</td>
<td>Each Accident</td>
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<td>By Disease</td>
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**AUTOMOBILE COVERAGE**

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<td>Specifically Described Autos</td>
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<tr>
<td>Hired Autos</td>
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<tr>
<td>Non-Owned Autos</td>
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<tr>
<td>Automobile Physical Damage</td>
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<tr>
<td>Comprehensive See Schedule for Deductible</td>
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<tr>
<td>Collision See Schedule for Deductible</td>
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<tr>
<td>Hired Auto with limit of $500,000</td>
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**Garage Keepers**

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<td>Comprehensive Deductible</td>
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<tr>
<td>Collision Deductible</td>
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**NOTE:** Additional Covered Party status is excluded for non-governmental entities. The most we will pay is further limited by the limitations set forth in Section 768.28(5), Florida Statutes (2010) or the equivalent limitations of successor law which are applicable at the time of loss.

Description of Operations/ Locations/ Vehicles/ Special Items—(This section completed by member's agent, who bears complete responsibility and liability for its accuracy):

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the agreement above.

**Administrator**

Public Risk Underwriters®
P.O. Box 958455
Lake Mary, FL 32795-8455

**Producer**

Brown & Brown, Inc. - Daytona Beach
300 North Beach Street,
Daytona Beach, FL 321152412

**PGT-CERT (1/19) PRINT FORM**

06/30/2022
CERTIFICATE OF LIABILITY INSURANCE  

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFRS 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).

PO Box 2412  
Daytona Beach  
FL 32115-2412

INSURED: School Board of Volusia County  
PO BOX 2118  
DELAND  
FL 32721

CONTACT NAME: Patricia Heiskell  
PHONE (AIC, No. Ext.): (386) 239-8834  
FAX (AIC, No): (386) 323-8165  
E-MAIL: Patty.Heiskell@bbrown.com

INSURER(S) AFFORDING COVERAGE:  
INSURER A: Star Insurance Company  
NAIC #: 16023

COVERAGES  
CERTIFICATE NUMBER: 22-23 XS WC  
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.

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<th>POLICY EXP (MM/DD/YYYY)</th>
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<td>AND EMPLOYERS' LIABILITY</td>
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<tr>
<td></td>
<td>ANY PROPRIETOR/COMPANY EXECUTIVE OFFICER/MEMBER EXCLUDED?</td>
<td></td>
<td>Y/N</td>
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<td>IF YES, DESCRIBE UNDER DESCRIPTION OF OPERATIONS below</td>
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</tbody>
</table>

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

CERTIFICATE HOLDER:  
SCHOOL BOARD OF VOLUSIA COUNTY  
P.O. BOX 2118  
DELAND  
FL 32721

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

AUTHORIZED REPRESENTATIVE:  

© 1988-2015 ACORD CORPORATION. All rights reserved.
TO WHOM IT MAY CONCERN

RE: Certificate of Insurance for Volusia County Schools

CERTIFICATE OF INSURANCE

This is to certify that:

School District of Volusia County, Florida
School Board of Volusia County

Is covered under a self-insurance program, subject to Florida Statute 768.28 in all matters relating to general liability.

Effective Date: 7/01/2022

Very truly yours,

Stephanie A. Workman
Director, Human Resources
April 3, 2023

Leslie Frazee
DeBary Elementary School Principal
88 West Highbanks Road
DeBary, FL 32713

I am writing on behalf of the DeBary Elementary 5th Grade Celebration Committee to request $500 Grant to help make our 5th Grade Celebration successful. Our 5th grade celebration is scheduled for Tuesday, May 30, 2023. At this event, our DeBary Elementary 5th graders will have a day filled with games, food, dancing, and most of all, FUN! This is one of our most highly anticipated events of the year where students get to be rewarded and celebrated for their years of hard work and dedication. We rely heavily on businesses like yours who donate to our events so generously.

We would greatly appreciate any donation you can make. We are still working on expenses for this event. We will need to cover all costs that are not raised through in-kind donations or money. The budget includes food, decorations, swag bags, and entertainment. Projected revenue is $0.00.

If you have any questions or need further information, please contact our celebration chairperson, LeeAnne Hockenberry at (863) 558 – 0246 or at lhhocken@volusia.k12.fl.us. On behalf of the students, parents, and faculty of DeBary Elementary, thank you for your consideration.

Sincerely,
Mrs. Leslie Frazee
Principal of DeBary Elementary
# Account History Report
## DeBary Elementary School
### 8/1/2021 through 7/31/2022

<table>
<thead>
<tr>
<th>Account Number: 3050.800</th>
<th>Manager:</th>
<th>Account Description: 5th Grade - Donation</th>
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</thead>
<tbody>
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<td>Receipts YTD: $0.00</td>
<td>Disbursements YTD: $0.00</td>
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<td>Received: $0.00</td>
<td>Transfers YTD: $0.00</td>
<td>Enc. Outstanding: $0.00</td>
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<td>Ref.</td>
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*8/1/2022 through 4/4/2023*

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City Council Meeting
City of DeBary
AGENDA ITEM

Subject: 2022 Street Resurfacing Project – Final Payment – Change Order No. 1
From: Carmen Rosamonda, City Manager
Meeting Hearing Date April 19, 2023

Attachments:
( ) Ordinance
( ) Resolution
(x) Supporting Documents/ Contracts
( ) Other

REQUEST

City Manager is requesting City Council approval of Change Order No. 1 and Final Payment according to the Piggyback Agreement with MASCI GENERAL CONTRACTOR, INC. for the 2022 Street Resurfacing Project.

PURPOSE

MASCI GENERAL CONTRACTOR, INC. completed the 2022 Street Resurfacing Project in March 2023. Final Payment is recommended for satisfactory Work that is complete according to the limits of Work as directed by the City.

CONSIDERATIONS

The roadways resurfaced under the Agreement are; Donald E. Smith Boulevard, Hammock Oak Circle, Hazeltine Drive, Colomba Road, S Shell Road, Cedarwood Court, Caddie Court, Toms Road, DeBary Drive and Plantation Club Drive and sections of the parking lot at DeBary City Hall required resurfacing to improve drainage.

Generally, the project improved the asphalt pavement for the sections of roadway contemplated by the City. The asphalt pavement installed is expected to provide a relatively smooth and durable wearing surface for many years. Incomplete installation of pavement markings and striping by the Contractor delayed completion of the project by several months.

Some of the project sites required additional or extended paving limits as directed by the City. Additional asphalt pavement thickness was required at some locations in order to restore the roadway to satisfactory condition. The attached Summary Project List is updated to show the Final Cost for each site as well as the original cost. The attached Change Order No. 1 document includes a summary of the project costs for each site with commentary for each project site and the associated costs.

The overall project was completed at a cost of $569,695.92, 13% more than the original contract amount of $504,241.01. Change Order No. 1 is the additional amount of $65,454.91. With approval of the Piggyback Agreement, City Council approved a contingency amount of $25,212.05 for unforeseen conditions. City Council approval of the additional amount of $40,242.86 is required to fund the full amount of Change Order No. 1.
COST/FUNDING

Funding for the Base Contract amount of $504,241.01, and Change Order No. 1 shall be from the Gas Tax Fund and General Fund.

Previous payment to MASCI GENERAL CONTRACTOR, INC has been made in the amount of $479,028.96. Final Payment to MASCI GENERAL CONTRACTOR, INC. is in the amount of $90,666.96.

RECOMMENDATION

It is recommended that City Council approve Final Change Order No. 1 to MASCI GENERAL CONTRACTOR, INC. in the amount of $65,454.91.

ATTACHMENTS

- Summary Project List with Original Cost and Final Cost
- Change Order No. 1
### 2022 Street Resurfacing Project - Summary Project List and Cost

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<td>3. Hazeltine Drive</td>
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April 11, 2023

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

2022 Street Resurfacing Project
Piggyback Agreement with Masci General Contractor, Inc.
Final Payment and Change Order No. 1

Carmen,

Masci General Contractor, Inc. completed the 2022 Street Resurfacing Project in March 2023 and has submitted its Final Request for Payment. The Final Payment includes a request for Change Order No. 1. Change Order No.1 is comprehensive summary of additive and deductive changes to the Contract quantities and costs for each of the eleven project sites that comprise the Contract.

Included below is a commentary on each project site regarding the final quantities and costs for each of the eleven sites.

**Project No. 1** – Donald E. Smith Boulevard was estimated to cost $106,444.80 and was completed for $105,803.30. Minor additional milling and asphalt paving was required at the intersection with Hightower Drive.

**Project No. 2** – Including Part A, B, C, D, and E of the Hammock Oak Circle project was estimated to cost $38,068.05 and was completed at a cost of $47,772.48, 25 % over budget.

Hammock Oak Circle was constructed approximately thirty-five years ago and the original pavement thickness was approximately ¾”, which is significantly less than the recommended pavement thickness according to current standards. Milling of the existing pavement exposed large areas of the pavement base (lime rock). Sections of the exposed roadway base was unstable and was removed by power sweeping as required prior to paving. Additional asphalt material (tonnage) was required to replace and restore the pavement to the standard thickness.

**Project No. 2A** – Approximately 100 LF of additional milling and resurfacing of pavement was approved by the City Manager to improve the pavement transition for a smoother ride at the intersection of Hickory Stick Court. The Contractor re-mobilized for milling operations to include additional pavement restoration.

**Project 2B** - Hammock Oak Circle between Hickory Stick Court and Hazeltine Drive – additional asphalt was required to fill low areas that resulted from the loss of base material after milling and sweeping. Core samples were taken from the completed roadway that confirmed the actual paving thickness was approximately 2.1” where 1.5 inches was required.

**Project 2E** - Mid-Block Repair – a field change was issued to extend the resurfacing (approximately 30’-0 LF) to relocate the pavement joint (existing to new) to a point between two homes and improve the...
transition from existing to new pavement. Project 2E also require additional concrete curb to be replaced to address new settlement of the existing curb causing runoff water to puddle on the roadway. These additional costs were completed for the Contract unit price of the work.

**Project No. 3 - Hazeltine Drive from Hammock Oak Circle to Hinsdale Drive**

Hazeltine Drive was constructed approximately thirty-five years ago and the original pavement thickness was approximately ¾”, a thickness that is significantly less than the pavement thickness required according to current standards. Milling of the existing pavement exposed large areas of the pavement base (lime rock). Sections of the exposed roadway base was unstable and was removed by power sweeping as required prior to paving. Additional asphalt material (tonnage) was needed to replace and restore the pavement to the specified thickness of 1.5 inches. Core samples were taken from the completed roadway that confirmed the actual paving thickness was approximately 2.3”.

Additional resurfacing of 83 LF of pavement was approved by field change to eliminate an unforeseen depression in the existing pavement of Hazeltine Drive. Apparently the depression had worsened since the original scope of the project was determined.

The Hazeltine Drive project was completed at a cost of $34,583.69, however the original estimate of cost was $26,189.87. The final cost is 24% more than the original contract amount.

**Project No. 4 – Colomba Road**

The Colomba Road project was completed for a cost of $80,059.60 and the original cost for the project was estimated to be $91,973.66. Project No. 4 was completed for 13 % less cost than the contract amount.

**Project No. 5 – South Shell Road – Benson Junction Road to Spring Vista Drive**

The section of S Shell Road between Benson Junction Road to Spring Vista Drive is used extensively by heavily loaded trucks and tractor trailer vehicles. While the milling and paving operations were in progress heavy rain occurred which saturated the exposed lime rock base material. Travel by heavy trucks on the saturated base material caused severe rutting and depressions. Prior to paving it was determined that an additional leveling course of asphalt would be necessary to fill the large ruts and depressions. The additional asphalt quantity that was required to address the damage to the base material resulted in the 19% overage to the cost of the project. The original estimated cost was $71,574.27 and the final cost was $88,400.50.

**Project No. 6 - Cedarwood Court**

The Cedarwood Court project was completed for a cost of $21,167.28 and the original cost for the project was estimated to be $22,021.65. Project No. 6 was completed for 4 % less cost than the contract amount.

**Project No. 7 – Caddie Court**

The Caddie Court project was completed for a cost of $18,298.35 and the original cost for the project was estimated to be $22,535.06. Project No. 7 was completed for 19 % less cost than the contract amount.
Project No. 8 – Toms Road

The Toms Road project was completed for a cost of $28,266.29 and the original cost for the project was estimated to be $36,813.00. Project No. 8 was completed for 24% less cost than the contract amount.

Project No. 9 – City Hall Parking Lot

The original estimate for pavement repair of a large depression in the City Hall Parking lot was $2,741.33. However, during the pavement resurfacing operation, it was observed that sections of the pavement retained water (puddling) in adjacent areas of the parking lot. Additional milling and paving was required to accomplish the intended goal of eliminating puddles from the parking lot area in front of City Hall. The final cost of the pavement restoration for the City Hall parking lot is $7,397.97.

Project No. 10 – DeBary Drive – from Plumosa Road to Palm Road

DeBary Drive was planned for street resurfacing in 2019 however but was not included in the 2019 project. Calculations and payment quantities contemplated for the 2019 project were used for the 2022 project. However additional re-surfacing was required that expanded the original scope and increased the amount of milling of the existing pavement and additional asphalt to restore the pavement. Also, the pavement thickness of DeBary Drive was increased by Masci General Contractors to restore the pavement cross slope to the standard, 2%. As the result of the increased scope and the additional thickness of asphalt required to correct the cross slope the project cost was increased by 29%, from $71,896.36 to $93,331.55.

Project No. 11 – Plantation Club Drive – Between DeBary Plantation Boulevard and Caddie Lane

Plantation Club Drive milling and resurfacing was estimated to cost $13,982.96 for the section between Caddie Lane and Cedarwood Court. However, at the direction of the City Manager the project limits were extended to add approximately 500 LF of milling and resurfacing to complete the resurfacing of Plantation Club Drive from Cedarwood Ct. to DeBary Plantation Boulevard. With the additional resurfacing, the total cost of Project No. 11 is $30,514.40.

The summation of costs for the eleven project sites is $569,695.92. The original Contract Amount is $504,241.01. Change Order No. 1 is a summation of over and under costs in the amount of $65,454.91.

If you have questions or comments, please let me know.

Kevin J Hare
President, KHARE Construction Services, LLC.
City Council Meeting
City of DeBary
AGENDA ITEM

**Subject:** Ordinance #03-2023, Development Agreement with Mosaic at DeBary, LLC

**From:** Carmen Rosamonda, City Manager

**Meeting Hearing Date:** April 19, 2023

**Attachments:**
- (x) Ordinance
- ( ) Resolution
- ( ) Supporting Documents/ Contracts
- ( ) Other

**REQUEST**

City Manager requests City Council approve Ordinance # 03-2023 on second reading, Development Agreement with Mosaic at DeBary, LLC for the DeBary Main Street Project.

**PURPOSE**

The purpose of this Ordinance is to approve the Master Development Agreement (MDA) which includes the Purchase and Sales Agreement (PSA) for Phase II.

**CONSIDERATIONS**

- The City approved a PSA for Mosaic Development, LLC on April 6, 2022, which provided for the closing of the 19.7 acres of property known as the DeBary Main Street project within one year. The City Council approved Amendment #5, which extended the closing date to June 30, 2023. This was primarily due to complexities associated with finalizing the MDA.

- Amendments # 1-4 and #6 were approved by the City Manager to extend the deadline date for the approval of the MDA which was within the framework of the PSA.

- Assignment and Assumption and 7th Amendment of Purchase and Sale Agreement was approved by City Council on April 5, 2023. The purpose of this document is to assign and assume all of the PSA and Development Agreement approval from Mosaic Development, LLC to Mosaic at DeBary, LLC. Mosaic at DeBary, LLC will close on the property and will own, develop the property and execute the business at DeBary Main St. Mosaic Development, LLC will be the parent corporation.

- The developer plans to develop the property in two phases. Phase 1 will be 13.07 acres consisting of 12 buildings with 227 residential units, 37,560 s.f. of retail and 7,000 s.f. of management office. Phase 2 will be 5.62 acres consisting of 5 buildings with 170 residential units.

- The First Amendment to the Ronald Muse Lease is on the April 5, 2023 agenda, whereby he has agreed to the new road and sidewalk alignment utilizing a part of the front yard as depicted in the lease agreement. The Muse property will be an option to purchase depending on the timing
of the termination of the lease which will occur upon the death of the resident or if he voluntarily vacates the property. Mosaic has an option to buy the 1.02 acres if the lease terminates prior to the closing of the Phase 2 property. If the lease terminates after the Phase 2 closing, Mosaic will have first right of refusal for a period of ten (10) years.

- Upon approval, Mosaic at DeBary, LLC will enter the DRC process whereby engineering and waivers will be finalized and approved. The waivers will be brought to City Council for approval once they have been clearly identified and itemized.

- Upon approval, Mosaic at DeBary, LLC will be moving towards closing of Phase 1 of the property by June 30, 2023.

COST/FUNDING

There is no cost for approving Ordinance #03-2023.

RECOMMENDATION

It is recommended that the City Council approve Ordinance # 03-2023 on second reading, Development Agreement with Mosaic at DeBary, LLC for the DeBary Main Street Project.

IMPLEMENTATION

Immediately upon second reading approval.

ATTACHMENTS

Ordinance 03-2023
Master Development Agreement
Purchase and Sale Agreement
ORDINANCE NO. 03-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEBARY, FLORIDA, APPROVING A DEVELOPMENT AGREEMENT WITH MOSAIC AT DEBARY, LLC FOR THE MAIN STREET DEBARY TRANSIT ORIENTED DEVELOPMENT PROJECT BEING A MULTI-USE PROJECT ON APPROXIMATELY 19.71 +/- ACRES OF LAND LOCATED ON THE WEST SIDE OF U.S. HIGHWAY 17/92 HAVING VOLUSIA COUNTY TAX PARCEL IDENTIFICATION NUMBERS 9009-00-00-0070, 9009-00-00-0050, 9009-00-00-0060, 9009-00-00-0070, 9009-00-00-0022, 9009-00-00-0080, 9009-00-00-0090 and 9009-00-00-0091; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, Mosaic at DeBary, LLC ("Developer") is the developer of that certain real property being approximately 19.71 +/- acres in size and being a portion of Volusia County Tax Parcel Identification Numbers 9009-00-00-0070, 9009-00-00-0050, 9009-00-00-0060, 9009-00-00-0070, 9009-00-00-0022, 9009-00-00-0080, 9009-00-00-0090 and 9009-00-00-0091, and legally described in Exhibit "A" of the Development Agreement attached hereto (the "Property"); and

WHEREAS, the Property is within the Transit-Oriented Development Overlay District and within the Southeast Mixed Use Area (SEUMA/TOD) as depicted on the City's Comprehensive Plan Future Land Use Map; and

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

WHEREAS, the City Council finds that the Development Agreement is consistent with the Comprehensive Plan and the City of DeBary Land Development Code; and

WHEREAS, the Development Agreement is being approved in accordance with Chapter 5, Article VI, City of DeBary Land Development Code, and upon adoption of this Ordinance and execution of the Development Agreement, the Property will be assigned the TOD zoning on the City of DeBary zoning map; and

WHEREAS, The Development Agreement is not a statutory Development Agreement and is approved and entered into under the provisions of the SEMUA/TOD, the City's Land Development Code and City's home rule power; 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 this Ordinance; and

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

SECTION 1. Recitals. The City Council finds that the above recitals are true and correct, and are incorporated herein as legislative findings.
SECTION 2. Development Agreement. The Development Agreement concerning the Property attached hereto is hereby approved. The development of the Property shall be governed by the Development Agreement attached hereto as Attachment A. With respect to any conflict between the City of DeBary Land Development Code, as amended, and the Development Agreement, the provisions of the Development Agreement shall control to the extent of the conflict. The City of DeBary Land Development Code, as amended, shall govern the development of the Property with respect to any matter not addressed by the Development Agreement. A violation of this Ordinance or any provision of the attached Development Agreement is considered a violation of the Land Development Code and zoning of the Property. Upon the approval and execution of the Development Agreement approved herein, the Property is administratively rezoned on the City zoning map to TOD zoning in accordance with Chapter 5, Article VI, City of DeBary Land Development Code.

SECTION 3. Recording. The City Clerk is hereby directed to record this Ordinance and the attached Development Agreement in the Public Records of Volusia County, Florida. This Ordinance and attached Development Agreement 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. Conflicts. In the event of a conflict or conflicts between this Ordinance and other ordinances, this Ordinance shall control to the extent such conflict exists.

SECTION 6. Effective Date. As indicated in the Development Agreement, Developer plans to develop the Property in two consecutive phases, with the first phase being known as Phase I and the second phase being known as Phase II. The fee simple title to the Property is currently owned by the City of DeBary and by several other owners. At or prior to the Phase I closing, the City of DeBary will acquire all the remaining portions of the Property that it does not currently own and will then convey the Phase I property to the Developer. This Ordinance shall take effect upon the conveyance of the Phase I property to the Developer.

First reading and public hearing occurred on ________________ , 2023.

Second reading and public hearing, and adoption occurred on ________________ , 2023.

{Signatures on the following page}
ADOPTED BY the City Council of the City of DeBary, Florida this ____ day of __________, 2023.

CITY COUNCIL
CITY OF DEBARY, FLORIDA

By: __________________________
    Karen Chasez, Mayor

ATTEST:

By: __________________________
    Annette Hatch, City Clerk

DEVELOPMENT AGREEMENT FOR
MAIN STREET DEBARY
TRANSIT ORIENTED DEVELOPMENT

THIS DEVELOPMENT AGREEMENT (herein this “Agreement” or “Development Agreement”) entered into and made as of the 31st of March, 2023, by and between the City of DeBary, a Florida municipal corporation (hereinafter referred to as the “City”), and Mosaic at DeBary LLC, a Florida limited liability company, its successors and assigns (hereinafter referred to as the “Developer”).

WHEREAS, Developer represents and warrants that, pursuant to that Purchase and Sale Agreement dated April 6, 2022 (concerning Phase I and Phase II), Developer is the contract purchaser of that certain real property being approximately 19.71 acres in size, being a portion of Volusia County Parcel Identification Numbers 9009-00-00-0040 and 9009-00-00-0050 and 9009-00-00-0060 and 9009-00-00-0070 and 9009-00-00-0022 and 9009-00-00-0080 and 9009-00-00-0090 and 9009-00-00-0091, and legally described on Exhibit “A” attached hereto and made a part hereof by reference (the “Property”); and

WHEREAS, Phase I consists of approximately 13.07 acres (the “Phase I Property”) and Phase II consists of approximately 5.62 acres (the Phase II Property) with the legal descriptions of each as set forth in this Agreement. The remaining parcel consisting of approximately 1.02 acres that is more particularly described on the attached Exhibit “A-1” (the “Option Parcel”) is subject to an option and right of refusal in favor of the Developer; and

WHEREAS, the Purchase and Sale Agreement dated April 6, 2022 contemplated the parties enter into this Agreement and a purchase and sale agreement for the Phase II Property (“Phase II PSA”) the form for which has been agreed to by the parties and is attached hereto as Exhibit “A-2”; and

WHEREAS, the Property is within the Transit-Oriented Development Overlay District and within the Southeast Mixed Use Area (SEMUA/TOD) as depicted on the City’s Comprehensive Plan Future Land Use Map and will have TOD zoning; and

WHEREAS, the Developer desires to facilitate the orderly development of the Property, in compliance with the laws and regulations of the City and of other governmental authorities, and the Developer desires to ensure that its development is compatible with other properties in the area and planned traffic patterns; and

WHEREAS, the Developer desires to develop the Property with a mix of multi-family residential, live-work units, retail and commercial development as shown on the Preliminary Master Plan attached as Exhibit “B” and Exhibit “B-1” (the “Project”); and
WHEREAS, it is the purpose of this Development Agreement to clearly set forth the understanding and agreement of the parties concerning the matters contained herein; and

WHEREAS, the City of DeBary City Council finds that this 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; and

WHEREAS, the City Council finds that this Development Agreement and the Preliminary Master Plan is consistent with the Comprehensive Plan and the City of DeBary Land Development Code;

WHEREAS, This Development Agreement is not a statutory Development Agreement and is approved and entered into under the provisions of the SEMUA/TOD, the City’s Land Development Code and City’s home rule power; and

WHEREAS, this Agreement has been approved by City Council pursuant to Ordinance No. _______________, dated _______________.

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

1. **Ownership Title/Certification/Lot Consolidation.** The Developer represents and warrants that it is the contract purchaser of the Property. Developer will provide to the City, in advance of the City’s execution of this Agreement, a title opinion of an attorney licensed in the State of Florida, or a certification by an abstractor or title company authorized to do business in the State of Florida, showing marketable title to the Property to be in the name of the Developer or the applicable contract sellers and showing all liens, mortgages, and other encumbrances not satisfied or released of record. The Property consists of portions of multiple parcels, which are hereby consolidated into one unified parcel for development consistent with the Preliminary Master Plan. All portions of the Property acquired by Developer shall be retained in single ownership, remain as a single, integral parcel, and will not be subdivided, severed, sold, leased, encumbered, or otherwise disposed of in lesser constituent parcels unless and until subsequent approval is sought from and obtained by the City for a legal subdivision of the same. The Developer shall not convey portions of the Property without first having obtained approval of and recorded a final plat creating a legal subdivision of the portion of the Property it intends to convey separately from the remainder of the Property along with obtaining necessary amendments to the Preliminary Master Plan.

2. **Preliminary Master Plan/TOD.** The Property will be developed as a Transit Oriented Development (TOD) substantially in accordance with the Preliminary Master Plan attached hereto as Exhibit “B” and Exhibit “B-1” and incorporated herein by this reference (collectively “Preliminary Master Plan”) and in accordance with the terms and conditions of this Agreement and the applicable provisions of the City of DeBary Land Development Code. The Preliminary Master Plan is hereby approved by the City Council as a conceptual development plan for the Project and is subject to revision for individual subphases of the Project as provided in the Final Site Plan or Plat application for each subphase. In addition to this Agreement and the City Codes,
Site Plan or Plat application for each subphase. In addition to this Agreement and the City Codes, the Preliminary Master Plan will govern the development of the Property. The Property will be designated with the TOD zoning designation. The Preliminary Master Plan, as part of this Development Agreement, must be filed and retained for public inspection in the office of the City of DeBary and constitute a supplement to the Official Zoning Map of the City of DeBary. As indicated on the attached Exhibit “C”, at this time, Developer has not requested any waivers to the City’s Land Development Code. Therefore, the permitted uses and requirements for development within the Project will be as provided in the City’s Transit-Oriented Development Overlay District. To the extent Developer desires any waivers to the City’s Land Development Code in the future, Developer will submit such requests to the City for consideration by separate submittal pursuant to the City’s normal procedure. The Project will be subject to architectural guidelines which will be submitted by the Developer to the City for review and approval per Section 5-134 of the City of DeBary Land Development Code.

3. **Obligations for Infrastructure Operation and Maintenance.** All utility lines and appurtenances on the Property, including without limitation, electric transmission and distribution lines, shall be installed underground except where above-ground appurtenances are required. The Developer shall cause, at its expense, all necessary extensions of potable water and sanitary sewer mains from their current terminus to the appropriate locations on the Property for service connections in accordance with the requirements of Volusia County. Developer shall grant, at no cost to the City or to any other grantees, utility easements over, under, and through the Property for potable water and sanitary sewer as may be necessary. The Developer acknowledges all and any wastewater transmission system or other utility system improvements proposed along or across any public rights-of-way will require the Developer’s submittal of a Right-of-Way Utilization Permit application and approval of same by the appropriate agency. At no cost to the City, but subject to Developer’s entitlements to impact fee credits where applicable in accordance with this Agreement and the City Code, the Developer shall construct the infrastructure described on the attached Exhibit “D” (“Required Infrastructure”) and shall dedicate or convey to the City the right of way and real property associated with such portions of the Required Infrastructure, as the City directs, in the City’s reasonable discretion, all free and clear of all liens and encumbrances and subject to the reasonable specifications, requirements (including without limitation performance and payment bonds), and satisfaction of the City. At no cost to the City, but subject to Developer’s entitlements to impact fee credits where applicable in accordance with this Agreement and the City Code, the Developer shall also construct the infrastructure described on the attached Exhibit “B-1” (“Additional Infrastructure”). Developer and its successors and assigns shall after construction of the Required Infrastructure and Additional Infrastructure, at Developer’s sole cost and expense, repair, maintain, and replace the Required Infrastructure and the Additional Infrastructure to keep such in clean and functional condition; provided, however for the matters and to the extent the City or third party assumes such as expressly noted on Exhibit “B-1”, the City or third party shall be responsible therefore as noted.

In order to ensure that the north-south public right of way through the Property is maintained, except potentially for temporary brief closure as may be approved by the City, at Closing, the City shall have, reserve, and retain, and the Developer shall execute if required by the City, an easement ("Shell Road Easement") for the City and the public for utilities and motor vehicle and pedestrian ingress, egress, and passage over, on, under, across, and through the existing...
south Shell Road including the maintained right of way and easements as depicted on that certain Boundary and Topographic Survey dated September 22, 2022 by Southeastern Surveying and Mapping, Drawing Number 68613001 consisting of 10 sheets (the “Survey”) which Shell Road Easement shall remain in full force and effect unless and until the Developer has completed the design, permitting, and construction of the realignment of Shell Road (Main Street) as reflected on the Preliminary Master Plan along with the associated Retention Lakes, Dry Retention, and other storm water facilities to accommodate the storm water from the realigned road, and the completed improvements and underlying real property have been approved by, conveyed or dedicated (as applicable) to, and accepted by the City with maintenance bonds and in accordance with all City requirements. Once the foregoing improvements are completed and approved by the City, Developer shall deed or dedicate (as applicable) the foregoing to the City free and clear of all liens and encumbrances using forms approved by the City. The Developer shall cause all utilities located within or along the existing Shell Road to be relocated as part of the road relocation. Once the foregoing improvements have been approved and are accepted and owned by the City, the Shell Road Easement shall terminate and Developer shall thereafter, in perpetuity, maintain, repair, and replace all of the improvements, excluding the roadway and stormwater improvements located within Main Street, to keep such in clean and functional condition.

Prior to recording of any plat of any portion or all of the Phase I or Phase II Property or the sale or lease of any portion of the Phase I or Phase II Property, the Developer shall furnish the City with those documents necessary to evidence and ensure compliance with the Developer’s obligations under this Agreement and with the requirements, standards, restrictions and conditions of the City Code, including without limitation the requirements of Section 4-187 of the City Land Development Code, as requested by the City.

Without limitation as to any other City rights and recourse, no certificate of occupancy for any building on the Property will be issued unless and until the Developer has completed the design, permitting, and construction of the Required Infrastructure, including the realignment of Shell Road (Main Street) from Shell Road’s current location to the location and configuration reflected on the Preliminary Master Plan along with the associated Retention Lakes, Dry Retention, and other storm water facilities to accommodate the storm water from the realigned road, and the completed improvements and underlying real property have been conveyed or dedicated (as applicable) to the City with maintenance bonds and in accordance with all City requirements.

4. **Grant of Cross Access & Non-Exclusive Access Easements.**

   **A.** At no cost to the City or adjacent property owners, the Developer shall create interconnectivity for vehicular and pedestrian access between the Property and adjacent properties and grant cross access easements to accomplish the same. At no cost to the City, the Developer acknowledges and agrees that it will grant, convey, and assign to the City full, free, and nonexclusive rights to travel, enter, exit, pass and/or access, with or without vehicles, upon, over, and across, and all driveways, drive aisles and cross access easements of the Property for ingress and egress over and through the Property to and from adjacent properties and public rights-of-way, as determined reasonably necessary or appropriate by the City and in a form and with terms mutually acceptable to the City and Developer. In no event will the City have any operation, maintenance, or repair responsibilities concerning the cross-access easements and improvements thereon; as such shall be maintained by the Developer and its successors and assigns. The number
and location of such cross-access easements will be consistent with the Preliminary Master Plan and be finally determined by the City as part of the Developer's future final site plan application review and executed and recorded prior to the issuance of the final site plan approval. The Developer shall create and submit, at its own expense, for the City's review and approval a final site plan application for the Property. The granting, conveying and assigning of such easements must be in form and substance mutually acceptable to the City and Developer and must be recorded with specific legal descriptions identifying the affected lands in the Public Records of Volusia County, Florida. In the event the City and Developer do not both agree on the form, terms, and substance of the easements called for above, the form, terms, and substance shall be those typically required by the City in other developments.

B. Upon development of any phase of the Property, the City, the County of Volusia, and other public service and emergency service providers, at no cost, are hereby granted a non-exclusive easement over, under, across, and through the privately owned internal roads, alleys, paved areas, and sidewalks of the Property (as constructed in the future) for vehicular and pedestrian ingress and egress access for the purpose of providing public and emergency services to and from the Project and Property, including, but not limited to, postal, fire protection, police protection, emergency medical transportation, code enforcement, garbage, utilities, and other public and emergency services. The Developer will incorporate signage on the Property to prohibit parking along the alley-ways where emergency vehicles cannot be accommodated by on-street parking.

5. **Final Site Plan/Subdivision Approval.** After the Preliminary Master Plan is recorded, a Final Site Plan or subdivision (whichever is applicable) for subsequent phases of the development will be prepared and submitted by the Developer at the Developer’s cost for review and approval in the manner required by the City’s Code, as amended.

6. **Phases of Development.** The Property will be developed in two primary phases (as opposed to subphases within each primary phase) designated as Phase I and Phase II. The property included in Phase I is more particularly described on the attached Exhibit "E" (the “Phase I Property”) and the property included in Phase II is more particularly described on the attached Exhibit "F" (the “Phase II Property”). The Developer may change the location and number of subphases of either primary phase but such changes are subject to City review and approval (which shall not be unreasonably withheld or conditioned) as part of a land development application. Completion of construction of the Required Infrastructure, Additional Infrastructure, and the Phase I portion of the Project shall occur on or before 36 months after the Effective Date. Completion of construction of the Phase II portion of the Project shall occur on or before 24 months after the Phase II closing. Provided Mosaic is proceeding in good faith using commercial due diligence in seeking all development approvals for and construction of the Project, but force majeure events, including unanticipated material and substantial adverse market conditions prevent Mosaic from meeting the foregoing deadlines, the time frames for Mosaic’s performance hereunder shall be extended accordingly provided that the City approves such extension(s). Although the Property is being developed in two primary phases, the Developer shall construct all the infrastructure for the Project (including that infrastructure referenced in Section 3 above) during the development of Phase I and the City shall provide the Developer with sufficient temporary construction easements.
or agreements over the Phase II Property to accommodate such construction, if needed.

7. **Development Standards.**

Development standards for each phase of development under the Preliminary Master Plan must be as provided in the TOD zoning designation except to the extent a waiver or waivers are granted by the City hereafter.

8. **Environmental Considerations.** The Developer agrees to comply with all federal, state, county, and municipal laws, rules, and regulations applicable to the Property. The minimum tree preservation area must comply with the provisions of the City of DeBary Land Development Code.

9. **Sewage Disposal and Potable Water.** Provision for sewage disposal and potable water needs for the Project must be provided in accordance with the City of DeBary, by connection to the Volusia County Water and Sewer system.

10. **Stormwater Drainage.** Provision for stormwater retention/detention must be in accordance with the requirements of the St. Johns River Water Management District of Florida and the City of DeBary’s Land Development Code. No stormwater drainage facility may encroach into any required buffer yard area.

11. **Access and Transportation System Improvements and Matters Subject to Credits.** All access and transportation system improvements must be provided in accordance with the City of DeBary Land Development Code. The Property must be developed in substantial accordance with the following access and transportation system improvements:

   A. Access to the Property must be provided from U.S. Highway 17/92, Fort Florida Road and Shell Road. Such driveway connections must be designed, constructed, and maintained in compliance with the requirements of the City Code, the County of Volusia, and the Florida Department of Transportation, as appropriate. The location, design, and placement of the driveways on the Property, including the driveways shown on the Preliminary Master Plan, are subject to change, review, and approval by the City, County, or FDOT, as appropriate, as part of the final site plan review process, but any required changes or restrictions concerning access or driveways shall not prevent the mixed use development concept outlined on the Preliminary Master Plan or reduce the development unit counts and non-residential square footage.

   B. The Developer is solely responsible for the full cost of designing, engineering, permitting and constructing all on and off-site traffic circulation driveways, site access, including turn lanes and acceleration and deceleration lanes and tapers and intersection and traffic signalization improvements that are or may be required to accommodate project traffic impacts, which impacts result directly from the development or use of the property.

   C. The Developer shall provide safe, efficient, and convenient internal traffic and pedestrian circulation. The City may modify proposed traffic and pedestrian circulation improvements during final site plan approval to provide safe, efficient, and convenient access.

   D. The Developer agrees to complete or cause to be completed the construction of the mobility improvements, including sidewalks, paths, and trails, as further listed and/or
illustrated on the attached Exhibit “G” in accordance with Developer’s proposed final plans and specifications as may be approved by the City (collectively, the “Mobility Improvements”). As a result of the Developer funding or causing to be funded the Mobility Improvements, the Developer will be entitled to a credit, and if applicable, reimbursement against the City’s mobility impact fees provided the Developer complies with the requirements set forth below and in this Agreement and City Code. Upon completion of all or a portion of the Mobility Improvements described herein, the Developer shall provide or otherwise cause to be provided the following to the City: (i) from the project engineer, the certified construction costs of the completed Mobility Improvements that are funded or caused to be funded by Developer that will comprise the value for the credit and/or reimbursement, subject to the City’s review and approval thereof; (ii) a signed and sealed certification from the City’s engineer of record that the completed Mobility Improvements were constructed in accordance with City approved plans; (iii) certification of the as-built construction drawings for the Mobility Improvements; (iv) assignment of any warranty for the Mobility Improvements provided by the contractor to the City; and (v) proof of the City’s inspection approval for the completed Mobility Improvements. The City shall have fifteen (15) business days from the date of receipt of the certified costs to review the certified costs of the completed improvements and shall render its determinations within thirty (30) days of receipt of such cost certifications. Upon the City’s approval of the certified costs for and inspection approval of the Mobility Improvements, the Developer shall transfer any applicable Mobility Improvements to the City via a bill of sale and/or deed free and clear of all liens and encumbrances and in a form acceptable to the City along with an assignment of warranties from all contractors. To the extent the City’s determinations approve the certified costs, and the requests are compliant with the City Code, the City shall issue mobility impact fee credits to the Developer on a dollar-for-dollar basis based on dollar value (“Mobility Reimbursements”); and in the event a builder within the Property pays a mobility impact fee to the City, either prior to the Mobility Reimbursements contemplated herein being granted to Developer or while Developer has outstanding Mobility Reimbursements, the City shall either reimburse the builder or issue a credit to the Developer in the amount equal to the amount paid by the builder to the City.

E. The matters available for potential impact fee credits are described on the attached Exhibit “H” and issuance of such potential credits is subject to the Developer submitting appropriate requests and documentation in accordance with the City Code. With respect to potential impact fee credits listed as Element 2 under the Mobility Plan on Exhibit “H” (17-92, Ft. Florida Road electrical undergrounding) (“Electrical Undergrounding”), prior to Developer proceeding with such Electrical Undergrounding, the City and Developer shall evaluate the cost for such and if the cost (in addition to the costs for the other Mobility Plan improvements subject to impact fee credits reflected on Exhibit “H”) would exceed the amount of the Mobility Plan impact fees paid by Developer for the Project (“Excess Cost Scenario”), if the City and Developer mutually agree, the City may delay reimbursement of such credits until such time as the City has received other applicable/like impact fees sufficient to allow such reimbursement. In the event the Excess Cost Scenario occurs and the City and Developer do not mutually agree on an impact fee credit reimbursement plan, Developer shall not be required to carry out the Electrical Undergrounding.

12. Solid Waste Disposal Facilities. The Developer shall provide solid waste disposal facilities and required waste area screening designed, constructed, and maintained to provide for adequate and safe on-site refuse pick up and disposal operations. Solid waste and recycling
facilities and containers must also be screened from view from all streets and property lines. The solid waste disposal areas must be located and provided to prevent backing into or improper or unsafe use of any street or alley for the disposal or transport of solid waste or solid waste containers. Furthermore, solid waste disposal facilities must be situated behind the front face of any principal building.

13. **Permit Requirements.** The Developer is required to make application and receive all other development approvals and permits necessary to start and carry out site development consistent with applicable Federal, State, County or City statutes, laws, regulations, or development codes, including, but not limited to, the City concurrency management and site plan review and subdivision requirements.

14. **Site Lighting Requirements.** A site lighting plan must be submitted by the Developer and reviewed and approved by the City as part of the project’s final site plan submittal. All site lighting must be designed, constructed, and maintained by the Developer, its successors, or assigns in compliance with the approved site lighting plans. Site lighting must also comply with the City’s Code of Ordinances and any nuisance lighting requirements.

15. **Signage.** The Developer shall prepare a master sign plan as part of its final site plan application for the entire Property and all proposed land uses. Such plan must in all aspects comply with the sign regulations set forth in the City Code in effect as of the date of the final approved site plan and be binding upon the Developer and the Property upon approval by the City as if same were contained herein. Signs prohibited by the City’s sign regulations are not permitted, and the Developer specifically acknowledges same and agrees to comply with such regulations and not challenge same. The Developer, together with its heirs, successors, and assigns, acknowledges and agrees that no sign that does not conform with the City’s sign regulations in effect at the time of its installation will be permitted or constructed by the Developer.

16. **Waivers.** As indicated on the attached Exhibit “C”, at this time, Developer has not requested any waivers to the City’s Land Development Code. Therefore, the permitted uses and requirements for development within the Project will be as provided in the City’s Transit-Oriented Development Overlay District. To the extent Developer desires any waivers to the City’s Land Development Code in the future, Developer will submit such requests to the City for consideration by separate submittal pursuant to the City’s normal procedure.

17. **Enforcement.** Both the City and the Developer have the right to enforce the terms, conditions, and provisions of this Agreement by an action for specific performance. In no event will the City be liable for monetary damages arising out of or related to this Agreement. If enforcement of this Agreement becomes necessary, and the enforcing party is successful in such enforcement, the party against whom such enforcement is successful will be responsible for all costs and expenses, including attorney’s fees, whether or not litigation is necessary, and if necessary, both at trial and on appeal, incurred in enforcing or ensuring compliance with the terms and conditions of this Agreement. To the extent the City becomes entitled to the foregoing fees and costs, such costs, expenses, and fees will also be a lien upon the Property superior to all others except for mortgages to fund the acquisition, development, and/or construction of the Project and except for any PACE financing for the Project, provided such mortgages or liens are recorded prior to the City’s Notice of Lien. Further, if Developer fails to timely pay the City any monies due
pursuant to this Agreement, the City may record a Notice of Lien against the Property in the amount owed to the City. Interest on unpaid overdue sums will accrue at the rate of twelve percent (12%) compounded annually or at the maximum rate allowed by law if lower than 12%. A copy of such Notice of Lien will also be delivered to Developer in the same manner as required under this Agreement for delivery of written notices. The recorded Notice of Lien will constitute a lien upon the Property, and the lien may be foreclosed upon for the benefit of the City any time after thirty (30) days have elapsed following recordation of the Notice of Lien in the public records of Volusia County, Florida. City may foreclose the lien in accordance with the procedures established in Chapter 702, Florida Statutes, or successor or other applicable statute providing for foreclosure of liens. Developer may obtain a release from the lien by paying the amount stated in the lien plus accrued interest and all attorney's fees and costs incurred by the City in filing and collecting upon the lien.

In addition to the foregoing, the City will be permitted, without notice to the Developer to immediately withhold the issuance of certificates of occupancy and building permits associated with the Project if the Developer is adjudicated to be in violation of any provision of this Agreement until such violation is cured to the City's satisfaction. In addition, a violation of the provisions, conditions, or restrictions of this Agreement by Developer or any tenant of Developer, if not cured after notice and an opportunity to cure, constitutes a violation of the conditions of the Project development orders and permits and thus also constitutes a violation of the City of DeBary Code of Ordinances. Accordingly, the City may: (i) take enforcement action in accordance with Chapter 162, Florida Statutes and the applicable code enforcement provisions of the City Code of Ordinances concerning such violation(s); (ii) take any other remedy afforded by this Agreement or by law or in equity; or (ii) any combination thereof.

18. **Indemnification.** The Developer shall indemnify and hold harmless the City and its officials, employees, representatives, and agents from and against all claims, demands, disputes, damages, costs, expenses (to and on appeal), incurred by the City as a result, directly or indirectly, of the use or development of the Property described herein, in accordance with this Development Agreement, by the City or by third parties, except to the extent those claims or liabilities are caused by or arise from the gross negligence or intentional or unlawful acts of the City or its employees or agents. It is specifically understood that the City is not guaranteeing the appropriateness, efficiency or quality of the use or development of the Property, including, but not limited to, drainage or sewer plans, fire safety, or quality of construction, regardless of whether reviewed, inspected, approved, or permitted by the City.

19. **Recording and Effective Date.** This Development Agreement and all subsequent amendments must be filed with the Clerk of the Court of Volusia County, Florida, and recorded following execution of the document by the City Council, in the Official Records of Volusia County, Florida. The Developer shall pay all legal and filing costs for recording documents. The Developer will record this Development Agreement. The effective date of the ordinance approving this Development Agreement will be deemed the effective date ("Effective Date") of the Development Agreement. No Development Order or permits may be issued until a recorded copy of this Development Agreement is provided to the City for its records.

20. **Compliance.** The Developer agrees that it, including its successors and assigns, will abide by the provisions of this Development Agreement and the City Code, including, but not
limited to, the site plan regulations of the City existing as of the date of this Development Agreement, which are incorporated herein by reference. Further, all required improvements, including landscaping must be continuously maintained by the Developer or its successors and assigns, in first-class workmanlike fashion so as to present an attractive appearance and to ensure compliance with the City’s Code.

21. **Utility and Access Easements.** The Developer shall provide to the City such easements, deeds, and other legal documentation, in a form acceptable to the City as approved by Developer and the City Attorney, as the City may reasonably deem necessary or appropriate for all commercially reasonable ingress, egress, cross access, and other easements, including without limitation, for the installation, repair, replacement, and maintenance of street lighting or utility services, including, but not limited to, sewer, water, drainage, reclaimed water, and other utility services. Within the Property, all utilities, including, without limitation, telephone, television cable, and electrical systems, must be installed underground. Appurtenances to these systems requiring aboveground installation must be effectively screened and thereby may be excepted from this requirement. Any utility easements dedicated to serve the Project may be relocated by the Developer, its successors, or assigns, on the pre-condition that the relocated easements and associated utility improvements are first reviewed and approved by the City. In the event the City and Developer do not both agree on the form, terms, and substance of the easements called for above, the form, terms, and substance shall be those typically required by the City in other developments.

22. **Concurrency and Vested Rights.** The Developer acknowledges and agrees that prior to the issuance of any building permit(s) for the Property, the Developer must have received and be in possession of a valid unexpired Certificate of Capacity. The Certificate of Capacity verifies that available infrastructure capacity is sufficient to permit levels of service adopted in the City’s Comprehensive Plan. Neither this Agreement, approval of Property rezoning, or the site plans approved create or result in a vested right or rights to develop the Property without a current and valid Certificate of Capacity issued in accordance with the City’s Land Development Code and any other applicable laws or regulations.

23. **Notices.** Where notice is herein required to be given, it must be by certified mail return receipt requested, addressee only, hand delivery or courier. Such notice must be sent to the following, as applicable:

**DEVELOPER’S REPRESENTATIVE:**

Mosaic At DeBary, LLC  
Attn: Roxanne Williams and Terry Wayland  
1763 1st Avenue North  
St. Petersburg, Florida 33713  
Email: rwilliams@mosaiclevelopmentfl.com and twayland@mosaiclevelopmentfl.com

With a copy to:

Samuel P. Queirolo, Esquire
Shumaker, Loop & Kendrick, LLP
101 E. Kennedy Blvd.
Suite 2800
Tampa, Florida 33602

REPRESENTATIVE FOR DEVELOPER’S ASSIGNOR:

Mosaic Development, LLC
Attn: Roxanne Williams and Terry Wayland
1763 1st Avenue North
St. Petersburg, Florida 33713
Email: rwilliams@mosaicedvelopmentfl.com
and twayland@mosaicedvelopmentfl.com

With a copy to:

Samuel P. Queirolo, Esquire
Shumaker, Loop & Kendrick, LLP
101 E. Kennedy Blvd.
Suite 2800
Tampa, Florida 33602

CITY’S REPRESENTATIVES:

City of DeBary
Department of Growth Management
16 Colomba Rd
DeBary, FL 32713
Phone (386) 668-2040 x325, x317
Fax (386) 668-3523

and

City of DeBary
City Manager
16 Colomba Rd.
DeBary, FL 32713
Phone (386) 668-2040
Fax (386) 668-4122

With a copy to:
A. Kurt Ardaman, City Attorney
Fishback Dominick LLP
If any of the foregoing contact information changes, it will be such party's obligation to notify the remaining parties of the change(s) in a fashion as is required for notices herein. It will be the Developer's obligation to identify its lender(s) to all parties in fashion as is required for notices herein.

24. **Other City Approvals and Permits.** The approval and execution of this Development Agreement by the City does not exempt the Developer of the Property from obtaining any and all other approvals and permits necessary to obtain a Development Order and Building Permits for the development of the Property.

25. **Captions.** The captions herein are for convenience only and may not be relied upon in construing this Development Agreement.

26. **Binding Effect.** This Development Agreement will run with the land, be binding upon, and inure to the benefit of the Developer and its assigns and successors in interest, and the City and its assigns and successors in interest. This Development Agreement does not and is not intended to prevent, preclude, or otherwise impede the City from exercising its legislative authority with regard to the Property.

27. **Severability.** If any part of this Development Agreement is found invalid or unenforceable in any court, such invalidity or unenforceability will not affect the other parts of this Development Agreement, if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be effected. To that end, this Development Agreement is declared severable.

28. **Term of Agreement.** In accordance with Section 163.3229, Florida Statutes, this Development Agreement will expire and terminate five (5) years following the effective date of this Development Agreement unless extended by mutual consent of the City Council and the Developer or its successors and assigns, subject to a public hearing in accordance with Section 163.3225, Florida Statutes, and any applicable local laws or rules. Upon the issuance of a final site plan or subdivision approval that authorizes development of any phase of the Property in accordance with the terms of this Development Agreement, the provisions of this Development Agreement will be vested, and the termination date noted above will be of no further force or effect. This Agreement will become effective as to Phase I and Phase II on the date or dates set forth in the Ordinance approving this Development Agreement.

29. **Development Regulations.** The City's Code, as may be amended from time to time, will control the development of the Property regarding any items not specifically covered by the Ordinance approving this Development Agreement and the terms of 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 permits, grading, arbor permits, engineering and utility plans, and construction permits for buildings and other structures. These development approvals and permits will be processed and issued by the City in accordance with procedures with respect to same as otherwise set forth in the City’s Code and subject to this Development Agreement. Failure of this Development Agreement to address a particular permit, condition, term, or restriction will not relieve the Developer 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 Development Agreement may 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, or agents. Regardless of anything set forth in any section or part of this Agreement to the contrary, the cap on the amount and liability of the City for damages, regardless of the number or nature of claims and whether claimed in tort, equity, or contract, may not exceed the dollar amount set by the legislature for tort. Nothing in this Agreement may inure to the benefit of any third party for the purpose of allowing any claim against the City, which claim would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

30. **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.

31. **Development Review Cost and Costs under this Agreement.** The Developer (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 § 1-16, City of DeBary Land Development Code. Developer acknowledges and agrees that Developer has read § 1-16, DeBary Land Development Code and understands Developer’s responsibilities and obligations under such code provision and this Development Agreement and acknowledges and agrees that Developer is bound by such code provision for all development applications and approvals relating to the Property. All actions and obligations of Developer under this Agreement are at the Developer’s sole cost and expense.

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

[SIGNATURES APPEAR ON FOLLOWING PAGES]
IN WITNESS WHEREOF, The Developer and the City have executed this Development Agreement as of the day and year first above written.

AGREED to by the City Council of the City of DeBary, Florida, and the Developer on this ___ the day of ______________, 2023.

ATTEST:

____________________________
City Clerk

____________________________
CITY OF DEBARY, a Florida municipal corporation

____________________________
Karen Chacez, Mayor
WITNESSES:

Signature

[Signature]

Print Name:

[Print Name]

[Signature]

Print Name:

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me by means of __ physical presence or □ online notarization this 31st day of March in the year 2023 by Roxanne Williams as Principal of Mosaic at DeBary LLC, a Florida limited liability company, on behalf of said company, who is personally known to me or who has produced ______________________ as identification.

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

[Signature]
Type or Print Name
Commission No.: HH 2573651
My Commission Expires: [Signature]
JOINDER AND CONSENT

The undersigned, Mosaic Development, LLC, hereby joins in the foregoing Development Agreement, consents to the terms and provisions contained therein, and agrees to be bound by the Developer's obligations contained therein.

WITNESSES:

Signature

Print Name: [Signature]

Date: [Date]

Print Name: [Name]

STATE OF FLORIDA
COUNTY OF [Name]

The foregoing instrument was acknowledged before me by means of [□] physical presence or [□] online notarization this [□] day of [Month] in the year [Year] by [Name], as [Title] of Mosaic Development, LLC, a Florida limited liability company, on behalf of said company, who is personally known to me or who has produced [identification]

[Signature]

NOTARY PUBLIC, STATE OF FLORIDA

[Name]

Type or Print Name
Commission No. [Number]
My Commission Expires: [Date]
EXHIBIT "A"

LEGAL DESCRIPTION

Parcel 1

Beginning at the Southwest corner of the Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, thence running East along the South line of said Northwest 1/4 of Northeast 1/4 to the center line of State Road No. 3, thence in a Northeasterly direction along the center line of said state road a distance of 600.00 feet; thence running West parallel to the said South line of said Northwest 1/4 of Northeast 1/4 to the West line of said Northwest 1/4 of Northeast 1/4; thence South along said West line of said Northwest 1/4 of Northeast 1/4 to the point of beginning, of the Public Records of Volusia County, Florida.

LESS AND EXCEPT:

The Easterly 33.00 feet for State Road No. 3.

AND ALSO LESS AND EXCEPT:

Any portion thereof, if any, lying within Railroad Right-of-Way.

AND ALSO LESS AND EXCEPT:

Land described in Order of Taking recorded in Official Records Book 4372, Page 4061, of the Public Records of Volusia County, Florida.

Parcel 2

The West 355.4 feet of the North 150 feet of the NW 1/4 of the NE 1/4 of Section 9, Township 19 South, Range 30 East, and the East 15 feet of the South 593 feet of the North 743 feet of the West 355.4 feet of the NW 1/4 of the NE 1/4 of Section 9, Township 19 South, Range 30 East.

LESS AND EXCEPT:

The East 15.00 feet of the West 355.4 feet of the North 743 feet of the NW 1/4 of the NW 1/4 of the NE 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 3

A portion of the Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, bounded and described as follows:

Beginning at a point 355.4 feet East and 300 feet South of the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, run thence South 221.7 feet to a point, thence West 330.5 feet to a point on the Easterly right-of-way line of the Atlantic Coast Line Railroad, thence Northwesterly along said Easterly right-of-way line 114.3 feet to a point on the West line of said Northeast 1/4, thence North 108.8 feet to a point, thence Easterly 355.4 feet to point of beginning.

LESS AND EXCEPT:

17932307v14
Purchase and Sale Agreement
Mosaic Development/DeBary, FL
The East 15 feet for private road.

TOGETHER WITH:

A non-exclusive easement for ingress and egress over and across the East 15 feet of the North 743 feet of said Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 4

A portion of the Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, bounded and described as follows:

Beginning at a point 355.4 feet East and 521.7 feet South of Northwest corner of Northwest 1/4 of Northeast 1/4 of said Section 9, Township 19 South, Range 30 East; run thence West 330.5 feet to the Easterly right-of-way line of the Atlantic Coast Line Railroad; thence Southeasterly along said right-of-way line 223.95 feet to a point; thence East 300.75 feet to a point; thence North 221.3 feet to the place of beginning.

LESS AND EXCEPT:

The East 15 feet thereof for for private road;

TOGETHER WITH:

A non-exclusive easement for ingress and egress over and across the East 15 feet of the North 743 feet of said Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 5

That part of the North-half of the Northwest 1/4 of Section 9, Township 19 South, Range 30 East, lying Northeasterly of the CSX Railroad Right-of-Way, lying in Volusia County, Florida.

Parcel 6

Beginning at a point 355.4 feet East and 150 feet South of the Northwest corner of the Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence South 150 feet to a point; run thence West 355.4 feet to the Westerly line of said Northwest 1/4 of the Northeast 1/4, thence North 150 feet, thence East and parallel to the North line thereof 355.4 feet to the Point of Beginning.

LESS AND EXCEPT:

The East 15 feet for private road.

Parcel 7

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence North 89°48'10" East a distance of 355.40 feet to a point, also being the centerline of an 18 foot graded road; run thence South 00°00'50" West a distance of 150.0 feet to the Point of Beginning; thence continue South 00°00'50" West a distance of 221.50 feet; run thence 17932307/14 Purchase and Sale Agreement Maxis Development/DeBary, FL
North 89°49'10" East a distance of 426.14 feet to a point on the Westerly right-of-way of U.S. Highway 17-92, also being a point on a curve having a radius of 5779.59 feet and a delta of 00°52'10"; run thence Northwesterly along the arc of said curve also being the said Westerly right-of-way of Highway 17-92, a distance of 87.69 feet to the Point of Tangency; thence run North 24°11'09" East along said right-of-way a distance of 155.13 feet; run thence South 89°49'10" West a distance of 524.89 feet to the Point of Beginning.

AND ALSO:

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence North 89°49'10" East a distance of 355.40 feet to the Point of beginning, a point also being the centerline of an 18 foot graded road; run thence South 00°00'50" West a distance of 150.00 feet along the centerline of the aforesaid graded road to a point; run thence North 89°49'10" East a distance of 524.89 feet to a point on the Westerly right-of-way of U.S. Highway 17-92; run thence North 24°11'09" East along said right-of-way a distance of 164.67 feet to a point being on the North line of said Section 9, Township 19 South, Range 30 East; run thence South 89°49'10" West a distance of 592.32 feet along said North line to the Point of Beginning.

LESS AND EXCEPT:

Those portions of the foregoing parcels conveyed to the State of Florida Department of Transportation by Deed recorded in Official Records Book 4275, Page 4328, Public Records of Volusia County, Florida.

Parcel 8

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence N 89 degrees 49 minutes 10 seconds E, a distance of 355.40 feet to a point, also being the centerline of an 18 foot graded road; run thence S 00 degrees 00 minutes 50 seconds W a distance of 371.50 feet to the Point of Beginning; thence continue S 00 degrees 00 minutes 50 seconds W a distance of 371.50 feet along the centerline of the aforesaid graded road to a point; run thence N 89 degrees 49 minutes 10 seconds E a distance of 281.02 feet to a point on the Westerly Right-Of-Way of US Highway 17-92, also being a point on a curve having a radius of 5779.59 feet and a delta of 03 degrees 57 minutes 33 seconds; run thence Northeasterly along the arc of said curve a distance of 399.36 feet, also being the Westerly Right-Of-Way of US Highway 17-92 to a point; run thence S 89 degrees 49 minutes 10 seconds W a distance of 426.14 feet to the Point of Beginning.

LESS AND EXCEPT:

Any portion thereof, if any, lying within State Road Right-of-Way.

AND ALSO LESS AND EXCEPT:

Right of way for graded road.
EXHIBIT “A-I”

Option Parcel

OPTION PARCEL DESCRIPTION:

A portion of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:
BEGIN at the Northwest corner of the Northeast quarter of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; thence North 89°54'29" East, a distance of 306.33 feet along the North line of the Northwest quarter of the Northeast quarter of said Section 9; thence departing said North line, South 00°43'02" West, a distance of 68.25 feet to a point of curvature of a curve concave Northwesterly, having a radius of 67.90 feet; thence Southwesterly along the arc of said curve, through a central angel of 43°37'59", a distance of 51.71 feet to a point of tangency; thence South 44°21'01" West, a distance of 49.27 feet; thence South 89°54'29" West, a distance of 251.96 feet to the West line of the Northwest quarter of the Northeast quarter of said Section 9; thence North 00°06'10" East, a distance of 150.00 feet along said West line to the POINT OF BEGINNING.

Containing 1.02 acres, more or less.
EXHIBIT “A-2”

Phase II PSA

PURCHASE AND SALE AGREEMENT

(Phase II)

This PURCHASE AND SALE AGREEMENT (this “Agreement”) is entered into this ______ day of ________, 2023 (this date to be the closing date of Phase I sale) (the “Effective Date”), by and between THE CITY OF DEBARY, a Florida municipal corporation (“Seller”), and MOSAIC AT DEBARY LLC, a Florida limited liability company, or its successors or assigns (“Purchaser”).

RECITALS

A. On or about April 6, 2022, Seller and Purchaser’s Assignor, Mosaic Development, LLC, entered into that certain Purchase and Sale Agreement (the “Phase I PSA”) for certain unimproved real property consisting of approximately 19.71 aggregate acres designated therein as Phase I and Phase II. Pursuant to that certain Assignment, Assumption and Seventh Amendment to the Phase I PSA (the “Seventh Amendment”), Phase I now consists of approximately 13.07 acres and Phase II consists of approximately 5.62 acres, with the remaining 1.02 acres being subject to an option and right of first refusal in favor of Purchaser as set forth therein.

B. The Phase I PSA set forth the terms and conditions of the two-step sale of the Phase I Property (as hereinafter defined) and the Phase II Property (as hereinafter defined) and provided that Seller and Purchaser would subsequently agree upon the specific terms and conditions of the sale of the Phase II Property, which this Agreement is intended to do;

C. As set forth in the Seventh Amendment, the legal description of the approximate 13.07 acres that is Phase I (hereinafter the “Phase I Property”) is more particularly described on the attached Exhibit “A”, and the legal description of the approximate 5.62 acres that is Phase II (hereinafter the “Phase II Property” or the “Property”) is more particularly described on the attached Exhibit “B”, and the legal description of the remaining approximate 1.02 acres that is the option parcel (hereinafter the “Option Parcel”) is more particularly described in an exhibit to the Seventh Amendment.

D. Seller desires to sell to Purchaser, and Purchaser wishes to purchase from Seller the Property for the price and in accordance with the terms and conditions set forth below.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises hereinafter contained, Seller agrees to sell and convey the Property to Purchaser, and Purchaser agrees to purchase the Property from Seller, for the price and on the terms and conditions set forth herein, as follows:

1. Recitals, Purchase and Sale. The above Recitals are incorporated herein as material provisions of this Agreement. Subject to all of the terms and conditions of this
Agreement, Seller will sell to Purchaser and Purchaser will purchase from Seller the Property, together with all appurtenances, rights, easements, and rights of way incident thereto.

2. **Purchase Price and Deposit.**

   (a) The total purchase price for the Phase II Property is One Million Eight Hundred One Thousand Two Hundred Seventy-seven and 44/100 Dollars ($1,801,277.44) (the "Purchase Price"). The Purchase Price for the Property shall be paid by Purchaser to Seller at Closing (as defined in Section 7(a)(i) below), by federal wire transfer of funds less the Deposit (as defined in Section 2(b) below), and as further adjusted for prorations and adjustments as set forth in this Agreement.

   (b) Within three (3) days after the Effective Date of this Agreement, Purchaser shall deposit the sum of One Hundred Thousand and 00/100 Dollars ($100,000.00) (the "Deposit") with Fishback Dominic, 1947 Lee Road, Winter Park, Florida 32789, Attention: A. Kurt Ardaman, Esq.; Telephone 407-262-8400; Email: ardaman@fishbacklaw.com (the "Escrow Agent"), to secure the performance by Purchaser of its obligations under this Agreement. If Purchaser elects to proceed to Closing at the end of the Investigation Period (as defined in Section 3 below), the Deposit shall become non-refundable to Purchaser. The Escrow Agent shall hold the Deposit, in escrow, in an interest-bearing account with a federally insured commercial bank doing business in the State of Florida, and all interest earned thereon shall become part of and applied with the Deposit. The disposition of the Deposit shall be in accordance with the terms and conditions of this Agreement.

   (c) Purchaser shall pay the balance of the Purchase Price at Closing, subject to prorations and adjustment, as set forth in Section 7(d) of this Agreement, by wire transfer of U.S. funds to the Escrow Agent.

   (d) Notwithstanding any other provision of this Agreement, if this Agreement is terminated due to a Seller default, a condemnation, or pursuant to Section 3 of this Agreement, the Deposit shall be fully refunded to Purchaser or, if this Agreement proceeds to Closing, the Deposit shall be applied as a credit towards the Purchase Price.

3. **Investigation Period.**

   (a) Commencing on the first (1st) business day following the Effective Date, Purchaser shall have until the date that is the earlier of: (i) one hundred eightieth (180th) day after the date that all the units to be constructed on the Phase I Property pursuant to the applicable Development Agreement between Seller and Purchaser have been completed and have received a final certificate of occupancy or (ii) March 8, 2026 (provided such date may be extended by six (6) months should Purchaser exercise its right to extend the Closing Date in accordance with Section 7(a)(i) hereof) (the "Investigation Period") during which to perform or have performed, at Purchaser’s sole cost and expense and option, such studies and investigations of the Property as Purchaser deems desirable, in the exercise of its sole and absolute discretion. In the event Purchaser (i) is using good faith and diligently pursuing Purchaser’s investigation, studies of the Property
and the Development Approvals, and (ii) has not obtained sufficient information to allow Purchaser to notify Seller that Purchaser elects to proceed with Closing within the first eighty (80) days of the Investigation Period, Purchaser may extend the Investigation Period by an additional thirty (30) days by providing Seller with written notice of such extension along with a list of Purchaser’s Investigation Materials and any other test results, studies, and other documents reflecting Purchaser’s due diligence of the Property. Such extension notice and list shall be provided to Seller on or before ten (10) days prior to the expiration of the Investigation Period.

(b) During the Investigation Period and continuing until Closing, Purchaser, its employees and agents, shall have the right to enter upon the Property, to inspect, examine and otherwise undertake those actions which Purchaser, in its discretion and its sole cost and expense, deems necessary or desirable to determine the suitability of the Property for Purchaser’s intended use, including, without limitation, the right to make soil tests, borings, percolation tests, compaction tests, environmental tests and such other tests to obtain any other information relating to the surface, subsurface and topographic conditions of the Property. Without limitation of the foregoing, Purchaser shall, during the Investigation Period, conduct all investigations of the Property as Purchaser may deem necessary or appropriate. Seller shall cooperate with Purchaser by providing such additional information as Purchaser may reasonably request from time to time during the Investigation Period and shall cause its engineers, attorneys and other consultants to be reasonably available to Purchaser and its attorneys and consultants for consultations and information useful to the performance of Purchaser’s investigation; provided, however, that Seller shall not be required to incur any liability or expense (other than the cost of copying and mailing) in connection therewith. All reports, documents, survey, tests, studies, investigations, evaluations, and other documents and materials obtained by or for Purchaser relating to the Property are collectively referred to as the “Purchaser’s Investigation Materials”.

(c) Purchaser agrees to maintain in full force and effect during any period that Purchaser is making any entry onto the Property pursuant to this Agreement commercial general liability insurance insuring Purchaser and Seller against any and all claims for bodily injury and property damage occurring in or about the Property as a result of any such entry by Purchaser, Purchaser’s agents, employees, consultants, and representatives which insurance (i) shall be obtained from an insurer authorized to conduct business in the state in which the Property is located; (ii) shall have a combined single limit of not less than Two Million Dollars ($2,000,000); and (iii) shall include a contractual liability endorsement insuring Purchaser’s indemnity obligations hereunder. Purchaser shall provide evidence of such insurance to Seller prior to Purchaser’s initial entry onto the Property. Purchaser shall also indemnify and hold Seller harmless from any loss, cost or expense incurred by Seller as a result of the negligence, recklessness, or willful misconduct of Purchaser or any of Purchaser’s agents, employees or representatives who enter the Property and for any Hazardous Substance (as defined in Section 8(b)(ii) below) brought on to the Property by Purchaser or any of Purchaser’s agents, employees, consultants, or representatives. Purchaser shall have no indemnification obligation or other liability for, or in connection with, any claims arising from pre-existing conditions on or under the Property, or arising from the presence, discovery, or disturbance of any Hazardous Substance previously existing on the Property. The foregoing indemnification and hold harmless obligations shall survive Closing and termination of this Agreement.
(d) Except to the extent Seller has previously provided such items to Purchaser or to the extent Purchaser already has such items in its possession, Seller shall, within five (5) days after the Effective Date, use commercially reasonable efforts to deliver to Purchaser copies of all documents in Seller’s possession or control pertaining to the Property and the proposed development thereof, including, but not limited to, environmental reports, any correspondence from any governmental agency concerning any environmental condition of or issue related to the Property, engineering studies, wetlands studies and/or permits, archeological studies, title reports or policies, surveys, site plans, proposed governmental regulations, agreements relating to school, water, sewer, road, impact fees and any other matters relating to the Property (whether recorded or not), leases, and service agreements, but excluding any such materials provided to Purchaser pursuant to the Phase I PSA. Seller agrees to assist Purchaser (at no cost to Seller) in its efforts to obtain any documents or information concerning the Property from any governmental agency or any other entity that may have possession of such documents or information. Notwithstanding any of the foregoing and other provisions of this Agreement, Seller’s failure to deliver any documents to Purchaser shall not constitute a default under this Agreement.

(e) Purchaser shall have the further right to make inquiries of governmental authorities and utilities, and to submit proposed site plans or amended site plans to governmental agencies as contemplated herein or in the existing Development Agreement between Seller and Purchaser.

(f) In the event the Property requires any environmental remediation, upon Seller’s request, Purchaser shall manage such remediation on behalf of Seller for a management fee not to exceed five percent (5.00%) of the total cost of the work, including any re-testing that is required at the conclusion of such remediation.

(g) Pursuant to the Phase I PSA, Purchaser performed various studies or investigations of not only the Phase I Property, but also of the Property. Since Purchaser is satisfied with the then-current condition of the Property, Purchaser shall have no right to terminate during the Investigation Period with respect to this Agreement, excepting only new matters occurring subsequent to the expiration of the Investigation Period under the Phase I PSA, or any matters discovered as part of Purchaser’s lender’s inspections that would materially interfere with customary acquisition and development financing.

(h) Prior to the expiration of the Investigation Period (including any extension periods as set forth in Section 3(a) above), Purchaser, in its sole and absolute discretion, may elect to proceed with the Closing of this Agreement in accordance with the terms and conditions of this Agreement by notifying Seller in writing of such election to proceed not later than 5:00 p.m. (local St. Petersburg, Florida time) on the last day of the Investigation Period. If Purchaser fails to deliver to Seller such written notice of Purchaser’s election to proceed to Closing of this Agreement, Purchaser shall be deemed to have terminated this Agreement. Purchaser reserves the right to terminate this Agreement pursuant to this Section 3(h) for any reason whatsoever. Upon such termination, the Deposit shall promptly be returned to Purchaser and the parties hereto shall be relieved of all liabilities and obligations under this Agreement; provided, however, subject to Section 3(c) above, that Purchaser shall promptly restore any damage to the Property caused by Purchaser’s activities on the Property during the Investigation Period, and other provisions hereof
that expressly survive termination, shall survive termination of this Agreement. Notwithstanding the foregoing, Purchaser shall have no right to terminate this Agreement and receive a Deposit refund with respect to matters or conditions which were previously accepted by Purchaser with respect to the Property pursuant to the terms of the Phase I PSA, unless the same would interfere with Purchaser’s ability to obtain acquisition or development financing from Purchaser’s lender on customary commercially reasonable terms.

4. **Title, Title Insurance and Survey.**

(a) Prior to expiration of the Investigation Period, Purchaser at Purchaser’s expense, may obtain from Majesty Title Services, LLC (the “Title Company”) a commitment (the “Commitment”) for an ALTA owner’s title insurance policy covering the Property and all easements appurtenant thereto, which commitment shall show that title to the Property is owned by Seller in fee simple and is marketable and insurable, subject to no liens, encumbrances, exceptions or qualification that would preclude Purchaser, in its sole discretion, from constructing and developing a multifamily community with parking and other amenities upon the Property. Purchaser shall deliver to Seller a copy of the Commitment within five (5) days of Purchaser’s receipt thereof.

(b) Prior to expiration of the Investigation Period, Purchaser shall, at its expense, obtain a current survey of the Property (the “Survey”) together with a surveyor’s certification of the gross square footage included within the Property. Purchaser shall deliver to Seller a copy of the Survey within five (5) days of Purchaser’s receipt thereof. The Survey shall be certified by the surveyor to Purchaser, Seller, the Title Company, and counsel to Seller and Purchaser.

(c) Prior to the expiration of the Investigation Period, Purchaser may examine the condition of title and survey matters. If, prior to the expiration of the Investigation Period, Purchaser fails either: (i) to terminate this Agreement pursuant to Section 3 above; or (ii) to provide Seller with written notice (the “Title Defect Notice”) of specific defects in the title to or the survey of the Property, then, for all purposes of this Agreement, Purchaser shall be deemed to have accepted title in the condition described in the Commitment and shall be deemed to have approved the Survey. Any title or survey exceptions or matters that are not objected to prior to the expiration of the Investigation Period shall be deemed “Permitted Exceptions” which shall remain exceptions to title of the Property and/or exceptions to matters of the Survey.

(d) If this Agreement is not terminated pursuant to Section 3 above, and if Purchaser timely delivers the Title Defect Notice, then Seller shall have a period of ten (10) days (the “Cure Election Period”) within which to notify Purchaser that: (i) Seller will attempt to remove or cure, at Seller’s sole cost and expense, all noted defects to title and/or the Survey; (ii) Seller will not remove or cure such noted defects to the title and/or the Survey; or (iii) Seller shall notify Purchaser that such noted defects are not removable or curable (such notice of election being referred to herein as the “Cure Notice”). If Seller fails to deliver the Cure Notice to Purchaser during the Cure Election Period, Seller shall be deemed to have elected not to cure the defects noted in the Title Defect Notice. If Seller declines to cure (or is deemed to have declined to cure) any defect noted in the Title Defect Notice, or if Seller notifies Purchaser that any such defect is not curable, Purchaser may elect within five (5) days after the Cure Election Period either: (A) to
accept title to the Property as it is (in which event any such title defect(s) shall be deemed a Permitted Exception hereunder), subject to the right to deduct from the Purchase Price funds necessary to satisfy legally enforceable monetary liens arising by, through, or under Seller or Seller’s option; or (B) to terminate this Agreement by written notice to Seller delivered within the five (5) day period after the Cure Election Period, in which event Seller and Purchaser shall be released from any and all obligations and liabilities hereunder (except as specifically set forth in this Agreement) and the Deposit shall be promptly returned to Purchaser.

(e) If Seller elects to attempt to cure the Title Defects, and shall have been unable to do so by the Closing Date, then Purchaser shall have the right, at its sole election: (i) to terminate this transaction, in which case the Deposit shall be promptly returned to Purchaser, and the parties shall be relieved of any further obligations hereunder (except as specifically set forth in this Agreement); (ii) to extend the Closing, if agreed to by Seller, for such additional time as may be mutually agreed upon between the parties to allow Seller additional time to remove the Title Defect; or (iii) to elect to accept title to the Property in its then existing condition without reduction in the Purchase Price. Nothing contained herein shall require that Seller file any litigation or pay any money to cure a Title Defect.

(f) Seller covenants that at Closing, Seller shall deliver to Purchaser marketable and insurable fee simple title to the Property, subject only to the Permitted Exceptions. Purchaser shall require the Title Company to provide Purchaser (with a copy to Seller) with an endorsement to the Commitment at least five (5) days in advance of Closing for the purpose of updating the status of title. In the event that the endorsement reflects the existence of any additional exceptions to title that would constitute Title Defects, then Purchaser shall so notify Seller within five (5) days after receipt of the endorsement. Seller shall then have thirty (30) days to remove any additional Title Defects, and if Seller is unsuccessful in removing them within said time, then Purchaser shall have the options set forth in Section 4(e) above.

(g) Pursuant to the Phase I PSA, Purchaser obtained a survey and a title insurance commitment issued by a title company of Purchaser’s choice (the “Title Company”) and the survey and title insurance commitment each described Seller’s Property and the most recent survey update also separately describes the Phase I Property and the Property. Except for any written objections that Purchaser provided to Seller pursuant to the Phase I PSA, and any new matters or title/survey exceptions occurring subsequent to the expiration of the Investigation Period under the Phase I PSA, or any matters discovered as part of Purchaser’s lender’s inspections that would materially interfere with customary acquisition and development financing, Purchaser is satisfied with the title insurance commitment and survey obtained in conjunction with the Phase I PSA and shall take title subject to the matters referenced or depicted therein (the “Permitted Exceptions”) at Closing. Notwithstanding the foregoing, Purchaser shall have no right to make title or survey objections with respect to matters or conditions that were previously accepted by Purchaser in conjunction with the Phase I PSA, unless the same would interfere with Purchaser’s ability to obtain acquisition or development financing from Purchaser’s lender on customary commercially reasonable terms.
5. **Development Approvals.**

(a) Notwithstanding anything in this Agreement to the contrary, if, at any time on or before the date that is thirty-five (35) months after the Effective Date (provided such date shall be extended by six (6) months should Purchaser exercise its right to extend the Closing Date in accordance with Section 7(a)(i) hereof): (i) Purchaser determines, in the exercise of its sole and absolute discretion, that it shall not be able to obtain all necessary permits and approvals from the appropriate governmental authorities (including subdivision approvals and any changes in zoning, exceptions or variances that Purchaser deems necessary) in order to permit the commencement of construction, development and use of a multifamily residential community containing, in total, the approximate number of market rate residential rental units depicted on the Preliminary Development Plan for the Property ("Intended Improvements") pursuant to a final, approved and unappealable site plan (the "Site Plan") in a manner that satisfies the conditions set forth in Section 6(a)(i) below (sometimes hereinafter collectively referred to as the "Development Approvals"); or (ii) any contest(s) or appeal(s) of the Site Plan or the other Development Approvals are filed, then Purchaser shall have the right to terminate this Agreement, in which event the provisions of Section 6(b) below shall apply.

(b) Purchaser shall have the express right to make any applications, or seek any approvals, as are required for Purchaser’s anticipated ownership, development, construction, use, operation and management of the Property. At no cost to Seller, Seller covenants and agrees to cooperate with Purchaser in order to enable Purchaser to seek the Development Approvals in as timely a fashion as possible (including the signing and filing of any required applications by Seller and/or in Seller’s name, if required, within five (5) business days after Seller’s receipt of Purchaser’s request that Seller take such action unless DeBary City Council approval for the filing of such approval is needed as determined by the City Manager, in which event, such approval or action may be considered at the next available City Council meeting), provided approvals encumbering the Property are not binding upon the Property until after Closing. The cost of preparing, filing, and processing the Development Approvals shall be borne solely by Purchaser.

(c) Notwithstanding any provisions in this Agreement to the contrary, Seller shall have no obligation (i) to approve the Site Plan or Development Approvals or any of Purchaser’s development applications, or (ii) to waive, reduce, or reimburse any fees or costs related to the Phase I Property or the Property or development of the same unless as approved as part of or pursuant to the Development Agreement as agreed to and approved by Purchaser and the DeBary City Council.

6. **Conditions Precedent to Closing.**

(a) The following are conditions precedent that must be satisfied prior to or at the Closing. Purchaser shall have the right, in the exercise of its sole and absolute discretion, to terminate this Agreement pursuant to Section 6(b) below if Purchaser determines at any time on or before the Closing Date (as defined in Section 7(a)(i) below) that any one (1) or more of such conditions may not be satisfied by the Closing Date.
(i) Purchaser shall have received a final, approved and unappealable Site Plan and all other necessary final Development Approvals for the construction, development and use of the Property with the Intended Improvements; and the time period for appeal of the Site Plan and Development Approvals shall have expired without a timely appeal having been filed.

(ii) No moratorium on service by any utility serving the Property has occurred and none is threatened; and no moratorium on development on the Property has been imposed by any governmental authority and none is threatened.

(iii) Seller shall deliver marketable and insurable fee simple title to the Property, subject only to the Permitted Exceptions.

(iv) All of the representations and warranties of Seller of a material nature contained in this Agreement shall be true and correct on the Closing Date as if the same were made on and as of such date.

(v) All covenants and obligations of Seller required in this Agreement to be performed on or before the Closing Date have been timely and duly performed in all material respects.

(vi) No material, adverse change in the condition of the Property or status of title or survey has occurred since the point at which they were approved by Purchaser in accordance with this Agreement.

(b) If Purchaser determines at any time on or before the Closing Date that any of the conditions set forth in Section 6(a) above may not be satisfied by the Closing Date Purchaser may notify Seller of the same in writing and unless Seller remedies the same within thirty (30) days, then Purchaser may, in the exercise of its sole and absolute discretion, terminate this Agreement by giving written notice to Seller at any time on or before the Closing Date. Upon such termination, both parties shall be released from all duties and obligations created herein (except as expressly set forth in this Agreement), and the Deposit shall promptly be returned to Purchaser. The conditions set forth in Section 6(a) above are for Purchaser’s sole benefit, and Purchaser may, in its sole discretion, waive (conditionally or absolutely) the fulfillment of any one or more of the conditions, or any part thereof. Notwithstanding the foregoing, to the extent a failure of any condition also amounts to a default by Seller, Purchaser shall also have the rights and remedies for such default in accordance with Section 13 hereof.

7. **Closing.**

(a) The date of the Closing shall be determined as follows:

(i) The Closing shall occur on or before April 7, 2026, provided, that, all conditions precedent set forth in Section 6(a) above have been satisfied (the “Closing Date”). Notwithstanding the foregoing, Purchaser shall have a one-time right, exercisable by written notice to Seller, to extend the Closing Date by six (6) months in order to respond to changes in market conditions or other circumstances that Purchaser cannot reasonably control. Notwithstanding
anything contained herein to the contrary, at any time prior to the scheduled Closing Date, Purchaser, in its sole discretion, may elect to close this transaction. Purchaser shall exercise this election by delivering to Seller written notice of Purchaser’s intention to close, which notice shall set a Closing Date of not less than ten (10) nor more than thirty (30) days after the date of the notice. The Closing will be held at a location in Volusia County, Florida or at such place as the parties may mutually agree. As used in this Agreement, the term “Closing” shall mean the time at which the Escrow Agent or Title Company is in possession of all funds, instruments and documents necessary for the Title Company to perform its obligations under Section 7(b)(iv) below. Purchaser shall be granted full possession of the Property as of the Closing.

(b) The following procedures shall govern the Closing:

(i) Seller shall deliver to Purchaser and Purchaser’s attorney at least five (5) business days prior to Closing for Purchaser’s review, and to the Escrow Agent or Title Company at Closing, the following documents required to consummate the purchase and sale of the Property:

(A) A special warranty deed in recordable form (the “Deed”), in substantially the form attached hereto as Exhibit “C”, which will convey to Purchaser marketable and insurable fee simple title to the Property, subject only to the Permitted Exceptions, with the legal description as set forth on Exhibit C of this Agreement, as well as a quitclaim deed of the Property and/or Phase 1 Property based on the applicable legal description(s) prepared by Purchaser’s licensed surveyor;

(B) An owner’s affidavit with the legal description set forth on Exhibit “C” of this Agreement in the form reasonably required by the Title Company or to permit the Title Company to issue to Purchaser upon completion of the Closing a title policy with the standard pre-printed exceptions deleted or modified in a customary fashion (including exceptions for mechanics’ liens, parties in possession and matters of survey), subject only to real estate taxes and the Permitted Exceptions (the “Title Policy”);

(C) A Certificate of Non-Foreign Status in the form of Exhibit D, duly executed by Seller stating that Seller is not a “foreign person” as defined in the Federal Foreign Investment in Real Property Tax Act of 1980 and the 1984 Tax Reform Act;

(D) If applicable, authority documentation and any other documents reasonably required by the Title Company in order to confirm Seller’s authority to consummate this transaction;

(E) A certificate in the form attached hereto as Exhibit E that shall state that each and every representation and warranty of Seller contained in this Agreement is true and correct in all material respects as of the Closing Date as if made by the Seller on the Closing Date;

(ii) The Escrow Agent shall make the Deposit available in cash or by wire at the Closing.
(iii) For Closing costs or charges properly allocable to Seller at Closing, Seller may either deliver such funds to the Title Company or request the Title Company to deduct such costs from the sale proceeds due to Seller at Closing.

(iv) Purchaser shall deliver the following to the Title Company at Closing:

(A) The balance of the Purchase Price, less the Deposit, adjusted for the prorations and other payments provided for in this Agreement;

(B) Appropriate authorizing resolutions, duly executed, authorizing Purchaser to close the subject transaction;

(C) A certificate in the form of Exhibit F that shall state that each and every representation and warranty of Purchaser contained in this Agreement is true and correct in all material respects as of the Closing Date as if made by Purchaser on the Closing Date; and

(D) Such additional funds as may be required of Purchaser to pay Closing costs or other charges properly allocable to Purchaser.

(v) After the Escrow Agent or Title Company has received all of the items to be deposited with it, and when confirmation from the Title Company has been received that it is in a position to issue the Title Policy required hereunder, the Title Company shall:

(A) Record the Deed, instructing the recording office to return the recorded Deed to Purchaser;

(B) Record any other instruments executed by the parties or either of them that are contemplated by this Agreement to be placed of record;

(C) Issue to Purchaser a marked up Commitment obligating the Title Company to issue the Title Policy to Purchaser;

(D) Charge Seller for (1) the cost of all documentary and transfer taxes due upon recordation of the Deed, (2) the cost of curing any title conditions subject to the provisions of this Agreement, (3) all Broker’s fees due and payable under any separate agreement between Seller and Broker, and (4) Seller’s attorneys’ fees;

(E) Charge Purchaser for (1) the cost of the Survey, (2) the cost of Purchaser’s Title Policy, any related search fees or closing fees and any mortgagee title insurance policy premiums relating thereto at the lowest possible simultaneous rate, (3) all financing costs and fees associated with the closing of any loan obtained by Purchaser, (4) the costs of all due diligence inspections and reports obtained by Purchaser, and (5) Purchaser’s attorneys’ fees.
(F) Prepare closing statements for Seller and Purchaser indicating deposits, credits and charges including the allocation of real property taxes and deliver the same, together with a disbursement of funds, to the appropriate party; and

(G) Deliver the Title Policy to Purchaser as soon as reasonably practicable.

(c) Any supplemental closing instructions given by either party shall also be followed by the Escrow Agent and the Title Company provided they do not conflict with any instructions set forth herein or are consented to in writing by the other party.

(d) At Closing, the real estate taxes and assessments on the Property shall be prorated between the parties on the basis of the real estate taxes and assessments paid for the most recent year that has been assessed and billed. If the actual real estate taxes and assessments for the year of Closing are not determinable at the Closing Date, then the parties agree to use the prior year's taxes and the parties shall not re-prorate real estate taxes and assessments upon issuance of the real estate tax and assessments bills for the year of Closing. Each party shall be responsible for payment of its respective attorneys' fees. This Section 7(d) shall survive Closing.

(e) The parties agree to cooperate with each other and to execute and deliver at Closing any agreements, certificates, affidavits and any other instruments not described in this Section 7 as may be necessary or desirable to effectuate the transactions contemplated hereby.


(a) Seller hereby represents and warrants to Purchaser, as follows, all of which representations and warranties are, to the Seller’s actual knowledge and belief, true and correct, in all material respects, as of the date hereof and shall be true and correct, in all material respects, as of the Closing Date:

(i) Seller is a Florida municipal corporation, duly organized, validly existing and in good standing in the State of Florida;

(ii) This Agreement constitutes a valid and binding obligation of Seller, enforceable in accordance with its terms; and no further consents or approvals are required of Seller’s City Council as a condition to Seller’s obligations hereunder;

(iii) The execution of this Agreement and the fulfillment of Seller’s obligations hereunder shall not constitute or result in a breach of any term or provision of any existing mortgage, lease or other agreement to which Seller is a party or by which Seller may be bound;

(iv) To Seller’s actual knowledge, Seller (A) is not under investigation by any governmental authority for, or has been charged with, or convicted of, money laundering, drug trafficking, terrorist-related activities, any crimes in which the United States would be predicate crimes to money laundering, or any violation of any Anti-Money Laundering Laws (as hereinafter defined); (B) has not been assessed civil or criminal penalties under any Anti-Money Laundering
Laws; or (C) has not had any of its funds seized or forfeited in any action under any Anti-Money Laundering Laws. The term "Anti-Money Laundering Laws" means all applicable laws, regulations and sanction, state and federal, criminal and civil that, (1) limit the use of and/or seek the forfeiture of proceeds from illegal transactions, (2) limit commercial transactions with designated countries or individuals believed to be terrorists, narcotics dealers or otherwise engaged in activities contrary to the interests of the United States; (3) require identification and documentation of the parties with whom a financial institution conducts business; or (4) are designed to disrupt the flow of funds to terrorist organizations;

(v) Seller is neither a "foreign person" nor "foreign corporation" as those terms are defined in the United States Internal Revenue Code, as amended, and Seller shall ratify this warranty by affidavit at the time of Closing;

(vi) Other than this Agreement, the Development Agreement for the Phase I and Phase II Property, the existing Joint Marketing Agreement, as amended, that Seller has with owners of Seller's Property, and the lease with Ronald Muse, as of the date of Closing on the Phase I Property, there are no existing agreements, in writing or otherwise, to sell or lease the Property or any portion thereof or granting any option to purchase or first right of refusal with respect to the sale or lease of all or any portion of the Property;

(vii) There are no condemnation or eminent domain proceedings pending or, to the best of Seller's knowledge, contemplated against the Property or any part thereof, and Seller has received no notice of any public authority to take or use the Property or any part thereof;

(viii) There are no pending or threatened suits or proceedings against or affecting Seller or any part of the Property that: (A) involve a claim concerning title to the Property or any part thereof; (B) do or could prohibit or make unlawful the consummation of the transaction contemplated by this Agreement, or render Seller unable to consummate the same; or (C) do or could affect Purchaser's Intended Improvements on or use of the Property;

(ix) To the best of Seller's knowledge, there exists no violation of any law, regulation, ordinance, order or judgment affecting the Property;

(x) There are no agreements, waivers or other arrangements providing for any extension of time with respect to the assessment of any type of tax or deficiency against Seller in respect of the Property, nor are there any liens, actions, suits, proceedings, investigations or claims for taxes and/or assessments asserted by any taxing authority;

(xi) Seller has no knowledge of any Hazardous Substance on the Property;

(xii) Seller has disclosed or will disclose to Purchaser all assessments, studies, sampling results, evaluations and other reports commissioned by or for Seller or within Seller's possession or control relating to the environmental condition of the Property; and
(xiii) Florida law requires the following disclosure to be given to the purchaser of property in the state. Seller has made no independent inspection of the Property to determine the presence of conditions which may result in radon gas; however, Seller is not aware of any such condition. Certain building methods and materials have been proven to reduce the possibility of radon gas entering the building:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health unit.

(b) For purposes of this Agreement:

(i) The term “Environmental Law” means any federal, state, county, municipal, local or other statute, ordinance, regulation agreement, judgment orders and decrees, now or hereafter enacted, promulgated or amended of the United States, the states, the counties, the cities and any other political subdivisions in which the Property is located, and any other political subdivision, agency or instrumentality exercising jurisdiction over the owner of the Property, the Property or the use of the Property, relating to pollution, the protection or regulation of human health and safety, natural resources or the environment, or the emission, discharge, release or threatened release of pollutants, contaminants, chemicals or industrial, toxic or hazardous substances or water or Hazardous Substances into the environment (including, without limitation, ambient air, surface water, ground water, land or soil), including the Comprehensive Environmental Response and Liability Act of 1980 (“CERCLA”), as amended, 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6901, et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq., the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., and the Toxic Substances Control Act, as amended, 15 U.S.C. §2601 et seq.

(ii) The term “Hazardous Substance” means asbestos, urea formaldehyde, polychlorinated biphenyls, nuclear fuel or materials, radioactive materials, explosives, known carcinogens, petroleum products (including crude oil or any fraction thereof), radon gas which is not naturally occurring, and any pollutant, contaminant, chemical, material or substance defined as hazardous or as a pollutant or a contaminant in, or the use, manufacture, generation, storage, treatment, transportation, Release or disposal of which is regulated by, any Environmental Law. Hazardous Substances shall include, without limitation, any substance, the presence of which on the Property (A) requires reporting, investigation or remediation under Environmental Laws; (B) causes or threatens to cause a nuisance on the Property or adjacent property or poses or threatens to pose a hazard to the health or safety of person on the Property or the adjacent property; or (C) which, if it emanated or migrated from the Property, could constitute a trespass. The term Hazardous Substance shall not include customary cleaners and solvents or other substances used in the ordinary course of business.

(iii) The term “Release” means any spilling, leaking, pumping, pouring, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment,
including the abandonment or discarding of barrels, drums, containers, tanks or other receptacles containing or previously containing any Hazardous Substance.

(iv) The term “Seller’s Affiliates” means: (A) if Seller is an individual, any spouse, ancestor, descendant or sibling of Seller; (B) any corporation in which Seller is or was an officer, director or shareholder; (C) any partnership in which Seller is or was a partner; (D) any trust that is or was for the benefit of Seller or any spouse, ancestor, descendant or sibling of Seller; (E) if Seller is a partnership or limited liability company, any partner or member, respectively, of Seller; and (F) if Seller is a corporation, any officer, director or controlling shareholder of Seller.

(c) The representations and warranties made in Section 8(a) above shall be deemed to have been remade by Seller as of the Closing Date, as if made on and as of such date, except for such matters, if any, arising subsequent of the date of this Agreement, that are set forth in a certificate executed by Seller and delivered to Purchaser on or before the Closing Date, which certificate upon delivery shall be deemed to constitute a part of this Agreement. If any material representation or warranty made in Section 8(a) above was untrue when made or has become untrue as a result of Seller’s willful misconduct or intentional breach of this Agreement (or the willful misconduct or intentional breach of this Agreement by Seller’s agents, employees or counsel), it shall be deemed a default of Seller and Purchaser shall be entitled to pursue any remedies for Seller’s default as set forth in Section 13 below. If a matter represented by Seller hereunder was true as of the Effective Date, but subsequently is rendered inaccurate due to causes other than Seller’s willful misconduct or intentional breach of this Agreement, then such inaccuracy shall not constitute a default by Seller under this Agreement, but shall constitute a failure of a condition to Closing hereunder as further set forth in Section 6 above.

(d) Other than covenants in the Deed and other matters that expressly survive Closing as set forth in this Agreement, the representations, covenants, warranties, and other matters in this Agreement shall merge into the Deed and not survive Closing unless as provided for herein.

(e) Notwithstanding anything to the contrary set forth in this Agreement, except as expressly set forth in this Agreement, the Property will be conveyed in its “as-is” “where-is” condition on the Closing Date, “with all faults” and “subject to all defects.” Except as expressly set forth in this Agreement, Seller specifically disclaims making any representation or warranty concerning the Property.

9. **Purchaser Representation and Warranties.**

(a) Purchaser represents and warrants that:

(i) Purchaser is a limited liability company duly organized and validly existing under the laws of the State of Florida;

(ii) This Agreement is a valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms;
(iii) Neither entering into this Agreement nor consummation of the transaction contemplated hereby will constitute or result in a violation or breach by Purchaser of any contract or instrument to which it is a party, or to which it is subject, or by which it or any of its assets or properties may be bound;

(iv) Neither the entering into this Agreement nor the consummation of the transaction contemplated hereby will constitute or result in a violation or breach by Purchaser of any judgment, order, writ, injunction or decree issued against or imposed upon it; and

(v) Purchaser (without reference to its constituent entities) is not now nor shall it be at any time prior to or at the Closing a Person named in any executive orders or lists published by OFAC as a Specially Designated National or Blocked Person. To Purchaser’s actual knowledge, Purchaser (A) is not under investigation by any governmental authority for, or has been charged with, or convicted of, money laundering, drug trafficking, terrorist-related activities, any crimes in which the United States would be predicate crimes to money laundering, or any violation of any Anti-Money Laundering Laws; (B) has not been assessed civil or criminal penalties under any Anti-Money Laundering Laws; or (C) has not had any of its funds seized or forfeited in any action under any Anti-Money Laundering Laws.

(b) The representations and warranties made in Section 9(a) above shall be deemed to have been remade by Purchaser as of the Closing Date, as if made on and as of such date, except for such matters, if any, arising subsequent of the date of this Agreement, that are set forth in a certificate executed by Purchaser and delivered to Seller on or before the Closing Date, which certificate upon delivery shall be deemed to constitute a part of this Agreement. If any representation or warranty made in Section 9(a) above was untrue when made or has become untrue as a result of Purchaser’s willful misconduct or intentional breach of this Agreement (or the willful misconduct or intentional breach of this Agreement by Purchaser’s agents, employees or counsel), it shall be deemed a default of Purchaser and Seller shall be entitled to pursue any remedies for Purchaser’s default as set forth in Section 12 below. If a matter represented by Purchaser hereunder was true as of the Effective Date, but subsequently is rendered inaccurate due to causes other than Purchaser’s willful misconduct or intentional breach of this Agreement, then such inaccuracy shall not constitute a default by Purchaser under this Agreement, but shall constitute a failure of a condition to Closing hereunder.

(c) Other than covenants in the Deed and other matters that expressly survive Closing as set forth in this Agreement, the representations, covenants, warranties, and other matters in this Agreement shall merge into the Deed and not survive Closing.

10. Covenants.

(a) In addition to all other covenants and obligations of Seller in this Agreement, Seller covenants with Purchaser as follows:

(i) Between the Effective Date and the Closing Date, Seller shall not, without Purchaser’s prior written consent, create or permit by its consent encumbrances on the
Property that will adversely affect the legal description of the Property, the physical character of the same or the status of title of the Property;

(ii) Between the Effective Date and the Closing Date, Seller shall not file any application for any change of the present zoning classification of the Property unless Purchaser approves such change;

(iii) Between the Effective Date and the Closing Date, there shall be no material changes in the condition of the Property;

(iv) Between the Effective Date and the Closing Date, Seller shall deliver to Purchaser copies of any correspondence from any governmental agency or correspondence or notices concerning pending or threatened suits or proceedings against or affecting Seller or any part of the Property within three (3) business days after Seller’s receipt thereof;

(v) If subsequent to Closing hereunder, any mechanics’ or other liens are filed against the Property or against Purchaser or its assigns, based upon any act or omission of Seller occurring prior to Closing, and such liens are not satisfied at Closing, Seller shall take such action (or cause such action to be taken), within ten (10) days after such filing, by bonding, deposit, payment or otherwise, as will remove, transfer, satisfy or insure over such lien of record against the Property, at Seller’s sole cost and expense;

(vi) On the Closing Date, except persons pursuant to the lease with Ronald Muse, there shall be no parties in possession of any portion of the Property, whether as lessees, tenants-at-sufferance, trespassers or otherwise; and

(vii) Between the Effective Date and the Closing Date, Seller shall not enter into any leases, license agreements, subleases or other occupancy agreements for the Property.

(b) All of the foregoing covenants of this Section 10 except subsection 10(a)(vi) shall merge into the Deed and not survive Closing except as set forth in this Agreement.

11. **Condemnation.** If any proceedings, judicial, administrative or otherwise, relating to the taking, or to a proposed taking, of any portion of the Property, by eminent domain, condemnation or otherwise, are commenced prior to Closing, of if any portion of the Property is taken by eminent domain, condemnation or otherwise, prior to Closing, then Seller shall notify Purchaser promptly and Purchaser shall have the option, in its sole and absolute discretion, of either: (a) terminating this Agreement and receiving a full refund of the Deposit; or (b) Closing in accordance with the terms of this Agreement, but at the Closing, Seller shall assign to Purchaser all of its right, title, and interest in and to any awards that have been or may be made with respect to such eminent domain proceeding or condemnation (if the award is paid prior to Closing, such amount shall be held in escrow and delivered to Purchaser at Closing). Such election must be made by Purchaser within thirty (30) business days after the notice is furnished by Seller. If Purchaser fails to make an election in writing, Purchaser shall be deemed to have
elected alternative (b). If this Agreement is not terminated pursuant to this Section 11, Purchaser shall have the right to contest the condemnation of the Property and/or the award resulting therefrom, and Seller shall not agree to or accept any compromise or condemnation award without obtaining Purchaser’s prior written approval, which approval shall not be unreasonably withheld.

12. **Default by Purchaser.** If Purchaser defaults in its obligations pursuant to this Agreement and such default continues for ten (10) days after receipt of notice thereof from Seller or if Closing fails to occur due to a default on the part of Purchaser, then the total amount of the Deposit shall be delivered to Seller as liquidated and agreed upon damages; and thereafter, excluding the provisions of this Agreement that expressly survive, Purchaser shall be relieved from all further obligations under this Agreement and Seller shall have no further claim against Purchaser for specific performance or for damages by reason of the failure of Purchaser to close this transaction. The parties agree that this provision for liquidated damages is a bona fide attempt by the parties to resolve the amount of the damages which would be sustained by Seller in the event of the breach of this Agreement by Purchaser, and the parties recognize that the actual amount of such damages, if any, would be speculative and extremely difficult of ascertainment. Notwithstanding anything to the contrary set forth in this Agreement, Purchaser shall not be deemed to be in default for the City of DeBary’s failure to approve the Site Plan or any of the Development Approvals required for Purchaser to develop and construct the Intended Improvements on the Property.

13. **Default by Seller.** If Seller defaults in its obligations pursuant to this Agreement and such default continues for ten (10) days after receipt of notice thereof from Purchaser, or if the Closing fails to occur due to a default on the part of Seller, then, at the option of Purchaser:
   (a) Purchaser may terminate this Agreement and the Deposit shall be promptly returned to Purchaser; or
   (b) Purchaser may maintain an action for specific performance. Notwithstanding the preceding sentence, if specific performance is not an available remedy, Purchaser shall have the right to maintain an action for damages or other remedies against Seller as may be available at law, in equity or otherwise.

14. **Brokers & Consultants.** Seller and Purchaser each represent and warrant to the other that there are no real estate agents, brokers, finders, or other persons or entities entitled to a commission or similar fee in connection with the transaction contemplated herein, with the exception of Colliers International ("Broker") whose broker fee/commission shall be paid by Seller at Closing pursuant to a separate agreement between Seller and Broker. In the event any claims arise for any commissions, fees, or other compensation in connection with the transaction contemplated herein other than that referenced in this paragraph, the party causing such claims or through whom such claims are made, shall indemnify and hold the other party hereto harmless for any loss or damage which such other party suffers as a result thereof. The foregoing indemnification shall survive the Closing or an earlier termination of this Agreement.

15. **Notices.** All notices authorized or required herein shall be in writing and shall be considered delivered when hand delivered or when sent by registered or certified mail, return receipt requested, addressed as set forth below. Address for notice purposes are, as follows:

17932307v14
Purchase and Sale Agreement
Masonic Development/DeBary, FL
If to Purchaser:
Mosaic At DeBary, LLC
1763 1st Avenue North
St. Petersburg, FL 33713
Attn: Roxanne Williams
Email: rwilliams@mosaicsdevelopmentfl.com

With a copy to:
Samuel P. Queirolo, Esquire
Shumaker, Loop & Kendrick, LLP
101 E. Kennedy Blvd.
Suite 2800
Tampa, Florida 33602

If to Mosaic Development, LLC:
Mosaic Development, LLC
1763 1st Avenue North
St. Petersburg, FL 33713
Attn: Roxanne Williams
Email: rwilliams@mosaicsdevelopmentfl.com

With a copy to:
Samuel P. Queirolo, Esquire
Shumaker, Loop & Kendrick, LLP
101 E. Kennedy Blvd.
Suite 2800
Tampa, Florida 33602

If to Seller:
City of DeBary
16 Columba Road
DeBary, FL 32713
Attention: Carmen Rosamonda

With a copy to:
Fishback Dominick
1947 Lee Road
Winter Park, FL 32789
Email: ardaman@fishbacklaw.com

Each party may change its address for notification purposes by delivering written notice of such change of address to the other party.

16. Escrow Agent. The Escrow Agent shall be responsible for holding and disbursing the Deposit in accordance with the terms of this Agreement, and the duties and responsibilities of the Escrow Agent shall be determined solely by the express terms and provisions of this Agreement. In the event that the Escrow Agent receives a written demand from either Seller or Purchaser for the disbursement of the Deposit (which demand shall include an
explanation setting forth the factual basis for such party’s demand for the Deposit), then the Escrow Agent shall give written notice to the other party of such demand and of the Escrow Agent’s intention to remit the Deposit to the party making the demand, unless the Escrow Agent receives a written objection from the other party within ten (10) days. If the Escrow Agent does not receive a written objection from the other party within the stated date, then the Escrow Agent is hereby authorized to remit the Deposit to the party making the demand for the Deposit. If, however, within ten (10) days after such notice, the Escrow Agent receives either written objection from the other party or a conflicting demand for the disbursement of the Deposit, then the Escrow Agent shall continue to hold the Deposit in escrow until otherwise directed by joint written instructions from Seller and Purchaser or until receipt of a final judgment of a court with appropriate jurisdiction. As an alternative thereto, the Escrow Agent may tender the Deposit into a court of appropriate jurisdiction and interplead both parties hereto and thereafter be free from any further obligation to the parties or hereunder. The Escrow Agent may decline to act and shall not be liable for failure to act if in doubt as to its duties and responsibilities hereunder. The Escrow Agent shall have the right to consult with counsel of its own choosing in the performance of its duties and responsibilities hereunder, and shall not be liable for any action taken in good faith in reliance upon the advice of counsel and the parties shall each be responsible for and each pay one-half of Escrow Agent’s attorney’s fees in such event. The Escrow Agent may act upon any instrument or signature reasonably believed by the Escrow Agent to be genuine and may assume that any person purporting to give any notice or instruction hereunder, reasonably believed by the Escrow Agent to be authorized, has been duly authorized to do so. The Escrow Agent is not charged with any knowledge of or any duties or responsibilities, except as set forth in this Agreement. Except for willful misconduct, or gross negligence, the Escrow Agent shall be excused from all responsibility, including insolvency of any depository, absolutely. The parties acknowledge that the Escrow Agent is the law firm which represents Seller in connection with this transaction and that in the event of any dispute or litigation hereunder, it may continue to do so and to serve as the Escrow Agent hereunder and Purchaser waives any conflict. The Escrow Agent’s rights and obligations shall survive termination of this Agreement or the Closing and the Escrow Agent is an express third party beneficiary of this Section 16.

17. **Attorneys’ Fees.** In the event of any litigation arising under this Agreement, the prevailing party shall be entitled to recover reasonable attorneys’ fees, court costs and all expenses (including, without limitation, all such fees, costs and expenses incident to pre-trial, trial, appellate, bankruptcy, post-judgment and alternative dispute resolution proceedings), incurred in that suit, action or proceeding, in addition to any other relief to which such party is entitled. Attorneys’ fees shall include, without limitation, paralegal fees, investigative fees, expert witness fees, administrative costs and all other reasonable charges billed by the attorney to the prevailing party.

18. **Miscellaneous.**

   (a) **Entire Agreement.** This Agreement constitutes the entire agreement by and between parties hereto with respect to the purchase of the Property and supersedes all prior agreements, understandings, negotiations and discussions, both written and oral, by and between the parties hereto with respect to purchase of the Property. No representations, warranties or agreements have been made or, if made, have been relied upon by either party, except as

17932307v14
Purchase and Sale Agreement
Mosaic Development/DeBary, FL
specifically set forth herein. This Agreement may not be amended or modified in any way except by a written instrument executed by each party hereto.

(b) **Binding Effect.** All terms and provisions of this Agreement shall be binding upon, inure for the benefit of and be enforceable by and against the parties hereto and their respective personal or other legal representatives, heirs, successors and assigns.

(c) **Assignment.** Prior to Closing, Purchaser may assign its rights hereunder to an entity in which Purchaser is a member or manager provided Purchaser shall not be relieved from Purchaser's obligations.

(d) **No Waivers.** The waiver by either party of the prompt and complete performance, or breach or violation, of any provision of this Agreement shall not operate as, nor be construed to be, a waiver of any subsequent breach or violation, and the waiver by either party of the exercise of any right or remedy that it may possess shall not operate as, nor be construed to be, the waiver of such right or remedy by any other party or parties or a bar to the exercise of such right or remedy by such party or parties upon the occurrence of any subsequent breach or violation.

(e) **Headings.** The article headings in this Agreement are for convenient reference only and shall not have the effect of modifying or amending the expressed terms and provisions of this Agreement, nor shall they be used in connection with the interpretation hereof.

(f) **Pronouns; Gender.** All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the context may require.

(g) **Time.** Time shall be of the essence. Any time period provided for herein which shall end on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m. of the next full business day.

(h) **Severability.** The invalidity of any provision of this Agreement shall not affect the enforceability of the remaining provisions of this Agreement or any part hereof. In the event that any provision of this Agreement shall be declared invalid by a court of competent jurisdiction, the parties agree that such provision shall be construed, to the extent possible, in a manner which would render the provision valid and enforceable or, if the provision cannot reasonably be construed in a manner which would render the provision valid and enforceable, then this Agreement shall be construed as if such provision had not been inserted.

(i) **Counterparts.** This Agreement may be executed in any number of counterparts and by the separate parties hereto in separate counterparts, all of which shall be deemed to be an original and one and the same instrument.

(j) **Governing Law.** This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Florida without regard to principles of conflicts or choice of laws.
(k) **Jurisdiction and Venue.** Each of the parties irrevocably and unconditionally: (i) agrees that any suit, action or legal proceeding arising out of or relating to this Agreement shall be brought in the courts of record of the State of Florida in Volusia County; (ii) consents to the jurisdiction of each such court in any suit, action or proceeding; and (iii) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts.

(l) **Trial by Jury.** The parties hereby waive any right they may have under any applicable law to a trial by jury with respect to any suit or legal action which may be commenced by or against the other concerning the interpretation, construction, validity, enforcement or performance of this Agreement or any other agreement or instrument executed in connection with this Agreement.

(m) **Recording.** Neither this Agreement nor any notice or memorandum of this Agreement shall be recorded in the public records of any county including Volusia County, Florida.

(n) **Electronic Signatures.** This Agreement shall be effective when the parties have forwarded their respective signatures by electronic mail either to the other party or the other party's counsel. Electronic signatures shall have the same legal effect as original signatures.

(o) **Force Majeure.** In the event any act of either Seller or Purchaser cannot take place solely because of a hurricane, war, tornado or similar casualty which causes banks in the county where the Property is located to close and/or insurance companies to cease writing new policies in such county, then the time period for a party to perform such act shall be postponed until the earlier of: (i) three (3) business days after the banks have reopened and insurance can be written, or (ii) fifteen (15) business days after the Closing Date.

(p) **COVID-19 Delays.** "Critical Information or Process" means any service or information, the review or processing of any application, submittal or permit, or the granting of any approval that Purchaser or Seller relies upon in connection with its exercise of any right, performance or any obligation, or satisfaction of any condition under this Agreement. "Critical Provider" means any third party (including any private person or entity or any governmental entity) that provides any Critical Information or Process to Purchaser or Seller. "COVID-19 Delay" means each delay by any Critical Provider in providing any Critical Information or Process to Purchaser or Seller because the Critical Provider, in accordance with the requirements of any governmental order (and not otherwise) respecting the COVID-19 pandemic, closes its offices or operations or alters or suspends its schedule. Without limiting the generality of the preceding sentence, a COVID-19 Delay would include the Title Company’s delay in delivering the Commitment, or a surveyor’s delay in delivering the Survey, or a governmental entity’s delay in processing or granting any Development Approvals, where the applicable Critical Provider closes its offices or operation or suspends its schedule due to government order. Notwithstanding any other provision in this Agreement to the contrary, if a COVID-19 Delay occurs, each date by which Purchaser or Seller is required to exercise a right, satisfy a condition or perform an obligation under this Agreement (for which Purchaser or Seller is relying on the Critical Information or Process that is the subject of a COVID-19 Delay) shall
be extended by a period equal to the duration of the COVID-19 Delay, provided, that, the party claiming the existence of a COVID-19 Delay shall provide written notice to the other party of the COVID-19 Delay within five (5) days after the notifying party's reasonable determination that the COVID-19 Delay is occurring. Notwithstanding the foregoing, in no event shall either party be entitled to extension(s) under this Section 18(p) for more than thirty (30) days in the aggregate.

[SIGNATURE PAGE FOLLOWS]
IN WITNESS WHEREOF, the parties hereto have set their hand on the day and date first above written.

SELLER:

CITY OF DEBARY,
a Florida municipal corporation

By: __________________________
Name: ________________________
Title: _________________________
Date: _________________________

PURCHASER:

MOSAIC AT DEBARY LLC,
a Florida limited liability company

By: __________________________
Roxanne Williams
Principal
Date: _________________________

ESCROW AGENT:

FISHBACK DOMINICK

By: __________________________
Name: _________________________
Title: _________________________
JOINDER AND CONSENT

(a) The undersigned hereby joins in and consents to the foregoing Purchase and Sale Agreement and agrees to be bound by the Purchaser's obligations contained therein.

(b) MOSAIC DEVELOPMENT, LLC
    a Florida limited liability company

By: ____________________________

Name: __________________________

Its: ____________________________
EXHIBIT “A”
to Purchase and Sale Agreement (Phase II)

LEGAL DESCRIPTION OF
THE PHASE I PROPERTY

Parcel 1

Beginning at the Southwest corner of the Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, thence running East along the South line of said Northwest 1/4 of Northeast 1/4 to the center line of State Road No. 3, thence in a Northeasterly direction along the center line of said state road a distance of 600.00 feet; thence running West parallel to the said South line of said Northwest 1/4 of Northeast 1/4 to the West line of said Northwest 1/4 of Northeast 1/4; thence South along said West line of said Northwest 1/4 of Northeast 1/4 to the point of beginning, of the Public Records of Volusia County, Florida.

LESS AND EXCEPT:

The Easterly 33.00 feet for State Road No. 3.

AND ALSO LESS AND EXCEPT:

Any portion thereof, if any, lying within Railroad Right-of Way.

AND ALSO LESS AND EXCEPT:

Land described in Order of Taking recorded in Official Records Book 4372, Page 4061, of the Public Records of Volusia County, Florida.

Parcel 2

The West 355.4 feet of the North 150 feet of the NW ¼ of the NE ¼ of Section 9, Township 19 South, Range 30 East, and the East 15 feet of the South 593 feet of the North 743 feet of the West 355.4 feet of the NW ¼ of the NE ¼ of Section 9, Township 19 South, Range 30 East.

LESS AND EXCEPT:

The East 15.00 feet of the West 355.4 feet of the North 743 feet of the NW ¼ of the NW ¼ of the NE ¼ of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 3

A portion of the Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, bounded and described as follows:
Beginning at a point 355.4 feet East and 300 feet South of the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, run thence South 221.7 feet to a point, thence West 330.5 feet to a point on the Easterly right-of-way line of the Atlantic Coast Line Railroad, thence Northwesterly along said Easterly right-of-way line 114.3 feet to a point on the West line of said Northeast 1/4, thence North 108.8 feet to a point, thence Easterly 355.4 feet to point of beginning.

LESS AND EXCEPT:

The East 15 feet for private road.

TOGETHER WITH:

A non-exclusive easement for ingress and egress over and across the East 15 feet of the North 743 feet of said Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 4

A portion of the Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, bounded and described as follows:

Beginning at a point 355.4 feet East and 521.7 feet South of Northwest corner of Northwest 1/4 of Northeast 1/4 of said Section 9, Township 19 South, Range 30 East; run thence West 330.5 feet to the Easterly right-of-way line of the Atlantic Coast Line Railroad, thence Southeasterly along said right-of-way line 223.95 feet to a point; thence East 300.75 feet to a point; thence North 221.3 feet to the place of beginning,

LESS AND EXCEPT:

The East 15 feet thereof for private road;

TOGETHER WITH:

A non-exclusive easement for ingress and egress over and across the East 15 feet of the North 743 feet of said Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 5

That part of the North-half of the Northwest 1/4 of Section 9, Township 19 South, Range 30 East, lying Northeasterly of the CSX Railroad Right-of-Way, lying in Volusia County, Florida.
Parcel 6

Beginning at a point 355.4 feet East and 150 feet South of the Northwest corner of the Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, run thence South 150 feet to a point, run thence West 355.4 feet to the Westerly line of said Northwest 1/4 of the Northeast 1/4, thence North 150 feet, thence East and parallel to the North line thereof 355.4 feet to the Point of Beginning.

LESS AND EXCEPT:

The East 15 feet for private road.

Parcel 7

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence North 89°49’10” East a distance of 355.4 feet to a point, also being the centerline of an 18 foot graded road; run thence South 00°00’50” West a distance of 150.0 feet to the Point of Beginning; thence continue South 00°00’50” West a distance of 221.50 feet; run thence North 89°49’10” East a distance of 426.14 feet to a point on the Westerly right-of-way of U.S. Highway 17-92, also being a point on a curve having a radius of 5779.59 feet and a delta of 00°52’10”; run thence Northwesterly along the arc of said curve also being the said Westerly right-of-way of Highway 17-92, a distance of 87.69 feet to the Point of Tangency; thence run North 24°11’09” East along said right-of-way a distance of 155.13 feet; run thence South 89°49’10” West a distance of 524.89 feet to the Point of Beginning.

AND ALSO:

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence North 89°49’10” East a distance of 355.40 feet to the Point of beginning, a point also being the centerline of an 18 foot graded road; run thence South 00°00’50” West a distance of 150.00 feet along the centerline of the aforesaid graded road to a point; run thence North 89°49’10” East a distance of 524.89 feet to a point on the Westerly right-of-way of U.S. Highway 17-92; run thence North 24°11’09” East along said right-of-way a distance of 164.67 feet to a point being on the North line of said Section 9, Township 19 South, Range 30 East; run thence South 89°49’10” West a distance of 592.32 feet along said North line to the Point of Beginning.

LESS AND EXCEPT:

Those portions of the foregoing parcels conveyed to the State of Florida Department of Transportation by Deed recorded in Official Records Book 4275, Page 4328, Public Records of Volusia County, Florida.
Parcel 8

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence N 89 degrees 49 minutes 10 seconds E, a distance of 355.40 feet to a point, also being the centerline of an 18 foot graded road; run thence S 00 degrees 00 minutes 50 seconds W a distance of 371.50 feet to the Point of Beginning; thence continue S 00 degrees 00 minutes 50 seconds W a distance of 371.50 feet along the centerline of the aforesaid graded road to a point; run thence N 89 degrees 49 minutes 10 seconds E a distance of 281.02 feet to a point on the Westerly Right-Of-Way of US Highway 17-92, also being a point on a curve having a radius of 5779.59 feet and a delta of 03 degrees 57 minutes 33 seconds; run thence Northeasterly along the arc of said curve a distance of 399.38 feet, also being the Westerly Right-Of-Way of US Highway 17-92 to a point; run thence S 89 degrees 49 minutes 10 seconds W a distance of 426.14 feet to the Point of Beginning.

LESS AND EXCEPT:

Any portion thereof, if any, lying within State Road Right-of-Way.

AND ALSO LESS AND EXCEPT:

Right of way for graded road.

LESS AND EXCEPT FROM THE FOREGOING PARCELS 1 THROUGH 8 THE FOLLOWING DESCRIBED PHASE II AND OPTION PARCEL:

PHASE II DESCRIPTION

A portion of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:

Commence at the Northwest corner of the Northeast quarter of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; thence North 89°54'29" East, a distance of 379.54 feet along the North line of the Northeast quarter of the Northeast quarter of said Section 9 to the POINT OF BEGINNING; thence continue along said North line North 89°54'29" East, a distance of 561.38 feet to a point on the West Right of Way line of U.S. Highway 17-92 (State Road 15), per Florida Department of Transportation Right of Way Map Section 79040-2544 and Florida Department of Transportation Central Florida Commuter Rail Transit FT. Florida Station Site Section No.79000; thence along said West Right of Way line the following two (2) courses and distances: South 24°13'55" West, a distance of 292.98 feet to a non-tangent curve concave Southeasterly, having a radius of 5,785.58 feet, a central angle of 02°57'19" and a chord bearing of South 22°45'26" West, thence from a tangent bearing of South 24°14'06" West, Southwesterly a distance of 298.42 feet along the arc of said curve; thence departing said West Right of Way line, South 89°21'01" West, a distance of 269.84 feet; thence North 00°38'59" West, a distance of 153.29 feet; thence South 89°21'01" West, a distance of 88.67 feet; thence North 00°38'59" West, a distance of 133.00 feet; thence South 89°21'01" West, a distance of 53.46 feet to a point on a non-tangent curve concave Northerly; having a radius of 86.84 feet, a central angle of 15°13'46" and a chord bearing of North 83°04'57" West; thence from a tangent bearing of South 89°18'10" West, Westerly, a distance of 23.08 feet along the arc of said curve to a point on a
non-tangent curve concave Southeasterly; having a radius of 158.90 feet, a central angle of 22°57'07" and a chord bearing of North 32°52'28" East; thence from a tangent bearing of North 21°23'54" East, Northeasterly, a distance of 63.65 feet along the arc of said curve to a point of tangency; thence North 44°21'01" East, a distance of 52.86 feet to a point of curvature of a curve concave Northwesterly, having a radius of 141.10 feet; thence Northeasterly along the arc of said curve, through a central angle of 43°37'59", a distance of 107.45 feet to a point of tangency; thence North 00°43'02" East, a distance of 69.28 feet to the POINT OF BEGINNING.

Containing 5.62 acres, more or less.

OPTION PARCEL DESCRIPTION:
A portion of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:
BEGIN at the Northwest corner of the Northeast quarter of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; thence North 89°54'29" East, a distance of 306.33 feet along the North line of the Northwest quarter of the Northeast quarter of said Section 9; thence departing said North line, South 00°43'02" West, a distance of 68.25 feet to a point of curvature of a curve concave Northwesterly, having a radius of 67.90 feet; thence Southwesterly along the arc of said curve, through a central angle of 43°37'59", a distance of 51.71 feet to a point of tangency; thence South 44°21'01" West, a distance of 49.27 feet; thence South 89°54'29" West, a distance of 251.96 feet to the West line of the Northwest quarter of the Northeast quarter of said Section 9; thence North 00°06'10" East, a distance of 150.00 feet along said West line to the POINT OF BEGINNING.

Containing 1.02 acres, more or less.
EXHIBIT “B”
to Purchase and Sale Agreement (Phase II)

LEGAL DESCRIPTION OF
THE PHASE II PROPERTY

Parcel 1

Beginning at the Southwest corner of the Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, thence running East along the South line of said Northwest 1/4 of Northeast 1/4 to the center line of State Road No. 3, thence in a Northeasterly direction along the center line of said state road a distance of 600.00 feet; thence running West parallel to the said South line of said Northwest 1/4 of Northeast 1/4 to the West line of said Northwest 1/4 of Northeast 1/4; thence South along said West line of said Northwest 1/4 of Northeast 1/4 to the point of beginning, of the Public Records of Volusia County, Florida.

LESS AND EXCEPT:

The Easterly 33.00 feet for State Road No. 3.

AND ALSO LESS AND EXCEPT:

Any portion thereof, if any, lying within Railroad Right-of-Way.

AND ALSO LESS AND EXCEPT:

Land described in Order of Taking recorded in Official Records Book 4372, Page 4061, of the Public Records of Volusia County, Florida.

Parcel 2

The West 355.4 feet of the North 150 feet of the NW ¼ of the NE ¼ of Section 9, Township 19 South, Range 30 East, and the East 15 feet of the South 593 feet of the North 743 feet of the West 355.4 feet of the NW ¼ of the NE ¼ of Section 9, Township 19 South, Range 30 East.

LESS AND EXCEPT:

The East 15.00 feet of the West 355.4 feet of the North 743 feet of the NW ¼ of the NW ¼ of the NE ¼ of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 3

A portion of the Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, bounded and described as follows:
Beginning at a point 355.4 feet East and 300 feet South of the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, run thence South 221.7 feet to a point, thence West 330.5 feet to a point on the Easterly right-of-way line of the Atlantic Coast Line Railroad, thence Northerly along said Easterly right-of-way line 114.3 feet to a point on the West line of said Northeast 1/4, thence North 108.8 feet to a point, thence Easterly 355.4 feet to point of beginning.

LESS AND EXCEPT:

The East 15 feet for private road.

TOGETHER WITH:

A non-exclusive easement for ingress and egress over and across the East 15 feet of the North 743 feet of said Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 4

A portion of the Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, bounded and described as follows:

Beginning at a point 355.4 feet East and 521.7 feet South of Northwest corner of Northwest 1/4 of Northeast 1/4 of said Section 9, Township 19 South, Range 30 East; run thence West 330.5 feet to the Easterly right-of-way line of the Atlantic Coast Line Railroad, thence Southeasterly along said right-of-way line 223.95 feet to a point; thence East 300.75 feet to a point; thence North 221.3 feet to the place of beginning.

LESS AND EXCEPT:

The East 15 feet thereof for private road;

TOGETHER WITH:

A non-exclusive easement for ingress and egress over and across the East 15 feet of the North 743 feet of said Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 5

That part of the North-half of the Northwest 1/4 of Section 9, Township 19 South, Range 30 East, lying Northeasterly of the CSX Railroad Right-of-Way, lying in Volusia County, Florida.

Parcel 6
Beginning at a point 355.4 feet East and 150 feet South of the Northwest corner of the Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, run thence South 150 feet to a point, run thence West 355.4 feet to the Westerly line of said Northwest 1/4 of the Northeast 1/4, thence North 150 feet, thence East and parallel to the North line thereof 355.4 feet to the Point of Beginning.

LESS AND EXCEPT:

The East 15 feet for private road.

Parcel 7

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence North 89°49'10" East a distance of 355.40 feet to a point, also being the centerline of an 18 foot graded road; run thence South 00°00'50" West a distance of 150.0 feet to the Point of Beginning; thence continue South 00°00'50" West a distance of 221.50 feet; run thence North 89°49'10" East a distance of 426.14 feet to a point on the Westerly right-of-way of U.S. Highway 17-92, also being a point on a curve having a radius of 5779.59 feet and a delta of 00°52'10"; run thence Northwesterly along the arc of said curve also being the said Westerly right-of-way of Highway 17-92, a distance of 87.69 feet to the Point of Tangency; thence run North 24°11'09" East along said right-of-way a distance of 155.13 feet; run thence South 89°49'10" West a distance of 524.89 feet to the Point of Beginning.

AND ALSO:

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence North 89°49'10" East a distance of 355.40 feet to the Point of beginning, a point also being the centerline of an 18 foot graded road; run thence South 00°00'50" West a distance of 150.00 feet along the centerline of the aforesaid graded road to a point; run thence North 89°49'10" East a distance of 524.89 feet to a point on the Westerly right-of-way of U.S. Highway 17-92; run thence North 24°11'09" East along said right-of-way a distance of 164.67 feet to a point being on the North line of said Section 9, Township 19 South, Range 30 East; run thence South 89°49'10" West a distance of 592.32 feet along said North line to the Point of Beginning.

LESS AND EXCEPT:

Those portions of the foregoing parcels conveyed to the State of Florida Department of Transportation by Deed recorded in Official Records Book 4275, Page 4328, Public Records of Volusia County, Florida.

Parcel 8

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence N 89 degrees 49 minutes 10 seconds E, a distance of 355.40 feet to a point, also being the centerline of an 18 foot graded road; run thence
S 00 degrees 00 minutes 50 seconds W a distance of 371.50 feet to the Point of Beginning; thence continue S 00 degrees 00 minutes 50 seconds W a distance of 371.50 feet along the centerline of the aforesaid graded road to a point; run thence N 89 degrees 49 minutes 10 seconds E a distance of 281.02 feet to a point on the Westerly Right-Of-Way of US Highway 17-92, also being a point on a curve having a radius of 5779.59 feet and a delta of 03 degrees 57 minutes 33 seconds; run thence Northeasterly along the arc of said curve a distance of 399.38 feet, also being the Westerly Right-Of-Way of US Highway 17-92 to a point; run thence S 89 degrees 49 minutes 10 seconds W a distance of 426.14 feet to the Point of Beginning.

LESS AND EXCEPT:

Any portion thereof, if any, lying within State Road Right-of-Way.

AND ALSO LESS AND EXCEPT:

Right of way for graded road.

LESS AND EXCEPT FROM THE FOREGOING PARCELS 1 THROUGH 8 THE FOLLOWING DESCRIBED PHASE I AND OPTION PARCEL:

PHASE I DESCRIPTION:

A portion of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:
BEGIN at the Northwest corner of the Northeast quarter of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; thence South 00°06'10" West, a distance of 150.00 feet; thence North 89°54'29" East, a distance of 251.96 feet; thence North 44°21'01" East, a distance of 49.27 feet to a point of curvature of a curve concave Northwesterly, having a radius of 67.90 feet; thence Northeasterly along the arc of said curve, through a central angle of 43°37'59", a distance of 51.71 feet to a point of tangency; thence North 00°43'02" East, a distance of 68.25 feet to the North line of the Northwest quarter of the Northeast quarter of said Section 9; thence North 89°54'29" East, a distance of 73.21 feet along said North line; thence departing said North line, South 00°43'02" West, a distance of 69.28 feet to a point of curvature of a curve concave Northwesterly, having a radius of 141.10 feet; thence Southwesterly along the arc of said curve, through a central angle of 43°37'59", a distance of 107.45 feet to a point of tangency; thence South 44°21'01" West, a distance of 52.86 feet to a point of curvature of a curve concave Southeasterly, having a radius of 158.90 feet; thence Southwesterly along the arc of said curve, through a central angle of 22°57'07", a distance of 63.65 feet to a point on a non-tangent curve concave Northerly; having a radius of 86.84 feet, a central angle of 15°13'46" and a chord bearing of South 83°04'57" East; thence from a tangent bearing of South 75°28'04" East, Easterly, a distance of 23.08 feet along the arc of said curve; thence North 89°21'01" East, a distance of 53.46 feet; thence South 00°38'59" East, a distance of 133.00 feet; thence North 89°21'01" East, a distance of 88.67 feet; thence South 00°38'59" East, a distance of 153.29 feet; thence North 89°21'01" East, a distance of 269.84 feet to the West Right of Way line of U.S. Highway 17-92 (State Road 15), per on Florida Department of Transportation Right of Way Map Section 79040-2544 and Florida Department of Transportation Central Florida Commuter Rail Transit FT. Florida Station Site Section No.79000 and a point on a non-tangent curve concave.
Easterly; having a radius of 5,785.58 feet, a central angle of 02°30'55" and a chord bearing of South 20°01'19" West; thence along said West Right of Way line the following three (3) courses and distances: from a tangent bearing of South 21°16'46" West, Southerly, a distance of 253.97 feet along the arc of said curve; thence South 71°14'19" East, a distance of 6.00 feet to a point on a non-tangent curve concave Easterly; having a radius of 5,779.58 feet, a central angle of 04°43'37" and a chord bearing of South 16°24'02" West; thence from a tangent bearing of South 18°45'50" West, Southerly, a distance of 476.81 feet along the arc of said curve to a point on the North Maintained Right of Way line of Fort Florida Road per aforesaid Right of Way map; thence along said North Maintained Right of Way line the following seven (7) courses and distances: North 89°19'41" West, a distance of 25.00 feet; thence South 13°53'09" West, a distance of 30.00 feet; thence North 89°19'41" West, a distance of 71.09 feet; thence South 00°40'29" West, a distance of 20.15 feet; thence North 89°55'19" West, a distance of 31.19 feet; thence North 01°22'00" West, a distance of 24.03 feet; thence North 88°46'41" West, a distance of 293.69 feet to the East Railroad Right of Way line per Florida Department of Transportation Central Florida Commuter Rail Transit Segment "C" Mainline Boundary Survey and Central Florida Commuter Rail Transit FT. Florida Station Site Right-of-Way Map. Section NO. 79000; thence along said East Right of Way line the following four (4) courses and distances: North 00°38'59" West, a distance of 404.48 feet to a point of curvature of a curve concave Westerly, having a radius of 1,970.09 feet; thence Northerly along the arc of said curve, through a central angle of 13°08'06", a distance of 451.64 feet; thence South 00°06'09" West, a distance of 43.57 feet to a point on a non-tangent curve concave Westerly; having a radius of 1,960.09 feet, a central angle of 13°55'29" and a chord bearing of North 19°30'38" West; thence from a tangent bearing of North 12°32'54" West, Northerly, a distance of 476.37 feet along the arc of said curve to the aforesaid North line of the Northwest quarter of the Northeast quarter of said Section 9; thence North 89°47'30" East, a distance of 159.51 feet along said North line to the POINT OF BEGINNING.

Containing 13.07 acres, more or less.

OPTION PARCEL DESCRIPTION:
A portion of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:
BEGIN at the Northwest corner of the Northeast quarter of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; thence North 89°54'29" East, a distance of 306.33 feet along the North line of the Northwest quarter of the Northeast quarter of said Section 9; thence departing said North line, South 00°43'02" West, a distance of 68.25 feet to a point of curvature of a curve concave Northwesterly, having a radius of 67.90 feet; thence Southwesterly along the arc of said curve, through a central angle of 43°37'59", a distance of 51.71 feet to a point of tangency; thence South 44°21'01" West, a distance of 49.27 feet; thence South 89°54'29" West, a distance of 251.96 feet to the West line of the Northwest quarter of the Northeast quarter of said Section 9; thence North 00°06'10" East, a distance of 150.00 feet along said West line to the POINT OF BEGINNING.

Containing 1.02 acres, more or less.
EXHIBIT “C”
to Purchase and Sale Agreement (Phase II)

FORM OF SPECIAL WARRANTY DEED

This Instrument Prepared By:

Mosaic Development, LLC
1731 1st Avenue North
St. Petersburg, FL 33713
Attention: S. Maki Uchiyama

SPECIAL WARRANTY DEED

This SPECIAL WARRANTY DEED made this _____ day of ________, 20____
between THE CITY OF DEBARY, a Florida municipal corporation, whose mailing address is
__________________________, as Grantor, and ____________________________,
a Florida limited liability company, whose mailing address is 1763 1st Avenue North, St.
Petersburg, Florida 33713, as Grantee.

WITNESSETH, that said Grantor, for and in consideration of the sum of TEN AND
NO/100 DOLLARS ($10.00) and other good and valuable considerations to said Grantor in hand
paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and
sold to the said Grantee, and Grantee’s successors and assigns forever, the following described
land, situate, lying and being in Volusia County, Florida, to-wit:

A tract or parcel of land situated in the State of Florida, County of ________, City
of ________, being more particularly described in Exhibit A attached hereto and
incorporated herein.

Subject to taxes for the current year and subsequent years; covenants, conditions,
restrictions, easements, reservations and limitations of record.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in
anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said
land in fee simple; that Grantor has good right and lawful authority to sell and convey said land;
that Grantor hereby fully warrants the title to said land and will defend the same against the lawful
claims of all persons claiming by, through or under Grantor except for the matters set forth on the
attached Exhibit “B” which are not re-imposed by this reference.

[SIGNATURE PAGE FOLLOWS]
IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in its name, by its officer thereunto duly authorized, the day and year first above written.

Signed, sealed and delivered in our presence:

WITNESSES:

GRANTOR:

THE CITY OF DEBARY, a Florida municipal corporation
By:
Name: ____________________________
Title: ____________________________

Print Name: ____________________________

Print Name: ____________________________

ACKNOWLEDGEMENT

STATE OF ____________________________
COUNTY OF ____________________________

The foregoing instrument was acknowledged before me this ____ day of ____________, 20__ by means of physical presence by ____________________________, as ____________________________, of ____________________________. He/She is personally known to me or has produced ____________________________, as identification.

(SEAL)

Notary Public - Signature
Print Name: ____________________________
My commission expires: ____________________________
EXHIBIT A TO DEED

LEGAL DESCRIPTION OF
PHASE II PROPERTY

[To be Attached]
EXHIBIT B TO DEED

PERMITTED EXCEPTIONS

[To be attached]
EXHIBIT "D"

to Purchase and Sale Agreement (Phase II)

(c)

FORM OF CERTIFICATE OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by ______________________, a ______________________ limited liability company ("Seller"), the undersigned hereby certifies the following on behalf of the Seller:

1. Seller is not a foreign limited partnership as that term is defined in the Internal Revenue Code and Income Tax Regulations;

2. Seller’s U.S. employer identification number is ________________; and

3. Seller’s address is ________________________________;

Seller understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury the undersigned declares that it has examined this certification and to the best of its knowledge and believe it is true, correct and complete, and it further declares that it has authority to sign this document on behalf of Seller.

Dated: __________________________, 20___

SELLER:

_________________________________,

______________________________,

By: ____________________________

Name: __________________________

Title: __________________________
EXHIBIT “E”
to Purchase and Sale Agreement (Phase II)

FORM OF SELLER’S CERTIFICATE

The undersigned hereby certifies that each of the representations and warranties made in Article 5 or elsewhere of that certain Purchase and Sale Agreement dated as of __________, 20__, as amended and/or assigned, by and between the undersigned and [the predecessors in interest to] ___________________, are correct and complete in all material respects as of the date hereof except

___________________________.

Dated: ________________, 20__

SELLER:

__________________________

a _______________________

By: _______________________

Name: _____________________

Title: _____________________

Date: _____________________
EXHIBIT “F”

to Purchase and Sale Agreement (Phase II)

FORM OF PURCHASER’S CERTIFICATE

The undersigned hereby certifies that each of the representations and warranties made in Article 6 or elsewhere of that certain Purchase and Sale Agreement dated as of __________, 2022, as amended and/or assigned, by and between ________________ and Mosaic Development, LLC, a Florida limited liability company, are correct and complete in all material respects as of the date hereof except ________________________________.

Dated: ________________, 20____

PURCHASER:

_________________________________,
a ________________________________

By: ______________________________
Name: ___________________________
Title: ____________________________
EXHIBIT "B"
PRELIMINARY MASTER PLAN

Note: PRELIMINARY MASTER PLAN consists of this Exhibit "B" (11 pages) and Exhibit "B-1" (3 pages)
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<tr>
<td>Bldg #</td>
<td>Building Type</td>
<td>Total Residential Units</td>
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<td><strong>Residential Building</strong></td>
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<td>1 Bedroom/1 Bath (A1)</td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 Bedroom/1 Bath (A2)</td>
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<td>Studio (S2)</td>
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<td></td>
<td>2 Bedroom/2 Bath (B1)</td>
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<td>1 Bedroom/1 Bath (A1)</td>
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<td>Studio (S2)</td>
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<td>2 Bedroom/2 Bath (B1)</td>
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<td>1 Bedroom/1 Bath (A1)</td>
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<td>Studio (S2)</td>
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<td></td>
<td>1 Bedroom/1 Bath (A1)</td>
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<tr>
<td></td>
<td>Studio (S2)</td>
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<td><strong>Townhomes</strong> (3 Levels)</td>
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<td>Residential (2 Level Living Space)</td>
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<tr>
<td></td>
<td>Garage (1 Level)</td>
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<tr>
<td></td>
<td>2 Bedroom/2.5 Bath (B2)</td>
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<td><strong>Townhomes</strong> (3 Levels)</td>
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<td>Residential (2 Level Living Space)</td>
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<tr>
<td></td>
<td>Garage (1 Level)</td>
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<td></td>
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<tr>
<td></td>
<td>2 Bedroom/2.5 Bath (B2)</td>
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<tr>
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<td><strong>Totals</strong></td>
<td>170</td>
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Mosaic at DeBary, LLC  
Parking Allocation Plan

Phase 1  13.07 acres

<table>
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<tr>
<th>Units/Space</th>
<th>Parking Spaces</th>
<th>Type/Measure</th>
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<td>Garage</td>
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<td>Total</td>
<td>371</td>
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<td>Commercial Retail</td>
<td>37,750 s.f.</td>
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<td>Management Office</td>
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<td>1 per 275 GFA</td>
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Phase 2  5.62 acres

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<td></td>
<td></td>
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<td>18 +/-</td>
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<td></td>
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<td>Total</td>
<td>276 +/-</td>
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Option Property (Muse)  1.02 acres

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<th>Type/Measure</th>
<th>Number</th>
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<tbody>
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<td>Residential Units</td>
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<td>Standard</td>
<td>*</td>
</tr>
<tr>
<td></td>
<td></td>
<td>ADA</td>
<td>*</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Garage</td>
<td>*</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total</td>
<td>*</td>
</tr>
</tbody>
</table>

*Number of Residential Units and Parking to be delivered will depend on whether and timing property will be available.
EXHIBIT “B-1”

PRELIMINARY MASTER PLAN

The Master Plan, without limitation, includes the following:

1. Central Park
   a. Stormwater pond is to be wet detention (City to maintain, repair, and replace only the inlets and below ground pipes);
   b. Lighted fountains, two;
   c. Boardwalk/trail to loop completely around stormwater pond and connect back to Main Street walks (City to maintain, replace, and repair upon dedication to, and acceptance by the City except the boardwalk/sidewalk, trees, and landscaping around the pond will be maintained by the Developer and the City shall replace trees and shrubs as needed);
      i. 12-ft wide
      ii. If boardwalk, a composite wood material or similar durable material appropriate for this application
      iii. Overlooks as determined by site design
      iv. Landscape, aquascape, and lighting considerations
      v. Outdoor electrical outlets for seasonal use
   vi. Boardwalk/Trail lighting
   d. Stadium-style terraced areas for picnic, seating or similar (City to maintain, replace, and repair upon dedication to, and acceptance by, the City);
      i. St. Augustine grass
   e. Public restrooms facility (City to maintain, replace, and repair upon dedication to, and acceptance by, the City);

2. Multiple site accommodations at the discretion of the site design for art installation opportunities, excluding the art itself (City to maintain, replace, and repair upon dedication to, and acceptance by, the City). The City shall select the art for each art location subject to the Developer’s reasonable approval which approval shall not be withheld, conditioned, or delayed unless the art is clearly profane, sexually explicit or incites violence.
   a. Landscape, hardscape, and lighting considerations

3. “Mural” wall panels, excluding the art itself (City to maintain, repair, and replace the art),
   a. Surface appropriate for mural artwork;
   b. Precast system;
   c. Along west property line and only for the extent adjacent to the stormwater pond;
   d. Spacing between individual panels to match the panel width (for example 12-ft wide panels with 12-ft spacing on each side);
   e. Landscape, hardscape, and lighting considerations

4. Ft. Florida Road widening (City to maintain, repair, and replace)
   a. Widen road to a full 3-lane section to railroad right-of-way;
5. Move power underground (FPL and Duke to maintain, repair, and replace)
   a. Ft. Florida Road frontage;
   b. 17-92 frontage.
6. Building unit mix and general site plan layout as proposed in City approved ODP.
7. Infrastructure materials to be coordinated and match the Town Park project, including:
   a. Main Street road paver system (City to maintain, repair, and replace);
   b. Site lighting;
   c. Excludes landscaping.
8. Multi-use trail along 17-92 frontage (City to maintain, replace, and repair upon dedication to, and acceptance by, the City);
9. Construction to allow for at least one roof top business
10. Monument sign with electronic messaging
    a. Location to be determined by site design as most advantageous and visible.
    b. Sign criteria to meet TOD regulations or identify waiver request
11. Community Pavilion & 7,000 SF foot plaza to be provided for central convenience of community events venue (City to maintain, replace, and repair upon the public dedication to, and acceptance by, the City, provided, the twelve (12) feet nearest the restaurant for overflow patrons shall be maintained, repaired, replaced by the Developer);
    a. Event sound system infrastructure if integration is to be provided through Central Park and Main Street.
    b. Power availability for events
12. Community grounds maintenance and upkeep to be responsibility of community HOA
    a. Including park area around stormwater pond;
    b. Main Street landscaping planters.
13. Complete site infrastructure to be built with initial phase and appropriate connection stub-outs to Phase 2 areas
    a. Potable Water
    b. Reclaim Water
    c. Stormwater (City to maintain, repair, and replace inlets and below ground pipes)
    d. Roads/sidewalks (City to maintain, repair, and replace only the roads and sidewalks located within Main Street right of way)
    e. Landscaping/irrigation
    f. Site Lighting
    g. Power/Communications (FPL and Duke to maintain, repair, and replace)
    h. Natural Gas (FGT to maintain, repair, and replace
14. Phase 2 areas outside of infrastructure systems to be graded and grassed and maintained as temporary open grassed fields until construction Phase 2 begins.
    a. Mass grade, sod, and maintain
    b. Sod - St. Augustine
    c. Irrigation
15. Main Street parking restrictions (Volusia Sheriff enforcement of parking/traffic rules)
    a. No overnight parking
16. Main Street archway entry sign at Ft. Florida Road connection (City to maintain, repair, and replace upon dedication to, and acceptance by, the City).

Note of Clarification: The Developer shall maintain, repair, and replace all of the foregoing Additional Infrastructure that is owned or operated by the Developer except as may be otherwise noted above.
EXHIBIT “C”

WAIVERS

None
EXHIBIT “D”

INFRASTRUCTURE

Developer to carry out the following at Developer’s cost subject to the terms and conditions of the Development Agreement:

1. The design, permitting, and construction of the re-alignment of Shell Road (Main Street) which is the roadway through the Property between the north and south boundaries of the Property as generally depicted on the Preliminary Master Plan.

2. The design, permitting, and construction of the Retention Lakes and Dry Retention as generally depicted on the Preliminary Master Plan.
EXHIBIT “E”

PHASE I PROPERTY

Parcel 1

Beginning at the Southwest corner of the Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, thence running East along the South line of said Northwest 1/4 of Northeast 1/4 to the center line of State Road No. 3, thence in a Northeasterly direction along the center line of said state road a distance of 600.00 feet; thence running West parallel to the said South line of said Northwest 1/4 of Northeast 1/4 to the West line of said Northwest 1/4 of Northeast 1/4; thence South along said West line of said Northwest 1/4 of Northeast 1/4 to the point of beginning, of the Public Records of Volusia County, Florida.

LESS AND EXCEPT:

The Easterly 33.00 feet for State Road No. 3.

AND ALSO LESS AND EXCEPT:

Any portion thereof, if any, lying within Railroad Right-of-Way.

AND ALSO LESS AND EXCEPT:

Land described in Order of Taking recorded in Official Records Book 4372, Page 4061, of the Public Records of Volusia County, Florida.

Parcel 2

The West 355.4 feet of the North 150 feet of the NW ¼ of the NE ¼ of Section 9, Township 19 South, Range 30 East, and the East 15 feet of the South 593 feet of the North 743 feet of the West 355.4 feet of the NW ¼ of the NE ¼ of Section 9, Township 19 South, Range 30 East.

LESS AND EXCEPT:

The East 15.00 feet of the West 355.4 feet of the North 743 feet of the NW ¼ of the NW ¼ of the NE ¼ of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 3

A portion of the Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, bounded and described as follows:
Beginning at a point 355.4 feet East and 300 feet South of the Northwest corner of the Northeast
1/4 of Section 9, Township 19 South, Range 30 East, run thence South 221.7 feet to a point, thence
West 330.5 feet to a point on the Easterly right-of-way line of the Atlantic Coast Line Railroad,
thence Northwesterly along said Easterly right-of-way line 114.3 feet to a point on the West line
of said Northeast 1/4, thence North 108.8 feet to a point, thence Easterly 355.4 feet to point of
beginning.

LESS AND EXCEPT:

The East 15 feet for private road.

TOGETHER WITH:

A non-exclusive easement for ingress and egress over and across the East 15 feet of the North 743
feet of said Northwest ¼ of Northeast ¼ of Section 9, Township 19 South, Range 30 East, Volusia
County, Florida.

Parcel 4

A portion of the Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East,
bounded and described as follows:

Beginning at a point 355.4 feet East and 521.7 feet South of Northwest corner of Northwest 1/4 of
Northeast 1/4 of said Section 9, Township 19 South, Range 30 East; run thence West 330.5 feet to
the Easterly right-of-way line of the Atlantic Coast Line Railroad, thence Southeasterly along said
right-of-way line 223.95 feet to a point; thence East 300.75 feet to a point; thence North 221.3 feet
to the place of beginning,

LESS AND EXCEPT:

The East 15 feet thereof for private road;

TOGETHER WITH:

A non-exclusive easement for ingress and egress over and across the East 15 feet of the North 743
feet of said Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East,
Volusia County, Florida.

Parcel 5

That part of the North-half of the Northwest 1/4 of Section 9, Township 19 South, Range 30 East,
lying Northeasterly of the CSX Railroad Right-of-Way, lying in Volusia County, Florida.
Parcel 6

Beginning at a point 355.4 feet East and 150 feet South of the Northwest corner of the Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, run thence South 150 feet to a point, run thence West 355.4 feet to the Westerly line of said Northwest 1/4 of the Northeast 1/4, thence North 150 feet, thence East and parallel to the North line thereof 355.4 feet to the Point of Beginning.

LESS AND EXCEPT:

The East 15 feet for private road.

Parcel 7

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence North 89°49'10" East a distance of 355.40 feet to a point, also being the centerline of an 18 foot graded road; run thence South 00°00'50" West a distance of 150.00 feet to the Point of Beginning; thence continue South 00°00'50" West a distance of 221.50 feet; run thence North 89°49'10" East a distance of 426.14 feet to a point on the Westerly right-of-way of U.S. Highway 17-92, also being a point on a curve having a radius of 5779.59 feet and a delta of 00°52'10"; run thence Northwesterly along the arc of said curve also being the said Westerly right-of-way of Highway 17-92, a distance of 87.69 feet to the Point of Tangency; thence run North 24°11'09" East along said right-of-way a distance of 155.13 feet; run thence South 89°49'10" West a distance of 524.89 feet to the Point of Beginning.

AND ALSO:

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence North 89°49'10" East a distance of 355.40 feet to the Point of Beginning, a point also being the centerline of an 18 foot graded road; run thence South 00°00'50" West a distance of 150.00 feet along the centerline of the aforesaid graded road to a point; run thence North 89°49'10" East a distance of 524.89 feet to a point on the Westerly right-of-way of U.S. Highway 17-92; run thence North 24°11'09" East along said right-of-way a distance of 164.67 feet to a point being on the North line of said Section 9, Township 19 South, Range 30 East; run thence South 89°49'10" West a distance of 592.32 feet along said North line to the Point of Beginning.

LESS AND EXCEPT:

Those portions of the foregoing parcels conveyed to the State of Florida Department of Transportation by Deed recorded in Official Records Book 4275, Page 4328, Public Records of Volusia County, Florida.
Parcel 8

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence N 89 degrees 49 minutes 10 seconds E, a distance of 355.40 feet to a point, also being the centerline of an 18 foot graded road; run thence S 00 degrees 00 minutes 50 seconds W a distance of 371.50 feet to the Point of Beginning; thence continue S 00 degrees 00 minutes 50 seconds W a distance of 371.50 feet along the centerline of the aforesaid graded road to a point; run thence N 89 degrees 49 minutes 10 seconds E a distance of 281.02 feet to a point on the Westerly Right-Of-Way of US Highway 17-92, also being a point on a curve having a radius of 5779.59 feet and a delta of 03 degrees 57 minutes 33 seconds; run thence Northeasterly along the arc of said curve a distance of 399.38 feet, also being the Westerly Right-Of-Way of US Highway 17-92 to a point; run thence S 89 degrees 49 minutes 10 seconds W a distance of 426.14 feet to the Point of Beginning.

LESS AND EXCEPT:

Any portion thereof, if any, lying within State Road Right-of-Way.

AND ALSO LESS AND EXCEPT:

Right of way for graded road.

LESS AND EXCEPT FROM THE FOREGOING PARCELS 1 THROUGH 8 THE FOLLOWING DESCRIBED PHASE II AND OPTION PARCEL:

PHASE II DESCRIPTION:

A portion of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:

Commence at the Northwest corner of the Northeast quarter of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; thence North 89°54'29" East, a distance of 379.54 feet along the North line of the Northwest quarter of the Northeast quarter of said Section 9 to the POINT OF BEGINNING; thence continue along said North line North 89°54'29" East, a distance of 561.38 feet to a point on the West Right of Way line of U.S. Highway 17-92 (State Road 15), per Florida Department of Transportation Right of Way Map Section 79040-2544 and Florida Department of Transportation Central Florida Commuter Rail Transit FT. Florida Station Site Section No.79000; thence along said West Right of Way line the following two (2) courses and distances: South 24°13'55" West, a distance of 292.98 feet to a non-tangent curve concave Southeasterly, having a radius of 5,785.58 feet, a central angle of 02°57'19" and a chord bearing of South 22°45'26" West, thence from a tangent bearing of South 24°14'06" West, Southwesterly a distance of 298.42 feet along the arc of said curve; thence departing said West Right of Way line, South 89°21'01" West, a distance of 269.84 feet; thence North 00°38'59" West, a distance of 153.29 feet; thence South 89°21'01" West, a distance of 88.67 feet; thence North 00°38'59" West, a distance of 133.00 feet; thence South 89°21'01" West, a distance of 53.46 feet to a point on a non-tangent curve concave Northerly; having a radius of 86.84 feet, a central angle of 15°13'46" and a chord bearing of North 83°04'57" West; thence from a tangent bearing of South 89°18'10" West, Westerly, a distance of 23.08 feet along the arc of said curve to a point on a non-tangent
curve concave Southeasterly; having a radius of 158.90 feet, a central angle of 22°57'07" and a
chord bearing of North 32°52'28" East; thence from a tangent bearing of North 21°23'54" East,
Northeasterly, a distance of 63.65 feet along the arc of said curve to a point of tangency; thence
North 44°21'01" East, a distance of 52.86 feet to a point of curvature of a curve concave
Northerly, having a radius of 141.10 feet; thence Northeasterly along the arc of said curve,
through a central angle of 43°37'59", a distance of 107.45 feet to a point of tangency; thence North
00°43'02" East, a distance of 69.28 feet to the POINT OF BEGINNING.

Containing 5.62 acres, more or less.

OPTION PARCEL DESCRIPTION:

A portion of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, being more
particularly described as follows:
BEGIN at the Northwest corner of the Northeast quarter of Section 9, Township 19 South, Range
30 East, Volusia County, Florida; thence North 89°54'29" East, a distance of 306.33 feet along the
North line of the Northeast quarter of the Northeast quarter of said Section 9; thence departing
said North line, South 00°43'02" West, a distance of 68.25 feet to a point of curvature of a curve
concave Northwesterly, having a radius of 67.90 feet; thence Southwesterly along the arc of said
curve, through a central angle of 43°37'59", a distance of 51.71 feet to a point of tangency; thence
South 44°21'01" West, a distance of 49.27 feet; thence South 89°54'29" West, a distance of 251.96
feet to the West line of the Northwest quarter of the Northeast quarter of said Section 9; thence
North 00°06'10" East, a distance of 150.00 feet along said West line to the POINT OF
BEGINNING.

Containing 1.02 acres, more or less.
EXHIBIT "F"

PHASE II PROPERTY

Parcel 1

Beginning at the Southwest corner of the Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, thence running East along the South line of said Northwest 1/4 of Northeast 1/4 to the center line of State Road No. 3, thence in a Northeasterly direction along the center line of said state road a distance of 600.00 feet; thence running West parallel to the said South line of said Northwest 1/4 of Northeast 1/4 to the West line of said Northwest 1/4 of Northeast 1/4; thence South along said West line of said Northwest 1/4 of Northeast 1/4 to the point of beginning, of the Public Records of Volusia County, Florida.

LESS AND EXCEPT:

The Easterly 33.00 feet for State Road No. 3.

AND ALSO LESS AND EXCEPT:

Any portion thereof, if any, lying within Railroad Right-of-Way.

AND ALSO LESS AND EXCEPT:

Land described in Order of Taking recorded in Official Records Book 4372, Page 4061, of the Public Records of Volusia County, Florida.

Parcel 2

The West 355.4 feet of the North 150 feet of the NW ¼ of the NE ¼ of Section 9, Township 19 South, Range 30 East, and the East 15 feet of the South 593 feet of the North 743 feet of the West 355.4 feet of the NW ¼ of the NE ¼ of Section 9, Township 19 South, Range 30 East.

LESS AND EXCEPT:

The East 15.00 feet of the West 355.4 feet of the North 743 feet of the NW ¼ of the NW ¼ of the NE ¼ of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 3

A portion of the Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, bounded and described as follows:
Beginning at a point 355.4 feet East and 300 feet South of the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, run thence South 221.7 feet to a point, thence West 330.5 feet to a point on the Easterly right-of-way line of the Atlantic Coast Line Railroad, thence Northwesterly along said Easterly right-of-way line 114.3 feet to a point on the West line of said Northeast 1/4, thence North 108.8 feet to a point, thence Easterly 355.4 feet to point of beginning.

LESS AND EXCEPT:

The East 15 feet for private road.

TOGETHER WITH:

A non-exclusive easement for ingress and egress over and across the East 15 feet of the North 743 feet of said Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 4

A portion of the Northwest 1/4 of Northeast 1/4 of Section 9, Township 19 South, Range 30 East, bounded and described as follows:

Beginning at a point 355.4 feet East and 521.7 feet South of Northwest corner of Northwest 1/4 of Northeast 1/4 of said Section 9, Township 19 South, Range 30 East; run thence West 330.5 feet to the Easterly right-of-way line of the Atlantic Coast Line Railroad, thence Southeasterly along said right-of-way line 223.95 feet to a point; thence East 300.75 feet to a point; thence North 221.3 feet to the place of beginning,

LESS AND EXCEPT:

The East 15 feet thereof for for private road;

TOGETHER WITH:

A non-exclusive easement for ingress and egress over and across the East 15 feet of the North 743 feet of said Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida.

Parcel 5

That part of the North-half of the Northwest 1/4 of Section 9, Township 19 South, Range 30 East, lying Northeasterly of the CSX Railroad Right-of-Way, lying in Volusia County, Florida.
Parcel 6

Beginning at a point 355.4 feet East and 150 feet South of the Northwest corner of the Northwest 1/4 of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, run thence South 150 feet to a point, run thence West 355.4 feet to the Westerly line of said Northwest 1/4 of the Northeast 1/4, thence North 150 feet, thence East and parallel to the North line thereof 355.4 feet to the Point of Beginning.

LESS AND EXCEPT:

The East 15 feet for private road.

Parcel 7

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence North 89°49’10” East a distance of 355.40 feet to a point, also being the centerline of an 18 foot graded road; run thence South 00°00’50” West a distance of 150.0 feet to the Point of Beginning; thence continue South 00°00’50” West a distance of 221.50 feet; run thence North 89°49’10” East a distance of 426.14 feet to a point on the Westerly right-of-way of U.S. Highway 17-92, also being a point on a curve having a radius of 5779.59 feet and a delta of 00°52’10”; run thence Northwesterly along the arc of said curve also being the said Westerly right-of-way of Highway 17-92, a distance of 87.69 feet to the Point of Tangency; thence run North 24°11’09” East along said right-of-way a distance of 155.13 feet; run thence South 89°49’10” West a distance of 524.89 feet to the Point of Beginning.

AND ALSO:

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence North 89°49’10” East a distance of 355.40 feet to the Point of beginning, a point also being the centerline of an 18 foot graded road; run thence South 00°00’50” West a distance of 150.00 feet along the centerline of the aforesaid graded road to a point; run thence North 89°49’10” East a distance of 524.89 feet to a point on the Westerly right-of-way of U.S. Highway 17-92; run thence North 24°11’09” East along said right-of-way a distance of 164.67 feet to a point being on the North line of said Section 9, Township 19 South, Range 30 East; run thence South 89°49’10” West a distance of 592.32 feet along said North line to the Point of Beginning.

LESS AND EXCEPT:

Those portions of the foregoing parcels conveyed to the State of Florida Department of Transportation by Deed recorded in Official Records Book 4275, Page 4328, Public Records of Volusia County, Florida.
Parcel 8

Commencing at the Northwest corner of the Northeast 1/4 of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; run thence N 89 degrees 49 minutes 10 seconds E, a distance of 355.40 feet to a point, also being the centerline of an 18 foot graded road; run thence S 00 degrees 00 minutes 50 seconds W a distance of 371.50 feet to the Point of Beginning; thence continue S 00 degrees 00 minutes 50 seconds W a distance of 371.50 feet along the centerline of the aforesaid graded road to a point; run thence N 89 degrees 49 minutes 10 seconds E a distance of 281.02 feet to a point on the Westerly Right-Of-Way of US Highway 17-92, also being a point on a curve having a radius of 5779.59 feet and a delta of 03 degrees 57 minutes 33 seconds; run thence Northeastly along the arc of said curve a distance of 399.38 feet, also being the Westerly Right-Of-Way of US Highway 17-92 to a point; run thence S 89 degrees 49 minutes 10 seconds W a distance of 426.14 feet to the Point of Beginning.

LESS AND EXCEPT:

Any portion thereof, if any, lying within State Road Right-of-Way.

AND ALSO LESS AND EXCEPT:

Right of way for graded road.

LESS AND EXCEPT FROM THE FOREGOING PARCELS 1 THROUGH 8 THE FOLLOWING DESCRIBED PHASE I AND OPTION PARCEL:

PHASE I DESCRIPTION:

A portion of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:

BEGIN at the Northwest corner of the Northeast quarter of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; thence South 00°06'10" West, a distance of 150.00 feet; thence North 89°54'29" East, a distance of 251.96 feet; thence North 44°21'01" East, a distance of 49.27 feet to a point of curvature of a curve concave Northwesterly, having a radius of 67.90 feet; thence Northeasterly along the arc of said curve, through a central angle of 43°37'59", a distance of 51.71 feet to a point of tangency; thence North 00°43'02" East, a distance of 68.25 feet to the North line of the Northeast quarter of the Northeast quarter of said Section 9; thence North 89°54'29" East, a distance of 73.21 feet along said North line; thence departing said North line, South 00°43'02" West, a distance of 69.28 feet to a point of curvature of a curve concave Northwesterly, having a radius of 141.10 feet; thence Southwesterly along the arc of said curve, through a central angle of 43°37'59", a distance of 107.45 feet to a point of tangency; thence South 44°21'01" West, a distance of 52.86 feet to a point of curvature of a curve concave Southeasterly, having a radius of 158.90 feet; thence Southwesterly along the arc of said curve, through a central angle of 22°57'07", a distance of 63.65 feet to a point on a non-tangent curve concave Northerly; having a radius of 86.84 feet, a central angle of 15°13'46" and a chord bearing of South 83°04'57" East; thence from a tangent bearing of South 75°28'04" East, Easterly, a distance of 23.08 feet along the arc of said curve; thence North 89°21'01" East, a distance of 53.46 feet; thence South 00°38'59" East, a distance of 133.00 feet; thence North 89°21'01" East, a distance of 88.67 feet; thence South 00°38'59" East, a distance of 153.29 feet; thence North 89°21'01" East, a distance of 269.84 feet.
to the West Right of Way line of U.S. Highway 17-92 (State Road 15), per on Florida Department of Transportation Right of Way Map Section 79040-2544 and Florida Department of Transportation Central Florida Commuter Rail Transit FT. Florida Station Site Section No.79000 and a point on a non-tangent curve concave Easterly; having a radius of 5,785.58 feet, a central angle of 02°30'55" and a chord bearing of South 20°01'19" West; thence along said West Right of Way line the following three (3) courses and distances: from a tangent bearing of South 21°16'46" West, Southerly, a distance of 253.97 feet along the arc of said curve; thence South 71°14'19" East, a distance of 6.00 feet to a point on a non-tangent curve concave Easterly; having a radius of 5,779.58 feet, a central angle of 04°43'37" and a chord bearing of South 16°24'02" West; thence from a tangent bearing of South 18°45'50" West, Southerly, a distance of 476.81 feet along the arc of said curve to a point on the North Maintained Right of Way line of Fort Florida Road per aforesaid Right of Way map; thence along said North Maintained Right of Way line the following seven (7) courses and distances: North 89°19'41" West, a distance of 25.00 feet; thence South 13°53'09" West, a distance of 30.00 feet; thence North 89°19'41" West, a distance of 71.09 feet; thence South 00°40'29" West, a distance of 20.15 feet; thence North 89°55'19" West, a distance of 31.19 feet; thence North 01°22'00" West, a distance of 24.03 feet; thence North 88°46'41" West, a distance of 293.69 feet to the East Railroad Right of Way line per Florida Department of Transportation Central Florida Commuter Rail Transit Segment "C" Mainline Boundary Survey and Central Florida Commuter Rail Transit FT. Florida Station Site Right-of-Way Map. Section NO. 79000; thence along said East Right of Way line the following four (4) courses and distances: North 00°38'59" West, a distance of 404.48 feet to a point of curvature of a curve concave Westerly, having a radius of 1,970.09 feet; thence Northerly along the arc of said curve, through a central angle of 13°08'06"; a distance of 451.64 feet; thence South 00°06'09" West, a distance of 43.57 feet to a point on a non-tangent curve concave Westerly; having a radius of 1,960.09 feet, a central angle of 13°55'29" and a chord bearing of North 19°30'31" West; thence from a tangent bearing of North 12°32'50" West, Northerly, a distance of 476.37 feet along the arc of said curve to the aforesaid North line of the Northwest quarter of the Northeast quarter of said Section 9; thence North 89°47'30" East, a distance of 159.51 feet along said North line to the POINT OF BEGINNING.

Containing 13.07 acres, more or less.

OPTION PARCEL DESCRIPTION:

A portion of Section 9, Township 19 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:

BEGIN at the Northwest corner of the Northeast quarter of Section 9, Township 19 South, Range 30 East, Volusia County, Florida; thence North 89°54'29" East, a distance of 306.33 feet along the North line of the Northwest quarter of the Northeast quarter of said Section 9; thence departing said North line, South 00°43'02" West, a distance of 68.25 feet to a point of curvature of a curve concave Northwesterly, having a radius of 67.90 feet; thence Southwesterly along the arc of said curve, through a central angle of 43°37'59"; a distance of 51.71 feet to a point of tangency; thence South 44°21'01" West, a distance of 49.27 feet; thence South 89°54'29" West, a distance of 251.96 feet to the West line of the Northwest quarter of the Northeast quarter of said Section 9; thence North 00°06'10" East, a distance of 150.00 feet along said West line to the POINT OF BEGINNING.

Containing 1.02 acres, more or less.
EXHIBIT “G”

MOBILITY IMPROVEMENTS

1. Actual Cost of Upgrading Shell Rd, a.k.a. Main St. with Pavers and Intersection Highlights
2. Actual Cost of US Hwy 17/92 & Ft. Florida Rd Electricity Relocation Underground
3. Actual Cost of US Hwy 17/92 – Trails
4. Actual Cost of Widening Upgrade of Ft. Florida Rd – Lengthening Left Turn Lane Between Hwy 17-92 and Railroad Track
5. Pedestrian Mid-Block Crossing with Flashing Beacons
**EXHIBIT “H”**

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<th>Elements Subject to Reimbursement</th>
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<td>Mobility Plan</td>
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<td>7. Actual Cost of US Hwy 17/92 &amp; Ft. Florida Rd Electricity Relocation Underground</td>
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<td>9. Actual Cost of Widening Upgrade of Ft. Florida Rd – Lengthening Left Turn Lane Between Hwy 17-92 and Railroad Track</td>
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<td>10. Pedestrian Mid-Block Crossing with Flashing Beacons</td>
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<tr>
<td>Park &amp; Recreation Impact Fees</td>
<td>1. Trail Around Stormwater Pond</td>
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<td>2. Fountains and Lights in Stormwater Pond</td>
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<td>3. Precast Wall System Along Railroad behind Stormwater Pond</td>
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<td>Government Buildings Impact Fee</td>
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REQUEST

Staff is requesting City Council approve the City of DeBary Resiliency and Vulnerability Assessment proposal from Stanley Consultants, Inc. in the amount of $250,000.00.

PURPOSE

On May 12, 2021, Governor Ron DeSantis signed Senate Bill 1954 into law. This comprehensive legislation ensures a coordinated approach to Florida’s coastal and inland resiliency.

The program enhances state efforts to protect inland waterways, coastlines and shores, which serve as invaluable natural defenses against sea level rise.

To prepare our community for the impacts of climate change – including sea level rise, intensified storms and flooding.

No previous resiliency analysis has been done to date for the DeBary area. The City currently relies on a system of stormwater pump stations and miles of force main for flood relief. In addition to developments closer to the river, inland developments are still influenced and affected by higher water tables.

This project will be the start, an assessment that we expect will investigate all aspects of resiliency and provide a clear picture of current day vulnerabilities, their urgency, and include options to address each.

CONSIDERATIONS

In July 2022, the City applied for this Resiliency Planning Grant and were notified of award in late February 2023 for $250,000.

Funding for your project will be provided through a cost-reimbursement grant agreement.

The Grant does not require cost-sharing or City financial contributions.

COST/FUNDING

No overall cost to City, but the initial cost will be $250,000.00, reimbursable from the Department of Environmental Protection (FDEP) at acceptance of final assessment report.
RECOMMENDATION
It is recommended that the City Council:

Approve the City of DeBary Resiliency and Vulnerability Assessment proposal from Stanley Consultants, Inc. in the amount of $250,000.00.

IMPLEMENTATION
Upon City Council approval, Stanley Consultants, Inc. will begin project initiation tasks.

ATTACHMENTS

Award Notification
Assessment Proposal from Stanley Consultants, Inc.
March 29, 2023

Mr. Richard Villaseñor, P.E.
City Engineer, City of DeBary
City of DeBary
16 Colomba Road
DeBary, Florida  32713

SUBJECT: Resilient Florida Planning Grant FY 22-23 (Proposal) City of DeBary

Dear Mr. Richard:

Traffic Engineering Data Solutions, Inc., A Stanley Consultants Company (SCI) was awarded a professional continuing services contract with the City of DeBary (CITY), as executed on January 6, 2021, to assist the CITY with Civil Engineering Services and Transportation, Design, Engineering and Planning Services.

As such, SCI has populated the CITY provided work plan to demonstrate our approach, deliverables and fee breakdown to successfully deliver the requirements of the grant (included as attachment identified by CITY as attachment 3). As noted in our discussions, Resilient Analytics, Inc. (A Stanley Consultants Company) will be leading this effort with support from our DeBary office. Dr. Paul Chinowsky is the Director of the Resilient Analytics office and will be leading and overseeing their efforts. The staff in our DeBary office will be your local contact, with Halley Ferrell being the Project Manager. Please note reference to the “grantee” in the attached work plan is noted as the City of DeBary. SCI will be providing technical resources to support the CITY in delivery of the requirements as outlined in the work plan.

**COMPENSATION**

SCI shall conduct the work described above on a lump sum fee of $250,000.00 (as noted in attached work plan) and will be billed monthly based on progress on the various tasks. Any revisions to the SCOPE shall constitute ADDITIONAL SERVICES and will require modifications to the COMPENSATION and SCHEDULE and must be mutually agreed to by SCI and the CITY in writing.

**RESPONSIBILITIES OF THE CLIENT**

In order for SCI to maintain the schedule and the quality of the work effort, the following will be required of the CITY:

- Provision of a properly executed contract / purchase order; and
- Written approval by the CITY of any modifications to the SCOPE required of SCI.

Sincerely,

Fred D. Ferrell
East Regional Manager
Stanley Consultants, Inc.

Attachments: State of Florida DEP Grant Work Plan
ATTACHMENT 3

PROJECT TITLE: City of DeBary Comprehensive Vulnerability Assessment

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

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

TASKS AND DELIVERABLES:

Task 1: Acquire Background Data

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

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

APPROACH: The VA background data evaluation will be conducted utilizing a combination of resources including the mentioned NOAA data and relevant Florida sources. The key to this evaluation will be the availability of localized projected inundation depth measurements. The data that is available will be augmented with additional resources including projections by Climate Central and similar data providers. In each case, the 100-year return period will be analyzed. Additionally, a 10-year return period will be analyzed to provide both extreme and mid-level flood threats. Any gaps in data will be reported as limitations to the overall vulnerability study. As indicated, the scope of the data must include the City of DeBary as well as areas of concern including Gemini and Blue Springs. The team will work with city staff to obtain critical asset locations as well as additional regional locations. Where applicable, existing city GIS shapefiles will be utilized to geolocate critical assets and to identify key topographic conditions. Based on this existing data and the available flood projection data, the team will deliver a summary report indicating any existing gaps and what measures are being taken to fill these gaps. Of particular interest will be the availability of localized depth data from which to analyze assets. If the localized information is insufficient, the team will augment with outside information.
Task 2: Exposure Analysis

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

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

Approach: The exposure analysis for the City of Debary will follow an approach utilized by Resilient Analytics in multiple Florida municipalities. The approach combines baseline flood and surge data with multiple projections to determine a level of potential exposure to critical assets. To determine this exposure, the team will overlay projections onto existing critical asset locations to identify vulnerable areas. In these areas of interest, depth levels will be used to determine if the inundation reaches a level of concern and to what degree of concern exists. Specifically, is the potential inundation indicating a nuisance-level, short-term flood, or an inundation level that could threaten operations such as potential overflow of a water treatment facility, or if the inundation could threaten failure of equipment such as with a pumping station. This vulnerability will be evaluated across each class of assets with each class being evaluated according to specific areas of concern. For example, roads will be evaluated for possible surface and base degradation whereas pumping facilities will be examined based on threshold levels of operational concern.

Given the different projections and the severity of the potential inundation, a risk profile will be developed for each location within the city as well as for critical assets. The profile will reflect the potential severity of the inundation as well as the agreement of the projections in indicating the severity of the threat. The risk profile will be delivered in conjunction with the Vulnerability Report and the GIS files as indicated in the required deliverables.

Task 3: Sensitivity Analysis

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

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

Approach: The sensitivity analysis will be delivered based on a spatial analysis of the inundation levels and the critical asset locations. Each asset location will be evaluated based on severity of projected inundation and the return period of the projected flooding (percent risk). Utilizing graphs and maps, the team will indicate the vulnerability of land area and assets based on each set of projection data. This will include both low probability scenarios and high probability scenarios. The intent being that the grantee will have the range of information required to make appropriate adaptation decisions.

Similar to the individual critical assets, the area of projected land inundation will be highlighted through maps in the report as well as in the GIS files. As indicated, the risk level will be provided in each case so that a differentiation between highly likely inundation will be differentiated from less likely, but highly impactful 1-in-100 year events.
Task 4: Identify Focus Areas

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

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

**Approach:** The critical areas identified in Tasks 2 and 3 will be the basis for the identification of key areas for Task 4. In this task, the team will have a series of meetings with stakeholders to review the vulnerability findings and to prioritize individual assets for adaptation consideration. In this effort, the team will utilize maps, tables, and GIS graphics to communicate to the stakeholders where the potential vulnerabilities exist and where prioritization is required. Examples of potential findings include key stormwater system assets that are projected as possible inundation risks, public recreation areas that are threatened with inundation and potential damage, and critical roads and intersections that could incur significant damage due to inundation events.

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

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

**Deliverables:** The Grantee will provide the following: 1) Final Vulnerability Assessment Report that provides details on the results and conclusions, including illustrations via maps and tables, based on the statutorily-required scenarios and standards in s. 380.093, F.S.; 2) a final list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset.; 3) all electronic mapping data used to illustrate flooding and sea level rise impacts identified in the VA, to include the geospatial data in an electronic file format and GIS metadata; and 4) a signed Vulnerability Assessment Compliance Checklist Certification.

**Approach:** The final task will focus on providing the results in the formats specified including both reports and appropriate GIS files. The findings will also be shared with stakeholders through presentations and if appropriate, a GIS storymap that could be used to share results with the public and additional stakeholders.
PERFORMANCE MEASURES: The Grantee will submit all deliverables for each task to the Department’s Grant Manager on or before the Task Due Date listed in the Project Timeline. The Grantee must also submit Exhibit A, Progress Report Form, to the Department’s Grant Manager, with every deliverable and payment request. For interim payment requests, Exhibit A may serve as the deliverable for a task. The Department’s Grant Manager will review the deliverable(s) to verify that they meet the specifications in the Grant Work Plan and the task description, to include any work being performed by any subcontractor(s), and will provide written acceptance or denial of the deliverable(s) to the Grantee within ten (10) working days. Upon written acceptance by the Department’s Grant Manager of deliverables under the task, the Grantee may proceed with the payment request submittal.

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

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

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

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<th>Task No.</th>
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Greetings,

Thank you for submitting your grant application for funding consideration from the Department of Environmental Protection’s Resilient Florida Program (Program). I am pleased to inform you that your project has been included in the Fiscal Year 2022-2023 Resilient Florida Program Planning Grant Awards.

Funding for your project will be provided through a cost-reimbursement grant agreement between the Department of Environmental Protection (Department) and the applicant for your project. To expedite the grant agreement execution process, additional documentation will need to be submitted.

Please submit the following documents to ResilientFloridaGrants@FloridaDEP.gov within 30 days:

1. Grant Agreement Contact Information Form (attached)
2. Certificate of Insurance or Self-Insurance Letter (Department grant agreement insurance requirements for fiscal year 2022-2023 attached)
3. Copy of W-9
4. FFATA Form (attached)
5. SLFRF Reporting Requirements Form (attached)

Upon receipt of the 5 documents above, the Department Grant Manager assigned to your grant will send you the draft grant work plan to review and finalize the tasks, deliverables, and project budget, and then the grant agreement package will be complete. The grant agreement number will be assigned at this time as well.

Additional information about the grant agreements:

- The grant agreement will be funded by the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) under the American Rescue Plan Act.
- Additional information regarding the use, requirements, and compliance with SLFRF can be found on the U.S. Department of Treasury SLFRF website.
- The Department’s Contract Provisions for SLFRF, Attachment 8, will be included in your grant agreement (attached for reference).
- The term and reimbursement period of the grant agreement: Grant agreement execution date through June 30, 2026.
- Additional information about Department grant agreements can be found on the Resilient Florida Program Grantee Resources webpage.

If you have questions, please contact the Grants Team at ResilientFloridaGrants@FloridaDEP.gov.

Thank you for your participation in the Resilient Florida Program. We look forward to working with you!
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