AGENDA

CALL TO ORDER
   Invocation
   Flag Salute

ROLL CALL

PUBLIC PARTICIPATION: For any items ON THE AGENDA, citizen comments are limited to five (5) minutes per speaker. Speakers will be called when the item is introduced for discussion.

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

PUBLIC HEARINGS

1. Staff is requesting City Council approve a variance from Land Development Code Section 3-90(d)(1) in order for the property owner of 393 West Highbanks Road to be permitted to apply for a building permit to construct a single-family residential home. (Quasi-Judicial)

2. Staff is requesting City Council approve the second reading of Ordinance No. 14-2022, amending the Rivington MPUD to annex 9.85 acres of land into the MPUD’s boundaries and to amend sections A.8 and J.2 of the amended and restated development agreement. (Quasi-Judicial)

3. Staff is requesting City Council approve the second reading of Ordinance No. 09-2022, expanding the Rivington Community Development District (CDD) to annex 9.85 acres of land into the CDD’s boundaries.

COUNCIL MEMBER REPORTS / COMMUNICATIONS

Member Reports/ Communications
   A. Mayor and Council Members
   B. City Manager
   C. City Attorney

DATE OF UPCOMING MEETING / WORKSHOP
   City Council Meeting February 1, 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

Staff is requesting City Council approve a variance from Land Development Code Section 3-90(d)(1) in order for the property owner to be permitted to apply for a building permit to construct a single-family residential home.

PURPOSE

The variance is required to develop the property due to its status as a legally non-conforming lot (smaller than minimum lot size area).

CONSIDERATIONS

The applicant is requesting a variance from Land Development Code Chapter 3, Article III, Division 3, Section 3-90(d)(1) – R-1 Urban Single-Family Residential Classification, for the purpose of being permitted to submit a building permit to construct a single-family residential home (see attached “Floor Plan”).

In Section 3-90(d)(1), it is stated the minimum lot size of the R-1 Classification is 20,000 square feet. According to the submitted survey (see attached “Survey”), the lot is approximately 18,347 square feet in area. Therefore, the lot is nonconforming and is thus subject to the provisions of Land Development Code Chapter 1, Section 1-8 – Variances, which states in Section 1-8(1) any person desiring to make improvements to property not in conformance with the Land Development Code shall apply for a variance.

Section 1-8(2) states the City Council shall not vary the provisions of the Land Development Code unless the following conditions are met:

a. *The property in question cannot yield a reasonable and beneficial use if permitted to be developed only under the regulations and standards in this Code.*

   Without the granting of a variance from the R-1 zone’s minimum lot size requirement, the property would not be permitted to be developed for a single-family structure, significantly hampering the property’s ability to yield a reasonable and beneficial use.

b. *The plight of the landowner is due to unique circumstances and not the result of his own action or failure to act.*
The subject property was platted as Lot 5, Block 1 of the St. John’s River Estates, Unit 1 (book 27, page 42 of the Volusia County Clerk of the Circuit Court’s records). Based on examination of the plat, which was recorded on May 16, 1963, the subject property’s dimensions have not changed since it was originally platted 60 years ago (see attached “St. John’s River Estates, Unit 1 Subdivision Plat”). Based on the fact the property is smaller in area than most other platted lots in this subdivision, it can be stated the circumstances surrounding this property are unique and not the result of the property owner’s action or failure to act.

c. The variance, if granted, will be the minimum variance necessary to accomplish the objectives and will not alter the essential character of the area.

The requested variance is the minimum necessary to accomplish the applicant’s objective of constructing a single-family home. The essential character of the area is low density single-family residential. At approximately 18,347 square feet, development of the subject property would not result in a violation of Policy 5.402(a) of the City’s Comprehensive Plan, which states the maximum density of the Residential/Low Density future land use classification (the subject property’s future land use classification) shall be four (4) dwelling units per acre. Therefore, the granting of the variance would not alter the essential character of the area.

In addition to Section 1-8(2), Section 1-8(3) states the City Council shall also take into consideration the following elements:

a. The particular physical surroundings, shape, topographical conditions, or other physical or environmental condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

The shape of the property, platted in 1963, results in it failing to meet the minimum lot size requirement of the R-1 zone. If the strict letter of the Code were carried out, it would result in a particular hardship upon the owner.

b. The conditions upon which the request for a variance is based are unique to the parcel and would not be applicable, generally, to other property within the vicinity.

Most of the properties within the platted subdivision are larger than the subject property.

c. The purpose of the variance request is not based exclusively upon an economic hardship.

The ultimate purpose of the variance is to construct a single-family home so that the property may be developed as intended by the subdivision plat.

d. The alleged difficulty or hardship has not been created by any act or failure to act by the person owning the property.

The hardship has not been created by any act or failure to act by the property owner, as the lot’s dimensions have not changed since it was originally platted 60 years ago.
e. *The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity.*

The granting of this variance would not be detrimental to the public welfare or injurious to other property or improvements in the general vicinity, as the overall character of the area will not be affected by the granting of this variance.

f. *The proposed variance will be consistent with the provisions of the Comprehensive Plan and the purposes of this Code. A variance shall meet any specific requirements identified in this Code and no variance shall be granted from these requirements.*

The granting of the proposed variance would not result in the neighborhood exceeding the maximum density of the Residential/Low Density future land use classification of four (4) dwelling units per acre. The proposed variance would not violate any other policies of this future land use classification.

**RECOMMENDATION**

It is recommended the City Council approve the request for a variance from Land Development Code Chapter 3, Article III, Division 3, Section 3-90(d)(1) – R-1 Urban Single-Family Residential Classification and allow for the submittal of a building permit for a single-family residential home.

**IMPLEMENTATION**

If the proposed variance is approved by City Council, then the applicant shall be able to submit a building permit for a single-family residential home.

**ATTACHMENTS**

- Zoning Map
- Aerial Map
- Floor Plan
- Survey
- St. John’s River Estates, Unit 1 Subdivision Plat
393 West Highbanks

01/31/2022
REQUEST

Staff is requesting City Council approve on second reading Ordinance # 14-2022, amending the Rivington MPUD to annex 9.85 acres of land into the MPUD’s boundaries and to amend sections A.8 and J.2 of the amended and restated development agreement.

PURPOSE

To annex 9.85 acres of land on Barwick Road into the Rivington MPUD, and to amend Sections A.8 and J.2, as well as Exhibits “A” and “B” to reflect the annexation; and to increase in the maximum number of residential dwelling units allowed in the Rivington MPUD from 924 to 984 (60 additional units).

CONSIDERATIONS

The property is located on the east side of Barwick Road, south of the tract of land annexed into the Rivington MPUD from the first amended and restated development agreement.

The Applicant is requesting to amend the Rivington MPUD to annex the subject property into it. The property is approximately 9.85 acres. In addition to this, the applicant is requesting two amendments to the language in the existing Development Agreement.

The amendment adds the following language to Section A.8: “…and a maximum of 60 residential dwelling units shall be allocated to the 10-Acre Parcel [subject parcel].” The maximum number of residential dwelling units allocated to the original MPUD’s boundaries and the additional property annexed into the MPUD by the first amendment to the MPUD (referred to as the “Additional Property” in the Development Agreement) will not be changing.

Section J.2 is being amended to include the 10-Acre Parcel. Also, this Section is amended to add that the Applicant shall provide Fifty-Thousand Dollars ($50,000.00) to the City to be allocated toward either (1) a traffic signal at the intersection of Highway 17-92 and Barwick Road or (2) roadway improvements to mitigate traffic along Barwick Road between the intersection of Ft. Florida Road and Highway 17-92 in proximity to the Property, due at Final Plat. The Applicant and the City will coordinate with one another and any other applicable public agency with regard to opportunities for public-private partnerships that may be available for off-site roadway improvements.
Exhibit “A”-Legal Description-is being amended to add the 10-Acre Parcel. Exhibit “B”-Updated Master Development Plan-is being amended to fully replace the Updated Master Development Plan with the amended Updated Master Development Plan dated April 18, 2022.

**Zoning.** The proposed development has an existing zoning of Mixed Planned Unit Development (MPUD), known as the Rivington MPUD. The land uses and site specifications are governed by the requirements of the applicable Development Agreement.

**Future Land Use.** The proposed development is under the future land use classification of Southwest Mixed Use Area (SWMUA). Policy 5.406(b)(1) of the City’s Comprehensive Plan allows for suburban residential uses with associated commercial retail and services. The proposed amendment would keep the development of the overall area of the SWMUA below the maximum four (4) dwelling units per acre.

The following matrix identifies the uses of neighboring properties for the proposed addition:

<table>
<thead>
<tr>
<th>DIRECTION</th>
<th>ZONING DESIGNATION</th>
<th>FLU DESIGNATION</th>
<th>USE</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Rivington MPUD</td>
<td>Southwest Mixed Use</td>
<td>Vacant</td>
</tr>
<tr>
<td>South</td>
<td>A-2</td>
<td>Industrial/Utilities</td>
<td>Utilities</td>
</tr>
<tr>
<td>East</td>
<td>A-2</td>
<td>Industrial/Utilities</td>
<td>Utilities</td>
</tr>
<tr>
<td>West</td>
<td>Rivington MPUD</td>
<td>Southwest Mixed Use</td>
<td>Residential</td>
</tr>
</tbody>
</table>

The proposed use is compatible with the intended development of the area.

The following matrix reflects possible dwelling unit densities compared to the requested units:

<table>
<thead>
<tr>
<th></th>
<th>UPLAND ACRES</th>
<th>UNITS X 4</th>
<th>WFE ACRES</th>
<th>UNITS X 3</th>
<th>POTENTIAL UNITS PER PHASE</th>
<th>APPROVED OR REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original</td>
<td>182.66</td>
<td>730.64</td>
<td>111.17</td>
<td>333.51</td>
<td>1064</td>
<td>700</td>
</tr>
<tr>
<td>30-acre</td>
<td>15.59</td>
<td>62.36</td>
<td>14.14</td>
<td>42.42</td>
<td>105</td>
<td>224</td>
</tr>
<tr>
<td>10-acre</td>
<td>8.67</td>
<td>34.68</td>
<td>1.18</td>
<td>3.54</td>
<td>38</td>
<td>60</td>
</tr>
<tr>
<td>Totals</td>
<td>206.92</td>
<td>827.68</td>
<td>126.49</td>
<td>379.47</td>
<td>1207</td>
<td>984</td>
</tr>
</tbody>
</table>

The Applicant held a Community Meeting on November 28, 2022. Approximately 8 residents attended the meeting. There was no major opposition to the project expressed at the meeting.

**Traffic:** The proposed project falls within the City’s Mobility Plan and the builder will pay the City’s Mobility Fees for each unit built or receive credits in exchange for road and bike trail improvements.

Public notice was advertised in the Orlando Sentinel on Saturday, November 26, 2022.

The City Council continued this item from the Regular Meeting of the City Council, December 7, 2022.

The City Council voted 5-0, at first reading, on January 4, 2023, to hear this item on second reading.
RECOMMENDATION

It is recommended the City Council: Approve Ordinance # 14-2022, upon second reading, the proposed MPUD amendment to allow for the annexation of 9.85 acres into the Rivington MPUD, as well as the text amendments included in the Development Agreement.

IMPLEMENTATION

If the City Council approves the proposed MPUD Amendment, the applicant would need to submit an application for the Subdivision Plans to move forward with the project.

ATTACHMENTS

- Ordinance # 14-2022
- Second Amendment to Amended and Restated MPUD Development Agreement
- Second Amendment to Mobility and Park Reimbursement Agreement
- Boundary Survey
- Density Calculation Exhibit
ORDINANCE NO. 14-2022

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, REZONING APPROXIMATELY 9.85 ACRES OF LAND LOCATED ON FORT FLORIDA ROAD, EAST OF BARWICK ROAD, HAVING VOLUSIA COUNTY SHORT TAX PARCEL IDENTIFICATION NUMBER 900900000021 FROM A-2 (AGRICULTURAL RURAL) TO RIVINGTON MIXED PLANNED UNIT DEVELOPMENT (MPUD) AND ANNEXING SUCH PROPERTY INTO THE RIVINGTON MPUD; AMENDING ORDINANCE NO. 11-18, APPROVING A MAJOR AMENDMENT TO THE RIVINGTON MIXED PLANNED UNIT DEVELOPMENT GOVERNING THE DEVELOPMENT OF APPROXIMATELY 336.2 +/- ACRES OF LAND LOCATED ON FORT FLORIDA ROAD TO APPROVE A SECOND AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT, AN AMENDMENT TO THE MASTER DEVELOPMENT PLAN, INCREASING MAXIMUM DWELLING UNITS ALLOWED, AND ANNEXING 10-ACRE PARCEL INTO THE RIVINGTON MPUD; PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND RECORDING.

WHEREAS, HR Rivington, LLC is the fee simple owner of that certain real property zoned Rivington Mixed Planned Unit Development (MPUD) being approximately 326.2 acres in size, and legally described as the Property in Ordinance No. 11-18 adopted on October 3, 2018 and recorded at Official Records Book 7634, Page 2689 et. seq., Public Records of Volusia County, Florida, approving the Amended and Restated Development Agreement and its corresponding Master Development Plan (“Original Property”) as amended by City of DeBary Ordinance No. 09-2021 and recorded at Official Records Book 8156, Page 4071, et. seq., Public Records of Volusia County, Florida to include an additional 30 acres (“Additional Property”); and

WHEREAS, Rivington 10, LLC (the “Applicant”) is the fee simple owner of that certain 9.85 acres of property currently having a Volusia County Short Tax Parcel Identification Number 900900000021 located on Fort Florida Road, west of Barwick Road and the Original Property, and legally described in Attachment “A” attached to this Ordinance (“10-Acre Parcel”); and

WHEREAS, the Applicant desires to rezone the 10-Acre Parcel from A-2 (Agricultural Rural) to Rivington MPUD and annex the 10-Acre Parcel into the Rivington MPUD and its corresponding development agreement and master development plan; and

WHEREAS, the Original Property, the Additional Property, and the 10-Acre Parcel shall collectively herein be referred to as the “Property;” and
WHEREAS, the Property has a Comprehensive Plan Future Land Use Map designation of SW Mixed Use Area (SWMUA) and Environmentally Sensitive Lands (ESL); and

WHEREAS, the Applicant requested a major amendment and update to the Rivington MPUD as more specifically set forth in the Second Amendment to Amended and Restated Development Agreement attached hereto as Attachment “B” (“Second Amendment”) and its corresponding updated Master Development Plan being approved by this Ordinance; and

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

WHEREAS, the City Council finds that this Ordinance, the rezoning of the 10-Acre Parcel to Rivington MPUD and the major amendment to Rivington MPUD approved herein is consistent with the City of DeBary Comprehensive Plan and Land Development Code and promotes the public health, safety and welfare; and

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

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

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

SECTION 2. Rezoning. The 10-Acre Parcel is hereby rezoned from A-2 (Agricultural Rural) to and annexed into the Rivington Mixed Planned Unit Development (MPUD) pursuant to the terms and conditions of the Amended and Restated Development Agreement and its corresponding Master Development Plan as amended by Section 3 of this Ordinance.

SECTION 3. Major Amendment Granted. The Owner’s and Applicant’s request for a major amendment of the Rivington MPUD as previously approved by Ordinance 11-18 adopted on October 3, 2018 is hereby granted. The MPUD is hereby amended with respect to the Property as described in the Second Amendment to the Amended and Restated Development Agreement (Rivington MPUD) and its corresponding updated Master Development Plan attached hereto as Attachment “B”. The Mayor and City Clerk are authorized to execute the Second Amendment to the Amended and Restated Development Agreement. The Amended and Restated Development Agreement (Rivington MPUD) as previously amended by the First Amendment and as amended by the Second Amendment and its corresponding updated Master Development Plan approved by this Ordinance shall control and govern the development of the Property.
SECTION 4. Recording. The City Clerk is hereby directed to record this Ordinance and the Second Amendment to Amended and Restated Development Agreement – The Rivington MPUD and its exhibits in the Public Records of Volusia County, Florida. The MPUD as amended by this Ordinance and attached Second Amendment to Amended and Restated Development Agreement and its corresponding updated Master Development Plan affecting the Property shall run with the land and shall be applicable to and binding on the Owner, Applicant and any and all successors and assigns in interest.

SECTION 5. 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 6. Effective Date. This Ordinance shall take effect immediately upon adoption.

FIRST READING HELD on ____________, 2023

ADOPTED AFTER SECOND READING on this ___ day of _____________, 2023.

CITY COUNCIL

CITY OF DEBARY, FLORIDA

__________________________
Karen Chazez, Mayor

ATTEST:

__________________________
Annette Hatch, City Clerk
Attachments – **Attachment “A”** – 10-Acre Parcel

**Attachment “B”** – Second Amendment to Amended and Restated Development Agreement with its attached updated Master Development Plan
Attachment A

Legal Description of Subject Property

A PORTION OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA

BEING MORE PARTICULARLY AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9; THENCE RUN NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 328.00 FEET; THENCE RUN SOUTH 89 DEGREES 51 MINUTES 33 SECONDS EAST A DISTANCE OF 1328.66 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9; THENCE SOUTH 00 DEGREES 05 MINUTES 35 SECONDS WEST ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9 A DISTANCE OF 327.99 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9; THENCE RUN NORTH 89 DEGREES 51 MINUTES 33 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9 A DISTANCE OF 1326.83 FEET TO THE POINT OF BEGINNING.
THIS Second Amendment to the Amended and Restated MPUD DEVELOPMENT AGREEMENT ("Second Amendment to the Amended Development Agreement" or this "Second Amendment") is made and entered into by and between the CITY OF DEBARY, a Florida municipal corporation and RIVINGTON 10, LLC or its successors or assigns (herein “Applicant”).

WHEREAS, HR Rivignton, LLC is the developer and owner of that certain real property being approximately 326.2 acres in size, having a Volusia County Tax Parcel Identification Number 08-19-30-00-00-0010, zoned Rivington MPUD, and being the same property described in Attachment “A” to City of DeBary Ordinance No. 11-18 adopted on October 3, 2018 and recorded at Official Records Book 7634, Page 2689, et. seq., Public Records of Volusia County, Florida (“Original Property”); as amended by City of DeBary Ordinance No. 09-2021 and recorded at Official Records Book 8156, Page 4071, et. seq., Public Records of Volusia County, Florida to include an additional 30 acres (“Additional Property”); and

WHEREAS, Applicant is the fee simple owner of approximately +/- 9.85 acres of real property currently having a Volusia County Short Tax Parcel Identification Number 900900000021, located on Fort Florida Road, west of Barwick Road (“10-Acre Parcel”),
and being rezoned from A-2 (Rural Agriculture) to and annexed into the Rivington MPUD as further described herein; and

WHEREAS, the Rivington MPUD is regulated by the Amended and Restated Development Agreement approved by City of DeBary Ordinance No. 11-18 and adopted on October 3, 2018 and recorded at Official Records Book 7634, Page 2689, et. seq., Public Records of Volusia County, Florida and the First Amendment to the Amended and Restated Development Agreement and its corresponding Master Development Plan approved by Ordinance No. 09-2021 on September 1, 2021 (the “First Amendment to the Amended and Restated Development Agreement”) (recorded at Official Records Book 8156, Page 4071, et. seq., Public Records of Volusia County, Florida); and

WHEREAS, the Original Property is under development and as of the date of this Second Amendment to the Amended and Restated Development Agreement; and

WHEREAS, the Applicant proposes this Second Amendment to the Amended and Restated Development Agreement to: (a) provide for rezoning and the annexation of the 10 acres of the 10-Acre Parcel, which 10-Acre Parcel collectively with the Original Property currently included in the Rivington MPUD, shall be described in the Amended and Restated Development Agreement, the First Amendment to the Amended and Restated Development Agreement and as amended by this Second Amendment, as the “Property”; (b) amend the maximum number of residential dwelling units allowed on the Property, as more specifically set forth in this Second Amendment to the Amended and Restated Development Agreement
Agreement and its corresponding Master Development Plan; and (c) amend and replace the Master Development Plan.

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

A. Recitals. The recitals herein contained are true and correct and are incorporated herein by reference as material terms of this Second Amendment.

B. Amendments. The Amended and Restated Development Agreement is hereby amended as follows:

Section A.8. of the First Amendment to the Amended and Restated Development Agreement is amended to provide for the following (underlined language are additions; stricken through language are deletions):

8. Number of Dwelling Units. Subject to the requirements of the DeBary Land Development Code, the Updated Master Development Plan and the rules and regulations of any other governmental agency having jurisdiction over the Property, the Property is entitled to be developed with a maximum of 924 residential dwelling units (the “Maximum Number of Residential Units”). A maximum of 700 residential dwelling units shall be permitted on the Original Property. A maximum of 224 residential dwelling units shall be allocated to the Additional Property and a maximum of 60 residential dwelling units shall be allocated to the 10-Acre Parcel.

Section J.2. of the Amended and Restated Development Agreement is amended to provide for the following (underlined language are additions; stricken through language are deletions):

2.1 Access and Transportation Improvements to Original Property. All access and transportation system improvements shall be provided in
accordance with the Land Development Code, unless otherwise provided for within this Agreement, as part of the approved Updated Master Development Plan or as approved through a separate agreement between the City and the Owner or Applicant. Applicant shall be responsible for installing all appropriate internal roadway traffic control devices and signs in accordance with applicable standards. There shall be a minimum of one (1) ingress/egress point to both Ft. Florida Road and Barwick Road. The Applicant shall also provide access improvements for the Project to and from Barwick Road. The Applicant shall be required to construct one or more access points from Ft. Florida Road in conjunction with the Second phase of development of the Property proposed west of the Florida Power and Light power line easement. The location of these vehicular access points shall meet City of DeBary Land Development Code standards. The Applicant shall construct a temporary entrance for construction traffic along Ft. Florida Road and no construction access shall be permitted along Barwick Road. At least one permanent ingress/egress point shall be built in conjunction with the project’s Second phase. The second ingress/egress point shall be completed prior to the 351st dwelling unit receiving a certificate of occupancy. However, prior to any certificates of occupancy being issued a stabilized entry to and from the Property and a public right-of-way shall be installed by the Applicant to serve as a secondary access point for emergency vehicles until such time as the second ingress/egress point is constructed. The Applicant shall provide Fifty-Thousand Dollars ($50,000.00) to the City to be allocated toward either (1) a traffic signal at the intersection of Highway 17-92 and Barwick Road or (2) roadway improvements to mitigate traffic along Barwick Road between the intersection of Ft. Florida Road and Highway 17-92 in proximity to the Property, which shall be paid to the City upon approval of Final Plat. The Applicant and the City will
coordinate with one another and any other applicable public agency
with regard to opportunities for public-private partnerships that may
be available for off-site roadway improvements.

2.1a Access and Transportation Improvements to Additional
Property and 10-Acre Parcel. The Applicant shall provide access
improvements to the Additional Property and 10-Acre Parcel as
required by the Site Access Analysis study completed by LTG, Inc.
on June 4, 2021, and coordinated with the City during subdivision
review.

Exhibit “A” to the Amended and Restated Development Agreement is amended and
restated to include the following description that includes the 10-Acre Parcel:

THE SOUTH 1/2 OF THE NORTHEAST 1/4; THE SOUTH 1/2 OF THE NORTHWEST 1/4; GOVERNMENT
LOTS 1 AND 3; AND THE NORTH 1/2 OF GOVERNMENT LOT 6; ALL IN SECTION 8, TOWNSHIP 19
SOUTH, RANGE 30 EAST, LYING SOUTH OF FORT FLORIDA ROAD, VOLUSIA COUNTY, FLORIDA;
EXCEPT THE SOUTH 30 FEET OF SAID GOVERNMENT LOT 1 AND EXCEPT THE SOUTH 30 FEET
OF THE NORTH 1/2 OF SAID GOVERNMENT LOT 6.

CONTAINS 296.2 ACRES, MORE OR LESS PER THE VOLUSIA COUNTY PROPERTY APPRAISER.

AND

THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE
30 EAST LYING SOUTH OF FORT FLORIDA ROAD. ALL LYING AND BEING SITUATED IN VOLUSIA
COUNTY, FLORIDA.

LESS AND EXCEPT THE ROAD RIGHT OF WAY ON THE WEST. ALSO LESS AND EXCEPT ANY LAND
CONTAINED IN THE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 7319, PAGE 2945,
PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

AND

A PORTION OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA
BEING MORE PARTICULARLY AS FOLLOWS:
BEGIN AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID
SECTION 9; THENCE RUN NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST
LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF
328.00 FEET; THENCE RUN SOUTH 89 DEGREES 51 MINUTES 33 SECONDS EAST A DISTANCE OF
1328.66 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9;
THENCE SOUTH 00 DEGREES 05 MINUTES 35 SECONDS WEST ALONG THE EAST LINE OF THE
SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9 A DISTANCE OF 327.99 FEET TO
THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION
9; THENCE RUN NORTH 89 DEGREES 51 MINUTES 33 SECONDS WEST ALONG THE SOUTH LINE
OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9 A DISTANCE OF 1326.83
FEET TO THE POINT OF BEGINNING.

Exhibit “B” to the First Amendment to the Amended and Restated Development
Agreement is amended to fully replace the Updated Master Development Plan with
the amended Updated Master Development Plan prepared by Kimley-Horn and
Associates, Inc. dated 4/18/2022 that is attached to this Second Amendment.

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

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

AGREED to by the City Council of the City of DeBary, Florida, Owner, and the
Applicant on this ____the day of _________________, 2023.
ATTEST:

_____________________
Annette Hatch, City Clerk

______________________________
Karen Chasez, Mayor

CITY OF DEBARY, FLORIDA
WITNESSES:

RIVINGTON 10, LLC

By: Reader & Partners, LLC, a Florida limited liability company, Its Sole Manager

___________________________
Signature

___________________________
Print

___________________________
Signature

___________________________
Print

___________________________
By:

___________________________
Print Name:

___________________________
Title:
NOTARIAL ACKNOWLEDGEMENT

STATE OF FLORIDA

COUNTY OF _______________

The foregoing instrument was acknowledged before me by physical presence this ______ day of _________________ in the year 2023 by __________________________ as the ____________ of RIVINGTON 10, LLC, on behalf of said company, who is personally known to me or who has produced ________________________ as identification.

__________________________________________

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name__________________________

Commission No.___________________________

My Commission Expires:____________________
RIVINGTON DENSITY CALCULATION

EXHIBIT

LEGEND:
- WETLAND
- FLOODPLAIN
- EASEMENT

RIVINGTON 300-AC TOTAL WETLAND, FLOODPLAIN, AND EASEMENT AREAS
- 111.17 AC

RIVINGTON - EAST 40-AC ANNEX TOTAL WETLAND, FLOODPLAIN, AND EASEMENT AREAS
- 7.34 AC

SUBTOTAL TOTAL WETLAND, FLOODPLAIN, AND EASEMENT AREA (WFE)
- 118.51 AC

TOTAL UPLAND UNITS (x 4 DUA)
- 859 UNITS

TOTAL WFE UNITS (x 4 DUA)
- 75% x 4 DUA: 355 UNITS
- 50% x 4 DUA: 237 UNITS
- 25% x 4 DUA: 118 UNITS

TOTAL PERMITTED UNITS (UPLAND + WFE AT %)
- @ 75%: 1,214 UNITS
- @ 50%: 1,096 UNITS
- @ 25%: 977 UNITS

RIVINGTON EAST 40-AC ANNEX STAND ALONE DENSITY ANALYSIS:

UPLAND AREA
- RIVINGTON - EAST 40-AC ANNEX
  - 32.13 AC

TOTAL UPLAND UNITS (x 8 DUA)
- 257 UNITS

WETLAND, FLOODPLAIN, AND EASEMENT AREA (WFE)
- RIVINGTON - EAST 40-AC ANNEX
  - 7.34 AC

TOTAL WFE UNITS (75% x 8 DUA)
- 44 UNITS

TOTAL PERMITTED UNITS (UPLAND + WFE AT %)
- @ 75%: 301 UNITS
REQUEST

Staff is requesting City Council approve on second reading Ordinance # 09-2022, expanding the Rivington Community Development District (CDD) to annex 9.85 acres of land into the CDD’s boundaries.

PURPOSE

To annex 9.85-acres of land on Barwick Road into the Rivington CDD.

CONSIDERATIONS

The property is located on the east side of Barwick Road, south of the tract of land annexed into the Rivington MPUD from the first amended and restated development agreement.

The Florida Legislature created and amended Chapter 190, Florida Statutes, to allow for CDDs in order to provide an alternative method to finance and manage basic services for community development. The proposed CDD would be the financing and managing body for the proposed Rivington 9.85-acre expansion.

Proposed facilities to be funded include earthwork, roadway paving and improvements, drainage collection and outfall structures, potable water, reusable water, sanitary sewer, landscaping, and wetland mitigation. The total estimated capital costs are $1,964,255.00. No bond, debt or other obligation of the CDD, nor any default, shall constitute a debt or obligation by the City.

RECOMMENDATION

It is recommended the City Council: Approve Ordinance # 09-2022, upon second reading, expanding the Rivington Community Development District.

IMPLEMENTATION

If the City Council approves the proposed Community Development District expansion, then the subject property will be added into the Rivington Community Development District.

ATTACHMENTS

- Ordinance # 09-2022
- Petition to expand the Rivington Community Development District
BEFORE THE CITY COUNCIL OF THE CITY OF DEBARY
DEBARY, FLORIDA

PETITION TO EXPAND RIVINGTON COMMUNITY DEVELOPMENT DISTRICT

Petitioner, Rivington Community Development District, a community development district established by Ordinance Number 12-18 by the City of DeBary, Florida on October 3, 2018 pursuant to the Uniform Community Development District Act of 1980, Chapter 190 of the Florida Statutes, (hereinafter “Petitioner”) hereby petitions the City Council of DeBary, Florida, to expand (hereinafter "Expansion") the established Rivington Community Development District (hereinafter “CDD” or “District”) with respect to land described herein. In support of this petition, Petitioner states:

1. **Location and Size.** The Expansion area is located entirely within the incorporated limits of DeBary, Florida. **Exhibit 1** describes the general location of the proposed expanded CDD. The proposed Expansion covers approximately 9.85 +/- acres of land. The metes and bounds description of the expanded District is attached as **Exhibit 2**.

2. **Excluded Parcels.** There are no parcels within the proposed external boundaries of the Expansion which are to be excluded.

3. **Landowner Consent.** Petitioner has obtained written consent to establish the Expansion from the owner of one hundred percent (100%) of the real property located within the Expansion. Documentation of this consent is set forth in **Exhibit 3**.

4. **Name.** The proposed name of the Expansion remains Rivington Community Development District.

5. **Initial Board Members.** The five persons designated to serve as initial members of the Board of Supervisors of the proposed Expansion are as follows:
Name: Jeffrey M. Reader  
Address: 5850 T.G. Lee Blvd., Suite 200, Orlando, FL 32822

Name: Steven Costa  
Address: 444 Seabreeze Blvd., Suite 1000, Daytona Beach, FL 32118

Name: Tisha Barberree  
Address: 2443 Upper Park Rd., Orlando, FL 32814

Name: Marlene DeMarco  
Address: 5850 T.G. Lee Blvd., Suite 200, Orlando, FL 32822

Name: Debra Dremann Ushkowitz  
Address: 5050 Sailwind Circle, Orlando, FL 32810

All of the above-listed persons are residents of the State of Florida and citizens of the United States of America.

6. **Existing Zoning and Future Land Use.** The existing zoning and future land use for lands within the proposed Expansion are shown on Exhibits 4 and 5, respectively. The land within the proposed Expansion is currently undeveloped. The future development within the Expansion is consistent with Objective 5.107 (Transit Oriented Development) of the City of DeBary, Florida Future Land Use Plan. The development plan consistent with the objective is detailed on Exhibit 6.

7. **Future Land Uses.** The proposed development plan for the lands within the Expansion is described in Exhibit 6. Development is scheduled to occur over a five (5) year period. The proposed land uses for lands contained within the proposed Expansion are consistent with the approved City of DeBary, Florida Comprehensive Plan.

8. **Major Water and Wastewater Facilities.** Exhibit 7 shows the existing major trunk water mains and wastewater interceptors and the major outfall canals and drainage basins for the lands within the proposed Expansion.
9. **District Facilities and Services.** The District is presently expected to finance, construct, install and maintain improvements and facilities to benefit the lands within the Expansion. **Exhibit 8** describes the type of facilities Petitioner presently expects the District to finance, construct, install and maintain. The estimated costs of construction are also described in **Exhibit 8**. Actual construction timetables and expenditures may vary, due in part to the effects of future changes in the economic conditions upon costs such as labor, services, materials, interest rates and market conditions.

10. **Statement of Estimated Regulatory Costs.** **Exhibit 9** is the statement of estimated regulatory costs (hereinafter “SERC”) prepared in accordance with the requirements of Section 120.541, Florida Statutes. The SERC is based upon presently available data. The data and methodology used in preparing the SERC accompany it.

11. This petition to expand the District should be granted for the following reasons:

   a. Expansion of the District and all land uses and services planned within the proposed expansion are not inconsistent with applicable elements or portions of the effective State Comprehensive Plan or the City of DeBary, Florida Comprehensive Plan.

   b. The area of land within the proposed Expansion is of a sufficient size and is sufficiently compact and contiguous to be developed as one functional and interrelated development.

   c. The expansion of the District will prevent the general body of taxpayers in the City from bearing the burden for installation of the infrastructure and the maintenance of the above-described facilities within the development encompassed
by the District and Expansion. The District and Expansion are the best alternatives for delivering community development services and facilities to the proposed development without imposing an additional burden on the general population of the local general-purpose government. Expansion of the District in conjunction with a comprehensively planned development, as proposed, allows for a more efficient use of resources.

d. The community development services and facilities of the District and the expansion will not be incompatible with the capacity and use of existing local and regional community development services and facilities. In addition, the expansion of the District will provide a perpetual entity capable of making reasonable provisions for the operation and maintenance of the District and Expansion services and facilities.

e. The area to be served by the proposed Expansion is amenable to a separate special-district government.

WHEREFORE, Petitioner respectfully requests the City Council of DeBary, Florida to:

a. Schedule a public hearing in accordance with the requirements of Section 190.005(2)(b), Florida Statutes;

b. Grant the petition and adopt an ordinance expanding the Rivington Community Development District pursuant to Chapter 190, Florida Statutes;

c. Consent to the Expansion exercise of certain additional powers to finance, fund, plan, establish, acquire, construct, reconstruct, enlarge or extend, equip, operate, and maintain, as appropriate, systems and facilities for transportation,
stormwater utilities, parks and facilities for indoor and outdoor recreational, cultural, and other uses all as authorized and described by Section 190.012(2)(a), Florida Statutes.

RESPECTFULLY SUBMITTED, this ___day of July, 2022.

COBB COLE

By:

Mark A. Watts
Florida Bar No. 0157521
231 N. Woodland Blvd.
DeLand, FL 32720
(386) 736-7700
Attorney for Petitioner
LEGAL DESCRIPTION OF

RIVINGTON 2ND EXPANSION

A PORTION OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA

BEING MORE PARTICULARLY AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9; THENCE RUN NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 328.00 FEET; THENCE RUN SOUTH 89 DEGREES 51 MINUTES 33 SECONDS EAST A DISTANCE OF 1328.66 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9; THENCE SOUTH 00 DEGREES 05 MINUTES 35 SECONDS WEST ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9 A DISTANCE OF 327.99 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9; THENCE RUN NORTH 89 DEGREES 51 MINUTES 33 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9 A DISTANCE OF 1326.83 FEET TO THE POINT OF BEGINNING.
EXHIBIT 3
CONSENT AND JOINDER

TO PETITION TO EXPAND THE

RIVINGTON COMMUNITY DEVELOPMENT DISTRICT

THE UNDERSIGNED, Rivington 10, LLC, a Florida limited liability company, is the owner of certain lands located in Volusia County, Florida, and more fully described as follows:

SEE EXHIBIT “A” ATTACHED HERETO AND INCORPORATED HEREIN

The above-described land is hereinafter referred to as the “Property”.

The undersigned understands and acknowledges that Rivington Community Development District ("Petitioner"), intends to submit an application to City of DeBary to expand the RIVINGTON COMMUNITY DEVELOPMENT DISTRICT (the “District”) in accordance with the provisions of Chapter 190 of the Florida Statutes.

The undersigned is the owner of a portion of the lands located within the proposed District and described in Exhibit "A" attached hereto, and the undersigned understands and acknowledges that, pursuant to the provisions of Section 190.005(2)(a), Florida Statutes, the Petitioner is required to include the written consent to expand the District of one-hundred percent (100%) of the owners of the lands to be included within the District.

The undersigned hereby consents to the inclusion of its Property into the Rivington Community Development District, which will include the Property within the lands to be a part of the District, and agrees to further execute any other documentation necessary or convenient to evidence this consent and joinder.

The undersigned hereby acknowledges and agrees that the foregoing consent and obligation to execute additional documentation is and shall be a covenant running with the land which shall bind the undersigned’s heirs, personal representatives, administrators, successors-in-title and assigns and shall remain in full force and effect three (3) years from the date hereof.
SIGNATURE PAGE FOR CONSENT AND JOINDER
TO PETITION TO EXPAND THE RIVINGTON
COMMUNITY DEVELOPMENT DISTRICT

Executed this 20th day of July, 2022

Rivington 10, LLC
A Florida Limited Liability Company

By: Reader & Partners, LLC
A Florida Limited Liability Company
Its manager

By: ____________________________
Name: Dean Barberree
Position: President

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☑ physical
presence or ☐ online notarization, this 20th day of July, 2022 by Dean
Barberree, President of Reader & Partner, LLC the Manager of Rivington 10, LLC, on behalf
of said partnership. Said person is ☑ personally known to me or ☐ has produced a valid
driver’s license as identification.

[SEAL]
LORI FISCHER
MY COMMISSION # GG 364877
EXPIRES: November 11, 2023
Bonded thru Notary Public Underwriters

[SEAL]
LORI FISCHER
Notary Public, State of Florida
Print Name: LORI FISCHER
My Commission Expires: 11/11/2023
My Commission No.: GG 364877
EXHIBIT A
LEGAL DESCRIPTION

A PORTION OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA

BEING MORE PARTICULARLY AS follows:

BEGIN AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9; THENCE RUN NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 328.00 FEET; THENCE RUN SOUTH 89 DEGREES 51 MINUTES 33 SECONDS EAST A DISTANCE OF 1328.66 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9; THENCE SOUTH 00 DEGREES 05 MINUTES 35 SECONDS WEST ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9 A DISTANCE OF 327.99 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9; THENCE RUN NORTH 89 DEGREES 51 MINUTES 33 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9 A DISTANCE OF 1326.83 FEET TO THE POINT OF BEGINNING.
<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
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<tbody>
<tr>
<td>1</td>
<td>Mobilization</td>
<td>1</td>
<td>LS</td>
<td>$25,000.00</td>
<td>$25,000.00</td>
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<td>2</td>
<td>Silt Fence</td>
<td>3,300</td>
<td>LF</td>
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<td>$9,900.00</td>
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<td>3</td>
<td>Silt Clearing</td>
<td>8.75</td>
<td>AC</td>
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<td>4</td>
<td>Stripping</td>
<td>4.750</td>
<td>CY</td>
<td>$3.50</td>
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<td>5</td>
<td>Pond Excavation (Cut)</td>
<td>2.900</td>
<td>CY</td>
<td>$3.30</td>
<td>$9,570.00</td>
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<td>6</td>
<td>Import Fill</td>
<td>25,500</td>
<td>CY</td>
<td>$15.50</td>
<td>$395,250.00</td>
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<td>7</td>
<td>Sodding (pond berms, banks, behind curb, open space)</td>
<td>150,000</td>
<td>SF</td>
<td>$0.40</td>
<td>$60,000.00</td>
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<tr>
<td>8</td>
<td>Seed and Mulch (disturbed areas that are not sodded)</td>
<td>16,500</td>
<td>SY</td>
<td>$0.40</td>
<td>$6,600.00</td>
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<td>9</td>
<td>Construction Layout, As-Built and Testing</td>
<td>1</td>
<td>LS</td>
<td>$10,000.00</td>
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<td>10</td>
<td>Crawlering</td>
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Sub-Total $611,695.00

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<tr>
<td>1</td>
<td>1.5&quot; Asphalt Structural Course</td>
<td>6,960</td>
<td>SY</td>
<td>$15.50</td>
<td>$107,880.00</td>
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<td>2</td>
<td>8&quot; Compacted Crushed Concrete Base Course</td>
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<td>SY</td>
<td>$16.50</td>
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<td>3</td>
<td>12&quot; Stabilized Subgrade</td>
<td>6,960</td>
<td>SY</td>
<td>$6.50</td>
<td>$45,240.00</td>
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<td>4</td>
<td>Pavement Markings and Signage</td>
<td>1</td>
<td>LS</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
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<tr>
<td>5</td>
<td>Curb and Gutter</td>
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<td>LF</td>
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<td>6</td>
<td>Sidewalk</td>
<td>30,000</td>
<td>SF</td>
<td>$4.75</td>
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Sub-Total $478,810.00

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<tr>
<td>1</td>
<td>Storm Drain Collection Per LF of System</td>
<td>2,100</td>
<td>LF</td>
<td>$170.00</td>
<td>$357,000.00</td>
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<tr>
<td>2</td>
<td>Pond Outfall Structures</td>
<td>2</td>
<td>EA</td>
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Sub-Total $374,000.00

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<tr>
<td>1</td>
<td>Potable Water per LF of System</td>
<td>1,650</td>
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Sub-Total $140,250.00

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<td>1</td>
<td>Reuse Water per LF of System</td>
<td>1,650</td>
<td>LF</td>
<td>$75.00</td>
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Sub-Total $123,750.00

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<tr>
<td>1</td>
<td>Sanitary Sewer per LF of System</td>
<td>1,800</td>
<td>LF</td>
<td>$95.00</td>
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Sub-Total $175,750.00

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<th>Total</th>
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<tr>
<td>1</td>
<td>Landscaping, Irrigation &amp; Hardscape in Common Areas</td>
<td>1</td>
<td>LS</td>
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Sub-Total $50,000.00

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<tbody>
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<td>1</td>
<td>Wetland Mitigation</td>
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<td>LS</td>
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Sub-Total $10,000.00

GRAND TOTAL $1,064,255.00
STATEMENT OF ESTIMATED REGULATORY COSTS

EXPANSION OF RIVINGTON COMMUNITY DEVELOPMENT DISTRICT

1.0 Introduction

1.1 Purpose and Scope

This Statement of Estimated Regulatory Costs (SERC) supports the petition to expand the boundary of Rivington Community Development District (“District”). The expansion will add approximately 9.85 +/- acres of land, which will result in the expanded District being 335.78 +/- acres. The District will provide infrastructure and community services to this area in the District as described more fully below.

The limitations on the scope and use of this SERC are set out in Section 190.002(2)(d), Florida Statutes (“F.S.”), as follows:

“That the process of expanding such a District pursuant to uniform general law shall be fair and based only on factors material to managing and financing the service delivery function of the District, so that any matter concerning permitting or planning of the development is not material or relevant.” The same is true for this expansion. The remainder of this SERC will address the totality of the land within the District, presuming the expansion is approved.

1.2 Overview of the Expanded District

The expanded District would provide community infrastructure, services, and facilities, along with their operations and maintenance, to the expansion area, located in the City of DeBary (“City”), Volusia County (“County”), Florida. The expanded District will encompass 335.78 +/- acres to be used exclusively for residential development. Table 1 below summarizes the residential land use plan for the expansion area.

<table>
<thead>
<tr>
<th>Category</th>
<th>Quantity</th>
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<tbody>
<tr>
<td>Townhome</td>
<td>80</td>
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1.3 Requirements for Statement of Estimated Regulatory Costs (SERC)

Section 120.541(2), F.S. (2022) defines the elements a SERC must contain (or in this case, City ordinance).

(a) An economic analysis showing whether the rule directly or indirectly:
1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within five years after the implementation of the rule;

2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of $1 million in the aggregate within five years after the implementation of the rule; or

3. Is likely to increase regulatory costs, including any transactional costs, in excess of $1 million in the aggregate within five years after the implementation of the rule.

(b) A good-faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

(c) A good-faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues.

(d) A good-faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, “transactional costs” are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.

(e) An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined in Section 120.52, F.S. The impact analysis for small businesses must include the basis for the agency’s decision not to implement alternatives that would reduce adverse impacts on small businesses.

(f) Any additional information that the agency determines may be useful.

(g) In the statement or revised statement, whichever applies, a description of any regulatory alternatives submitted under paragraph (1)(a) and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

2.0 An economic analysis showing whether the rule/ordinance directly or indirectly will have an adverse impact on economic growth, job creation, employment, private-sector investment, business competitiveness, or regulatory costs.

Section 120.541(2)(a), F.S., requires an economic analysis showing whether the establishment of the District will directly or indirectly have an adverse impact on economic growth, job creation, employment, private-sector investment, business competitiveness, or regulatory costs exceeding $1 million in the aggregate within five years after the establishment takes place. The answer, based upon numerous other residential community
development districts, as well as the existing Rivington Community Development District, is that the expansion of the District will not have an adverse impact on economic growth, job creation, employment, private-sector investment, business competitiveness, or regulatory costs.

The expansion of the District is likely to increase economic growth, job creation, employment, private-sector investment, and business competitiveness. This is because the District will provide infrastructure improvements within the District’s boundaries, allowing for the development of the land within the District. The expansion areas are planned to include up to 80 new residences. The residents of the District will purchase goods and services. This new demand created by the District’s residents will increase economic growth, job creation, employment, private-sector investment, and business competitiveness in the areas surrounding the District.

The District will have the ability to assess the expansion area property owners to pay for the installation, operation, and maintenance of its infrastructure improvements. However, such costs will not be in addition to, or unique to, the expansion areas. The infrastructure improvements to be funded by the District would be required to support development of the planned 80 residences, regardless of the District’s existence. Community development districts, such as Rivington Community Development District, can fund their infrastructure improvements with long-term bond financing that typically carries more favorable terms than other sources of funding. Thus, the costs related to the installation of the public infrastructure serving the new planned development will not be increased due to the expansion of the District.

3.0 A good-faith estimate of the number of individuals and entities likely to be required to comply with the rule/ordinance, together with a general description of the types of individuals likely to be affected by the rule/ordinance.

The landowner of the expansion area plans to develop up to 80 dwelling units. Expansion of the District would put all these residents under the jurisdiction of the District. Before the sale of the property within the District, the developer will also be subject to the District’s jurisdiction.

4.0 Good-faith estimate of the cost to state and local government entities, of implementing and enforcing the proposed ordinance, and any anticipated effect on state and local revenues.

4.1 Impact on State and Local Costs

State Government Entities

There will be virtually no costs to various Florida ("State") governmental entities due to the fact that the District already exists, and the expansion will have no effect on various Florida governmental entities. The City of DeBary was the establishing entity for this District; therefore, the City is also the reviewing agency for this petition for the expansion.
pursuant to Section 190.046(1)(b), F.S. The State will incur no costs in reviewing the petition to expand the District, and the State will not be required to hold any public hearings on the matter.

The ongoing costs to various State entities to implement and enforce the expansion of the District relate strictly to the receipt and processing of various reports that the District is required to file annually with the State and its various entities. These annual reports are outlined in the attached Appendix. However, the costs to the State agencies that will receive and process the District’s reports will be the same since the District already exists. The District is only one of many governmental subdivisions required to submit various reports to the State. Additionally, pursuant to Section 189.018, F.S., the District will pay an annual fee to the State Department of Economic Opportunity to offset such processing costs.

City of DeBary

City staff will process, analyze, and conduct public hearing(s) on the petition to expand the District. These activities will utilize the time of the staff and City Commissioners. However, these costs to the City are likely to be minimal for a number of reasons. First, review of the petition does not include analysis of the development to be served by the District. Second, the petition itself provides most of the information needed for City staff’s review. Third, the City currently employs the staff needed to conduct the review of the petition. Fourth, no capital expenditure is required to review the petition. Finally, local governments routinely process similar petitions for land use and zoning changes that are more complex than is the petition to expand the District.

The annual costs to the City, related to the ongoing operations of the District, are also minimal. The District will be an independent unit of local government. The only annual costs incurred by the City will be the minimal costs of receiving and, to the extent desired, reviewing the various reports that the District is required to provide to the City, which already exists because the District has already been established.

4.2 Impact on State and Local Revenues

Adoption of the proposed ordinance will have no negative impact on State or local revenues. The District is an independent unit of local government. It is designed to provide community facilities and services to serve the development. It has its own sources of revenue. No State or local subsidies are required or expected.

In this regard, it is important to note that any debt obligations incurred by the District to construct its infrastructure, or for any other reason, are not debts of the State, the County, the City, or any other unit of local government. By State law, the debts of the District are strictly its own responsibility. In terms of the expansion areas and any future debt of the District for said areas, only the benefited properties within the expansion areas will repay the debt, and existing property owners within the District will not be subject to said debt in any way.
5.0 A good-faith estimate of the transactional costs likely to be incurred by individuals and entities required to comply with the requirements of the rule/ordinance.

Table 2, below, provides an outline of the various facilities and services the expanded District may provide. The District plans to fund, own, operate, and maintain certain drainage and stormwater systems, landscaping, and ponds. The District will also plan, construct, and finance the community's roadways, along with offsite roadway improvements. The roadways and drainage systems within publicly dedicated rights-of-way will be conveyed to the appropriate general-purpose government for operation and maintenance. The landowner will construct the utilities and other community infrastructure and facilities. The District will be responsible for maintenance of some of these facilities.

Table 2. Proposed Facilities and Services

<table>
<thead>
<tr>
<th>Improvement/Facility</th>
<th>Funded by</th>
<th>Ownership</th>
<th>Maintenance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roads and Storm Drainage (Onsite)</td>
<td>CDD</td>
<td>CDD/City</td>
<td>CDD/City</td>
</tr>
<tr>
<td>Roads and Storm Drainage (Offsite)</td>
<td>City/County/CDD</td>
<td>City/County</td>
<td>City/County</td>
</tr>
<tr>
<td>Ponds</td>
<td>CDD</td>
<td>CDD</td>
<td>CDD</td>
</tr>
<tr>
<td>Utilities Water</td>
<td>CDD</td>
<td>County</td>
<td>County</td>
</tr>
<tr>
<td>Utilities Sewer</td>
<td>CDD</td>
<td>County</td>
<td>County</td>
</tr>
<tr>
<td>Utilities Reclaimed</td>
<td>CDD</td>
<td>County</td>
<td>County</td>
</tr>
<tr>
<td>Mitigation</td>
<td>CDD</td>
<td>CDD</td>
<td>CDD</td>
</tr>
<tr>
<td>Site Landscaping</td>
<td>CDD</td>
<td>CDD</td>
<td>CDD</td>
</tr>
<tr>
<td>Entry Features</td>
<td>CDD</td>
<td>CDD</td>
<td>CDD</td>
</tr>
<tr>
<td>Amenity Centers</td>
<td>CDD</td>
<td>CDD</td>
<td>CDD</td>
</tr>
<tr>
<td>Parks and Greens</td>
<td>CDD</td>
<td>CDD</td>
<td>CDD</td>
</tr>
<tr>
<td>Trails</td>
<td>CDD</td>
<td>CDD/City</td>
<td>CDD/City</td>
</tr>
</tbody>
</table>

The petitioner has estimated the costs for providing the capital improvements and facilities outlined in Table 2. The cost estimates for these improvements and facilities are shown in Table 3, below. Total costs are estimated at approximately $1,964,255. To fund these improvements, the District may issue special assessment or other revenue bonds. These bonds would be repaid through non-ad valorem assessments levied on all properties located within the expansion area only of the District that benefit from these improvements.

Prospective future landowners in the expansion areas of the District may be required to pay non-ad valorem assessments levied by the District to secure the debt incurred by the District through bond issuances. In addition to the levy of non-ad valorem assessments for debt service, the District may also impose a non-ad valorem assessment to fund the operations and maintenance of the District and its facilities and services.
Table 3. Summary of Estimated Capital Costs

<table>
<thead>
<tr>
<th>Improvements</th>
<th>Estimated Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDD Project Related Earthwork</td>
<td>$611,695</td>
</tr>
<tr>
<td>On-Site Roadway Paving and Improvements</td>
<td>$478,810</td>
</tr>
<tr>
<td>Utilities Drainage</td>
<td>$374,000</td>
</tr>
<tr>
<td>Utilities Water</td>
<td>$140,250</td>
</tr>
<tr>
<td>Utilities Reclaimed</td>
<td>$123,750</td>
</tr>
<tr>
<td>Sanitary</td>
<td>$175,750</td>
</tr>
<tr>
<td>Landscape and Hardscape Features in Common Areas</td>
<td>$50,000</td>
</tr>
<tr>
<td>Wetland Mitigation</td>
<td>$10,000</td>
</tr>
<tr>
<td><strong>Total Estimated Cost</strong></td>
<td><strong>$1,964,255</strong></td>
</tr>
</tbody>
</table>

It is important to note that the various costs outlined in Table 3 are typical for residential developments of the type contemplated here. In other words, there is nothing unusual about the District’s financing that requires additional infrastructure over and above what would normally be needed. Therefore, these costs are not in addition to normal development costs. Instead, the facilities and services provided by the District are substituting in part for developer-provided infrastructure and facilities. Along these same lines, District-imposed assessments for operations and maintenance costs are similar to what would be charged in any event by a property owner’s association common to most master-planned developments.

Real estate markets take into account the District’s cost because buyers and renters evaluate all of the costs and benefits associated with various alternative locations. Therefore, market forces preclude developers from marking up the prices of their products beyond what the competition allows. To remain competitive, the operations and maintenance charges must also be in line with the competition.

Furthermore, locating in the District by new residents is completely voluntary. So ultimately, all owners and users of the affected property choose to accept the District’s costs because of the benefits that the District provides.

The District is an alternative means to finance necessary community services. District financing is no more expensive, and often less expensive, than the alternatives of a municipal services taxing unit (MSTU), a neighborhood association, City provision (directly or via a dependent special district), or through developer-bank loans.
6.0 An analysis of the impact on small businesses, as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.

There will be no adverse impact on small businesses because of expanding the District. If anything, the impact will be positive. This is because the District must competitively bid certain of its contracts. This affords small businesses the opportunity to bid on District work.

The City of DeBary has a population greater than the number required to be classified as a "small city." As noted above, there will be no adverse impact on the City due to the expansion of the District. The District will provide infrastructure facilities and services to the property located within the District. These facilities and services will help make this property developable. Development of the property within the District will increase the value of this property, and consequently, will increase the property taxes that accrue to the City. These increased property taxes, along with other direct and indirect revenues accruing to the City as a result of the development of the land within the District, will offset any new staff, facilities, or equipment the City adds to provide services to the property owners within the District.

7.0 Any additional useful information.

The analysis provided above is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Inputs were received from the developer’s engineer and other professionals associated with the developer.

It is useful to reflect upon the question of whether or not the expansion of the District is the best alternative to provide community facilities and services to the added property. As an alternative to the District, the City could approve a dependent special district for the area, such as a municipal service benefit unit (MSBU) or a special taxing district pursuant to Chapter 189, F.S., or create a new CDD. Either of these alternatives could finance the improvements contemplated in Table 2 in a fashion similar to the existing District. However, since the District already exists, these alternatives would add additional administrative costs that are not necessarily beneficial.

Another alternative to the District would be for the developer to provide the infrastructure and to use a property owners association (POA) for operations and maintenance of community facilities and services. A District is superior to a POA for a variety of reasons. First, unlike a POA, a District can impose and collect its assessments along with other property taxes on the combined real estate tax bill through the County tax collector. Therefore, the District is far more assured of obtaining its needed funds than is a POA. Second, the District is a unit of local government. Therefore, unlike a POA, the District must abide by all governmental rules and regulations. Third, any debt of a District is strictly the District’s responsibility. As stated earlier, any debt incurred by the District on behalf.
of the expansion area will only affect the properties located in the expansion area, and none of the District’s property owners will be responsible in any way for the expansion area debt. While it may be technically true that the debt of a City-established dependent special district is not strictly the City’s responsibility, any financial problems that the dependent special district may have will inevitably entangle the City. This will not be the case if the District is expanded as proposed.

However, unlike the District, the alternatives would require the City to continue to administer the projects and its facilities and services. As a result, the costs for these services and facilities would not be sequestered to the land directly benefiting from them, as the case would be with the District. In addition, administering a project of the size and complexity of the development program for the District is a very significant and expensive undertaking, especially in light of the fact that the District already exists.

With a District, residents (owners and renters) within the District would have a focused unit of government under their direct control. The District can then be more responsive to resident needs without disrupting other City responsibilities.
# APPENDIX

<table>
<thead>
<tr>
<th>REPORT</th>
<th>STATUE SECTION</th>
<th>DUE DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Financial Audit</td>
<td>218.39</td>
<td>Nine months after end of fiscal year</td>
</tr>
<tr>
<td>Annual Financial Report (AFR)</td>
<td>218.32</td>
<td>Within 45 days after completion of audit</td>
</tr>
<tr>
<td>Financial Disclosure Form 1</td>
<td>112.3145</td>
<td>By July 1</td>
</tr>
<tr>
<td>Public Depositor Report</td>
<td>280.17</td>
<td>By November 30</td>
</tr>
<tr>
<td>Proposed Budget</td>
<td>190.008</td>
<td>By June 15</td>
</tr>
<tr>
<td>Adopted Budget</td>
<td>190.008</td>
<td>By October 1</td>
</tr>
<tr>
<td>Public Facilities Report</td>
<td>189.08(2)</td>
<td>Initial report within one year of establishment, updates every seven years, annual notice of any changes</td>
</tr>
<tr>
<td>Public Meetings Schedule</td>
<td>189.015</td>
<td>Beginning of fiscal year</td>
</tr>
<tr>
<td>Notice of Bond Issuance</td>
<td>218.38</td>
<td>Within 120 days after delivery</td>
</tr>
<tr>
<td>Registered Agent</td>
<td>189.014</td>
<td>30 days after first Board meeting</td>
</tr>
<tr>
<td>Notice of Establishment</td>
<td>190.0485</td>
<td>30 days after formation</td>
</tr>
<tr>
<td>Establishment Documents</td>
<td>189.016</td>
<td>30 days after adoption</td>
</tr>
<tr>
<td>Notice of Public Finance</td>
<td>190.009</td>
<td>After financing</td>
</tr>
</tbody>
</table>
ORDINANCE NO. 09-2022

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, AMENDING ORDINANCE NO. 12-18 TO GRANT THE PETITION FOR THE EXPANSION OF THE RIVINGTON COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES, CONCERNING THAT CERTAIN APPROXIMATELY 9.85 +/- ACRES OF LAND; DESCRIBING THE EXPANDED BOUNDARIES OF THE RIVINGTON COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature created and amended Chapter 190, Florida Statutes, to provide an alternative method to finance and manage basic services for community development; and

WHEREAS, on October 3, 2018, the City of DeBary City Council adopted Ordinance No. 12-18 approving and creating the Rivington Community Development District (“District”) for the approximately 296.2 +/- acres of land described in Section 4 and Exhibit “A” of such ordinance; and

WHEREAS, Reader & Partners, LLC, a Florida limited liability company, has petitioned the City Council of the City of DeBary, a Florida municipal corporation, to adopt an ordinance expanding the existing District pursuant to Chapter 190, Florida Statutes; and

WHEREAS, Rivington 10, LLC is the owner of approximately 10 +/- acres of land legally described in Exhibit “A,” attached hereto (“Subject Property”); and

WHEREAS, the City Council of the City of DeBary, Florida (the “City”), has conducted a public hearing on the petition for the expansion of the District in accordance with the requirements and procedures of Section 190.046(1)(c), Florida Statutes, as amended; and
WHEREAS, the City Council has considered the record of the public hearing and the facts set forth in Section 190.046, Florida Statutes, as amended, in making its determination to grant the petition for the expansion of the District; and

WHEREAS, the City Council has determined that; the statements within the petition were true and correct; that the expansion of the District is not inconsistent with the Comprehensive Plan; that the land within the District, is of sufficient size, is sufficiently compact, and sufficiently developable as a functionally interrelated community; that the District is the best alternative available for delivering community development services and facilities to the area served by the District; that the community development services and facilities will be compatible with the capacity and use of existing local and regional community development services and facilities; and the area to be served by the District is amenable to separate special-district governance; and

WHEREAS, the City Council desires to consent to the District’s exercise of certain special powers as requested by the petition and for such to be governed by Chapter 190, Florida Statutes.

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

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

SECTION 2. Authority. This Ordinance is adopted pursuant to Chapter 190, Florida Statutes, as amended.

SECTION 3. Petition Granted. The Petitioner's petition to expand the District over and to include the Subject Property is hereby granted.

SECTION 4. Amendment to District External Boundaries. Exhibit “A” attached to and referenced in Section 4 of Ordinance No. 12-18 is hereby amended to add to the external boundaries of the District the approximately 9.85 +/- acre Subject Property described in Exhibit
"A," attached hereto and incorporated herein. The Subject Property is hereby part of the District and is subject to the provisions of Ordinance No. 12-18.

**SECTION 5. 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 6. Effective Date.** This Ordinance shall take effect ten (10) days after adoption.

FIRST READING HELD on _________________, 2023

ADOPTED AFTER SECOND READING on this ___ day of __________, 2023

CITY COUNCIL

CITY OF DeBARY, FLORIDA

_________________________________
Karen Chasez, Mayor

ATTEST:

__________________________
Annette Hatch, City Clerk

Attachments – Exhibit “A” – Legal Description of Subject Property (also being the same as the expanded District Boundaries)
EXHIBIT A
Legal Description of Subject Property

A PORTION OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA

BEING MORE PARTICULARLY AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9; THENCE RUN NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 328.00 FEET; THENCE RUN SOUTH 89 DEGREES 51 MINUTES 33 SECONDS EAST A DISTANCE OF 1328.66 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9; THENCE SOUTH 00 DEGREES 05 MINUTES 35 SECONDS WEST ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9 A DISTANCE OF 327.99 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9; THENCE RUN NORTH 89 DEGREES 51 MINUTES 33 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 9 A DISTANCE OF 1326.83 FEET TO THE POINT OF BEGINNING.