



## **TOWN COMMISSION MEETING AGENDA**

**May 27, 2025 at 6:30 PM**

**COMMISSION CHAMBERS - 202 E. MAIN STREET, DUNDEE, FL 33838**

**Phone: 863-438-8330 | [www.TownofDundee.com](http://www.TownofDundee.com)**

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### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE**

### **INVOCATION**

### **RECOGNITION OF SERGEANT AT ARMS**

### **ORDINANCE #13-08, PUBLIC SPEAKING INSTRUCTIONS**

### **ROLL CALL**

### **DELEGATIONS-QUESTIONS & COMMENTS FROM THE FLOOR**

*(Each speaker shall be limited to three (3) minutes)*

### **APPROVAL OF CONSENT AGENDA: CONSENT AGENDA FOR MAY 27, 2025**

#### **A. A. MINUTES**

1. May 13, 2025, Town Commission Meeting

#### **B. B. AGREEMENTS**

1. Valencia Ridge Reserve Concurrency Developers Agreement
2. Cassidy Weiberg Rd. Water Supply Allocation

3. Cassidy Weiberg Rd. Developers Agreement
4. Landings at Lake Trask Water Supply Allocation Agreement
5. Landings at Lake Trask Developers Agreement

## **APPROVAL OF AGENDA**

## **PROCLAMATIONS, RECOGNITIONS AND DESIGNATIONS**

## **NEW BUSINESS**

- 1. DISCUSSION & ACTION, RESOLUTION 25-16 EMERGENCY UTILITY PUMP PURCHASE**
- 2. DISCUSSION & ACTION, RESOLUTION 25-17 0 SCENIC HWY EASEMENT**
- 3. DISCUSSION & ACTION, CALDWELL RIDGE HARDSHIP APPLICATION DENIAL**
- 4. DISCUSSION & ACTION, RICHMOND AMERICAN HOMES OF FLORIDA, LP.**
- 5. DISCUSSION & ACTION, RFP 25-03 COMMERCIAL SOLID WASTE**
- 6. DISCUSSION & ACTION, SECURITY UPGRADES AT THE DEVELOPMENT SERVICES BUILDING**
- 7. DISCUSSION & ACTION, NATIONAL LEAGUE OF CITIES – COMMUNITY ENGAGEMENT GRANT OPPORTUNITY**

## **REPORTS FROM OFFICERS**

Polk County Sheriff's Office

Dundee Fire Department

Town Attorney

Department Updates

Town Manager

Commissioners

Mayor



## ADJOURNMENT

***PUBLIC NOTICE:*** Please be advised that if you desire to appeal from any decisions made as a result of the above hearing or meeting, you will need a record of the proceedings and in some cases, a verbatim record is required. You must make your own arrangements to produce this record. (Florida statute 286.0105)

*If you are a person with disability who needs any accommodations in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the town clerk's office at 202 east main street, Dundee, Florida 33838 or phone (863) 438-8330 within 2 working days of your receipt of this meeting notification; if you are hearing or voice impaired, call 1-800-955-8771.*



## TOWN COMMISSION MEETING MINUTES

May 13, 2025, at 6:30 PM

COMMISSION CHAMBERS - 202 E. MAIN STREET, DUNDEE, FL 33838

Phone: 863-438-8330 | [www.TownofDundee.com](http://www.TownofDundee.com)

**CALL TO ORDER** at 6:27 p.m.

**PLEDGE OF ALLEGIANCE** led by Mayor Pennant

**INVOCATION** led by Vice Mayor Goddard

**RECOGNITION OF SERGEANT AT ARMS** – Sgt. Frese

**ORDINANCE #13-08, PUBLIC SPEAKING INSTRUCTIONS** provided by Mayor Pennant

**ROLL CALL** taken by Town Clerk Erica Anderson

### **PRESENT**

Vice-Mayor Goddard

Mayor Pennant

Commissioner Richardson

Commissioner Pugh

Commissioner Quarles

### **DELEGATIONS-QUESTIONS & COMMENTS FROM THE FLOOR**

*(Each speaker shall be limited to three (3) minutes)*

Mayor Pennant opened the floor for delegations, seeing none, the floor was closed.

### **SWEARING IN OF NEW COMMISSIONERS**

Commissioners Mary Richardson and Annette Wilson were sworn into office.

Commissioner Pugh conceded Seat 2 to Commissioner Annette Wilson.

### **REORGANIZATION OF THE TOWN COMMISSION**

Vice Mayor Goddard motioned to appoint Commissioner Quarles as Vice Mayor for the 25/26 fiscal year, the motion was seconded by Commissioner Richardson. The motion passed unanimously.

Mayor Pennant appointed Commissioner Wilson to the Dundee Elementary Academy – School Advisory Council and Dundee Ridge Middle School – School Advisory Council.

**APPROVAL OF CONSENT AGENDA: CONSENT AGENDA FOR MAY 13, 2025**

Item A.

1. Minutes for April 22, 2025, Town Commission Meeting

A motion was made to approve the April 22, 2025, Meeting Minutes by Vice Mayor Quarles, seconded by Commissioner Goddard. Voting in favor: Commissioner Goddard, Commissioner Richardson, Commissioner Pugh, Vice Mayor Quarles, Mayor Pennant

The motion passed unanimously.

Item B. Agreements

1. C & W Equipment Repair & Maintenance

A motion to approve the C&W Equipment Repair & Maintenance was made by Vice Mayor Quarles and seconded by Commissioner Goddard.

Mayor Pennant opened the floor for public comment: being none, the floor was closed.

Town staff stated that the purchase constituted an emergency procurement pursuant to the applicable provisions of the Town of Dundee Code of Ordinances.

Voting in favor and directing the Town Attorney to bring back a resolution ratifying the procurement at the Town Commission meeting scheduled 5/27/25: Commissioner Goddard, Commissioner Richardson, Commissioner Pugh, Vice Mayor Quarles, Mayor Pennant

The motion passed unanimously.

2. Carter Kay Engineering Task Order #1

A motion to approve the Carter Kay Engineering Task Order #1 was made by Commissioner Goddard and seconded by Commissioner Richardson.

Mayor Pennant opened the floor for public comment: being none, the floor was closed.

Voting in favor: Commissioner Goddard, Commissioner Richardson, Commissioner Pugh, Vice Mayor Quarles, Mayor Pennant

The motion passed unanimously.

**APPROVAL OF AGENDA**

The following changes were made to the agenda:

- Honoring the Dundee Salutatorian was removed from the agenda
- Drinking Water Week Proclamation was added to the agenda
- Valencia Ridge Hardship Application was removed from the agenda
- Caldwell Ridge Hardship Application was updated

Mayor Pennant opened the floor for public comment: being none, the floor was closed.

A motion to approve the agenda with changes was made by Commissioner Richardson, seconded by Vice Mayor Quarles.

Voting in favor: Commissioner Goddard, Commissioner Richardson, Commissioner Pugh, Vice Mayor Quarles, Mayor Pennant

The motion passed unanimously.

## **PROCLAMATIONS, RECOGNITIONS, AND DESIGNATIONS**

### **1. PROCLAMATIONS:**

#### **A. MILITARY APPRECIATION MONTH**

#### **B. DRINKING WATER WEEK**

Mayor Pennant read the Military Appreciation Month Proclamation. Accepting the proclamation was Ms. Alethea Pugh.

Mayor Pennant read the Drinking Water Week Proclamation. Accepting the proclamation was Ryan Garretson.

### **2. PRESENTATIONS:**

#### **A. CITRUS CONNECTION**

Kaley Raub, Assistant Director of External Affairs with Citrus Connection, provided an update to the commission.

## **INTERMISSION – BREAK**

The commission took a brief intermission for 10 minutes.

## **NEW BUSINESS**

### **1. DISCUSSION & ACTION, RESOLUTION 25-11 TINDEL CAMP RIGHT-OF-WAY**

Attorney Claytor read the resolution title into the record.

Interim Town Manager Carbone gave the analysis.

The Town has requested, and Polk County has agreed to transfer a portion of Tindel Camp Road from Lake Mabel Loop Road west to State Road 17 (US 27A/Scenic Highway), to accommodate the transfer of maintenance and operational responsibilities to the Town of Dundee, FL. Chapter 335 of the Florida Statutes, Subsection 335.0415(3) authorizes the transfer of public roads between jurisdictions by mutual agreement of the affected governmental entities.

A motion to approve the agreement between Polk County, FL., and the Town of Dundee was made by Vice Mayor Quarles and seconded by Commissioner Goddard.

Mayor Pennant opened the floor for public comment: being none, the floor was closed.

Voting in favor: Commissioner Richardson, Commissioner Wilson, Commissioner Goddard, Vice Mayor Quarles and Mayor Pennant.

A motion to approve Resolution 25-11 was made by Vice Mayor Quarles and seconded by Commissioner Richardson.

Mayor Pennant opened the floor for public comment: being none, the floor was closed.

Voting in favor: Commissioner Richardson, Commissioner Wilson, Commissioner Goddard, Vice Mayor Quarles, and Mayor Pennant.

The motions passed unanimously.

## **2. DISCUSSION & ACTION, RESOLUTION 25-12 LAKE MABEL LOOP RIGHT-OF-WAY**

Attorney Claytor read the resolution title into the record.

Interim Town Manager Carbone gave the analysis.

The Town has requested, and Polk County has agreed to transfer a portion of Lake Mabel Loop Road from H.L. Smith Road east to the Northeast corner of Section 35 and then southerly to Tindel Camp Road in order to accommodate the transfer of maintenance and operational responsibilities to the Town of Dundee, FL. Chapter 335 of the Florida Statutes, Subsection 335.0415(3) authorizes the transfer of public roads between jurisdictions by mutual agreement of the affected governmental entities.

A motion to approve the agreement between Polk County, FL., and the Town of Dundee was made by Vice Mayor Quarles and seconded by Commissioner Goddard.

Mayor Pennant opened the floor for public comment: being none, the floor was closed.

Voting in favor: Commissioner Richardson, Commissioner Wilson, Commissioner Goddard, Vice Mayor Quarles, and Mayor Pennant.

A motion to approve Resolution 25-12 was made by Vice Mayor Quarles and seconded by Commissioner Richardson.

Mayor Pennant opened the floor for public comment: being none, the floor was closed.

Voting in favor: Commissioner Richardson, Commissioner Wilson, Commissioner Goddard, Vice Mayor Quarles, and Mayor Pennant.

The motions passed unanimously.

## **3. DISCUSSION & ACTION, RESOLUTION 25-13 CANAL ROAD RIGHT-OF-WAY**

Attorney Claytor read the resolution title into the record.

Interim Town Manager Carbone gave the analysis.

The Town has requested, and Polk County has agreed to transfer a portion of Canal Road from Lake Mabel Loop Road east to Porter Road to accommodate the transfer of maintenance and operational responsibilities to the Town

of Dundee, FL. Chapter 335 of the Florida Statutes, Subsection 335.0415(3) authorizes the transfer of public road between jurisdictions by mutual agreement of the affected governmental entities.

A motion to approve the agreement between Polk County, FL., and the Town of Dundee was made by Commissioner Goddard and seconded by Vice Mayor Quarles .

Mayor Pennant opened the floor for public comment: being none, the floor was closed.

Voting in favor: Commissioner Richardson, Commissioner Wilson, Commissioner Goddard, Vice Mayor Quarles, and Mayor Pennant.

A motion to approve Resolution 25-13 was made by Commissioner Goddard and seconded by Vice Mayor Quarles.

Mayor Pennant opened the floor for public comment: being none, the floor was closed.

Voting in favor: Commissioner Richardson, Commissioner Wilson, Commissioner Goddard, Vice Mayor Quarles, and Mayor Pennant.

The motions passed unanimously.

#### **4. DISCUSSION & ACTION, RESOLUTION 25-14 CYPRESS CREEK VILLAGE PHASE 5 SITE PLAN DEVELOPMENT**

Attorney Claytor read the resolution title into the record.

Interim Town Manager Carbone gave the analysis.

A Site Development Plan request by Hunter Engineering, Inc. has been submitted for approval by the Town Commission. The proposed site is located on 35.09 +/- acres of land, west of Highway 27, north of Dundee Road, in the Town of Dundee in Section 20, Township 28, Range 27, further described as parcel 27-28-20-000000-044020.

A motion to approve Resolution 25-14 was made by Vice Mayor Quarles and seconded by Commissioner Richardson

Mayor Pennant opened the floor for public comment: being none, the floor was closed.

Voting in favor: Commissioner Richardson, Commissioner Wilson, Commissioner Goddard, Vice Mayor Quarles, and Mayor Pennant.

The motions passed unanimously.

#### **5. DISCUSSION & ACTION, RESOLUTION 25-15 EMERGENCY A/C PURCHASE**

Attorney Claytor read the resolution title into the record.

Interim Town Manager Carbone gave the analysis.

Pursuant to Section 2-159(3) of the Code of Ordinances for the Town of Dundee, Florida an “emergency purchase” means procurement made in response to a requirement when the delay incident for complying with all governing rules, regulations, and procedures would be detrimental to the health, safety, and welfare of the town and/or its citizens.

A motion to approve Resolution 25-15 was made by Vice Mayor Quarles and seconded by Commissioner Richardson

Mayor Pennant opened the floor for public comment: being none, the floor was closed.

Voting in favor: Commissioner Richardson, Commissioner Wilson, Commissioner Goddard, Vice Mayor Quarles, and Mayor Pennant.

The motions passed unanimously.

## **6. DISCUSSION & ACTION, CALDWELL RIDGE SUBDIVISION HARDSHIP APPLICATION**

Attorney Claytor introduced this item to the commission.

Interim Town Manager Carbone gave the analysis.

The Town Commission may authorize exception(s) to the moratorium imposed by Ordinance 24-09 when it finds, based upon competent substantial evidence presented at a duly noticed public meeting, that the deferral of action and/or issuance on an application for a development order and/or development permit for the duration of the moratorium imposes an extraordinary hardship. For purposes of requesting a hardship exception, the owner shall request a determination in the same form and manner provided for in **Section 6** of the Ordinance.

A motion to deny the hardship application based upon the level of review obtained by the property owner and having no allocable potable water capacity was made by Commissioner Richardson and seconded by Commissioner Wilson

Mayor Pennant opened the floor for public comment: being none, the floor was closed.

Voting in favor: Commissioner Richardson, Commissioner Wilson, Commissioner Goddard, and Mayor Pennant.

Voting against: Vice Mayor Quarles

The motions passed 4-1

## **REPORTS FROM OFFICER**

### **Polk County Sheriff's Office**

Sergeant Frese – Since May 1<sup>st</sup>, 2025, Deputies answered and issued the following

- 85 calls for service
- 47 traffic stops
- 14 Citations
- 14 warnings

### **Dundee Fire Department**

No report

### **Town Attorney**

The Town Attorney will bring back legislative updates at the next town meeting.

## Department Updates

No reports

## Town Manager

The Town of Dundee's 2024 Tree City USA application has been approved, marking its 10th consecutive year as a Tree City USA recognized by the Arbor Day Foundation. This honor is a testament to the diligent work of our Dundee Tree Board.

## Commissioners

Commissioner Quarles inquired about the Finance Manager appointment.

Commissioner Richardson asked for an update on the Town Manager update. She spoke of her vision for the Town of Dundee and protecting the town and its assets. She said she will hold everyone accountable, as well as herself, and will be taking advantage of the Dundee on Ridge Community Academy to bring awareness to the residents and hosting roundtables. She thanked everyone for coming out.

Commissioner Wilson thanked God for the opportunity to serve he community. She thanked her campaign team and family for their encouragement and support. She went on to thank the residents. She spoke about weekly updates to the commission.

Commissioner Goddard thanked everyone for a productive meeting, and Sgt. Frese for his updates before wishing the newly seated commissioners and staff for all they do and have done.

Vice Mayor Quarles thanked the newly seated commissioners. He said they will work together and do the best they can.

Mayor Pennant said he appreciates the peaceful transition of power and congratulated the newly seated commissioners. He went on to say that what the commissioners and board members do is important work, and a lot is expected from all. He applauded those who decided to step up and serve and thanked Ms. Pugh for her service and Ms. Hunt for being willing to serve. He ended by thanking Commissioner Goddard for his service as Vice Mayor and congratulated Vice Mayor Quarles on his new position before thanking the community for coming out.

Former Commissioner Alethea Pugh asked about concurrency deficiencies. She stated there was information/concerns she wanted to share with the commission on the record

- Senate Bill 180 and its impact on how the town controls land use and development
- Comprehensive Plan Agenda
- Interconnect Comprehensive Plan Amendment
- Agricultural wells received by the town
- Plan reviews being adopted without regulations
- Code sections being developed without resolution or ordinance

She encouraged the commission to be well-versed in department duties and issues to better protect residents' quality of life. She further spoke about Senate Bill 180 and its impact, if approved, on the town.

**ADJOURNMENT** at 8:25 p.m.

Respectfully submitted,

**Erica Anderson**



**APPROVAL DATE:** \_\_\_\_\_

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THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:

Frederick J. Murphy, Jr., Esquire  
Boswell & Dunlap LLP  
Post Office Drawer 30  
245 South Central Avenue (33830)  
Bartow, FL 33831

### CONCURRENCY DEVELOPER'S AGREEMENT

**THIS CONCURRENCY DEVELOPER'S AGREEMENT** (hereafter the "Agreement") is made this **27th day of May, 2025** by and between the **TOWN OF DUNDEE**, a municipal corporation organized and existing under the laws of the State of Florida (hereafter the "Town"), **WELSH ROAD LAND INVESTMENTS, LLC**, an active Florida limited liability company, **LAKE TRASK GROVES, LLC**, an active Florida limited liability company, and **THOMAS A. THAYER, JR.**, individually (hereafter collectively referred to as the "Developer").

### FACTUAL RECITALS

**WHEREAS**, Town is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act, Chapter 166 of the Florida Statutes, and Article VIII, §2 of the Florida Constitution; and

**WHEREAS**, Town is vested with governmental, corporate and proprietary powers to enable municipal governments to conduct and perform municipal functions and render municipal services, including the exercise of any power for municipal purposes; and

**WHEREAS**, the Developer is the fee simple owner of the land(s) identified by the Polk County Property Appraiser as Parcel Identification Number(s): 272835-000000031020; 272835-000000-032010; 272835-000000-032020; 272835-000000-034020; 272835-000000-032040; 272835-000000-041010; 272835-000000-013000; 272835-000000-014010 and 272835-000000-014020 which totals approximately 160.07 +/- acres (the "Property"); and

**WHEREAS**, Developer was conveyed fee simple title to the Property by virtue of that certain Special Warranty Deed dated December 29, 2009, and recorded in Official Records Book 8048, Page(s) 655-656, public records of Polk County, Florida; Warranty Deed dated December 16, 2009, and recorded in Official Records Book 8039, Page(s) 1407-1408, public records of Polk County, Florida; Quit Claim Deed dated February 2, 2011, and recorded in Official Records Book 8318, Page(s) 1092-1093, public records of Polk County, Florida; Special Warranty Deed dated August 24, 2022, and recorded in Official Records Book 12394, Page(s) 208-209, public records of Polk County, Florida; and Special Warranty Deed dated September 25, 2024, and recorded in Official Records Book 13281, Page(s) 1019-1020, public records of Polk County, Florida (hereafter collectively referred to as the "Developer Deeds"); and

**WHEREAS**, copies of the Developer Deeds and entity details are attached hereto as **Composite Exhibit “A”** and made a part hereof by reference; and

**WHEREAS**, copies of Polk County Property Appraiser Aerial Depiction of the Property and Polk County Property Appraiser Parcel Details for the Property are attached hereto as **Composite Exhibit “B”** and made a part hereof by reference; and

**WHEREAS**, the Developer is pursuing residential development of the Property; and

**WHEREAS**, the *Valencia Ridge Reserve* development (the “Development”) which is located within the municipal boundaries of the Town is proposed to be developed on the Property; and

**WHEREAS**, the Public Supply Water Use Permit for the Town (the “Town WUP”), Water Use Permit No. 20005893.012, authorizes the withdrawal of 917,500 gallons per day; and

**WHEREAS**, pursuant to the Town WUP, the Town does not have the permitted capacity necessary to support the potable water needs and/or demands for the Development; and

**WHEREAS**, Town and Developer acknowledge and agree that the Town is currently unable to provide allocable water capacity for the Development; and

**WHEREAS**, pursuant to applicable provisions of the Code of Ordinances of the Town of Dundee and Town of Dundee Land Development Code, the Town and Developer acknowledge and agree that the facilities and services needed to support the Development are not available; and

**WHEREAS**, Town and Developer acknowledge and agree that, pursuant to Section 7.02.03 of the Town Code, a development order and/or development permit will not be approved for the Development unless a satisfactory concurrency evaluation has been performed in accordance with Section 6.01.00 of the Town Code; and

**WHEREAS**, pursuant to Section 54-9 of the Code of Ordinances of the Town of Dundee (the “Code”), the Town may require a developer/owner to enter into a developer’s agreement which sets forth in detail the terms and conditions under which the Town will provide utility service to the subject real property; and

**WHEREAS**, pursuant to Section 54-9 of the Code and Section 6.01.07.03 of the LDC, a developer’s agreement may be required prior to approval(s) in order to provide for the necessary expansion of the Town’s water treatment facilities to serve the Development; and

**WHEREAS**, pursuant to Section 6.01.07.03 of the LDC, the Town and Developer acknowledge and agree that any Town approval(s) will not create a reservation of potable water plant or network capacity, or a commitment to provide service; and

**WHEREAS**, Town and Developer acknowledge and agree that, on August 23, 2022, at a duly noticed public meeting of the Town of Dundee Town Commission, the Town Commission considered and approved the Interlocal Agreement For The Interconnection of Potable Water Between The City of Winter Haven, Florida, And The Town of Dundee, Florida (the “Interconnect Agreement”); and

**WHEREAS**, on July 12, 2022, at a duly notice public meeting of the Town of Dundee

Town Commission (the “Town Commission”), the Town Commission passed and approved Town of Dundee Ordinance No. 22-17 (the “PUD Ordinance”) passed and approved the *Valencia Ridge Reserve Planned Unit Development* (the “PUD-R”) for the Development; and

**WHEREAS**, copies of the PUD Ordinance and depiction of the parcel configuration for the Development are attached hereto as **Composite Exhibit “C”** and made a part hereof by reference; and

**WHEREAS**, on September 10, 2024, at a duly noticed public meeting, the Town Commission passed and adopted *Town of Dundee Ordinance No. 24-09* (the “Moratorium”) establishing a moratorium on and/or for the acceptance and processing of applications for annexations, rezonings, residential site plan(s), residential subdivision plat(s), building permits, construction plan(s), planned developments, master planned communities, development order(s) and development permit(s), amongst others; and

**WHEREAS**, Developer acknowledges, represents, and agrees that it accepts any and all of the risk(s) related to proceeding with the Development; and

**WHEREAS**, the Developer acknowledges, affirms, and agrees that the Town is not able to provide allocable water capacity for the Development; and

**WHEREAS**, Town acknowledges and agrees that the Developer is the fee simple owner of certain agricultural well(s) (the “Well”); and

**WHEREAS**, the Well has been issued a water use permit granted by the Southwest Florida Water Management District (“SWFWMD”), Water Use Permit No. 20002250.006 (the “Developer WUP”); and

**WHEREAS**, a copy of the Developer WUP is attached hereto as **Exhibit “D”** and made a part hereof by reference; and

**WHEREAS**, the Well provides irrigation water for agricultural uses on approximately forty (40) +/- acres of real property which includes, but is not limited to, the Property; and

**WHEREAS**, Developer offered and agreed to cooperate with the Town and SWFWMD in transferring the Well and any capacity related thereto to the Town; and

**WHEREAS**, Town and Developer agree to enter into a Water Supply Allocation Agreement (the “Allocation Agreement”) to facilitate the transfer of the Well, in accordance with the rules, regulations and requirements set forth by the SWFWMD, and any pro-rata share of the capacity attributable to the Well to the Town; and

**WHEREAS**, Town and Developer acknowledge and agree that, upon receiving a credit or increase to the Town’s WUP from SWFWMD arising out of the transfer of the Developer WUP and/or closing of the Well, any increase or credit to the Town’s WUP will be allocated to the Development on a pro-rata basis; and

**WHEREAS**, on May 27, 2025, the Town of Dundee Town Commission, at a duly noticed public meeting, approved this Agreement with Developer; and, as a condition precedent to its entering into this Agreement, the Developer and its successors and permitted assigns agreed to indemnify and hold harmless the Town, its elected and appointed officials, employees and

agents from any and all damages, claims, and/or other liabilities arising out of the Town's inability to provide allocable water capacity for the Development, and any subject covered by this Agreement; and

**WHEREAS,** Developer and its successors and assigns agree to indemnify and hold the Town, its elected and appointed officials, employees and agents harmless of and from any and all costs, expenses, damages, liability and claims (including reasonable attorneys' fees and costs) related to and/or arising out of this Agreement, the Allocation Agreement, and the transfer of the Well to the Town; and

**WHEREAS,** Developer acknowledges and agrees that any provision(s) set forth in this Agreement holding the Town, its elected and appointed officials, employees and agents harmless is intended to be as broad and inclusive as is permitted by the laws of the State of Florida; and

**WHEREAS,** Developer acknowledges, represents, and agrees that the Town's willingness to enter into this Agreement shall not be construed by the Developer and/or its successors and assigns as a waiver by the Town of applicable law; and

**WHEREAS,** Developer acknowledges, represents, and agrees that this Agreement is intended to and shall constitute a covenant running with the Property; and

**WHEREAS,** The parties acknowledge, represent and agree that the Town and Developer are not partners and/or joint venturers; and

**WHEREAS,** The parties agree that this Agreement shall be liberally construed in favor of the Town; and

**WHEREAS,** Town and Developer represent and agree that good and valuable consideration has been received by the parties for entering into this Agreement, and the Town and Developer acknowledge the sufficiency of the consideration received; and

**WHEREAS,** The Town Commission of the Town of Dundee finds that this Agreement between the Town and Developer to be in the best interests of the public health, safety, and general welfare of the citizens and residents of the Town of Dundee.

**NOW, THEREFORE,** in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

**SECTION 1. RECITALS.** The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the entry into this Agreement, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the entry into this Agreement between the Town and Developer.

**SECTION 2. PURPOSE.** The purpose of this Agreement is to acknowledge and memorialize that as of the Effective Date (as defined in 3.12 of this Agreement) of this Agreement, the Town (as defined in 3.2 of this Agreement) performed a concurrency evaluation and determined that it does not have the necessary public facilities and services needed to support the Development (as defined in 3.11 of this Agreement). Subject to Applicable Law (as defined in 3.1 of this Agreement) which includes, but shall not be limited to, *Town of Dundee Ordinance*

No. 24-09, this Agreement shall establish certain respective rights and obligations of the Town, Developer, and any successors-in-interest to the Town and Developer concerning the Development (as defined in 3.11 of this Agreement) and concurrency approval for same.

**SECTION 3. DEFINITIONS.** Term(s) used in this Agreement and/or any exhibits incorporated herein and made a part hereof shall possess the meanings, interpretations and/or definitions assigned herein, provided however, that where one (1) of the following listed terms is used in this Agreement, such term(s) shall possess the corresponding meaning, as follows:

3.1 “*Applicable Law*” means the Town of Dundee Charter, Town of Dundee Code of Ordinances, Town of Dundee Land Development Code, and any and all applicable statutes, laws, rules, regulations, charter provisions, ordinances and resolutions of the United States of America, State of Florida, Polk County, Town of Dundee, and any and all other public authority which may be applicable.

3.2 “*Town*” means the Town of Dundee, Florida.

3.3 “*Dundee Representative*” means the Town Manager, or her/his designated appointee, who is authorized to act on behalf of the Town in the administration of this Agreement. The Dundee Representative does not have the authority to waive or modify any condition or term of this Agreement.

3.4 “*Developer*” means **WELSH ROAD LAND INVESTMENTS, LLC**, an active Florida limited liability company, **LAKE TRASK GROVES, LLC**, an active Florida limited liability company, and **THOMAS A. THAYER, JR.**, individually, and any and all of the successors and permitted assigns of **WELSH ROAD LAND INVESTMENTS, LLC**, an active Florida limited liability company, **LAKE TRASK GROVES, LLC**, an active Florida limited liability company, and **THOMAS A. THAYER, JR.**, individually.

3.5 “*Developer Representative*” any agent, employee and/or person with either apparent authority to act on behalf of Developer or the written authorization of Developer to act on its behalf in the administration of this Agreement. The Developer Representative does not have the authority to waive or modify any condition or term of this Agreement.

3.6 “*Town Code*” means the Town of Dundee Code of Ordinances and Town of Dundee Land Development Code.

3.7 “*Day(s)*” means calendar day unless specifically stated otherwise.

3.8 “*Calendar Day(s)*” means all days in a 365-day calendar year.

3.9 “*Business Day(s)*” means each calendar day which is not a Saturday, Sunday or a recognized holiday by the Town of Dundee, Florida.

3.10 “*Town Commission*” means the duly elected Town of Dundee Town Commission and/or governing body of the Town of Dundee.

3.11 “*Development*” means the design, construction, paving, maintenance and improvements performed by the Developer on and/or for the Property which includes, but shall not be limited to, any design, construction, paving, maintenance and improvements performed by the Developer for the **Valencia Ridge Reserve Subdivision** which are the subject of this Agreement.

3.12 “*Effective Date*” means, for purposes of calculating time periods and the commencement of the term of this Agreement, the date on which the *Valencia Ridge Reserve Planned Unit Development* for the *Valencia Ridge Subdivision* and/or *Town of Dundee Ordinance No. 22-17* were approved by the Town Commission of the Town of Dundee, Florida.

3.13 “*Term*” means the duration of this Agreement which shall commence on the Effective Date and shall expire and/or terminate in accordance with the provisions set forth in **SECTION 16** of this Agreement.

**SECTION 4. OBLIGATIONS.** The parties’ obligations pursuant to this Agreement are stated below:

#### 4.1 Town Obligations.

4.1.1 Pursuant to the Town Code (as defined by 3.6 of this Agreement) and Applicable Law (as defined by 3.1 of this Agreement), the Development (as defined by 3.11 of this Agreement) shall be subject to development review by the Town in accordance with the development conditions and regulations set forth by the Town Code, Applicable Law, and *Town of Dundee Ordinance No. 24-09*.

4.1.2 To the extent applicable, the Town shall negotiate and enter into a separate Water Supply Allocation Agreement (the “Allocation Agreement”) with the Developer (as defined by 3.4 of this Agreement).

4.1.3 The Town, upon entering into a separate Allocation Agreement with the Developer and receiving a credit or increase to the Public Supply Water Use Permit (No. 20005893.012) (the “Town WUP”) from SWFWMD arising out of the transfer of the Well and/or the Developer’s Water Use Permit (No. 20002250.006) (the “Developer WUP”) (see **Exhibit “D”**), shall allocate and assign any increase or credit received from SWFWMD to the Town’s WUP to the Development on a pro-rata basis.

#### 4.2 Developer Obligations.

4.2.1 Pursuant to the Town Code and Applicable Law (as defined by 3.1 of this Agreement), the Developer (as defined by 3.4 of this Agreement) shall apply for and obtain any and all required development orders, development permits and/or development approvals for the Development (as defined by 3.11 of this Agreement).

4.2.2 Pursuant to Section(s) 54-5 and 6.01.07.04 of the Town Code, any new development or improvement located on any parcel of land within the municipal boundaries of the Town or within the Town's water and wastewater service area, shall be required to connect to the Town's water and wastewater system at the time of development.

4.2.3 If mutually determined by the Town and Developer to be applicable, the Developer (as defined by 3.4 of this Agreement) shall negotiate and enter into a separate *Water Supply Allocation Agreement* (the "Allocation Agreement") with the Town.

4.2.4 By entering into the Allocation Agreement, the Developer shall facilitate the transfer of only the Developer Well for which the Developer holds fee simple title; and the Developer shall cause the transfer of the Developer Well in accordance with the rules, regulations and requirements set forth by the SWFWMD.

4.2.5 Developer (as defined by 3.4 of this Agreement) releases, acquits and forever discharges the Town, its elected and appointed officials, employees, and agents of and from any and all known or unknown claims, causes of action, suits, debts, dues, sums of money, damages, judgments, and demands whatsoever, in law or in equity, which Developer ever had, now has or hereinafter can, shall or may have against the Town, its elected and appointed officials, employees, and agents by reason of any matter, cause or thing, from the beginning of the world until the date on which this Agreement is terminated and/or expires, which are specifically arising out of the Development. This Release includes, but is not limited to, any case, lien, suit and/or cause of action, including reasonable attorney's fees both trial and appellate, and all other claims Developer ever had, now has or hereinafter can, shall or may have against the Town, its elected and appointed officials, employees, and agents whether arising out of tort, contract, equity, constitution, statute, or other theory of recovery, and whether for compensatory, punitive damages, or for equitable relief which Developer now has, or which may hereafter accrue or otherwise be acquired on account of or in any way growing out of, or which is the subject of the provisions set forth by this Agreement and specifically arising out of the Development.

4.2.6 This Agreement shall be binding on Developer, its successors in interest, and permitted assigns.

4.2.7 The obligations of the Developer shall survive the termination of this Agreement.

#### **SECTION 5. DEVELOPER'S ACKNOWLEDGMENT OF RISK.**

5.1 The Developer acknowledges, represents, and warrants that as of the Effective Date (as defined by 3.12 of this Agreement) the facilities and services needed to support the Development (as defined by 3.11 of this Agreement) are not available concurrently with the impacts of the Development.

5.2 The Developer acknowledges, accepts, and assumes the risk(s) arising out of the Developer proceeding with the Development; and, by entering into this Agreement, the Town does not guarantee the availability of allocable potable water capacity for the Development.

**SECTION 6. FURTHER ASSURANCES.** Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances as shall be reasonably requested by the other party in order to



carry out the intent of this Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

**SECTION 7. BINDING EFFECT.** Except as may be otherwise set forth herein, the terms and provisions of this Agreement shall bind and inure to the benefit of the parties and applicable successors, representatives, heirs, permitted assigns, employees, officers, directors, superintendents, administrators, shareholders and agents. As such, the parties agree that this Agreement shall be binding upon and inure to any and all successors-in-interest to the parties hereto. The parties further acknowledge and agree that, in the event this Agreement omits and/or does not detail all laws, rules, regulations, permits, conditions, terms and restrictions that must be satisfied to complete the Development (as defined by 3.11 of this Agreement), such omission shall not relieve the parties hereto or any successor-in-interest of the obligation to comply with Applicable Law (as defined by 3.1 of this Agreement).

**SECTION 8. MERGER.** This Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein. This Agreement supersedes all prior agreements and development orders pertaining to the subjects covered and/or described herein.

**SECTION 9. NO EFFECT ON CODE VIOLATIONS; NO CONTRACT ZONING.** This Agreement shall not be interpreted to condone, authorize or permit any violation of the Town Code or Applicable Law (as defined by 3.1 of this Agreement). Further, this Agreement shall not be construed as the Town's authorization or acceptance of the status of the present existing structures or uses on the Property, nor shall it be construed as an attempt to contractually zone the Property.

**SECTION 10. TOWN'S POLICE POWERS.** The Developer (as defined by 3.4 of this Agreement) acknowledges and understands that the Town (as defined by 3.2 of this Agreement) is prohibited from engaging in "Contract Zoning" or the bartering away of its legislative prerogative. While the Town will cooperate with Developer as set forth herein, this Agreement does not constitute an approval that would require the exercise of Town's legislative and/or quasi-judicial authority. Provided further, nothing in this Agreement shall serve to affect or limit Town's police powers in the exercise of zoning decisions or other governmental action associated with the Development or any development order associated therewith. As such, this Agreement shall not be construed as a basis for (1) granting or assuring or indicating or (2) refusing to grant or preventing any future grant of land use or zoning approvals, permissions, variances, special exceptions, or rights with respect to the Property.

**SECTION 11. APPLICABLE LAW AND VENUE.** This Agreement and the rights and obligations of the Town (as defined by 3.2 of this Agreement) and Developer (as defined by 3.4 of this Agreement) shall be governed by Florida law. Venue for any litigation pertaining to or arising out of the subject matter hereof shall be exclusively in the state courts of Polk County, State of Florida, in the 10<sup>th</sup> Judicial Circuit.

**SECTION 12. NOTICES.** All notices, demands, requests, consents, approvals, and other communications (collectively referred to as the "Notice"), required or permitted to be given hereunder shall be in writing and sent by either: (i) registered or certified mail, postage prepaid,

return receipt requested; or, (ii) special delivery service (e.g. Federal Express, DHL, UPS, etc.); addressed to the party to be so notified as follows:

TOWN: TOWN OF DUNDEE  
Attn: Tandra Davis, Town Manager  
PO Box 1000  
105 Center Street  
Dundee, FL 33838-1000  
Attention: Town Manager

With a copy to (*which shall **not** constitute notice*):

Frederick J. Murphy, Jr.  
Town Attorney, Town of Dundee  
PO Drawer 30  
245 South Central Avenue  
Bartow, FL 33830

DEVELOPER: WELSH ROAD LAND INVESTMENTS, LLC  
Attn: Susan Collins  
1901 Ulmerton Road, Suite 475  
Clearwater, FL 33762  
[Susan@CornerstoneLandCompany.com](mailto:Susan@CornerstoneLandCompany.com)

Notice shall be effective upon delivery to the above addresses. Either party may notify the other that a new person has been designated by it to receive notice(s), or that the address for the delivery of such notice(s) has been changed, provided that, until such time as the other party receives such notice in the manner provided for herein, any notice addressed to the previously-designated person and/or delivered to the previously-designated address or facsimile number shall be effective.

### **SECTION 13. MISCELLANEOUS PROVISIONS.**

13.1 **Exhibits.** All exhibits annexed hereto are incorporated by reference and made a part of the Agreement.

13.2 **Headings.** The heading(s) preceding the several section(s), paragraph(s) and article(s) hereof are solely for convenience of reference and shall not constitute a part of this Agreement, or affect its meaning, construction or effect.

13.3 **Gender Neutral.** For purposes of this Agreement, any and all gender specific references, classifications and/or language shall be interpreted to be gender neutral.

13.4 **Calculation of Time.** The calculation of the number of days that have passed during any time period prescribed shall be based on Calendar Days (unless specified otherwise in this Agreement). Unless otherwise specified in this Agreement, the calculation of the number of days that have passed during any time period prescribed in or by this Agreement shall commence on the day immediately following the event triggering such time period. If the tolling of such a time period is not contingent upon an action or event, the calculation of the number of days that have passed during such time period prescribed in or by this Agreement shall commence on the day immediately following the Effective Date (as defined by 3.12 of this

Agreement). For purposes of this Agreement, unless otherwise specified herein, the tolling of any such time period(s) shall be in Calendar Days. In the event any time period or deadline identified in this Agreement expires and/or falls on a Saturday, Sunday or recognized holiday, said expiration and/or deadline shall be automatically tolled until 5:00 pm on the next available Business Day which the Town is open for business to the public.

13.5 **Neutral Interpretation.** Any controversy over the construction of this Agreement shall be decided neutrally and without regard to events of authorship or negotiation.

13.6 **Modification.** This Agreement shall not be modified in any way, unless such modification is in the form of a written amendment properly executed by the parties hereto and approved by the Town's governing body. No oral modifications will be effective or binding on either the Town or Developer regardless of whether the person(s) attempting to make such modifications appeared to have the authority to make such modification. Moreover, in the event state or federal law(s) are enacted after the execution of this Agreement which are applicable to and preclude the parties' compliance with the terms of this Agreement, the parties agree to modify and/or amend this Agreement, to the extent necessary, in order for the parties to perform the obligations set forth herein.

13.7 **Construction.** The parties acknowledge that the Agreement has been fairly negotiated by each party's respective legal counsel and at arm's length; and, as such, the Agreement shall be interpreted in strict accordance with the terms, covenants and conditions set forth herein.

13.8 **Successors and Assigns.** All covenants, agreements, warranties, representations, and conditions contained in this Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of the parties to this Agreement.

13.9 **Disclaimer of Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Town (as defined by 3.2 of this Agreement) and Developer (as defined by 3.4 of this Agreement) and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third-party.

13.10 **Authorization.** The parties represent and warrant to one another that all the necessary action(s) to execute this Agreement have occurred and that the parties possess the legal authority to enter into this Agreement and undertake all the obligations imposed herein.

13.11 **Representations and Warranties.** Each party signing this Agreement represents and warrants that he/she/it has read, understands and acknowledges any and all of the terms, covenants, conditions and requirements set forth herein.

13.12 **Compliance with Applicable Law.** The Developer (as defined by 3.4 of this Agreement) shall comply with Applicable Law (as defined by 3.1 of this Agreement) in performing the obligations and requirements set forth by the Agreement.

13.13 **Severability.** If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared to be severable.

13.14 **No Waiver.** Failure of the Town to enforce any right hereunder shall not be deemed a waiver of such right. The inaction or failure of the Town to address and/or remedy any breach of the covenants, conditions, and/or provisions of this Agreement shall not constitute a waiver of such Town's rights hereunder with respect to such action, non-action, and/or default. No covenant, condition or provision of this Agreement can be waived, except with the written consent of both the Town and Developer. Any such waiver, in one instance, shall not constitute a waiver of a subsequent default or for any other past, present or future default, unless the waiver expressly and specifically states and/or identifies such default.

13.15. **Time is of the Essence.** Time is of the essence for all of the provisions, conditions, and terms of this Agreement.

**SECTION 14. PUBLIC RECORDS.** The Developer covenants and agrees to:

14.1 Keep and maintain public records required by the Town to perform in accordance with the terms of this Agreement.

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

14.3 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 of the Agreement and/or any amendment(s) issued hereunder if the Developer does not transfer the records to the Town.

14.4 Upon completion of the Agreement and/or any amendment(s) issued hereunder, transfer, at no cost, to the Town all public records in possession of the Developer or keep and maintain public records required by the Town to perform the service. If the Developer transfers all public records to the public agency upon completion of the Agreement and/or any amendment(s) issued hereunder, the Developer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Developer keeps and maintains public records upon completion of the Agreement and/or any Amendment(s) issued hereunder, the Developer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

**IF THE DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE TOWN'S CUSTODIAN OF PUBLIC RECORDS, ERICA ANDERSON, AT 863-438-8330, EXT. 258, [EAnderson@townofdunee.com](mailto:EAnderson@townofdunee.com), 202 EAST MAIN STREET, DUNDEE, FLORIDA 33838.**

If the Developer does not comply with a public records request, the Town shall enforce the Agreement and/or any amendment(s) issued hereunder which may include immediate termination of Agreement and/or any amendment(s) issued hereunder. **This Section shall survive the termination of this Agreement.**

**SECTION 15. NO WAIVER OF SOVEREIGN IMMUNITY.** Nothing herein is intended to act as a waiver of the Town's sovereign immunity and/or limits of liability as set forth in section 768.28, Florida Statutes regardless of whether any such obligations are based in tort, contract, statute, strict liability, and negligence, product liability or otherwise. This provision shall survive the termination of this Agreement.

**SECTION 16. TERMINATION AND REMEDIES.**

16.1 This Agreement shall remain in effect until the completion of the Development (as defined by 3.11 of this Agreement); and, on or before the effective date of the termination of this Agreement, the Development (as defined by 3.11 of this Agreement) and/or any improvements which are the subject of this Agreement shall be required to be in compliance with the conditions and technical requirements set forth by this Agreement and the Town Code (as defined by 3.6 of this Agreement). In the event the Development (as defined by 3.11 of this Agreement) and/or any improvements which are the subject of this Agreement are not in compliance with the conditions and technical requirements set forth by this Agreement and the Town Code, the Town may, at its option, seek any remedy available at law or in equity and/or perform the necessary work and thereafter render an invoice for services to Developer for reimbursement.

16.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party or any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**SECTION 17. ENFORCEMENT COSTS.** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all reasonable expenses even if not taxable as court costs (including, without limitation, all such reasonable fees, costs and expenses incident to bankruptcy and/or appeals), incurred in that action or proceedings, in addition to any other relief to which such party or parties may be entitled.

**SECTION 18. JURY TRIAL.** EACH PARTY HEREBY COVENANTS AND AGREES THAT IN ANY LITIGATION, SUIT, ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED THEREUNDER, THE PERFORMANCE THEREOF, OR THE RELATIONSHIP CREATED THEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THE AGREEMENT WITH ANY COURT, AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY THE OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

**SECTION 19. DUTY TO COOPERATE IN GOOD FAITH.** The parties acknowledge and agree that it is in their best interests and the best interests of the public that this Agreement be performed in strict accordance with the terms, covenants and conditions contained herein; and the parties shall, in all instances, cooperate and act in good faith in complying with all of the terms, covenants and conditions contained herein.

**SECTION 20. COUNTERPARTS.** This Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constitute one Agreement.

**SECTION 21. STATE LAW COMPLIANCE.** The following provisions are included to comply with Florida State Statutes:

- (a) ***Scrutinized Companies.*** Section 287.135 of the Florida Statutes states that a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with the TOWN for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the *Scrutinized Companies that Boycott Israel List*, created pursuant to Section 215.4725 of the Florida Statutes or is engaged in a boycott of Israel; or for One Million Dollars (\$1,000,000.00) or more if, at the time of bidding on submitting a proposal for, or entering into or renewing a contract, the company is on the *Scrutinized Companies with Activities in Sudan List*, the *Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List*, created pursuant to Section 215.473 of the Florida Statutes, or is engaged in business operations in Cuba or Syria. By executing and/or entering into the Agreements, DEVELOPER certifies that it does not and did not at any time since the submission of a response to the TOWN'S initial solicitation participate in a boycott of Israel; that it is not on the *Scrutinized Companies that Boycott Israel List*, *Scrutinized Companies with Activities in Sudan List*, or the *Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List*; and that it does not engage in business operations in Cuba or Syria. DEVELOPER understands that a false certification may subject it to civil penalties, attorneys' fees and costs pursuant to Section 287.135 of the Florida Statutes and that the TOWN may terminate the Agreements at the TOWN'S option if the DEVELOPER is found to have submitted a false certification.
- (b) ***Public Entity Crimes; Convicted Vendor List.*** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal and/or bid on a contract to provide any goods or services to a public entity, may not submit a proposal and/or bid on a contract with a public entity for construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, vendor or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of the Florida Statutes for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. By executing the Agreements, DEVELOPER certifies that it is not on the convicted vendor list.
- (c) ***Drug-Free Workplace.*** By executing the Agreement(s), DEVELOPER certifies that it has a drug-free workplace and has a substance abuse policy in accordance with and pursuant to Section 440.102 of the Florida Statutes.

- (d) ***E-Verify***. By entering into the Agreement(s), DEVELOPER becomes obligated to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of the DEVELOPER and any subcontractor hired by the DEVELOPER. If the DEVELOPER enters into a contract with a subcontractor, the subcontractor must provide the DEVELOPER with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of the Agreement(s), or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) Calendar Days after the date of termination. If the Agreement(s) are terminated for a violation of the statute by the DEVELOPER, the DEVELOPER may not be awarded a public contract for a period of one (1) year after the date of termination.
- (e) ***No Consideration of Social, Political, and Ideological Interests***. DEVELOPER acknowledges receipt of notice from the TOWN of the provisions of Section 287.05701 of the Florida Statutes which prohibits local governments from giving preference to a prospective vendor and/or contractor based on the prospective contractor's social, political or ideological interests or requesting documentation from, or considering, a prospective contractor's social, political, or ideological interests when determining if the prospective contractor is a responsible vendor. DEVELOPER affirms and agrees that the TOWN did not request any documentation about, or give any consideration to, the DEVELOPER'S social, political, or ideological interests in negotiating, awarding, and/or entering into the Agreement(s).
- (f) ***Contracting with Foreign Entities***. By executing the Agreement(s), DEVELOPER certifies that it is not owned by the government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic (collectively "Foreign Countries of Concern"), nor is it owned by any agency of or any other entity of significant control of any such government. Further, DEVELOPER certifies that no government of a Foreign Country of Concern has a "controlling interest" in DEVELOPER as the term is defined in Section 287.138(1)(a) of the Florida Statutes, nor is the DEVELOPER organized under the laws of a Foreign Country of Concern, nor does the DEVELOPER have its principal place of business located in a Foreign Country of Concern. If the Agreement(s) permit the DEVELOPER to access the personal identifying information of any individual, DEVELOPER agrees to notify the TOWN in advance of any contemplated transaction that would cause DEVELOPER to be disqualified from such access under Section 287.138 of the Florida Statutes. DEVELOPER agrees to furnish the TOWN with an affidavit signed by an officer or representative of the DEVELOPER under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.
- (g) ***Human Trafficking Affidavit***. Developer shall be required to execute the *Human Trafficking Affidavit* attached hereto as **Exhibit "E"** simultaneously with and prior to providing the services hereunder.

**SECTION 22. RECORDATION.** This Agreement shall constitute a covenant running with the Property and be recorded in the Public Records of Polk County, Florida.

*The rest of this page left intentionally blank; signatures follow*



Executed by the parties on the date shown adjacent thereto:

***Developer:***

WELSH ROAD INVESTMENTS, LLC  
an active Florida limited liability company

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

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

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

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by \_\_\_\_\_, as \_\_\_\_\_, on its behalf, who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida  
Printed Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

***Developer:***

LAKE TRASK GROVES, LLC  
 an active Florida limited liability company

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

\_\_\_\_\_  
 Witness

\_\_\_\_\_  
 Witness

\_\_\_\_\_  
 Date

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

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by \_\_\_\_\_, as \_\_\_\_\_, on its behalf, who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
 Notary Public, State of Florida

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

My commission expires: \_\_\_\_\_

***Developer:***

THOMAS A. THAYER, JR.,  
an individual

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

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

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

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by \_\_\_\_\_, as \_\_\_\_\_, on its behalf, who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida

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

My commission expires: \_\_\_\_\_

***Town of Dundee:***

TOWN OF DUNDEE

By: \_\_\_\_\_  
Sam Pennant, Town Mayor

ATTEST:

\_\_\_\_\_  
Erica Anderson, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Frederick J. Murphy, Jr., Town Attorney

THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:

Frederick J. Murphy, Jr., Esquire  
Boswell & Dunlap LLP  
Post Office Drawer 30  
245 South Central Avenue (33830)  
Bartow, FL 33831

## WATER SUPPLY ALLOCATION AGREEMENT

THIS **WATER SUPPLY ALLOCATION AGREEMENT** (THE "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between Cassidy Property Investments, LLC an active Florida limited liability corporation, Weiberg Rd Development, LLC, an active Florida limited liability corporation and CH Dev, LLC an active Florida limited liability corporation, whose address is 346 East Central Ave, Winter Haven, Florida 33880 (collectively referred to as the "OWNER"), and the **TOWN OF DUNDEE, FLORIDA**, a municipal corporation created under the laws of the State of Florida ("TOWN").

### RECITALS

1. TOWN owns and operates a central water supply system and provides central water service throughout its exclusive service area.
2. OWNER owns property ("Property") upon which it currently owns and operates well(s) through which groundwater is supplied for agricultural or other uses on the Property. The Property is described in **Exhibit "A"** attached to and incorporated in this Agreement.
3. OWNER proposes to develop the Property which contemplates a conversion of land uses from agricultural or other uses to urban uses.
4. These urban uses will require the extension and delivery of domestic potable water service to the Property.
5. OWNER desires the extension of domestic potable water service to the Property.
6. TOWN is ready, willing, and able to extend such service subject to the terms and conditions of those certain CONCURRENCY DEVELOPER'S AGREEMENTS (collectively the "Agreements") entered into by the OWNER and TOWN regarding the Town's provision of water and wastewater services for the Property as well as other development matter associated with the Property and further subject to transfer of OWNER's water allocation associated with the well(s) located on the Property.
7. The Agreements are attached hereto as **Composite Exhibit "C"** and made a part hereof by reference.

8. OWNER is willing to agree to such water allocation.
9. The parties agree and acknowledge that each of them is authorized and empowered to enter into this Agreement.

**ACCORDINGLY**, in consideration of the above-referenced Recitals, and other good and valuable consideration the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

**SECTION 1. RECITALS.** The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the entry into this Agreement, and the factual recitals are hereby adopted as the findings supporting the entry into this Agreement between the TOWN and OWNER.

**SECTION 2. WATER ALLOCATION TRANSFER.** The OWNER hereby consents and agrees to transfer and transfers the water allocation (whether surface water, groundwater, or both) allocated by the Southwest Florida Water Management District ("SWFWMD") under consumptive use/water use permit no. 2046 & 12972, as more particularly described in **Exhibit "B"** attached to and incorporated in this Agreement, (and any other unpermitted water allocation associated with any wells on the Property) to the TOWN. The permitting quantity for the well(s) is currently 37,700 & 10,200 gallons per day ("GPD"). OWNER further agrees to transfer said permit to TOWN if necessary to effectuate the transfer of the water allocation to the TOWN and execute any documents and/or take any and all other actions determined necessary by the TOWN in order to effectuate the water allocation transfer of the well(s) and permit(s) to the TOWN as contemplated herein. Provided further that OWNER shall be responsible for any costs and/or actions required by SWFWMD and/or any agencies with jurisdiction in order to effectuate the water allocation transfer of the well(s) and permit(s) to the TOWN as contemplated herein. This transfer shall become effective upon the effective date of this Agreement. The Town, upon credit or increase to the Town WUP from SWFWMD arising out of the transfer of the Wells, shall allocate and assign any increase or credit to the Town's WUP to the Owner, or related entities, on a pro rata basis for the purpose of establishing concurrency for Owner's projects located within the Town's Chapter 180 Utility Service Area.

**SECTION 3. RECORDING.** OWNER agrees that TOWN may record this Agreement in the Public Records of Polk County, Florida.

**SECTION 4. EFFECTIVE DATE.** The Effective Date of this Agreement shall be the date on which the TOWN's governing body approves this Agreement.

**SECTION 5. COVENANT RUNNING WITH THE LAND.** OWNER agrees that its transfer of water allocation is a covenant running with the Property and shall be binding on future owners of the Property.

**SECTION 6. WATER SERVICE.** Upon the receipt of a credit and/or increase in the permitted capacity of Public Supply Water Use Permit (No.2046.006 & 12972.003) (the "Town WUP") arising out of the transfers (see **Exhibit "B"**) which are the subject of this Agreement, the TOWN shall provide water service to the OWNER, its successors or assigns for use on the Property.

**SECTION 7. SEVERABILITY.** If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained therein are not materially prejudiced, and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

**SECTION 8. GOVERNING LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The parties agree that the exclusive venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of, concerns, or relates to this Agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, shall be exclusively in the state courts of competent jurisdiction in Polk County, Florida.

**SECTION 9. AUTHORITY TO EXECUTE AGREEMENT.** The signature by any person to this Agreement shall be deemed a personal warranty by that person that he or she has the full power and authority to bind the entity for which that person is signing.

**SECTION 10. CAPACITY.** No specific reservation of water or wastewater capacity is granted by TOWN under this Agreement EXCEPT as specifically stated herein.

**SECTION 11. ARMS LENGTH TRANSACTION.** Both parties have contributed to the preparation, drafting and negotiation of this Agreement and neither has had undue influence or control thereof. Both parties agree that in construing this Agreement, it shall not be construed in favor of either party by virtue of the preparation, drafting, or negotiation of this Agreement.

**SECTION 12. AMENDMENT AND ASSIGNMENT.** This Agreement may not be amended and/or assigned, unless evidenced in writing and executed by the parties hereto and approved by the TOWN's governing body.

**SECTION 13. PUBLIC RECORDS.** The OWNER covenants and agrees to:

13.1 Keep and maintain public records required by the TOWN to perform in accordance with the terms of this Agreement.

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

13.3 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 of the Agreement and/or any amendment(s) issued hereunder if the OWNER does not transfer the records to the TOWN.

13.4 Upon completion of the Agreement and/or any amendment(s) issued hereunder, transfer, at no cost, to the TOWN all public records in possession of the OWNER or keep and maintain public records required by the TOWN to perform the service. If the OWNER transfers all public records to the public agency upon completion of the Agreement and/or any amendment(s) issued hereunder, the OWNER shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the OWNER

keeps and maintains public records upon completion of the Agreement and/or any Amendment(s) issued hereunder, the OWNER shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records, in a format that is compatible with the information technology systems of the TOWN.

**IF THE OWNER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE OWNER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE TOWN'S CUSTODIAN OF PUBLIC RECORDS, ERICA ANDERSON, AT 863-438-8330, EXT. 258, [eanderson@townofdundee.com](mailto:eanderson@townofdundee.com), 202 EAST MAIN STREET, DUNDEE, FLORIDA 33838.**

If the OWNER does not comply with a public records request, the TOWN shall enforce the Agreement and/or any amendment(s) issued hereunder which may include immediate termination of Agreement and/or any amendment(s) issued hereunder. **This Section shall survive the termination of this Agreement.**

***[Remainder of page intentionally left blank]***



**IN WITNESS WHEREOF**, the parties hereto have hereunder executed this Agreement on the date and year first above written.

**ATTEST:**

**TOWN OF DUNDEE, FLORIDA, a  
Florida municipal corporation**

\_\_\_\_\_  
Erica Anderson  
Town Clerk

\_\_\_\_\_  
Samuel Pennant  
Mayor

Approved as to form and correctness:

\_\_\_\_\_  
Frederick J. Murphy, Jr.  
Town Attorney

STATE OF FLORIDA  
COUNTY OF POLK

Before me, by means of ☐ physical presence or ☐ online notarization, the undersigned authority, this day personally appeared SAMUEL PENNANT, as Mayor of the Town of Dundee, Florida, a Florida municipal corporation, ☐ to me well known and known to me to be the individual described in and/or ☐ produced \_\_\_\_\_ as identification and who executed the forgoing instrument, and was authorized on behalf of said Town of Dundee, Florida, a Florida municipal corporation, to execute same, and he severally acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

My Commission expires:

\_\_\_\_\_  
Notary Public in and for the State of Florida at Large

Lauren Durham  
 Witness Signature

Lauren Durham  
 Print witness name

Emily Cassidy  
 Witness Signature

Emily Cassidy  
 Print witness name

## OWNER

Cassidy Property Investments, LLC

[Signature]

By: Albert B Cassidy  
 Print Name:

Its: Manager

Date: October 3, 2024

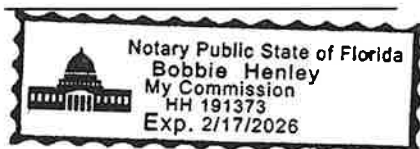
[CORPORATE SEAL]

STATE OF FLORIDA  
 COUNTY OF Polk

Before me, by means of ☒ physical presence or ☐ online notarization, the undersigned authority, this day personally appeared Albert B Cassidy, as manager of Cassidy Property Investments, LLC a Limited Liability Co., who is personally known to me or ☐ produced \_\_\_\_\_ as identification and who executed the forgoing instrument, and was authorized on behalf of said \_\_\_\_\_, a \_\_\_\_\_, to execute same, and (s)he severally acknowledged before me that (s)he executed the same for the purposes therein expressed.

WITNESS my hand and official seal this 3<sup>rd</sup> day of October, 2024.

My Commission expires:



[Signature]  
 Notary Public in and for the State of Florida at Large

Lauren Durham  
 Witness Signature

Lauren Durham  
 Print witness name

Emily Cassidy  
 Witness Signature

Emily Cassidy  
 Print witness name

## OWNER

Weiberg Rd Development, LLC

By: Albert S Cassidy  
 Print Name:

Its: Manager

Date: October 3, 2024

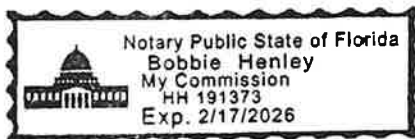
[CORPORATE SEAL]

STATE OF FLORIDA  
 COUNTY OF Polk

Before me, by means of ☒ physical presence or ☐ online notarization, the undersigned authority, this day personally appeared Albert S Cassidy, as Manager of Weiberg Rd Development, LLC, a Limited Liability Company, who is personally known to me or ☐ produced \_\_\_\_\_ as identification and who executed the forgoing instrument, and was authorized on behalf of said \_\_\_\_\_, a \_\_\_\_\_, to execute same, and (s)he severally acknowledged before me that (s)he executed the same for the purposes therein expressed.

WITNESS my hand and official seal this 3<sup>rd</sup> day of October, 2024.

My Commission expires:



Bobbie Henley

Notary Public in and for the State of Florida at Large

Lauren Durham  
 Witness Signature  
Lauren Durham  
 Print witness name

Emily Cassidy  
 Witness Signature  
Emily Cassidy  
 Print witness name

**OWNER**

CH Dev. LLC  
[Signature]  
 By: Albert B Cassidy  
 Print Name:

Its: Manager

Date: October 3, 2024

[CORPORATE SEAL]

STATE OF FLORIDA  
 COUNTY OF Polk

Before me, by means of ☒ physical presence or ☐ online notarization, the undersigned authority, this day personally appeared Albert B Cassidy, as manager of CH Dev, a Limited Liability Company, who is personally known to me or ☐ produced \_\_\_\_\_ as identification and who executed the forgoing instrument, and was authorized on behalf of said \_\_\_\_\_, a \_\_\_\_\_, to execute same, and (s)he severally acknowledged before me that (s)he executed the same for the purposes therein expressed.

WITNESS my hand and official seal this 3<sup>rd</sup> day of October, 2024.

My Commission expires:

[Signature]  
 Notary Public in and for the State of Florida at Large



## EXHIBIT "A"

**PARCEL 272821-000000-021030**

THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 21,  
TOWNSHIP 28 SOUTH,  
RANGE 27 EAST, POLK COUNTY, FLORIDA.

**PARCEL 272821-000000-021010**

The Northeast 1/4 of the Northeast 1/ 4 of the Southeast 1/4 of Section 21, Township 28 South,  
Range 27 East, Polk County, Florida, LESS AND EXCEPT the right-of-way for 8th Street North.



# Town of Dundee

## PUBLIC UTILITIES

◆ 202 E. Main Street ◆ PO Box 1000 ◆ Dundee, Florida 33838 ◆ (863) 438-8330 ◆ Fax (863) 438-8333

August 28, 2024

Cassidy Property Investments, LLC  
Attn: Renne Heath  
346 E. Central Ave.  
Winter Haven, FL 33880

Dear Mr. Heath,

This correspondence is to verify that the previously signed agricultural WUP transfer letter dated 06/20/2022, for WUP 2046 permitted 37,700 gallons a day, is still accurate.

Per the attached letter, we show the following DID numbers and permitted quantity of gpd to be transferred to the Town of Dundee for permanent retirement is:

WUP number: 2046

• <u>DID No. 1</u>	<u>37,700 gallons/day (annual avg.)</u>
<u>TOTAL:</u>	<u>37,700 gallons/day (annual avg.)</u>

Please review and confirm that the above information is correct and that no changes to DID Numbers and/or gallons per day need to be made. This will accompany the Town's submittal to Southwest Florida Water Management District (SWFWMD) for transfer of the wells.

Please reply by email to verify that the above information is correct or if changes need to be made, to Melissa Glogowski at [MGlogowski@townofdundee.com](mailto:MGlogowski@townofdundee.com).

If you have any questions or concerns, please contact us at your earliest convenience.

Thank you,

Tracy Mercer  
Public Utilities & Special Projects Director

cc: signed WUP agreement

September 25, 2023

Tandra S. Davis  
Town Manager  
Town of Dundee  
202 Main St.  
Dundee, FL 33838-1000

Dear Ms. Davis:

As signed below, I am the permittee for the below-listed Southwest Florida Water Management District (SWFWMD) Water Use Permit (WUP). The property associated with this WUP is planned to transition from agricultural use to residential development (i.e. Land Use Transition) and will require the public supply of water provided by the Town of Dundee (Town). As such, the agricultural well(s) associated with the WUP listed below will be abandoned and the WUP will be retired in accordance with Southwest Florida Water Management District (SWFWMD) Rules regarding Mitigation Plus Recovery associated with Land Use Transition (LUT).

It is requested that permitted quantities from this agricultural WUP's be utilized by the Town to help offset the Town's potential well withdrawal impacts associated with its Public Supply WUP.

In accordance with the above, it is agreed that the following WUP's will be permanently retired:

- **WUP number:** 2046
- **Development:** Weiberg West
- **Permittee Name:** Cassidy Property Investments, LLC
- **List of all withdrawal points to be retired:** District ID Nos. 1
- Quantities to be retired from each withdrawal point. If only part of the historically used quantities are to be retired, specify what uses are associated with the quantities to be retired:

<b>Withdrawal Point ID:</b>	<b>Permitted Quantity:</b>
• <u>DID No. 1</u>	<u>37,700 gallons/day (annual avg.)</u>
<b><u>Total:</u></b>	<b><u>37,700 gallons/day (annual avg.)</u></b>

As the permittee for the above WUP, which, when retired, will result in an elimination of groundwater quantities from this WUP's withdrawal points. My signature below confirms the following statements:

- It is agreed to permanently retire the historical use indicated for the above WUP.
- The Southwest Florida Water Management District has permission to modify the above WUP to decrease quantities to only those historically used quantities that are not being retired.

September 25, 2023

Tandra S. Davis  
Town Manager  
Town of Dundee  
202 Main St.  
Dundee, FL 33838-1000

Dear Ms. Davis:

As signed below, I am the permittee for the below-listed Southwest Florida Water Management District (SWFWMD) Water Use Permit (WUP). The property associated with this WUP is planned to transition from agricultural use to residential development (i.e. Land Use Transition) and will require the public supply of water provided by the Town of Dundee (Town). As such, the agricultural well(s) associated with the WUP listed below will be abandoned and the WUP will be retired in accordance with Southwest Florida Water Management District (SWFWMD) Rules regarding Mitigation Plus Recovery associated with Land Use Transition (LUT).

It is requested that permitted quantities from this agricultural WUP's be utilized by the Town to help offset the Town's potential well withdrawal impacts associated with its Public Supply WUP.

In accordance with the above, it is agreed that the following WUP's will be permanently retired:

- **WUP number:** 2046
- **Permittee Name:** Cassidy Property Investments, LLC
- **List of all withdrawal points to be retired:** District ID Nos. 1
- Quantities to be retired from each withdrawal point. If only part of the historically used quantities are to be retired, specify what uses are associated with the quantities to be retired:

<b>Withdrawal Point ID:</b>	<b>Permitted Quantity:</b>
• <u>DID No. 1</u>	<u>37,700 gallons/day (annual avg.)</u>
<b><u>Total:</u></b>	<b><u>37,700 gallons/day (annual avg.)</u></b>

As the permittee for the above WUP, which, when retired, will result in an elimination of groundwater quantities from this WUP's withdrawal points. My signature below confirms the following statements:

- It is agreed to permanently retire the historical use indicated for the above WUP.
- The Southwest Florida Water Management District has permission to modify the above WUP to decrease quantities to only those historically used quantities that are not being retired



I, the WUP 2046 permittee, agree that the above information is true and correct.

Cassidy Property Investments, LLC

Permittee/Owner

  
\_\_\_\_\_  
Authorized Signature  
Steven L. Cassidy, Manager  
Cassidy Property Investments, LLC

6/20/22  
\_\_\_\_\_  
Date



**WUP File of Record Report**  
**Permit: 2046.6**



**Report Cover Page**

**Selection Criteria:**

- Permit Number: 2046
- Permit Revision: 6
- Report Name: WUP File of Record Report

The information provided is based on the information available at the time of request. The information is believed to be accurate and complete, but is subject to the accuracy and completeness of information submitted to the District by permittees and other sources and is subject to the specific request made. The District does not warrant that the information is suitable for any particular use.

Report Generation Date: August 09, 2023

**Permit #:** 2046.006  
**Permit Dept:** Bartow  
**Permittee Name:** Cassidy Property Investments, LLC/ Attn: Joe Braddy  
**Address:** 346 E. Central Ave.  
 Winter Haven, FL 33880  
**Phone:** (863) 324-3698  
**Type:** Small General  
**Class:** Ownership Transfer  
**Project Name:** Olson Jordan Groves  
**Acres:**

Owned	Controlled	Serviced	Leased	Total
30.26	0.00	9.78	0.00	40.04

**Total Quantities:**

	Avg GPD	Avg Drought GPD	Peak GPD	Max GPD
<b>Requested</b>	37,700	Not Specified	230,100	950,400
<b>Permitted</b>	37,700	51,400	230,100	950,400

**Pred Use Type:** Agricultural  
**WUCA:** Southern Water Use Caution Area  
**Basin:** Peace River  
**County:** Polk

Referencing:		
Township	Range	Section(s)
26	27	21

**Application Received:** 03/10/2022  
**Issue Date:** 04/22/2022  
**Expire Date:** 03/10/2024

**Withdrawals:**

<b>District ID #:</b> 1		<b>User ID:</b> 1	
<b>WD Type:</b> Withdrawal of Groundwater		<b>WD Status:</b> Existing	
<b>Predom. Use:</b> Agricultural		<b>Well Use:</b> Irrigation	
<b>Monitor Type:</b>		<b>Site Operation:</b> No Further Info Necessary	
<b>Monitor Use:</b>			
<b>Stand By Qty</b>	<b>Casing Diam</b>	<b>Casing Depth</b>	<b>Total Depth</b>
	10	165	630
<b>WD Avg GPD</b>	<b>WD Peak GPD</b>	<b>WD Max GPD</b>	<b>Longitude</b>
37,700	270,100	950,400	81° 36' 55.49"
<b>Latitude</b>			
28° 01' 44.46"			

**Use:**

District ID #	Use Type	Predominant Use Type	Use Avg GPD	Drought GPD	Use Peak GPD	Use Max GPD	Use Acreage	Soil Type	IRR Method
1	Crop	Agricultural	37,700	51,400	230,100	950,400	37.00	Candler	Low Volume Spray

**Tracy Mercer**

---

**From:** Joe Braddy <jbraddy@cassidylanddev.com>  
**Sent:** Wednesday, September 18, 2024 12:33 PM  
**To:** Melissa Glogowski  
**Cc:** Tracy Mercer; Bobbie Henley  
**Subject:** RE: WUP 12972 for Dundee

Hello, Melissa.

The well for WUP 12972 is on parcel 272821-000000-021010 in Dundee. This parcel is in the development group for Brook Hollow Phase 1.

Weiberg West-Dundee was the working name for Brook Hollow Phase 1 during the entitlement period.

The WUP 12972 well isn't being used. The pump has been pulled and abandonment is under way.

I hope this clarifies things.

**Joe Braddy**

Cassidy Land Development, LLC  
 346 E. Central Ave.  
 Winter Haven, FL 33880  
 jbraddy@cassidylanddev.com  
 Office: 863-324-3698, ext. 223

**From:** Melissa Glogowski <mglogowski@townofdundee.com>  
**Sent:** Wednesday, September 18, 2024 12:19 PM  
**To:** Joe Braddy <jbraddy@cassidylanddev.com>  
**Cc:** Tracy Mercer <tmercer@Townofdundee.com>; Bobbie Henley <bhenley@cassidylanddev.com>  
**Subject:** RE: WUP 12972 for Dundee

**This email originated from outside of the organization. Use Caution clicking links or attachments.**

Joe,

Thank you for your email. I wanted to clarify something I noticed when saving the attachments for WUP 12972. One WUP 12972 Letter is named Brook Hollow Ph 1, while the other is just named WUP 12972.

The town shows WUP 12972, listed for Weiberg West. Can you please verify if that WUP is still being used for Weiberg West? If so, has the name of the development changed from Brook Hollow Ph 1 to Weiberg West, or is this an error?

I just wanted to verify that these are being saved correctly on our end.

If you have any questions, please don't hesitate to contact me.

Respectfully,

**Melissa Glogowski**  
 Administrative Assistant

**Melissa Glogowski**

---

**From:** Joe Braddy <jbraddy@cassidylanddev.com>  
**Sent:** Monday, September 9, 2024 1:15 PM  
**To:** Melissa Glogowski  
**Cc:** Tracy Mercer; Bobbie Henley  
**Subject:** WUP 12972 for Dundee  
**Attachments:** WUP 12972 Signed Letter - Dundee.pdf; WUP 12972 File of Record.pdf; WUP 12972 - Brook Hollow Ph 1 #450.pdf

To the best of my knowledge, the attached information regarding WUP 12972 is correct.

The WUP file of record is current.

Thank you.

**Joe Braddy**  
Cassidy Land Development, LLC  
346 E. Central Ave.  
Winter Haven, FL 33880  
jbraddy@cassidylanddev.com  
Office: 863-324-3698, ext. 223



# Town of Dundee

## PUBLIC UTILITIES

◆ 202 E. Main Street ◆ PO Box 1000 ◆ Dundee, Florida 33838 ◆ (863) 438-8330 ◆ Fax (863) 438-8333

August 28, 2024

CH Dev. LLC  
Attn: Rene Heath  
346 E. Central Ave.  
Winter Haven, FL 33880

Dear Mr. Heath,

This correspondence is to verify that the previously signed agricultural WUP transfer letter dated 06/20/2022, for WUP 12972 totaling 10,200 gallons a day, is still accurate.

Per the attached letter, we show the following DID numbers and total quantity of gpd to be transferred to the Town of Dundee for permanent retirement is:

WUP number: 12972

• <u>DID No. 1</u>	<u>10,200 gallons/day (annual avg.)</u>
<u>TOTAL:</u>	<u>10,200 gallons/day (annual avg.)</u>

Please review and confirm that the above information is correct and that no changes to DID Numbers and/or gallons per day need to be made. This will accompany the Town's submittal to Southwest Florida Water Management District (SWFWMD) for transfer of the wells.

Please reply by email to verify that the above information is correct or if changes need to be made, to Melissa Glogowski at [MGlogowski@townofdundee.com](mailto:MGlogowski@townofdundee.com)

If you have any questions or concerns, please contact us at your earliest convenience.

Thank you,

Tracy Mercer  
Public Utilities & Special Projects Director

cc: signed WUP agreement

Oct. 2, 2023

Tandra S. Davis  
Town Manager  
Town of Dundee  
202 Main St.  
Dundee, FL 33838-1000

Dear Ms. Davis:

As signed below, I am the permittee for the below-listed Southwest Florida Water Management District (SWFWMD) Water Use Permit (WUP). The property associated with this WUP is planned to transition from agricultural use to residential development (i.e. Land Use Transition) and will require the public supply of water provided by the Town of Dundee (Town). As such, the agricultural well(s) associated with the WUP listed below will be abandoned and the WUP will be retired in accordance with Southwest Florida Water Management District (SWFWMD) Rules regarding Mitigation Plus Recovery associated with Land Use Transition (LUT).

It is requested that permitted quantities from this agricultural WUP's be utilized by the Town to help offset the Town's potential well withdrawal impacts associated with its Public Supply WUP.

In accordance with the above, it is agreed that the following WUP's will be permanently retired:

- **WUP number:** 12972
- **Development:** Weiberg West
- **Permittee Name:** CH Dev LLC
- **List of all withdrawal points to be retired:** District ID Nos. 1
- Quantities to be retired from each withdrawal point. If only part of the historically used quantities are to be retired, specify what uses are associated with the quantities to be retired:

<b>Withdrawal Point ID:</b>	<b>Permitted Quantity:</b>
• <u>DID No. 1</u>	<u>10,200 gallons/day (annual avg.)</u>
<b><u>Total:</u></b>	<b><u>10,200 gallons/day (annual avg.)</u></b>

As the permittee for the above WUP, which, when retired, will result in an elimination of groundwater quantities from this WUP's withdrawal points. My signature below confirms the following statements:

- It is agreed to permanently retire the historical use indicated for the above WUP.
- The Southwest Florida Water Management District has permission to modify the above WUP to decrease quantities to only those historically used quantities that are not being retired



Oct. 2, 2023

**Tandra S. Davis**  
**Town Manager**  
**Town of Dundee**  
**202 Main St.**  
**Dundee, FL 33838-1000**

**Dear Ms. Davis:**

As signed below, I am the permittee for the below-listed SWFWMD Water Use Permit (WUP) number. The property associated with this WUP is planned for residential development and will require the public supply of water provided by the Town of Dundee (Town). As such, the one agricultural well associated with this WUP will be abandoned and the WUP will be retired.

It is requested that permitted quantities from this agricultural WUP be transferred to the Town to help offset the Town's additional well withdrawals associated with its public supply WUP.

In accordance with the above, it is agreed that the following WUP will be permanently retired:

- WUP number: 12972
- Permittee Name: CH Dev LLC
- List of all withdrawal points to be retired: DID 1
- Quantities to be retired from each withdrawal point. If only part of the historically used quantities are to be retired, specify what uses are associated with the quantities to be retired:

Withdrawal Point ID:	Permitted Quantity:
<u>DID 1</u>	<u>10,200</u> gallons/day (annual avg.)
<b>TOTAL</b>	<u>10,200</u> gallons/day (annual avg.)

As the permittee for the above WUP, which, when retired, will result in an elimination of groundwater quantities from this WUP's one withdrawal point, my signature below confirms the following statements:

- It is agreed to permanently retire the historical use indicated for the above WUP.
- The Southwest Florida Water Management District has permission to modify the above WUP to decrease quantities to only those historically used quantities that are not being retired.

I, the WUP 12972 permittee, agree that the above information is true and correct.

CH Dev LLC  
Permittee/Owner

  
Authorized Signature

10/2/23  
Date

September 25, 2022

Tandra S. Davis  
Town Manager  
Town of Dundee  
202 Main St.  
Dundee, FL 33838-1000

Dear Ms. Davis:

As signed below, I am the permittee for the below-listed Southwest Florida Water Management District (SWFWMD) Water Use Permit (WUP). The property associated with this WUP is planned to transition from agricultural use to residential development (i.e. Land Use Transition) and will require the public supply of water provided by the Town of Dundee (Town). As such, the agricultural well(s) associated with the WUP listed below will be abandoned and the WUP will be retired in accordance with Southwest Florida Water Management District (SWFWMD) Rules regarding Mitigation Plus Recovery associated with Land Use Transition (LUT).

It is requested that permitted quantities from this agricultural WUP's be utilized by the Town to help offset the Town's potential well withdrawal impacts associated with its Public Supply WUP.

In accordance with the above, it is agreed that the following WUP's will be permanently retired:

- **WUP number:** 12972
- **Permittee Name:** CH Dev LLC
- **List of all withdrawal points to be retired:** District ID Nos. 1
- Quantities to be retired from each withdrawal point. If only part of the historically used quantities are to be retired, specify what uses are associated with the quantities to be retired:

Withdrawal Point ID:	Permitted Quantity:
• <u>DID No. 1</u>	<u>10,200 gallons/day (annual avg.)</u>
<b><u>Total:</u></b>	<b><u>10,200 gallons/day (annual avg.)</u></b>

As the permittee for the above WUP, which, when retired, will result in an elimination of groundwater quantities from this WUP's withdrawal points. My signature below confirms the following statements:


- It is agreed to permanently retire the historical use indicated for the above WUP.
- The Southwest Florida Water Management District has permission to modify the above WUP to decrease quantities to only those historically used quantities that are not being retired.

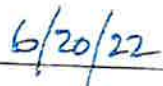
I, the WUP 12972 permittee, agree that the above information is true and correct.

CH Dev LLC  
Permittee/Owner

\_\_\_\_\_  
Authorized Signature  
Albert B. Cassidy, Manager  
CH Dev LLC

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Authorized Signature  
Joe D. Braddy, Authorized Agent  
CH Dev LLC and The Cassidy Organization

  
\_\_\_\_\_  
Date

Report Cover Page

**Selection Criteria:**

- Permit Number: 12972
- Permit Revision: 3
- Report Name: WUP File of Record Report

The information provided is based on the information available at the time of request. The information is believed to be accurate and complete, but is subject to the accuracy and completeness of information submitted to the District by permittees and other sources and is subject to the specific request made. The District does not warrant that the information is suitable for any particular use.

Report Generation Date: August 09, 2023

**Permit #:** 12972.003  
**Permit Dept:** Bartow  
**Permittee Name:** Ch Dev, LLC/Attn: Albert Cassidy  
**Address:** 346 E. Central Ave.  
 Winter Haven, FL 33880  
**Phone:** (863) 324-3698  
**Type:** Small General  
**Class:** Ownership Transfer  
**Project Name:** Dundee Block  
**Acres:**

**Application Received:** 01/18/2022  
**Issue Date:** 01/31/2022  
**Expire Date:** 08/13/2035

**Total Quantities:**

Owned	Controlled	Serviced	Leased	Total
10.00	0.00			10.00

Requested	Permitted	Avg GPD	Avg Drought GPD	Peak GPD	Max GPD
		10,200	Not Specified	62,200	648,000
		10,200	13,900	62,200	720,100

**Pred Use Type:** Agricultural  
**WUCA:** Southern Water Use Caution Area  
**Basin:** Peace River  
**County:** Polk

Referencing:	Township	Range	Section(s)
	28	27	21

**Withdrawals:**

District ID #: 1

WD Type: Withdrawal of Groundwater

User ID: 1

Predom. Use: Agricultural

WD Status: Existing

Monitor Type:

Site Function: Irrigation

Monitor Use:

Well Use: Irrigation

Site Operation: No Further Info Necessary

Stand By Qty	Casing Diam	Casing Depth	Total Depth	WD Avg GPD	WD Peak GPD	WD Max GPD	Latitude	Longitude
	10	190	600	10,200	62,200	720,100	28° 01' 54.19"	81° 36' 48.44"

**Use:**

District ID #

Use Type

Census

Predominant Use Type

Agricultural

Use Avg GPD

10,200

Drought GPD

13,900

Use Peak GPD

62,200

Use Max GPD

720,100

Use Acreage Soil Type

10.00 Candler

IRR Method

Low Volume Spray

## DEVELOPER'S AGREEMENT

**THIS DEVELOPER'S AGREEMENT** ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by and between the **TOWN OF DUNDEE**, a municipal corporation organized and existing under the laws of the State of Florida (the "Town"), and Property Investments, LLC, an active Florida limited liability Company, Cassidy Development, LLC, an active Florida limited liability company, and CH Dev, LLC, an active Florida limited liability company, whose address is 346 East Central Ave. Winter Haven Florida 33880 (the "Developer").

### FACTUAL RECITALS

**WHEREAS**, Town is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act, Chapter 166 of the Florida Statutes, and Article VIII, §2 of the Florida Constitution; and

**WHEREAS**, Town is vested with governmental, corporate and proprietary powers to enable municipal governments to conduct and perform municipal functions and render municipal services, including the exercise of any power for municipal purposes; and

**WHEREAS**, the Developer is the fee simple owner of the land(s) identified by the Polk County Property Appraiser as Parcel Identification Number(s): 272821-000000-023010, 272821-000000-021030, 272821-831500-002010, 272821-831500-001010, 272821-831500-001110, 272821-000000-021040, 272821-000000-021010, 272821-000000-021020, which totals approximately 57.36 acres (the "Property"); and

**WHEREAS**, the Developer is pursuing residential development of the Property; and

**WHEREAS**, the Brook Hollow Ph 1 Subdivision development (the "Development") which is located within the municipal boundaries of the Town is proposed to be developed on the Property; and

**WHEREAS**, the Public Supply Water Use Permit for the Town (the "Town WUP"), Water Use Permit No. 20005893,012, authorizes the withdrawal of 917,500 gallons per day; and

**WHEREAS**, pursuant to the Town WUP, the Town does not have the permitted capacity to necessary to support the potable water needs and/or demands for the Development; and

**WHEREAS**, Town and Developer acknowledge and agree that the Town is currently unable to provide allocable water capacity for the Development; and

**WHEREAS**, pursuant to applicable provisions of the Code of Ordinances of the Town of Dundee and Town of Dundee Land Development Code, the Town and Developer acknowledge and agree that the facilities and services needed to support the Development are not available; and

**WHEREAS**, Town and Developer acknowledge and agree that, pursuant to Section 7.02.03 of the Town Code, a development order and/or development permit will not be approved for the Development unless a satisfactory concurrency evaluation has been performed in accordance with Section 6.01.00 of the Town Code; and



**WHEREAS**, pursuant to Section 54-9 of the Code of Ordinances of the Town of Dundee (the "Code"), the Town may require a developer/owner to enter into a developer's agreement which sets forth in detail the terms and conditions under which the Town will provide utility service to the subject real property; and

**WHEREAS**, pursuant to Section 54-9 of the Code and Section 6.01.07.03 of the LDC, a developer's agreement may be required prior to approval(s) in order to provide for the necessary expansion of the Town's water treatment facilities to serve the Development; and

**WHEREAS**, pursuant to Section 6.01.07.03 of the LDC, the Town and Developer acknowledge and agree that any Town approval(s) will not create a reservation of potable water plant or network capacity, or a commitment to provide service; and

**WHEREAS**, Town and Developer acknowledge and agree that, on August 23, 2022, at a duly noticed public meeting of the Town of Dundee Town Commission, the Town Commission considered and approved the Interlocal Agreement For The Interconnection of Potable Water Between The City of Winter Haven, Florida, And The Town of Dundee, Florida (the "Interconnect Agreement"); and

**WHEREAS**, on August 23, 2022, at a duly notice public meeting of the Town of Dundee Town Commission, the Town Commission passed and approved Town of Dundee Resolution No. 22-30 (the "Resolution") conditionally approving the Certified Subdivision Plan (the "CSP") for the Development; and

**WHEREAS**, a copy of the Resolution is attached hereto as **Exhibit "A"** and made a part hereof by reference; and

**WHEREAS**, upon the passage of the Resolution (see **Exhibit "A"**), the Developer was authorized to proceed with dry-line construction of the potable water lines to service the Project; and

**WHEREAS**, the Developer acknowledges and agrees that, upon completion of the dry-line construction and other required improvements for the Development, the Town may not be able to provide allocable water capacity for the Development; and

**WHEREAS**, Developer acknowledges, represents, and agrees that it accepts any and all of the risk(s) related to proceeding with the Development; and

**WHEREAS**, Town acknowledges and agrees that the Developer holds fee simple title to an agricultural well (the "Well"); and

**WHEREAS**, the Well has been issued a water use permit granted by the Southwest Florida Water Management District ("SWFWMD"), Water Use Permit No. 2046 & 12972 (the "Developer WUP"); and

**WHEREAS**, the Well provides irrigation water for agricultural uses on 57.36 acres of real property which includes, but is not limited to, the Property; and

**WHEREAS**, Developer offered and agreed to cooperate with the Town and SWFWMD in transferring the Well and any capacity related thereto to the Town; and

**WHEREAS**, Town and Developer agree to enter into a Water Supply Allocation Agreement (the "Allocation Agreement") to facilitate the transfer the Well, in accordance with

the rules, regulations and requirements set forth by the SWFWMD, and any pro-rata share of the capacity attributable to the Well to the Town; and

**WHEREAS**, Town and Developer acknowledge and agree that, upon receiving a credit or increase to the Town's WUP from SWFWMD arising out of the transfer of the Developer WUP and/or closing of the Well, any increase or credit to the Town's WUP will be allocated to the Development on a pro-rata basis; and

**WHEREAS**, on August 23, 2022 the Town of Dundee Town Commission and Developer agreed that, as a condition precedent to its entering into this Agreement, Developer and its successors and permitted assigns indemnify and hold harmless the Town, its elected and appointed officials, employees and agents from any and all damages, claims, and/or other liabilities arising out of the Developer's construction of dry-lines, the Town's inability to provide allocable water capacity for the Development, and any subject covered by this Agreement; and

**WHEREAS**, Developer and its successors and assigns agree to indemnify and hold the Town, its elected and appointed officials, employees and agents harmless of and from any and all costs, expenses, damages, liability and claims (including reasonable attorneys' fees and costs) related to and/or arising out of this Agreement, the Allocation Agreement, and the transfer of the Well to the Town; and

**WHEREAS**, Developer acknowledges and agrees that any provision(s) set forth in this Agreement holding the Town, its elected and appointed officials, employees and agents harmless is intended to be as broad and inclusive as is permitted by the laws of the State of Florida; and

**WHEREAS**, Developer acknowledges, represents, and agrees that the Town's willingness to enter into this Agreement shall not be construed by the Developer and/or its successors and assigns as a waiver by the Town of applicable law; and

**WHEREAS**, Developer acknowledges, represents, and agrees that this Agreement is intended to and shall constitute a covenant running with the Property; and

**WHEREAS**, The parties acknowledge, represent and agree that the Town and Developer are not partners and/or joint venturers; and

**WHEREAS**, The parties agree that this Agreement shall be liberally construed in favor of the Town; and

**WHEREAS**, Town and Developer represent and agree that good and valuable consideration has been received by the parties for entering into this Agreement, and the Town and Developer acknowledge the sufficiency of the consideration received; and

**WHEREAS**, The Town Commission of the Town of Dundee finds that this Agreement between the Town and Developer to be in the best interests of the public health, safety, and general welfare of the citizens and residents of the Town of Dundee.

**NOW, THEREFORE**, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

**SECTION 1. RECITALS.** The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a

factual and material basis for the entry into this Agreement, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the entry into this Agreement between the Town and Developer.

**SECTION 2. PURPOSE.** The purpose of this Agreement is to acknowledge and memorialize that as of the Effective Date (as defined in 3.12 of this Agreement) of this Agreement, the Town (as defined in 3.2 of this Agreement) performed a concurrency evaluation and determined that it does not have the necessary public facilities and services needed to support the Development (as defined in 3.11 of this Agreement). This Agreement shall therefore establish the respective rights and obligations of the Town, Developer, and any successors-in-interest to the Town and Developer concerning the Development (as defined in 3.11 of this Agreement) and concurrency approval for same.

**SECTION 3. DEFINITIONS.** Term(s) used in this Agreement and/or any exhibits incorporated herein and made a part hereof shall possess the meanings, interpretations and/or definitions assigned herein, provided however, that where one (1) of the following listed terms is used in this Agreement, such term(s) shall possess the corresponding meaning, as follows:

3.1 “*Applicable Law*” means the Town of Dundee Charter, Town of Dundee Code of Ordinances, Town of Dundee Land Development Code, and any and all applicable statutes, laws, rules, regulations, charter provisions, ordinances and resolutions of the United States of America, State of Florida, Polk County, Town of Dundee, and any and all other public authority which may be applicable.

3.2 “*Town*” means the Town of Dundee, Florida.

3.3 “*Dundee Representative*” means the Town Manager, or her/his designated appointee, who is authorized to act on behalf of the Town in the administration of this Agreement. The Dundee Representative does not have the authority to waive or modify any condition or term of this Agreement.

3.4 “*Developer*” means Cassidy Property Investments, LLC, Weiberg Rd Development, LLC and CH Dev, LLC an active Florida limited liability company authorized to transact business in the State of Florida, and any and all of the successors and permitted assigns of Cassidy Property Investments, LLC, Weiberg Rd Development, LLC and CH Dev, LLC

3.5 “*Developer Representative*” any agent, employee and/or person with either apparent authority to act on behalf of Developer or the written authorization of Developer to act on its behalf in the administration of this Agreement. The Developer Representative does not have the authority to waive or modify any condition or term of this Agreement.

3.6 “*Town Code*” means the Town of Dundee Code of Ordinances and Town of Dundee Land Development Code.

3.7 “*Day(s)*” means calendar day unless specifically stated otherwise.

3.8 “*Calendar Day(s)*” means all days in a 365-day calendar year.

3.9 “*Business Day(s)*” means each calendar day which is not a Saturday, Sunday or a recognized holiday by the Town of Dundee, Florida.

3.10 “*Town Commission*” means the duly elected Town of Dundee Town Commission and/or governing body of the Town of Dundee.

3.11 “*Development*” means the design, construction, paving, maintenance and improvements performed by the Developer for the Brook Hollow Ph 1 Subdivision project which are the subject of this Agreement and located on, over, under and across the Property and related to and/or arising out of the Brook Hollow Ph 1 Subdivision.

3.12 “*Effective Date*” means, for purposes of calculating time periods and the commencement of the term of this Agreement, the date on which the Certified Subdivision Plan for the *Brook Hollow Ph 1* and Resolution No. 22-30 were approved by the Town Commission at a duly noticed public meeting.

3.13 “*Term*” means the duration of this Agreement which shall commence on the Effective Date and shall expire and/or terminate in accordance with the provisions set forth in **SECTION 16** of this Agreement.

**SECTION 4. OBLIGATIONS.** The parties’ obligations pursuant to this Agreement are stated below:

#### **4.1 Town Obligations.**

4.1.1 Pursuant to the Town Code (as defined by 3.6 of this Agreement) and Applicable Law (as defined by 3.1 of this Agreement), the Development (as defined by 3.11 of this Agreement) shall be subject to development review by the Town; and, in accordance with the development regulations set forth by the Town Code and Applicable Law, upon the payment of the applicable and required fee(s) by or on behalf of the Developer, the Town agrees to review any and all requests for a development order and/or development or construction permit.

4.1.2 To the extent applicable, the Town shall negotiate and enter into a separate Water Supply Allocation Agreement (the “Allocation Agreement”) with the Developer (as defined by 3.4 of this Agreement).

4.1.3 The Town, upon entering into a separate Allocation Agreement with the Developer and receiving a credit or increase to the Public Supply Water Use Permit (No. 2046 & 12972 (the “Town WUP”) from SWFWMD arising out of the transfer of the Well and/or the Developer’s Water Use Permit (No. 2046 & 12972) (the “Developer WUP”), shall allocate and assign any increase or credit to the Town’s WUP will be allocated to the Development on a pro-rata basis.

#### **4.2 Developer Obligations.**

4.2.1 Pursuant to the Town Code and Applicable Law (as defined by 3.1 of this Agreement), the Developer (as defined by 3.4 of this Agreement) shall apply for and obtain any and all required development orders, development permits and/or development approvals for the Development (as defined by 3.11 of this Agreement).

4.2.2 Pursuant to Section(s) 54-5 and 6.01.07.04 of the Town Code, any new development or improvement located on any parcel of land within the municipal

boundaries of the Town or within the Town's water and wastewater service area, shall be required to connect to the Town's water and wastewater system at the time of development.

4.2.3 If mutually determined by the Town and Developer to be applicable, the Developer (as defined by 3.4 of this Agreement) shall negotiate and enter into a separate Allocation Agreement with the Town; and, by entering into the Allocation Agreement, the Developer shall facilitate the transfer the Well, in accordance with the rules, regulations and requirements set forth by the SWFWMD, and any pro-rata share of the capacity attributable to the Well to the Town.

4.2.4 Developer (as defined by 3.4 of this Agreement) releases, acquits and forever discharges the Town, its elected and appointed officials, employees, and agents of and from any and all known or unknown claims, causes of action, suits, debts, dues, sums of money, damages, judgments, and demands whatsoever, in law or in equity, which Developer ever had, now has or hereinafter can, shall or may have against the Town, its elected and appointed officials, employees, and agents by reason of any matter, cause or thing, from the beginning of the world until the date on which this Agreement is terminated and/or expires, which are specifically arising out of the Development. This Release includes, but is not limited to, any case, lien, suit and/or cause of action, including reasonable attorney's fees both trial and appellate, and all other claims Developer ever had, now has or hereinafter can, shall or may have against the Town, its elected and appointed officials, employees, and agents whether arising out of tort, contract, equity, constitution, statute, or other theory of recovery, and whether for compensatory, punitive damages, or for equitable relief which Developer now has, or which may hereafter accrue or otherwise be acquired on account of or in any way growing out of, or which is the subject of the provisions set forth by this Agreement and specifically arising out of the Development.

4.2.5 This Agreement shall be binding on Developer, its successors in interest, and permitted assigns.

4.2.6 The obligations of the Developer shall survive the termination of this Agreement.

## **SECTION 5. DEVELOPER'S ACKNOWLEDGMENT OF RISK.**

5.1 The Developer acknowledges that as of the Effective Date (as defined by 3.12 of this Agreement) the facilities and services needed to support the Development (as defined by 3.11 of this Agreement) are not available concurrently with the impacts of the Development.

5.2 The Developer acknowledges, accepts, and assumes the risk(s) arising out of the Developer proceeding with the Development and installation of "dry-lines;" and, by entering into this Agreement, the Town does not guarantee the availability of allocable potable water capacity for the Development.

**SECTION 6. FURTHER ASSURANCES.** Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

**SECTION 7. BINDING EFFECT.** Except as may be otherwise set forth herein, the terms and provisions of this Agreement shall bind and inure to the benefit of the parties and applicable successors, representatives, heirs, permitted assigns, employees, officers, directors, superintendents, administrators, shareholders and agents. As such, the parties agree that this Agreement shall be binding upon and inure to any and all successors-in-interest to the parties hereto. The parties further acknowledge and agree that, in the event this Agreement omits and/or does not detail all laws, rules, regulations, permits, conditions, terms and restrictions that must be satisfied to complete the Development (as defined by 3.11 of this Agreement), such omission shall not relieve the parties hereto or any successor-in-interest of the obligation to comply with Applicable Law (as defined by 3.1 of this Agreement).

**SECTION 8. MERGER.** This Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein. This Agreement supersedes all prior agreements and development orders pertaining to the subjects covered and/or described herein.

**SECTION 9. NO EFFECT ON CODE VIOLATIONS; NO CONTRACT ZONING.** This Agreement shall not be interpreted to condone, authorize or permit any violation of the Town Code or Applicable Law (as defined by 3.1 of this Agreement). Further, this Agreement shall not be construed as the Town's authorization or acceptance of the status of the present existing structures or uses on the Property, nor shall it be construed as an attempt to contractually zone the Property.

**SECTION 10. TOWN'S POLICE POWERS.** The Developer (as defined by 3.4 of this Agreement) acknowledges and understands that the Town (as defined by 3.2 of this Agreement) is prohibited from engaging in "Contract Zoning" or the bartering away of its legislative prerogative. While the Town will cooperate with Developer as set forth herein, this Agreement does not constitute an approval that would require the exercise of Town's legislative and/or quasi-judicial authority. Provided further, nothing in this Agreement shall serve to affect or limit Town's police powers in the exercise of zoning decisions or other governmental action associated with the Development or any development order associated therewith. As such, this Agreement shall not be construed as a basis for (1) granting or assuring or indicating or (2) refusing to grant or preventing any future grant of land use or zoning approvals, permissions, variances, special exceptions, or rights with respect to the Property.

**SECTION 11. APPLICABLE LAW AND VENUE.** This Agreement and the rights and obligations of the Town (as defined by 3.2 of this Agreement) and Developer (as defined by 3.4 of this Agreement) shall be governed by Florida law. Venue for any litigation pertaining to or arising out of the subject matter hereof shall be exclusively in the state courts of Polk County, State of Florida, in the 10<sup>th</sup> Judicial Circuit.

**SECTION 12. NOTICES.** All notices, demands, requests, consents, approvals, and other communications (collectively referred to as the "Notice"), required or permitted to be given hereunder shall be in writing and sent by either: (i) registered or certified mail, postage prepaid, return receipt requested; or, (ii) special delivery service (e.g. Federal Express, DHL, UPS, etc.); addressed to the party to be so notified as follows:

TOWN: TOWN OF DUNDEE  
 Attn: Tandra Davis, Town Manager  
 PO Box 1000  
 105 Center Street  
 Dundee, FL 33838-1000  
 Attention: Town Manager

With a copy to (*which shall **not** constitute notice*):

Frederick J. Murphy, Jr.  
 Town Attorney, Town of Dundee  
 PO Drawer 30  
 245 South Central Avenue  
 Bartow, FL 33830

DEVELOPER: Cassidy Property Investments, LLC  
Albert B Cassidy  
346 E Central Ave  
Winter Haven FL 33880

Weiberg Rd Development, LLC  
Albert S Cassidy  
346 E Central Ave  
Winter Haven FL 33880

CH Dev, LLC  
Albert B Cassidy  
346 E Central Ave  
Winter Haven FL 33880

With a copy to (*which shall **not** constitute notice*):

Absolute Engineering, Inc  
Heather Wertz  
1000 N Ashley Drive Suite 925  
Tampa, FL 33602

Notice shall be effective upon delivery to the above addresses. Either party may notify the other that a new person has been designated by it to receive notice(s), or that the address for the delivery of such notice(s) has been changed, provided that, until such time as the other party receives such notice in the manner provided for herein, any notice addressed to the previously-designated person and/or delivered to the previously-designated address or facsimile number shall be effective.

### **SECTION 13. MISCELLANEOUS PROVISIONS.**

13.1 **Exhibits.** All exhibits annexed hereto are incorporated by reference and made a part of the Agreement.

13.2 **Headings.** The heading(s) preceding the several section(s), paragraph(s) and article(s) hereof are solely for convenience of reference and shall not constitute a part of this Agreement, or affect its meaning, construction or effect.

13.3 **Gender Neutral.** For purposes of this Agreement, any and all gender specific references, classifications and/or language shall be interpreted to be gender neutral.

13.4 **Calculation of Time.** The calculation of the number of days that have passed during any time period prescribed shall be based on Calendar Days (unless specified otherwise in this Agreement). Unless otherwise specified in this Agreement, the calculation of the number of days that have passed during any time period prescribed in or by this Agreement shall commence on the day immediately following the event triggering such time period. If the tolling of such a time period is not contingent upon an action or event, the calculation of the number of days that have passed during such time period prescribed in or by this Agreement shall commence on the day immediately following the Effective Date (as defined by 3.12 of this Agreement). For purposes of this Agreement, unless otherwise specified herein, the tolling of any such time period(s) shall be in Calendar Days. In the event any time period or deadline identified in this Agreement expires and/or falls on a Saturday, Sunday or recognized holiday, said expiration and/or deadline shall be automatically tolled until 5:00 pm on the next available Business Day which the Town is open for business to the public.

13.5 **Neutral Interpretation.** Any controversy over the construction of this Agreement shall be decided neutrally and without regard to events of authorship or negotiation.

13.6 **Modification.** This Agreement shall not be modified in any way, unless such modification is in the form of a written amendment properly executed by the parties hereto and approved by the Town's governing body. No oral modifications will be effective or binding on either the Town or Developer regardless of whether the person(s) attempting to make such modifications appeared to have the authority to make such modification. Moreover, in the event state or federal law(s) are enacted after the execution of this Agreement which are applicable to and preclude the parties' compliance with the terms of this Agreement, the parties agree to modify and/or amend this Agreement, to the extent necessary, in order for the parties to perform the obligations set forth herein.

13.7 **Construction.** The parties acknowledge that the Agreement has been fairly negotiated by each party's respective legal counsel and at arm's length; and, as such, the Agreement shall be interpreted in strict accordance with the terms, covenants and conditions set forth herein.

13.8 **Successors and Assigns.** All covenants, agreements, warranties, representations, and conditions contained in this Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of the parties to this Agreement.

13.9 **Disclaimer of Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Town (as defined by 3.2 of this Agreement) and Developer (as defined by 3.4 of this Agreement) and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third-party.

13.10 **Authorization.** The parties represent and warrant to one another that all the necessary action(s) to execute this Agreement have occurred and that the parties possess the legal authority to enter into this Agreement and undertake all the obligations imposed herein.



13.11 **Representations and Warranties.** Each party signing this Agreement represents and warrants that he/she/it has read, understands and acknowledges any and all of the terms, covenants, conditions and requirements set forth herein.

13.12 **Compliance with Applicable Law.** The Developer (as defined by 3.4 of this Agreement) shall comply with Applicable Law (as defined by 3.1 of this Agreement) in performing the obligations and requirements set forth by the Agreement.

13.13 **Severability.** If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared to be severable.

13.14 **No Waiver.** Failure of the Town to enforce any right hereunder shall not be deemed a waiver of such right. The inaction or failure of the Town to address and/or remedy any breach of the covenants, conditions, and/or provisions of this Agreement shall not constitute a waiver of such Town's rights hereunder with respect to such action, non-action, and/or default. No covenant, condition or provision of this Agreement can be waived, except with the written consent of both the Town and Developer. Any such waiver, in one instance, shall not constitute a waiver of a subsequent default or for any other past, present or future default, unless the waiver expressly and specifically states and/or identifies such default.

13.15. **Time is of the Essence.** Time is of the essence for all of the provisions, conditions, and terms of this Agreement.

**SECTION 14. PUBLIC RECORDS.** The Developer covenants and agrees to:

14.1 Keep and maintain public records required by the Town to perform in accordance with the terms of this Agreement.

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

14.3 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 of the Agreement and/or any amendment(s) issued hereunder if the Developer does not transfer the records to the Town.

14.4 Upon completion of the Agreement and/or any amendment(s) issued hereunder, transfer, at no cost, to the Town all public records in possession of the Developer or keep and maintain public records required by the Town to perform the service. If the Developer transfers all public records to the public agency upon completion of the Agreement and/or any amendment(s) issued hereunder, the Developer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Developer keeps and maintains public records upon completion of the Agreement and/or any Amendment(s) issued hereunder, the Developer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

**IF THE DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE TOWN'S CUSTODIAN OF PUBLIC RECORDS, ERICA ANDERSON, AT 863-438-8330, EXT. 258, [Eanderson@townofdundee.com](mailto:Eanderson@townofdundee.com), 202 EAST MAIN STREET, DUNDEE, FLORIDA 33838.**

If the Developer does not comply with a public records request, the Town shall enforce the Agreement and/or any amendment(s) issued hereunder which may include immediate termination of Agreement and/or any amendment(s) issued hereunder. **This Section shall survive the termination of this Agreement.**

**SECTION 15. NO WAIVER OF SOVEREIGN IMMUNITY.** Nothing herein is intended to act as a waiver of the Town's sovereign immunity and/or limits of liability as set forth in section 768.28, Florida Statutes regardless of whether any such obligations are based in tort, contract, statute, strict liability, and negligence, product liability or otherwise. This provision shall survive the termination of this Agreement.

**SECTION 16. TERMINATION AND REMEDIES.**

16.1 This Agreement shall remain in effect until the completion of the Development (as defined by 3.11 of this Agreement); and, on or before the effective date of the termination of this Agreement, the Development (as defined by 3.11 of this Agreement) and/or any improvements which are the subject of this Agreement shall be required to be in compliance with the conditions and technical requirements set forth by this Agreement and the Town Code (as defined by 3.6 of this Agreement). In the event the Development (as defined by 3.11 of this Agreement) and/or any improvements which are the subject of this Agreement are not in compliance with the conditions and technical requirements set forth by this Agreement and the Town Code, the Town may, at its option, seek any remedy available at law or in equity and/or perform the necessary work and thereafter render an invoice for services to Developer for reimbursement.

16.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party or any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**SECTION 17. ENFORCEMENT COSTS.** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all reasonable expenses even if not taxable as court costs (including, without limitation, all such reasonable fees, costs and expenses incident to bankruptcy and/or appeals), incurred in that action or proceedings, in addition to any other relief to which such party or parties may be entitled.

**SECTION 18. JURY TRIAL.** EACH PARTY HEREBY COVENANTS AND AGREES THAT IN ANY LITIGATION, SUIT, ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED THEREUNDER, THE PERFORMANCE THEREOF, OR THE RELATIONSHIP CREATED THEREBY, WHETHER SOUNDING IN CONTRACT, TORT,

STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THE AGREEMENT WITH ANY COURT, AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY THE OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

**SECTION 19. DUTY TO COOPERATE IN GOOD FAITH.** The parties acknowledge and agree that it is in their best interests and the best interests of the public that this Agreement be performed in strict accordance with the terms, covenants and conditions contained herein; and the parties shall, in all instances, cooperate and act in good faith in complying with all of the terms, covenants and conditions contained herein.

**SECTION 20. COUNTERPARTS.** This Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constitute one Agreement.

**SECTION 21. STATE LAW COMPLIANCE.** The following provisions are included to comply with Florida State Statutes:

- (a) ***Scrutinized Companies.*** Section 287.135 of the Florida Statutes states that a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with the TOWN for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the *Scrutinized Companies that Boycott Israel List*, created pursuant to Section 215.4725 of the Florida Statutes or is engaged in a boycott of Israel; or for One Million Dollars (\$1,000,000.00) or more if, at the time of bidding on submitting a proposal for, or entering into or renewing a contract, the company is on the *Scrutinized Companies with Activities in Sudan List*, the *Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List*, created pursuant to Section 215.473 of the Florida Statutes, or is engaged in business operations in Cuba or Syria. By executing and/or entering into the Agreements, DEVELOPER certifies that it does not and did not at any time since the submission of a response to the TOWN'S initial solicitation participate in a boycott of Israel; that it is not on the *Scrutinized Companies that Boycott Israel List*, *Scrutinized Companies with Activities in Sudan List*, or the *Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List*; and that it does not engage in business operations in Cuba or Syria. DEVELOPER understands that a false certification may subject it to civil penalties, attorneys' fees and costs pursuant to Section 287.135 of the Florida Statutes and that the TOWN may terminate the Agreements at the TOWN'S option if the DEVELOPER is found to have submitted a false certification.
- (b) ***Public Entity Crimes; Convicted Vendor List.*** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal and/or bid on a contract to provide any goods or services to a public entity, may not submit a proposal and/or bid on a contract with a public entity for construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, vendor or consultant under a contract with

any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of the Florida Statutes for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. By executing the Agreements, DEVELOPER certifies that it is not on the convicted vendor list.

- (c) ***Drug-Free Workplace.*** By executing the Agreement(s), DEVELOPER certifies that it has a drug-free workplace and has a substance abuse policy in accordance with and pursuant to Section 440.102 of the Florida Statutes.
- (d) ***E-Verify.*** By entering into the Agreement(s), DEVELOPER becomes obligated to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of the DEVELOPER and any subcontractor hired by the DEVELOPER. If the DEVELOPER enters into a contract with a subcontractor, the subcontractor must provide the DEVELOPER with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of the Agreement(s), or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) Calendar Days after the date of termination. If the Agreement(s) are terminated for a violation of the statute by the DEVELOPER, the DEVELOPER may not be awarded a public contract for a period of one (1) year after the date of termination.
- (e) ***No Consideration of Social, Political, and Ideological Interests.*** DEVELOPER acknowledges receipt of notice from the TOWN of the provisions of Section 287.05701 of the Florida Statutes which prohibits local governments from giving preference to a prospective vendor and/or contractor based on the prospective contractor's social, political or ideological interests or requesting documentation from, or considering, a prospective contractor's social, political, or ideological interests when determining if the prospective contractor is a responsible vendor. DEVELOPER affirms and agrees that the TOWN did not request any documentation about, or give any consideration to, the DEVELOPER'S social, political, or ideological interests in negotiating, awarding, and/or entering into the Agreement(s).
- (f) ***Contracting with Foreign Entities.*** By executing the Agreement(s), DEVELOPER certifies that it is not owned by the government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic (collectively "Foreign Countries of Concern"), nor is it owned by any agency of or any other entity of significant control of any such government. Further, DEVELOPER certifies that no government of a Foreign Country of Concern has a "controlling interest" in DEVELOPER as the term is defined in Section 287.138(1)(a) of the Florida Statutes, nor is the DEVELOPER organized under the laws of a Foreign Country of Concern, nor does the DEVELOPER have its principal place of business located in a Foreign Country of Concern. If the Agreement(s) permit the DEVELOPER to access the personal identifying information of any individual, DEVELOPER agrees to notify the TOWN in advance of any contemplated transaction that would cause DEVELOPER to be disqualified from such access under Section 287.138 of the Florida Statutes.

DEVELOPER agrees to furnish the TOWN with an affidavit signed by an officer or representative of the DEVELOPER under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

**SECTION 22. RECORDATION.** This Agreement shall constitute a covenant running with the Property and be recorded in the Public Records of Polk County, Florida.

*The rest of this page left intentionally blank; signatures follow*

Executed by the parties on the date shown adjacent thereto:

Lauren Durham  
 Witness:  
Lauren Durham  
 Print Name

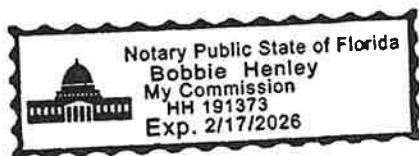
Emily Cassidy  
 Witness:  
Emily Cassidy  
 Print Name

**Developer/Owner:**  
**Cassidy Property Investments,**  
**LLC,**  
**A Florida limited liability company**

By: [Signature]  
 Albert B Cassidy  
 Managing Member  
October 3, 2024  
 Date

STATE OF FLORIDA  
 COUNTY OF Polk

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 3rd day of October, 2024, by Albert B Cassidy as Manager, on its behalf, who is personally known to me or who has produced \_\_\_\_\_ as identification.



[Signature]  
 Notary Public, State of Florida  
 Printed Name: Bobbie Henley  
 My commission expires: \_\_\_\_\_

**Developer/Owner****Weiberg Rd Development, LLC****A Florida limited liability company**

Lauren Durham  
 Witness:  
Lauren Durham  
 Print Name

Emily Cassidy  
 Witness:  
Emily Cassidy  
 Print Name

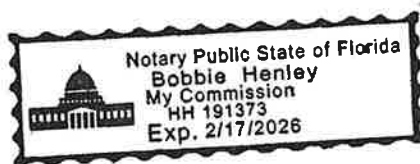
By: [Signature]

Albert S Cassidy  
 Managing Member

October 3, 2024  
 Date

**STATE OF FLORIDA**  
**COUNTY OF Polk**

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 3<sup>rd</sup> day of October, 2024, by Albert S Cassidy as manager, on its behalf, who is personally known to me or who has produced \_\_\_\_\_ as identification.



Bobbie Henley  
 Notary Public, State of Florida  
 Printed Name: Bobbie Henley  
 My commission expires: \_\_\_\_\_



Lauren Durham  
 Witness:  
Lauren Durham  
 Print Name

Emily Cassidy  
 Witness:  
Emily Cassidy  
 Print Name

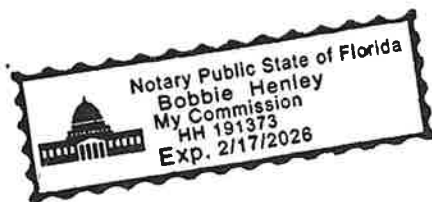
**Developer/Owner:**  
**CH Dev, LLC**  
**A Florida limited liability company**

By: [Signature]  
Albert B Cassidy  
 Managing Member

October 3, 2024  
 Date

**STATE OF FLORIDA**  
**COUNTY OF** Polk

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 3<sup>rd</sup> day of October, 2024, by Albert B Cassidy as manager, on its behalf, who is personally known to me or who has produced \_\_\_\_\_ as identification.



[Signature]  
 Notary Public, State of Florida  
 Printed Name: Bobbie Henley  
 My commission expires: \_\_\_\_\_

*Town of Dundee:*

TOWN OF DUNDEE

By: \_\_\_\_\_  
Sam Pennant, Town Mayor

ATTEST:

\_\_\_\_\_  
Erica Anderson, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Frederick J. Murphy, Jr., Town Attorney



## RESOLUTION NO. 22-30

### **A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, APPROVING THE CERTIFIED SUBDIVISION PLAN (CSP) FOR THE WEIBERG WEST SUBDIVISION WITH CERTAIN CONDITIONS AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the proposed Weiberg West Subdivision (the "Subdivision") is to occur on approximately 57.36 acres which are located north of Ridgewood Avenue, between Scenic Highway and Detour Road, further identified as Polk County Property Appraiser's Parcel Identification Numbers 272821-000000-023010, 272821-000000-021030, 272821-831500-00210, 272821-831500-001010, 272821-831500-011110, 272821-000000-021040, 272821-000000-021010, and 272821-000000-021020; and

**WHEREAS**, the location map for the Subdivision is attached hereto as Exhibit "A" and incorporated herein by reference; and

**WHEREAS**, pursuant to Section 7.01.07 of the Town of Dundee Land Development Code, Cassidy Property Investments, LLC, Weiberg Road Development, LLC, and Richart Family Holdings, LLC submitted a Certified Subdivision Plan (the "CSP") for the Subdivision approval by the Town Commission of the Town of Dundee, Florida; and

**WHEREAS**, the CSP is attached hereto as Exhibit "B" and made a part hereof by reference; and

**WHEREAS**, the CSP includes 208 single-family lots and 2.7 acres of recreational land to be owned and maintained by a Home Owner's Association and/or Community Development District; and

**WHEREAS**, on September 14, 2021, the Town Commission approved a credit for 2.7 acres of privately owned recreation space; and

**WHEREAS**, Cassidy Property Investments, LLC, Weiberg Road Development, LLC, and Richart Family Holdings, LLC, complied with the requirements set forth in Section 7.01.07 of the Town of Dundee Land Development Code regarding the preparation of the CSP for the development of the infrastructure required to be installed for the Subdivision; and

**WHEREAS**, Cassidy Property Investments, LLC, Weiberg Road Development, LLC, and Richart Family Holdings, LLC., request the Town Commission's approval for construction of streets, drainage facilities, and/or other subdivision improvements prior to actual final platting in accordance with the Town of Dundee Land Development Code and the conditions set forth by this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA:**

1. The above factual recitals (WHEREAS clauses) are hereby adopted by the Town Commission of the Town of Dundee as the legislative findings and form a factual and material basis for this Resolution.
2. The Certified Subdivision Plan ("the CSP") for the Weiberg West Subdivision (the "Subdivision") is attached hereto as Exhibit "B" and incorporated herein by reference. The Subdivision is located north of Ridgewood Avenue, between Scenic Highway and Detour Road and further identified as Polk County Property Appraiser's Parcel Identification Numbers 272821-000000-023010, 272821-000000-021030, 272821-831500-00210, 272821-831500-001010, 272821-831500-011110, 272821-000000-021040, 272821-000000-021010, and 272821-000000-021020 and is depicted and incorporated herein by reference, was presented to the Town Commission for approval on the 23rd day of August 2022.

The Town Commission having reviewed the CSP and having been otherwise fully advised in the premises hereby conditionally approves the CSP for construction of utility systems and other required infrastructure in accordance with Section 7.01.07 of the Town of Dundee Land Development Code and the conditions set forth in this Resolution.

3. Parcels 272821-831500-00210, 272821-831500-001010, 272821-831500-011110 are platted as the Lake Estates Sub Pb 21 Pg 1. The rights-of-way included in this plat must be vacated prior to or at time of final plat.
4. No building permits for any structures will be issued until all required infrastructure systems and improvements required by the Town of Dundee Land Development Code, Code of Ordinances, this Resolution, and applicable Florida law are fully operational and have been accepted by the Town and/or appropriate entity with jurisdiction.
5. In the event the construction of the required infrastructure systems and improvements are not complete and accepted by the Town, Final Subdivision Plat approval for the Subdivision shall be conditioned upon the following: (a) a developer's agreement or development agreement shall be approved by the Town Commission, executed by the parties, and recorded in the public records in and for Polk County, Florida; and (b) when approved by the Town, the applicant shall provide the Town with adequate performance security and adequate defect security pursuant to the terms and provisions of a developer's agreement or development agreement.

For purposes of this Resolution, "adequate performance security" and "adequate defect security" shall mean, at a minimum, as follows:


- (a) Adequate performance security shall be satisfactory in form to the Town Attorney and the Town Engineer and the Town's planning staff and be in an amount equal to one hundred and twenty-five (125%) percent of the developer's contract for the work that remains uncompleted and not accepted at the time of final plat or final site development plan approval, as certified in writing by the engineer of record, subject to the approval by the Town's planning staff and the Town Engineer. No more than fifty percent (50%) of the value of the total required improvements for each phase of the development shall be considered for bonding and/or letter of credit given hereunder. Subject to the terms of the applicable agreement, the performance security shall be released by the Town when all private improvements are installed, inspected and approved and when all public improvements are installed, inspected and accepted. When providing a bond for performance security, the bonding company shall have a B+ or better rating in accordance with "Best Bond Book." In the case of a letter of credit, provisions for drawdowns from the letter of credit as improvements are completed and accepted shall accompany the surety. The letter of credit shall have a duration of twenty-four (24) months; and
- (b) Adequate defect security shall warrant and guarantee the materials and workmanship of all infrastructure and infrastructure improvements within the Subdivision that are dedicated to the public, including streets, curb and gutter, sidewalks, potable water distribution system, sanitary sewer collection and transmission system, reclaimed water system and stormwater management system. This guarantee shall be for an amount equal to ten (10) percent (%) of the actual construction costs of improvements and/or other adequate written assurances which are set forth in an applicable developer's agreement or development agreement for the purpose of correcting any construction, design or material defects or failures within public rights-of-way or easements in the development or required off-site improvements. The form and manner of execution of such securities shall be subject to the approval of the Town Attorney. The effective period for such security shall be one (1) year and thirty (30) days following the Town's acceptance of the installed improvements. Upon default, the Town may exercise its rights under the security instrument, upon ten (10) days' written notice by certified mail to the parties to the instrument or as otherwise set forth in an applicable agreement.

6. This Resolution shall take effect immediately upon passage.

Resolution 22-30  
Page 4

**INTRODUCED AND PASSED** by the Town Commission of the Town of Dundee, Florida, this 23<sup>rd</sup> day of August, 2022.

**TOWN OF DUNDEE**



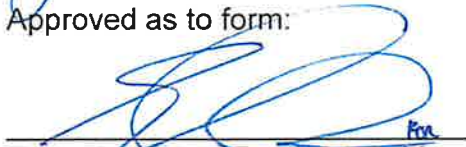
Mayor – Sam Pennant

ATTEST:



Town Clerk – Jenn Garcia

Approved as to form:



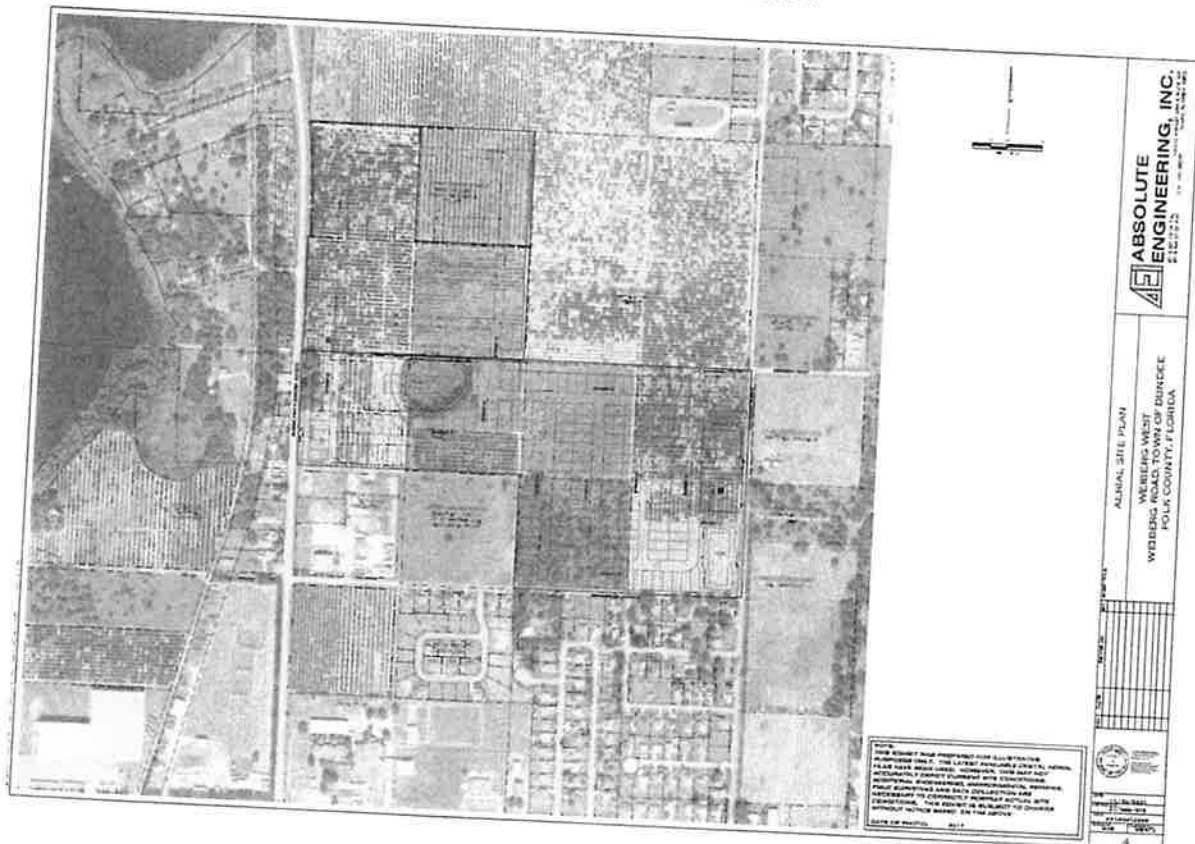
Town Attorney - Frederick J. Murphy, Jr.

**RESOLUTION 22-30 EXHIBIT A  
LOCATION MAP**



Resolution 22-30  
Page 6

**RESOLUTION 22-30 EXHIBIT B  
CERTIFIED SUBDIVISION PLAN**



## HUMAN TRAFFICKING AFFIDAVIT

Florida Statute §787.06(13) requires all nongovernmental entities executing, renewing, or extending a contract with a governmental entity to provide an affidavit signed by an officer or representative of the nongovernmental entity under penalty of perjury that the nongovernmental entity does not use coercion for labor or services as defined in that statute.

As the officers or representatives of the **VENDOR**, we certify that the **VENDOR** identified above does not, for labor or services,

- Use or threaten to use physical force against any person;
- Restrain, isolate, or confine or threaten to restrain, isolate, or confine any person without lawful authority and against his or her will;
- Use lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied towards the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
- Destroy, conceal, remove, confiscate, withhold, or possess any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification, of any person;
- Cause or threaten to cause financial harm to any person;
- Entice or lure any person by fraud or deceit;
- Provide controlled substances as outlined in Schedule I or Schedule II of Florida State Statute §893.03 to any person for the purpose of exploitation of that person.

Cassidy Property Investments, LLC  
Weiberg Road Development, LLC  
CH Dev, LLC

Executed this \_\_\_\_ day of \_\_\_\_\_, 2024.

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

Under penalty of perjury, I hereby declare and affirm that the above stated facts are true and correct.

**STATE OF** \_\_\_\_\_  
**COUNTY OF** \_\_\_\_\_

The foregoing instrument was sworn to and subscribed before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_, ☐ who is personally known to me, or ☐ produced \_\_\_\_\_ as identification.

[AFFIX NOTARY SEAL]

\_\_\_\_\_  
 Notary Public Signature

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

My commission expires: \_\_\_\_\_

THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:

Frederick J. Murphy, Jr., Esquire  
Boswell & Dunlap LLP  
Post Office Drawer 30  
245 South Central Avenue (33830)  
Bartow, FL 33831

## WATER SUPPLY ALLOCATION AGREEMENT

THIS **WATER SUPPLY ALLOCATION AGREEMENT** (THE "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between GLK LAKE TRASK, LLC, an active Florida limited liability corporation, whose address is 346 East Central Ave, Winter Haven, Florida 33880, PHC I Property, LLC an active Florida limited liability corporation, whose address is 346 East Central Ave, Winter Haven, Florida 33880 and Northeast Polk Land Investments, LLC an active Florida limited liability corporation, whose address is 346 East Central Ave, Winter Haven, Florida 33880 ( collectively referred to as the "OWNER"), and the **TOWN OF DUNDEE, FLORIDA**, a municipal corporation created under the laws of the State of Florida ("TOWN").

## RECITALS

1. TOWN owns and operates a central water supply system and provides central water service throughout its exclusive service area.
2. OWNER owns property ("Property") upon which it currently owns and operates well(s) through which groundwater is supplied for agricultural or other uses on the Property. The Property is described in **Exhibit "A"** attached to and incorporated in this Agreement.
3. OWNER proposes to develop the Property which contemplates a conversion of land uses from agricultural or other uses to urban uses.
4. These urban uses will require the extension and delivery of domestic potable water service to the Property.
5. OWNER desires the extension of domestic potable water service to the Property.
6. TOWN is ready, willing, and able to extend such service subject to the terms and conditions of those certain CONCURRENCY DEVELOPER'S AGREEMENTS (collectively the "Agreements") entered into by the OWNER and TOWN regarding the Town's provision of water and wastewater services for the Property as well as other development matter associated with the Property and further subject to transfer of OWNER's water allocation associated with the well(s) located on the Property.
7. The Agreements are attached hereto as **Composite Exhibit "C"** and made a part



hereof by reference.

8. OWNER is willing to agree to such water allocation.
9. The parties agree and acknowledge that each of them is authorized and empowered to enter into this Agreement.

**ACCORDINGLY**, in consideration of the above-referenced Recitals, and other good and valuable consideration the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

**SECTION 1. RECITALS.** The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the entry into this Agreement, and the factual recitals are hereby adopted as the findings supporting the entry into this Agreement between the TOWN and OWNER.

**SECTION 2. WATER ALLOCATION TRANSFER.** The OWNER hereby consents and agrees to transfer and transfers the water allocation (whether surface water, groundwater, or both) allocated by the Southwest Florida Water Management District ("SWFWMD") under consumptive use/water use permit no. 13116 & 3818, as more particularly described in **Exhibit "B"** attached to and incorporated in this Agreement, (and any other unpermitted water allocation associated with any wells on the Property) to the TOWN. The permitting quantity for the well(s) is currently 27,200 & 19,000 gallons per day ("GPD"). OWNER further agrees to transfer said permit to TOWN if necessary to effectuate the transfer of the water allocation to the TOWN and execute any documents and/or take any and all other actions determined necessary by the TOWN in order to effectuate the water allocation transfer of the well(s) and permit(s) to the TOWN as contemplated herein. Provided further that OWNER shall be responsible for any costs and/or actions required by SWFWMD and/or any agencies with jurisdiction in order to effectuate the water allocation transfer of the well(s) and permit(s) to the TOWN as contemplated herein. This transfer shall become effective upon the effective date of this Agreement. The Town, upon credit or increase to the Town WUP from SWFWMD arising out of the transfer of the Wells, shall allocate and assign any increase or credit to the Town's WUP to the Owner, or related entities, on a pro rata basis for the purpose of establishing concurrency for Owner's projects located within the Town's Chapter 180 Utility Service Area.

**SECTION 3. RECORDING.** OWNER agrees that TOWN may record this Agreement in the Public Records of Polk County, Florida.

**SECTION 4. EFFECTIVE DATE.** The Effective Date of this Agreement shall be the date on which the TOWN's governing body approves this Agreement.

**SECTION 5. COVENANT RUNNING WITH THE LAND.** OWNER agrees that its transfer of water allocation is a covenant running with the Property and shall be binding on future owners of the Property.

**SECTION 6. WATER SERVICE.** Upon the receipt of a credit and/or increase in the permitted capacity of Public Supply Water Use Permit (No. 13116.002 & 3818.007) (the "Town WUP") arising out of the transfers (see **Exhibit "B"**) which are the subject of this

Agreement, the TOWN shall provide water service to the OWNER, its successors or assigns for use on the Property.

**SECTION 7. SEVERABILITY.** If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained therein are not materially prejudiced, and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

**SECTION 8. GOVERNING LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The parties agree that the exclusive venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of, concerns, or relates to this Agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, shall be exclusively in the state courts of competent jurisdiction in Polk County, Florida.

**SECTION 9. AUTHORITY TO EXECUTE AGREEMENT.** The signature by any person to this Agreement shall be deemed a personal warranty by that person that he or she has the full power and authority to bind the entity for which that person is signing.

**SECTION 10. CAPACITY.** No specific reservation of water or wastewater capacity is granted by TOWN under this Agreement EXCEPT as specifically stated herein.

**SECTION 11. ARMS LENGTH TRANSACTION.** Both parties have contributed to the preparation, drafting and negotiation of this Agreement and neither has had undue influence or control thereof. Both parties agree that in construing this Agreement, it shall not be construed in favor of either party by virtue of the preparation, drafting, or negotiation of this Agreement.

**SECTION 12. AMENDMENT AND ASSIGNMENT.** This Agreement may not be amended and/or assigned, unless evidenced in writing and executed by the parties hereto and approved by the TOWN's governing body.

**SECTION 13. PUBLIC RECORDS.** The OWNER covenants and agrees to:

13.1 Keep and maintain public records required by the TOWN to perform in accordance with the terms of this Agreement.

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

13.3 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 of the Agreement and/or any amendment(s) issued hereunder if the OWNER does not transfer the records to the TOWN.

13.4 Upon completion of the Agreement and/or any amendment(s) issued hereunder, transfer, at no cost, to the TOWN all public records in possession of the OWNER or keep and maintain public records required by the TOWN to perform the service. If the OWNER transfers all public records to the public agency upon completion of the Agreement and/or any

amendment(s) issued hereunder, the OWNER shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the OWNER keeps and maintains public records upon completion of the Agreement and/or any Amendment(s) issued hereunder, the OWNER shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records, in a format that is compatible with the information technology systems of the TOWN.

**IF THE OWNER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE OWNER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE TOWN'S CUSTODIAN OF PUBLIC RECORDS, LITA O'NEILL, AT 863-438-8330, EXT. 238, [loneill@townofdundee.com](mailto:loneill@townofdundee.com), 202 EAST MAIN STREET, DUNDEE, FLORIDA 33838.**

If the OWNER does not comply with a public records request, the TOWN shall enforce the Agreement and/or any amendment(s) issued hereunder which may include immediate termination of Agreement and/or any amendment(s) issued hereunder. **This Section shall survive the termination of this Agreement.**

*[Remainder of page intentionally left blank]*

**IN WITNESS WHEREOF**, the parties hereto have hereunder executed this Agreement on the date and year first above written.

**ATTEST:**

**TOWN OF DUNDEE, FLORIDA, a  
Florida municipal corporation**

\_\_\_\_\_  
Erica Anderson  
Town Clerk

\_\_\_\_\_  
Samuel Pennant  
Mayor

Approved as to form and correctness:

\_\_\_\_\_  
Frederick J. Murphy, Jr.  
Town Attorney

STATE OF FLORIDA  
COUNTY OF POLK

Before me, by means of ☐ physical presence or ☐ online notarization, the undersigned authority, this day personally appeared SAMUEL PENNANT, as Mayor of the Town of Dundee, Florida, a Florida municipal corporation, ☐ to me well known and known to me to be the individual described in and/or ☐ produced \_\_\_\_\_ as identification and who executed the forgoing instrument, and was authorized on behalf of said Town of Dundee, Florida, a Florida municipal corporation, to execute same, and he severally acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

My Commission expires:

\_\_\_\_\_  
Notary Public in and for the State of Florida at Large

Lauren Durham  
 Witness Signature

Lauren Durham  
 Print witness name

Kristin Cassidy  
 Witness Signature

Kristin Cassidy  
 Print witness name

## OWNER

GLK Lake Trask, LLC

By: Lauren Schwenk  
 Print Name:

Its: Manager

Date: October 3, 2024

[CORPORATE SEAL]

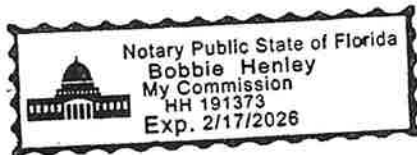
STATE OF FLORIDA  
 COUNTY OF Polk

Before me, by means of ☒ physical presence or ☐ online notarization, the undersigned authority, this day personally appeared Lauren Schwenk, as manager of GLK Lake Trask, a Limited Liability Company who is personally known to me or ☐ produced \_\_\_\_\_ as identification and who executed the forgoing instrument, and was authorized on behalf of said \_\_\_\_\_, a \_\_\_\_\_, to execute same, and (s)he severally acknowledged before me that (s)he executed the same for the purposes therein expressed.

WITNESS my hand and official seal this 3rd day of October, 2024.

My Commission expires:

Bobbie Henley  
 Notary Public in and for the State of Florida at Large





Lauren Durham  
 Witness Signature

Lauren Durham  
 Print witness name

Kristin Cassidy  
 Witness Signature

Kristin Cassidy  
 Print witness name

## OWNER

PHC I Property, LLC

[Signature]  
 By: Lauren Schwenk  
 Print Name:

Its: Manager

Date: October 3, 2024

[CORPORATE SEAL]

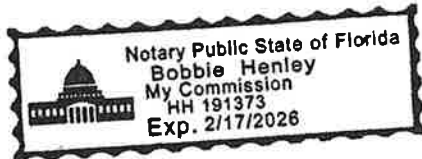
STATE OF FLORIDA  
 COUNTY OF Polk

Before me, by means of ☒ physical presence or ☐ online notarization, the undersigned authority, this day personally appeared Lauren Schwenk, as Manager of PHC I Property, a Limited Liability Corp., who is personally known to me or ☐ produced \_\_\_\_\_ as identification and who executed the forgoing instrument, and was authorized on behalf of said \_\_\_\_\_, a \_\_\_\_\_, to execute same, and (s)he severally acknowledged before me that (s)he executed the same for the purposes therein expressed.

WITNESS my hand and official seal this 3rd day of October, 2024.

My Commission expires:

[Signature]  
 Notary Public in and for the State of Florida at Large



Lauren Durham  
 Witness Signature

Lauren Durham  
 Print witness name

Kristin Cassidy  
 Witness Signature

Kristin Cassidy  
 Print witness name

## OWNER

Northeast Polk Land Investments, LLC

[Signature]

By: Albert B Cassidy  
 Print Name:

Its: Manager

Date: October 3, 2024

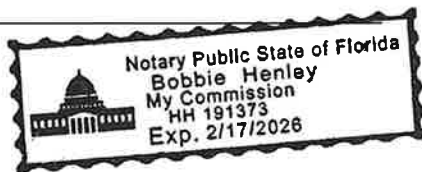
[CORPORATE SEAL]

STATE OF FLORIDA  
 COUNTY OF POLK

Before me, by means of ☒ physical presence or ☐ online notarization, the undersigned authority, this day personally appeared Albert B Cassidy, as manager of Northeast Polk Land Investments a Limited Liability Corp, who is personally known to me or ☐ produced \_\_\_\_\_ as identification and who executed the forgoing instrument, and was authorized on behalf of said \_\_\_\_\_, a \_\_\_\_\_, to execute same, and (s)he severally acknowledged before me that (s)he executed the same for the purposes therein expressed.

WITNESS my hand and official seal this 3<sup>rd</sup> day of October, 2024.

My Commission expires:



Bobbie Henley  
 Notary Public in and for the State of Florida at Large

## EXHIBIT "A"

### The Landing at Lake Trask Ph 2

**DESCRIPTION:** (As prepared by GeoPoint Surveying, Inc.)

The West 3/4s of the South 1/4 of the Northeast 1/4 of Section 22, Township 28 South, Range 27 East, Polk County, Florida, LESS Right of Way for Weiberg Road, being more particularly described as follows:

COMMENCE at the Northwest corner of said Northeast 1/4, run thence along the West boundary of said Northeast 1/4, S 00°21'58" E, a distance of 1996.70 feet to the Northwest corner of the Southwest 1/4 of the Southwest 1/4 of said Northeast 1/4, and the POINT OF BEGINNING; thence along the North boundary of said South 1/4, N 89°25'42" E, a distance of 1985.32 feet to the East boundary of the Southwest 1/4 of the Southeast 1/4 of said Northeast 1/4; thence along said East boundary, S 00°18'57" E, a distance of 654.17 feet to the North Maintained Right of Way of Weiberg Road, according to the Polk County Maintained Right of Way Map of Edwards Road, recorded in Map Book 1, Pages 24 through 26, of the Public Records of Polk County, Florida; thence along said North Maintained Right of Way the following eleven (11) courses: 1) S 89°45'21" W, a distance of 36.87 feet; 2) S 89°10'58" W, a distance of 100.00 feet; 3) S 89°45'21" W, a distance of 100.00 feet; 4) S 88°53'47" W, a distance of 100.00 feet; 5) S 89°28'09" W, a distance of 200.00 feet; 6) S 88°53'47" W, a distance of 100.00 feet; 7) S 89°28'09" W, a distance of 100.00 feet; 8) N 89°57'28" W, a distance of 200.01 feet; 9) S 89°28'09" W, a distance of 100.00 feet; 10) S 89°10'58" W, a distance of 100.00 feet; 11) N 89°57'28" W, a distance of 186.29 feet to the East boundary of the Southwest 1/4 of the Southwest 1/4 of said Northeast 1/4; thence along said East boundary, N 00°20'57" W, a distance of 5.64 feet to the North Right of Way of Weiberg Road by deed exception, being 20.00 feet North of and parallel with the South boundary of said Northeast 1/4; thence along said North Right of Way, S 89°28'09" W, a distance of 661.58 feet to aforesaid West boundary of the Northeast 1/4; thence along said West boundary, N 00°21'58" W, a distance of 645.57 feet to the POINT OF BEGINNING.

Containing 29.682 acres, more or less.



## Landing at Lake Trask Ph 1

### LEGAL DESCRIPTION & DEPICTION OF PROPERTY

**DESCRIPTION:** (As prepared by GeoPoint Surveying, Inc.)

A parcel of land lying in Sections 22 and 23, Township 28 South, Range 27 East, Polk County, Florida, and being more particularly described as follows:

**COMMENCE** at the Southwest corner of said Section 22, run thence along the South line of the Southwest 1/4 of said Section 22, N.89°34'25"E., a distance of 2647.22 feet to the South 1/4 corner of said Section 22 and the **POINT OF BEGINNING**; thence along the East line of said Southwest 1/4, N.00°18'14"W., a distance of 667.29 feet to the South line of the Northeast 1/4 of the Southeast 1/4 of said Southwest 1/4; thence along said South line, S.89°30'28"W., a distance of 661.93 feet to the West line of the East 1/4 of said Southwest 1/4; thence along said West line, N.00°18'53"W., a distance of 1979.58 feet to the South Right of Way of Weiberg Road per deed exception; thence along said South Right of Way the following two (2) courses: 1) N.89°18'34"E., a distance of 662.32 feet to the East line of said Southwest 1/4; 2) N.89°28'09"E., a distance of 661.58 feet to the West line of the Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4 of said Section 22; thence along said West line, N.00°18'11"W., a distance of 4.00 feet to the South Maintained Right of Way of said Weiberg Road, according to the Polk County Maintained Right of Way Map of EDWARDS ROAD, recorded in Map Book 1, Pages 24 through 26 of the Public Records of Polk County, Florida; thence along said South Maintained Right of Way the following eight (8) courses: 1) N.89°28'09"E., a distance of 286.39 feet; 2) N.88°19'25"E., a distance of 100.02 feet; 3) N.89°28'09"E., a distance of 100.00 feet; 4) N.89°10'58"E., a distance of 100.00 feet; 5) N.89°45'21"E., a distance of 100.00 feet; 6) N.89°10'58"E., a distance of 300.00 feet; 7) N.89°45'21"E., a distance of 100.00 feet; 8) N.89°28'09"E., a distance of 236.77 feet to the East line of the Northwest 1/4 of the Northeast 1/4 of said Southeast 1/4; thence along said East line, S.00°18'04"E., a distance of 7.00 feet to the South Right of Way of said Weiberg Road per deed exception; thence along said South Right of Way, N.89°28'09"E., a distance of 661.58 feet to the East line of said Southeast 1/4; thence along said East line, N.00°18'00"W., a distance of 12.47 feet to the South Maintained Right of Way of Edwards Road, according to the Polk County Maintained Right of Way Map of EDWARDS ROAD, recorded in Map Book 10, Pages 31 through 36 of said Public Records; thence along said South Maintained Right of Way the following five (5) courses: 1) N.89°52'50"E., a distance of 103.42 feet; 2) S.88°58'26"E., a distance of 100.04 feet; 3) S.87°15'31"E., a distance of 100.18 feet; 4) N.89°52'50"E., a distance of 300.01 feet; 5) N.88°18'09"E., a distance of 52.06 feet to the East line of the West 1/4 of the Southwest 1/4 of said Section 23; thence along said East line, S.00°19'44"E., a distance of 2648.18 feet to the South line of said Southwest 1/4; thence along said South line, S.89°03'20"W., a distance of 656.92 feet to the Southeast corner of said Section 22; thence along aforesaid East line of the Southeast 1/4 of Section 22, N.00°18'00"W., a distance of 667.68 feet to the

South line of the North 1/2 of the Southeast 1/4 of said Southeast 1/4; thence along said South line, S.89°29'41"W., a distance of 1323.08 feet to the West line of the Southeast 1/4 of said Southeast 1/4; thence along said West line, S.00°18'07"E., a distance of 667.49 feet to the South line of the Southwest 1/4 of said Southeast 1/4; thence along said South line, S.89°30'12"W., a distance of 1323.06 feet to the **POINT OF BEGINNING**.

#### **LESS AND EXCEPT**

**DESCRIPTION:** A parcel of land lying in Section 22, Township 28 South, Range 27 East, Polk County, Florida, and being more particularly described as follows:

**COMMENCE** at the Northwest corner of the Northeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of said Section 22, run thence along the West line thereof, S.00°18'53"E, a distance of 20.00 feet to the South Right-of-Way of Weiberg Road, said point also being the **POINT OF BEGINNING**; thence along said South Right-of-Way, N.89°18'34"E, a distance of 50.00 feet to a point on a line 50.00 feet East of and parallel with the West line of the East 1/4 of the Southwest 1/4 of said Section 22; thence along said parallel line, S.00°18'53"E, a distance of 102.98 feet; thence N.90°00'00"E., a distance of 179.27 feet; thence S.36°19'39"E., a distance of 524.37 feet; thence S.00°30'16"E., a distance of 479.56 feet; thence S.41°56'49"E., a distance of 589.78 feet; thence S.26°37'41"W., a distance of 593.81 feet to the Southeast corner of the Northeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of Said Section 22; thence along the South line thereof, S.89°30'28"W, a distance of 661.93 feet to the Southwest corner of said Northeast 1/4; thence along the West line of the East 1/4 of the Southwest 1/4 of said Section 22, N.00°18'55"W, a distance of 1979.58 feet to the **POINT OF BEGINNING**.

## **EXHIBIT “B”**

### **WATER USE PERMIT LETTER & INFORMATION**



# Town of Dundee

## PUBLIC UTILITIES

◆ 202 E. Main Street ◆ PO Box 1000 ◆ Dundee, Florida 33838 ◆ (863) 438-8330 ◆ Fax (863) 438-8333

August 28, 2024

PH Citrus Property LLC  
Attn: Tyler Bowen  
P.O. Box 1912  
Winter Haven, FL 33883

Dear Mr. Bowen,

This correspondence is to verify that the previously signed agricultural WUP transfer letter dated 10/2/2023, for WUP 13116 permitted 27,200 gallons a day, is still accurate.

Per the attached letter, we show the following DID numbers and permitted quantity of gpd to be transferred to the Town of Dundee for permanent retirement is:

WUP number: 13116

• <u>DID No. 1</u>	<u>27,200 gallons/day (annual avg.)</u>
<u>TOTAL:</u>	<u>27,200 gallons/day (annual avg.)</u>

Please review and confirm that the above information is correct and that no changes to DID Numbers and/or gallons per day need to be made. This will accompany the Town's submittal to Southwest Florida Water Management District (SWFWMD) for transfer of the wells.

Please reply by email to verify that the above information is correct or if changes need to be made, to Melissa Glogowski at [MGlogowski@townofdundee.com](mailto:MGlogowski@townofdundee.com)

If you have any questions or concerns, please contact us at your earliest convenience.

Thank you,

Tracy Mercer  
Public Utilities & Special Projects Director

cc: signed WUP agreement

October 2, 2023

Tandra S. Davis  
Town Manager  
Town of Dundee  
202 Main St.  
Dundee, FL 33838-1000

Dear Ms. Davis:

As signed below, I am the permittee for the below-listed Southwest Florida Water Management District (SWFWMD) Water Use Permit (WUP). The property associated with this WUP is planned to transition from agricultural use to residential development (i.e. Land Use Transition) and will require the public supply of water provided by the Town of Dundee (Town). As such, the agricultural well(s) associated with the WUP listed below will be abandoned and the WUP will be retired in accordance with Southwest Florida Water Management District (SWFWMD) Rules regarding Mitigation Plus Recovery associated with Land Use Transition (LUT).

It is requested that permitted quantities from this agricultural WUP's be utilized by the Town to help offset the Town's potential well withdrawal impacts associated with its Public Supply WUP.

In accordance with the above, it is agreed that the following WUP's will be permanently retired:

- **WUP number:** 13116
- **Development:** Landings at Lake Trask PH2
- **Permittee Name:** PHC I Property, LLC
- **List of all withdrawal points to be retired:** District ID Nos. 1
- Quantities to be retired from each withdrawal point. If only part of the historically used quantities are to be retired, specify what uses are associated with the quantities to be retired:

<b>Withdrawal Point ID:</b>	<b>Permitted Quantity:</b>
• <u>DID No. 1</u>	<u>27,200 gallons/day (annual avg.)</u>
<b><u>Total:</u></b>	<b><u>27,200 gallons/day (annual avg.)</u></b>

As the permittee for the above WUP, which, when retired, will result in an elimination of groundwater quantities from this WUP's withdrawal points. My signature below confirms the following statements:

- It is agreed to permanently retire the historical use indicated for the above WUP.
- The Southwest Florida Water Management District has permission to modify the above WUP to decrease quantities to only those historically used quantities that are not being retired

Oct. 2, 2023

Tandra S. Davis  
Town Manager  
Town of Dundee  
202 Main St.  
Dundee, FL 33838-1000

Dear Ms. Davis:

As signed below, I am the permittee for the below-listed SWFWMD Water Use Permit (WUP) number. The property associated with this WUP is planned for residential development and will require the public supply of water provided by the Town of Dundee (Town). As such, the one agricultural well associated with this WUP will be abandoned and the WUP will be retired.

It is requested that permitted quantities from this agricultural WUP be transferred to the Town to help offset the Town's additional well withdrawals associated with its public supply WUP.

In accordance with the above, it is agreed that the following WUP will be permanently retired:

- WUP number: 13116
- Permittee Name: PHC I Property, LLC
- List of all withdrawal points to be retired: DID Nos. 1
- Quantities to be retired from each withdrawal point. If only part of the historically used quantities are to be retired, specify what uses are associated with the quantities to be retired:

Withdrawal Point ID:    Permitted Quantity:

▪ <u>DID No.1</u>	<u>27,200 gallons/day (annual avg.)</u>
<u>Total:</u>	<u>27,200 gallons/day (annual avg.)</u>

As the permittee for the above WUP, which, when retired, will result in an elimination of groundwater quantities from this WUP's one withdrawal point, my signature below confirms the following statements:

- It is agreed to permanently retire the historical use indicated for the above WUP.
  - The Southwest Florida Water Management District has permission to modify the above WUP to decrease quantities to only those historically used quantities that are not being retired.
- I, the WUP 13116 permittee, agree that the above information is true and correct.

PHC I Property, LLC  
Permittee/Owner

  
\_\_\_\_\_  
Authorized Signature

10/2/23  
\_\_\_\_\_  
Date

Report Cover Page

**Selection Criteria:**

- Permit Number: 13116
- Permit Revision: 2
- Report Name: WUP File of Record Report

The information provided is based on the information available at the time of request. The information is believed to be accurate and complete, but is subject to the accuracy and completeness of information submitted to the District by permittees and other sources and is subject to the specific request made. The District does not warrant that the information is suitable for any particular use.

Report Generation Date: September 09, 2024



**Permit #:** 13116.002  
**Permit Dept:** Bartow  
**Permittee Name:** Phc I Property, LLC/Attn: Joe Braddy  
**Address:** 346 E. Central Ave.  
 Winter Haven, FL 33880  
**Phone:** (863) 324-3698  
**Type:** Small General  
**Class:** Ownership Transfer  
**Project Name:** Ford Property  
**Acres:**

**Application Received:** 08/09/2023  
**Issue Date:** 08/15/2023  
**Expire Date:** 01/04/2028

Owned	Controlled	Serviced	Leased	Total
29.70	0.00	0.00	0.00	29.70

**Total Quantities:**

	Avg GPD	Avg Drought GPD	Peak GPD	Max GPD
<b>Requested</b>	Not Specified	Not Specified	Not Specified	Not Specified
<b>Permitted</b>	27,200	37,100	166,000	423,400

**Pred Use Type:** Agricultural  
**WUCA:** Southern Water Use Caution Area  
**Basin:** Peace River  
**County:** Polk

Referencing:		
Township	Range	Section(s)
28	27	22

**Withdrawals:**

District ID #: 1

User ID: 1

WD Type: Withdrawal of Groundwater

WD Status: Existing

Well Use: Irrigation

Predom. Use: Agricultural

Site Function: Irrigation

Site Operation: No Further Info Necessary

Monitor Type:

Monitor Use:

Stand By Qty	Casing Diam	Casing Depth	Total Depth	WD Avg GPD	WD Peak GPD	WD Max GPD	Latitude	Longitude
	6	0	330	27,200	166,000	423,400	28° 02' 00.57"	81° 36' 05.22"

**Use:**

District ID #	Use Type	Predominant Use Type	Use Avg GPD	Drought GPD	Use Peak GPD	Use Max GPD	Use Acreage	Soil Type	IRR Method
1	Cirrus	Agricultural	27,200	37,100	166,000	423,400	26.70	Candler	Low Volume Under Tree Spray (Leaves)/Sun

Report Cover Page

**Selection Criteria:**

- Permit Number: 13116
- Permit Revision: 1
- Report Name: WUP File of Record Report

The information provided is based on the information available at the time of request. The information is believed to be accurate and complete, but is subject to the accuracy and completeness of information submitted to the District by permittees and other sources and is subject to the specific request made. The District does not warrant that the information is suitable for any particular use.

Report Generation Date: August 09, 2023

**Permit #:** 13116.001  
**Permit Dept:** Bartow  
**Permittee Name:** Ph Citrus Llc / Attn.: Tyler Bowen  
**Address:** Post Office Box 1912  
 Winter Haven, FL 33883  
**Phone:** (863) 557-0449  
**Type:** Small General  
**Class:** Letter Modification  
**Project Name:** Ford Property  
**Acres:**

**Application Received:** 08/19/2014  
**Issue Date:** 09/02/2014  
**Expire Date:** 01/04/2028

Owned	Controlled	Serviced	Leased	Total
29.70	0.00	0.00	0.00	29.70

**Total Quantities:**

	Avg GPD	Avg Drought GPD	Peak GPD	Max GPD
<b>Requested</b>	Not Specified	Not Specified	Not Specified	Not Specified
<b>Permitted</b>	27,200	37,100	166,000	423,400

**Pred Use Type:** Agricultural  
**WUCA:** Southern Water Use Caution Area  
**Basin:** Peace River  
**County:** Polk

Referencing:		
Township	Range	Section(s)
28	27	22

**Withdrawals:**

District ID #: 1

User ID: 1

WD Type: Withdrawal of Groundwater

WD Status: Existing

Well Use: Irrigation

Predom. Use: Agricultural

Site Function: Irrigation

Site Operation: No Further Info Necessary

Monitor Type:

Monitor Use:

Stand By Qty	Casing Diam	Casing Depth	Total Depth	WD Avg GPD	WD Peak GPD	WD Max GPD	Latitude	Longitude
	6	0	330	27,200	166,000	423,400	28° 02' 00.57"	81° 36' 05.72"

**Use:**

District ID #	Use Type	Predominant Use Type	Use Avg GPD	Brought GPD	Use Peak GPD	Use Max GPD	Use Acreage	Soil Type	IRR Method
1	Citrus	Agricultural	27,200	37,100	166,000	423,400	26.70	Candler	Low Volume Under Tree Spray (Levits)/Same



# Town of Dundee

## PUBLIC UTILITIES

◆ 202 E. Main Street ◆ PO Box 1000 ◆ Dundee, Florida 33838 ◆ (863) 438-8330 ◆ Fax (863) 438-8333

August 28, 2024

Northeast Polk Land Investments, LLC  
Attn: Renne Heath  
346 East Central Avenue  
Winter Haven, FL 33880

Dear Mr. Heath,

The attached correspondence is the WUP transfer letter, for WUP 3818 permitted for 19,000 gallons per day.

Please review and confirm that the information is correct and that no additions or changes need to be made. This will accompany the Town's submittal to Southwest Florida Water Management District (SWFWMD) for transfer of the wells.

If the information is accurate, please return the signed well transfer letter to Tracy Mercer, with the Town of Dundee, at your earliest convenience. If any additions or changes need to be made, please contact Melissa Glogowski at [MGlogowski@townofdundee.com](mailto:MGlogowski@townofdundee.com), so that the changes can be made and a letter resent for signature before sending to SWFMD.

If you have any questions or concerns, please contact us at your earliest convenience.

Thank you,

Tracy Mercer  
Public Utilities & Special Projects Director

cc: WUP agreement

April 7, 2023

Tandra S. Davis  
Town Manager  
Town of Dundee  
202 Main St.  
Dundee, FL 33838-1000

Dear Ms. Davis:

As signed below, I am the permittee for the below-listed Southwest Florida Water Management District (SWFWMD) Water Use Permit (WUP). The property associated with this WUP is planned to transition from agricultural use to residential development (i.e. Land Use Transition) and will require the public supply of water provided by the Town of Dundee (Town). As such, the agricultural well(s) associated with the WUP listed below will be abandoned and the WUP will be retired in accordance with Southwest Florida Water Management District (SWFWMD) Rules regarding Mitigation Plus Recovery associated with Land Use Transition (LUT).

It is requested that permitted quantities from this agricultural WUP's be utilized by the Town to help offset the Town's potential well withdrawal impacts associated with its Public Supply WUP.

In accordance with the above, it is agreed that the following WUP's will be permanently retired:

- **WUP number:** 3818
- **Development:** Landings at Lake Trask
- **Permittee Name:** Northeast Polk Land Investments LLC
- **List of all withdrawal points to be retired:** District ID Nos. 1
- Quantities to be retired from each withdrawal point. If only part of the historically used quantities are to be retired, specify what uses are associated with the quantities to be retired:

<b>Withdrawal Point ID:</b>	<b>Permitted Quantity:</b>
• <u>DID No. 1</u>	<u>19,000 gallons/day (annual avg.)</u>
<b><u>Total:</u></b>	<b><u>19,000 gallons/day (annual avg.)</u></b>

As the permittee for the above WUP, which, when retired, will result in an elimination of groundwater quantities from this WUP's withdrawal points. My signature below confirms the following statements:

- It is agreed to permanently retire the historical use indicated for the above WUP.
- The Southwest Florida Water Management District has permission to modify the above WUP to decrease quantities to only those historically used quantities that are not being retired.

Oct. 2, 2023

Tandra S. Davis  
Town Manager  
Town of Dundee  
202 Main St.  
Dundee, FL 33838-1000

Dear Ms. Davis:

As signed below, I am the permittee for the below-listed SWFWMD Water Use Permit (WUP) number. The property associated with this WUP is planned for residential development and will require the public supply of water provided by the Town of Dundee (Town). As such, the one agricultural well associated with this WUP will be abandoned and the WUP will be retired.

It is requested that permitted quantities from this agricultural WUP be transferred to the Town to help offset the Town's additional well withdrawals associated with its public supply WUP.

In accordance with the above, it is agreed that the following WUP will be permanently retired:

- WUP number: 3818
- Permittee Name Northeast Polk Land Investments LLC
- List of all withdrawal points to be retired: DID Nos. 1
- Quantities to be retired from each withdrawal point. If only part of the historically used quantities are to be retired, specify what uses are associated with the quantities to be retired:

Withdrawal Point ID: Permitted Quantity:

• <u>DID No. 1</u>	<u>19,000 gallons/day (annual avg.)</u>
<u>Total:</u>	<u>19,000 gallons/day (annual avg.)</u>

As the permittee for the above WUP, which, when retired, will result in an elimination of groundwater quantities from this WUP's one withdrawal point, my signature below confirms the following statements:

- It is agreed to permanently retire the historical use indicated for the above WUP.
  - The Southwest Florida Water Management District has permission to modify the above WUP to decrease quantities to only those historically used quantities that are not being retired.
- I, the WUP 3818 permittee, agree that the above information is true and correct.



Northeast Polk Land Investments, LLC  
Permittee/Owner



Authorized Signature

10/2/23  
Date

Report Cover Page

Selection Criteria:

- Permit Number: 3818
- Permit Revision: 6
- Report Name: WUP File of Record Report

The information provided is based on the information available at the time of request. The information is believed to be accurate and complete, but is subject to the accuracy and completeness of information submitted to the District by permittees and other sources and is subject to the specific request made. The District does not warrant that the information is suitable for any particular use.

Report Generation Date: August 09, 2023

**Permit #:** 3818.006  
**Permit Dept:** Bartow  
**Permittee Name:** Northeast Polk Land Investments, LLC / Altm: Albert B. Cassidy  
**Address:** 346 E. Central Ave.  
 Winter Haven, FL 33880  
**Phone:** (863) 324-3698  
**Type:** Small General  
**Class:** Ownership Transfer  
**Project Name:** Rubush Groves Inc.  
**Acres:**

**Application Received:** 06/27/2022  
**Issue Date:** 07/06/2022  
**Expire Date:** 02/09/2036

Owned	Controlled	Serviced	Leased	Total
10.12	0.00	10.12		20.24

**Total Quantities:**

	Avg GPD	Avg Drought GPD	Peak GPD	Max GPD
<b>Requested</b>	19,300	Not Specified	132,400	421,900
<b>Permitted</b>	19,000	25,800	115,700	421,900

**Pred Use Type:** Agricultural  
**WUCA:** Southern Water Use Caution Area  
**Basin:** Peace River  
**County:** Polk

Referencing:		
Township	Range	Section(s)
28	27	22

**Withdrawals:**

District ID #: 1

User ID: 1

WD Type: Withdrawal of Groundwater

WD Status: Existing

Well Use: Irrigation

Predom. Use: Agricultural

Site Function: Irrigation

Site Operation: No Further Info Necessary

Monitor Type:

Monitor Use:

Stand By Qty	Casing Diam	Casing Depth	Total Depth	WD Avg GPD	WD Peak GPD	WD Max GPD	Latitude	Longitude
	8	0	610	19,000	115,700	421,900	28° 02' 10.43"	81° 35' 57.63"

**Use:**

District ID #	Use Type	Predominant Use Type	Use Avg GPD	Drought GPD	Use Peak GPD	Use Max GPD	Use Acreage	Soil Type	IRR Method
1	Citrus	Agricultural	19,000	25,800	115,700	421,900	18.60	Candler	Low Volume Spray

**EXHIBIT “C”**  
CONCURRENCY DEVELOPER'S AGREEMENT

## DEVELOPER'S AGREEMENT

THIS DEVELOPER'S AGREEMENT ("Agreement") is made this 12<sup>th</sup> day of November, 2024 by and between the **TOWN OF DUNDEE**, a municipal corporation organized and existing under the laws of the State of Florida (the "Town"), and GLK Lake Trask, LLC, an active Florida limited liability company, PHC I Property, LLC, an active Florida limited liability company, and Northeast Polk Land Investments, LLC, an active Florida limited liability company, whose address is 346 East Central Ave, Winter Haven Florida 33880 (the "Developer").

## FACTUAL RECITALS

**WHEREAS**, Town is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act, Chapter 166 of the Florida Statutes, and Article VIII, §2 of the Florida Constitution; and

**WHEREAS**, Town is vested with governmental, corporate and proprietary powers to enable municipal governments to conduct and perform municipal functions and render municipal services, including the exercise of any power for municipal purposes; and

**WHEREAS**, the Developer is the fee simple owner of the land(s) identified by the Polk County Property Appraiser as Parcel Identification Number(s):

272822-000000-041040, 272822-000000-021030, 272822-000000-021010, 272823-000000-043030, 272823-000000-044010, 272822-000000-021020, 272822-000000-041010, 272822-000000-012040, 272822-000000-014020, 272822-000000-012030, 272822-000000-014010, which totals approximately 234.2 acres (the "Property"); and

**WHEREAS**, the Developer is pursuing residential development of the Property; and

**WHEREAS**, the Landing at Lake Trask Ph 1& 2 Subdivision development (the "Development") which is located within the municipal boundaries of the Town is proposed to be developed on the Property; and

**WHEREAS**, the Public Supply Water Use Permit for the Town (the "Town WUP"), Water Use Permit No. 20005893.012, authorizes the withdrawal of 917,500 gallons per day; and

**WHEREAS**, pursuant to the Town WUP, the Town does not have the permitted capacity to necessary to support the potable water needs and/or demands for the Development; and

**WHEREAS**, Town and Developer acknowledge and agree that the Town is currently unable to provide allocable water capacity for the Development; and

**WHEREAS**, pursuant to applicable provisions of the Code of Ordinances of the Town of Dundee and Town of Dundee Land Development Code, the Town and Developer acknowledge and agree that the facilities and services needed to support the Development are not available; and

**WHEREAS**, Town and Developer acknowledge and agree that, pursuant to Section 7.02.03 of the Town Code, a development order and/or development permit will not be approved for the Development unless a satisfactory concurrency evaluation has been performed in accordance with Section 6.01.00 of the Town Code; and

**WHEREAS**, pursuant to Section 54-9 of the Code of Ordinances of the Town of Dundee (the “Code”), the Town may require a developer/owner to enter into a developer’s agreement which sets forth in detail the terms and conditions under which the Town will provide utility service to the subject real property; and

**WHEREAS**, pursuant to Section 54-9 of the Code and Section 6.01.07.03 of the LDC, a developer’s agreement may be required prior to approval(s) in order to provide for the necessary expansion of the Town’s water treatment facilities to serve the Development; and

**WHEREAS**, pursuant to Section 6.01.07.03 of the LDC, the Town and Developer acknowledge and agree that any Town approval(s) will not create a reservation of potable water plant or network capacity, or a commitment to provide service; and

**WHEREAS**, Town and Developer acknowledge and agree that, on August 23, 2022, at a duly noticed public meeting of the Town of Dundee Town Commission, the Town Commission considered and approved the Interlocal Agreement For The Interconnection of Potable Water Between The City of Winter Haven, Florida, And The Town of Dundee, Florida (the “Interconnect Agreement”); and

**WHEREAS**, on August 23, 2022, at a duly notice public meeting of the Town of Dundee Town Commission, the Town Commission passed and approved Town of Dundee Resolution No. 22-31 (the “Resolution”) conditionally approving the Certified Subdivision Plan (the “CSP”) for the Development; and on September 26, 2023, at a duly notice public meeting of the Town of Dundee Town of Commission, the Town Commission passed and approved the Town of Dundee Resolution No. 23-25 (the “Resolution”) conditionally approving the Certified Subdivision Plan (the “CSP”) for the Development; and

**WHEREAS**, a copy of the Resolution is attached hereto as **Exhibit “A”** and made a part hereof by reference; and

**WHEREAS**, upon the passage of the Resolution (see **Exhibit “A”**), the Developer was authorized to proceed with dry-line construction of the potable water lines to service the Project; and

**WHEREAS**, the Developer acknowledges and agrees that, upon completion of the dry-line construction and other required improvements for the Development, the Town may not be able to provide allocable water capacity for the Development; and

**WHEREAS**, Developer acknowledges, represents, and agrees that it accepts any and all of the risk(s) related to proceeding with the Development; and

**WHEREAS**, Town acknowledges and agrees that the Developer holds fee simple title to an agricultural well (the “Well”); and

**WHEREAS**, the Well has been issued a water use permit granted by the Southwest Florida Water Management District (“SWFWMD”), Water Use Permit No. 13116 & 3818 (the “Developer WUP”); and

**WHEREAS**, the Well provides irrigation water for agricultural uses on 234.2 acres of real property which includes, but is not limited to, the Property; and

**WHEREAS**, Developer offered and agreed to cooperate with the Town and SWFWMD

in transferring the Well and any capacity related thereto to the Town; and

**WHEREAS**, Town and Developer agree to enter into a Water Supply Allocation Agreement (the “Allocation Agreement”) to facilitate the transfer the Well, in accordance with the rules, regulations and requirements set forth by the SWFWMD, and any pro-rata share of the capacity attributable to the Well to the Town; and

**WHEREAS**, Town and Developer acknowledge and agree that, upon receiving a credit or increase to the Town’s WUP from SWFWMD arising out of the transfer of the Developer WUP and/or closing of the Well, any increase or credit to the Town’s WUP will be allocated to the Development on a pro-rata basis; and

**WHEREAS**, on August 23, 2022 and September 26, 2023 the Town of Dundee Town Commission and Developer agreed that, as a condition precedent to its entering into this Agreement, Developer and its successors and permitted assigns indemnify and hold harmless the Town, its elected and appointed officials, employees and agents from any and all damages, claims, and/or other liabilities arising out of the Developer’s construction of dry-lines, the Town’s inability to provide allocable water capacity for the Development, and any subject covered by this Agreement; and

**WHEREAS**, Developer and its successors and assigns agree to indemnify and hold the Town, its elected and appointed officials, employees and agents harmless of and from any and all costs, expenses, damages, liability and claims (including reasonable attorneys’ fees and costs) related to and/or arising out of this Agreement, the Allocation Agreement, and the transfer of the Well to the Town; and

**WHEREAS**, Developer acknowledges and agrees that any provision(s) set forth in this Agreement holding the Town, its elected and appointed officials, employees and agents harmless is intended to be as broad and inclusive as is permitted by the laws of the State of Florida; and

**WHEREAS**, Developer acknowledges, represents, and agrees that the Town’s willingness to enter into this Agreement shall not be construed by the Developer and/or its successors and assigns as a waiver by the Town of applicable law; and

**WHEREAS**, Developer acknowledges, represents, and agrees that this Agreement is intended to and shall constitute a covenant running with the Property; and

**WHEREAS**, The parties acknowledge, represent and agree that the Town and Developer are not partners and/or joint venturers; and

**WHEREAS**, The parties agree that this Agreement shall be liberally construed in favor of the Town; and

**WHEREAS**, Town and Developer represent and agree that good and valuable consideration has been received by the parties for entering into this Agreement, and the Town and Developer acknowledge the sufficiency of the consideration received; and

**WHEREAS**, The Town Commission of the Town of Dundee finds that this Agreement between the Town and Developer to be in the best interests of the public health, safety, and general welfare of the citizens and residents of the Town of Dundee.



**NOW, THEREFORE**, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

**SECTION 1. RECITALS.** The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the entry into this Agreement, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the entry into this Agreement between the Town and Developer.

**SECTION 2. PURPOSE.** The purpose of this Agreement is to acknowledge and memorialize that as of the Effective Date (as defined in 3.12 of this Agreement) of this Agreement, the Town (as defined in 3.2 of this Agreement) performed a concurrency evaluation and determined that it does not have the necessary public facilities and services needed to support the Development (as defined in 3.11 of this Agreement). This Agreement shall therefore establish the respective rights and obligations of the Town, Developer, and any successors-in-interest to the Town and Developer concerning the Development (as defined in 3.11 of this Agreement) and concurrency approval for same.

**SECTION 3. DEFINITIONS.** Term(s) used in this Agreement and/or any exhibits incorporated herein and made a part hereof shall possess the meanings, interpretations and/or definitions assigned herein, provided however, that where one (1) of the following listed terms is used in this Agreement, such term(s) shall possess the corresponding meaning, as follows:

3.1 “*Applicable Law*” means the Town of Dundee Charter, Town of Dundee Code of Ordinances, Town of Dundee Land Development Code, and any and all applicable statutes, laws, rules, regulations, charter provisions, ordinances and resolutions of the United States of America, State of Florida, Polk County, Town of Dundee, and any and all other public authority which may be applicable.

3.2 “*Town*” means the Town of Dundee, Florida.

3.3 “*Dundee Representative*” means the Town Manager, or her/his designated appointee, who is authorized to act on behalf of the Town in the administration of this Agreement. The Dundee Representative does not have the authority to waive or modify any condition or term of this Agreement.

3.4 “*Developer*” means GLK Lake Trask LLC, PHC I Property, LLC and Northeast Polk Land Investments, LLC an active Florida limited liability company authorized to transact business in the State of Florida, and any and all of the successors and permitted assigns of GLK Lake Trask LLC, PHC I Property, LLC and Northeast Polk Land Investments, LLC

3.5 “*Developer Representative*” any agent, employee and/or person with either apparent authority to act on behalf of Developer or the written authorization of Developer to act on its behalf in the administration of this Agreement. The Developer Representative does not have the authority to waive or modify any condition or term of this Agreement.

3.6 “*Town Code*” means the Town of Dundee Code of Ordinances and Town of Dundee Land Development Code.

3.7 “*Day(s)*” means calendar day unless specifically stated otherwise.

3.8 “*Calendar Day(s)*” means all days in a 365-day calendar year.

3.9 “*Business Day(s)*” means each calendar day which is not a Saturday, Sunday or a recognized holiday by the Town of Dundee, Florida.

3.10 “*Town Commission*” means the duly elected Town of Dundee Town Commission and/or governing body of the Town of Dundee.

3.11 “*Development*” means the design, construction, paving, maintenance and improvements performed by the Developer for the Landings at Lake Trask Ph 1 & 2 Subdivision project which are the subject of this Agreement and located on, over, under and across the Property and related to and/or arising out of the Landings at Lake Trask Ph 1 & 2 Subdivision.

3.12 “*Effective Date*” means, for purposes of calculating time periods and the commencement of the term of this Agreement, the date on which the Certified Subdivision Plan for the *Landings a Lake Trask Ph 1 & 2* and Resolution No. 22-31 & 23-25 were approved by the Town Commission at a duly noticed public meeting.

3.13 “*Term*” means the duration of this Agreement which shall commence on the Effective Date and shall expire and/or terminate in accordance with the provisions set forth in **SECTION 16** of this Agreement.

**SECTION 4. OBLIGATIONS.** The parties’ obligations pursuant to this Agreement are stated below:

#### **4.1 Town Obligations.**

4.1.1 Pursuant to the Town Code (as defined by 3.6 of this Agreement) and Applicable Law (as defined by 3.1 of this Agreement), the Development (as defined by 3.11 of this Agreement) shall be subject to development review by the Town; and, in accordance with the development regulations set forth by the Town Code and Applicable Law, upon the payment of the applicable and required fee(s) by or on behalf of the Developer, the Town agrees to review any and all requests for a development order and/or development or construction permit.

4.1.2 To the extent applicable, the Town shall negotiate and enter into a separate Water Supply Allocation Agreement (the “Allocation Agreement”) with the Developer (as defined by 3.4 of this Agreement).

4.1.3 The Town, upon entering into a separate Allocation Agreement with the Developer and receiving a credit or increase to the Public Supply Water Use Permit (No. 13116 & 3818) (the “Town WUP”) from SWFWMD arising out of the transfer of the Well and/or the Developer’s Water Use Permit (No. 13116 & 3818) (the “Developer WUP”), shall allocate and assign any increase or credit to the Town’s WUP will be allocated to the Development on a pro-rata basis.

## 4.2 Developer Obligations.

4.2.1 Pursuant to the Town Code and Applicable Law (as defined by 3.1 of this Agreement), the Developer (as defined by 3.4 of this Agreement) shall apply for and obtain any and all required development orders, development permits and/or development approvals for the Development (as defined by 3.11 of this Agreement).

4.2.2 Pursuant to Section(s) 54-5 and 6.01.07.04 of the Town Code, any new development or improvement located on any parcel of land within the municipal boundaries of the Town or within the Town's water and wastewater service area, shall be required to connect to the Town's water and wastewater system at the time of development.

4.2.3 If mutually determined by the Town and Developer to be applicable, the Developer (as defined by 3.4 of this Agreement) shall negotiate and enter into a separate Allocation Agreement with the Town; and, by entering into the Allocation Agreement, the Developer shall facilitate the transfer the Well, in accordance with the rules, regulations and requirements set forth by the SWFWMD, and any pro-rata share of the capacity attributable to the Well to the Town.

4.2.4 Developer (as defined by 3.4 of this Agreement) releases, acquits and forever discharges the Town, its elected and appointed officials, employees, and agents of and from any and all known or unknown claims, causes of action, suits, debts, dues, sums of money, damages, judgments, and demands whatsoever, in law or in equity, which Developer ever had, now has or hereinafter can, shall or may have against the Town, its elected and appointed officials, employees, and agents by reason of any matter, cause or thing, from the beginning of the world until the date on which this Agreement is terminated and/or expires, which are specifically arising out of the Development. This Release includes, but is not limited to, any case, lien, suit and/or cause of action, including reasonable attorney's fees both trial and appellate, and all other claims Developer ever had, now has or hereinafter can, shall or may have against the Town, its elected and appointed officials, employees, and agents whether arising out of tort, contract, equity, constitution, statute, or other theory of recovery, and whether for compensatory, punitive damages, or for equitable relief which Developer now has, or which may hereafter accrue or otherwise be acquired on account of or in any way growing out of, or which is the subject of the provisions set forth by this Agreement and specifically arising out of the Development.

4.2.5 This Agreement shall be binding on Developer, its successors in interest, and permitted assigns.

4.2.6 The obligations of the Developer shall survive the termination of this Agreement.

## **SECTION 5. DEVELOPER'S ACKNOWLEDGMENT OF RISK.**

5.1 The Developer acknowledges that as of the Effective Date (as defined by 3.12 of this Agreement) the facilities and services needed to support the Development (as defined by 3.11 of this Agreement) are not available concurrently with the impacts of the Development.

5.2 The Developer acknowledges, accepts, and assumes the risk(s) arising out of the Developer proceeding with the Development and installation of "dry-lines;" and, by entering into this Agreement, the Town does not guarantee the availability of allocable potable water capacity for the Development.

**SECTION 6. FURTHER ASSURANCES.** Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

**SECTION 7. BINDING EFFECT.** Except as may be otherwise set forth herein, the terms and provisions of this Agreement shall bind and inure to the benefit of the parties and applicable successors, representatives, heirs, permitted assigns, employees, officers, directors, superintendents, administrators, shareholders and agents. As such, the parties agree that this Agreement shall be binding upon and inure to any and all successors-in-interest to the parties hereto. The parties further acknowledge and agree that, in the event this Agreement omits and/or does not detail all laws, rules, regulations, permits, conditions, terms and restrictions that must be satisfied to complete the Development (as defined by 3.11 of this Agreement), such omission shall not relieve the parties hereto or any successor-in-interest of the obligation to comply with Applicable Law (as defined by 3.1 of this Agreement).

**SECTION 8. MERGER.** This Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein. This Agreement supersedes all prior agreements and development orders pertaining to the subjects covered and/or described herein.

**SECTION 9. NO EFFECT ON CODE VIOLATIONS; NO CONTRACT ZONING.** This Agreement shall not be interpreted to condone, authorize or permit any violation of the Town Code or Applicable Law (as defined by 3.1 of this Agreement). Further, this Agreement shall not be construed as the Town's authorization or acceptance of the status of the present existing structures or uses on the Property, nor shall it be construed as an attempt to contractually zone the Property.

**SECTION 10. TOWN'S POLICE POWERS.** The Developer (as defined by 3.4 of this Agreement) acknowledges and understands that the Town (as defined by 3.2 of this Agreement) is prohibited from engaging in "Contract Zoning" or the bartering away of its legislative prerogative. While the Town will cooperate with Developer as set forth herein, this Agreement does not constitute an approval that would require the exercise of Town's legislative and/or quasi-judicial authority. Provided further, nothing in this Agreement shall serve to affect or limit Town's police powers in the exercise of zoning decisions or other governmental action associated with the Development or any development order associated therewith. As such, this Agreement shall not be construed as a basis for (1) granting or assuring or indicating or (2) refusing to grant or preventing any future grant of land use or zoning approvals, permissions, variances, special exceptions, or rights with respect to the Property.

**SECTION 11. APPLICABLE LAW AND VENUE.** This Agreement and the rights and obligations of the Town (as defined by 3.2 of this Agreement) and Developer (as defined by 3.4 of this Agreement) shall be governed by Florida law. Venue for any litigation pertaining to or arising out of the subject matter hereof shall be exclusively in the state courts of Polk County, State of Florida, in the 10<sup>th</sup> Judicial Circuit.

**SECTION 12. NOTICES.** All notices, demands, requests, consents, approvals, and other communications (collectively referred to as the “Notice”), required or permitted to be given hereunder shall be in writing and sent by either: (i) registered or certified mail, postage prepaid, return receipt requested; or, (ii) special delivery service (e.g. Federal Express, DHL, UPS, etc.); addressed to the party to be so notified as follows:

TOWN: TOWN OF DUNDEE  
Attn: Tandra Davis, Town Manager  
PO Box 1000  
105 Center Street  
Dundee, FL 33838-1000  
Attention: Town Manager

With a copy to (*which shall **not** constitute notice*):

Frederick J. Murphy, Jr.  
Town Attorney, Town of Dundee  
PO Drawer 30  
245 South Central Avenue  
Bartow, FL 33830

DEVELOPER: GLK Lake Trask, LLC  
Lauren Schwenk  
346 E Central Ave  
Winter Haven FL 33880

PHC I Property, LLC  
Lauren Schwenk  
346 E Central Ave  
Winter Haven FL 33880

Northeast Polk Land Investments, LLC  
Albert B Cassidy  
346 E Central Ave  
Winter Haven FL 33880

With a copy to (*which shall **not** constitute notice*):

Absolute Engineering, Inc  
Heather Wertz  
1000 N Ashley Drive Suite 925  
Tampa, FL 33602

Notice shall be effective upon delivery to the above addresses. Either party may notify the other that a new person has been designated by it to receive notice(s), or that the address for the delivery of such notice(s) has been changed, provided that, until such time as the other party receives such notice in the manner provided for herein, any notice addressed to the previously-designated person and/or delivered to the previously-designated address or facsimile number shall be effective.

**SECTION 13. MISCELLANEOUS PROVISIONS.**

13.1 **Exhibits.** All exhibits annexed hereto are incorporated by reference and made a part of the Agreement.

13.2 **Headings.** The heading(s) preceding the several section(s), paragraph(s) and article(s) hereof are solely for convenience of reference and shall not constitute a part of this Agreement, or affect its meaning, construction or effect.

13.3 **Gender Neutral.** For purposes of this Agreement, any and all gender specific references, classifications and/or language shall be interpreted to be gender neutral.

13.4 **Calculation of Time.** The calculation of the number of days that have passed during any time period prescribed shall be based on Calendar Days (unless specified otherwise in this Agreement). Unless otherwise specified in this Agreement, the calculation of the number of days that have passed during any time period prescribed in or by this Agreement shall commence on the day immediately following the event triggering such time period. If the tolling of such a time period is not contingent upon an action or event, the calculation of the number of days that have passed during such time period prescribed in or by this Agreement shall commence on the day immediately following the Effective Date (as defined by 3.12 of this Agreement). For purposes of this Agreement, unless otherwise specified herein, the tolling of any such time period(s) shall be in Calendar Days. In the event any time period or deadline identified in this Agreement expires and/or falls on a Saturday, Sunday or recognized holiday, said expiration and/or deadline shall be automatically tolled until 5:00 pm on the next available Business Day which the Town is open for business to the public.

13.5 **Neutral Interpretation.** Any controversy over the construction of this Agreement shall be decided neutrally and without regard to events of authorship or negotiation.

13.6 **Modification.** This Agreement shall not be modified in any way, unless such modification is in the form of a written amendment properly executed by the parties hereto and approved by the Town's governing body. No oral modifications will be effective or binding on either the Town or Developer regardless of whether the person(s) attempting to make such modifications appeared to have the authority to make such modification. Moreover, in the event state or federal law(s) are enacted after the execution of this Agreement which are applicable to and preclude the parties' compliance with the terms of this Agreement, the parties agree to modify and/or amend this Agreement, to the extent necessary, in order for the parties to perform the obligations set forth herein.

13.7 **Construction.** The parties acknowledge that the Agreement has been fairly negotiated by each party's respective legal counsel and at arm's length; and, as such, the Agreement shall be interpreted in strict accordance with the terms, covenants and conditions set forth herein.

13.8 **Successors and Assigns.** All covenants, agreements, warranties, representations, and conditions contained in this Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of the parties to this Agreement.

13.9 **Disclaimer of Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Town (as defined by 3.2 of this Agreement) and Developer (as defined by 3.4 of this Agreement) and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third-party.

13.10 **Authorization.** The parties represent and warrant to one another that all the necessary action(s) to execute this Agreement have occurred and that the parties possess the legal authority to enter into this Agreement and undertake all the obligations imposed herein.

13.11 **Representations and Warranties.** Each party signing this Agreement represents and warrants that he/she/it has read, understands and acknowledges any and all of the terms, covenants, conditions and requirements set forth herein.

13.12 **Compliance with Applicable Law.** The Developer (as defined by 3.4 of this Agreement) shall comply with Applicable Law (as defined by 3.1 of this Agreement) in performing the obligations and requirements set forth by the Agreement.

13.13 **Severability.** If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared to be severable.

13.14 **No Waiver.** Failure of the Town to enforce any right hereunder shall not be deemed a waiver of such right. The inaction or failure of the Town to address and/or remedy any breach of the covenants, conditions, and/or provisions of this Agreement shall not constitute a waiver of such Town's rights hereunder with respect to such action, non-action, and/or default. No covenant, condition or provision of this Agreement can be waived, except with the written consent of both the Town and Developer. Any such waiver, in one instance, shall not constitute a waiver of a subsequent default or for any other past, present or future default, unless the waiver expressly and specifically states and/or identifies such default.

13.15. **Time is of the Essence.** Time is of the essence for all of the provisions, conditions, and terms of this Agreement.

#### **SECTION 14. PUBLIC RECORDS.** The Developer covenants and agrees to:

14.1 Keep and maintain public records required by the Town to perform in accordance with the terms of this Agreement.

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

14.3 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 of the Agreement and/or any amendment(s) issued hereunder if the Developer does not transfer the records to the Town.

14.4 Upon completion of the Agreement and/or any amendment(s) issued hereunder, transfer, at no cost, to the Town all public records in possession of the Developer or keep and maintain public records required by the Town to perform the service. If the Developer transfers all public records to the public agency upon completion of the Agreement and/or any amendment(s) issued hereunder, the Developer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Developer

keeps and maintains public records upon completion of the Agreement and/or any Amendment(s) issued hereunder, the Developer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

**IF THE DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE TOWN'S CUSTODIAN OF PUBLIC RECORDS, ERICA ANDERSON, AT 863-438-8330, EXT. 258, [eanderson@townofdundee.com](mailto:eanderson@townofdundee.com), 202 EAST MAIN STREET, DUNDEE, FLORIDA 33838.**

If the Developer does not comply with a public records request, the Town shall enforce the Agreement and/or any amendment(s) issued hereunder which may include immediate termination of Agreement and/or any amendment(s) issued hereunder. **This Section shall survive the termination of this Agreement.**

**SECTION 15. NO WAIVER OF SOVEREIGN IMMUNITY.** Nothing herein is intended to act as a waiver of the Town's sovereign immunity and/or limits of liability as set forth in section 768.28, Florida Statutes regardless of whether any such obligations are based in tort, contract, statute, strict liability, and negligence, product liability or otherwise. This provision shall survive the termination of this Agreement.

**SECTION 16. TERMINATION AND REMEDIES.**

16.1 This Agreement shall remain in effect until the completion of the Development (as defined by 3.11 of this Agreement); and, on or before the effective date of the termination of this Agreement, the Development (as defined by 3.11 of this Agreement) and/or any improvements which are the subject of this Agreement shall be required to be in compliance with the conditions and technical requirements set forth by this Agreement and the Town Code (as defined by 3.6 of this Agreement). In the event the Development (as defined by 3.11 of this Agreement) and/or any improvements which are the subject of this Agreement are not in compliance with the conditions and technical requirements set forth by this Agreement and the Town Code, the Town may, at its option, seek any remedy available at law or in equity and/or perform the necessary work and thereafter render an invoice for services to Developer for reimbursement.

16.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party or any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**SECTION 17. ENFORCEMENT COSTS.** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all reasonable expenses even if not taxable as court costs (including, without limitation, all such reasonable fees, costs and expenses incident to bankruptcy and/or appeals), incurred in that action or proceedings, in addition to any other relief to which such party or parties may be entitled.



**SECTION 18. JURY TRIAL.** EACH PARTY HEREBY COVENANTS AND AGREES THAT IN ANY LITIGATION, SUIT, ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED THEREUNDER, THE PERFORMANCE THEREOF, OR THE RELATIONSHIP CREATED THEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THE AGREEMENT WITH ANY COURT, AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY THE OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

**SECTION 19. DUTY TO COOPERATE IN GOOD FAITH.** The parties acknowledge and agree that it is in their best interests and the best interests of the public that this Agreement be performed in strict accordance with the terms, covenants and conditions contained herein; and the parties shall, in all instances, cooperate and act in good faith in complying with all of the terms, covenants and conditions contained herein.

**SECTION 20. COUNTERPARTS.** This Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constitute one Agreement.

**SECTION 21. STATE LAW COMPLIANCE.** The following provisions are included to comply with Florida State Statutes:

- (a) ***Scrutinized Companies.*** Section 287.135 of the Florida Statutes states that a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with the TOWN for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the *Scrutinized Companies that Boycott Israel List*, created pursuant to Section 215.4725 of the Florida Statutes or is engaged in a boycott of Israel; or for One Million Dollars (\$1,000,000.00) or more if, at the time of bidding on submitting a proposal for, or entering into or renewing a contract, the company is on the *Scrutinized Companies with Activities in Sudan List*, the *Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List*, created pursuant to Section 215.473 of the Florida Statutes, or is engaged in business operations in Cuba or Syria. By executing and/or entering into the Agreements, DEVELOPER certifies that it does not and did not at any time since the submission of a response to the TOWN'S initial solicitation participate in a boycott of Israel; that it is not on the *Scrutinized Companies that Boycott Israel List*, *Scrutinized Companies with Activities in Sudan List*, or the *Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List*; and that it does not engage in business operations in Cuba or Syria. DEVELOPER understands that a false certification may subject it to civil penalties, attorneys' fees and costs pursuant to Section 287.135 of the Florida Statutes and that the TOWN may terminate the Agreements at the TOWN'S option if the DEVELOPER is found to have submitted a false certification.

- (b) ***Public Entity Crimes; Convicted Vendor List.*** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal and/or bid on a contract to provide any goods or services to a public entity, may not submit a proposal and/or bid on a contract with a public entity for construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, vendor or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of the Florida Statutes for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. By executing the Agreements, DEVELOPER certifies that it is not on the convicted vendor list.
- (c) ***Drug-Free Workplace.*** By executing the Agreement(s), DEVELOPER certifies that it has a drug-free workplace and has a substance abuse policy in accordance with and pursuant to Section 440.102 of the Florida Statutes.
- (d) ***E-Verify.*** By entering into the Agreement(s), DEVELOPER becomes obligated to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of the DEVELOPER and any subcontractor hired by the DEVELOPER. If the DEVELOPER enters into a contract with a subcontractor, the subcontractor must provide the DEVELOPER with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of the Agreement(s), or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) Calendar Days after the date of termination. If the Agreement(s) are terminated for a violation of the statute by the DEVELOPER, the DEVELOPER may not be awarded a public contract for a period of one (1) year after the date of termination.
- (e) ***No Consideration of Social, Political, and Ideological Interests.*** DEVELOPER acknowledges receipt of notice from the TOWN of the provisions of Section 287.05701 of the Florida Statutes which prohibits local governments from giving preference to a prospective vendor and/or contractor based on the prospective contractor's social, political or ideological interests or requesting documentation from, or considering, a prospective contractor's social, political, or ideological interests when determining if the prospective contractor is a responsible vendor. DEVELOPER affirms and agrees that the TOWN did not request any documentation about, or give any consideration to, the DEVELOPER'S social, political, or ideological interests in negotiating, awarding, and/or entering into the Agreement(s).
- (f) ***Contracting with Foreign Entities.*** By executing the Agreement(s), DEVELOPER certifies that it is not owned by the government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic (collectively "Foreign Countries of Concern"), nor is it owned by any agency of or any other entity of significant control of any such government. Further, DEVELOPER certifies that no government of a Foreign Country of Concern has a "controlling interest" in DEVELOPER as the term is defined in Section 287.138(1)(a) of the Florida Statutes, nor is the DEVELOPER organized under the laws of a Foreign Country of Concern, nor does the

DEVELOPER have its principal place of business located in a Foreign Country of Concern. If the Agreement(s) permit the DEVELOPER to access the personal identifying information of any individual, DEVELOPER agrees to notify the TOWN in advance of any contemplated transaction that would cause DEVELOPER to be disqualified from such access under Section 287.138 of the Florida Statutes. DEVELOPER agrees to furnish the TOWN with an affidavit signed by an officer or representative of the DEVELOPER under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

**SECTION 22. RECORDATION.** This Agreement shall constitute a covenant running with the Property and be recorded in the Public Records of Polk County, Florida.

*The rest of this page left intentionally blank; signatures follow*

Executed by the parties on the date shown adjacent thereto:

**Developer/Owner:**

**GLK LAKE TRASK, LLC,**

**A Florida limited liability company**

Lauren Durham  
 Witness:  
Lauren Durham  
 Print Name

By: [Signature]

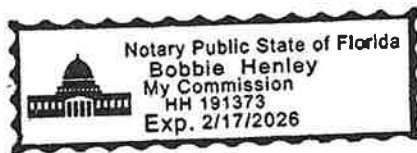
Lauren Schwenk  
 Managing Member

October 3, 2024  
 Date

Kristin Cassidy  
 Witness:  
Kristin Cassidy  
 Print Name

**STATE OF FLORIDA**  
**COUNTY OF Dolk**

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 3rd day of October, 2024, by Lauren Schwenk as manager, on its behalf, who is personally known to me or who has produced \_\_\_\_\_ as identification.



Bobbie Henley  
 Notary Public, State of Florida  
 Printed Name: Bobbie Henley  
 My commission expires: \_\_\_\_\_

*Developer/Owner***PHC I PROPERTY, LLC****A Florida limited liability company**

Lauren Durham  
 Witness:  
Lauren Durham  
 Print Name

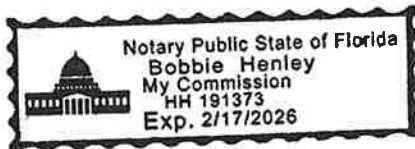
By: [Signature]  
 Lauren Schwenk  
 Managing Member

October 3, 2024  
 Date

Kristin Cassidy  
 Witness:  
Kristin Cassidy  
 Print Name

**STATE OF FLORIDA**  
**COUNTY OF Polk**

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 3<sup>rd</sup> day of October, 2024, by Lauren Schwenk as manager, on its behalf, who is personally known to me or who has produced \_\_\_\_\_ as identification.



Bobbie Henley  
 Notary Public, State of Florida  
 Printed Name: Bobbie Henley  
 My commission expires: \_\_\_\_\_

Developer/Owner:

**NORTHEAST POLK LAND  
INVESTMENT, LLC****A Florida limited liability company**

Lauren Durham  
 Witness:  
Lauren Durham  
 Print Name

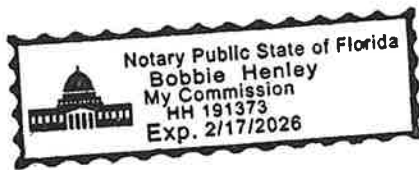
Kristin Cassidy  
 Witness:  
Kristin Cassidy  
 Print Name

By: [Signature]  
Albert B Cassidy  
 Managing Member

October 3, 2024  
 Date

**STATE OF FLORIDA**  
**COUNTY OF POLK**

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 3<sup>rd</sup> day of October, 2024, by Albert B Cassidy as manager, on its behalf, who is personally known to me or who has produced \_\_\_\_\_ as identification.



Bobbie Henley  
 Notary Public, State of Florida  
 Printed Name: Bobbie Henley  
 My commission expires: \_\_\_\_\_

*Town of Dundee.*

TOWN OF DUNDEE

By: \_\_\_\_\_  
Sam Pennant, Town Mayor

ATTEST:

\_\_\_\_\_  
Erica Anderson, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Frederick J. Murphy, Jr., Town Attorney

## RESOLUTION NO. 22-31

### **A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, APPROVING THE CERTIFIED SUBDIVISION PLAN (CSP) FOR THE LANDINGS AT LAKE TRASK PHASE I SUBDIVISION WITH CERTAIN CONDITIONS AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the proposed Landings at Lake Trask Phase I Subdivision (the "Subdivision") is to occur on approximately 211.21 acres which are located at the southeast and southwest corner of the intersection of Alford Road and Weiberg Road, further identified as Polk County Property Appraiser's Parcel Identification Numbers 272822-000000-041040, 272822-000000-020130, 272822-000000-021010, 272823-000000-043030, 272823-000000-044010, 272822-000000-021020, and 272822-000000-041010; and

**WHEREAS**, the location map for the Subdivision is attached hereto as Exhibit "A" and incorporated herein by reference; and

**WHEREAS**, pursuant to Section 7.01.07 of the Town of Dundee Land Development Code, Cassidy Property Investments, LLC, submitted a Certified Subdivision Plan (the "CSP") for the Subdivision for approval by the Town Commission of the Town of Dundee, Florida; and

**WHEREAS**, the CSP is attached hereto as Exhibit "B" and made a part hereof by reference; and

**WHEREAS**, the CSP includes 404 single-family lots and 6.78 acres of recreational land to be owned and maintained by a Home Owner's Association and/or Community Development District; and

**WHEREAS**, on September 14, 2021, the Town Commission approved a credit for 6.78 acres of privately owned recreation space; and

**WHEREAS**, Cassidy Property Investments, LLC, complied with the requirements set forth in Section 7.01.07 of the Town of Dundee Land Development Code regarding the preparation of the CSP for the development of the infrastructure required to be installed for the Subdivision; and

**WHEREAS**, Cassidy Property Investments, LLC, requests the Town Commission's approval for construction of streets, drainage facilities, and/or other subdivision improvements prior to actual final platting in accordance with the Town of Dundee Land Development Code and the conditions set forth by this Resolution.



**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA:**

1. The above factual recitals (WHEREAS clauses) are hereby adopted by the Town Commission of the Town of Dundee as the legislative findings and form a factual and material basis for this Resolution.
2. The Certified Subdivision Plan (the "CSP") for the Landings at Lake Trask Phase I Subdivision (the "Subdivision") is attached hereto as Exhibit "B" and incorporated herein by reference. The Subdivision is located at the southeast and southwest corner of the intersection of Alford Road and Weiberg Road and further identified as Polk County Property Appraiser's Parcel Identification Numbers 272822-000000-041040, 272822-000000-020130, 272822-000000-021010, 272823-000000-043030, 272823-000000-044010, 272822-000000-021020, and 272822-000000-041010 and is depicted by the location map which is attached hereto as Exhibit "A" and incorporated herein by reference. The CSP was presented to the Town Commission for approval on the 23rd day of August 2022.

The Town Commission having reviewed the CSP and having been otherwise fully advised in the premises hereby conditionally approves the CSP for construction of utility systems and other required infrastructure in accordance with Section 7.01.07 of the Town of Dundee Land Development Code and the conditions set forth in this Resolution.

3. No building permits for any structures will be issued until all required infrastructure systems and improvements required by the Town of Dundee Land Development Code, Code of Ordinances, this Resolution and applicable Florida law are fully operational and have been accepted by the Town and/or appropriate entity with jurisdiction.
4. In the event the construction of the required infrastructure systems and improvements are not complete and accepted by the Town, Final Subdivision Plat approval for the Subdivision shall be conditioned upon the following: (a) a developer's agreement or development agreement shall be approved by the Town Commission, executed by the parties, and recorded in the public records in and for Polk County, Florida; and (b) when approved by the Town, the applicant shall provide the Town with *adequate performance security* and *adequate defect security* pursuant to the terms and provisions of a developer's agreement or development agreement.  
For purposes of this Resolution, "*adequate performance security*" and "*adequate defect security*" shall mean, at a minimum, as follows:

- (a) *Adequate performance security* shall be satisfactory in form to the Town Attorney and the Town Engineer and the Town's planning staff and be in an amount equal to one hundred and twenty-five (125%) percent of the

developer's contract for the work that remains uncompleted and not accepted at the time of final plat or final site development plan approval, as certified in writing by the engineer of record, subject to the approval by the Town's planning staff and the Town Engineer. No more than fifty percent (50%) of the value of the total required improvements for each phase of the development shall be considered for bonding and/or letter of credit given hereunder. Subject to the terms of the applicable agreement, the performance security shall be released by the Town when all private improvements are installed, inspected and approved and when all public improvements are installed, inspected and accepted. When providing a bond for performance security, the bonding company shall have a B+ or better rating in accordance with "Best Bond Book." In the case of a letter of credit, provisions for drawdowns from the letter of credit as improvements are completed and accepted shall accompany the surety. The letter of credit shall have a duration of twenty-four (24) months; and

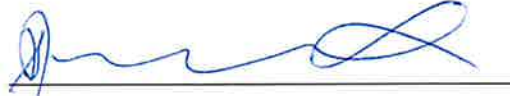
- (b) *Adequate defect security* shall warrant and guarantee the materials and workmanship of all infrastructure and infrastructure improvements within the Subdivision that are dedicated to the public, including streets, curb and gutter, sidewalks, potable water distribution system, sanitary sewer collection and transmission system, reclaimed water system and stormwater management system. This guarantee shall be for an amount equal to ten (10) percent (%) of the actual construction costs of improvements and/or other adequate written assurances which are set forth in an applicable developer's agreement or development agreement for the purpose of correcting any construction, design or material defects or failures within public rights-of-way or easements in the development or required off-site improvements. The form and manner of execution of such securities shall be subject to the approval of the Town Attorney. The effective period for such security shall be one (1) year and thirty (30) days following the Town's acceptance of the installed improvements. Upon default, the Town may exercise its rights under the security instrument, upon ten (10) days' written notice by certified mail to the parties to the instrument or as otherwise set forth in an applicable agreement.

5. This Resolution shall take effect immediately upon passage.

Resolution 22-31  
Page 4

**INTRODUCED AND PASSED** by the Town Commission of the Town of Dundee, Florida, this 23<sup>rd</sup> day of August, 2022.

**TOWN OF DUNDEE**



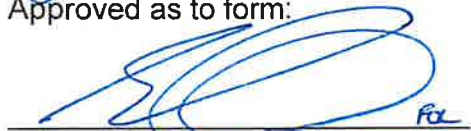
Mayor – Sam Pennant

ATTEST:



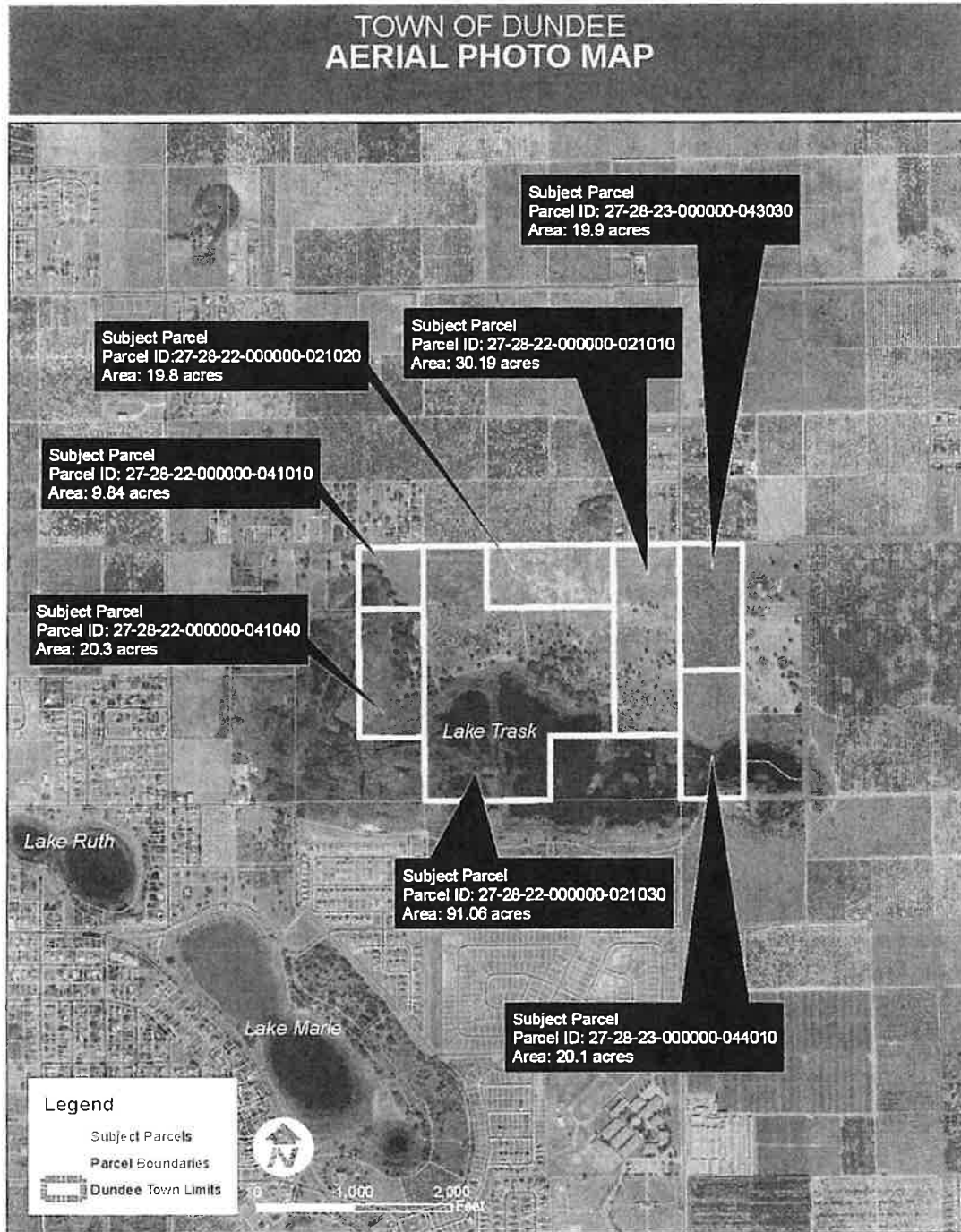
Town Clerk – Jenn Garcia

Approved as to form:



Town Attorney – Frederick J. Murphy, Jr.

## RESOLUTION 22-31 EXHIBIT A LOCATION MAP



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Page 6

**RESOLUTION 22-31 EXHIBIT B  
CERTIFIED SUBDIVISION PLAN**





# TOWN COMMISSION MEETING

May 27, 2025, at 6:30 PM

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<b>AGENDA ITEM TITLE:</b>	DISCUSSION & ACTION, RESOLUTION 25-16 EMERGENCY UTILITY PUMP PURCHASE
<b>SUBJECT:</b>	The Town Commission will consider the emergency procurement of a utility pump
<b>STAFF ANALYSIS:</b>	Circumstances have arisen requiring emergency action on the part of Town of Dundee management to ensure the health, safety, and general welfare of the citizens, employees, and residents of the Town of Dundee, Florida, with the purchase of a new utility pump from C&W Equipment, Repair and Maintenance Inc.
<b>FISCAL IMPACT:</b>	The replacement costs are \$44,800.00
<b>STAFF RECOMMENDATION:</b>	At the will of the Commission
<b>ATTACHMENTS:</b>	Resolution 25-16 Exhibit A

**RESOLUTION NO. 25-16**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA MEMORIALIZING A DECLARATION OF EMERGENCY AS TO THE PURCHASE AND REPLACEMENT OF THE TOWN OF DUNDEE TOWN THREE PHASE UTILITY PUMP FROM C & W EQUIPMENT REPAIR AND MAINTENANCE, INC.; MAKING FINDINGS; MAKING A FINDING OF EMERGENCY UNDER STATE LAW AND SECTION 2-159(c)(2) OF THE CODE OF ORDINANCES OF THE TOWN OF DUNDEE; AND AUTHORIZING THE TOWN MANAGER TO TAKE ANY AND ALL NECESSARY FURTHER ACTIONS INCLUDING, BUT NOT LIMITED TO, NEGOTIATING AND APPROVING AN AGREEMENT WITH C & W EQUIPMENT REPAIR AND MAINTENANCE, INC., FOR THE PURCHASE AND REPLACEMENT OF THE TOWN OF DUNDEE TOWN THREE PHASE UTILITY PUMP; PROVIDING FOR THE INCORPORATION OF FACTUAL RECITALS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Dundee (the "Town") is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution; and

**WHEREAS**, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the Town is vested with governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, including the general exercise of any power for municipal purposes; and

**WHEREAS**, circumstances have arisen requiring emergency action on the part of Town of Dundee management to ensure the health, safety, and general welfare of the citizens, employees, and residents of the Town of Dundee, Florida; and

**WHEREAS**, pursuant to *Section 2-159(3) of the Code of Ordinances of the Town of Dundee, Florida* (hereafter the "Code"), which is entitled *source selection*, an "*emergency purchase*" means a procurement made in response to a requirement when the delay incident for complying with all governing rules, regulations, and procedures would be detrimental to the health, safety and welfare of the town and/or its citizen.

**WHEREAS**, the Town Commission of the Town of Dundee (the "Town

Commission”) acknowledges the health, safety, and general welfare concerns in maintaining the integrity of the Town’s utility services; and

**WHEREAS**, on April 23, 2025, the Town received a proposal from C & W Equipment Repair and Maintenance, Inc., (the “Proposal”) for the purchase and replacement of the *Town of Dundee 75 HP – 3 Phase Utility Pump*; and

**WHEREAS**, a copy of the Proposal is attached hereto as **Exhibit “A”** and made a part hereof by reference; and

**WHEREAS**, the Town Commission acknowledges that the Town has a necessary and immediate need for the emergency purchase and replacement of the *Town of Dundee 75 HP – 3 Phase Utility Pump*; and

**WHEREAS**, on May 13, 2025, at a duly noticed public meeting, the Town Commission acknowledges and agrees that circumstances and conditions existed requiring the Town to direct, authorize, and/or ratify the action(s) of the Town Manager in order to take any and all necessary further action(s) in negotiating, approving, and entering into any necessary agreement(s) arising out of the emergency purchase and replacement of the *Town of Dundee 75 HP – 3 Phase Utility Pump* in order to ensure safe and adequate utility service(s) for the residents and citizens of the Town; and

**WHEREAS**, pursuant to *Section 2-159(3)b of the Code*, the Town Commission acknowledges and agrees that the emergency purchase and replacement of the *Town of Dundee 75 HP – 3 Phase Utility Pump* constitutes an emergency purchase made in order to resolve a situation which is germane to the health, safety, and general welfare of the citizens, employees, and residents of the Town of Dundee; and

**WHEREAS**, pursuant to *Section 2-159(3)b of the Code*, the Commission acknowledges, agrees, and finds that any delay incident to complying with all governing rules, regulations, and procedures would be detrimental to the health, safety and general welfare of the Town of Dundee, its residents, and/or the general public; and

**WHEREAS**, the Town Commission of the Town of Dundee, Florida, finds that the approval and adoption of this **Resolution No. 25-16** is intended to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; is consistent with the public interest; and this **Resolution No. 25-16** is intended to promote, protect, and improve the public health, safety, and general welfare of the citizens and residents of the Town of Dundee, Florida.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA:**

**Section 1. Incorporation of Recitals.**

The above-referenced factual recitals (WHEREAS clauses) and referenced



exhibits are incorporated herein as true and correct statements which form a factual and material basis for the adoption of this **Resolution No. 25-16**, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the adoption of this **Resolution No. 25-16**. The above factual recitals are hereby incorporated herein and serve as a factual and material basis for the passage of this **Resolution No. 25-16**.

## **Section 2. Emergency Finding.**

The Town Commission of the Town of Dundee, Florida (the "Town Commission"), finds that an "*emergency*" as defined in *Section 2-159(c)(2), Code of Ordinances of the Town of Dundee, Florida*, exists as related to the emergency purchase and replacement of the *Town of Dundee 75 HP – 3 Phase Utility Pump* constitutes an emergency purchase made in order to ensure safe and adequate utility service(s) and resolve a situation which is germane to the health, safety, and general welfare of the citizens, employees, and residents of the Town of Dundee, Florida.

The Town Commission finds that, pursuant to *Section 2-159(c)(2), Code of Ordinances of the Town of Dundee, Florida*, the Town is under a significant requirement such that the delay incident in strictly complying with all of the current governing procurement rules, regulations, and procedures would be detrimental to the health, safety and general welfare of the Town of Dundee, its employees, its residents, and/or the general public.

## **Section 3. Authorization.**

Accordingly, the Town Commission directs, authorizes, approves, confirms, and ratifies: (1) the Town Manager's actions in negotiating, approving, and executing on behalf of the Town of Dundee, Florida, an agreement for the emergency purchase and replacement of the *Town of Dundee 75 HP – 3 Phase Utility Pump* in order to ensure safe and adequate utility service(s) to and/or for the residents and citizens of the Town of Dundee, Florida; (2) the Town Manager's actions in selecting **C & W Equipment Repair and Maintenance, Inc.**, for the emergency purchase and replacement of the *Town of Dundee 75 HP – 3 Phase Utility Pump* in accordance with the Proposal (see **Exhibit "A"**) totaling \$44,800.00; (3) the Town Manager's action(s) in negotiating and entering into an agreement with **C & W Equipment Repair and Maintenance, Inc.**, for the purchase and replacement of the *Town of Dundee 75 HP – 3 Phase Utility Pump* on an emergency basis; and (4) the Town Commission of the Town of Dundee, Florida, further waives the requirement of strict compliance with the Town's procurement code for the emergency purchase and replacement of the *Town of Dundee 75 HP – 3 Phase Utility Pump*.

## **Section 4. Administrative Correction of Scrivener's Errors.**

It is the intention of the Town Commission that sections of this **Resolution No. 25-16** may be renumbered or re-lettered and the word "resolution" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions;

and sections of this **Resolution No. 25-16** may be re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the Town Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

**Section 5. Conflicts.**

All resolutions in conflict with this **Resolution No. 25-16** are repealed to the extent necessary to give this **Resolution No. 25-16** full force and effect.

**Section 6. Severability.**

The provisions of this **Resolution No. 25-16** are severable. If any section, subsection, sentence, clause, phrase of this **Resolution No. 25-16**, or the application thereof shall be held invalid, unenforceable, or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. The Town Commission of the Town of Dundee hereby declares that it would have passed this **Resolution No. 25-16**, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid, unenforceable, or unconstitutional, or unenforceable. If any word, sentence, clause, phrase, or provision of this **Resolution No. 25-16** for any reason is declared by any court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, then all remaining provisions and portions of this **Resolution No. 25-16** shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this **Resolution No. 25-16** is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this **Resolution No. 25-16**. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this **Resolution No. 25-16**, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**Section 7. Effective Date.**

This **Resolution No. 25-16** shall take effect immediately upon passage by the Town Commission of the Town of Dundee, Florida.

***[Remainder of page intentionally blank]***

**READ, PASSED AND ADOPTED** at a duly called meeting of the Town Commission of the Town of Dundee, Florida, assembled on the 27th day of May, 2025.

**TOWN OF DUNDEE**

\_\_\_\_\_  
Samuel Pennant, Mayor

ATTEST WITH SEAL:

\_\_\_\_\_  
Erica Anderson, Town Clerk

Approved as to form:

\_\_\_\_\_  
Frederick J. Murphy, Jr., Town Attorney



C & W Equipment Repair and  
Maintenance, Inc.

P.O. Box 463  
Haines City, Fl. 33845  
863-585-7755-Phone  
863-207-4563-Accounting  
*Email: info@cwerm.com*

EXHIBIT A

Item 1.

Item B.

**Proposal**

Date
4/23/2025

Name / Address			
TOWN OF DUNDEE P.O. BOX 1000 DUNDEE, FL. 33838			
<i>This proposal is good for 15 days, thank you for the opportunity to submit this proposal</i>			
Rep		Project	
DEC		RALEY GROVE LIFT STATION	
Description	Qty	Rate	Total
1- 75HP, 460V, 3 PHASE PUMP, 5477500M4-4, 12" DIA IMPELLER, S/N# S89547		44,800.00	44,800.00
***NOTE*** 10-12 WEEKS OUT AFTER ORDERING			
Proposal approved by:			
Name: _____			
Signature: _____			
Material prices may increase depending on the amount of time it takes for proposal to be approved. Currently we are having to check material prices every 3 days due to continued increases.		<b>Total</b> \$44,800.00	
All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed inly upon written or verbal orders, and will become an extra charge over and above the estimate. All agreements contingent upon stikes, accidents or delays beyond our control.			





# TOWN COMMISSION MEETING

May 27, 2025, at 6:30 PM

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<b>AGENDA ITEM TITLE:</b>	DISCUSSION & ACTION, RESOLUTION 25-17 0 SCENIC HWY EASEMENT
<b>SUBJECT:</b>	The Town Commission will consider the approval and acceptance of that certain Utility Easement
<b>STAFF ANALYSIS:</b>	Town staff and Town consultants confirmed that all utility improvements located within the Development, as identified by that certain plat entitled <i>Vista Del Lago Phase II-Replat</i> were completed to the standards set forth by the Town, passed all necessary and required tests, received the necessary and required certifications, and the utility system(s) are operational pursuant to Town standards.
<b>FISCAL IMPACT:</b>	No Fiscal Impact
<b>STAFF RECOMMENDATION:</b>	Staff recommends approval
<b>ATTACHMENTS:</b>	Resolution 25-17 0 Scenic Hwy Utility Easement Exhibits A-C



# Parcel Details: 27-28-27-835500-000392

## Owners [Recently purchased this property? Click here.](#)

RUIZ ARACELIS MARQUEZ 100%

## Mailing Address [\(Address Change form\)](#)

7799 SCENIC HWY  
DUNDEE FL 33838

## Physical Street Address [Why postal city and municipality? Click here.](#)

0 SCENIC HIGHWAY

## Postal City and Zip

DUNDEE FL 33838

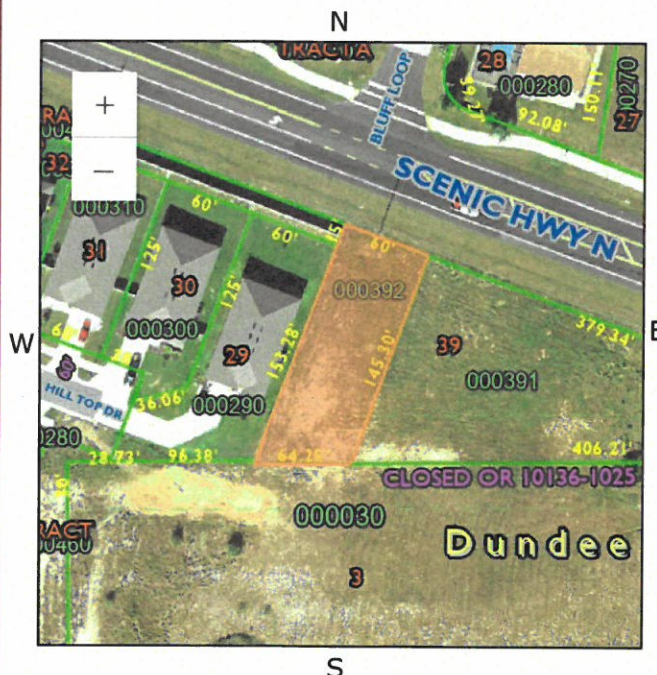
## Parcel Information

Municipality **DUNDEE (Code: 90460)**  
**140630.00**  
 Neighborhood [Search Recent Sales in this Neighborhood](#)  
 Subdivision **FLA HIGHLANDS COMPANY  
SUB PB 1 PG 87**  
 Property (DOR) Use Code **Vac.Res (Code: 0001)**  
 Acreage **0.22**  
[Community Redevelopment Area](#) **NOT IN CRA**

## Property Desc

**DISCLAIMER:** The property description provided is a summary of the original legal description and should not be used for conveying property, as it may render the deed invalid.

## Area Map



## Recorded Plat

[Recorded Plat for this parcel](#)

## Section Maps for 272827

[HTML \(opens in new tab\)](#)

[Printable PDF](#)

## Sales History

**Important Notice:** If you wish to obtain a copy of a deed for this parcel, click on the blue OR Book/Page number. If the Book/Page number does not have a blue link or if the document is restricted, it may not be available online. Please contact the Polk County Clerk Indexing Department at 863-534-4516. If the Type Inst is an "R", please contact the Property Appraiser at 863-534-4765 to order "R" type instruments.

OR Book/Page	Date	Type Inst	Vacant/Improved	Grantee	Sales
<a href="#">13381/01064</a>	12/2024	W	I	RUIZ ARACELIS MARQUEZ	\$319,145
<a href="#">13381/01061</a>	12/2024	W	V	SIGNATURE HOMES & LAND DEVELOPMENT	\$52,000

10136/01025	04/2017	M	V	OWNER OF RECORD	Item 2.
09640/00353	09/2015	W	V	AG INVESTMENTS OF POLK COUNTY LLC	\$90,000
08240/01999	10/2010	C	V	PERM 4 LLC	\$0
08208/00144	08/2010	W	V	PERM 4 LLC	\$375,000
6446/0717	10/2005	W	V	PRECISION LAND INVESTMENTS INC	\$1,151,700
5698/1810	03/2004	W	V	VISTA DEL LAGO OF POLK COUNTY LLC	\$842,900
3456/0025	10/1994	W	V	ALT 27 DUNDEE GROVES PARTNETSHIP	\$35,150

## Exemptions

**Note:** The drop down menus below provide information on the amount of exemption applied to each taxing district. The HX—first \$25,000 homestead exemption may be allocated to one or more owners. The HB second amended homestead exemption reflects the name of the first owner only.

Code	Bld. #	Description	% Ownership	Renew Cd	Year Name	Note	Value
------	--------	-------------	-------------	----------	-----------	------	-------

## PERMITS

Please contact the [appropriate permit issuing agency](#) to obtain information. This property is located in the **DUNDEE** taxing district.

## Land Lines

LN	Land Description	Ag/GreenBelt	Land Unit Type	Front	Depth	Units
1	* RESIDENTIAL	N	ACREAGE	0	0	0.22
* For Zoning/Future Land Use contact Polk County or the Municipality the parcel is located in.						

**NOTICE: All information ABOVE this notice is current (as of Thursday, May 22, 2025 at 2:09:24 AM). All information BELOW this notice is from the 2024 Tax Roll, except where otherwise noted.**

## Value Summary (2024)

Desc	Value
LAND VALUE	\$8,560
BUILDING VALUE	\$0
EXTRA FEATURES VALUE	\$0
JUST MARKET VALUE	\$8,560
AG CLASSIFIED LAND VALUE	\$0
AGRICULTURE CLASSIFICATION SAVINGS	\$0
* HOMESTEAD CAP AND SOH PORTABILITY SAVINGS	\$61
ASSESSED VALUE	\$8,499
EXEMPTION VALUE (COUNTY)	\$0
TAXABLE VALUE (COUNTY)	\$8,499

\*This property contains a Non Homestead Cap with a differential of \$61.

## Values by District (2024)

District Description	Just Market Value	Assessed Value	Exemption	Final Tax Savings	Taxable Value	Final Tax Rate	Final Taxes
----------------------	-------------------	----------------	-----------	-------------------	---------------	----------------	-------------



COUNTY COMMISSIONERS	\$8,560	\$8,499	\$0	\$0.00	\$8,499	6.634800	Item 2.
POLK COUNTY SCHOOL BOARD - STATE	\$8,560	\$8,560	\$0	\$0.00	\$8,560	3.048000	\$26.09
POLK COUNTY SCHOOL BOARD - LOCAL	\$8,560	\$8,560	\$0	\$0.00	\$8,560	2.248000	\$19.24
TOWN OF DUNDEE	\$8,560	\$8,499	\$0	\$0.00	\$8,499	7.900000	\$67.14
SOUTHWEST FLA WATER MGMT DIST	\$8,560	\$8,499	\$0	\$0.00	\$8,499	0.190900	\$1.62
				<b>Tax Savings:</b>	<b>\$0.00</b>	<b>Total Taxes:</b>	<b>\$170.48</b>

### Non-Ad Valorem Assessments (2024)

LN	Code	Desc	Units	Rate	Assessment
1	FC460	DUNDEE FIRE PROTECTION	1.00	9.00	\$9.00
2	ST460	DUNDEE STORMWATER UTILITY	1.00	34.50	\$34.50
<b>Total Assessments</b>					<b>\$43.50</b>

### Taxes

Desc	Last Year (2023)	2024 Final
Taxing District	DUNDEE/SWFWMD (Code: 90460)	DUNDEE/SWFWMD (Code: 90460)
Millage Rate	20.1975	20.0217
Ad Valorem Assessments	\$159.38	\$170.48
Non-Ad Valorem Assessments	\$43.50	\$43.50
<b>Total Taxes</b>	<b>\$202.88</b>	<b>\$213.98</b>

Your final tax bill may contain Non-Ad Valorem assessments which may not be reflected on this page, such as assessments for roads, drainage, garbage, fire, lighting, water, sewer, or other governmental services and facilities which may be levied by your county, city or any other special district. [Visit the Polk County Tax Collector's site for Tax Bill information related to this account.](#)

### Prior Year Final Values

The Final Tax Roll is the 1st certification of the tax rolls by the Value Adjustment Board, [per Florida Statute 193.122\(2\), F.S.](#) This is the date all taxable property and tax rolls are certified for collection to the Tax Collector. Corrections made after this date are not reflected in the Final Tax Roll Values.

#### 2023

LAND VALUE	\$8,341.00
BUILDING VALUE	\$147
EXTRA FEATURES VALUE	\$0.00
JUST MARKET VALUE	\$8,341.00

ASSESSED VALUE	\$7,726.00
EXEMPTION VALUE (COUNTY)	\$0.00
TAXABLE VALUE (COUNTY)	\$7,726.00
<b>2022</b>	
LAND VALUE	\$7,024.00
BUILDING VALUE	\$0.00
EXTRA FEATURES VALUE	\$0.00
JUST MARKET VALUE	\$7,024.00
HOMESTEAD CAP AND SOH PORTABILITY SAVINGS	\$0.00
ASSESSED VALUE	\$7,024.00
EXEMPTION VALUE (COUNTY)	\$0.00
TAXABLE VALUE (COUNTY)	\$7,024.00

**DISCLAIMER:**

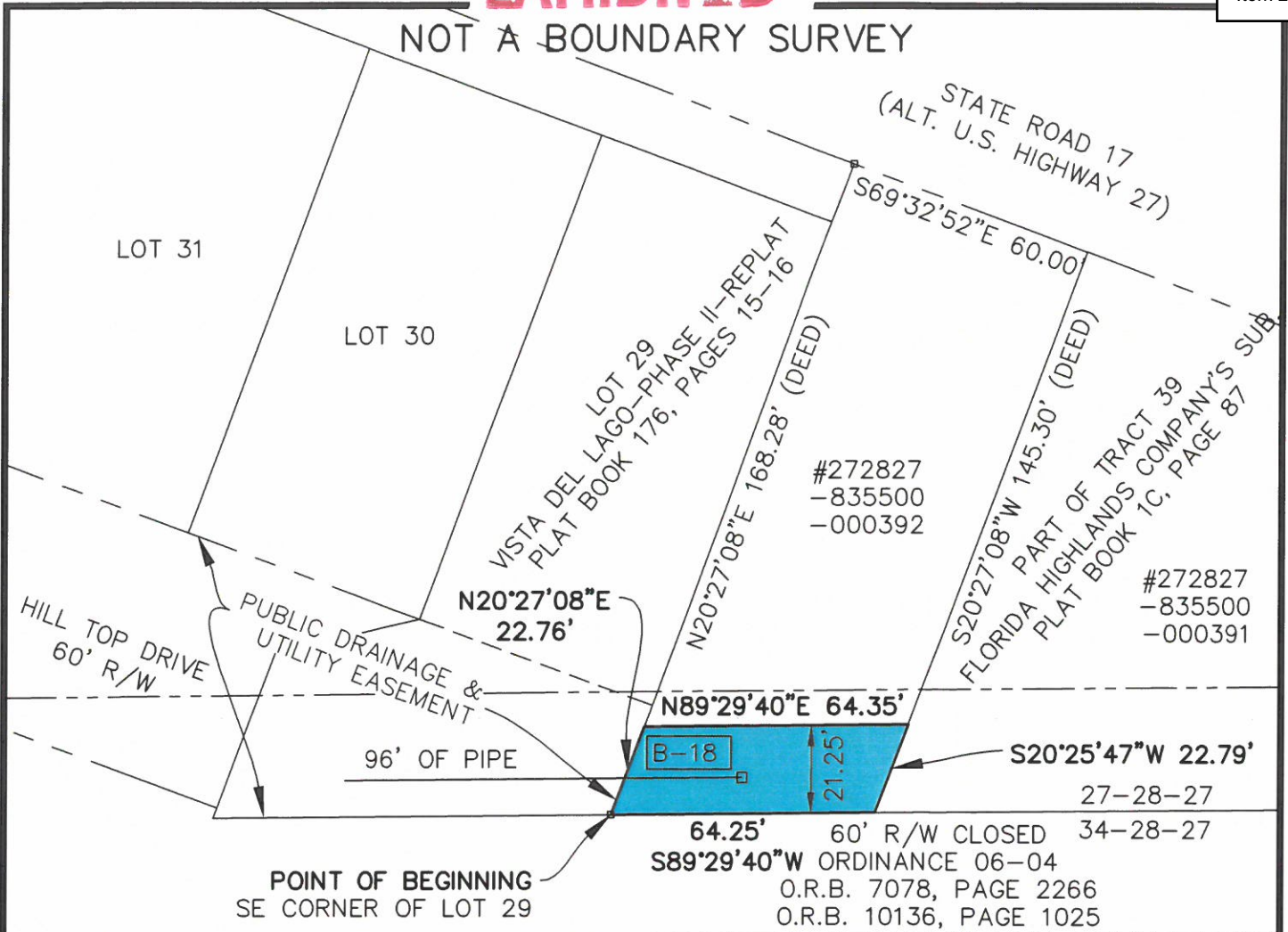
The Polk County Property Appraiser makes no representations or warranties regarding the completeness and accuracy of the data herein, its use or interpretation, the fee or beneficial/equitable title ownership or encumbrances of the property, and assumes no liability associated with its use or misuse. See the posted Site Notice.

Last Updated: Thursday, May 22, 2025 at 2:09:24 AM





NOT A BOUNDARY SURVEY



## LEGEND

B-18 ☐ STORM INLET  
☐ PRM  
☒ EASEMENT

DESCRIPTION:

THE SOUTH 21.25 FEET OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 13381, PAGE 1064 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF LOT 29 OF VISTA DEL LAGO—PHASE II—REPLAT AS RECORDED IN PLAT BOOK 176, PAGE 15 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE ALONG THE EAST LINE OF SAID LOT 29, N20°27'08"E A DISTANCE OF 22.76 FEET; THENCE LEAVING SAID EAST LINE, N89°29'40"E A DISTANCE OF 64.35 FEET TO THE EAST LINE OF SAID PARCEL; THENCE ALONG THE EAST LINE OF SAID PARCEL, S20°25'47"W A DISTANCE OF 22.79 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL; THENCE ALONG THE SOUTH LINE OF SAID PARCEL, S89°29'40"W A DISTANCE OF 64.25 FEET TO THE **POINT OF BEGINNING.**

SAID EASEMENT CONTAINS 1367.7 SQUARE FEET, MORE OR LESS.

ALAN L. RAYL, PE, PSM



PREPARED FOR:

TOWN OF DUNDEE  
202 EAST MAIN STREET  
DUNDEE, FLORIDA 33838

SHEET TITLE:

PROJECT TITLE: SCENIC HIGHWAY  
DESCRIPTION SKETCH  
PUBLIC DRAINAGE & UTILITY EASEMENT

JOB NO.	
---------	--

25-111

DATE:

**E: MARCH, 2024**

DRAWN BY:

JPT

CHECKED BY:

AR



NORTH  
SCALE 1"=40'

1 OF 1

150





PARCEL ID. # (See Composite Exhibit "A")

## UTILITY EASEMENT

**THIS UTILITY EASEMENT** (hereinafter the "Easement") made this \_\_\_\_\_ day of \_\_\_\_\_, 2025, between the **ARACELIS MARQUEZ RUIZ**, a single person, with a mailing address of 7799 Scenic Highway, Dundee, Florida 33838 (hereinafter referred to as the "Grantor"), and the **TOWN OF DUNDEE**, a municipal corporation under the laws of the State of Florida, with an address of 202 East Main Street, Dundee, FL 33838 (hereinafter the "Grantee").

**WITNESSETH:** That the Grantor, in consideration of the sum of Ten Dollars (\$10.00); and other valuable considerations paid, the receipt of which is hereby acknowledged, hereby grants unto the Grantee, its successors and assigns, a **perpetual Utility Easement**, to access, install, construct operate, repair, replace and/or maintain water, wastewater and/or re-claimed water line(s) and related infrastructure and/or facilities, in, under, over, upon and through the property described below and to access for the limited purposes of performing emergency repairs to storm water utility line(s) and related infrastructure and/or facilities in, under, over, upon and through the following described land in Polk County, Florida, as shown on **Exhibit "B"** attached hereto and incorporated herein by reference.

**See Legal Description and Sketch as Composite Exhibit "B" attached hereto and incorporated herein by reference,**

(hereinafter the "Easement Area").

The Easement includes and reserves unto the Grantee ingress and egress in, over, under, upon and through the Easement Area and any tract(s), easement(s), private drainage easement(s), and the private utility easement(s) for the Grantee's provision of water, wastewater, re-claimed water, stormwater utility services, including doing such work and repair as may be necessary underground and under the surface of the Easement Area subject to the limitations in the Easement as to stormwater utility matters (see **Exhibit "B"**), provided that the Town of Dundee shall not be obligated to replace or restore any surface improvements on and/or within the Easement Area which the Town of Dundee does not own and which may have been damaged or removed as a result of such work, and the Town of Dundee shall only be obligated to replace or restore the surface of the Property (other than where the Town's infrastructure and facilities are above grade) to its natural or improved state. The Grantor shall have the right and duty to replace and restore any surface improvements on and/or within the Easement Area and to maintain the surface of the Easement Area subject to this Easement, excepting only the above-grade Town of Dundee infrastructure and facilities.

The stormwater drainage easement(s), drainage and retention easement(s), and the drainage and access for maintenance easement(s) related to stormwater utility line(s) and related infrastructure

which are provided for herein are for the sole purpose of providing emergency maintenance and repair(s) to and/or for the stormwater utility line(s) and related infrastructure as Grantee determines within its sole discretion may be necessary to protect public improvements, together with the right, but not the obligation, to perform emergency maintenance and repair(s) to such stormwater utility line(s) and related infrastructure located on and/or within the Easement Area (see **Exhibit "B"**). **Other than emergency maintenance that the Grantee determines within its sole discretion is necessary to perform to protect public improvements as identified above, the Grantee shall not be responsible for the maintenance of any part of the stormwater line(s) and related infrastructure located on and/or within the Easement Area.**

This Easement includes and reserves unto the Grantee ingress and egress in, over, under, upon and through the Easement Area in order to perform any such work and repair as may be necessary underground and under the surface of the Easement Area as set forth herein that Grantee determines within its sole discretion is necessary.

Grantor shall not place any landscaping, fences, structures or other obstructions, albeit temporary or permanent, within this Easement Area that would in any way hinder, delay, or impair the access and/or operation and maintenance of the utilities within the Easement Area.

Grantor acknowledges and represents that, by voluntarily granting this Easement, it has knowingly and voluntarily abandoned, released, and waived the development right(s), if any, which passed to Grantor with the conveyance of the fee simple interest of the parent tract.

This Easement shall be perpetual.

The Grantor covenants with the Grantee that it is lawfully seized and/or is a duly authorized representative of said lands and that it has good, right, and lawful authority to grant this Easement.

The Grantor and Grantee acknowledge and represent that, in the event of a mistake by one or both parties to this Easement as to the identity, situation, boundary, title, amount, or value of the Easement set forth herein and conveyed, any such mistake shall be considered mutual and equity will reform this Easement in order to conform to the intent of Grantor and Grantee as if the mistake did not occur.

*[Rest of page intentionally left blank]*

IN WITNESS WHEREOF the Grantor hereunto set his/her/their hand and seal this \_\_\_\_ day  
of \_\_\_\_\_ A.D. 2025

Item 2.

Signed, sealed, and delivered  
in the presence of:

**ARACCELIS MARQUEZ RUIZ,**  
a single person

\_\_\_\_\_  
↑ Witness signature ↑

Print witness name: \_\_\_\_\_

\_\_\_\_\_  
↑ Witness signature ↑

Print witness name: \_\_\_\_\_

Note: Two (2) witness signatures required, notary on reverse side may sign as a witness above.

**STATE OF FLORIDA**  
**COUNTY OF POLK**

Before me, the undersigned authority, this day personally appeared, by means of ☐ physical presence  
or ☐ online notarization, \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a Florida \_\_\_\_\_,  
who is ☐ personally known to me or ☐ who produced a driver's license as identification, and who  
executed the foregoing instrument, and acknowledged to and before me that he executed said  
instrument for the purposes therein expressed.

WITNESS my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2025.

My Commission expires:

\_\_\_\_\_  
Notary Public in and for the State of Florida at Large

(AFFIX NOTARY SEAL)



EXHIBIT A

Prepared by and return to:

This instrument prepared by: Linda Holewinski  
 Real Estate Title Services, Inc.  
 32 Third Street, SW  
 Winter Haven, FL 33880  
 (863) 299-6942  
 File No.: 24-0381

INSTR # 2024293230  
 BK 13381 Pgs 1064-1065 PG(s)2  
 12/30/2024 11:07:47 AM  
 STACY M. BUTTERFIELD,  
 CLERK OF COURT POLK COUNTY  
 RECORDING FEES 18.50  
 DEED DOC 2,233.00

[Space Above This Line For Recording Data]

## WARRANTY DEED

**This Warranty Deed** Made this 19th day of December, 2024 by Signature Homes & Land Development of Florida LLC, a Florida Limited Liability Company, hereinafter called the grantor, whose post office address is: 522 Magnolia Ave, Auburndale, FL 33823

to: Aracelis Marquez Ruiz, a single person, whose post office address is: 7799 Scenic Hwy, Dundee, FL 33838, hereinafter called the grantee,

**WITNESSETH:** That said grantor, for and in consideration of the sum of Ten (\$10.00) Dollars, and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situated in Polk County, Florida, viz:

A tract of parcel of land lying in a portion of Section 27, Township 28 South, Range 27 East, Polk County, Florida and being more particularly described as follows: Commence at the Northeast corner for Lot 29, VISTA DEL LAGO - PHASE II - REPLAT, as recorded in Plat Book 179, Page 16, of the Public Records for Polk County, Florida, said point lying on the Southerly right of way boundary for State Road 17 (Alternate U.S. Highway No. 27), said right of way shown on Florida Department of Transportation Right-of-Way Map for Section 1609, Sheet 15; run thence South 69°32'52" East along said right of way boundary a distance of 60.00 feet; thence departing said right of way run South 20°27'08" West a distance of 145.30 feet to a point on the South boundary for said Section 27; thence run South 89°29'40" West along said South boundary line a distance of 64.25 feet to the Southeast corner for aforesaid Lot 29; thence run North 20°27'08" East along the Easterly boundary for said Lot 29 a distance of 168.28 feet to the Point of Beginning. Described tract or parcel being a portion of Lot or Tract 39 of Florida Highlands Company's Subdivision, as recorded in Plat Book 1C, Page 87, of the Public Records for Polk County, Florida.

Parcel Identification Number: 272827-835500-000392

**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 the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to 12/31/2024, reservations, restrictions and easements of record, if any.

(The terms "grantor" and "grantee" herein shall be construed to include all genders and singular or plural as the context indicates)

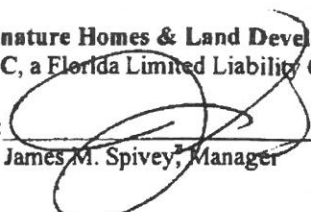
**IN WITNESS WHEREOF**, Grantor has hereunto set grantor's hand and seal the day and year first above written.


## Warranty Deed... continued

Signed, Sealed and Delivered in Our Presence:

  
 Witness  
 Printed Name: AUBREY BREWER  
 P.O. Address: 32 Third St., SW  
 Winter Haven, FL 33880

Signature Homes & Land Development of Florida  
 LLC, a Florida Limited Liability Company

By:   
 James M. Spivey, Manager

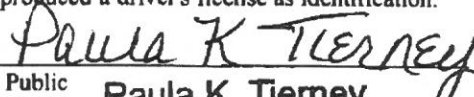
  
 Witness  
 Printed Name: Paula K. Tierney  
 P.O. Address: 32 Third St., SW  
 Winter Haven, FL 33880

State of Florida  
 County of Polk

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 19th day of December, 2024 by James M. Spivey, Manager of Signature Homes & Land Development of Florida LLC who ☐ is personally known or ☒ has produced a driver's license as identification.

[Seal]



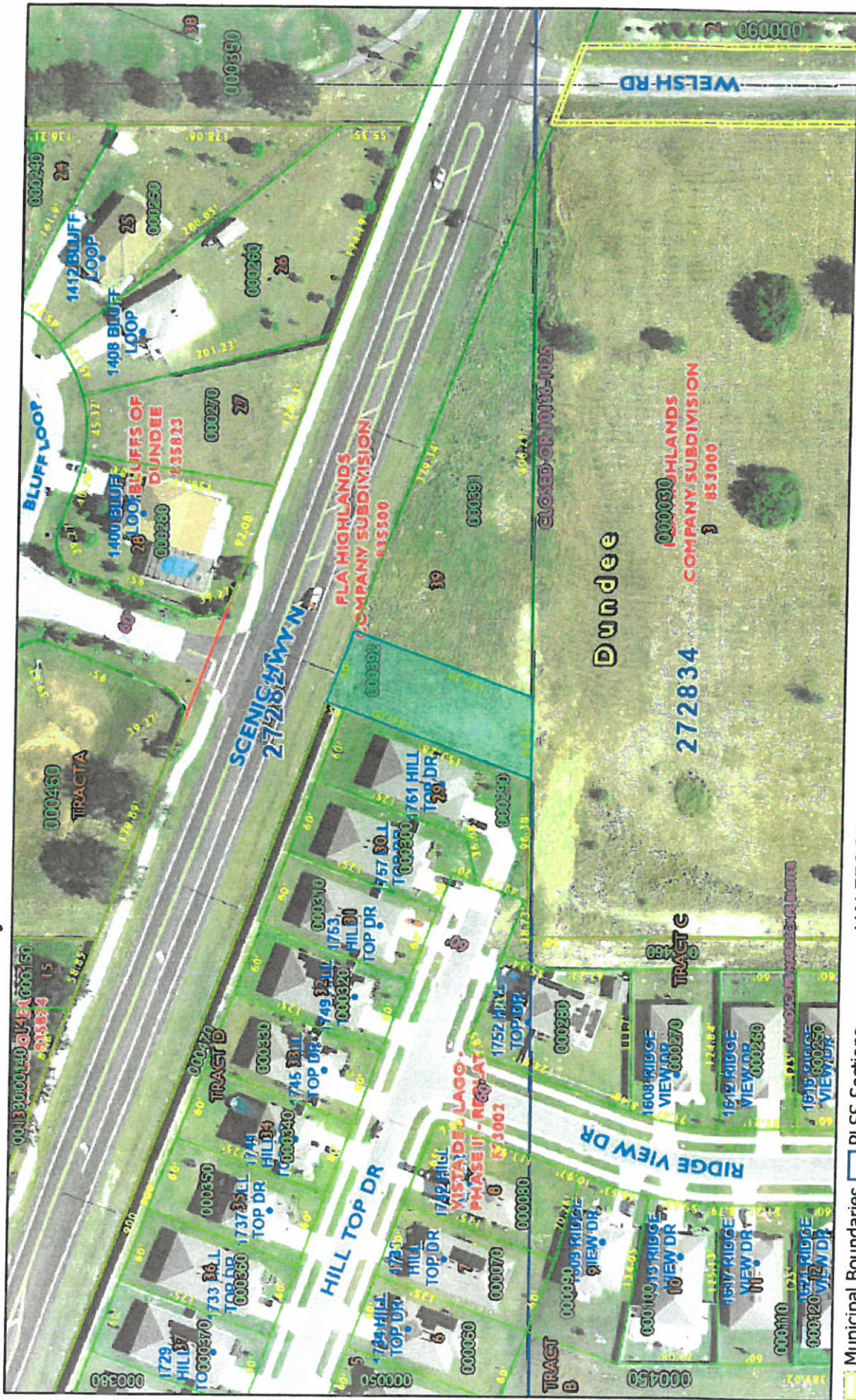
  
 Notary Public  
 Print Name: Paula K. Tierney  
 My Commission Expires: \_\_\_\_\_







# Utility Easement 0 Scenic Hwy



0 55 110 220 Feet

All maps are worksheets used for illustrative purposes only, they are not surveys. The Polk County Property Appraiser assumes no responsibility for errors in the information and does not guarantee the data is free from error or inaccuracy. The information is provided "as is".

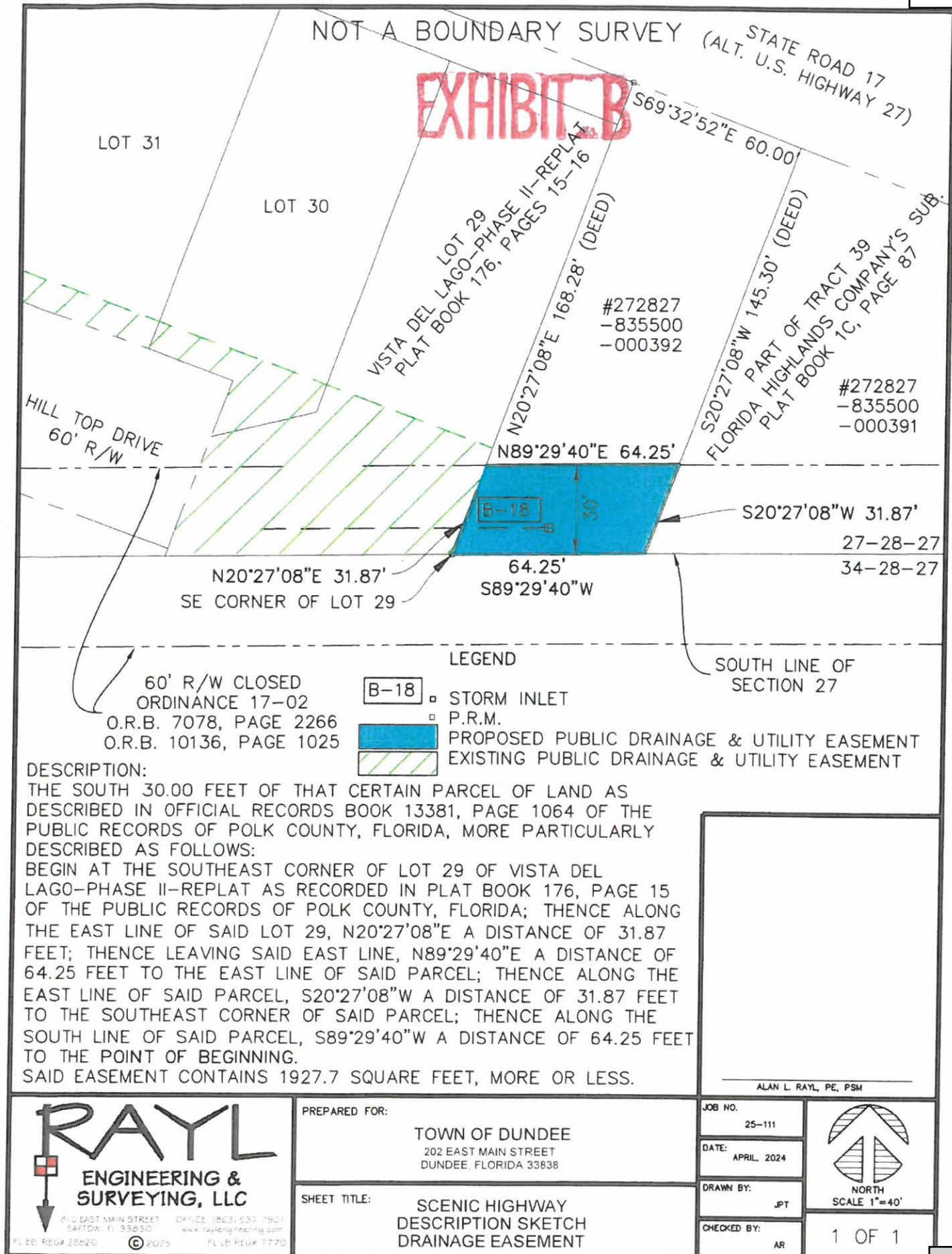
Polk County Property Appraiser  
Polk County, Florida  
By Division May 14, 2025

- HALFFOOT2023**
- Municipal Boundaries
  - PLSS Sections
  - PLSS Subdivisions
  - Arrows
  - Parcels
  - PLSS Townships
  - RGB
    - Red: Band\_1
    - Green: Band\_2
    - Blue: Band\_3
  - E911 Site Address Points



















**RESOLUTION NO. 25-17**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA MEMORIALIZING THE CONDITIONAL APPROVAL AND ACCEPTANCE OF THAT CERTAIN UTILITY EASEMENT LOCATED ON POLK COUNTY PARCEL IDENTIFICATION NUMBER 272827-835500-000392; AUTHORIZING THE TOWN MANAGER TO TAKE ANY AND ALL NECESSARY FURTHER ACTIONS TO EFFECTUATE THE INTENT OF THIS RESOLUTION; PROVIDING FOR THE INCORPORATION OF FACTUAL RECITALS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR RECORDATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Dundee (the "Town") is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution; and

**WHEREAS**, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the Town is vested with governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, including the general exercise of any power for municipal purposes; and

**WHEREAS**, on December 18, 2024, marketable fee simple title to the real property, which the Polk County Property Appraiser identifies as Parcel Number 272827-835500-000392 (the "Property"), was vested in Signature Homes & Land Development of FL, LLC, by virtue of the certain Warranty Deed recorded in the Official Records Book 13381, Page(s) 1061-1062, Public Records of Polk County, Florida; and

**WHEREAS**, a copy of the Polk County Property Appraiser Parcel Details for the Property is attached hereto as **Exhibit "A"** and made a part hereof by reference; and

**WHEREAS**, on December 19, 2024, marketable fee simple title to the Property (see **Exhibit “A”**) was vested in **Aracelis Marquez Ruiz** (hereafter the “Owner” or “Applicant”) by virtue of the certain Warranty Deed recorded in the Official Records Book 13381, Page(s) 1064-1065, Public Records of Polk County, Florida; and

**WHEREAS**, on December 24, 2019, at a duly noticed public meeting, the Town Commission of the Town of Dundee (the “Town Commission”) adopted *Town of Dundee Resolution No. 19-21* which approved with conditions that certain plat entitled *Vista Del Lago Phase II-Replat* (the “Development”) recorded in Plat Book 176, page 15, public records of Polk County, Florida; and

**WHEREAS**, on January 28, 2020, at a duly noticed public meeting, the Town Commission adopted *Town of Dundee Resolution No. 20-05* which accepted the infrastructure and improvements relating to the acceptance of all water and wastewater, roads/streets and related rights-of-way infrastructure for the Development; and

**WHEREAS**, pursuant to *Section 7.02.00 of the Town of Dundee Land Development Code* (“LDC”), the Owner submitted an application for approval of a *site development plan* (the “Application”) in order to construct a single-family residence on the Property; and

**WHEREAS**, upon receipt and review of the Application, the Town determined that the sixty (60) foot stormwater drainage/retention easement (the “Vista II Easement”) was not recorded for the Development; and

**WHEREAS**, Town staff and Town consultants confirmed that all utility improvements located within the Development, as identified by the that certain plat entitled *Vista Del Lago Phase II-Replat* were completed to the standards set forth by the Town, passed all necessary and required tests, received the necessary and required certifications, and the utility system(s) are operational pursuant to Town standards; and

**WHEREAS**, pursuant to the LDC, Town staff and Town consultants confirmed that the Vista II Easement and stormwater drainage infrastructure were insufficient to serve its intended purpose and rendered the Property (see **Exhibit “A”**) undevelopable; and

**WHEREAS**, at the request of the Owner, the Town reevaluated the technical specifications and requirements which are set forth in the LDC and applicable code(s) related to stormwater drainage for the Development and Property; and

**WHEREAS**, the Owner and Town prepared a description sketch (the “Scenic Highway Design”) for the Property (see **Exhibit “A”**) providing an alternative stormwater drainage design and easement location which included, but was not limited to, adequate and operational stormwater drainage, readily available connectivity to the Town’s water and wastewater utility systems, and adequate developable area on and/or for the Property; and

**WHEREAS**, a copy of the Scenic Highway Design is attached hereto as **Exhibit “B”** and made a part hereof by reference; and

**WHEREAS**, Owner submitted an applicant-initiated request for the Town to prepare a utility easement (the “Easement”) reserving unto the Town the right and authority to access those portions of the Property (see **Exhibit “A”**) more specifically identified and depicted in the Scenic Highway Design (see **Exhibit “B”**); and

**WHEREAS**, a copy of the Easement is attached hereto as **Exhibit “C”** and made a part hereof by reference; and

**WHEREAS**, Owner requests that the Easement (see **Exhibit “C”**) be approved and accepted by the Town Call conditions and/or requirements being satisfactorily completed which include, but are not limited to, the recordation of a fully-executed Easement in the Public Records of Polk County, Florida, and the entry into a Hold Harmless, Release, and Indemnification Agreement between the Owner and Town; and

**WHEREAS**, the Easement (see **Exhibit “C”**) was reviewed by Town staff and Town consultants and, pursuant to said review, determined to meet the requirements of applicable provisions of the LDC and Town of Dundee Code of Ordinances; and

**WHEREAS**, on May 27, 2025, pursuant to Florida law, applicable provisions of the Town of Dundee Code of Ordinances and Land Development Code, the Owner requested and that the Town Commission review and conditionally approve and accept the Easement (see **Exhibit “C”**); and

**WHEREAS**, on May 27, 2025, the Town Commission, at a duly noticed public meeting, held a public hearing to consider the Easement (see **Exhibit “C”**) for approval, acceptance, and recording; and

**WHEREAS**, on May 27, 2025, the Town Commission found that the conditional approval and acceptance of the Easement (see **Exhibit “C”**) preserves, enhances and encourages the most appropriate use of land consistent with the public interest, the Town of Dundee 2030 Comprehensive Plan policies and objectives, and the Town of Dundee Land Development Code; and

**WHEREAS**, the Town Commission of the Town of Dundee, Florida, finds that the approval and adoption of this **Resolution No. 25-17** is intended to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; is consistent with the public interest; and this **Resolution No. 25-17** is intended to promote, protect, and improve the public health, safety, and general welfare of the citizens and residents of the Town of Dundee, Florida.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA:**

### **Section 1. Incorporation of Recitals.**

The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the adoption of this **Resolution No. 25-17**, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the adoption of this **Resolution No. 25-17**. The above factual recitals are hereby incorporated herein and serve as a factual and material basis for the passage of this **Resolution No. 25-17**.

### **Section 2. Acceptance.**

The owner/applicant, **Aracelis Marquez Ruiz**, is the owner of the real property and/or lands more specifically described in **Exhibit "A"** which is attached hereto and incorporated herein by reference. The Owner has provided the Easement, which is attached hereto as **Exhibit "C"** and incorporated herein, which is required for the Property and the installation and construction of necessary improvements and utility infrastructure in favor of the Town of Dundee, Florida, in order to ensure the completion of adequate and operational utility service(s) and utility infrastructure.

The Easement (see **Exhibit "C"**), as more specifically identified and depicted in the Scenic Highway Design attached hereto as **Exhibit "B"** and incorporated herein by reference, was presented to the Town Commission on May 27, 2025. The Town Commission, having reviewed the Easement, conditionally approves and accepts the Easement and authorizes the Mayor and Town Clerk to sign the copy of the Easement to be recorded.

### **Section 3. Conditions.**

Approval of the Easement (see **Exhibit "C"**) is conditioned, as follows:

(a) The Town of Dundee shall record, at the Owner's sole cost and expense, a fully-executed original copy of the Easement (see **Exhibit "C"**).

(b) No Certificates of Occupancy ("CO") for any structures constructed on the Property (see **Exhibit "A"**) will be issued until the Owner and Town negotiate and enter into a *Hold Harmless, Release, and Indemnification Agreement* as related to the relocation of the *Vista II Easement*; available connectivity to the Town's water and wastewater utility system(s); and the designated authority, right(s), and obligation(s) reserved unto and binding on both the Town and Owner arising out of the Town's approval and acceptance of the Easement (see **Exhibit "C"**) and this **Resolution No. 25-17**.

(c) All surface and/or storm water systems for the Property (see **Exhibit "A"**), as shown on the Scenic Highway Sketch (see **Exhibit "B"**), shall be the sole responsibility of the Owner; and the Owner shall have the sole responsibility for the maintenance, repair, and liability for the entire surface and/or storm water systems,

including all collection, transmission, and piping components. It is the express intention of the Town of Dundee that it shall not accept said surface and/or storm water systems.

#### **Section 4. Authorization.**

The Town Manager, or his/her designee, is hereby authorized to take any and all necessary further action(s) to effectuate the intent of this **Resolution No. 25-17** and the approval and acceptance of the Easement (see **Exhibit "C"**) on and/or for the Property (see **Exhibit "A"**) which includes, but shall not be limited to, negotiating and executing any documentation necessary and incidental to the acceptance and approval of the Easement.

#### **Section 5. Administrative Correction of Scrivener's Errors.**

It is the intention of the Town Commission that sections of this **Resolution No. 25-17** may be renumbered or re-lettered and the word "resolution" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and sections of this **Resolution No. 25-17** may be re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the Town Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

#### **Section 6. Conflicts.**

All resolutions in conflict with this **Resolution No. 25-17** are repealed to the extent necessary to give this **Resolution No. 25-17** full force and effect.

#### **Section 7. Severability.**

The provisions of this **Resolution No. 25-17** are severable. If any section, subsection, sentence, clause, phrase of this **Resolution No. 25-17**, or the application thereof shall be held invalid, unenforceable, or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. The Town Commission of the Town of Dundee hereby declares that it would have passed this **Resolution No. 25-17**, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid, unenforceable, or unconstitutional, or unenforceable. If any word, sentence, clause, phrase, or provision of this **Resolution No. 25-17** for any reason is declared by any court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, then all remaining provisions and portions of this **Resolution No. 25-17** shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this **Resolution No. 25-17** is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this **Resolution No. 25-17**. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this **Resolution No. 25-17**, and

each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**Section 8. Recordation.**

The Town Clerk shall be responsible for recording the Easement (see **Exhibit “C”**) and this **Resolution No. 25-17**, as adopted, with the Clerk of the Circuit Court in and for the Tenth Judicial Circuit of Polk County, Florida, for inclusion in the public records of Polk County, Florida.

**Section 9. Effective Date.**

This **Resolution No. 25-17** shall take effect immediately upon passage by the Town Commission of the Town of Dundee, Florida.

***[Remainder of page intentionally blank]***

**READ, PASSED AND ADOPTED** at a duly called meeting of the Town Commission of the Town of Dundee, Florida, assembled on the 27th day of May, 2025.

**TOWN OF DUNDEE**

\_\_\_\_\_  
Samuel Pennant, Mayor

ATTEST WITH SEAL:

\_\_\_\_\_  
Erica Anderson, Town Clerk

Approved as to form:

\_\_\_\_\_  
Frederick J. Murphy, Jr., Town Attorney





# TOWN COMMISSION MEETING

May 27, 2025, at 6:30 PM

**AGENDA ITEM TITLE:** Caldwell Ridge Reserve Hardship Order No. 02-25 Denial

**SUBJECT:** REQUEST: Pursuant to *Section 5(i) of the Town of Dundee Ordinance No. 24-09*, the Applicant requested an exception to the moratorium imposed by *Town of Dundee Ordinance No. 24-09* for the Caldwell Ridge Reserve development arising out of extraordinary hardship(s).

**STAFF ANALYSIS:** The Town has experienced significant and unprecedented residential growth in a short time resulting in new residential annexations, land use modifications, rezonings, major Planned Unit Development (PUD) amendments, master planned communities, and phased residential development(s) resulting in significant increased demand for Town-provided utility services which includes, but shall not be limited to, potable water utility service(s); and, as a direct result of the unprecedented number of proposed and/or approved new residential development projects within the corporate limits of the Town, the Town is at and/or has exceeded its maximum allocable daily potable water capacity permitted under the Town's current consumptive water use permits (WUPs) issued by the Southwest Florida Water Management District (SWFWMD).

**STAFF RECOMMENDATION:** Staff recommends approval

**ATTACHMENTS:** Hardship Order  
Exhibits A-B

Town Commission of the Town of Dundee, Florida  
 Hardship Order No. 02-25  
 Caldwell Ridge  
 Public Hearing – May 13, 2025

IN AND FOR THE TOWN OF DUNDEE, FLORIDA  
 BEFORE THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA

**ORDINANCE 24-09:**           HARDSHIP ORDER NO. 02-25

**IN RE:**                        CALDWELL RIDGE

**PARCEL NUMBER(S):**     SEE ATTACHED HARDSHIP APPLICATION

**LEGAL DESCRIPTION:**    SEE ATTACHED HARDSHIP APPLICATION

**REQUEST:** Pursuant to *Section 5(i) of the Town of Dundee Ordinance No. 24-09*, **RAYSOE VENTURES, LLC** (the “Applicant”) requested an exception to the moratorium imposed by *Town of Dundee Ordinance No. 24-09* for the Caldwell Ridge Subdivision development arising out of extraordinary hardship(s).

### **ORDER DENYING HARDSHIP APPLICATION**

The Town of Dundee (the “Town”) is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution.

Section(s) 163.3161 through 163.3215, Florida Statutes (2024), the Local Government Comprehensive Planning and Land Development Regulation Act, empowers and mandates that the Town plan for future development and growth.

The Town has experienced significant and unprecedented residential growth in a short time resulting in new residential annexations, land use modifications, rezonings, major Planned Unit Development (PUD) amendments, master planned communities, and phased residential development(s) resulting in significant increased demand for Town-provided utility services which includes, but shall not be limited to, potable water utility service(s); and, as a direct result of the unprecedented number of proposed and/or approved new residential development projects within the corporate limits of the Town, the Town is at and/or has exceeded its maximum allocable daily potable water capacity permitted under the Town’s current consumptive water use permits (WUPs) issued by the Southwest Florida Water Management District (SWFWMD).

Pursuant to Section 54-9 of the Code of Ordinances of the Town of Dundee (the “Code”) and Section 6.01.07.03 of the Town of Dundee Land Development Code (the “LDC”), a *Concurrency Developer’s Agreement* has been required as a condition of approval for any *Town of Dundee Certified Subdivision Plan* (“CSP”) in order to provide, at a minimum, as follows: (1) detail the Town’s inability to currently provide allocable potable water capacity; (2) detail the necessary expansion of the Town’s potable water

treatment facilities in order to serve the proposed development; and (3) detail the terms and conditions under which the Town will provide potable water utility service(s) to and/or for the proposed project.

On September 10, 2024, at a duly noticed public meeting, the Town Commission passed and adopted *Town of Dundee Ordinance No. 24-09* (the “Ordinance”) establishing a moratorium on the acceptance and processing of applications for residential annexations, rezonings, building permits, planned developments, master planned communities, development order(s), and development permits, amongst others.

A copy of the Ordinance is attached hereto as **Exhibit “A”** and incorporated herein by reference.

On February 10, 2025, pursuant to *Section 5(i) of the Ordinance*, the Applicant submitted the *Request for Hardship Exemption under Ordinance No. 24-09* and all required and relevant documentation (collectively referred to as the “Application”) to the Town in order to request certain exception(s) from the moratorium.

A copy of the Application is attached hereto as **Exhibit “B”** and incorporated herein by reference.

On May 13, 2025, at a duly noticed public meeting, the Town Commission found that the Caldwell Ridge Reserve development (the “Development”) has not received and/or obtained the necessary *development permits and/or development orders*<sup>1</sup> allowing for horizontal site construction on and/or for the Development.

On May 13, 2025, at a duly noticed public meeting, the Application was presented to and considered by the Town Commission at a public hearing and with a quorum present and voting; and, based on the testimony and competent substantial evidence presented by the Applicant and Town Staff, the Town Commission found, as follows: (i) prior to the effective date of the Ordinance, the Caldwell Ridge Subdivision had not received a *development permit and/or development order* authorizing horizontal site construction (i.e., *Certified Subdivision Plan* approval); (ii) the Applicant has no monetary investment pursuant to a *development permit and/or development order* authorizing site construction for the Caldwell Ridge Subdivision; (iii) the Applicant has not entered into a Concurrency Developer’s Agreement and/or Water Allocation Agreement; and (iv) the Applicant does not possess fee simple title to any active agricultural well(s); and, as a result, the Applicant is not able to provide an alternate method of providing potable water utility service(s) to and/or for the Development.

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<sup>1</sup> For purposes of this Order, the terms *development order* and *development permit* shall have the meaning(s) provided in §163.3164, *Florida Statutes* (2024).

On May 13, 2025, based on the evidence and testimony presented, the Town Commission found and determined that the Applicant failed to satisfy the requirements set forth in the Ordinance; and, by majority vote (i.e., 3-2 vote), the Town Commission, voted to deny the Application and enter this **ORDER DENYING HARDSHIP APPLICATION** (the “Order”).

A copy of the May 13, 2025, Town of Dundee Town Commission meeting minutes (the “Minutes”) for the public hearing on and/or for the Application may be requested by contacting the Town Clerk, Erica Anderson, [EAnderson@townofdundee.com](mailto:EAnderson@townofdundee.com).

A quorum of the Town Commission present and voting, at a duly noticed public meeting, as required by *Town of Dundee Ordinance No. 24-09* and applicable law, and a vote by the majority in favor of entering this **ORDER DENYING HARDSHIP APPLICATION**.

***[Remainder of page intentionally blank]***

**DONE AND ORDERED** by the Town Commission of the Town of Dundee, Florida, on the 13<sup>th</sup> day of May, 2025.

Town Commission of the Town of Dundee, Florida  
Hardship Order No. 02-25  
Caldwell Ridge  
Public Hearing – May 13, 2025

Item 3.

**TOWN OF DUNDEE, FLORIDA**

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Sam Pennant, Town Mayor

**Attest:**

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Erica Anderson, Town Clerk

**Approved as to Form:**

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Frederick J. Murphy, Jr., Town Attorney

THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:

Frederick J. Murphy, Jr., Esquire  
Boswell & Dunlap, LLP  
Post Office Drawer 30  
245 South Central Avenue (33830)  
Bartow, FL 33831

INSTR # 2024211464  
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STACY M. BUTTERFIELD,  
CLERK OF COURT POLK COUNTY  
RECORDING FEES 120.50

## ORDINANCE NO. 24-09

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, ENACTING THE PENDING ORDINANCE DOCTRINE AND ESTABLISHING A MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR ANNEXATIONS, REZONINGS, BUILDING PERMITS, PLANNED DEVELOPMENTS, MASTER PLANNED COMMUNITIES, DEVELOPMENT ORDER(S), AND DEVELOPMENT PERMIT(S); PROVIDING EXEMPTIONS; PROVIDING FOR VESTED RIGHTS AND PROCEDURES; PROVIDING FOR THE INCORPORATION OF FACTUAL RECITALS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR CODIFICATION; PROVIDING BUSINESS IMPACT ESTIMATE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Dundee (the "Town") is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution; and

**WHEREAS**, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the Town is vested with governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, including the general exercise of any power for municipal purposes; and

**WHEREAS**, as provided in section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

**WHEREAS**, pursuant to Section 6.01.07.04 of the Town of Dundee Land Development Code (LDC), the Town is the sole provider of water utility service(s) within its Chapter 180, Florida Statutes, Utility Service Area (the "USA") and all new development is required to connect to the Town of Dundee Water System; and

**WHEREAS**, the Town of Dundee continues to experience substantial residential growth in a short time causing the addition of new residential annexations, land use modifications, rezonings, major Planned Unit Development (PUD) amendments, master planned communities, and conditional uses for residential development(s) over one (1) acre resulting in significant increased demand for Town-provided potable water; and

**WHEREAS**, Sections 163.3161 through 163.3215, Florida Statutes, the Local Government Comprehensive Planning and Land Development Regulation Act, empowers



and mandates the Town of Dundee, Florida, to plan for future development and growth and to adopt and amend comprehensive plans, or elements, or portions thereof, to guide the future growth and development of the Town; and

**WHEREAS**, on March 12, 2024, at a duly noticed public meeting, the Town Commission of the Town of Dundee (the "Town Commission") approved RFQ 24-01 for municipal planning and revisioning services (the "RFQ"); and

**WHEREAS**, the RFQ authorized qualified consultants, pursuant to the *Master Continuing Professional Consulting Agreement For Professional Planning and Visioning Services* entered into between the Town and consultant(s), to assist the Town with amending its 2030 Comprehensive Plan, updating the Town of Dundee Land Development Code to implement any adopted comprehensive plan amendments, and assist the Town with planning for the impacts of unprecedented growth and new residential development(s); and

**WHEREAS**, due to the historically high number of proposed and/or approved new residential development projects within the boundaries of the Town, the Town is at and/or has exceeded its maximum allocable daily potable water capacity allowed under the Town's current consumptive water use permits (WUPs) issued by the Southwest Florida Water Management District (SWFWMD); and

**WHEREAS**, on August 23, 2022, at a duly noticed public meeting of the Town Commission, the Town Commission considered and approved the *Interlocal Agreement For The Interconnection of Potable Water Between The City of Winter Haven, Florida, and The Town of Dundee, Florida* (the "Interconnect Agreement"); and

**WHEREAS**, pursuant to the Interconnect Agreement and subject to availability, in order for the Town to meet its existing need for potable water, the City of Winter Haven agreed to provide **0.5 MGD** of potable water to the Town during the term of the Interconnect Agreement; and

**WHEREAS**, in accordance with the Interconnect Agreement, the Town engaged the Chastain-Skillman, Inc. engineering firm to prepare conceptual construction plans (the "Concept Plans") for the design and construction of the interconnect facilities which included, but were not limited to, the Town of Dundee Potable Water Main Interconnect Layout and Construction Plans for the Town of Dundee Potable Water Interconnect; and

**WHEREAS**, on September 27, 2023, the Town engaged CHA Consulting, Inc. ("CHA") for engineering services to evaluate the capacity of the high service pump station at the Town's Riner Water Treatment Plant for purposes of constructing the potable water interconnect with the City of Winter Haven and perform a comprehensive evaluation of the Town's water distribution network related to the Town's Riner Water Treatment Plant in order to identify and plan for improvements necessitated by and/or through concurrency management, substandard infrastructure, and new growth within the corporate limits of



the Town; and

**WHEREAS**, on February 27, 2024, at a duly noticed public meeting, the Town Commission passed and adopted Resolution No. 24-02 accepting and approving the CHA Memorandum Riner Water Treatment Plant Capacity Evaluation, dated January 9, 2024; and

**WHEREAS**, on June 25, 2024, at a duly noticed public meeting, the Town Commission considered and approved the *Interlocal Agreement For Potable Water and Wastewater Utility Services* for a proposed mobile home development (Cypress Creek Village Phase V) within the Town's municipal limits (the "Interlocal Agreement") between the Town and City of Winter Haven, Florida; and

**WHEREAS**, on the effective date of the Interlocal Agreement, the Town did not have sufficient allocable potable water capacity to provide the necessary potable water utility service(s) for the *Cypress Creek Village Phase V* development; and

**WHEREAS**, pursuant to the Interlocal Agreement, in order to ensure that utility facilities and service(s) needed to support the *Cypress Creek Village Phase V* development located within the Town's corporate limits are available, the City of Winter Haven agreed to provide extra-jurisdictional utility services for the *Cypress Creek Village Phase V* development; and

**WHEREAS**, SWFWMD regulates, through the issuance of a WUP, the amount of water the Town is permitted to provide to users of the Town's potable water supply; and

**WHEREAS**, the Town of Dundee has applied for an expansion of its public supply WUP and that application is under review by SWFWMD; and

**WHEREAS**, beginning in or about September 2022, the Town has processed and approved certain application(s) for development order(s) and/or development permit(s) which include, but are not limited to, conditional Certified Subdivision Plan (CSP) approvals for residential development(s); and

**WHEREAS**, pursuant to Section 54-9 of the Code of Ordinances of the Town of Dundee (the "Code") and Section 6.01.07.03 of the LDC, a *Concurrency Developer's Agreement* has been required as a condition of approval for any CSP in order to provide, at a minimum, as follows: (1) detail the Town's inability to currently provide allocable potable water capacity; (2) detail the necessary expansion of the Town's potable water treatment facilities in order to serve the proposed development; and (3) detail the terms and conditions under which the Town will provide potable water utility service(s); and

**WHEREAS**, the *Concurrency Developer's Agreement(s)* also clearly and unequivocally identifies that the Town does not presently have the necessary utility infrastructure, utility facilities, and/or allocable potable water capacity to serve the

proposed residential development and, for the purpose of providing a basis upon which a final plat may be considered for approval by the Town Commission, the conditional CSP approval will not be considered complete until the Town has the ability to provide allocable potable water capacity; and

**WHEREAS**, the Town has conditionally approved a CSP for approximately twelve (12) applicants and, in certain instances, entered into a Water Supply Allocation Agreement for the transfer of capacity associated with applicable agricultural wells associated with such proposed residential developments; and

**WHEREAS**, the purpose of this Ordinance is to place a temporary moratorium on accepting and processing applications for residential development orders and development permits for real property consisting of more than one (1) acre located within the corporate limits of the Town of Dundee, Florida; and

**WHEREAS**, the Town Commission hereby finds that the temporary moratorium imposed by this Ordinance is being imposed for a reasonable duration which is intended to give the Town a reasonable period of time to construct the interconnect and receive **0.5 MGD** of potable water from the City of Winter Haven, apply for and obtain the proper and necessary increases to the Town's public supply WUP including, but not limited to, the transfer of allocated capacity of certain agricultural wells and perhaps others not yet identified, and adopt and implement necessary amendments and/or revisions to various aspects of the 2030 Comprehensive Plan and LDC in order to accommodate the unprecedented residential growth and development within the corporate limits of the Town; and

**WHEREAS**, the Town Commission of the Town of Dundee, Florida, hereby finds that the expected impacts of the unprecedented residential growth and development on public facilities and infrastructure necessary to serve such new residential development and maintain required levels of service may negatively affect the public health, safety, and welfare of the Town; and

**WHEREAS**, on August 26, 2024, pursuant to the requirements in Chapter 163 of the Florida Statutes, the Town's Planning & Zoning Board, sitting as the Town's Local Planning Agency at a duly advertised and noticed public meeting, conducted a public hearing on this Ordinance and, after considering all such comments and/or matters considered at said public hearing, voted to recommend approval of this Ordinance to the Town Commission; and

**WHEREAS**, the Town Commission of the Town of Dundee, Florida, hereby finds that this Ordinance advances an important government purpose by preventing the demand for Town-provided potable water service to exceed the current allowable daily withdrawal limits authorized in its WUPs; and

**WHEREAS**, to the extent that this Ordinance is determined to substantially affect

the use of land located within the corporate limits of the Town under Florida common law, the Town Commission of the Town of Dundee, Florida, specifically finds that the Town issued all necessary or required statutory notices, held and duly convened all necessary or required public hearings, and complied with all necessary or required formalities for the adoption of an ordinance seeking to involuntarily zone or rezone property pursuant to the rule established in *Sanibel v. Buntrock*, 409 So. 2d 1073 (Fla. 2d DCA 1981) and Section 166.041(3)(c), Florida Statutes; and

**WHEREAS**, the Town Commission of the Town of Dundee, Florida, finds that the approval and adoption of this Ordinance No. 24-09 is intended to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; is consistent with the public interest and preserves, enhances, and encourages the most appropriate use of land; and this Ordinance No. 24-09 is intended to promote, protect, and improve the public health, safety, and general welfare of the citizens and residents of the Town of Dundee, Florida.

**NOW, THEREFORE BE IT ENACTED BY THE PEOPLE OF THE TOWN OF DUNDEE, FLORIDA:**

**Section 1. Incorporation of Factual Recitals.**

The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the adoption of this Ordinance, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the adoption of this Ordinance.

**Section 2. Authority.**

This Ordinance is enacted pursuant to Chapter 163 of the Florida Statutes and the Town's home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution.

**Section 3. Enactment of Pending Ordinance Doctrine.**

From and after the effective date of this Ordinance, no development permit and/or development order shall be issued where an amendment to the Land Development Code of the Town of Dundee, Florida, is pending before the Town Commission, which amendment, if adopted, would make illegal the use authorized by the development permit and/or development order.

From and after the effective date of this Ordinance, a valid and current local development order shall be required prior to the issuance of any building permit to authorize development or a change of use. No development or change of use shall be made or continued without a lawful building permit; and no development permit shall be

issued where an amendment to the Land Development Code, Town of Dundee, Florida, is pending before the Town Commission or Planning and Zoning Board, which amendment, if adopted, would make nonconforming the development authorized by the development order and/or development permit.

Subject to applicable Florida law, an amendment to the Land Development Code, Town of Dundee, Florida, shall be considered "pending" within the meaning of this rule so long as there is active and documented efforts on the part of the Town which, in the normal course of municipal action, culminates in the requisite amendment to the Land Development Code; and, at a minimum, the Town Commission or Town Planning and Zoning Board must be aware of and have documented such efforts.

#### **Section 4. Temporary Moratorium.**

- (a) **Purpose.** The purpose of this temporary moratorium is to provide a reasonable period of time for the Town to construct a potable water interconnect, in accordance with the *Interlocal Agreement For The Interconnection of Potable Water Between The City of Winter Haven, Florida, and The Town of Dundee, Florida*, and receive up to **0.5 MGD** of potable water from the City of Winter Haven; apply to SWFWMD for the transfer of potable water capacity from applicable agricultural wells including but not limited to those identified in Section 5 ( e) of this Ordinance and obtain the proper and necessary increases to the Town's public supply WUP; and, pursuant to Section 163.3184, *Florida Statutes*, and applicable Florida law, adopt and implement necessary amendments and/or revisions to various aspects of the 2030 Comprehensive Plan and LDC in order to accommodate the unprecedented residential growth and development within the corporate limits of the Town.
- (b) **Moratorium.** Beginning on the effective date of this Ordinance, the moratorium shall continue for twelve (12) consecutive months.

The moratorium shall be imposed on the Town's consideration of applications for annexation(s), permit applications, planned developments, master planned communities, rezonings, special exceptions, and residential development permits and/or development orders as defined in §380.031, *Florida Statutes* (2024) (collectively hereinafter referred to as the "Applications"); and, during the pendency of the moratorium, the Town of Dundee shall not accept, review, or process any of the Applications.

No Applications (including applications that may have been submitted prior to July 23, 2024) for properties subject to the moratorium established herein may be processed by Town staff until the expiration and/or termination of this moratorium, unless provided for by this Ordinance.

The Applications for properties subject to the moratorium established herein

received by the Town on or before July 23, 2024, will be held in abeyance until the conclusion of the moratorium, unless provided for by this Ordinance.

- (c) **Expiration and/or Termination.** Subject to the *extension* provision(s) provided for below, the moratorium imposed by this Ordinance shall terminate upon the earliest of two (2) occurrences, as follows: (1) one (1) calendar year at 11:59 P.M. on the 365<sup>th</sup> day after the effective date of this Ordinance; or (2) a date before **September 9, 2025**, if provided for by Ordinance of the Town Commission of the Town of Dundee, Florida.
- (d) **Extension.** The provisions of this Ordinance may be extended once by ordinance for a period of not more than twelve (12) additional months, upon a finding by the Town Commission following a public hearing/public comment that good cause exists and an extension would be in the best interests of the citizens and residents of the Town of Dundee, Florida.

**Section 5. Exemptions.** Exemptions from this Ordinance are, as follows:

(a) Subject to Sections 7.02.03 and 6.01.00 of the LDC, upon confirmation that a satisfactory concurrency evaluation has been performed, the moratorium imposed by this Ordinance shall not apply to any development permit and/or development order, as the terms are defined in §380.031, Florida Statutes (2024), on and/or for real property consisting of one (1) acre or less.

(b) The moratorium shall not include building permits that are issued by the Town for interior remodeling, maintenance, repair(s), reroofing, and/or health and safety improvements on lawfully existing structures.

(c) The moratorium shall not apply to building permits for the demolition and/or replacement of lawfully existing structures which pose a life, health, and safety hazard, so long as the structure, once replaced, complies with all applicable provision(s) of the Town's LDC, Code of Ordinances, and 2030 Comprehensive Plan. For purposes of this exception, any application(s) for local building permit(s) for the replacement of a lawfully existing structure shall include a written certification from a professional engineer registered and licensed in the State of Florida as being necessary to correct and/or remedy the structural deficiencies which pose a threat to the life, health, safety and general welfare of the public.

(d) Upon written confirmation from Town staff that, pursuant to Sections 7.02.03 and 6.01.00 of the LDC, a satisfactory concurrency evaluation has been performed, the following residential developments are specifically and conditionally exempt from this Ordinance, as follows:

- (i) *Seasons at Bella Vista;*
- (ii) *Crystal Lake Preserve;*
- (iii) *Landings at Lake Mabel Loop;*



- (iv) *Reserve at Dundee Lakes (up to limit of 306 ERCs);*
- (v) *Seasons at Hilltop;*
- (vi) *Shores at Lake Dell;*
- (vii) *Sol Vista; and*
- (viii) *Cypress Creek Village Phase V.*

(e) Upon written confirmation from Town staff that, pursuant to Florida law and applicable provision(s) of the LDC, the Town has received a credit and/or increase to its public supply WUP from SWFWMD arising out of the transfer of agricultural wells pursuant to and/or in accordance with a Concurrency Developer's Agreement and/or Water Supply Allocation Agreement, the transferor thereof shall be specifically and conditionally exempt and only to the extent of such credit and/or increase actually credited to the Town's public supply WUP. For purposes of this exemption, the potable water capacity credited to or causing an increase in the Town's public supply WUP by SWFWMD for each agricultural well transferred pursuant to a Concurrency Developer's Agreement and/or Water Supply Allocation Agreement shall, to the extent of such credit and/or increase provided, be specifically and conditionally exempt from this Ordinance and reserved for certain residential development(s) which include, but are not limited to, the following:

- (i) *Woodland Ranch Phase(s) 1, 2 & 3;*
- (ii) *Alford Ridge;*
- (iii) *Reserve at Dundee Lakes (Remaining Phases);*
- (iv) *Landings at Lake Trask Phases 1 & 2;*
- (v) *Legacy Hills Phases 1 & 2;*
- (vi) *Valencia Ridge Reserve;*
- (vii) *Weiberg West Development;*
- (viii) *Estes Planned Unit Development; and*
- (ix) *Vista Del Lago Phase 4.*

(f) The moratorium imposed by this Ordinance shall not apply to any vested right and/or vested status as provided for by this Ordinance.

(g) The moratorium shall not apply to the Town's acceptance of a petition for the establishment of a Community Development District (CDD), which is a local unit of special-purpose government, created pursuant to chapter 190, Florida Statutes. In the event a petition for the establishment of a CDD includes any other matter(s) which are the subject of the moratorium, this exception shall not prevent the abeyance of the subject petition until the termination of the moratorium.

(h) The moratorium imposed by this Ordinance shall not apply to any development in the General Retail Commercial (CC), Highway Commercial (CH), and Service Commercial (CS) Zoning Districts within the Town and all such developments shall be otherwise subject to applicable laws, Code of Ordinances, LDC's and/or other applicable rules and regulations for such development.

(i) The Town Commission may authorize exception(s) to the moratorium imposed by this Ordinance when it finds, based upon competent substantial evidence presented at a duly noticed public meeting, that the deferral of action and/or issuance on an application for a development order and/or development permit for the duration of the moratorium imposes an extraordinary hardship. For purposes of requesting a hardship exception, the owner shall request a determination in the same form and manner provided for in **Section 6** of this Ordinance.

In reviewing an application for an exception based upon a claim of extraordinary hardship, the Town Commission shall consider all competent substantial evidence and relevant testimony which includes, but is not limited to, the following:

- (i) Prior to July 23, 2024 (date established by pending ordinance doctrine), the extent to which the owner had received permit(s) and/or approvals from the Town.
- (ii) Prior to July 23, 2024, whether the owner had entered into any contractual commitments in reliance upon the permit(s) and/or approval(s) issued by the Town.
- (iii) Prior to July 23, 2024, whether the owner has made a substantial made a substantial expenditure in *good faith* reliance upon the permit(s) and/or approval(s) issued by the Town.
- (iv) Prior to July 23, 2024, in *good faith* reliance upon the permit(s) and/or approval(s) issued by the Town, the owner has incurred financial obligation(s) to a lending institution which cannot be met unless the subject development proceeds (i.e., owner exhausted all available alternatives).
- (v) Whether the moratorium exposes the owner to substantial monetary liability to third-parties, results in the owner's inability to earn a reasonable investment-backed expectation on and/or for the subject real property.

#### **Section 6. Vested Rights and Quasi-Judicial Review Procedures.**

- (a) Owner(s) of real property located within the corporate limits of the Town or an authorized agent of the owner(s) may request a vested rights determination by paying an application fee, provided hereunder, and filing a technically complete application with the Town's Chief Administrative Officer or designee.
- (b) The application form shall, at a minimum, contain the following information:



- (i) The name and address of the applicant(s), who must be the owner(s) of the subject parcel(s) or real property, or an agent expressly authorized to apply on behalf of the owner(s).
- (ii) A legal description, current tax parcel identification number and survey or a sketch of the real property that is the subject of the application.
- (iii) The name and address of each owner of the parcel(s) or real property.
- (iv) Any approved site plan, approved Certified Subdivision Plan, or plat that is applicable to the real property.
- (v) Identify with particularity with specific reference to any ordinance, resolution, or other action of the Town of Dundee or failure to act by the Town of Dundee, any statute or other general law, upon which the applicant relied and which the applicant believes supports the applicant's position that a development order and/or development permit should be issued during the moratorium.
- (vi) A statement of fact that the applicant intends to prove or demonstrate, in support of the application that a vested right exists which warrants the issuance of a development order and/or development permit during the moratorium.

The application shall fully articulate the legal basis for being issued a development order and/or development permit notwithstanding the moratorium.

- (c) The applicant shall provide a sworn statement, executed by all owners of the real property at issue or an authorized agent averring that all factual information set forth in the application is true and accurate.
- (d) The Town's Chief Administrative Officer or designee shall screen each application to determine whether the application is technically complete, as set forth herein. No screening shall take place until an applicant has paid an application processing fee of \$760.81.

The sufficiency determination shall be made within fourteen (14) calendar days after receipt of the application. If not technically complete, the application shall be returned to the applicant with written notification identifying the deficiencies in the application and the applicant shall be granted fourteen (14) additional calendar days to complete a technically sufficient application. If a response is not submitted to the Town's Chief Administrative Officer or designee within the time specified in this subsection, the application shall be deemed abandoned.

- (e) Upon the Town's Chief Administrative Officer or designee's acceptance of a technically complete application, for which the application fee has been submitted and paid, the Town Commission shall review the application, hold a public hearing, and make a final determination within forty-five (45) calendar days as to whether or not it has been clearly and convincingly demonstrated that the real property at issue has a vested right and/or vested status and therefore should be issued a development order and/or development permit for new residential development notwithstanding this moratorium.
- (f) Within seven (7) calendar days after making a final determination of vested rights status, the Town Commission shall provide the applicant with a written order, notifying the applicant of the determination of vested rights status. Notwithstanding the moratorium, if the Town Commission determines that a vested right and/or vested status exists, and all other applicable provisions of the Code of Ordinances, LDC, and 2030 Comprehensive Plan have been met, then a development order and/or development permit for the new residential development shall issue and the applicant shall have the right to rely upon such written notification that the real property is vested. The Town Commission's written notification shall be final and not subject to further appeal to the Town, revocation, or modification.
- (g) The public hearing on the application for vested rights shall be a quasi-judicial hearing before the Town Commission. The applicant shall present all the applicant's evidence in support of the application. The technical Florida Rules of Evidence shall not apply to the hearing, but basic notions of due process will be observed, and all testimony of witnesses shall be given under oath.
- (h) The Town Commission's decision to grant vested rights status shall be based on common law criteria for vested rights determinations which includes, but shall not be limited to, the following:
  1. Evidence that warrants a finding that this Ordinance has denied the owner(s) of beneficial use of the subject property in violation of State and Federal Constitutions; or
  2. Owner has relied in good faith upon the act or omission of the Town;
  3. Owner has made a substantial change in position or incurred extensive obligations and expenses; and
  4. Owner(s) change in position results in a highly inequitable and unjust deprivation of the right(s) that the owner acquired.
- (i) The Town Commission's decision to grant vested rights status shall be final.

- (j) Any property expressly exempt from this moratorium, as set forth in Section 5(b)-(c) is presumptively vested for purposes of this Ordinance and shall not be required to file an application under this Section.

**Section 7. Conflicts.** All ordinances in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect, provided however, that nothing herein shall be interpreted so as to repeal any existing ordinance or resolution relating to means of securing compliance with the 2030 Comprehensive Plan of the Town of Dundee, unless such repeal is explicitly set forth herein.

**Section 8. Severability.** The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, phrase of this Ordinance, or the application thereof shall be held invalid, unenforceable, or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. The Town Commission of the Town of Dundee hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid, unenforceable, or unconstitutional, or unenforceable. If any word, sentence, clause, phrase, or provision of this Ordinance for any reason is declared by any court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, then all remaining provisions and portions of this Ordinance shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**Section 9. Administrative Correction of Scrivener's Errors and Codification.** It is the intention of the Town Commission that sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code of Ordinances of the Town of Dundee is accomplished, sections of this Ordinance may be re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the Town Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

**Section 10. Codification.** It is the intention of the Town Commission of the Town of Dundee that Section 3 of this Ordinance incorporated herein shall become and be made a part of the Code of Ordinances, Town of Dundee, Florida.

### **Section 11. Business Impact Estimate.**

On October 1, 2023, Senate Bill 170 ("SB 170"), *Chapter 2023-309, Laws of Florida*, was enacted amending Section 166.041, Florida Statutes, requiring a local government to prepare a *business impact estimate* before the enactment of an ordinance. Section 166.041(4)(c)1, as amended, provided that municipal ordinances enacted to implement Part II of Chapter 163, Florida Statutes, were not subject to the *business impact estimate* requirement.

On October 1, 2024, Senate Bill 1628 ("SB 1628"), as codified under *Chapter 2024-145, Laws of Florida*, becomes effective and further amends Section 166.041, Fla. Stat. (2023), by creating express exclusion(s) for *development orders* and *development permits*, as defined by Section 163.3164, Florida Statutes (2023).

In this instance, this Ordinance is enacted and is necessary to implement the issuance of *development orders* and/or *development permits* (as defined by §163.3164, Florida Statutes). As such, pursuant to applicable Florida law, this Ordinance is exempt and does not require a business impact estimate

**Section 12. Effective Date.** This Ordinance shall take effect immediately upon its adoption.

**INTRODUCED AND PASSED**, on First Reading and public hearing with a quorum present and voting, by the Town Commission of the Town of Dundee, Florida, this 29<sup>th</sup> day of August, 2024.

**PASSED AND DULY ADOPTED**, on Second Reading and public hearing with a quorum present and voting, by the Town Commission of the Town of Dundee, Florida, this 10<sup>th</sup> day of September, 2024.

**TOWN OF DUNDEE**

  
MAYOR – Sam Pennant

Attest:

  
TOWN CLERK – Lita O'Neill

Approved as to Form:

A handwritten signature in black ink, consisting of several loops and a final horizontal stroke.

TOWN ATTORNEY, Frederick J. Murphy, Jr.







February 10, 2025

**Via E-Mail: [BCarter@TownofDundee.com](mailto:BCarter@TownofDundee.com)**

Brenda Carter, Development Services Coordinator  
Town of Dundee  
124 Dundee Road  
Dundee, FL 33838

**RE: Request for Hardship Exemption under Ordinance No. 24-09  
Caldwell Ridge Subdivision**

Dear Ms. Carter,

Please accept this application packet as a formal request for a hardship exception under Section 5 of Ordinance No. 24-09 for the Caldwell Ridge single-family home subdivision within the Town of Dundee. Due to the imposed moratorium, the project faces extreme hardship, including significant financial and contractual challenges that necessitate the approval of this request.

Please note that the applicant is reserving their right to submit a vested rights determination under Section 6 of Ordinance No. 24-09 should this application for a hardship exemption be denied.

We kindly request to present our case at the next scheduled public hearing and are available to provide any additional information required to facilitate your review. Thank you for considering this request and we appreciate your attention to this matter.

Sincerely,

**RAYSOR Ventures, LLC**

Michael D. Raysor, P.E.

Principal

[mdr@raysor-transportation.com](mailto:mdr@raysor-transportation.com)

cc: Jessica Icerman, Esq., Stearns Weaver Miller, P.A.





# Town of Dundee

## DEVELOPMENT SERVICES – HARDSHIP APPLICATION

◆ 124 Dundee Road ◆ PO Box 1000 ◆ Dundee, Florida 33838 ◆ (863) 438-8330 ◆ Fax (863) 438-8339

Project Review Name: Caldwell Ridge Subdivision

Parcel ID Numbers: 27-28-24-000000-[013010 & 013020]

Site Address or General Location: Southwest corner of Lake Hatchineha Road & Caldwell Drive

Present Use of Property: Vacant - Ag Row Crops Total Acreage: 24-Ac +/-

Legal Description of the Property: See Attached Legal Description Document

### Property Owner

Name: Raysor Ventures, LLC

Mailing Address: 19046 Bruce B. Downs Blvd, Ste. 308 State: Tampa, FL Zip: 33647

Home/Mobile Phone: (813) 625-1699 Email Address: mdr@raysor-transportation.com

### Applicant / Agent:

Name: Raysor Ventures, LLC

Mailing Address: 19046 Bruce B. Downs Blvd, Ste. 308

City: Tampa State: FL Zip: 33647

Home/Mobile Number: N/A Office Number: (813) 625-1699

Email Address: mdr@raysor-transportation.com

Agent is: Owner ☒ Agent/Representative ☐ Purchaser ☐ Lessee ☐

### Please submit a narrative with your hardship application.

Date Application accepted by Town of Dundee: \_\_\_\_\_

Name of Development: \_\_\_\_\_

Application Fee Amount Paid: \_\_\_\_\_ Date: \_\_\_\_\_

### **Please submit your application to:**

Brenda Carter, Development Services Coordinator

Town of Dundee

124 Dundee Road

Dundee FL 33838

BCarter@TownofDundee.com



**Disclaimer:** According to Florida Public Records Law, email correspondence to and from the Town of Dundee, including email addresses and other personal information, is public record and must be made available to the public and media upon request, unless otherwise exempt by the Public Records Law. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

**Narrative for Hardship Exemption Application  
Caldwell Ridge Subdivision  
February 10, 2025**

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**Project Overview**

The proposed Caldwell Ridge Subdivision consists of 81 single-family detached homes (the “**Project**”) and is located on approximately 24 acres at the southwest corner of Lake Hatchineha Road and Caldwell Drive (“**Property**”). The Property is owned by Raysor Ventures, LLC (“**Applicant**”). The Applicant obtained all approvals and is responsible for all expenditures noted herein.

**Extraordinary Hardship Criteria**

As described in Section 5 of Ordinance No. 24-09, the Town Commission reviews all competent substantial evidence and relevant testimony, which includes, but is not limited to, the following (Applicant responses included inline):

- (i) Prior to July 23, 2024 (date established by pending ordinance doctrine), the extent to which the owner had received permit(s) and/or approvals from the Town.*

The Project has been ongoing since February 2023 when the applicant applied for annexation into the Town. Since then, the Project has received numerous approvals prior to July 23, 2024, including:

- May 9, 2023: Annexation of the Property
- October 10, 2023: Comprehensive Plan Amendment
- January 23, 2024: Rezoning allowing for development of the Project

Prior to July 23, 2024, the Applicant submitted its Concept Plan Review. The Applicant received comments from Town staff on May 7, 2024. Thereafter, the Applicant resubmitted to the Town on July 3, 2024 to address the first round of comments. It was not until August 9, 2024, that the Applicant was informed by Town staff via e-mail that the Town was under a development moratorium and that the review of the Project would be paused indefinitely.

- (ii) Prior to July 23, 2024, whether the owner had entered into any contractual commitments in reliance upon the permit(s) and/or approval(s) issued by the Town.*

In good faith reliance on the above noted approvals, specifically the approval of the rezoning, the Applicant purchased the Property. The Property deed is dated July 22, 2024 (**Attachment #1**), which is prior to the date established by the pending ordinance doctrine. Had the Applicant known of the pending moratorium, the applicant would have renegotiated the sale contract or backed out of the deal entirely.

- (iii) Prior to July 23, 2024, whether the owner has made a substantial expenditure in good faith reliance upon the permit(s) and/or approval(s) issued by the Town.*

In good faith reliance on the above noted approvals, specifically the approval of the rezoning, the Applicant made substantial expenditures prior to July 23, 2024, including purchasing the Property for \$1,225,000 and over \$100,000 for professional services, including planning, engineering, surveying, geotechnical engineering, and environmental consultants.

- (iv) *Prior to July 23, 2024, in good faith reliance upon the permit(s) and/or approval(s) issued by the Town, the owner has incurred financial obligation(s) to a lending institution which cannot be met unless the subject development proceeds (i.e., owner exhausted all available alternatives).*

In good faith reliance on the above noted approvals, specifically the approval of the rezoning, the Applicant sought and obtained a private investor. The private investor signed an investor agreement on April 18, 2024, and committed \$1,105,000 toward the Project with expectations for a return on the investment within a certain timeframe. Unless the Project proceeds, the obligations made to the private investor cannot be met. See **Attachment #2** for contract pertaining to financial commitments.

- (v) *Whether the moratorium exposes the owner to substantial monetary liability to third-parties, results in the owner's inability to earn a reasonable investment-backed expectation on and/or for the subject real property.*

The moratorium exposes the Applicant to substantial monetary liability to a third-party investor. The moratorium also results in the Applicant's inability to earn a reasonable investment-backed expectation, specifically the development of the Project and the sale of lots. The moratorium will delay the Applicant's ability to obtain any returns on their investment for at least one year, and possibly two years if the moratorium extension clause is exercised. The delay also results in carrying costs for the Property while it sits idle, such as payment of property taxes and insurance. Without question, the moratorium will expose the Applicant to substantial monetary liabilities and significantly decrease the return on investment.

#### **Request for Relief**

In light of the above, the Applicant respectfully requests the Town Commission to grant a hardship exemption for the Project under the extraordinary hardship provisions of Ordinance No. 24-09. We kindly request to present our case at the next scheduled public hearing and are available to provide any additional information required to facilitate your review. Thank you for considering this request and we appreciate your attention to this matter.

Please find enclosed supporting documentation, including evidence of financial commitments, contracts, and project plans.

Prepared by and return to:

Ammie Elmore  
 Ridge Security Title, Inc  
 1012 5th Street Southeast  
 Winter Haven, FL 33880  
 863-419-8485  
 File No R22-310  
 Sales Price \$1,225,000.00  
 Parcel Identification No 27-28-24-000000-013010

INSTR # 2024168951  
 BK 13199 Pgs 2262-2263 PG(s)2  
 07/23/2024 08:16:05 AM  
 STACY M. BUTTERFIELD,  
 CLERK OF COURT POLK COUNTY  
 RECORDING FEES 18.50  
 DEED DOC 8,575.00

[Space Above This Line For Recording Data]

**WARRANTY DEED**

(STATUTORY FORM – SECTION 689.02, F.S.)

This indenture made the **22nd day of July, 2024** between **W & G Groves LLC, a Florida Limited Liability Company**, whose post office address is **P.O. Box 130, Dundee, FL 33838**, of the County of **Florida**, Grantor, to **Raysor Ventures, LLC, a Florida Limited Liability Company**, whose post office address is **19046 Bruce B Downs Boulevard, Suite 308, Tampa, FL 33647**, of the County of **Hillsborough, Florida**, Grantee:

**Witnesseth**, that said Grantor, for and in consideration of the sum of TEN DOLLARS (U.S.\$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 heirs and assigns forever, the following described land, situate, lying and being in Polk, Florida, to-wit:

The East 1/2 of the Northwest 1/4 of the Northeast 1/4 of Section 24, Township 28 South, Range 27 East, LESS road right of way for State Road S-542; AND the East 1/4 of the West 1/2 of the Northwest 1/4 of the Northeast 1/4 of said Section 24, LESS road right of way for State Road S-542; AND the North 31 feet of the West 1/4 of the East 1/2 of the Southwest 1/4 of the Northeast 1/4 of said Section 24; AND the North 31 feet of the East 1/4 of the West 1/2 of the Southwest 1/4 of the Northeast 1/4 of Section 24, Township 28 South, Range 27 East, all of said property being located in Polk County, Florida.

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

**Subject to** taxes for 2024 and subsequent years, not yet due and payable; covenants, restrictions, easements, reservations and limitations of record, if any.

**TO HAVE AND TO HOLD** the same in fee simple forever.

**And** Grantor hereby covenant with the Grantee that the Grantor is lawfully seized of said land in fee simple, that Grantor have good right and lawful authority to sell and convey said land and that the Grantor hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever.

Warranty Deed

File No.: R22-310

Page 1 of 2

## ATTACHMENT 1

In Witness Whereof, Grantor have hereunto set Grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

W & G Groves LLC, a Florida Limited Liability Company

By: Bradley D. Weihrach  
Bradley D. Weihrach, Manager

By: Matthew E. Green  
Matthew E. Green, Manager

Ammie Elmore  
WITNESS  
PRINT NAME: Ammie Elmore

Kayla Sharick  
WITNESS  
PRINT NAME: Kayla Sharick

1012 5th St. SE  
Winter Haven, FL 33880  
WITNESS 1 ADDRESS

1012 5th St. SE  
Winter Haven, FL 33880  
WITNESS 2 ADDRESS

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was acknowledged before me by means of (☒) physical presence or (☐) online notarization this 22nd day of July, 2024 by Bradley D. Weihrach and Matthew E. Green, Managers of W & G Groves LLC, a FL Limited Liability Company, on behalf of the Limited Liability Company.

Ammie Elmore  
Signature of Notary Public  
Print, Type/Stamp Name of Notary

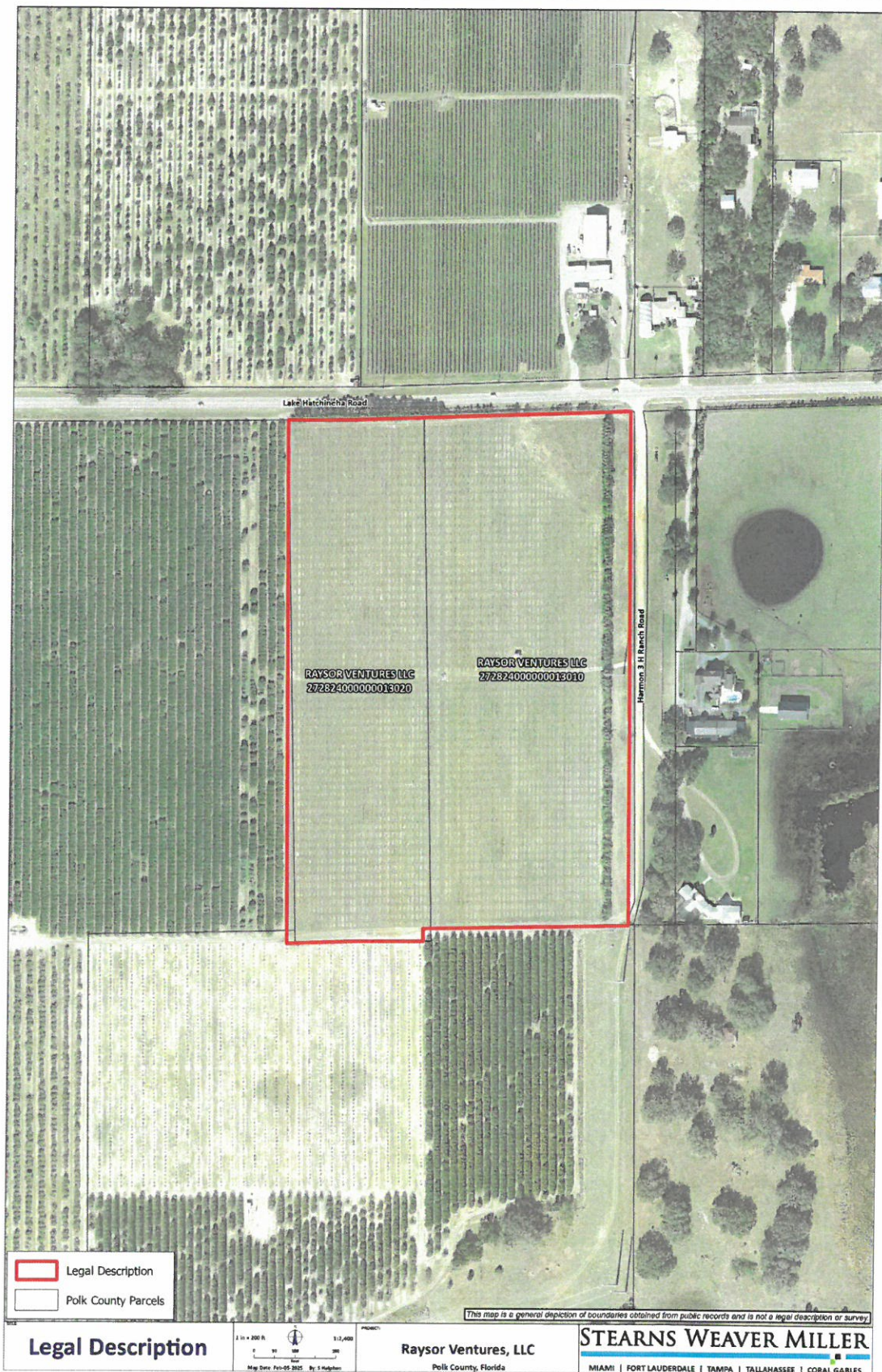
Personally known: \_\_\_\_\_  
OR Produced Identification: ☒

Type of Identification Produced: Drivers License





# ATTACHMENT 1







**CALDWELL RIDGE SINGLE-FAMILY RESIDENTIAL SUBDIVISION  
INVESTOR AGREEMENT**

THIS AGREEMENT is made and entered into this 18 day of APRIL, 2024 by and between **RAYSOR VENTURES, LLC**, hereinafter referred to as "RV", and [REDACTED] hereinafter referred to as "INVESTOR", in association with the development of the **CALDWELL RIDGE SINGLE-FAMILY RESIDENTIAL SUBDIVISION**, hereinafter referred to as the "PROJECT".

**1.0 DEFINITIONS**

- A. PROJECT:** PROJECT is defined as a Single-Family Residential Subdivision located within the jurisdictional limits of the Town of Dundee, Florida, consisting of approximately 80 single-family "SHOVEL READY" residential lots on, and including, the PROPERTY.
- B. PROPERTY:** PROPERTY is defined as POLK COUNTY Parcel Numbers 272824000000013010 and 272824000000013020, which combine for a total area of approximately 24 acres; located at the southwest corner of the intersection of Lake Hatchineha Road (CR 542) and Caldwell Drive, Haines City, Florida 33844.
- C. SHOVEL READY:** SHOVEL READY is defined as residential lots with the appropriate and necessary (1) Comprehensive Plan Future Land Use and Zoning Category entitlements, (2) approved engineering plans, and (3) site development permits, including (a) Subdivision Plans, (b) Water Management District Environmental Resource Permitting, and (c) FDEP Water & Wastewater Permits; as needed to construct the PROJECT. The definition of SHOVEL READY does not include site clearing, site development, infrastructure construction, lot grading, or any other physical disturbance of, or improvement to, the PROPERTY.

**2.0 PROJECT SUMMARY**

- A. ENTITLEMENTS:** The PROPERTY has been approved for entitlement by the Town of Dundee, as follows:
- (1) **Annexation** – The PROPERTY was approved for annexation into the Town of Dundee (from unincorporated Polk County) by the Town of Dundee Town Council on May 9, 2023.
  - (2) **Comprehensive Plan Future Land Use** – The PROPERTY was approved for an amendment to the Comprehensive Plan Future Land Use Map for the PROPERTY from Polk County Agricultural Residential (A/RR) to Town of Dundee Low Density Residential (LDR) by the Town of Dundee Town Council on October 10, 2023.
  - (3) **Zoning** – The PROPERTY was approved for an amendment to the Zoning Map for the PROPERTY from undesignated (Polk County) to Town of Dundee Moderate Density Single-Family Residential (RSF3) by the Town of Dundee Town Council on January 23, 2024. The RSF3 zoning district allows for a maximum density of 5.0 units per acre with minimum lot dimensions of 55' wide x 110' deep.
- B. PERMITTING:** The PROJECT is currently undergoing the Town of Dundee Subdivision Review process, which is a four (4) step process, summarized as follows:
- (1) **Concept Plan Review**
  - (2) **Preliminary Subdivision Plan Review**
  - (3) **Certified Subdivision Plan Review** – Upon approval of the Certified Subdivision Plan, site development construction may commence.
  - (4) **Final Subdivision Plat** – Upon recording of the Final Subdivision Plat, issuance of building permits may commence.



# ATTACHMENT 2

CALDWELL RIDGE SINGLEFAMILY RESIDENTIAL SUBDIVISION  
INVESTOR AGREEMENT  
APRIL 8, 2024  
PAGE 2 OF 3



## 3.0 INVESTMENT DETAILS

- A. RV is currently under contract to purchase the PROPERTY.
- (1) The Purchase Price for the PROPERTY is \$1,225,000.
  - (2) An initial escrow deposit has been made in the amount of \$100,000; of which \$25,000 is non-refundable.
  - (3) Additional escrow deposits in the amount of \$10,000 per month began on March 9<sup>th</sup>, 2024 and will continue monthly until closing on the property between RV and the PROPERTY seller. These deposits are non-refundable but are applicable to the Purchase Price of the PROPERTY.
  - (4) As of the date of this Agreement, the REMAINING BALANCE of the Purchase Price is \$1,105,000.
- B. RV is seeking an INVESTMENT from INVESTOR totaling the REMAINING BALANCE for the purpose of closing on the property between RV and the PROPERTY seller.
- C. Within 30-days of the Conclusion of the PROJECT, INVESTOR shall be compensated as follows:
- (1) Reimbursement of full INVESTMENT amount; plus
  - (2) Payment equal to [REDACTED] resulting from sale of the PROJECT.
- D. Conclusion of the PROJECT is defined as the sale of the PROJECT to a third-party developer and/or home builder upon approval of the Certified Subdivision Plan (referenced as 2.B.(3) herein) and successfully obtaining all site development permits associated therewith.
- E. NET PROFIT is defined as the amount of the sale to the third-party developer and/or home builder (Sales Price), minus real estate & related fees, and minus the cumulative contributions by RV, as defined herein.
- F. RV has, and will continue to, contribute to the development of the PROJECT, including both monetarily and with engineering work product. All contributions will be tracked throughout the development process to determine a final cumulative contribution at the Conclusion of the PROJECT (Project Expenses). Specific contributions subject to inclusion in the cumulative contribution will include, but not be limited to, the items listed below; where the value of certain contributions that are currently known are listed below, and the value of certain contributions that are unknown at this time are listed below as to be determined (TBD). Other contributions subject to inclusion in the cumulative contribution, in addition to those listed below, will include ordinary and regular items associated with property development, such as permit fees, platting fees, environmental fees, and other similar development expenses.

(1) Purchase Price for PROPERTY:	\$ 1,225,000.00
(2) Surveying Services:	\$ [REDACTED]
(3) Geotechnical Engineering Services:	\$ [REDACTED]
(4) Environmental Consulting Services:	\$ [REDACTED]
(5) Planning Services:	\$ [REDACTED]
(6) Landscape Architecture Services:	\$ [REDACTED]
(7) Traffic Engineering Services:	\$ [REDACTED]
(8) Civil Engineering Services:	\$ [REDACTED]
(9) Platting Services:	TBD
(10) Application Fees:	TBD

CALDWELL RIDGE SINGLE FAMILY RESIDENTIAL SUBDIVISION  
INVESTOR AGREEMENT  
APRIL 8, 2024  
PAGE 3 OF 3



- G. At the Conclusion of the PROJECT, RV shall provide INVESTOR with a statement detailing the calculation of the NET PROFIT, which will identify the Sale Price for the PROJECT and Project Expenses, including supporting documentation.
- H. At any time throughout the duration of this Agreement, at the request of INVESTOR, RV shall provide a to-date disclosure of all Project Expenses.
- I. In the event that RV and INVESTOR agree that Conclusion of the PROJECT as defined herein is not feasible, an alternative disposition of the PROJECT will be determined by RV and INVESTOR; where the cash value associated with the alternative disposition of the PROJECT will first be paid to INVESTOR up to the INVESTMENT amount, with any cash value greater than the INVESTMENT amount paid to INVESTOR at the same percentage which would have otherwise resulted from the sale of the PROJECT to a third-party developer and/or home builder.
- J. This Agreement does not preclude INVESTOR from electing to continue in the development of the PROJECT past the state of SHOVEL READY, subject to agreement by both parties as would be fulfilled through an amendment to this Agreement.

Subject to the conditions stated herein, INVESTOR hereby agrees to provide a cash INVESTMENT in the full amount of the REMAINING BALANCE to fund closing on the PROPERTY, in the amount of \$1,105,000.

The INVESTMENT amount shall be paid by INVESTOR in accordance with either (A) or (B) as stated below.

- (A) INVESTOR shall pay the full INVESTMENT amount of \$1,105,000 via wire transfer to the escrow agent for the PROPERTY seller prior to May 8, 2024.

OR

- (B) INVESTOR shall pay partial INVESTMENT amounts of \$10,000 per month to RAYSOR VENTURES, until such time that the balance of the full INVESTMENT amount is paid via wire transfer to the escrow agent for the PROPERTY seller, where each \$10,000 payment shall be made prior to the 8<sup>th</sup> of each month, beginning with May 8, 2024. A maximum of four (4) partial payments shall be allowed under this Agreement, where these payments shall be non-refundable in the event that INVESTOR does not make the payment for the balance of the full INVESTMENT prior to August 8, 2024.

The escrow agent for the PROPERTY seller is identified as Ridge Security Title, 1012 5<sup>th</sup> Street SE, Winter Haven, Florida 33880.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth beneath their respective signatures.

RAYSOR VENTURES, LLC  
19046 Bruce B. Downs Boulevard, #308  
Tampa, Florida 33647

SIGNED: Michael D. Raysor  
NAME: Michael D. Raysor  
TITLE: President  
DATE: April 8, 2024

SIGNED: [Redacted Signature]  
NAME: [Redacted Name]  
TITLE: PRESIDENT  
DATE: 4/18/2024





# TOWN COMMISSION MEETING

May 27, 2025, at 6:30 PM

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**AGENDA ITEM TITLE:**

DISCUSSION & ACTION, RICHMOND AMERICAN HOMES OF FLORIDA, LP.

**SUBJECT:**

The Town Commission to consider an amendment to the agreement regarding reserved capacity in the Town of Dundee's Wastewater Treatment Plant

**STAFF ANALYSIS:**

On March 17, 2025, the Owner requested that the Town reactivate 81 of the Wastewater ERC Certificates numbered 2024-29 through 2024-109 (Original ERC Certificates 1788 through 1868) for use in the Bella Vista subdivision. The Owner has not otherwise conveyed, assigned, pledged, hypothecated, or otherwise redeemed any of said certificates representing the Owner ERCs as defined and identified.

**STAFF RECOMMENDATION:**

Staff recommends approval

**ATTACHMENTS:**

Amendment to agreement  
Exhibits A-C

**THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:**

Frederick J. Murphy, Jr., Esquire  
Boswell & Dunlap, LLP  
Post Office Drawer 30  
245 South Central Avenue (33830)  
Bartow, Florida 33831  
Telephone (863) 533-7117  
Facsimile (863) 533-7412

*For Recording Purposes Only*

**AMENDMENT TO AGREEMENT REGARDING RESERVED CAPACITY IN THE  
TOWN OF DUNDEE'S WASTEWATER TREATMENT PLANT**

THIS AMENDMENT TO DEVELOPER'S AGREEMENT REGARDING THE FUNDING OF THE DESIGN, PERMITTING AND CONSTRUCTION OF THE EXPANSION OF THE TOWN OF DUNDEE'S WASTEWATER TREATMENT PLANT ("Amendment"), made and entered into this **13th day of May, 2025**, by and between the **TOWN OF DUNDEE**, a municipal corporation organized and existing under the laws of the State of Florida (the "Town"), and **RICHMOND AMERICAN HOMES OF FLORIDA, LP**, a Colorado limited partnership (the "Owner").

**RECITALS**

1. On or about July 28, 2004, the **Town of Dundee** (the "Town") and **Hilltop Groves LLC**, a Florida Limited Liability Company, entered into that certain *Developer's Agreement Regarding the Funding of the Design, Permitting, and Construction of the Expansion of the Town of Dundee's Wastewater Treatment Plant* (the "Agreement").
2. A copy of the Agreement is attached hereto as **Exhibit "A"** and incorporated herein by reference.
3. The Agreement provided for 266 *Wastewater Equivalent Residential Connections* (hereinafter referred to as "ERC") totaling 71,920 gpd in equivalent wastewater capacity.
4. On or about February 5, 2005, the **HILLTOP GROVES, LLC**, executed receipts (collectively the "Receipts") acknowledging the receipt and acceptance of 266 ERC certificates (Original ERC Nos. 1606 through 1871).
5. Copies of the Receipts are attached hereto as **Exhibit "B"** and incorporated herein by reference.

6. On or about July 28, 2020, the Town and **HILLTOP GROVES, LLC**, entered into that certain *Amendment to Agreement Regarding Reserved Capacity in the Town of Dundee's Wastewater Treatment Plant* (the "2020 Amendment") reactivating forty-three (43) ERCs (Original ERC Nos. 1606 through 1648).

7. On or about June 22, 2021, the Town and **HILLTOP GROVES, LLC**, entered into that certain *Amendment to Agreement Regarding Reserved Capacity in the Town of Dundee Wastewater Treatment Plant* (the "2021 Amendment") reactivating thirty-seven (37) ERCs (Original ERC Nos. 1649 through 1685) and establishing the transfer of ERCs (Original ERC Nos. 1606-1648 and 1649-1685) to **Vista Del Lago, LLC**, for the development of the Vista Del Lago, Phase II and Phase III subdivisions.

8. On or about November 3, 2021, pursuant to a Special Warranty Deed, **Richmond American Homes of Florida, LP**, acquired 74 ERCs (Original ERC Nos. 1686-1759) from **HILLTOP GROVES, LLC**.

9. On or about November 14, 2023, the Town and **Richmond American Homes of Florida, LP**, entered into that certain *Second Amendment to Agreement Regarding Reserved Capacity in the Town of Dundee Wastewater Treatment Plant* (the "2023 Amendment") approving the transfer and reactivation of twenty-five (25) ERCs (Original ERC Nos. 1735-1759) represented by ERC Certificate Nos 2022-50 through 2022-74.

10. On or About January 9, 2024, **HILLTOP GROVES, LLC**, and the Town entered into that certain *Second Amendment to Developer's Agreement regarding the Funding of the Design, Permitting and Construction of the Expansion of the Town of Dundee's Wastewater Treatment Plant dated January 9, 2024*, as recorded in Official Records Book 12982, Pages 637-796, public records of Polk County, Florida (the "Second Amendment").

11. Copies of the Second Amendment and referenced exhibits are attached hereto as **Composite Exhibit "C"** and incorporated herein by reference.

12. The Second Amendment (see **Composite Exhibit "C"**) reactivated 112 ERCs (Original ERC Nos. 1760-1871) through January 24, 2025.

13. Pursuant to the terms and conditions of the Second Amendment (see **Composite Exhibit "C"**), **HILLTOP GROVES, LLC**, retained ERC Certificates 2024-110 through 2024-112 (Original ERC Nos. 1869-1871) and assigned ERC Certificates 2024-01 through 2024-109 (Original ERC Nos. 1760-1868) to **Richmond American Homes of Florida, LP**.

14. Pursuant to the terms and conditions of the Second Amendment (see **Composite Exhibit "C"**), wastewater idle capacity fee(s) for the reactivated 112 ERCs (Original ERC Nos. 1760-1871) in full satisfaction of outstanding idle capacity charges through January 24, 2025.



15. The Town and Owner have determined that, at this time, **Richmond American Homes of Florida, LP**, holds, albeit expired, 81 ERCs (Original ERC Nos. 1788-1868) representing 21,870 gallons per day (GPD) in equivalent wastewater capacity in the Town's Wastewater Utility System represented by ERC Certificates numbered 2024-29 through 2024-109 (the "Owner ERCs").

16. The Owner ERCs expired on **January 24, 2025**.

17. The Owner has not otherwise conveyed, assigned, pledged, hypothecated or otherwise redeemed any of said certificates representing the Owner ERCs as defined and identified herein.

18. On March 17, 2025, the Owner requested that the Town reactivate 81 of the Wastewater ERC Certificates numbered 2024-29 through 2024-109 (Original ERC Certificates 1788 through 1868) for use in the Bella Vista subdivision.

19. The 81 Owner ERCs requested for reactivation would have accrued Five Thousand Four Hundred Sixty-seven Dollars and fifty cents (\$5,467.50) in idle capacity charges from **January 25, 2025** through **April 24, 2026** which has not been paid.

20. Pursuant to the Agreement (see **Exhibit "A"**), the Town acknowledges that all applicable wastewater connection fees have been paid by Owner or its predecessor in interest for the Town's allocation of wastewater capacity for the Owner ERCs.

21. The Town acknowledges and represents that the Town presently has adequate permitted wastewater capacity in and/or for its wastewater utility system for the wastewater capacity represented by the Owner ERCs.

22. The parties covenant and agree that they have the power and authority to enter into this Amendment and bind themselves to the provisions of this Amendment.

**ACCORDINGLY**, in consideration of the Recitals stated above and other good and valuable mutual consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

#### **Section 1. Factual Recitals; Ownership.**

The above-referenced Factual Recitals and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the entry into this Amendment, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced Factual Recitals as the legislative findings supporting the entry into this Amendment between the Town and Owner.

The Town acknowledges and ratifies the transfer of the Owner ERCs, and the Town further acknowledges and agrees that Owner owns the Owner ERCs which are the subject matter of this Amendment.



## **Section 2. Defined Terms.**

All capitalized terms not defined herein shall have the same meaning as set forth in the Agreement (see **Exhibit “A”**), 2020 Amendment, 2021 Amendment, 2023 Amendment, and/or Second Amendment (see **Composite Exhibit “C”**), as applicable.

## **Section 3. Grant of Extension.**

A. The Town, pursuant to the terms of this Amendment, hereby reactivates said **81** Owner ERCs and grants to the Owner an extension of the term of the **81** Owner ERCs which provide equivalent capacity in the Town’s Wastewater Treatment Plant represented by Wastewater ERC Certificates 2024-29 through 2024-109 (Original ERC Nos. 1788-1868) through a period of time expiring **April 24, 2026** (“Expiration Date”).

B. In consideration for such extension, within thirty (30) calendar days after mutual execution of this Amendment and approval by the Town Commission, at a duly noticed public meeting, the Owner shall pay Five Thousand Four Hundred Sixty-seven Dollars and fifty cents (\$5,467.50) in immediately available funds to the Town in full satisfaction of the wastewater idle capacity charges outstanding as of the date of this Agreement and due through **April 24, 2026**, and pay any and all other charges that may be due pursuant to *Chapter 54 of the Town of Dundee Code of Ordinances*. To the extent the Town determines that any other idle capacity charges are due in accordance with *Chapter 54 of the Town of Dundee Code of Ordinances* regarding the Owner ERCs that are the subject of this Amendment, the Owner agrees to pay said charges to the Town within thirty (30) calendar days of receipt of an invoice sent to Owner for same. **No refunds of any idle capacity charges paid by Owner shall be given by the Town.**

C. Once the Owner has paid the sum of Five Thousand Four Hundred Sixty-seven Dollars and fifty cents (\$5,467.50) in immediately available funds to the Town, all previously issued certificates representing the Owner ERCs extended herein, which are the subject of this Amendment, shall be returned to the Town and cancelled and of no force and effect. Thereafter, in exchange for the returned certificates, the Town will issue new certificates for the Owner ERCs extended herein and provide same to the Owner. Provided however, the terms of the Agreement attached hereto as **Exhibit “A”** shall not control when new ERC certificates are issued by the Town to Owner.

**No wastewater capacity in the Town’s Wastewater Utility Systems shall be reserved beyond April 24, 2026 and the Owner ERCs extended herein shall expire on April 24, 2026.**

## **Section 4. Grant of Option.**

A. The Town, pursuant to the terms of this Amendment and in addition to any rights granted to the Owner under the Agreement or applicable law, hereby grants to the Owner an option to transfer, from time to time (i) all or a portion of the Owner ERCs to a third party (“ERC Transferee”) without transferring fee simple title to all or any portion of the Property (“ERC Transfer”), and/or (ii) transfer of all or any portion of the Property to a third party (“Property Transferee”; ERC Transferees and Property Transferees are collectively “Transferees”) and retain all or any Owner ERCs (“Property Transfer”; “ERC Transfers” and “Property Transfers” are collectively “Independent Transfers”). Owner may exercise such option in its sole and absolute discretion.

B. At least thirty (30) days prior to any Independent Transfer as defined herein, the Owner shall provide written notice to the Town thereof ("Transfer Notice"), which shall include the Transferee's (i) name, (ii) address, (iii) employer identification number (EIN) or federal tax identification number, and (iv) contact information (including telephone number, fax number, and e-mail address, as applicable).

C. In the case of an Owner ERC Transfer of all outstanding ERCs, the Owner shall no longer be liable for any idle capacity charges which may accrue with respect to the applicable Owner ERCs if Transferee executes a written commitment to pay such charges. In that event, the Transferee must also comply with all of the conditions and obligations in the Agreement and this Amendment.

#### **Section 5. Obligations of the Town.**

A. The Town shall allocate wastewater capacity for the Owner ERCs in the name of Owner and/or its successors and assigns in accordance with all applicable laws and Ordinances and the terms of the Agreement (see **Exhibit "A"**), as amended, and this Amendment through the Expiration Date.

B. The Town shall, within ten (10) days following receipt of Owner's request, provide a written statement to the Owner certifying the current number of Owner ERCs in the name of the Owner.

#### **Section 6. Agreement to Cooperate.**

The parties agree to cooperate and to do all things reasonably necessary to accomplish the terms of this Amendment, and that they respectively shall, upon being requested by the other party to do so, execute and deliver promptly any and all such authorizations, instruments, papers or documents of any and every kind and character as may be reasonably required, necessary or proper for the purpose of giving full force and effect to this Amendment and to the covenants, conditions, and agreements contained herein. Except as specifically modified by this Amendment, all of the terms, covenants, conditions and agreements shall remain in full force and effect.

#### **Section 7. Disclaimer of Third-Party Beneficiaries.**

This Amendment is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

#### **Section 8. Severability.**

If any part of this Amendment is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Amendment if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Amendment is declared to be severable.

#### **Section 9. Land Use Approvals.**

The Owner acknowledges and affirms that the Town is prohibited from engaging in "Contract Zoning" or the bartering away of its legislative prerogative. As such, this Amendment shall not be construed as a basis for (1) granting or assuring or indicating or (2) refusing to grant or preventing any future grant of land use or zoning approvals, permissions, variances, special exceptions, or rights with respect to the Property.

**Section 10. Binding Upon Successors.**

This Amendment shall be binding upon and shall inure to the benefit of the successors or assigns of the parties hereto.

**Section 11. Applicable Law and Venue.**

This Amendment and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida. Venue for any dispute or cause of action under the Agreement, as amended, and this Amendment shall be exclusively in the state courts of competent subject matter jurisdiction in Polk County, Florida.

**Section 12. Notices.**

All notices, demands, requests and other communications required or permitted by the Agreement, as amended, and this Amendment, by any party hereto to any other party shall be in writing and shall be validly given or made by any party, or any party's attorney on behalf of such party, only if personally served or delivered by Federal Express or other similar reputable national courier service keeping records of deliveries and attempted deliveries. In the event of personal service, notice shall be deemed effective when delivered. Service by courier shall be conclusively deemed made on the second business day delivery is attempted or upon receipt, whichever is sooner.

TOWN: TOWN OF DUNDEE  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000  
Attention: Town Manager

With a copy to: Frederick J. Murphy, Jr.  
*(which shall not* Town Attorney, Town of Dundee  
*constitute notice)* P.O. Drawer 30  
245 South Central Avenue  
Bartow, Florida 33830

OWNER: RICHMOND AMERICAN HOMES OF FLORIDA, LP  
2822 Commerce Park Drive, Suite 100  
Orlando, FL 32819

Any person or entity may change their address for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the others, which notice of change of address shall not become effective, however, until the actual receipt thereof by the others.

**Section 13. Entire Agreement.**

The Agreement, as modified by this Amendment, constitutes the entire agreement between the parties. Modifications to and waivers of the provisions herein shall not be binding unless made in writing and signed by the parties hereto and approved by the Town's governing body. Except as expressly amended by this Amendment, the terms and conditions of the Agreement, as amended, is hereby ratified and confirmed. In the event of any conflict between the terms of the Agreement and Amendment, the terms of this Amendment shall control.

***[Remainder of page intentionally left blank]***

**IN WITNESS WHEREOF**, Owner and the Town have executed or have caused this Amendment, with the named Exhibits attached, if any, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Amendment.

**ATTEST:**

**THE TOWN OF DUNDEE**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
As Its: Mayor \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
As Its: Town Clerk \_\_\_\_\_

FOR THE USE AND RELIANCE  
OF TOWN OF DUNDEE ONLY.  
APPROVED AS TO FORM.

By: \_\_\_\_\_  
Frederick J. Murphy, Jr.  
Town Attorney

**OWNER:**

RICHMOND AMERICAN HOMES OF FLORIDA, LP  
a Florida limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Signed and delivered  
In the presence of:

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

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

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2025, by \_\_\_\_\_, as \_\_\_\_\_ of RICHMOND AMERICAN HOMES OF FLORIDA, LP, on behalf of the company, RICHMOND AMERICAN HOMES OF FLORIDA, LP. He is [ ] personally known to me or [ ] has produced \_\_\_\_\_ as identification and [ ] (did) [ ] (did not) take an oath.

\_\_\_\_\_  
Signature of Person Taking Acknowledgement

\_\_\_\_\_  
Name of Acknowledger Types, Printed, or Stamped

\_\_\_\_\_  
Title or Rank

\_\_\_\_\_  
Serial Number, if any.

Final Draft 07/28/2004

Agreement #4

DEVELOPER'S AGREEMENT  
REGARDING THE FUNDING OF THE  
DESIGN, PERMITTING AND  
CONSTRUCTION OF THE  
EXPANSION OF THE TOWN OF DUNDEE'S  
WASTEWATER TREATMENT PLANT

PAID APR 25 2006  
IN FULL  
*Jim Gallagher*  
*Town Manager*

THIS AGREEMENT ("Agreement") is made on this 28<sup>th</sup> day of July, 2004, by and between Hilltop Groves, LLC (the "Developer/Owner") and the TOWN OF DUNDEE, a municipal corporation organized and existing under the laws of the State of Florida (the "Town").

Town of Dundee  
P.O. Box 1000  
Dundee, FL 33838-

WITNESSETH

WHEREAS, the Town operates a wastewater treatment plant that is presently serving close to or at its capacity; and

WHEREAS, the Town is presently expanding its municipal limits through annexation which will bring growth and development to the Town; and

WHEREAS, in order to accommodate the anticipated growth it will be necessary for the Town to expand the permitted capacity of its wastewater treatment plant from 90,000 gallons per day to 700,000 gallons per day or more; and

WHEREAS, several of the property owners and Developers of land within the Town limits have had discussions with the Town in order to determine the most feasible way to immediately expand the wastewater treatment plant; and

WHEREAS, the Town has retained Envisors Consulting Engineers to prepare a preliminary design report which was presented to the Town Council at a special meeting on March 23, 2004 which identified the relative costs and expenses of expanding the wastewater treatment plant to 700,000 gallons per day or more; and

WHEREAS, if the Town Council were to proceed under the usual financing methods to obtain the necessary funds for design, permitting and expanding the wastewater treatment plant it would take at least 18 to 20 months from the present time to explore such financing; and

WHEREAS, in order to address the immediate needs of growth and development and to accelerate the design, permitting and construction of an expansion of the wastewater treatment plant, the Town of Dundee has indicated that it will move forward with the design, permitting and construction of an expansion of its wastewater treatment plant if those Developers who desire the extra capacity will immediately and irrevocably fund the costs of the expansion up front based on the equivalent residential connections (ERC) each Developer/Owner proposes to connect to the Town's wastewater treatment plant. Such funding will permit the Town of Dundee to greatly accelerate the design,



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permitting and construction of the expansion to its wastewater treatment plant. Further, without such funding it is not likely that the Town would be able to expand its permitted capacity for the wastewater treatment plant at any time now or in the near future;

**WHEREAS**, the Town is presently working with Polk County to enter into an Interlocal Agreement to allow the Town to tap into Polk County's wastewater treatment plant located in the Waverly area of Polk County, Florida, as a short term way to address the Town's need for additional wastewater treatment capacity; and

**WHEREAS**, such short term temporary capacity in the Town's waste water system that results from the diversion of waste water flows to Polk County's Waverly Plant will be connected only to customers who have been issued certificates of occupancy and on a first come first served basis until such additional wastewater treatment capacity is exhausted; and

**WHEREAS**, after the short term temporary capacity is exhausted, those wishing to connect to the sewer system will have to wait until new capacity resulting from the sewer plant expansion project becomes available; and

**WHEREAS**, the Town of Dundee Code of Ordinances requires the payment of certain **connection** fees on the basis of the number of Equivalent Residential Connections (ERC) proposed to be connected to the utility system. Further, the Town Code permits developer's agreements which set forth in detail the terms and conditions under which the Town will provide utility service to the Developer's/Owner's property; and

**WHEREAS**, the Town deems such an agreement necessary to facilitate the construction of expansion of the Town's wastewater treatment plant; and

**WHEREAS**, it is therefore deemed to be in the interest of the public health, safety and welfare for the Town and an appropriate exercise of the Town's authority to enter into the instant Developer's Agreement.

**NOW, THEREFORE**, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

- 1.0 Recitals. The foregoing recitals are incorporated herein by reference as if recited in full and serve as a factual stipulation upon which the parties agree is the basis of the instant Developer's Agreement.
- 2.0 Purpose. The purpose of this Developer's Agreement is to memorialize the Developer's/Owner's financial commitment to the Town relating to the expansion of the Town's wastewater treatment plant.
- 3.0 Wastewater Treatment Plant Capacity. In order to assure that sufficient capacity exists in the Town's wastewater treatment plant it will be

Final Draft 07/28/2004

necessary to design, permit and construct an expansion of the Town's wastewater treatment plant in order to allow capacity of at least **700,000** gallons per day to accommodate anticipated and projected growth and development in the Town. In order to allow the Town to immediately begin the design, permitting and construction of an expansion to its wastewater treatment plant, the Developer/Owner will be required to pay to the Town in cash the amount of **\$691,267.50** which amount is based on a total of **266 ERCs** the Developer/Owner proposes to connect to the Town's wastewater treatment plant and is related to the **71,820 gpd** in equivalent capacity that the Developer/Owner will need from the Town's expanded wastewater treatment plant. In addition the Developer/Owner shall be required to post an Irrevocable Letter of Credit or other security reasonably acceptable to the Town and in the form attached hereto as **Exhibit "A"**. Pursuant to paragraph 4 below, the Developer/Owner is obligated to pay said funds to the Town in order to purchase **266 ERCs** which represents **71,820 gpd** in equivalent capacity.

#### 4.0 Developer's/Owner's Obligations.

4.1.1. The Developer/Owner agrees to pay to the Town the sum of **\$691,267.50** in cash, cashier's check or cleared funds payable to the Town of Dundee to purchase **266 ERCs** that it proposes to connect to the Town's wastewater treatment plant and which represents **71,820 gpd** in equivalent capacity in accordance with the following:

4.1.2. The sum of **One Hundred Seven Thousand Eight Hundred Forty Eight Dollars and Fourteen Cents (\$107,848.14)** in cash, cashier's check or cleared funds payable to the Town of Dundee upon its execution of this Agreement. The balance of **Five Hundred Eighty Three Thousand Four Hundred Nineteen Dollars and Thirty Six (\$583,419.36)** shall be paid in cash, cashier's check or cleared funds payable to the Town of Dundee in three (3) installments in accordance with the following schedule:

Payment for the amount of **\$107,848.12** is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment for the amount of **\$107,848.12** is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

Payment for the amount of **\$367,723.12** is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the

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Town's engineer and sewer plant operational permits are in hand for the sewer plant expansion project that is expected to occur on or before December 31, 2005.

The Town's certifications described above shall be final and binding on Developer/Owner and will require the immediate payment to the Town of the funds requested and due.

- 4.1.3. In addition, to secure its obligations to the Town under this Agreement and upon the execution of this Agreement the Developer/Owner shall deliver to the Town an irrevocable letter of credit in the form as set forth as Exhibit "A" attached hereto. To the extent payments are not made by the Developer/Owner under paragraph 4.1.2 above within fourteen (14) days after written notice by the town requesting payment, the Town may draw upon any or all such cash or letters of credit in whole or in part to provide funds to pay for the design, permitting and construction of the wastewater treatment plan expansion as more particularly set forth herein. The Town shall not be obligated to commence the design, permitting and any phase of construction of the improvements to the wastewater treatment plant unless and until the Developer/Owner of the development has delivered to the Town the required cash and letter of credit.
- 4.1.4. Developer/Owner acknowledges and agrees that the Town's willingness to enter into this Developer's Agreement shall not be construed as a waiver by the Town of any applicable law, ordinance, rule or regulation for the construction of any future developments.
- 4.1.5. In the event the Developer/Owner assigns and/or conveys its interest in any real property that is being used to calculate the ERC to the Town's wastewater system, the new Owner of such property may upon notice to the Town join in this Agreement and pay the required contribution for the purchase of the 266 ERCs for the applicable property provided such notice is given within thirty (30) days after the closing of the contract for purchase, but in no event beyond the term of this Agreement. In any event unless and until the new Owner joins in this Agreement and becomes obligated to the same extent as the Developer/Owner hereunder, the Developer/Owner shall remain obligated to the Town for all obligations hereunder.
- 4.1.6. Subject to the provisions in paragraph 5.1.4 below any funds paid to the Town hereunder shall be non-refundable in the event that the Developer chooses not to move forward with the proposed development.
- 5.0 Town's Obligations.

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- 5.1.1 Subject to the Developer's/Owner's compliance with its obligations under this Agreement, the Town shall commence the design and permitting of the expansion of its wastewater treatment plant immediately. Upon completion of design and permitting the Town shall commence construction of the expansion of its wastewater treatment plant with an anticipated completion date no later than 16 months from the effective date of this Agreement.
- 5.1.2 Reservation of Capacity. In consideration for the payment by the Developer/Owner as more particularly set forth in paragraph 4 above the Town hereby reserves **71,820 gpd** in equivalent capacity for the Developer/Owner based on **266 ERCs** purchased hereunder. In the event the Developer/Owner determines that it does not need all of the reservation of capacity/ERC's purchased hereunder then such reservation of capacity/purchased ERC's may be assignable and/or sold by the Developer but only with the Town's prior written consent and as contemplated in paragraph 4.1.5 above. It is agreed that the Town's consent will not be unreasonably withheld. Furthermore, all reservations of capacity pursuant to the terms of this Agreement shall exist for only five (5) years from the date that the expanded Wastewater Treatment Plant is fully online and operational. If within five (5) years from the date that the expanded Wastewater Treatment Plant is online and fully operational, the Developer/Owner and/or its successors and/or assigns or those persons or entities who have purchased the ERC's have not used the reserved capacity then it must sell such reserved capacity **266 ERC's** representing **71,820 gpd** (or portion thereof) in equivalent capacity back to the Town. In this event, payment arrangements shall be determined solely by the Town. The Developer and the Town agree that the foregoing provision is necessary to insure that the Town's ability to provide appropriate municipal services regarding the collection and treatment of wastewater and other effluent is not compromised by unused capacity.
- 5.1.3 The Town's obligations under this Agreement are conditioned on obtaining total funds and/or commitments of at least \$3.3 million. All funds collected from developers for this project shall be maintained in a separate bank account at Wachovia Bank, N.A. and titled "Dundee Sewer Plant Expansion Account" and such funds shall not be commingled with any other Town funds and shall not be appropriated to any other Town project, except that any funds remaining in the Dundee Sewer Plant Expansion Account after completion of the project and after all project expenses are paid in full, may be appropriated subject to any restrictions established for the use of sewer impact fees. Bank statements for the Dundee Sewer Plant Expansion Account, including any reports of daily account activity, shall be made available to the public upon request as such reports become available to the Town. **In the event that the Town is unable to secure the required up front cash along with letters of credit**

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from developers prior to August 27, 2004 its obligations to expand the wastewater treatment plant and provide a reservation of capacity as described herein are null and void and all monies collected shall be refunded without interest at that time.

- 5.1.4 If the sewer plant expansion project is begun but not fully completed within 3 years from the effective date of this Agreement, then the Developers/Owners shall have the option to seek a refund of monies paid by the Developer/Owners hereunder without interest and in a manner and frequency determined solely by the Town so that such a refund will not compromise, harm, and/or impair the Town's fiscal condition and/or ability to provide necessary municipal services to its citizens. If in the event there is not sufficient waste water treatment capacity available to fulfill the Town's obligations under this agreement, the Town will have no objection to the Developer beginning development utilizing septic tank and without requiring the Developer to install dry lines.
- 6.0 Authority. The Developer/Owner affirmatively represents that it has the requisite authority to transact business in the State of Florida and has the requisite authority to enter into this Agreement.
- 7.0 Binding Effect. The Burdens of this Developer's Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. However no assignments of this Agreement shall be allowed unless the Town consents in writing to same.
- 8.0 Applicable Law, Jurisdiction and Venue. This Developer's Agreement, and the rights and obligations of the Town and the Developer/Owner hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Polk County, Florida. If any provision of this Developer's Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Developer's Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 9.0 Exhibits. All exhibits attached hereto contain additional terms of this Developer's Agreement and are incorporated herein by reference.
- 10.0 Captions and Paragraph Headings. Captions and paragraph headings contained in this Developer's Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Developer's Agreement, nor the intent of any provision hereof.

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- 11.0 Definitions. Unless specifically defined herein, the terms used in this Developer's Agreement shall be assigned the meanings, interpretations and/or definitions applied to, or provided in, the Town of Dundee Code of Ordinances and/or Florida Law.
- 12.0 Counterparts. This Developer's Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Developer's Agreement.
- 13.0 Merger. This Developer's Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein.
- 14.0 Effective Date and Duration. This Agreement shall become effective after it has been duly approved by the Town Council and executed by all parties. It shall remain in full force and effect for a period of five (5) years from that date.
- 15.0 Amendment. This Developer's Agreement may only be amended by mutual consent of the parties in writing.
- 16.0 Further Assurances. Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, execute, acknowledge and deliver, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Developer's Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Developer's Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Developer's Agreement, and to coordinate the performance of their respective obligations under the terms of this Developer's Agreement. To the extent of any conflict with the development conditions or other rules and regulations, which may otherwise govern the Development, the terms and conditions of this Developer's Agreement shall prevail.
- 17.0 Notices. Any notices or reports required by this Developer's Agreement shall be sent to the following:

For the Town:	Town Manager
	Town of Dundee
	Post Office Box 1000
	105 Center Street
	Dundee, FL 33838-1000

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With a Copy to:

Frederick J. Murphy, Jr. Town Attorney  
 Town of Dundee  
 Post Office Drawer 30  
 245 South Central Avenue  
 Bartow, Florida 33830

For the Developer/Owner:

Joe Saunders  
 Hilltop Groves, LLC  
 5529 U.S. 98 North  
 Lakeland, FL 33809

With copy to:

Attn: Rick Miller  
 Miller, Crosby & Miller  
 P.O. Box 8169  
 Lakeland, FL 33802

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Developer's Agreement on the day(s) and year set forth below.

(SEAL)

TOWN COUNCIL OF THE  
 TOWN OF DUNDEE

ATTEST:

By: 

Kevin Kitto - Mayor

Date: 11<sup>th</sup> August 04By: 

Town Clerk

Approved by Town Attorney

By: 

Frederick J. Murphy, Jr.

Approved As To Form and Legal  
 Sufficiency.



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WITNESSES

{ DEVELOPER }

Hilltop Groves, LLC

By:

Joe L. Saunders  
Joe L. Saunders

Its: Managing Member

STATE OF FLORIDA

COUNTY OF Polk

The foregoing instrument is hereby acknowledged before me this 28<sup>th</sup> day of July, 2004, by Joe L. Saunders, as Managing Member of { DEVELOPER }, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

  
 NOTARY PUBLIC

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



Emily J. Chafin

My Commission DD244879

Expires August 26 2007

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**Exhibit A**

**MIDFLORIDA Federal Credit Union  
Business Services  
Irrevocable Letter of Credit**

Date Issued: August 25, 2004Letter of Credit No. 302997

**Beneficiary:** Town of Dundee  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838

Honorable Mayor and Town Council Members:

We hereby issue our irrevocable letter of credit in your favor, for the account of **Hilltop Groves, LLC, 5529 U.S. 98 North, Lakeland, Florida 33809** in the aggregate amount of **USD Five hundred eighty three thousand four hundred nineteen dollars and thirty six cents (\$583,419.36)** available to you in three payments upon presentation of your draft(s) at sight on ourselves when accompanied by an affidavit signed jointly by the Town Mayor and Town Manager of Dundee, both authorized representatives of the Town of Dundee, certifying each stage of sewer plant expansion completion has been reached and stating that funds are due and payable by **Hilltop Groves, LLC** in return for the Town of Dundee reserving and assigning a total of **266 ERC's** of sewer plant capacity exclusively for utilization by **Hilltop Groves, LLC** in accordance with the following schedule as agreed:

Payment No. 1, for the amount of **\$107,848.12** is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment No. 2, for the amount of **\$107,848.12** is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

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Payment No. 3, for the amount of **\$367,723.12** is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the Town's engineer for the sewer plant expansion project, which is expected to occur on or before December 31, 2005.

The Town's certifications described herein as to payment requests shall be final and binding on **Hilltop Groves, LLC** and the **MIDFLORIDA Federal Credit Union** and once delivered to **Hilltop Groves, LLC** requires immediate payment to the Town of the funds requested.

This irrevocable letter of credit sets forth in full the terms of our undertaking. This undertaking shall not in any way be modified, amended, or amplified by reference to any document or contract referred to herein.

Drafts drawn under this credit must state on their face "drawn under **MIDFLORIDA Federal Credit Union** irrevocable letter of credit number **302997** dated **August 25, 2004**."

It is a condition of this letter of credit that it shall be deemed automatically extended without amendment for one year from the present or any future expiry date unless at least (number of days) prior to such expiration date, we notify you in writing by certified mail or express courier that we elect not to renew this letter of credit for any such additional one year period.

We hereby agree with you that draft(s) drawn under and in compliance with the terms and conditions of this credit shall be duly honored if presented together with documents as specified and the original of this credit, at this office on or before December 31, 2005.

Except as otherwise expressly stated herein, this letter of credit is subject to the Uniform Customs and Practices for Documentary Credits, established by the International Chamber of Commerce, as in effect on the date of issuance of this credit.

Sincerely,



Cameron Brock  
Assistant Vice President  
MIDFLORIDA Federal Credit Union  
Business Services



# EXHIBIT B

Item 4.

## Hilltop Groves

Receipt for (quantity) \_\_\_\_\_ 266 \_\_\_\_\_ Dundee Wastewater Treatment Facility ERC

Certificates number \_\_\_\_\_ 1606 \_\_\_\_\_ to \_\_\_\_\_ 1871 \_\_\_\_\_.

### Received By:

Date 2/10/05

Signed [Signature]

### Issued By:

Date 2/10/05

Signed [Signature]

Please return original to Finance Department to replace certificates.

Town of Dundee  
ERC Schedule  
Wastewater Plant Expansion

Company	Development	Equivalent Residential Units	Certificate Numbers
Hilltop Groves	Hilltop	266	1606 -1871

**Hilltop Groves**

Receipt for (quantity)\_\_\_\_\_266\_\_\_ Dundee Wastewater Treatment Facility ERC

Certificates number\_\_\_1606\_\_\_ to \_\_\_1871\_\_\_.

**Received By:**

Date \_\_\_\_\_

Signed \_\_\_\_\_

**Issued By:**

Date \_\_\_\_\_

Signed \_\_\_\_\_

**Please return original to Finance Department to replace certificates.**



Town of Dundee  
ERC Schedule  
Wastewater Plant Expansion

Company	Development	Equivalent Residential Units	Certificate Numbers
Hilltop Groves	Hilltop	266	1606 -1871

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Agreement #4

DEVELOPER'S AGREEMENT  
REGARDING THE FUNDING OF THE  
DESIGN, PERMITTING AND  
CONSTRUCTION OF THE  
EXPANSION OF THE TOWN OF DUNDEE'S  
WASTEWATER TREATMENT PLANT

PAID APR 25 2006  
 IN FULL  
*Jim Gallagher*  
*Town Manager*

THIS AGREEMENT ("Agreement") is made on this 28<sup>th</sup> day of July, 2004, by and between Hilltop Groves, LLC (the "Developer/Owner") and the TOWN OF DUNDEE, a municipal corporation organized and existing under the laws of the State of Florida (the "Town").

Town of Dundee  
 P.O. Box 1000  
 Dundee, FL 33838

WITNESSETH

**WHEREAS**, the Town operates a wastewater treatment plant that is presently serving close to or at its capacity; and

**WHEREAS**, the Town is presently expanding its municipal limits through annexation which will bring growth and development to the Town; and

**WHEREAS**, in order to accommodate the anticipated growth it will be necessary for the Town to expand the permitted capacity of its wastewater treatment plant from 90,000 gallons per day to 700,000 gallons per day or more; and

**WHEREAS**, several of the property owners and Developers of land within the Town limits have had discussions with the Town in order to determine the most feasible way to immediately expand the wastewater treatment plant; and

**WHEREAS**, the Town has retained Envisors Consulting Engineers to prepare a preliminary design report which was presented to the Town Council at a special meeting on March 23, 2004 which identified the relative costs and expenses of expanding the wastewater treatment plant to 700,000 gallons per day or more; and

**WHEREAS**, if the Town Council were to proceed under the usual financing methods to obtain the necessary funds for design, permitting and expanding the wastewater treatment plant it would take at least 18 to 20 months from the present time to explore such financing; and

**WHEREAS**, in order to address the immediate needs of growth and development and to accelerate the design, permitting and construction of an expansion of the wastewater treatment plant, the Town of Dundee has indicated that it will move forward with the design, permitting and construction of an expansion of its wastewater treatment plant if those Developers who desire the extra capacity will immediately and irrevocably fund the costs of the expansion up front based on the equivalent residential connections (ERC) each Developer/Owner proposes to connect to the Town's wastewater treatment plant. Such funding will permit the Town of Dundee to greatly accelerate the design,

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permitting and construction of the expansion to its wastewater treatment plant. Further, without such funding it is not likely that the Town would be able to expand its permitted capacity for the wastewater treatment plant at any time now or in the near future;

**WHEREAS**, the Town is presently working with Polk County to enter into an Interlocal Agreement to allow the Town to tap into Polk County's wastewater treatment plant located in the Waverly area of Polk County, Florida, as a short term way to address the Town's need for additional wastewater treatment capacity; and

**WHEREAS**, such short term temporary capacity in the Town's waste water system that results from the diversion of waste water flows to Polk County's Waverly Plant will be connected only to customers who have been issued certificates of occupancy and on a first come first served basis until such additional wastewater treatment capacity is exhausted; and

**WHEREAS**, after the short term temporary capacity is exhausted, those wishing to connect to the sewer system will have to wait until new capacity resulting from the sewer plant expansion project becomes available; and

**WHEREAS**, the Town of Dundee Code of Ordinances requires the payment of certain **connection** fees on the basis of the number of Equivalent Residential Connections (ERC) proposed to be connected to the utility system. Further, the Town Code permits developer's agreements which set forth in detail the terms and conditions under which the Town will provide utility service to the Developer's/Owner's property; and

**WHEREAS**, the Town deems such an agreement necessary to facilitate the construction of expansion of the Town's wastewater treatment plant; and

**WHEREAS**, it is therefore deemed to be in the interest of the public health, safety and welfare for the Town and an appropriate exercise of the Town's authority to enter into the instant Developer's Agreement.

**NOW, THEREFORE**, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

- 1.0 Recitals. The foregoing recitals are incorporated herein by reference as if recited in full and serve as a factual stipulation upon which the parties agree is the basis of the instant Developer's Agreement.
- 2.0 Purpose. The purpose of this Developer's Agreement is to memorialize the Developer's/Owner's financial commitment to the Town relating to the expansion of the Town's wastewater treatment plant.
- 3.0 Wastewater Treatment Plant Capacity. In order to assure that sufficient capacity exists in the Town's wastewater treatment plant it will be

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necessary to design, permit and construct an expansion of the Town's wastewater treatment plant in order to allow capacity of at least 700,000 gallons per day to accommodate anticipated and projected growth and development in the Town. In order to allow the Town to immediately begin the design, permitting and construction of an expansion to its wastewater treatment plant, the Developer/Owner will be required to pay to the Town in cash the amount of \$691,267.50 which amount is based on a total of 266 ERCs the Developer/Owner proposes to connect to the Town's wastewater treatment plant and is related to the 71,820 gpd in equivalent capacity that the Developer/Owner will need from the Town's expanded wastewater treatment plant. In addition the Developer/Owner shall be required to post an Irrevocable Letter of Credit or other security reasonably acceptable to the Town and in the form attached hereto as **Exhibit "A"**. Pursuant to paragraph 4 below, the Developer/Owner is obligated to pay said funds to the Town in order to purchase 266 ERCs which represents 71,820 gpd in equivalent capacity.

#### 4.0 Developer's/Owner's Obligations.

- 4.1.1. The Developer/Owner agrees to pay to the Town the sum of \$691,267.50 in cash, cashier's check or cleared funds payable to the Town of Dundee to purchase 266 ERCs that it proposes to connect to the Town's wastewater treatment plant and which represents 71,820 gpd in equivalent capacity in accordance with the following:
- 4.1.2. The sum of **One Hundred Seven Thousand Eight Hundred Forty Eight Dollars and Fourteen Cents (\$107,848.14)** in cash, cashier's check or cleared funds payable to the Town of Dundee upon its execution of this Agreement. The balance of **Five Hundred Eighty Three Thousand Four Hundred Nineteen Dollars and Thirty Six (\$583,419.36)** shall be paid in cash, cashier's check or cleared funds payable to the Town of Dundee in three (3) installments in accordance with the following schedule:

Payment for the amount of \$107,848.12 is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment for the amount of \$107,848.12 is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

Payment for the amount of \$367,723.12 is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the

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MID FLORIDA  
CR # 07-448 3560716

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Town's engineer and sewer plant operational permits are in hand for the sewer plant expansion project that is expected to occur on or before December 31, 2005.

The Town's certifications described above shall be final and binding on Developer/Owner and will require the immediate payment to the Town of the funds requested and due.

- 4.1.3. In addition, to secure its obligations to the Town under this Agreement and upon the execution of this Agreement the Developer/Owner shall deliver to the Town an irrevocable letter of credit in the form as set forth as Exhibit "A" attached hereto. To the extent payments are not made by the Developer/Owner under paragraph 4.1.2 above within fourteen (14) days after written notice by the town requesting payment, the Town may draw upon any or all such cash or letters of credit in whole or in part to provide funds to pay for the design, permitting and construction of the wastewater treatment plan expansion as more particularly set forth herein. The Town shall not be obligated to commence the design, permitting and any phase of construction of the improvements to the wastewater treatment plant unless and until the Developer/Owner of the development has delivered to the Town the required cash and letter of credit.
- 4.1.4. Developer/Owner acknowledges and agrees that the Town's willingness to enter into this Developer's Agreement shall not be construed as a waiver by the Town of any applicable law, ordinance, rule or regulation for the construction of any future developments.
- 4.1.5. In the event the Developer/Owner assigns and/or conveys its interest in any real property that is being used to calculate the ERC to the Town's wastewater system, the new Owner of such property may upon notice to the Town join in this Agreement and pay the required contribution for the purchase of the 266 ERCs for the applicable property provided such notice is given within thirty (30) days after the closing of the contract for purchase, but in no event beyond the term of this Agreement. In any event unless and until the new Owner joins in this Agreement and becomes obligated to the same extent as the Developer/Owner hereunder, the Developer/Owner shall remain obligated to the Town for all obligations hereunder.
- 4.1.6. Subject to the provisions in paragraph 5.1.4 below any funds paid to the Town hereunder shall be non-refundable in the event that the Developer chooses not to move forward with the proposed development.
- 5.0 Town's Obligations.

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- 5.1.1 Subject to the Developer's/Owner's compliance with its obligations under this Agreement, the Town shall commence the design and permitting of the expansion of its wastewater treatment plant immediately. Upon completion of design and permitting the Town shall commence construction of the expansion of its wastewater treatment plant with an anticipated completion date no later than 16 months from the effective date of this Agreement.
- 5.1.2 Reservation of Capacity. In consideration for the payment by the Developer/Owner as more particularly set forth in paragraph 4 above the Town hereby reserves **71,820 gpd** in equivalent capacity for the Developer/Owner based on **266 ERCs** purchased hereunder. In the event the Developer/Owner determines that it does not need all of the reservation of capacity/ERC's purchased hereunder then such reservation of capacity/purchased ERC's may be assignable and/or sold by the Developer but only with the Town's prior written consent and as contemplated in paragraph 4.1.5 above. It is agreed that the Town's consent will not be unreasonably withheld. Furthermore, all reservations of capacity pursuant to the terms of this Agreement shall exist for only five (5) years from the date that the expanded Wastewater Treatment Plant is fully online and operational. If within five (5) years from the date that the expanded Wastewater Treatment Plant is online and fully operational, the Developer/Owner and/or its successors and/or assigns or those persons or entities who have purchased the ERC's have not used the reserved capacity then it must sell such reserved capacity **266 ERC's** representing **71,820 gpd** (or portion thereof) in equivalent capacity back to the Town. In this event, payment arrangements shall be determined solely by the Town. The Developer and the Town agree that the foregoing provision is necessary to insure that the Town's ability to provide appropriate municipal services regarding the collection and treatment of wastewater and other effluent is not compromised by unused capacity.
- 5.1.3 The Town's obligations under this Agreement are conditioned on obtaining total funds and/or commitments of at least \$3.3 million. All funds collected from developers for this project shall be maintained in a separate bank account at Wachovia Bank, N.A. and titled "Dundee Sewer Plant Expansion Account" and such funds shall not be commingled with any other Town funds and shall not be appropriated to any other Town project, except that any funds remaining in the Dundee Sewer Plant Expansion Account after completion of the project and after all project expenses are paid in full, may be appropriated subject to any restrictions established for the use of sewer impact fees. Bank statements for the Dundee Sewer Plant Expansion Account, including any reports of daily account activity, shall be made available to the public upon request as such reports become available to the Town. **In the event that the Town is unable to secure the required up front cash along with letters of credit**

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from developers prior to August 27, 2004 its obligations to expand the wastewater treatment plant and provide a reservation of capacity as described herein are null and void and all monies collected shall be refunded without interest at that time.

- 5.1.4 If the sewer plant expansion project is begun but not fully completed within 3 years from the effective date of this Agreement, then the Developers/Owners shall have the option to seek a refund of monies paid by the Developer/Owners hereunder without interest and in a manner and frequency determined solely by the Town so that such a refund will not compromise, harm, and/or impair the Town's fiscal condition and/or ability to provide necessary municipal services to its citizens. If in the event there is not sufficient waste water treatment capacity available to fulfill the Town's obligations under this agreement, the Town will have no objection to the Developer beginning development utilizing septic tank and without requiring the Developer to install dry lines.
- 6.0 Authority. The Developer/Owner affirmatively represents that it has the requisite authority to transact business in the State of Florida and has the requisite authority to enter into this Agreement.
- 7.0 Binding Effect. The Burdens of this Developer's Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. However no assignments of this Agreement shall be allowed unless the Town consents in writing to same.
- 8.0 Applicable Law, Jurisdiction and Venue. This Developer's Agreement, and the rights and obligations of the Town and the Developer/Owner hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Polk County, Florida. If any provision of this Developer's Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Developer's Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 9.0 Exhibits. All exhibits attached hereto contain additional terms of this Developer's Agreement and are incorporated herein by reference.
- 10.0 Captions and Paragraph Headings. Captions and paragraph headings contained in this Developer's Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Developer's Agreement, nor the intent of any provision hereof.



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- 11.0 Definitions. Unless specifically defined herein, the terms used in this Developer's Agreement shall be assigned the meanings, interpretations and/or definitions applied to, or provided in, the Town of Dundee Code of Ordinances and/or Florida Law.
- 12.0 Counterparts. This Developer's Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Developer's Agreement.
- 13.0 Merger. This Developer's Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein.
- 14.0 Effective Date and Duration. This Agreement shall become effective after it has been duly approved by the Town Council and executed by all parties. It shall remain in full force and effect for a period of five (5) years from that date.
- 15.0 Amendment. This Developer's Agreement may only be amended by mutual consent of the parties in writing.
- 16.0 Further Assurances. Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, execute, acknowledge and deliver, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Developer's Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Developer's Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Developer's Agreement, and to coordinate the performance of their respective obligations under the terms of this Developer's Agreement. To the extent of any conflict with the development conditions or other rules and regulations, which may otherwise govern the Development, the terms and conditions of this Developer's Agreement shall prevail.
- 17.0 Notices. Any notices or reports required by this Developer's Agreement shall be sent to the following:

For the Town:

Town Manager  
Town of Dundee  
Post Office Box 1000  
105 Center Street  
Dundee, FL 33838-1000

Final Draft 07/28/2004

With a Copy to: Frederick J. Murphy, Jr. Town Attorney  
 Town of Dundee  
 Post Office Drawer 30  
 245 South Central Avenue  
 Bartow, Florida 33830

For the Developer/Owner: Joe Saunders  
 Hilltop Groves, LLC  
 5529 U.S. 98 North  
 Lakeland, FL 33809


With copy to: Attn: Rick Miller  
 Miller, Crosby & Miller  
 P.O. Box 8169  
 Lakeland, FL 33802

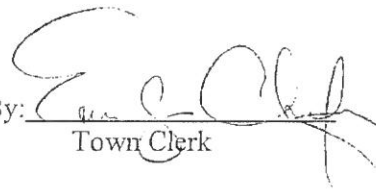
IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Developer's Agreement on the day(s) and year set forth below.

(SEAL)

TOWN COUNCIL OF THE  
 TOWN OF DUNDEE

ATTEST:

By:   
 Kevin Kitto - Mayor

By:   
 Town Clerk

Date: 11th August 04

Approved by Town Attorney

By: 

Frederick J. Murphy, Jr.  
 Approved As To Form and Legal  
 Sufficiency.

Final Draft 07/28/2004

4

WITNESSES

{ DEVELOPER }

Hilltop Groves, LLC

By:

Joe L. Saunders  
Joe L. Saunders

Its: Managing Member

STATE OF FLORIDA

COUNTY OF Polk

The foregoing instrument is hereby acknowledged before me this 28<sup>th</sup> day of July, 2004, by Joe L. Saunders, as Managing Member of { DEVELOPER }, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

  
 NOTARY PUBLIC

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



Emily J. Chafin

My Commission DD244879

Expires August 26 2007

**MIDFLORIDA**  
Federal Credit Union

P.O. Box 8008 Lakeland, Florida 33802 941/686-7587

07-448 3566716

Employee #: 154 Receipt #: 425095938 Date: 04/25/2006 Time: 9:59:10

Account: 302997 Free Business Checking Sub: 1 Check #: 448356671  
Hilltop Groves LLC

Check Withdrawal #4483566716 \$367,723.12-  
New Balance \$12,933.05

RECEIVED APR 25 2006

X \_\_\_\_\_ RECEIVED BY \_\_\_\_\_

DETACH AND RETAIN UPPER PORTION BEFORE DEPOSITING

31

THIS DOCUMENT HAS AN ARTIFICIAL WATERMARK PRINTED ON THE BACK. ABSENCE OF THIS FEATURE WILL INDICATE A COPY.

**MIDFLORIDA**  
Federal Credit Union

P.O. Box 8008 Lakeland, Florida 33802 941/686-7587

CASHIER'S CHECK

07-448 3566716

VOID OVER \$367,723.12

69-35  
519  
04/25/2006

y THREE HUNDRED SIXTY SEVEN THOUSAND SEVEN HUNDRED  
TWENTY THREE AND 12/100 DOLLARS

\*\*367,723.12

MIDFLORIDA FEDERAL CU \$367,723dols 12cts

THE  
ORDER OF:

Town Of Dundee  
From The Account Of  
HILLTOP GROVES LLC

*Gayle O'Brien*

VOID AFTER 90 DAYS

ABLE THROUGH  
AT  
RLESTON, WV

⑆051900353⑆00448 35667164⑈

# Town of Dundee

P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000



Tel. (863) 419-3100  
Fax (863) 419-3105  
Suncom 515-9950

April 18, 2005

Joe Saunders  
Hilltop Groves, LLC  
5529 U.S. 98 North  
Lakeland, FL 33809

Dear Joe:

The fourth and final installment payment on your sewer ERC purchase agreement is now due.

The town engineer's certification that the sewer plant expansion project is now 100% complete and started up is attached.

Please make your check in the amount of **\$367,723.12** payable to the Town of Dundee and send it to my attention.

Also, the ribbon cutting ceremony is scheduled for Noon on May 2, 2006 at the plant on Welsh Road. Lunch will be served and you and your guest(s) are invited to attend. Please RSVP by April 24<sup>th</sup>.

Very truly yours,

Jim Gallagher  
Town Manager



Consulting Civil & Environmental Engineers, Planners, and Surveyors

2105 Dundee Road  
Post Office Box 9309  
Winter Haven, FL 33883-9309  
Telephone: (863) 324-1112  
Fax: (863) 294-6185  
Email: [envisors@envisors.com](mailto:envisors@envisors.com)

18 April 2006  
Hand Delivered

Mr. James Gallagher, Town Manager  
TOWN OF DUNDEE  
Post Office Box 1000  
Dundee, Florida 33838

RECEIVED APR 18 2006

Subject: Construction Progress Certification  
Project: Phase II Wastewater Treatment Facility (WWTF) Expansion  
Improvements - Town of Dundee  
EVI Job No.: 71103401

Dear Mr. Gallagher:

In accordance with your request, we are pleased to certify that start-up of the Town's Phase 2 WWTF expansion is 100% complete, the WWTF is fully operational, and the required FDEP notification for project completion and start-up has been submitted. Please note for the record that start-up of the facility occurred on 13 April 2005 and it is now processing wastewater.

If you have any questions, please do not hesitate to contact me at (863) 324-1112. We sincerely appreciate the opportunity to serve the Town of Dundee on this important Project.

Yours truly,  
ENVISORS, LLC

A handwritten signature in black ink, appearing to read 'Steven L. Elias'.

Steven L. Elias, P. E.  
Vice President of Engineering

SLE/DM/lhh

Enclosure: None

Copy to: EVI Job and Cost File No. 71103401; S:\JOBS\EVI\711 DUNDEE\71103401\CORRES\71103401.L34

THIS DOCUMENT HAS A GRADUATED BACKGROUND. DARK TO LIGHT. THE REVERSE SIDE INCLUDES AN ARTIFICIAL WATERMARK.

Hilltop Groves, LLC  
 5529 US Hwy 98 North  
 Lakeland, FL 33809-3103  
 PH: 863-858-5686

MidFlorida Federal Credit Union  
 Lakeland, FL 33802  
 63-7980/2631

2014

PAY \*\*\*\* ONE HUNDRED SEVEN THOUSAND EIGHT HUNDRED FORTY EIGHT &amp; 12/100 DOLLARS

TO THE  
 ORDER OF

DATE

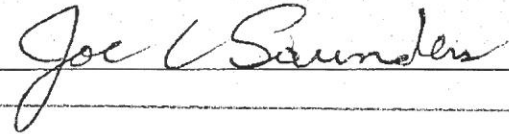
AMOUNT

11/18/05

\$ \*\*107848.12

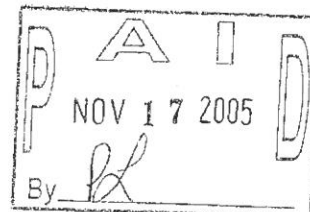
Town of Dundee

AUTHORIZED SIGNATURE



⑈0002014⑈ ⑆263179804⑆ ⑈00003029975⑈

THIRD PAYMENT  
 ON ERC INSTALLMENT  
 AGREEMENT FOR 266 ERC'S  
 SEWER CAPACITY.





# Town of Dundee

P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000



Tel. (863) 419-3100  
Fax (863) 419-3105  
Suncom 515-9950

November 1, 2005

Joe Saunders  
Hilltop Groves, LLC  
5529 U.S. 98 North  
Lakeland, FL 33809

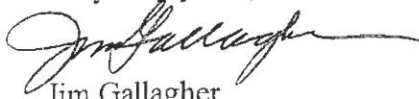
Dear Joe:


The third installment payment on your sewer ERC purchase agreement is now due.

The town engineer's certification that the sewer plant expansion project is now 50% complete is attached.

Please make your check in the amount of \$107,848.12 payable to the Town of Dundee and send it to my attention. Thanks.

Very truly yours,

  
Jim Gallagher  
Town Manager

Pd 11/17/05  


C. RICK MILLER



Consulting Civil & Environmental Engineers, Planners, and Surveyors

2105 Dundee Road  
Post Office Box 9309  
Winter Haven, FL 33883-9309  
Telephone: (863) 324-1112  
Fax: (863) 294-6185  
Email: [envisors@envisors.com](mailto:envisors@envisors.com)

28 October 2005  
Hand Delivered

Mr. James Gallagher, Town Manager  
TOWN OF DUNDEE  
Post Office Box 1000  
Dundee, Florida 33838

Subject: Construction Progress Certification

Project: Phase II Wastewater Treatment Facility (WWTF) Expansion Improvements -  
Town of Dundee

EVI Job No.: 71103401

Dear Mr. Gallagher:

In accordance with your request, we are pleased to certify that construction activities of the Town's Phase II WWTF expansion is more than 50% complete as of 28 October 2005.

If you have any questions, please do not hesitate to contact me at (863) 324-1112. We sincerely appreciate the opportunity to serve the Town of Dundee on this important Project.

Yours truly,  
ENVISORS, LLC

A handwritten signature in black ink, appearing to read 'Steven L. Elias'.

Steven L. Elias, P. E.  
Vice President of Engineering

SLE/DM

Enclosure:

None

Copy to:

EVI Job and Cost File No. 71103401; S:\JOBS\EVI\711 DUNDEE\71103401\CORRES\71103401.L21

THIS DOCUMENT HAS A COLORED BACKGROUND AND MICROPRINTING. THE REVERSE SIDE INCLUDES AN ARTIFICIAL WATERMARK.

Hilltop Groves LLC

5529 US 98 North  
Lakeland, FL 33809  
PH 863-858-4399

1057

3/15/2005

PAY TO THE ORDER OF: Town of Dundee

MidFlorida Federal Credit Union  
Lakeland, FL

For: ERC Units 2nd installment

\*\*\$107,848.12\*\*

*Sumit D. Verma*

1057

12631798041

100003029975

RECEIPT

DATE	3/17/05	No.	163445
RECEIVED FROM	Hilltop Groves LLC		
One hundred seven thousand eight hundred forty eight <sup>12</sup> / <sub>100</sub> DOLLARS			
O FOR RENT			
O FOR ERC Units - 2nd installment			
ACCOUNT		CASH	
PAYMENT		CHECK	
BAL. DUE		MONEY ORDER	
		FROM	TO
		BY	Barbara C Mc Clain
			1182

**Jim Gallagher**

---

**From:** Jim Gallagher [townmanager@townofdundee.com]  
**Sent:** Tuesday, March 15, 2005 12:42 PM  
**To:** Lee Saunders (E-mail)  
**Subject:** Hilltop Groves, LLC ERC Purchase Agreement

Lee and Joe:

You are the only party who has not paid the second payment on their ERC purchase agreement or indicated that their payment is on the way.

I realize that there is a letter of credit for the Town to draw upon, but we really would prefer not to force payment and possibly strain our friendly business relationship. therefore, if for some reason you have changed your mind about purchasing the 266 ERC's, I would be willing to recommend to the Town Council that we refund your initial payment and let you out of the purchase agreement.

However, if I don't hear from you very soon, we will have to proceed with drawing against the letter of credit.

Jim Gallagher  
Town Manager  
Town of Dundee  
(863) 419-3100

# *Town of Dundee*

P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000

Tel. (863) 419-3100  
Fax (863) 419-3105  
Suncom 515-9950



March 1, 2005

Dear Sewer Plant Expansion Project Partner:

The second installment payment on your sewer ERC purchase agreement is due.

I have attached a copy of the Town Engineer's certification that the design engineering is completed and that the project is out to bid.

Please make your check payable to the Town of Dundee and send it to my attention.  
Thanks.

Very truly yours,

Jim Gallagher  
Town Manager

03/01/05 TUE 10:42 FAX 888 284 0100

ENVISORS

001



Consulting Civil &amp; Environmental Engineers, Planners, and Surveyors

2105 Dundee Road  
Post Office Box 9309  
Winter Haven, FL 33883-9309  
Telephone: (863) 324-1112  
Fax: (863) 294-6185  
Email: [envisors@envisors.com](mailto:envisors@envisors.com)

1 March 2005  
Hand Delivered

Mr. James Gallagher, Town Manager  
TOWN OF DUNDEE  
Post Office Box 1000  
Dundee, Florida 33838

Subject: Design Completion Certification

Project: Phase II Wastewater Treatment Facility (WWTF) Expansion Improvements -  
Town of Dundee

EVI Job No.: 71103401

Dear Mr. Gallagher:

In accordance with your request, we are pleased to certify that design of the Town's Phase II WWTF expansion has been completed and the Project has been advertised for public bid. The pre-bid meeting for the Project will be held with prospective bidders this afternoon at 2:00.

If you have any questions, please do not hesitate to contact me at (863) 324-1112. We sincerely appreciate the opportunity to serve the Town of Dundee on this important Project.

Yours truly,  
ENVISORS

A handwritten signature in black ink, appearing to read 'Steven L. Elias'.

Steven L. Elias, P. E.  
Vice President of Engineering

SLE/pt  
Enclosure:  
Copy to:

None

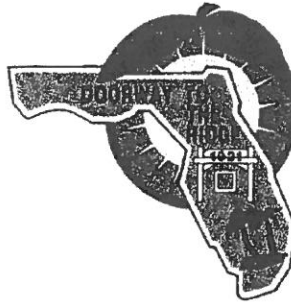
EVI Job and Cost File No. 71103401; S:\JOBS\EV11711 DUNDEE\71103401\CORRES\71103401.L08

AN EQUAL OPPORTUNITY EMPLOYER-M/F/V/H  
ORIGINAL PRINTED ON RECYCLED PAPER FIBERS  
[www.envisors.com](http://www.envisors.com)

# *Town of Dundee*

P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000

Tel. (863) 419-3100  
Fax (863) 419-3105  
Suncom 515-9950



February 11, 2005

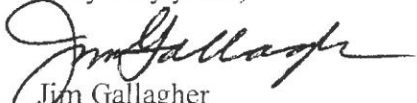
Joe Saunders  
Hilltop Groves, LLC  
5529 U.S. 98 North  
Lakeland, FL 33809

Dear Joe:

This is just a reminder that the second installment payment on your sewer ERC purchase agreement is due March 1, 2005.

Please make your check in the amount of \$107,848.12 payable to the Town of Dundee and send it to my attention. Thanks.

Very truly yours,

  
Jim Gallagher  
Town Manager



<b>LJR LTD FAMILY</b> 5100 US HIGHWAY 98 NORTH LAKELAND, FL 33809 PH. 863-858-4399		646 63-7980/2631 10
Pay to the Order of <u>Town of Dade</u>		Date <u>8/27/09</u>
\$ <u>107,848.19</u> <u>one hundred seven thousand eight hundred forty eight and 19/100</u>		DOLLARS
<b>MIDFLORIDA</b> Federal Credit Union Lakeland, Florida		
For <u>Sewer Pipe</u>		<u>Joe C. Saunders</u> MP
@ 2631798041 880024745341 0646		

DEVELOPER'S AGREEMENT  
REGARDING THE FUNDING OF THE  
DESIGN, PERMITTING AND  
CONSTRUCTION OF THE  
EXPANSION OF THE TOWN OF DUNDEE'S  
WASTEWATER TREATMENT PLANT

THIS AGREEMENT ("Agreement") is made on this \_\_\_\_ day of July, 2004, by and between **Hilltop Groves, LLC** (the "Developer/Owner") and the **TOWN OF DUNDEE**, a municipal corporation organized and existing under the laws of the State of Florida (the "Town").

WITNESSETH

**WHEREAS**, the Town operates a wastewater treatment plant that is presently serving close to or at its capacity; and

**WHEREAS**, the Town is presently expanding its municipal limits through annexation which will bring growth and development to the Town; and

**WHEREAS**, in order to accommodate the anticipated growth it will be necessary for the Town to expand the permitted capacity of its wastewater treatment plant from 90,000 gallons per day to 700,000 gallons per day or more; and

**WHEREAS**, several of the property owners and Developers of land within the Town limits have had discussions with the Town in order to determine the most feasible way to immediately expand the wastewater treatment plant; and

**WHEREAS**, the Town has retained Envisors Consulting Engineers to prepare a preliminary design report which was presented to the Town Council at a special meeting on March 23, 2004 which identified the relative costs and expenses of expanding the wastewater treatment plant to 700,000 gallons per day or more; and

**WHEREAS**, if the Town Council were to proceed under the usual financing methods to obtain the necessary funds for design, permitting and expanding the wastewater treatment plant it would take at least 18 to 20 months from the present time to explore such financing; and

**WHEREAS**, in order to address the immediate needs of growth and development and to accelerate the design, permitting and construction of an expansion of the wastewater treatment plant, the Town of Dundee has indicated that it will move forward with the design, permitting and construction of an expansion of its wastewater treatment plant if those Developers who desire the extra capacity will immediately and irrevocably fund the costs of the expansion up front based on the equivalent residential connections (ERC) each Developer/Owner proposes to connect to the Town's wastewater treatment plant. Such funding will permit the Town of Dundee to greatly accelerate the design,

Final Draft 07/28/2004

permitting and construction of the expansion to its wastewater treatment plant. Further, without such funding it is not likely that the Town would be able to expand its permitted capacity for the wastewater treatment plant at any time now or in the near future;

**WHEREAS**, the Town is presently working with Polk County to enter into an Interlocal Agreement to allow the Town to tap into Polk County's wastewater treatment plant located in the Waverly area of Polk County, Florida, as a short term way to address the Town's need for additional wastewater treatment capacity; and

**WHEREAS**, such short term temporary capacity in the Town's waste water system that results from the diversion of waste water flows to Polk County's Waverly Plant will be connected only to customers who have been issued certificates of occupancy and on a first come first served basis until such additional wastewater treatment capacity is exhausted; and

**WHEREAS**, after the short term temporary capacity is exhausted, those wishing to connect to the sewer system will have to wait until new capacity resulting from the sewer plant expansion project becomes available; and

**WHEREAS**, the Town of Dundee Code of Ordinances requires the payment of certain **connection** fees on the basis of the number of Equivalent Residential Connections (ERC) proposed to be connected to the utility system. Further, the Town Code permits developer's agreements which set forth in detail the terms and conditions under which the Town will provide utility service to the Developer's/Owner's property; and

**WHEREAS**, the Town deems such an agreement necessary to facilitate the construction of expansion of the Town's wastewater treatment plant; and

**WHEREAS**, it is therefore deemed to be in the interest of the public health, safety and welfare for the Town and an appropriate exercise of the Town's authority to enter into the instant Developer's Agreement.

**NOW, THEREFORE**, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

- 1.0 Recitals. The foregoing recitals are incorporated herein by reference as if recited in full and serve as a factual stipulation upon which the parties agree is the basis of the instant Developer's Agreement.
- 2.0 Purpose. The purpose of this Developer's Agreement is to memorialize the Developer's/Owner's financial commitment to the Town relating to the expansion of the Town's wastewater treatment plant.
- 3.0 Wastewater Treatment Plant Capacity. In order to assure that sufficient capacity exists in the Town's wastewater treatment plant it will be

necessary to design, permit and construct an expansion of the Town's wastewater treatment plant in order to allow capacity of at least **700,000** gallons per day to accommodate anticipated and projected growth and development in the Town. In order to allow the Town to immediately begin the design, permitting and construction of an expansion to its wastewater treatment plant, the Developer/Owner will be required to pay to the Town in cash the amount of **\$691,267.50** which amount is based on a total of **266 ERCs** the Developer/Owner proposes to connect to the Town's wastewater treatment plant and is related to the **71,820 gpd** in equivalent capacity that the Developer/Owner will need from the Town's expanded wastewater treatment plant. In addition the Developer/Owner shall be required to post an Irrevocable Letter of Credit or other security reasonably acceptable to the Town and in the form attached hereto as **Exhibit "A"**. Pursuant to paragraph 4 below, the Developer/Owner is obligated to pay said funds to the Town in order to purchase **266 ERCs** which represents **71,820 gpd** in equivalent capacity.

4.0 Developer's/Owner's Obligations.

4.1.1. The Developer/Owner agrees to pay to the Town the sum of **\$691,267.50** in cash, cashier's check or cleared funds payable to the Town of Dundee to purchase **266 ERCs** that it proposes to connect to the Town's wastewater treatment plant and which represents **71,820 gpd** in equivalent capacity in accordance with the following:

4.1.2. The sum of **One Hundred Seven Thousand Eight Hundred Forty Eight Dollars and Fourteen Cents (\$107,848.14)** in cash, cashier's check or cleared funds payable to the Town of Dundee upon its execution of this Agreement. The balance of **Five Hundred Eighty Three Thousand Four Hundred Nineteen Dollars and Thirty Six (\$583,419.36)** shall be paid in cash, cashier's check or cleared funds payable to the Town of Dundee in three (3) installments in accordance with the following schedule:

Payment for the amount of **\$107,848.12** is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment for the amount of **\$107,848.12** is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

Payment for the amount of **\$367,723.12** is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the

Final Draft 07/28/2004

Town's engineer and sewer plant operational permits are in hand for the sewer plant expansion project that is expected to occur on or before December 31, 2005.

The Town's certifications described above shall be final and binding on Developer/Owner and will require the immediate payment to the Town of the funds requested and due.

- 4.1.3. In addition, to secure its obligations to the Town under this Agreement and upon the execution of this Agreement the Developer/Owner shall deliver to the Town an irrevocable letter of credit in the form as set forth as Exhibit "A" attached hereto. To the extent payments are not made by the Developer/Owner under paragraph 4.1.2 above within fourteen (14) days after written notice by the town requesting payment, the Town may draw upon any or all such cash or letters of credit in whole or in part to provide funds to pay for the design, permitting and construction of the wastewater treatment plan expansion as more particularly set forth herein. The Town shall not be obligated to commence the design, permitting and any phase of construction of the improvements to the wastewater treatment plant unless and until the Developer/Owner of the development has delivered to the Town the required cash and letter of credit.
- 4.1.4. Developer/Owner acknowledges and agrees that the Town's willingness to enter into this Developer's Agreement shall not be construed as a waiver by the Town of any applicable law, ordinance, rule or regulation for the construction of any future developments.
- 4.1.5. In the event the Developer/Owner assigns and/or conveys its interest in any real property that is being used to calculate the ERC to the Town's wastewater system, the new Owner of such property may upon notice to the Town join in this Agreement and pay the required contribution for the purchase of the 266 ERCs for the applicable property provided such notice is given within thirty (30) days after the closing of the contract for purchase, but in no event beyond the term of this Agreement. In any event unless and until the new Owner joins in this Agreement and becomes obligated to the same extent as the Developer/Owner hereunder, the Developer/Owner shall remain obligated to the Town for all obligations hereunder.
- 4.1.6. Subject to the provisions in paragraph 5.1.4 below any funds paid to the Town hereunder shall be non-refundable in the event that the Developer chooses not to move forward with the proposed development.

5.0 Town's Obligations.

Final Draft 07/28/2004

- 5.1.1 Subject to the Developer's/Owner's compliance with its obligations under this Agreement, the Town shall commence the design and permitting of the expansion of its wastewater treatment plant immediately. Upon completion of design and permitting the Town shall commence construction of the expansion of its wastewater treatment plant with an anticipated completion date no later than 16 months from the effective date of this Agreement.
- 5.1.2 Reservation of Capacity. In consideration for the payment by the Developer/Owner as more particularly set forth in paragraph 4 above the Town hereby reserves **71,820 gpd** in equivalent capacity for the Developer/Owner based on **266 ERCs** purchased hereunder. In the event the Developer/Owner determines that it does not need all of the reservation of capacity/ERC's purchased hereunder then such reservation of capacity/purchased ERC's may be assignable and/or sold by the Developer but only with the Town's prior written consent and as contemplated in paragraph 4.1.5 above. It is agreed that the Town's consent will not be unreasonably withheld. Furthermore, all reservations of capacity pursuant to the terms of this Agreement shall exist for only five (5) years from the date that the expanded Wastewater Treatment Plant is fully online and operational. If within five (5) years from the date that the expanded Wastewater Treatment Plant is online and fully operational, the Developer/Owner and/or its successors and/or assigns or those persons or entities who have purchased the ERC's have not used the reserved capacity then it must sell such reserved capacity **266 ERC's** representing **71,820 gpd** (or portion thereof) in equivalent capacity back to the Town. In this event, payment arrangements shall be determined solely by the Town. The Developer and the Town agree that the foregoing provision is necessary to insure that the Town's ability to provide appropriate municipal services regarding the collection and treatment of wastewater and other effluent is not compromised by unused capacity.
- 5.1.3 The Town's obligations under this Agreement are conditioned on obtaining total funds and/or commitments of at least \$3.3 million. All funds collected from developers for this project shall be maintained in a separate bank account at Wachovia Bank, N.A. and titled "Dundee Sewer Plant Expansion Account" and such funds shall not be commingled with any other Town funds and shall not be appropriated to any other Town project, except that any funds remaining in the Dundee Sewer Plant Expansion Account after completion of the project and after all project expenses are paid in full, may be appropriated subject to any restrictions established for the use of sewer impact fees. Bank statements for the Dundee Sewer Plant Expansion Account, including any reports of daily account activity, shall be made available to the public upon request as such reports become available to the Town. **In the event that the Town is unable to secure the required up front cash along with letters of credit**



**from developers prior to August 27, 2004 its obligations to expand the wastewater treatment plant and provide a reservation of capacity as described herein are null and void and all monies collected shall be refunded without interest at that time.**

- 5.1.4 If the sewer plant expansion project is begun but not fully completed within 3 years from the effective date of this Agreement, then the Developers/Owners shall have the option to seek a refund of monies paid by the Developer/Owners hereunder without interest and in a manner and frequency determined solely by the Town so that such a refund will not compromise, harm, and/or impair the Town's fiscal condition and/or ability to provide necessary municipal services to its citizens. If in the event there is not sufficient waste water treatment capacity available to fulfill the Town's obligations under this agreement, the Town will have no objection to the Developer beginning development utilizing septic tank and without requiring the Developer to install dry lines.
- 6.0 Authority. The Developer/Owner affirmatively represents that it has the requisite authority to transact business in the State of Florida and has the requisite authority to enter into this Agreement.
- 7.0 Binding Effect. The Burdens of this Developer's Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. However no assignments of this Agreement shall be allowed unless the Town consents in writing to same.
- 8.0 Applicable Law, Jurisdiction and Venue. This Developer's Agreement, and the rights and obligations of the Town and the Developer/Owner hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Polk County, Florida. If any provision of this Developer's Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Developer's Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 9.0 Exhibits. All exhibits attached hereto contain additional terms of this Developer's Agreement and are incorporated herein by reference.
- 10.0 Captions and Paragraph Headings. Captions and paragraph headings contained in this Developer's Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Developer's Agreement, nor the intent of any provision hereof.



- 11.0 Definitions. Unless specifically defined herein, the terms used in this Developer's Agreement shall be assigned the meanings, interpretations and/or definitions applied to, or provided in, the Town of Dundee Code of Ordinances and/or Florida Law.
- 12.0 Counterparts. This Developer's Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Developer's Agreement.
- 13.0 Merger. This Developer's Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein.
- 14.0 Effective Date and Duration. This Agreement shall become effective after it has been duly approved by the Town Council and executed by all parties. It shall remain in full force and effect for a period of five (5) years from that date.
- 15.0 Amendment. This Developer's Agreement may only be amended by mutual consent of the parties in writing.
- 16.0 Further Assurances. Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, execute, acknowledge and deliver, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Developer's Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Developer's Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Developer's Agreement, and to coordinate the performance of their respective obligations under the terms of this Developer's Agreement. To the extent of any conflict with the development conditions or other rules and regulations, which may otherwise govern the Development, the terms and conditions of this Developer's Agreement shall prevail.
- 17.0 Notices. Any notices or reports required by this Developer's Agreement shall be sent to the following:

For the Town:

Town Manager  
Town of Dundee  
Post Office Box 1000  
105 Center Street  
Dundee, FL 33838-1000

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With a Copy to: Frederick J. Murphy, Jr. Town Attorney  
 Town of Dundee  
 Post Office Drawer 30  
 245 South Central Avenue  
 Bartow, Florida 33830

For the Developer/Owner: Joe Saunders  
 Hilltop Groves, LLC  
 5529 U.S. 98 North  
 Lakeland, FL 33809

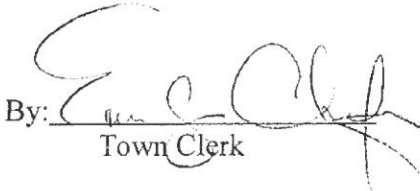
With copy to: Attn: Rick Miller  
 Miller, Crosby & Miller  
 P.O. Box 8169  
 Lakeland, FL 33802

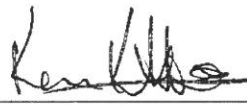
IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Developer's Agreement on the day(s) and year set forth below.

(SEAL)

TOWN COUNCIL OF THE  
 TOWN OF DUNDEE

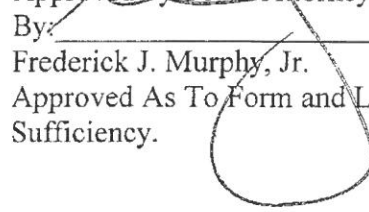
ATTEST:

By:   
 Town Clerk

By:   
 Kevin Kitto - Mayor

Date: 11<sup>th</sup> August 04

Approved by Town Attorney

By:   
 Frederick J. Murphy, Jr.  
 Approved As To Form and Legal  
 Sufficiency.

Final Draft 07/28/2004

WITNESSES

{ DEVELOPER }

*[Signature]*  
*Joe L. Saunders*  
Joe L. Saunders

Hilltop Groves, LLC

By:

*Joe L. Saunders*  
Joe L. Saunders

Its: Managing Member

STATE OF FLORIDA

COUNTY OF Polk

The foregoing instrument is hereby acknowledged before me this 28<sup>th</sup> day of July, 2004, by Joe L. Saunders, as Managing Member of { DEVELOPER }, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

*[Signature]*  
 NOTARY PUBLIC

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



Emily J. Chafin

My Commission DD244879

Expires August 26 2007

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**Exhibit A**

**MIDFLORIDA Federal Credit Union  
Business Services  
Irrevocable Letter of Credit**

Date Issued: August 25, 2004Letter of Credit No. 302997

**Beneficiary:** Town of Dundee  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838

Honorable Mayor and Town Council Members:

We hereby issue our irrevocable letter of credit in your favor, for the account of **Hilltop Groves, LLC, 5529 U.S. 98 North, Lakeland, Florida 33809** in the aggregate amount of USD **Five hundred eighty three thousand four hundred nineteen dollars and thirty six cents (\$583,419.36)** available to you in three payments upon presentation of your draft(s) at sight on ourselves when accompanied by an affidavit signed jointly by the Town Mayor and Town Manager of Dundee, both authorized representatives of the Town of Dundee, certifying each stage of sewer plant expansion completion has been reached and stating that funds are due and payable by **Hilltop Groves, LLC** in return for the Town of Dundee reserving and assigning a total of **266 ERC's** of sewer plant capacity exclusively for utilization by **Hilltop Groves, LLC** in accordance with the following schedule as agreed:

Payment No. 1, for the amount of **\$107,848.12** is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment No. 2, for the amount of **\$107,848.12** is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

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Payment No. 3, for the amount of **\$367,723.12** is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the Town's engineer for the sewer plant expansion project, which is expected to occur on or before December 31, 2005.

The Town's certifications described herein as to payment requests shall be final and binding on **Hilltop Groves, LLC** and the **MIDFLORIDA Federal Credit Union** and once delivered to **Hilltop Groves, LLC** requires immediate payment to the Town of the funds requested.

This irrevocable letter of credit sets forth in full the terms of our undertaking. This undertaking shall not in any way be modified, amended, or amplified by reference to any document or contract referred to herein.

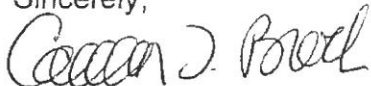
Drafts drawn under this credit must state on their face "drawn under **MIDFLORIDA Federal Credit Union** irrevocable letter of credit number **302997** dated **August 25, 2004**."

It is a condition of this letter of credit that it shall be deemed automatically extended without amendment for one year from the present or any future expiry date unless at least (number of days) prior to such expiration date, we notify you in writing by certified mail or express courier that we elect not to renew this letter of credit for any such additional one year period.

We hereby agree with you that draft(s) drawn under and in compliance with the terms and conditions of this credit shall be duly honored if presented together with documents as specified and the original of this credit, at this office on or before December 31, 2005.

Except as otherwise expressly stated herein, this letter of credit is subject to the Uniform Customs and Practices for Documentary Credits, established by the International Chamber of Commerce, as in effect on the date of issuance of this credit.

Sincerely,



Cameron Brock  
Assistant Vice President  
MIDFLORIDA Federal Credit Union  
Business Services





EXHIBIT C



Item 4.

INSTR # 2024017430  
BK 12982 Pg. 637-796 PG(s)160  
RECORDED 01/24/2024 09:28:46 AM  
STACY M. BUTTERFIELD,  
CLERK OF COURT POLK COUNTY  
RECORDING FEES \$1,361.50  
RECORDED BY vergayal

**THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:**

Frederick J. Murphy, Jr., Esquire  
Boswell & Dunlap, LLP  
Post Office Drawer 30  
245 South Central Avenue (33830)  
Bartow, Florida 33831  
Telephone (863) 533-7117  
Facsimile (863) 533-7412

For Recording Purposes Only

**SECOND AMENDMENT TO AGREEMENT REGARDING RESERVED CAPACITY IN  
THE TOWN OF DUNDEE'S WASTEWATER TREATMENT PLANT**

THIS AMENDMENT TO DEVELOPER'S AGREEMENT REGARDING THE FUNDING OF THE DESIGN, PERMITTING AND CONSTRUCTION OF THE EXPANSION OF THE TOWN OF DUNDEE'S WASTEWATER TREATMENT PLANT ("Amendment"), made and entered into this 9th day of January, 2024, by and between the **TOWN OF DUNDEE**, a municipal corporation organized and existing under the laws of the State of Florida (the "Town"), and **HILLTOP GROVES, LLC**, a municipal corporation organized and existing under the laws of the State of Florida ("Owner").

**RECITALS**

1. On or about July 28, 2004, the Town and Hilltop Groves LLC, a Florida Limited Liability Company, entered into that certain Developer's Agreement Regarding the Funding of the Design, Permitting and Construction of the Expansion of the Town of Dundee's Wastewater Treatment Plant (the "Agreement") a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference.
2. The Agreement provided for 266 ERCs totaling 71,920 gpd in equivalent capacity.
3. On or about February 5, 2005, the Owner executed receipts (collectively the "Receipts") acknowledging the receipt and acceptance of 266 Dundee Wastewater Treatment Facility ERC certificates numbered 1606 through 1871.
4. Copies of the Receipts are attached hereto as **Composite Exhibit "B"** and incorporated herein by reference.
5. On or about July 28, 2020, the Town and Owner entered into that certain Amendment To Agreement Regarding Reserved Capacity In The Town of Dundee's Wastewater Treatment Plant (the "2020 Amendment") reactivating forty-three (43) ERCs (Original ERC Certificates 1606 through 1648).



6. A copy of the 2020 Amendment is attached hereto as **Composite Exhibit "C"** and incorporated herein by reference.

7. On or about July 22, 2021, the Town and Owner entered into that certain Amendment To Agreement Regarding Reserved Capacity In The Town of Dundee's Wastewater Treatment Plant (the "2021 Amendment") reactivating thirty-seven (37) ERCs (Original ERC Certificates 1649 through 1685).

8. A copy of the 2021 Amendment is attached hereto as **Composite Exhibit "D"** and incorporated herein by reference.

9. On or about November 3, 2021, Richmond American Homes of Florida, LP acquired 74 wastewater ERCs (Original ERC Certificates 1686 through 1759) from **HILLTOP GROVES, LLC**, a Florida limited liability company, by Special Warranty Deed (the "Deed").

10. Copies of the Deed and closing statement are attached hereto as **Exhibit "E"** and incorporated herein by reference.

11. On or about November 14, 2023, the Town and Richmond American Homes of Florida, LP entered into that certain Second Amendment To Agreement Regarding Reserved Capacity In The Town of Dundee's Wastewater Treatment Plant (the "2023 Amendment") approving the transfer and reactivation of twenty-five (25) ERCs represented by ERC Certificate Nos. 2022-50 through 2022-74 (Original ERC Certificates 1735 through 1759).

12. A copy of the 2023 Agreement is attached hereto as **Composite Exhibit "F"** and incorporated herein by reference.

13. The Town and Owner have determined that, at this time, the Owner holds, albeit expired, 112 Wastewater ERCs representing 30,240 gallons per day (GPD) in equivalent capacity in the Town's Wastewater Utility System represented by ERC Certificates numbered 1760 through 1871 (the "Owner ERCs").

14. The Owner has not otherwise conveyed, assigned, pledged, hypothecated or otherwise redeemed any of said certificates representing the Owner ERCs as defined and identified herein.

15. The Owner ERCs expired on April 24, 2011.

16. On October 4, 2023, the Owner requested that the Town reactivate the Owner ERCs (Original ERC Certificates 1760 through 1871).

17. The 112 Owner ERCs requested for reactivation would have accrued One Hundred Seven Thousand Three Hundred Fifty-two Dollars and no cents (\$107,352.00) in idle capacity charges from April 24, 2006 through January 24, 2024 which remains unpaid.

18. On June 23, 2020, the Town introduced and passed Resolution No. 20-13 (the "Resolution"). A copy of the Resolution is attached hereto as **Exhibit "G"** and incorporated herein by reference.

19. The Resolution provides for a temporary waiver of certain Town of Dundee Idle Capacity Fee(s) for a period of eighteen (18) months beginning on June 23, 2020 and automatically sunseting on December 23, 2021.

20. In accounting for the temporary waiver provide for with the passage of the Resolution, the idle capacity charges for the Owner ERCs (Original ERC Certificates 1760 through 1871), totals Ninety-eight Thousand Two Hundred Eighty dollars and no cents (\$98,280.00).

21. The Town acknowledges that all Town wastewater impact fees have been paid by Owner or its predecessor in interest for the Town's allocation of wastewater capacity for the Owner ERCs pursuant to the Agreement (see attached **Exhibit "A"**) and that the Town presently has adequate permitted capacity in its wastewater plant for the wastewater capacity represented by the Owner ERCs described above.

22. The parties covenant and agree that they have the power and authority to enter into this Amendment and bind themselves to the provisions of this Amendment.

**ACCORDINGLY**, in consideration of the Recitals stated above and other good and valuable mutual consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**SECTION 1. RECITALS; OWNERSHIP.** The Factual Recitals above are true and correct and form a factual and material basis of this Amendment. The Town acknowledges and ratifies the transfer of the Owner ERCs, and the Town further acknowledges and agrees that Owner owns the Owner ERCs which are the subject matter of this Amendment.

**SECTION 2. DEFINITIONS.** All capitalized terms not defined herein shall have the same meaning as defined in the Agreements.

**SECTION 3. GRANT OF EXTENSION.**

A. The Town, pursuant to the terms of this Amendment, hereby reactivates said 112 Owner ERCs and grants to the Owner an extension of the term of the 112 Owner ERCs of equivalent capacity in the Town's Wastewater Treatment Plant represented by Wastewater ERC Certificates (Original ERC Certificates 1760 through 1871) through a period expiring January 24, 2025 ("Expiration Date").

B. In consideration for such extension, within thirty (30) calendar days after mutual execution of this Agreement and approval by the Town Commission, Owner shall pay Ninety-eight Thousand Two Hundred Eighty dollars and no cents (\$98,280.00) in immediately available funds to the Town in full satisfaction of the wastewater idle capacity charges outstanding as of the date of this Agreement and due through January 24, 2025 and pay any and all other charges that may be due pursuant to Chapter 54 of the Town's Code of Ordinances. To the extent the Town determines that any other idle capacity charges are due in accordance with Chapter 54 of the Town's Code of

Ordinances regarding the Wastewater Owner ERCs that are the subject of this Agreement, then Owner agrees to pay said idle capacity and/or charges to the Town within thirty (30) calendar days of receipt of an invoice sent to Owner for same. No refunds of any idle capacity charges paid by Owner shall be given by the Town.

C. Once the Owner has paid the sum of be **Ninety-eight Thousand Two Hundred Eighty dollars and no cents (\$98,280.00)** in immediately available funds to the Town, all previously issued certificates representing the Wastewater Owner ERCs extended herein and that are the subject of this Agreement shall be returned to the Town and cancelled and of no force and effect. Thereafter, in exchange for the returned certificates, the Town will issue new certificates for Wastewater Owner ERCs extended herein and that are the subject matter of this Agreement and provide same to the Owner. Provided however that the terms of the Agreement attached hereto as **Exhibit "A"** shall not control and when new certificates are issued by the Town to Owner. No Wastewater capacity in the Town's Wastewater Utility Systems shall be reserved beyond January 24, 2025 and the Owner ERCs extended herein shall expire on January 24, 2025.

#### **SECTION 4. GRANT OF OPTION.**

A. The Town, pursuant to the terms of this Amendment and in addition to any rights granted to Owner under the Agreement or under applicable law, hereby grants to the Owner an option to transfer, from time to time (i) all or a portion of the Owner ERCs to a third party ("**ERC Transferee**") without transferring fee simple title to all or any portion of the Property ("**ERC Transfer**"), and/or (ii) transfer of all or any portion of the Property to a third party ("**Property Transferee**"; ERC Transferees and Property Transferees are collectively "**Transferees**") and retain all or any Owner ERCs ("**Property Transfer**"; "ERC Transfers" and "Property Transfers" are collectively "**Independent Transfers**"). Owner may exercise such option in its sole and absolute discretion.

B. At least thirty (30) days prior to any Independent Transfer as defined herein, Owner shall provide written notice to the Town thereof ("**Transfer Notice**"), which shall include the Transferee's (i) name, (ii) address, (iii) employer identification number (EIN) or federal tax identification number, and (iv) contact information (including telephone number, fax number, and e-mail address, as applicable). The parties agree that Owner shall enter into transfer and/or assignment agreement with **RICHMOND AMERICAN HOMES OF FLORIDA, LP, a Colorado limited partnership**, in the event of any transfer and/or assignment of the Owner ERCs and that notice was previously given by Owner for this specific anticipated Independent Transfer.

C. In the case of an Owner ERC Transfer of all outstanding ERCs, Owner shall no longer be liable for any idle capacity charges which may accrue with respect to the applicable Owner ERCs if Transferee executes a written commitment to pay such charges. In that event the Transferee must also comply with all of the conditions and obligations in the Agreement and this Amendment including, but not limited to, the provisions of Section 6 of this Amendment.

#### **SECTION 5. OBLIGATIONS OF TOWN.**

A. The Town shall allocate wastewater capacity for the Owner ERCs in the name of Owner and/or its successors and assigns in accordance with all applicable laws

and Ordinances and the terms of the Agreement, as amended, and this Amendment through the Expiration Date.

B. The Town shall, within ten (10) days following receipt of Owner's request, provide a written statement to Owner certifying the current number of Owner ERCs in the name of Owner.

**SECTION 6. AGREEMENT TO COOPERATE.** The parties agree to cooperate and to do all things reasonably necessary to accomplish the terms of this Amendment, and that they respectively shall, upon being requested by the other party to do so, execute and deliver promptly any and all such authorizations, instruments, papers or documents of any and every kind and character as may be reasonably required, necessary or proper for the purpose of giving full force and effect to this Amendment and to the covenants, conditions, and agreements contained herein. Except as specifically modified by this Amendment, all of the terms, covenants, conditions and agreements of the Agreements shall remain in full force and effect.

**SECTION 7. DISCLAIMER OF THIRD-PARTY BENEFICIARIES.** This Amendment is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

**SECTION 8. SEVERABILITY.** If any part of this Amendment is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Amendment if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Amendment is declared to be severable.

**SECTION 9. LAND USE APPROVALS.** Owner acknowledges and understands that the Town is prohibited from engaging in "Contract Zoning" or the bartering away of its legislative prerogative. As such this Amendment shall not be construed as a basis for (1) granting or assuring or indicating or (2) refusing to grant or preventing any future grant of land use or zoning approvals, permissions, variances, special exceptions, or rights with respect to the Property.

**SECTION 10. BINDING UPON SUCCESSORS.** This Amendment shall be binding upon and shall inure to the benefit of the successors or assigns of the parties hereto.

**SECTION 11. APPLICABLE LAW AND VENUE.** This Amendment and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida. Venue for any dispute or cause of action under the Agreements, as modified by this Amendment, shall be exclusively in the state courts of competent subject matter jurisdiction in Polk County, Florida.

**SECTION 12. NOTICES.** All notices, demands, requests and other communications required or permitted by the Agreements, as modified by this Amendment, by any party hereto to any other party shall be in writing and shall be validly given or made by any party, or any party's attorney on behalf of such party, only if personally served or delivered by Federal Express or other similar reputable national courier service keeping records of deliveries and attempted deliveries. In the event of

personal service, notice shall be deemed effective when delivered. Service by courier shall be conclusively deemed made on the second business day delivery is attempted or upon receipt, whichever is sooner.

TOWN: TOWN OF DUNDEE  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000  
Attention: Town Manager

With a copy to: Frederick J. Murphy, Jr.  
(which shall not constitute notice) Town Attorney, Town of Dundee  
P.O. Drawer 30  
245 South Central Avenue  
Bartow, Florida 33830

OWNER: HILLTOP GOVES, LLC  
5529 US Highway 98 North  
Lakeland, FL 33809

Any person or entity may change their address for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the others, which notice of change of address shall not become effective, however, until the actual receipt thereof by the others.

**SECTION 13. ENTIRE AGREEMENT.** The Agreement, as modified by this Amendment, constitute the entire agreement between the parties. Modifications to and waivers of the provisions herein shall not be binding unless made in writing and signed by the parties hereto and approved by the Town's governing body. Except as expressly amended by this Amendment, the terms and conditions of the Agreement and the Assignment shall remain unchanged and unamended, and are hereby ratified and confirmed. In the event of any conflict between the terms of the Agreement and Amendment, the terms of this Amendment shall control.


**[SIGNATURE PAGES TO FOLLOW]**

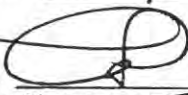


**IN WITNESS WHEREOF**, Owner and the Town have executed or have caused this Amendment, with the named Exhibits attached, if any, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Amendment.

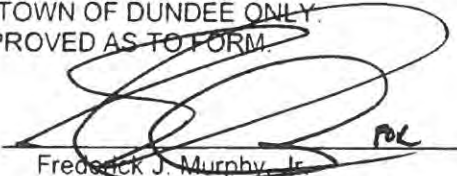
**ATTEST:**

**THE TOWN OF DUNDEE**

By:   
 Print Name: Sam Pennino  
 As Its: Mayor  
 Date: 1-12-2024

By:   
 Print Name: Trevor Douthett  
 As Its: Town Clerk

FOR THE USE AND RELIANCE  
 OF TOWN OF DUNDEE ONLY.  
 APPROVED AS TO FORM.

By:   
 Frederick J. Murphy, Jr.  
 Town Attorney

**OWNER:**

HILLTOP GROVES, LLC,  
a Florida limited liability company

By: [Signature]Name: LEE SAUNDERSTitle: MANAGER

Signed and delivered  
In the presence of:

Print Name: Raisa GarciaPrint Name: Jessica Gonzalez

STATE OF FLORIDA  
COUNTY OF POLK

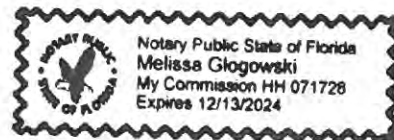
The foregoing instrument was acknowledged before me this 12 day of January, 2024, by Lee Saunders, as Manager of HILLTOP GROVES, LLC, on behalf of the company, HILLTOP GROVES, LLC. He is ☒ personally known to me or [ ] has produces \_\_\_\_\_ as identification and [ ] (did) [ ] (did not) take an oath.

[Signature]  
Signature of Person Taking Acknowledgement

Melissa Glogowski  
Name of Acknowledger, Types, Printed, or Stamped

HR Coordinator / Executive Admin Asst  
Title or Rank

\_\_\_\_\_  
Serial Number, if any.





## EXHIBIT A

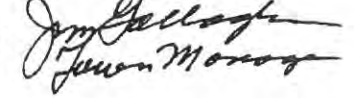
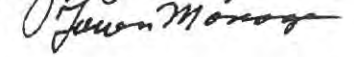
Final Draft 07/28/2004

Agreement #4

DEVELOPER'S AGREEMENT  
REGARDING THE FUNDING OF THE  
DESIGN, PERMITTING AND  
CONSTRUCTION OF THE  
EXPANSION OF THE TOWN OF DUNDEE'S  
WASTEWATER TREATMENT PLANT

PAID APR 25 2006

IN FULL

THIS AGREEMENT ("Agreement") is made on this 25<sup>th</sup> day of July, 2004, by and between Hilltop Groves, LLC (the "Developer/Owner") and the TOWN OF <sup>Town of Dund</sup> DUNDEE, a municipal corporation organized and existing under the laws of the State of <sup>P.O. Box 100</sup> Florida (the "Town"). <sup>Dundee, FL 33838</sup>

WITNESSETH

**WHEREAS**, the Town operates a wastewater treatment plant that is presently serving close to or at its capacity; and

**WHEREAS**, the Town is presently expanding its municipal limits through annexation which will bring growth and development to the Town; and

**WHEREAS**, in order to accommodate the anticipated growth it will be necessary for the Town to expand the permitted capacity of its wastewater treatment plant from 90,000 gallons per day to 700,000 gallons per day or more; and

**WHEREAS**, several of the property owners and Developers of land within the Town limits have had discussions with the Town in order to determine the most feasible way to immediately expand the wastewater treatment plant; and

**WHEREAS**, the Town has retained Envisors Consulting Engineers to prepare a preliminary design report which was presented to the Town Council at a special meeting on March 23, 2004 which identified the relative costs and expenses of expanding the wastewater treatment plant to 700,000 gallons per day or more; and

**WHEREAS**, if the Town Council were to proceed under the usual financing methods to obtain the necessary funds for design, permitting and expanding the wastewater treatment plant it would take at least 18 to 20 months from the present time to explore such financing; and

**WHEREAS**, in order to address the immediate needs of growth and development and to accelerate the design, permitting and construction of an expansion of the wastewater treatment plant, the Town of Dundee has indicated that it will move forward with the design, permitting and construction of an expansion of its wastewater treatment plant if those Developers who desire the extra capacity will immediately and irrevocably fund the costs of the expansion up front based on the equivalent residential connections (ERC) each Developer/Owner proposes to connect to the Town's wastewater treatment plant. Such funding will permit the Town of Dundee to greatly accelerate the design,

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permitting and construction of the expansion to its wastewater treatment plant. Further, without such funding it is not likely that the Town would be able to expand its permitted capacity for the wastewater treatment plant at any time now or in the near future;

**WHEREAS**, the Town is presently working with Polk County to enter into an Interlocal Agreement to allow the Town to tap into Polk County's wastewater treatment plant located in the Waverly area of Polk County, Florida, as a short term way to address the Town's need for additional wastewater treatment capacity; and

**WHEREAS**, such short term temporary capacity in the Town's waste water system that results from the diversion of waste water flows to Polk County's Waverly Plant will be connected only to customers who have been issued certificates of occupancy and on a first come first served basis until such additional wastewater treatment capacity is exhausted; and

**WHEREAS**, after the short term temporary capacity is exhausted, those wishing to connect to the sewer system will have to wait until new capacity resulting from the sewer plant expansion project becomes available; and

**WHEREAS**, the Town of Dundee Code of Ordinances requires the payment of certain **connection** fees on the basis of the number of Equivalent Residential Connections (ERC) proposed to be connected to the utility system. Further, the Town Code permits developer's agreements which set forth in detail the terms and conditions under which the Town will provide utility service to the Developer's/Owner's property; and

**WHEREAS**, the Town deems such an agreement necessary to facilitate the construction of expansion of the Town's wastewater treatment plant; and

**WHEREAS**, it is therefore deemed to be in the interest of the public health, safety and welfare for the Town and an appropriate exercise of the Town's authority to enter into the instant Developer's Agreement.

**NOW, THEREFORE**, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

- 1.0 Recitals. The foregoing recitals are incorporated herein by reference as if recited in full and serve as a factual stipulation upon which the parties agree is the basis of the instant Developer's Agreement.
- 2.0 Purpose. The purpose of this Developer's Agreement is to memorialize the Developer's/Owner's financial commitment to the Town relating to the expansion of the Town's wastewater treatment plant.
- 3.0 Wastewater Treatment Plant Capacity. In order to assure that sufficient capacity exists in the Town's wastewater treatment plant it will be

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necessary to design, permit and construct an expansion of the Town's wastewater treatment plant in order to allow capacity of at least **700,000** gallons per day to accommodate anticipated and projected growth and development in the Town. In order to allow the Town to immediately begin the design, permitting and construction of an expansion to its wastewater treatment plant, the Developer/Owner will be required to pay to the Town in cash the amount of **\$691,267.50** which amount is based on a total of **266** ERCs the Developer/Owner proposes to connect to the Town's wastewater treatment plant and is related to the **71,820 gpd** in equivalent capacity that the Developer/Owner will need from the Town's expanded wastewater treatment plant. In addition the Developer/Owner shall be required to post an Irrevocable Letter of Credit or other security reasonably acceptable to the Town and in the form attached hereto as **Exhibit "A"**. Pursuant to paragraph 4 below, the Developer/Owner is obligated to pay said funds to the Town in order to purchase **266** ERCs which represents **71,820 gpd** in equivalent capacity.

**4.0 Developer's/Owner's Obligations.**

**4.1.1.** The Developer/Owner agrees to pay to the Town the sum of **\$691,267.50** in cash, cashier's check or cleared funds payable to the Town of Dundee to purchase **266** ERCs that it proposes to connect to the Town's wastewater treatment plant and which represents **71,820 gpd** in equivalent capacity in accordance with the following:

**4.1.2.** The sum of **One Hundred Seven Thousand Eight Hundred Forty Eight Dollars and Fourteen Cents (\$107,848.14)** in cash, cashier's check or cleared funds payable to the Town of Dundee upon its execution of this Agreement. The balance of **Five Hundred Eighty Three Thousand Four Hundred Nineteen Dollars and Thirty Six (\$583,419.36)** shall be paid in cash, cashier's check or cleared funds payable to the Town of Dundee in three (3) installments in accordance with the following schedule:

Payment for the amount of **\$107,848.12** is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment for the amount of **\$107,848.12** is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

Payment for the amount of **\$367,723.12** is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the

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Town's engineer and sewer plant operational permits are in hand for the sewer plant expansion project that is expected to occur on or before December 31, 2005.

The Town's certifications described above shall be final and binding on Developer/Owner and will require the immediate payment to the Town of the funds requested and due.

- 4.1.3. In addition, to secure its obligations to the Town under this Agreement and upon the execution of this Agreement the Developer/Owner shall deliver to the Town an irrevocable letter of credit in the form as set forth as Exhibit "A" attached hereto. To the extent payments are not made by the Developer/Owner under paragraph 4.1.2 above within fourteen (14) days after written notice by the town requesting payment, the Town may draw upon any or all such cash or letters of credit in whole or in part to provide funds to pay for the design, permitting and construction of the wastewater treatment plan expansion as more particularly set forth herein. The Town shall not be obligated to commence the design, permitting and any phase of construction of the improvements to the wastewater treatment plant unless and until the Developer/Owner of the development has delivered to the Town the required cash and letter of credit.
- 4.1.4. Developer/Owner acknowledges and agrees that the Town's willingness to enter into this Developer's Agreement shall not be construed as a waiver by the Town of any applicable law, ordinance, rule or regulation for the construction of any future developments.
- 4.1.5. In the event the Developer/Owner assigns and/or conveys its interest in any real property that is being used to calculate the ERC to the Town's wastewater system, the new Owner of such property may upon notice to the Town join in this Agreement and pay the required contribution for the purchase of the 266 ERCs for the applicable property provided such notice is given within thirty (30) days after the closing of the contract for purchase, but in no event beyond the term of this Agreement. In any event unless and until the new Owner joins in this Agreement and becomes obligated to the same extent as the Developer/Owner hereunder, the Developer/Owner shall remain obligated to the Town for all obligations hereunder.
- 4.1.6. Subject to the provisions in paragraph 5.1.4 below any funds paid to the Town hereunder shall be non-refundable in the event that the Developer chooses not to move forward with the proposed development.
- 5.0 Town's Obligations.

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- 5.1.1 Subject to the Developer's/Owner's compliance with its obligations under this Agreement, the Town shall commence the design and permitting of the expansion of its wastewater treatment plant immediately. Upon completion of design and permitting the Town shall commence construction of the expansion of its wastewater treatment plant with an anticipated completion date no later than 16 months from the effective date of this Agreement.
- 5.1.2 Reservation of Capacity. In consideration for the payment by the Developer/Owner as more particularly set forth in paragraph 4 above the Town hereby reserves **71,820 gpd** in equivalent capacity for the Developer/Owner based on **266 ERCs** purchased hereunder. In the event the Developer/Owner determines that it does not need all of the reservation of capacity/ERC's purchased hereunder then such reservation of capacity/purchased ERC's may be assignable and/or sold by the Developer but only with the Town's prior written consent and as contemplated in paragraph 4.1.5 above. It is agreed that the Town's consent will not be unreasonably withheld. Furthermore, all reservations of capacity pursuant to the terms of this Agreement shall exist for only five (5) years from the date that the expanded Wastewater Treatment Plant is fully online and operational. If within five (5) years from the date that the expanded Wastewater Treatment Plant is online and fully operational, the Developer/Owner and/or its successors and/or assigns or those persons or entities who have purchased the ERC's have not used the reserved capacity then it must sell such reserved capacity **266 ERC's** representing **71,820 gpd** (or portion thereof) in equivalent capacity back to the Town. In this event, payment arrangements shall be determined solely by the Town. The Developer and the Town agree that the foregoing provision is necessary to insure that the Town's ability to provide appropriate municipal services regarding the collection and treatment of wastewater and other effluent is not compromised by unused capacity.
- 5.1.3 The Town's obligations under this Agreement are conditioned on obtaining total funds and/or commitments of at least \$3.3 million. All funds collected from developers for this project shall be maintained in a separate bank account at Wachovia Bank, N.A. and titled "Dundee Sewer Plant Expansion Account" and such funds shall not be commingled with any other Town funds and shall not be appropriated to any other Town project, except that any funds remaining in the Dundee Sewer Plant Expansion Account after completion of the project and after all project expenses are paid in full, may be appropriated subject to any restrictions established for the use of sewer impact fees. Bank statements for the Dundee Sewer Plant Expansion Account, including any reports of daily account activity, shall be made available to the public upon request as such reports become available to the Town. **In the event that the Town is unable to secure the required up front cash along with letters of credit**



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from developers prior to August 27, 2004 its obligations to expand the wastewater treatment plant and provide a reservation of capacity as described herein are null and void and all monies collected shall be refunded without interest at that time.

- 5.1.4 If the sewer plant expansion project is begun but not fully completed within 3 years from the effective date of this Agreement, then the Developers/Owners shall have the option to seek a refund of monies paid by the Developer/Owners hereunder without interest and in a manner and frequency determined solely by the Town so that such a refund will not compromise, harm, and/or impair the Town's fiscal condition and/or ability to provide necessary municipal services to its citizens. If in the event there is not sufficient waste water treatment capacity available to fulfill the Town's obligations under this agreement, the Town will have no objection to the Developer beginning development utilizing septic tank and without requiring the Developer to install dry lines.
- 6.0 Authority. The Developer/Owner affirmatively represents that it has the requisite authority to transact business in the State of Florida and has the requisite authority to enter into this Agreement.
- 7.0 Binding Effect. The Burdens of this Developer's Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. However no assignments of this Agreement shall be allowed unless the Town consents in writing to same.
- 8.0 Applicable Law, Jurisdiction and Venue. This Developer's Agreement, and the rights and obligations of the Town and the Developer/Owner hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Polk County, Florida. If any provision of this Developer's Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Developer's Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 9.0 Exhibits. All exhibits attached hereto contain additional terms of this Developer's Agreement and are incorporated herein by reference.
- 10.0 Captions and Paragraph Headings. Captions and paragraph headings contained in this Developer's Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Developer's Agreement, nor the intent of any provision hereof.

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- 11.0 Definitions. Unless specifically defined herein, the terms used in this Developer's Agreement shall be assigned the meanings, interpretations and/or definitions applied to, or provided in, the Town of Dundee Code of Ordinances and/or Florida Law.
- 12.0 Counterparts. This Developer's Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Developer's Agreement.
- 13.0 Merger. This Developer's Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein.
- 14.0 Effective Date and Duration. This Agreement shall become effective after it has been duly approved by the Town Council and executed by all parties. It shall remain in full force and effect for a period of five (5) years from that date.
- 15.0 Amendment. This Developer's Agreement may only be amended by mutual consent of the parties in writing.
- 16.0 Further Assurances. Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, execute, acknowledge and deliver, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Developer's Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Developer's Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Developer's Agreement, and to coordinate the performance of their respective obligations under the terms of this Developer's Agreement. To the extent of any conflict with the development conditions or other rules and regulations, which may otherwise govern the Development, the terms and conditions of this Developer's Agreement shall prevail.
- 17.0 Notices. Any notices or reports required by this Developer's Agreement shall be sent to the following:

For the Town:	Town Manager Town of Dundee Post Office Box 1000 105 Center Street Dundee, FL 33838-1000
---------------	------------------------------------------------------------------------------------------------------



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With a Copy to:

Frederick J. Murphy, Jr. Town Attorney  
 Town of Dundee  
 Post Office Drawer 30  
 245 South Central Avenue  
 Bartow, Florida 33830

For the Developer/Owner:

Joe Saunders  
 Hilltop Groves, LLC  
 5529 U.S. 98 North  
 Lakeland, FL 33809


With copy to:

Attn: Rick Miller  
 Miller, Crosby & Miller  
 P.O. Box 8169  
 Lakeland, FL 33802


IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Developer's Agreement on the day(s) and year set forth below.

(SEAL)

ATTEST:

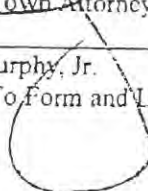
By:   
 Town Clerk

TOWN COUNCIL OF THE  
 TOWN OF DUNDEE

By:   
 Kevin Kitto - Mayor

Date: 11<sup>th</sup> August 04

Approved by Town Attorney

By:   
 Frederick J. Murphy, Jr.  
 Approved As To Form and Legal  
 Sufficiency.

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WITNESSES

{ DEVELOPER }

*[Signature]*  
*[Signature]*  
 My Comm. Expires 8/26/2007  
*[Signature]*

Hilltop Groves, LLC

By:

*[Signature]*  
 Joe L. Saunders

Its Managing Member

STATE OF FLORIDA  
 COUNTY OF Polk

The foregoing instrument is hereby acknowledged before me this 28<sup>th</sup> day of July, 2004, by Joe L. Saunders, as Managing Member of { DEVELOPER }, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

*[Signature]*  
 NOTARY PUBLIC

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



Emily J. Chaffin

My Commission DD244879

Expires August 26 2007

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**Exhibit A**

**MIDFLORIDA Federal Credit Union  
Business Services  
Irrevocable Letter of Credit**

Date Issued: August 25, 2004Letter of Credit No. 302997

**Beneficiary:** Town of Dundee  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838

Honorable Mayor and Town Council Members:

We hereby issue our irrevocable letter of credit in your favor, for the account of **Hilltop Groves, LLC, 5529 U.S. 98 North, Lakeland, Florida 33809** in the aggregate amount of USD **Five hundred eighty three thousand four hundred nineteen dollars and thirty six cents (\$583,419.36)** available to you in three payments upon presentation of your draft(s) at sight on ourselves when accompanied by an affidavit signed jointly by the Town Mayor and Town Manager of Dundee, both authorized representatives of the Town of Dundee, certifying each stage of sewer plant expansion completion has been reached and stating that funds are due and payable by **Hilltop Groves, LLC** in return for the Town of Dundee reserving and assigning a total of **266 ERC's** of sewer plant capacity exclusively for utilization by **Hilltop Groves, LLC** in accordance with the following schedule as agreed:

Payment No. 1, for the amount of **\$107,848.12** is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment No. 2, for the amount of **\$107,848.12** is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

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Payment No. 3, for the amount of **\$367,723.12** is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the Town's engineer for the sewer plant expansion project, which is expected to occur on or before December 31, 2005.

The Town's certifications described herein as to payment requests shall be final and binding on **Hilltop Groves, LLC** and the **MIDFLORIDA Federal Credit Union** and once delivered to **Hilltop Groves, LLC** requires immediate payment to the Town of the funds requested.

This irrevocable letter of credit sets forth in full the terms of our undertaking. This undertaking shall not in any way be modified, amended, or amplified by reference to any document or contract referred to herein.

Drafts drawn under this credit must state on their face "drawn under **MIDFLORIDA Federal Credit Union** irrevocable letter of credit number **302997** dated **August 25, 2004**."

It is a condition of this letter of credit that it shall be deemed automatically extended without amendment for one year from the present or any future expiry date unless at least (number of days) prior to such expiration date, we notify you in writing by certified mail or express courier that we elect not to renew this letter of credit for any such additional one year period.

We hereby agree with you that draft(s) drawn under and in compliance with the terms and conditions of this credit shall be duly honored if presented together with documents as specified and the original of this credit, at this office on or before December 31, 2005.

Except as otherwise expressly stated herein, this letter of credit is subject to the Uniform Customs and Practices for Documentary Credits, established by the International Chamber of Commerce, as in effect on the date of issuance of this credit.

Sincerely,



Cameron Brock  
Assistant Vice President  
MIDFLORIDA Federal Credit Union  
Business Services



**EXHIBIT B****Hilltop Groves**Receipt for (quantity) 266 Dundee Wastewater Treatment Facility ERCCertificates number 1606 to 1871**Received By:**Date 2/10/05Signed [Signature]**Issued By:**Date 2/10/05Signed [Signature]**Please return original to Finance Department to replace certificates.**

Town of Dundee  
ERC Schedule  
Wastewater Plant Expansion

Company	Development	Equivalent Residential Units	Certificate Numbers
Hilltop Groves	Hilltop	266	1606 -1871



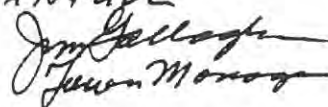
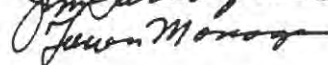
Town of Dundee  
ERC Schedule  
Wastewater Plant Expansion

Company	Development	Equivalent Residential Units	Certificate Numbers
Hilltop Groves	Hilltop	266	1606 - 1871

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Agreement #4

DEVELOPER'S AGREEMENT  
REGARDING THE FUNDING OF THE  
DESIGN, PERMITTING AND  
CONSTRUCTION OF THE  
EXPANSION OF THE TOWN OF DUNDEE'S  
WASTEWATER TREATMENT PLANT

PAID APR 25 2006  
 IN FULL  
  


THIS AGREEMENT ("Agreement") is made on this 28<sup>th</sup> day of July, 2004, by and between **Hilltop Groves, LLC** (the "Developer/Owner") and the **TOWN OF DUNDEE**, a municipal corporation organized and existing under the laws of the State of Florida (the "Town"). Town of Dund  
P.O. Box 100  
Dundee, FL 33838

WITNESSETH

**WHEREAS**, the Town operates a wastewater treatment plant that is presently serving close to or at its capacity; and

**WHEREAS**, the Town is presently expanding its municipal limits through annexation which will bring growth and development to the Town; and

**WHEREAS**, in order to accommodate the anticipated growth it will be necessary for the Town to expand the permitted capacity of its wastewater treatment plant from 90,000 gallons per day to 700,000 gallons per day or more; and

**WHEREAS**, several of the property owners and Developers of land within the Town limits have had discussions with the Town in order to determine the most feasible way to immediately expand the wastewater treatment plant; and

**WHEREAS**, the Town has retained Envisors Consulting Engineers to prepare a preliminary design report which was presented to the Town Council at a special meeting on March 23, 2004 which identified the relative costs and expenses of expanding the wastewater treatment plant to 700,000 gallons per day or more; and

**WHEREAS**, if the Town Council were to proceed under the usual financing methods to obtain the necessary funds for design, permitting and expanding the wastewater treatment plant it would take at least 18 to 20 months from the present time to explore such financing; and

**WHEREAS**, in order to address the immediate needs of growth and development and to accelerate the design, permitting and construction of an expansion of the wastewater treatment plant, the Town of Dundee has indicated that it will move forward with the design, permitting and construction of an expansion of its wastewater treatment plant if those Developers who desire the extra capacity will immediately and irrevocably fund the costs of the expansion up front based on the equivalent residential connections (ERC) each Developer/Owner proposes to connect to the Town's wastewater treatment plant. Such funding will permit the Town of Dundee to greatly accelerate the design,

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permitting and construction of the expansion to its wastewater treatment plant. Further, without such funding it is not likely that the Town would be able to expand its permitted capacity for the wastewater treatment plant at any time now or in the near future;

**WHEREAS**, the Town is presently working with Polk County to enter into an Interlocal Agreement to allow the Town to tap into Polk County's wastewater treatment plant located in the Waverly area of Polk County, Florida, as a short term way to address the Town's need for additional wastewater treatment capacity; and

**WHEREAS**, such short term temporary capacity in the Town's waste water system that results from the diversion of waste water flows to Polk County's Waverly Plant will be connected only to customers who have been issued certificates of occupancy and on a first come first served basis until such additional wastewater treatment capacity is exhausted; and

**WHEREAS**, after the short term temporary capacity is exhausted, those wishing to connect to the sewer system will have to wait until new capacity resulting from the sewer plant expansion project becomes available; and

**WHEREAS**, the Town of Dundee Code of Ordinances requires the payment of certain **connection** fees on the basis of the number of Equivalent Residential Connections (ERC) proposed to be connected to the utility system. Further, the Town Code permits developer's agreements which set forth in detail the terms and conditions under which the Town will provide utility service to the Developer's/Owner's property; and

**WHEREAS**, the Town deems such an agreement necessary to facilitate the construction of expansion of the Town's wastewater treatment plant; and

**WHEREAS**, it is therefore deemed to be in the interest of the public health, safety and welfare for the Town and an appropriate exercise of the Town's authority to enter into the instant Developer's Agreement.

**NOW, THEREFORE**, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

- 1.0 Recitals. The foregoing recitals are incorporated herein by reference as if recited in full and serve as a factual stipulation upon which the parties agree is the basis of the instant Developer's Agreement.
- 2.0 Purpose. The purpose of this Developer's Agreement is to memorialize the Developer's/Owner's financial commitment to the Town relating to the expansion of the Town's wastewater treatment plant.
- 3.0 Wastewater Treatment Plant Capacity. In order to assure that sufficient capacity exists in the Town's wastewater treatment plant it will be

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necessary to design, permit and construct an expansion of the Town's wastewater treatment plant in order to allow capacity of at least 700,000 gallons per day to accommodate anticipated and projected growth and development in the Town. In order to allow the Town to immediately begin the design, permitting and construction of an expansion to its wastewater treatment plant, the Developer/Owner will be required to pay to the Town in cash the amount of \$691,267.50 which amount is based on a total of 266 ERCs the Developer/Owner proposes to connect to the Town's wastewater treatment plant and is related to the 71,820 gpd in equivalent capacity that the Developer/Owner will need from the Town's expanded wastewater treatment plant. In addition the Developer/Owner shall be required to post an Irrevocable Letter of Credit or other security reasonably acceptable to the Town and in the form attached hereto as Exhibit "A". Pursuant to paragraph 4 below, the Developer/Owner is obligated to pay said funds to the Town in order to purchase 266 ERCs which represents 71,820 gpd in equivalent capacity.

#### 4.0 Developer's/Owner's Obligations

4.1.1. The Developer/Owner agrees to pay to the Town the sum of \$691,267.50 in cash, cashier's check or cleared funds payable to the Town of Dundee to purchase 266 ERCs that it proposes to connect to the Town's wastewater treatment plant and which represents 71,820 gpd in equivalent capacity in accordance with the following:

4.1.2. The sum of **One Hundred Seven Thousand Eight Hundred Forty Eight Dollars and Fourteen Cents (\$107,848.14)** in cash, cashier's check or cleared funds payable to the Town of Dundee upon its execution of this Agreement. The balance of **Five Hundred Eighty Three Thousand Four Hundred Nineteen Dollars and Thirty Six (\$583,419.36)** shall be paid in cash, cashier's check or cleared funds payable to the Town of Dundee in three (3) installments in accordance with the following schedule:

Payment for the amount of \$107,848.12 is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment for the amount of \$107,848.12 is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

Payment for the amount of \$367,723.12 is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the

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MID-FLORIDA  
CR # 07-448 3566716  
APR 25 2006

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Town's engineer and sewer plant operational permits are in hand for the sewer plant expansion project that is expected to occur on or before December 31, 2005.

The Town's certifications described above shall be final and binding on Developer/Owner and will require the immediate payment to the Town of the funds requested and due.

- 4.1.3. In addition, to secure its obligations to the Town under this Agreement and upon the execution of this Agreement the Developer/Owner shall deliver to the Town an irrevocable letter of credit in the form as set forth as Exhibit "A" attached hereto. To the extent payments are not made by the Developer/Owner under paragraph 4.1.2 above within fourteen (14) days after written notice by the town requesting payment, the Town may draw upon any or all such cash or letters of credit in whole or in part to provide funds to pay for the design, permitting and construction of the wastewater treatment plan expansion as more particularly set forth herein. The Town shall not be obligated to commence the design, permitting and any phase of construction of the improvements to the wastewater treatment plant unless and until the Developer/Owner of the development has delivered to the Town the required cash and letter of credit.
- 4.1.4. Developer/Owner acknowledges and agrees that the Town's willingness to enter into this Developer's Agreement shall not be construed as a waiver by the Town of any applicable law, ordinance, rule or regulation for the construction of any future developments.
- 4.1.5. In the event the Developer/Owner assigns and/or conveys its interest in any real property that is being used to calculate the ERC to the Town's wastewater system, the new Owner of such property may upon notice to the Town join in this Agreement and pay the required contribution for the purchase of the **266 ERCs** for the applicable property provided such notice is given within thirty (30) days after the closing of the contract for purchase, but in no event beyond the term of this Agreement. In any event unless and until the new Owner joins in this Agreement and becomes obligated to the same extent as the Developer/Owner hereunder, the Developer/Owner shall remain obligated to the Town for all obligations hereunder.
- 4.1.6. Subject to the provisions in paragraph 5.1.4 below any funds paid to the Town hereunder shall be non-refundable in the event that the Developer chooses not to move forward with the proposed development.

#### 5.0 Town's Obligations

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- 5.1.1 Subject to the Developer's/Owner's compliance with its obligations under this Agreement, the Town shall commence the design and permitting of the expansion of its wastewater treatment plant immediately. Upon completion of design and permitting the Town shall commence construction of the expansion of its wastewater treatment plant with an anticipated completion date no later than 16 months from the effective date of this Agreement.
- 5.1.2 Reservation of Capacity. In consideration for the payment by the Developer/Owner as more particularly set forth in paragraph 4 above the Town hereby reserves **71,820 gpd** in equivalent capacity for the Developer/Owner based on **266 ERCs** purchased hereunder. In the event the Developer/Owner determines that it does not need all of the reservation of capacity/ERC's purchased hereunder then such reservation of capacity/purchased ERC's may be assignable and/or sold by the Developer but only with the Town's prior written consent and as contemplated in paragraph 4.1.5 above. It is agreed that the Town's consent will not be unreasonably withheld. Furthermore, all reservations of capacity pursuant to the terms of this Agreement shall exist for only five (5) years from the date that the expanded Wastewater Treatment Plant is fully online and operational. If within five (5) years from the date that the expanded Wastewater Treatment Plant is online and fully operational, the Developer/Owner and/or its successors and/or assigns or those persons or entities who have purchased the ERC's have not used the reserved capacity then it must sell such reserved capacity **266 ERC's** representing **71,820 gpd** (or portion thereof) in equivalent capacity back to the Town. In this event, payment arrangements shall be determined solely by the Town. The Developer and the Town agree that the foregoing provision is necessary to insure that the Town's ability to provide appropriate municipal services regarding the collection and treatment of wastewater and other effluent is not compromised by unused capacity.
- 5.1.3 The Town's obligations under this Agreement are conditioned on obtaining total funds and/or commitments of at least \$3.3 million. All funds collected from developers for this project shall be maintained in a separate bank account at Wachovia Bank, N.A. and titled "Dundee Sewer Plant Expansion Account" and such funds shall not be commingled with any other Town funds and shall not be appropriated to any other Town project, except that any funds remaining in the Dundee Sewer Plant Expansion Account after completion of the project and after all project expenses are paid in full, may be appropriated subject to any restrictions established for the use of sewer impact fees. Bank statements for the Dundee Sewer Plant Expansion Account, including any reports of daily account activity, shall be made available to the public upon request as such reports become available to the Town **In the event that the Town is unable to secure the required up front cash along with letters of credit**



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from developers prior to August 27, 2004 its obligations to expand the wastewater treatment plant and provide a reservation of capacity as described herein are null and void and all monies collected shall be refunded without interest at that time.

- 5.1.4 If the sewer plant expansion project is begun but not fully completed within 3 years from the effective date of this Agreement, then the Developers/Owners shall have the option to seek a refund of monies paid by the Developer/Owners hereunder without interest and in a manner and frequency determined solely by the Town so that such a refund will not compromise, harm, and/or impair the Town's fiscal condition and/or ability to provide necessary municipal services to its citizens. If in the event there is not sufficient waste water treatment capacity available to fulfill the Town's obligations under this agreement, the Town will have no objection to the Developer beginning development utilizing septic tank and without requiring the Developer to install dry lines.
- 6.0 Authority. The Developer/Owner affirmatively represents that it has the requisite authority to transact business in the State of Florida and has the requisite authority to enter into this Agreement.
- 7.0 Binding Effect. The Burdens of this Developer's Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. However no assignments of this Agreement shall be allowed unless the Town consents in writing to same.
- 8.0 Applicable Law, Jurisdiction and Venue. This Developer's Agreement, and the rights and obligations of the Town and the Developer/Owner hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Polk County, Florida. If any provision of this Developer's Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Developer's Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 9.0 Exhibits. All exhibits attached hereto contain additional terms of this Developer's Agreement and are incorporated herein by reference.
- 10.0 Captions and Paragraph Headings. Captions and paragraph headings contained in this Developer's Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Developer's Agreement, nor the intent of any provision hereof.



Final Draft 07/28/2004

- 11.0 Definitions. Unless specifically defined herein, the terms used in this Developer's Agreement shall be assigned the meanings, interpretations and/or definitions applied to, or provided in, the Town of Dundee Code of Ordinances and/or Florida Law.
- 12.0 Counterparts. This Developer's Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Developer's Agreement.
- 13.0 Merger. This Developer's Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein.
- 14.0 Effective Date and Duration. This Agreement shall become effective after it has been duly approved by the Town Council and executed by all parties. It shall remain in full force and effect for a period of five (5) years from that date.
- 15.0 Amendment. This Developer's Agreement may only be amended by mutual consent of the parties in writing.
- 16.0 Further Assurances. Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, execute, acknowledge and deliver, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Developer's Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Developer's Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Developer's Agreement, and to coordinate the performance of their respective obligations under the terms of this Developer's Agreement. To the extent of any conflict with the development conditions or other rules and regulations, which may otherwise govern the Development, the terms and conditions of this Developer's Agreement shall prevail.
- 17.0 Notices. Any notices or reports required by this Developer's Agreement shall be sent to the following:

For the Town:	Town Manager
	Town of Dundee
	Post Office Box 1000
	105 Center Street
	Dundee, FL 33838-1000

4

Final Draft 07/28/2004

With a Copy to: Frederick J. Murphy, Jr. Town Attorney  
Town of Dundee  
Post Office Drawer 30  
245 South Central Avenue  
Bartow, Florida 33830


For the Developer/Owner: Joe Saunders  
Hilltop Groves, LLC  
5529 U.S. 98 North  
Lakeland, FL 33809

With copy to: Attn: Rick Miller  
Miller, Crosby & Miller  
P.O. Box 8169  
Lakeland, FL 33802

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Developer's Agreement on the day(s) and year set forth below.

(SEAL)

ATTEST:

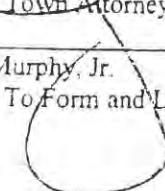
By   
Town Clerk

TOWN COUNCIL OF THE  
TOWN OF DUNDEE

By:   
Kevin Kitto - Mayor

Date: 11<sup>th</sup> August 04

Approved by Town Attorney

By:   
Frederick J. Murphy, Jr.  
Approved As To Form and Legal  
Sufficiency.

Final Draft 07/28/2004

4

WITNESSES

{ DEVELOPER }

*[Signature]*  
*[Signature]*  
 FREDERICK S. SHERMAN  
*[Signature]*

Hilltop Groves, LLC

By:

*[Signature]*  
 Joe L. Saunders

His Managing Member

STATE OF FLORIDA

COUNTY OF Polk

The foregoing instrument is hereby acknowledged before me this 28<sup>th</sup> day of July, 2004, by Joe L. Saunders, as Managing Member of { DEVELOPER }, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

*[Signature]*  
 NOTARY PUBLIC

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



Emily J. Chaffin

My Commission D0244879

Expires August 26 2007

**MIDFLORIDA**  
Federal Credit Union

P.O. Box 9608 Lakeland, Florida 33802 941/686-7587

Employee #: 154 Receipt #: 425095938 Date: 04/25/2006 Time: 9:59:10

Account: [REDACTED] Free Business Checking Sub: 1 Check #: 44835667  
Hilltop Groves LLC

Check Withdrawal #4483566716  
New Balance

07-448 3566716

\$367,723.12-  
\$12,932.05

RECEIVED APR 25 2006

X \_\_\_\_\_ RECEIVED BY

DETACH AND RETAIN UPPER PORTION BEFORE DEPOSITING

21

THIS DOCUMENT HAS AN ARTIFICIAL WATERMARK PRINTED ON THE BACK. ABSENCE OF THIS FEATURE WILL INDICATE A COPY.

**MIDFLORIDA**  
Federal Credit Union  
P.O. Box 9608 Lakeland, Florida 33802 941/686 7587

CASHIER'S CHECK

07-448 3566716

VOID OVER \$367,723.12

69-35  
519  
04/25/2006

Y THREE HUNDRED SIXTY SEVEN THOUSAND SEVEN HUNDRED  
TWENTY THREE AND 12/100 DOLLARS

\*\*367,723.12

MIDFLORIDA  
FEDERAL CU \$367,723dols 12cts

THE  
DEP OF

Town Of Dundee  
From The Account Of  
HILLTOP GROVES LLC

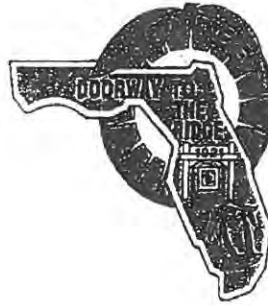
*Gayle O'Brien*

VOID AFTER 90 DAYS

ABLE THROUGH-  
T  
RIESTON, WV

# Town of Dundee

P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000



Tel. (863) 419-3100  
Fax (863) 419-3105  
Suncom 515-9950

April 18, 2005

Joe Saunders  
Hilltop Groves, LLC  
5529 U.S. 98 North  
Lakeland, FL 33809

Dear Joe:

The fourth and final installment payment on your sewer ERC purchase agreement is now due.

The town engineer's certification that the sewer plant expansion project is now 100% complete and started up is attached.

Please make your check in the amount of **\$367,723.12** payable to the Town of Dundee and send it to my attention.

Also, the ribbon cutting ceremony is scheduled for Noon on May 2, 2006 at the plant on Welsh Road. Lunch will be served and you and your guest(s) are invited to attend. Please RSVP by April 24<sup>th</sup>.

Very truly yours,

Jim Gallagher  
Town Manager



Consulting Civil & Environmental Engineers, Planners, and Surveyors

2105 Dundee Road  
Post Office Box 9309  
Winter Haven, FL 33883-9309  
Telephone: (863) 324-1112  
Fax: (863) 294-6185  
Email: [envisors@envisors.com](mailto:envisors@envisors.com)

18 April 2006  
Hand Delivered

Mr. James Gallagher, Town Manager  
TOWN OF DUNDEE  
Post Office Box 1000  
Dundee, Florida 33838

RECEIVED APR 18 2006

Subject: Construction Progress Certification  
Project: Phase II Wastewater Treatment Facility (WWTF) Expansion Improvements - Town of Dundee  
EVI Job No.: 71103401

Dear Mr. Gallagher:

In accordance with your request, we are pleased to certify that start-up of the Town's Phase 2 WWTF expansion is 100% complete, the WWTF is fully operational, and the required FDEP notification for project completion and start-up has been submitted. Please note for the record that start-up of the facility occurred on 13 April 2005 and it is now processing wastewater.

If you have any questions, please do not hesitate to contact me at (863) 324-1112. We sincerely appreciate the opportunity to serve the Town of Dundee on this important Project.

Yours truly,  
ENVISORS, LLC

Steven L. Elias, P. E.  
Vice President of Engineering

SLE/DM/lhh

Enclosure: None

Copy to: EVI Job and Cost File No. 71103401; S:\JOBS\EVI\711 DUNDEE\71103401\CORRES\71103401.L34

AN EQUAL OPPORTUNITY EMPLOYER-M/F/V/H  
ORIGINAL PRINTED ON RECYCLED PAPER 50%

THIS DOCUMENT HAS A GRADUATED BACKGROUND, DARK TO LIGHT. THE REVERSE SIDE INCLUDES AN ARTIFICIAL WATERMARK.

Hilltop Groves, LLC  
5529 US Hwy 98 North  
Lakeland, FL 33809-3103  
PH 863-858-5686

MidFlorida Federal Credit Union  
Lakeland, FL 33802  
63-7980/2631

2014

PAY \*\*\*\* ONE HUNDRED SEVEN THOUSAND EIGHT HUNDRED FORTY EIGHT & 12/100 DOLLARS

TO THE  
ORDER OF

DATE

AMOUNT

11/18/05

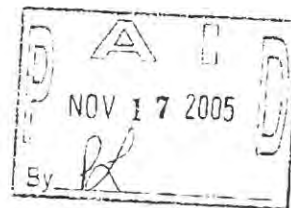
\$ \*\*107848.12

Town of Dundee

AUTHORIZED SIGNATURE

*Joe C Saunders*

THIRD PAYMENT  
ON ERC INSTALLMENT  
AGREEMENT FOR 266 ERC'S  
SEWER CAPACITY.





# Town of Dundee

P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000



Tel. (863) 419-3100  
Fax (863) 419-3105  
Suncom 515-9950

November 1, 2005

Joe Saunders  
Hilltop Groves, LLC  
5529 U.S. 98 North  
Lakeland, FL 33809

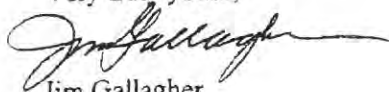
Dear Joe:

The third installment payment on your sewer ERC purchase agreement is now due.

The town engineer's certification that the sewer plant expansion project is now 50% complete is attached.

Please make your check in the amount of \$107,848.12 payable to the Town of Dundee and send it to my attention. Thanks.

Very truly yours,

  
Jim Gallagher  
Town Manager

*Pd 11/17/05*  


*C. RICK MILLER*



Consulting Civil & Environmental Engineers, Planners, and Surveyors

2105 Dundee Road  
Post Office Box 9309  
Winter Haven, FL 33883-9309  
Telephone: (863) 324-1112  
Fax: (863) 294-6185  
Email: [envisors@envisors.com](mailto:envisors@envisors.com)

28 October 2005  
Hand Delivered

Mr. James Gallagher, Town Manager  
TOWN OF DUNDEE  
Post Office Box 1000  
Dundee, Florida 33838

Subject: Construction Progress Certification

Project: Phase II Wastewater Treatment Facility (WWTF) Expansion Improvements -  
Town of Dundee

EVI Job No.: 71103401

Dear Mr. Gallagher:

In accordance with your request, we are pleased to certify that construction activities of the Town's Phase II WWTF expansion is more than 50% complete as of 28 October 2005.

If you have any questions, please do not hesitate to contact me at (863) 324-1112. We sincerely appreciate the opportunity to serve the Town of Dundee on this important Project.

Yours truly,  
ENVISORS, LLC

Steven L. Elias, P. E.  
Vice President of Engineering

SLE/DM

Enclosure:

Copy to:

None

EVI Job and Cost File No. 71103401; S:\JOBS\EVI\711 DUNDEE\71103401\CORRESP\71103401 L21

**AN EQUAL OPPORTUNITY EMPLOYER-M/F/V/H**  
ORIGINAL PRINTED ON RECYCLED PAPER FIBERS

THIS DOCUMENT HAS A COLORED BACKGROUND AND MICROPRINTING. THE REVERSE SIDE INCLUDES AN ARTIFICIAL WATERMARK.

**Hilltop Groves, LLC**  
5579 US-98 North  
Lakeland, FL 33810  
PH: 863-858-4397

**PAY TO THE ORDER OF: Town of Dundee**

**MidFlorida Federal Credit Union**  
Lakeland, FL

For ERC Units 2nd installment

1057  
3/15/2005

\*\*\$107,848.12\*\*

*[Signature]*

**RECEIPT**

DATE 3/17/05 No. 163445

RECEIVED FROM Hilltop Groves, LLC \$07,242.12

One hundred seven thousand eight hundred forty eight DOLLARS

FOR RENT ERC Units - 2nd installment

ACCOUNT PAYMENT BAL DUE

☐ CASH ☒ CHECK ☐ MONEY ORDER

FROM 10

BY Madison C. McAlain

1102

**Jim Gallagher**

**From:** Jim Gallagher [townmanager@townofdundee.com]  
**Sent:** Tuesday, March 15, 2005 12:42 PM  
**To:** Lee Saunders (E-mail)  
**Subject:** Hilltop Groves, LLC ERC Purchase Agreement

Lee and Joe:

You are the only party who has not paid the second payment on their ERC purchase agreement or indicated that their payment is on the way

I realize that there is a letter of credit for the Town to draw upon, but we really would prefer not to force payment and possibly strain our friendly business relationship. therefore, if for some reason you have changed your mind about purchasing the 266 ERC's, I would be willing to recommend to the Town Council that we refund your initial payment and let you out of the purchase agreement.

However, if I don't hear from you very soon, we will have to proceed with drawing against the letter of credit

Jim Gallagher  
Town Manager  
Town of Dundee  
(863) 419-3100

3/15/2005

## *Town of Dundee*

P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000



Tel. (863) 419-3100  
Fax (863) 419-3105  
Suncom 515-9950

March 1, 2005

Dear Sewer Plant Expansion Project Partner:

The second installment payment on your sewer ERC purchase agreement is due.

I have attached a copy of the Town Engineer's certification that the design engineering is completed and that the project is out to bid.

Please make your check payable to the Town of Dundee and send it to my attention.  
Thanks

Very truly yours,

Jim Gallagher  
Town Manager



Consulting Civil & Environmental Engineers, Planners, and Surveyors

2105 Dundee Road  
Post Office Box 9309  
Winter Haven, FL 33883-9309  
Telephone: (863) 324-1112  
Fax: (863) 294-6185  
Email: [envisors@envisors.com](mailto:envisors@envisors.com)

1 March 2006  
Hand Delivered

Mr. James Gallagher, Town Manager  
TOWN OF DUNDEE  
Post Office Box 1000  
Dundee, Florida 33838

Subject: Design Completion Certification

Project: Phase II Wastewater Treatment Facility (WWTF) Expansion Improvements -  
Town of Dundee

EVI Job No.: 71103401

Dear Mr. Gallagher:

In accordance with your request, we are pleased to certify that design of the Town's Phase II WWTF expansion has been completed and the Project has been advertised for public bid. The pre-bid meeting for the Project will be held with prospective bidders this afternoon at 2:00.

If you have any questions, please do not hesitate to contact me at (863) 324-1112. We sincerely appreciate the opportunity to serve the Town of Dundee on this important Project.

Yours truly,  
ENVISORS

Steven L. Elias, P. E.  
Vice President of Engineering

SL&pt  
Enclosure:  
Copy to:

None

EVI Job and Cost File No. 71\*03401; S:\JOBS\EVI\711 DUNDEE\71103401\CORRES\71\*03401\* L08

AN EQUAL OPPORTUNITY EMPLOYER-M/F/V/H  
ORIGINAL PRINTED ON RECYCLED PAPER FIBERS  
[www.envisors.com](http://www.envisors.com)

# *Town of Dundee*

P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000



Tel. (863) 419-3100  
Fax (863) 419-3105  
Suncom 515-9950

February 11, 2005

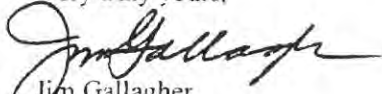
Joe Saunders  
Hilltop Groves, LLC  
5529 U.S. 98 North  
Lakeland, FL 33809

Dear Joe:

This is just a reminder that the second installment payment on your sewer ERC purchase agreement is due March 1, 2005.

Please make your check in the amount of \$107,848.12 payable to the Town of Dundee and send it to my attention. Thanks.

Very truly yours,

  
Jim Gallagher  
Town Manager



**LJR LTD FAMILY**  
5100 US HIGHWAY 98 NORTH  
LAKELAND, FL 33809  
PH: 863-858-4399

Date 8/27/09

646  
63-7980/2631  
10

Pay to the Order of Town of Dundee \$ 107,848.19

one hundred seven thousand eight hundred forty eight and 19/100

**MIDFLORIDA**  
Federal Credit Union  
Lakeland, Florida

For Seven Tape Hilltop Groves Joe C. Saunders

Final Draft 07/28/2004

**Agreement #4**

DEVELOPER'S AGREEMENT  
REGARDING THE FUNDING OF THE  
DESIGN, PERMITTING AND  
CONSTRUCTION OF THE  
EXPANSION OF THE TOWN OF DUNDEE'S  
WASTEWATER TREATMENT PLANT

THIS AGREEMENT ("Agreement") is made on this \_\_\_\_ day of July, 2004, by and between **Hilltop Groves, LLC** (the "Developer/Owner") and the **TOWN OF DUNDEE**, a municipal corporation organized and existing under the laws of the State of Florida (the "Town").

WITNESSETH

**WHEREAS**, the Town operates a wastewater treatment plant that is presently serving close to or at its capacity; and

**WHEREAS**, the Town is presently expanding its municipal limits through annexation which will bring growth and development to the Town; and

**WHEREAS**, in order to accommodate the anticipated growth it will be necessary for the Town to expand the permitted capacity of its wastewater treatment plant from 90,000 gallons per day to 700,000 gallons per day or more; and

**WHEREAS**, several of the property owners and Developers of land within the Town limits have had discussions with the Town in order to determine the most feasible way to immediately expand the wastewater treatment plant; and

**WHEREAS**, the Town has retained Envisors Consulting Engineers to prepare a preliminary design report which was presented to the Town Council at a special meeting on March 23, 2004 which identified the relative costs and expenses of expanding the wastewater treatment plant to 700,000 gallons per day or more; and

**WHEREAS**, if the Town Council were to proceed under the usual financing methods to obtain the necessary funds for design, permitting and expanding the wastewater treatment plant it would take at least 18 to 20 months from the present time to explore such financing; and

**WHEREAS**, in order to address the immediate needs of growth and development and to accelerate the design, permitting and construction of an expansion of the wastewater treatment plant, the Town of Dundee has indicated that it will move forward with the design, permitting and construction of an expansion of its wastewater treatment plant if those Developers who desire the extra capacity will immediately and irrevocably fund the costs of the expansion up front based on the equivalent residential connections (ERC) each Developer/Owner proposes to connect to the Town's wastewater treatment plant. Such funding will permit the Town of Dundee to greatly accelerate the design,

Final Draft 07/28/2004

permitting and construction of the expansion to its wastewater treatment plant. Further, without such funding it is not likely that the Town would be able to expand its permitted capacity for the wastewater treatment plant at any time now or in the near future;

**WHEREAS**, the Town is presently working with Polk County to enter into an Interlocal Agreement to allow the Town to tap into Polk County's wastewater treatment plant located in the Waverly area of Polk County, Florida, as a short term way to address the Town's need for additional wastewater treatment capacity; and

**WHEREAS**, such short term temporary capacity in the Town's waste water system that results from the diversion of waste water flows to Polk County's Waverly Plant will be connected only to customers who have been issued certificates of occupancy and on a first come first served basis until such additional wastewater treatment capacity is exhausted; and

**WHEREAS**, after the short term temporary capacity is exhausted, those wishing to connect to the sewer system will have to wait until new capacity resulting from the sewer plant expansion project becomes available; and

**WHEREAS**, the Town of Dundee Code of Ordinances requires the payment of certain **connection** fees on the basis of the number of Equivalent Residential Connections (ERC) proposed to be connected to the utility system. Further, the Town Code permits developer's agreements which set forth in detail the terms and conditions under which the Town will provide utility service to the Developer's/Owner's property; and

**WHEREAS**, the Town deems such an agreement necessary to facilitate the construction of expansion of the Town's wastewater treatment plant; and

**WHEREAS**, it is therefore deemed to be in the interest of the public health, safety and welfare for the Town and an appropriate exercise of the Town's authority to enter into the instant Developer's Agreement.

**NOW, THEREFORE**, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

- 1.0 Recitals. The foregoing recitals are incorporated herein by reference as if recited in full and serve as a factual stipulation upon which the parties agree is the basis of the instant Developer's Agreement.
- 2.0 Purpose. The purpose of this Developer's Agreement is to memorialize the Developer's/Owner's financial commitment to the Town relating to the expansion of the Town's wastewater treatment plant.
- 3.0 Wastewater Treatment Plant Capacity. In order to assure that sufficient capacity exists in the Town's wastewater treatment plant it will be

Final Draft 07/28/2004

necessary to design, permit and construct an expansion of the Town's wastewater treatment plant in order to allow capacity of at least **700,000** gallons per day to accommodate anticipated and projected growth and development in the Town. In order to allow the Town to immediately begin the design, permitting and construction of an expansion to its wastewater treatment plant, the Developer/Owner will be required to pay to the Town in cash the amount of **\$691,267.50** which amount is based on a total of **266 ERCs** the Developer/Owner proposes to connect to the Town's wastewater treatment plant and is related to the **71,820 gpd** in equivalent capacity that the Developer/Owner will need from the Town's expanded wastewater treatment plant. In addition the Developer/Owner shall be required to post an Irrevocable Letter of Credit or other security reasonably acceptable to the Town and in the form attached hereto as **Exhibit "A"**. Pursuant to paragraph 4 below, the Developer/Owner is obligated to pay said funds to the Town in order to purchase **266 ERCs** which represents **71,820 gpd** in equivalent capacity.

4.0 Developer's/Owner's Obligations.

4.1.1. The Developer/Owner agrees to pay to the Town the sum of **\$691,267.50** in cash, cashier's check or cleared funds payable to the Town of Dundee to purchase **266 ERCs** that it proposes to connect to the Town's wastewater treatment plant and which represents **71,820 gpd** in equivalent capacity in accordance with the following:

4.1.2. The sum of **One Hundred Seven Thousand Eight Hundred Forty Eight Dollars and Fourteen Cents (\$107,848.14)** in cash, cashier's check or cleared funds payable to the Town of Dundee upon its execution of this Agreement. The balance of **Five Hundred Eighty Three Thousand Four Hundred Nineteen Dollars and Thirty Six (\$583,419.36)** shall be paid in cash, cashier's check or cleared funds payable to the Town of Dundee in three (3) installments in accordance with the following schedule:

Payment for the amount of **\$107,848.12** is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment for the amount of **\$107,848.12** is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

Payment for the amount of **\$367,723.12** is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the

Final Draft 07/28/2004

4

Town's engineer and sewer plant operational permits are in hand for the sewer plant expansion project that is expected to occur on or before December 31, 2005.

The Town's certifications described above shall be final and binding on Developer/Owner and will require the immediate payment to the Town of the funds requested and due.

- 4.1.3. In addition, to secure its obligations to the Town under this Agreement and upon the execution of this Agreement the Developer/Owner shall deliver to the Town an irrevocable letter of credit in the form as set forth as Exhibit "A" attached hereto. To the extent payments are not made by the Developer/Owner under paragraph 4.1.2 above within fourteen (14) days after written notice by the town requesting payment, the Town may draw upon any or all such cash or letters of credit in whole or in part to provide funds to pay for the design, permitting and construction of the wastewater treatment plan expansion as more particularly set forth herein. The Town shall not be obligated to commence the design, permitting and any phase of construction of the improvements to the wastewater treatment plant unless and until the Developer/Owner of the development has delivered to the Town the required cash and letter of credit.
- 4.1.4. Developer/Owner acknowledges and agrees that the Town's willingness to enter into this Developer's Agreement shall not be construed as a waiver by the Town of any applicable law, ordinance, rule or regulation for the construction of any future developments.
- 4.1.5. In the event the Developer/Owner assigns and/or conveys its interest in any real property that is being used to calculate the ERC to the Town's wastewater system, the new Owner of such property may upon notice to the Town join in this Agreement and pay the required contribution for the purchase of the 266 ERCs for the applicable property provided such notice is given within thirty (30) days after the closing of the contract for purchase, but in no event beyond the term of this Agreement. In any event unless and until the new Owner joins in this Agreement and becomes obligated to the same extent as the Developer/Owner hereunder, the Developer/Owner shall remain obligated to the Town for all obligations hereunder.
- 4.1.6. Subject to the provisions in paragraph 5.1.4 below any funds paid to the Town hereunder shall be non-refundable in the event that the Developer chooses not to move forward with the proposed development.

#### 5.0 Town's Obligations.



Final Draft 07/28/2004

- 5.1.1 Subject to the Developer's/Owner's compliance with its obligations under this Agreement, the Town shall commence the design and permitting of the expansion of its wastewater treatment plant immediately. Upon completion of design and permitting the Town shall commence construction of the expansion of its wastewater treatment plant with an anticipated completion date no later than 16 months from the effective date of this Agreement.
- 5.1.2 Reservation of Capacity. In consideration for the payment by the Developer/Owner as more particularly set forth in paragraph 4 above the Town hereby reserves **71,820 gpd** in equivalent capacity for the Developer/Owner based on **266 ERCs** purchased hereunder. In the event the Developer/Owner determines that it does not need all of the reservation of capacity/ERC's purchased hereunder then such reservation of capacity/purchased ERC's may be assignable and/or sold by the Developer but only with the Town's prior written consent and as contemplated in paragraph 4.1.5 above. It is agreed that the Town's consent will not be unreasonably withheld. Furthermore, all reservations of capacity pursuant to the terms of this Agreement shall exist for only five (5) years from the date that the expanded Wastewater Treatment Plant is fully online and operational. If within five (5) years from the date that the expanded Wastewater Treatment Plant is online and fully operational, the Developer/Owner and/or its successors and/or assigns or those persons or entities who have purchased the ERC's have not used the reserved capacity then it must sell such reserved capacity **266 ERC's** representing **71,820 gpd** (or portion thereof) in equivalent capacity back to the Town. In this event, payment arrangements shall be determined solely by the Town. The Developer and the Town agree that the foregoing provision is necessary to insure that the Town's ability to provide appropriate municipal services regarding the collection and treatment of wastewater and other effluent is not compromised by unused capacity.
- 5.1.3 The Town's obligations under this Agreement are conditioned on obtaining total funds and/or commitments of at least \$3.3 million. All funds collected from developers for this project shall be maintained in a separate bank account at Wachovia Bank, N.A. and titled "Dundee Sewer Plant Expansion Account" and such funds shall not be commingled with any other Town funds and shall not be appropriated to any other Town project, except that any funds remaining in the Dundee Sewer Plant Expansion Account after completion of the project and after all project expenses are paid in full, may be appropriated subject to any restrictions established for the use of sewer impact fees. Bank statements for the Dundee Sewer Plant Expansion Account, including any reports of daily account activity, shall be made available to the public upon request as such reports become available to the Town. **In the event that the Town is unable to secure the required up front cash along with letters of credit**

4

**from developers prior to August 27, 2004 its obligations to expand the wastewater treatment plant and provide a reservation of capacity as described herein are null and void and all monies collected shall be refunded without interest at that time.**

- 5.1.4 If the sewer plant expansion project is begun but not fully completed within 3 years from the effective date of this Agreement, then the Developers/Owners shall have the option to seek a refund of monies paid by the Developer/Owners hereunder without interest and in a manner and frequency determined solely by the Town so that such a refund will not compromise, harm, and/or impair the Town's fiscal condition and/or ability to provide necessary municipal services to its citizens. If in the event there is not sufficient waste water treatment capacity available to fulfill the Town's obligations under this agreement, the Town will have no objection to the Developer beginning development utilizing septic tank and without requiring the Developer to install dry lines.
- 6.0 Authority. The Developer/Owner affirmatively represents that it has the requisite authority to transact business in the State of Florida and has the requisite authority to enter into this Agreement.
- 7.0 Binding Effect. The Burdens of this Developer's Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. However no assignments of this Agreement shall be allowed unless the Town consents in writing to same.
- 8.0 Applicable Law, Jurisdiction and Venue. This Developer's Agreement, and the rights and obligations of the Town and the Developer/Owner hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Polk County, Florida. If any provision of this Developer's Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Developer's Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 9.0 Exhibits. All exhibits attached hereto contain additional terms of this Developer's Agreement and are incorporated herein by reference.
- 10.0 Captions and Paragraph Headings. Captions and paragraph headings contained in this Developer's Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Developer's Agreement, nor the intent of any provision hereof.



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- 11.0 Definitions. Unless specifically defined herein, the terms used in this Developer's Agreement shall be assigned the meanings, interpretations and/or definitions applied to, or provided in, the Town of Dundee Code of Ordinances and/or Florida Law.
- 12.0 Counterparts. This Developer's Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Developer's Agreement.
- 13.0 Merger. This Developer's Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein.
- 14.0 Effective Date and Duration. This Agreement shall become effective after it has been duly approved by the Town Council and executed by all parties. It shall remain in full force and effect for a period of five (5) years from that date.
- 15.0 Amendment. This Developer's Agreement may only be amended by mutual consent of the parties in writing.
- 16.0 Further Assurances. Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, execute, acknowledge and deliver, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Developer's Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Developer's Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Developer's Agreement, and to coordinate the performance of their respective obligations under the terms of this Developer's Agreement. To the extent of any conflict with the development conditions or other rules and regulations, which may otherwise govern the Development, the terms and conditions of this Developer's Agreement shall prevail.
- 17.0 Notices. Any notices or reports required by this Developer's Agreement shall be sent to the following:

For the Town:

Town Manager  
Town of Dundee  
Post Office Box 1000  
105 Center Street  
Dundee, FL 33838-1000

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With a Copy to: Frederick J. Murphy, Jr. Town Attorney  
Town of Dundee  
Post Office Drawer 30  
245 South Central Avenue  
Bartow, Florida 33830

For the Developer/Owner: Joe Saunders  
Hilltop Groves, LLC  
5529 U.S. 98 North  
Lakeland, FL 33809

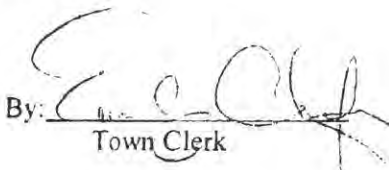
With copy to: Attn: Rick Miller  
Miller, Crosby & Miller  
P.O. Box 8169  
Lakeland, FL 33802

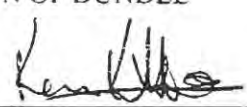
IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Developer's Agreement on the day(s) and year set forth below.

(SEAL)

TOWN COUNCIL OF THE  
TOWN OF DUNDEE

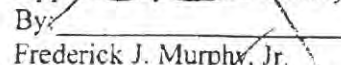
ATTEST:

By:   
Town Clerk

By:   
Kevin Kitto - Mayor

Date: 11<sup>th</sup> August 04

Approved by Town Attorney

By:   
Frederick J. Murphy, Jr.  
Approved As To Form and Legal  
Sufficiency.

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WITNESSES

{ DEVELOPER }

*[Signature]*  
 Atty. John S. Williams  
*[Signature]*  
 J. McLaughlin

Hilltop Groves, LLC

By:

*[Signature]*  
 Joe L. Saunders

Its: Managing Member

STATE OF FLORIDA

COUNTY OF Polk

The foregoing instrument is hereby acknowledged before me this 28<sup>th</sup> day of July, 2004, by Joe L. Saunders, as Managing Member of { DEVELOPER }, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

*[Signature]*  
 NOTARY PUBLIC

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



Emily J. Chafin

My Commission DD244879

Expires August 26 2007

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**Exhibit A**

**MIDFLORIDA Federal Credit Union  
Business Services  
Irrevocable Letter of Credit**

Date Issued: August 25, 2004Letter of Credit No. 302997

**Beneficiary:** Town of Dundee  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838

Honorable Mayor and Town Council Members:

We hereby issue our irrevocable letter of credit in your favor, for the account of **Hilltop Groves, LLC, 5529 U.S. 98 North, Lakeland, Florida 33809** in the aggregate amount of **USD Five hundred eighty three thousand four hundred nineteen dollars and thirty six cents (\$583,419.36)** available to you in three payments upon presentation of your draft(s) at sight on ourselves when accompanied by an affidavit signed jointly by the Town Mayor and Town Manager of Dundee, both authorized representatives of the Town of Dundee, certifying each stage of sewer plant expansion completion has been reached and stating that funds are due and payable by **Hilltop Groves, LLC** in return for the Town of Dundee reserving and assigning a total of **266 ERC's** of sewer plant capacity exclusively for utilization by **Hilltop Groves, LLC** in accordance with the following schedule as agreed:

Payment No. 1, for the amount of **\$107,848.12** is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment No. 2, for the amount of **\$107,848.12** is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

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Payment No. 3, for the amount of **\$367,723.12** is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the Town's engineer for the sewer plant expansion project, which is expected to occur on or before December 31, 2005.

The Town's certifications described herein as to payment requests shall be final and binding on **Hilltop Groves, LLC** and the **MIDFLORIDA Federal Credit Union** and once delivered to **Hilltop Groves, LLC** requires immediate payment to the Town of the funds requested.

This irrevocable letter of credit sets forth in full the terms of our undertaking. This undertaking shall not in any way be modified, amended, or amplified by reference to any document or contract referred to herein.

Drafts drawn under this credit must state on their face "drawn under **MIDFLORIDA Federal Credit Union** irrevocable letter of credit number **302997** dated **August 25, 2004**."

It is a condition of this letter of credit that it shall be deemed automatically extended without amendment for one year from the present or any future expiry date unless at least (number of days) prior to such expiration date, we notify you in writing by certified mail or express courier that we elect not to renew this letter of credit for any such additional one year period.

We hereby agree with you that draft(s) drawn under and in compliance with the terms and conditions of this credit shall be duly honored if presented together with documents as specified and the original of this credit, at this office on or before December 31, 2005.

Except as otherwise expressly stated herein, this letter of credit is subject to the Uniform Customs and Practices for Documentary Credits, established by the International Chamber of Commerce, as in effect on the date of issuance of this credit.

Sincerely,



Cameron Brock  
Assistant Vice President  
MIDFLORIDA Federal Credit Union  
Business Services





# Town of Dundee

**TOWN HALL**

◆ 202 E. Main Street ◆ PO Box 1000 ◆ Dundee, Florida 33838 ◆ (863) 438-8330 ◆ Fax (863) 438-8338

June 23, 2021

Mr. Lee Saunders  
Vista Del Lago of Polk County, LLC  
5529 US Highway 98 North  
Lakeland, Florida 33809

Re: Vista Del Lago Phase III Subdivision (Hilltop Groves LLC)

Mr. Saunders:

Please find the outstanding calculations for the Idle Capacity, including the moratorium of the 18-month waiver from June 23, 2020. Please find the breakdown chart below to detail the amount due:

Hilltop Groves 37 ERC's Idle Capacity Chart		
Idle Capacity Period	Dates	Total
Original Expiration Date	04/24/06 - 04/24/11	\$9,990.00
Current Yearly Fee	04/25/11 - 04/25/20	\$17,982.00
2020 Monthly Fee	04/26/20 - 06/23/20	\$333.00
	Subtotal	\$28,305.00
	Total	\$28,305.00

Sincerely,

**Tandra S. Davis, M.B.A**  
*Town Manager/Finance Director*  
**Town of Dundee**  
202 E. Main Street  
Dundee, Florida 33838-4306  
[tdavis@townofdundee.com](mailto:tdavis@townofdundee.com)  
Office: 863-438-8330 ext. 253  
Fax: 863-438-8333

cc: Frederick J. Murphy, Jr., Esquire, Town Attorney  
Marisa Barmby, CFRPC



**THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:**

Frederick J. Murphy, Jr., Esquire  
Boswell & Dunlap, LLP  
Post Office Drawer 30  
245 South Central Avenue (33830)  
Bartow, Florida 33831  
Telephone (883) 533-7117  
Facsimile (883) 533-7412



INSTR # 2021119842  
BK 11706 Pgs 1463-1483 PG(s) 21  
RECORDED 05/07/2021 1:48:26 PM  
STACY M. BUTTERFIELD,  
CLERK OF COURT POLK COUNTY  
RECORDING FEES \$180.00  
RECORDED BY SHAKCAMP

For Recording Purposes Only

**AMENDMENT TO AGREEMENT REGARDING RESERVED CAPACITY IN THE  
TOWN OF DUNDEE'S WASTEWATER TREATMENT PLANT**

THIS AMENDMENT TO DEVELOPER'S AGREEMENT REGARDING THE FUNDING OF THE DESIGN, PERMITTING AND CONSTRUCTION OF THE EXPANSION OF THE TOWN OF DUNDEE'S WASTEWATER TREATMENT PLANT ("Amendment"), made and entered into this 28 day of July, 2020, by and between the TOWN OF DUNDEE, a municipal corporation organized and existing under the laws of the State of Florida (the "Town"), and HILLTOP GROVES, LLC, a Florida Limited Liability Company ("Owner").

**RECITALS**

1. On or about July 28, 2004 the Town and Hilltop Groves LLC, a Florida Limited Liability Company entered into that certain Developer's Agreement Regarding the Funding of the Design, Permitting and Construction of the Expansion of the Town of Dundee's Wastewater Treatment Plant a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.
2. The Town and Owner have determined that at this time the Owner holds, albeit expired, 266 Wastewater ERCs representing 71,820 gallons per day (GPD) in equivalent capacity in the Town's Water Utility System ("Owner ERCs") pursuant to the Agreement. The Owner has not otherwise conveyed, assigned, pledged, hypothecated or otherwise redeemed any of said certificates representing the Owner ERCs as defined and identified herein although said Owner ERC's expired on April 24, 2011.
3. The Owner is the owner of certain real property situated in Polk County, Florida, more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference (the "Property") which is the Vista Del Lago Phase II Replat Subdivision.
4. On July 10, 2020, the Owner requested that the Town reactivate 43 of the 266 Wastewater ERCs (Original ERC Certificates 1606 through 1648), and, as a result of

CERTIFICATION ON LAST PAGE  
STACY M. BUTTERFIELD  
CLERK OF THE CIRCUIT COURT

demonstrated hardship(s), waive all past-due and/or accrued idle capacity fees for the 43 Wastewater ERC certificates.

5. The 43 Owner ERCs requested for reactivation would have accrued thirty-three thousand eighty-eight and 50/100 Dollars (\$33,088.50) in idle capacity charges from April 24, 2006 through July 24, 2020 of which thirty-three thousand eighty-eight and 50/100 Dollars (\$33,088.50) remains unpaid.

6. On June 23, 2020, the Town introduced and passed Resolution No. 20-13 (the "Resolution"). A copy of the Resolution is attached hereto as Exhibit "C" and made a part hereof by reference.

7. The Resolution provides for a temporary waiver of certain Town of Dundee Idle Capacity Fee(s) for a period of eighteen (18) months beginning on June 23, 2020 and automatically sunseting on December 23, 2021.

8. On July 10, 2020, the Town agreed to reactivate the 43 Owner ERCs and waive all past-due and/or accrued idle capacity fees for the 43 Wastewater ERC certificates (Original ERC Certificates 1606 through 1648) for a period of time consistent with the sunset and/or expiration date of the Resolution (December 23, 2021).

9. The Town acknowledges that all Town wastewater impact fees have been paid by Owner or its predecessor in interest for the Town's allocation of wastewater capacity for the Owner ERCs pursuant to the Agreements and that the Town presently has adequate permitted capacity in its wastewater plant for the wastewater capacity represented by the Owner ERCs described above.

10. Owner contemplates the transfer or assignment of the 43 Owner ERCs to VISTA DEL LAGO OF POLK COUNTY, LLC, a Florida Limited Liability Company, for construction of single-family homes to be located within the municipal limits of the Town.

11. The parties covenant and agree that they have the power and authority to enter into this Amendment and bind themselves to the provisions of this Amendment.

ACCORDINGLY, in consideration of the Recitals stated above and other good and valuable mutual consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**SECTION 1. RECITALS: OWNERSHIP.** The Recitals above are true and correct and form a material part of this Amendment. The Town acknowledges and agrees Owner owns the Owner ERCs which are the subject matter of this Amendment.

**SECTION 2. DEFINITIONS.** All capitalized terms not defined herein shall have the same meaning as defined in the Agreements.

**SECTION 3. GRANT OF EXTENSION.**

A. The Town, pursuant to the terms of this Amendment, hereby reactivates said 43 Owner ERCs and grants to the Owner an extension of the term of the 43 Owner ERCs of equivalent capacity in the Town's Wastewater Treatment Plant represented by

Wastewater ERC Certificates listed on Schedule "1" (Original ERC Certificates 1606 through 1648) through a period expiring December 23, 2021 ("Expiration Date").

B. In light of the COVID-19 pandemic and financial hardships arising out of same, as well as the hardships demonstrated by the Owner, the Town Commission of the Town of Dundee agrees to waive the accrued thirty-three thousand eighty-eight and 50/100 Dollars (\$33,088.50) in past-due and/or accrued idle capacity charges from April 24, 2006 through July 24, 2020.

#### **SECTION 4. GRANT OF OPTION.**

A. The Town, pursuant to the terms of this Amendment and in addition to any rights granted to Owner under the Agreements or under applicable law, hereby grants to the Owner an option to transfer, from time to time (i) all or a portion of the Owner ERCs to a third party ("ERC Transferee") without transferring fee simple title to all or any portion of the Property ("ERC Transfer"), and/or (ii) transfer of all or any portion of the Property to a third party ("Property Transferee"; ERC Transferees and Property Transferees are collectively "Transferees") and retain all or any Owner ERCs ("Property Transfer"; "ERC Transfers" and "Property Transfers" are collectively "Independent Transfers"). Owner may exercise such option in its sole and absolute discretion.

B. At least thirty (30) days prior to any Independent Transfer as defined herein, Owner shall provide written notice to the Town thereof ("Transfer Notice"), which shall include the Transferee's (i) name, (ii) address, (iii) employer identification number (EIN) or federal tax identification number, and (iv) contact information (including telephone number, fax number, and e-mail address, as applicable). The parties agree that Owner shall enter into transfer and/or assignment agreement with VISTA DEL LAGO OF POLK COUNTY, LLC, a Florida Limited Liability Company, in the event of any transfer and/or assignment of the Owner ERCs and that notice was previously given by Owner for this specific anticipated Independent Transfer.

C. In the case of an Owner ERC Transfer of all outstanding ERCs, Owner shall not be liable for any idle capacity charges which may accrue with respect to the applicable Owner ERCs if Transferee executes a written commitment to pay such charges. In that event the Transferee must also comply with all of the conditions and obligations in the Agreement and this Amendment including but not limited to the provisions of Section 6 B of this Amendment.

#### **SECTION 5. OBLIGATIONS OF TOWN.**

A. The Town shall allocate wastewater capacity for the Owner ERCs in the name of Owner and/or its successors and assigns in accordance with all applicable laws and Ordinances and the terms of the Agreements, as amended by this Amendment, through the Expiration Date.

B. The Town shall, within ten (10) days following receipt of Owner's request, provide a written statement to Owner certifying the current number of Owner ERCs in the name of Owner.

**SECTION 6. AGREEMENT TO COOPERATE.** The parties agree to cooperate and to do all things reasonably necessary to accomplish the terms of this Amendment,

and that they respectively shall, upon being requested by the other party to do so, execute and deliver promptly any and all such authorizations, instruments, papers or documents of any and every kind and character as may be reasonably required, necessary or proper for the purpose of giving full force and effect to this Amendment and to the covenants, conditions, and agreements contained herein. Except as specifically modified by this Amendment, all of the terms, covenants, conditions and agreements of the Agreements shall remain in full force and effect.

**SECTION 7. DISCLAIMER OF THIRD-PARTY BENEFICIARIES.** This Amendment is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

**SECTION 8. SEVERABILITY.** If any part of this Amendment is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Amendment if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Amendment is declared to be severable.

**SECTION 9. LAND USE APPROVALS.** Owner acknowledges and understands that the Town is prohibited from engaging in "Contract Zoning" or the bartering away of its legislative prerogative. As such this Amendment shall not be construed as a basis for (1) granting or assuring or indicating or (2) refusing to grant or preventing any future grant of land use or zoning approvals, permissions, variances, special exceptions, or rights with respect to the Property.

**SECTION 10. BINDING UPON SUCCESSORS.** This Amendment shall be binding upon and shall inure to the benefit of the successors or assigns of the parties hereto.

**SECTION 11. APPLICABLE LAW AND VENUE.** This Amendment and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida. Venue for any dispute or cause of action under the Agreements, as modified by this Amendment, shall be exclusively in the state courts of competent subject matter jurisdiction in Polk County, Florida.

**SECTION 12. NOTICES.** All notices, demands, requests and other communications required or permitted by the Agreements, as modified by this Amendment, by any party hereto to any other party shall be in writing and shall be validly given or made by any party, or any party's attorney on behalf of such party, only if personally served or delivered by Federal Express or other similar reputable national courier service keeping records of deliveries and attempted deliveries. In the event of personal service, notice shall be deemed effective when delivered. Service by courier shall be conclusively deemed made on the second business day delivery is attempted or upon receipt, whichever is sooner.

TOWN: TOWN OF DUNDEE  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000  
Attention: Town Manager

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CERTIFICATION ON LAST PAGE  
JERRY M. BUTTERFIELD  
CLERK OF THE CIRCUIT COURT

With a copy to:  
(which shall not  
constitute notice)

Frederick J. Murphy, Jr.  
Town Attorney, Town of Dundee  
P.O. Drawer 30  
245 South Central Avenue  
Bartow, Florida 33830

OWNER:

HILLTOP GROVES, LLC  
Lee Saunders, Member Manager  
5529 U.S. Highway 98 North  
Lakeland, FL 33809

Any person or entity may change their address for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the others, which notice of change of address shall not become effective, however, until the actual receipt thereof by the others.


**SECTION 13. ENTIRE AGREEMENT.** The Agreement, as modified by this Amendment, constitute the entire agreement between the parties. Modifications to and waivers of the provisions herein shall not be binding unless made in writing and signed by the parties hereto and approved by the Town's governing body. Except as expressly amended by this Amendment, the terms and conditions of the Agreement and the Assignment shall remain unchanged and unamended, and are hereby ratified and confirmed. In the event of any conflict between the terms of the Agreement and Amendment, the terms of this Amendment shall control.

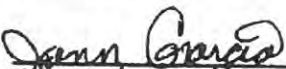
[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, Owner and the Town have executed or have caused this Amendment, with the named Exhibits attached, if any, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Amendment.

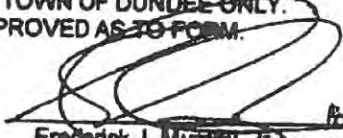
**ATTEST:**

**THE TOWN OF DUNDEE**

By:   
 Print Name: Samuel Penland  
 As Its: Mayor  
 Date: 08/05/2020

By:   
 Print Name: Sean Garcia  
 As Its: Town Clerk

FOR THE USE AND RELIANCE  
 OF TOWN OF DUNDEE ONLY.  
 APPROVED AS TO FORM.

By:   
 Frederick J. Murphy, Jr.  
 Town Attorney



**OWNER:**

HILLTOP GROVES, LLC,  
a Florida limited liability company

By: [Signature]  
Name: Lee Saunders  
Title: Member Manager

Signed and delivered  
In the presence of:

[Signature]  
Print Name: Billy Wilkins  
[Signature]  
Print Name: Pam Chancey

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was acknowledged before me this 16 day of September, 2020, by LEE SAUNDERS, as Member Manager of HILLTOP GROVES, LLC, on behalf of the company, HILLTOP GROVES, LLC. He is ☒ personally known to me or ☐ has produces \_\_\_\_\_ as identification and ☐ (did) ☐ (did not) take an oath.

[Signature]  
Signature of Person Taking Acknowledgement

Pamela G. Chancey  
Name of Acknowledger Types, Printed, or Stamped



PAMELA G. CHANCEY  
MY COMMISSION # GG 013227  
EXPIRES: October 15, 2020  
Bonded thru Budget Notary Services

\_\_\_\_\_  
Title or Rank  
GG 013227  
Serial Number, if any.

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CERTIFICATION ON LAST PAGE  
ETAGY M. BUTTERFIELD  
CLERK OF THE CIRCUIT COURT

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Page 7 of 21



**EXHIBIT A  
to Amendment**

Final Draft 07/28/2004

Agreement #4

**DEVELOPER'S AGREEMENT  
REGARDING THE FUNDING OF THE  
DESIGN, PERMITTING AND  
CONSTRUCTION OF THE  
EXPANSION OF THE TOWN OF DUNDEE'S  
WASTEWATER TREATMENT PLANT**

PAID APR 25 2005

IN FULL

*John McConary*

THIS AGREEMENT ("Agreement") is made on this 28<sup>th</sup> day of July, 2004, by and between H&Itop Groves, LLC (the "Developer/Owner") and the TOWN OF DUNDEE, a municipal corporation organized and existing under the laws of the State of Florida (the "Town").

**WITNESSETH**

WHEREAS, the Town operates a wastewater treatment plant that is presently serving close to or at its capacity; and

WHEREAS, the Town is presently expanding its municipal limits through annexation which will bring growth and development to the Town; and

WHEREAS, in order to accommodate the anticipated growth it will be necessary for the Town to expand the permitted capacity of its wastewater treatment plant from 90,000 gallons per day to 700,000 gallons per day or more; and

WHEREAS, several of the property owners and Developers of land within the Town limits have had discussions with the Town in order to determine the most feasible way to immediately expand the wastewater treatment plant; and

WHEREAS, the Town has retained Envisors Consulting Engineers to prepare a preliminary design report which was presented to the Town Council at a special meeting on March 23, 2004 which identified the relative costs and expenses of expanding the wastewater treatment plant to 700,000 gallons per day or more; and

WHEREAS, if the Town Council were to proceed under the usual financing methods to obtain the necessary funds for design, permitting and expanding the wastewater treatment plant it would take at least 18 to 20 months from the present time to explore such financing; and

WHEREAS, in order to address the immediate needs of growth and development and to accelerate the design, permitting and construction of an expansion of the wastewater treatment plant, the Town of Dundee has indicated that it will move forward with the design, permitting and construction of an expansion of its wastewater treatment plant if those Developers who desire the extra capacity will immediately and irrevocably fund the costs of the expansion up front based on the equivalent residential connections (ERC) each Developer/Owner proposes to connect to the Town's wastewater treatment plant. Such funding will permit the Town of Dundee to greatly accelerate the design,

RECEIVED ON LAST DAY  
JULY 28, 2004  
CLERK OF THE CIRCUIT COURT

# EXHIBIT "A" to Amendment

Final Draft 07/28/2004

permitting and construction of the expansion to its wastewater treatment plant. Further, without such funding it is not likely that the Town would be able to expand its permitted capacity for the wastewater treatment plant at any time now or in the near future;

WHEREAS, the Town is presently working with Polk County to enter into an Interlocal Agreement to allow the Town to tap into Polk County's wastewater treatment plant located in the Waverly area of Polk County, Florida, as a short term way to address the Town's need for additional wastewater treatment capacity; and

WHEREAS, such short term temporary capacity in the Town's waste water system that results from the diversion of waste water flows to Polk County's Waverly Plant will be connected only to customers who have been issued certificates of occupancy and on a first come first served basis until such additional wastewater treatment capacity is exhausted; and

WHEREAS, after the short term temporary capacity is exhausted, those wishing to connect to the sewer system will have to wait until new capacity resulting from the sewer plant expansion project becomes available; and

WHEREAS, the Town of Dundee Code of Ordinances requires the payment of certain connection fees on the basis of the number of Equivalent Residential Connections (ERC) proposed to be connected to the utility system. Further, the Town Code permits developer's agreements which set forth in detail the terms and conditions under which the Town will provide utility service to the Developer's/Owner's property; and

WHEREAS, the Town deems such an agreement necessary to facilitate the construction of expansion of the Town's wastewater treatment plant; and

WHEREAS, it is therefore deemed to be in the interest of the public health, safety and welfare for the Town and an appropriate exercise of the Town's authority to enter into the instant Developer's Agreement.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

- 1.0 Recitals. The foregoing recitals are incorporated herein by reference as if recited in full and serve as a factual stipulation upon which the parties agree is the basis of the instant Developer's Agreement.
- 2.0 Purpose. The purpose of this Developer's Agreement is to memorialize the Developer's/Owner's financial commitment to the Town relating to the expansion of the Town's wastewater treatment plant.
- 3.0 Wastewater Treatment Plant Capacity. In order to assure that sufficient capacity exists in the Town's wastewater treatment plant it will be

# EXHIBIT "A" to Amendment

Final Draft 07/28/2004

necessary to design, permit and construct an expansion of the Town's wastewater treatment plant in order to allow capacity of at least 700,000 gallons per day to accommodate anticipated and projected growth and development in the Town. In order to allow the Town to immediately begin the design, permitting and construction of an expansion to its wastewater treatment plant, the Developer/Owner will be required to pay to the Town in cash the amount of \$691,267.50 which amount is based on a total of 266 ERCs the Developer/Owner proposes to connect to the Town's wastewater treatment plant and is related to the 71,820 gpd in equivalent capacity that the Developer/Owner will need from the Town's expanded wastewater treatment plant. In addition the Developer/Owner shall be required to post an Irrevocable Letter of Credit or other security reasonably acceptable to the Town and in the form attached hereto as Exhibit "A". Pursuant to paragraph 4 below, the Developer/Owner is obligated to pay said funds to the Town in order to purchase 266 ERCs which represents 71,820 gpd in equivalent capacity.

## 4.0 Developer's/Owner's Obligations

- 4.1.1. The Developer/Owner agrees to pay to the Town the sum of \$691,267.50 in cash, cashier's check or cleared funds payable to the Town of Dundee to purchase 266 ERCs that it proposes to connect to the Town's wastewater treatment plant and which represents 71,820 gpd in equivalent capacity in accordance with the following:
- 4.1.2. The sum of One Hundred Seven Thousand Eight Hundred Forty Eight Dollars and Fourteen Cents (\$107,848.14) in cash, cashier's check or cleared funds payable to the Town of Dundee upon its execution of this Agreement. The balance of Five Hundred Eighty Three Thousand Four Hundred Nineteen Dollars and Thirty Six (\$583,419.36) shall be paid in cash, cashier's check or cleared funds payable to the Town of Dundee in three (3) installments in accordance with the following schedule:

Payment for the amount of \$107,848.12 is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment for the amount of \$107,848.12 is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

Payment for the amount of \$367,723.12 is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the

PAID  
MIDMORIAN  
CH # 07-448 3566716

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# EXHIBIT "A" to Amendment

Final Draft 07/28/2004

Town's engineer and sewer plant operational permits are in hand for the sewer plant expansion project that is expected to occur on or before December 31, 2005.

The Town's certifications described above shall be final and binding on Developer/Owner and will require the immediate payment to the Town of the funds requested and due.

- 4.1.3. In addition, to secure its obligations to the Town under this Agreement and upon the execution of this Agreement the Developer/Owner shall deliver to the Town an irrevocable letter of credit in the form as set forth as Exhibit "A" attached hereto. To the extent payments are not made by the Developer/Owner under paragraph 4.1.2 above within fourteen (14) days after written notice by the town requesting payment, the Town may draw upon any or all such cash or letters of credit in whole or in part to provide funds to pay for the design, permitting and construction of the wastewater treatment plant expansion as more particularly set forth herein. The Town shall not be obligated to commence the design, permitting and any phase of construction of the improvements to the wastewater treatment plant unless and until the Developer/Owner of the development has delivered to the Town the required cash and letter of credit.
- 4.1.4. Developer/Owner acknowledges and agrees that the Town's willingness to enter into this Developer's Agreement shall not be construed as a waiver by the Town of any applicable law, ordinance, rule or regulation for the construction of any future developments.
- 4.1.5. In the event the Developer/Owner assigns and/or conveys its interest in any real property that is being used to calculate the ERC to the Town's wastewater system, the new Owner of such property may upon notice to the Town join in this Agreement and pay the required contribution for the purchase of the 266 ERCs for the applicable property provided such notice is given within thirty (30) days after the closing of the contract for purchase, but in no event beyond the term of this Agreement. In any event unless and until the new Owner joins in this Agreement and becomes obligated to the same extent as the Developer/Owner hereunder, the Developer/Owner shall remain obligated to the Town for all obligations hereunder.
- 4.1.6. Subject to the provisions in paragraph 5.1.4 below any funds paid to the Town hereunder shall be non-refundable in the event that the Developer chooses not to move forward with the proposed development.
- 5.0 Town's Obligations.

# EXHIBIT A to Amendment

Final Draft 07/28/2004

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- 5.1.1 Subject to the Developer's/Owner's compliance with its obligations under this Agreement, the Town shall commence the design and permitting of the expansion of its wastewater treatment plant immediately. Upon completion of design and permitting the Town shall commence construction of the expansion of its wastewater treatment plant with an anticipated completion date no later than 16 months from the effective date of this Agreement.
- 5.1.2 Reservation of Capacity. In consideration for the payment by the Developer/Owner as more particularly set forth in paragraph 4 above the Town hereby reserves 71,820 gpd in equivalent capacity for the Developer/Owner based on 266 ERCs purchased hereunder. In the event the Developer/Owner determines that it does not need all of the reservation of capacity/ERC's purchased hereunder then such reservation of capacity/purchased ERC's may be assignable and/or sold by the Developer but only with the Town's prior written consent and as contemplated in paragraph 4.1.5 above. It is agreed that the Town's consent will not be unreasonably withheld. Furthermore, all reservations of capacity pursuant to the terms of this Agreement shall exist for only five (5) years from the date that the expanded Wastewater Treatment Plant is fully online and operational. If within five (5) years from the date that the expanded Wastewater Treatment Plant is online and fully operational, the Developer/Owner and/or its successors and/or assigns or those persons or entities who have purchased the ERC's have not used the reserved capacity then it must sell such reserved capacity 266 ERC's representing 71,820 gpd (or portion thereof) in equivalent capacity back to the Town. In this event, payment arrangements shall be determined solely by the Town. The Developer and the Town agree that the foregoing provision is necessary to insure that the Town's ability to provide appropriate municipal services regarding the collection and treatment of wastewater and other effluent is not compromised by unused capacity.
- 5.1.3 The Town's obligations under this Agreement are conditioned on obtaining total funds and/or commitments of at least \$3.3 million. All funds collected from developers for this project shall be maintained in a separate bank account at Wachovia Bank, N.A. and titled "Dundee Sewer Plant Expansion Account" and such funds shall not be commingled with any other Town funds and shall not be appropriated to any other Town project, except that any funds remaining in the Dundee Sewer Plant Expansion Account after completion of the project and after all project expenses are paid in full, may be appropriated subject to any restrictions established for the use of sewer impact fees. Bank statements for the Dundee Sewer Plant Expansion Account, including any reports of daily account activity, shall be made available to the public upon request as such reports become available to the Town. In the event that the Town is unable to secure the required up front cash along with letters of credit

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DEPOSITION ON FILE  
SUTTERING  
CLERK OF THE CIRCUIT

Book11706/Page1474 CFN#2021119842

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**EXHIBIT "A"**  
**to Amendment**

Final Draft 07/28/2004

from developers prior to August 27, 2004 its obligations to expand the wastewater treatment plant and provide a reservation of capacity as described herein are null and void and all monies collected shall be refunded without interest at that time.

- 5.1.4 If the sewer plant expansion project is begun but not fully completed within 3 years from the effective date of this Agreement, then the Developer/Owners shall have the option to seek a refund of monies paid by the Developer/Owners hereunder without interest and in a manner and frequency determined solely by the Town so that such a refund will not compromise, harm, and/or impair the Town's fiscal condition and/or ability to provide necessary municipal services to its citizens. If in the event there is not sufficient waste water treatment capacity available to fulfill the Town's obligations under this agreement, the Town will have no objection to the Developer beginning development utilizing septic tank and without requiring the Developer to install dry lines.
- 6.0 Authority. The Developer/Owner affirmatively represents that it has the requisite authority to transact business in the State of Florida and has the requisite authority to enter into this Agreement.
- 7.0 Binding Effect. The Burdens of this Developer's Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. However no assignments of this Agreement shall be allowed unless the Town consents in writing to same.
- 8.0 Applicable Law, Jurisdiction and Venue. This Developer's Agreement, and the rights and obligations of the Town and the Developer/Owner hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Polk County, Florida. If any provision of this Developer's Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Developer's Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 9.0 Exhibits. All exhibits attached hereto contain additional terms of this Developer's Agreement and are incorporated herein by reference.
- 10.0 Captions and Paragraph Headings. Captions and paragraph headings contained in this Developer's Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Developer's Agreement, nor the intent of any provision hereof.

CERTIFICATION ON LAST PAGE  
STACY M. BUTTERFIELD  
CLERK OF THE CIRCUIT COURT



# EXHIBIT "A" to Amendment

Final Draft 07/28/2004

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- 11.0 Definitions: Unless specifically defined herein, the terms used in this Developer's Agreement shall be assigned the meanings, interpretations and/or definitions applied to, or provided in, the Town of Dundee Code of Ordinances and/or Florida Law.
- 12.0 Counterparts: This Developer's Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Developer's Agreement.
- 13.0 Merger: This Developer's Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein.
- 14.0 Effective Date and Duration: This Agreement shall become effective after it has been duly approved by the Town Council and executed by all parties. It shall remain in full force and effect for a period of five (5) years from that date.
- 15.0 Amendment: This Developer's Agreement may only be amended by mutual consent of the parties in writing.
- 16.0 Further Assurances: Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, execute, acknowledge and deliver, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Developer's Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Developer's Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Developer's Agreement, and to coordinate the performance of their respective obligations under the terms of this Developer's Agreement. To the extent of any conflict with the development conditions or other rules and regulations, which may otherwise govern the Development, the terms and conditions of this Developer's Agreement shall prevail.
- 17.0 Notices: Any notices or reports required by this Developer's Agreement shall be sent to the following:

For the Town:                      Town Manager  
                                            Town of Dundee  
                                            Post Office Box 1000  
                                            105 Center Street  
                                            Dundee, FL 33838-1000

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Book11706/Page1476    CFN#2021119842

COPIATION OF LAST  
M. B. FIELD  
CLERK OF THE DISTRICT

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**EXHIBIT "A"**  
**to Amendment**

Final Draft 07/28/2004

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With a Copy to: Frederick J. Murphy, Jr. Town Attorney  
Town of Dundee  
Post Office Drawer 30  
245 South Central Avenue  
Bartow, Florida 33830

For the Developer/Owner: Joe Saunders  
Hilltop Groves, LLC  
5529 U.S. 98 North  
Lakeland, FL 33809

With copy to: Attn: Rick Miller  
Miller, Crosby & Miller  
P.O. Box 8169  
Lakeland, FL 33802

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Developer's Agreement on the day(s) and year set forth below.

(SEAL)

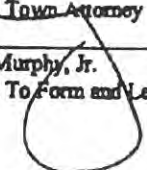
TOWN COUNCIL OF THE  
TOWN OF DUNDEE

ATTEST:

By:   
Town Clerk

By:   
Kevin Kitto - Mayor

Date: 11th August 04

Approved by Town Attorney  
By:   
Frederick J. Murphy, Jr.  
Approved As To Form and Legal  
Sufficiency.

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CERTIFICATION OF LAST PAGE  
THIS IS THE LAST PAGE  
CLERK OF THE COURT

EXHIBIT A  
to Amendment

Final Draft 07/28/2004

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WITNESSES

( DEVELOPER )

*[Signature]*  
*[Signature]*

Hilltop Groves, LLC

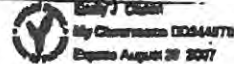
By: Joe L. Saunders  
Joe L. Saunders

Its: Managing Member

STATE OF FLORIDA  
COUNTY OF Polk

The foregoing instrument is hereby acknowledged before me this 28<sup>th</sup> day of July, 2004, by Joe L. Saunders, as Managing Member of ( DEVELOPER ), on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

*[Signature]*  
NOTARY PUBLIC  
My Commission Expires \_\_\_\_\_



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Book11706/Page1478 CFN#2021119842

CLERK OF THE CIRCUIT COURT  
BUTTERFIELD  
SECTION ON EAST

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Book12982/Page709 CFN#2024017430

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**EXHIBIT A  
to Amendment**

Final Draft 07/28/2004

**Exhibit A  
MIDFLORIDA Federal Credit Union  
Business Services  
Irrevocable Letter of Credit**

**Date issued:** August 25, 2004

**Letter of Credit No.** 302897

**Beneficiary:** Town of Dundee  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838

**Honorable Mayor and Town Council Members:**

We hereby issue our irrevocable letter of credit in your favor, for the account of Hilltop Groves, LLC, 6529 U.S. 98 North, Lakeland, Florida 33809 in the aggregate amount of USD Five hundred eighty three thousand four hundred nineteen dollars and thirty six cents (\$583,419.36) available to you in three payments upon presentation of your draft(s) at sight on ourselves when accompanied by an affidavit signed jointly by the Town Mayor and Town Manager of Dundee, both authorized representatives of the Town of Dundee, certifying each stage of sewer plant expansion completion has been reached and stating that funds are due and payable by Hilltop Groves, LLC in return for the Town of Dundee reserving and assigning a total of 266 ERC's of sewer plant capacity exclusively for utilization by Hilltop Groves, LLC in accordance with the following schedule as agreed:

Payment No. 1, for the amount of \$107,848.12 is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment No. 2, for the amount of \$107,848.12 is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

CERTIFICATION  
STATE OF FLORIDA  
CLERK OF THE COURT

**EXHIBIT "A"**  
**to Amendment**

Final Draft 07/28/2006

Payment No. 3, for the amount of \$367,723.12 is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the Town's engineer for the sewer plant expansion project, which is expected to occur on or before December 31, 2005.

The Town's certifications described herein as to payment requests shall be final and binding on Hilltop Groves, LLC and the MIDFLORIDA Federal Credit Union and once delivered to Hilltop Groves, LLC requires immediate payment to the Town of the funds requested.

This irrevocable letter of credit sets forth in full the terms of our undertaking. This undertaking shall not in any way be modified, amended, or amplified by reference to any document or contract referred to herein.

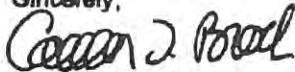
Drafts drawn under this credit must state on their face "drawn under MIDFLORIDA Federal Credit Union Irrevocable letter of credit number 302997 dated August 25, 2004.

It is a condition of this letter of credit that it shall be deemed automatically extended without amendment for one year from the present or any future expiry date unless at least (number of days) prior to such expiration date, we notify you in writing by certified mail or express courier that we elect not to renew this letter of credit for any such additional one year period.

We hereby agree with you that draft(s) drawn under and in compliance with the terms and conditions of this credit shall be duly honored if presented together with documents as specified and the original of this credit, at this office on or before December 31, 2005.

Except as otherwise expressly stated herein, this letter of credit is subject to the Uniform Customs and Practices for Documentary Credits, established by the International Chamber of Commerce, as in effect on the date of issuance of this credit.

Sincerely,



Cameron Brock  
Assistant Vice President  
MIDFLORIDA Federal Credit Union  
Business Services

REPRODUCTION OF THIS  
LETTER OF CREDIT IS  
PROHIBITED BY THE CIRCULAR

# **EXHIBIT "B"** **to Amendment**

## **Detail by Entity Name**

**Florida United Utility Company**  
**HILLTOP GROVES, LLC**

### **Filing Information**

**Document Number** 18306000880  
**Filing Number** 20-1677364  
**Date Filed** 10/17/2020  
**State** FL  
**Status** ACTIVE

### **Principal Address**

**5520 U.S. HIGHWAY 90 NORTH**  
**LAKELAND, FL 33809**

### **Mailing Address**

**5520 U.S. HIGHWAY 90 NORTH**  
**LAKELAND, FL 33809**

### **Registered Agent Name & Address**

**Guardian, LLC**  
**5520 U.S. HIGHWAY 90 NORTH**  
**LAKELAND, FL 33809**

**Name Change:** 03/03/2015

### **Authorized Personnel Detail**

### **Name & Address**

**Tito NORM**

**GALENDERS, LLC**  
**5520 US HWY 90 N**  
**LAKELAND, FL 33809**

### **Annual Reports**

Report Year	Filed Date
2018	04/16/2019
2019	04/08/2020
2020	09/21/2020

### **Document Images**

04/21/2020 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
04/08/2019 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
04/08/2018 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
03/16/2017 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
03/20/2016 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
01/08/2014 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
03/20/2014 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
04/16/2013 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
03/20/2012 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
03/16/2011 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
01/08/2010 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
03/16/2009 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
04/20/2008 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
03/20/2007 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
03/20/2006 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
04/27/2005 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
03/21/2004 - ANNUAL REPORT	<a href="#">View Image in PDF format</a>
10/17/2020 - Florida United Utilities	<a href="#">View Image in PDF format</a>

TRIMED COPY  
OF A  
PUBLIC RECORD  
DATE 01/10/2021

**RESOLUTION NO. 20-13**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, MAKING FINDINGS AND, IN ACCORDANCE WITH SECTION 54-18 OF THE CODE OF ORDINANCES OF THE TOWN OF DUNDEE, TEMPORARILY WAIVING IDLE CAPACITY CHARGE(S) FOR A PERIOD OF EIGHTEEN (18) MONTHS BEGINNING ON THE EFFECTIVE DATE OF THIS RESOLUTION AND PROVIDING FOR THE FULL AMOUNT OF THE TOWN OF DUNDEE IDLE CAPACITY CHARGE(S) TO AUTOMATICALLY BE REINSTATED UPON THE EXPIRATION OF EIGHTEEN (18) MONTHS FROM THE EFFECTIVE DATE OF THIS RESOLUTION; PROVIDING FOR APPLICABILITY OF THE TEMPORARY WAIVER OF IDLE CAPACITY CHARGES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in accordance with Section 54-18 of the Code of Ordinances of the Town of Dundee, Florida, the Town Commission has reviewed the current charge(s) for reserved capacity arising out of current and active Equivalent Residential Connection(s) ("ERC") in the Town of Dundee water and wastewater utility system; and

**WHEREAS**, in accordance with Section 54-18(c) of the Code of Ordinances of the Town of Dundee, Florida, the Town Commission may, from time to time, set the amount(s) charged and collected for Idle Capacity charges by resolution; and

**WHEREAS**, in March, 2007 in accordance with Section 54-18 of the Code of Ordinances of the Town of Dundee, the Town Commission adopted Resolution 07-09 establishing Idle Capacity Charges; and

**WHEREAS**, in response to the COVID-19 pandemic and economic difficulties arising therefrom, the Town Commission desires to stimulate new development within the Town of Dundee, Florida, and promote economic activity within the Town of Dundee, Florida; and

**WHEREAS**, the Town Commission desires, for a temporary period of time not to exceed eighteen (18) months and beginning on the effective date of this Resolution, to waive the Idle Capacity Charges imposed by the Town of Dundee, Florida, for any current and active unredeemed ERC and/or paid connection fee; and

**WHEREAS**, the Town Commission finds that a temporary waiver of the Town of Dundee Idle Capacity Charges, for a period of time not to exceed eighteen (18) months beginning on the effective date of this Resolution, will promote the development, growth, and vitality of the Town of Dundee, Florida, and will further the health, safety and welfare of the citizens and residents of the Town of Dundee, Florida.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA:**

Resolution No. 20-13 Page 1

CERTIFICATION OF LAST  
JACLYN M. BUTTERFIELD  
CLERK OF THE CIRCUIT COURT

**Section 1.** The above recitals are incorporated as a factual basis for the passage of this Resolution.

**Section 2.** The current amount of all Town of Dundee Idle Capacity Charges as set forth in Section 54-18 of the Code of Ordinances of the Town of Dundee, Florida, and first established by Resolution 07-09 of the Town Commission of the Town of Dundee and related schedule of such charges that may be on file in the Town Clerk's office are hereby temporarily waived for a period of eighteen (18) months beginning on the effective date of this Resolution; and all Idle Capacity Charges shall automatically be reinstated to the amount(s) charged on the effective date of this Resolution as of December 23, 2021. All other provisions of Section 54-18 of the Code of Ordinances of the Town of Dundee, Florida, and Resolution 07-09 shall remain in full force and effect.

**Section 3.** The temporary waiver of the Town of Dundee Idle Capacity Charges established by this Resolution shall apply prospectively beginning on the effective date of this Resolution. The temporary waiver of the Town of Dundee Idle Capacity Charges shall not be applicable to waive any currently past-due or delinquent charge(s) for unpaid Idle Capacity Charges, and the temporary waiver of the Town of Dundee Idle Capacity Charges shall not be applicable to unredeemed ERCs which are inactive, expired, and/or have not been renewed by the Town Commission on or before the effective date of this Resolution.

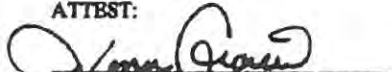
**Section 4.** This Resolution shall be effective immediately upon passage by the Town Commission.

**INTRODUCED AND PASSED** by the Town Commission of the Town of Dundee, Florida, in regular session this 23rd day of June, 2020.

**TOWN OF DUNDEE, FLORIDA**

  
MAYOR- Sam Pennant

ATTEST:

  
TOWN CLERK

Approved as to form:

  
TOWN ATTORNEY - Frederick J. Murphy, Jr.

Resolution No. 20-13 Page 2

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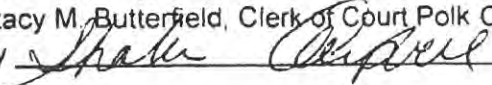
I hereby certify that the foregoing is a true copy of the record in my office this day, May 07, 2021. Redacted ☐ Unredacted/law ☒  
Stacy M. Butterfield, Clerk of Court Polk County, Florida  
By  Deputy Clerk





EXHIBIT D

**THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:**

Frederick J. Murphy, Jr., Esquire  
 Boswell & Dunlap, LLP  
 Post Office Drawer 30  
 245 South Central Avenue (33830)  
 Bartow, Florida 33831  
 Telephone (863) 533-7117  
 Facsimile (863) 533-7412



INSTR # 2021215083  
 BK 11852 Pgs 1369-1382 PG(s) 24  
 RECORDED 08/17/2021 4:03:36 PM  
 STACY M. BUTTERFIELD,  
 CLERK OF COURT POLK COUNTY  
 RECORDING FEES \$205.50  
 RECORDED BY SHAURUS8

For Recording Purposes Only

**AMENDMENT TO AGREEMENT REGARDING RESERVED CAPACITY IN THE  
 TOWN OF DUNDEE'S WASTEWATER TREATMENT PLANT**

THIS AMENDMENT TO DEVELOPER'S AGREEMENT REGARDING THE FUNDING OF THE DESIGN, PERMITTING AND CONSTRUCTION OF THE EXPANSION OF THE TOWN OF DUNDEE'S WASTEWATER TREATMENT PLANT ("Amendment"), made and entered into this 22nd day of June, 2021, by and between the **TOWN OF DUNDEE**, a municipal corporation organized and existing under the laws of the State of Florida (the "Town"), and **HILLTOP GROVES, LLC**, a Florida Limited Liability Company ("Owner").

**RECITALS**

1. On or about July 28, 2004 the Town and Hilltop Groves LLC, a Florida Limited Liability Company, entered into that certain Developer's Agreement Regarding the Funding of the Design, Permitting and Construction of the Expansion of the Town of Dundee's Wastewater Treatment Plant a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference.
2. The Town and Owner have determined that at this time the Owner holds, albeit expired, 266 Wastewater ERCs representing 71,820 gallons per day (GPD) in equivalent capacity in the Town's Water Utility System ("Owner ERCs") pursuant to the Agreement. The Owner has not otherwise conveyed, assigned, pledged, hypothecated or otherwise redeemed any of said certificates representing the Owner ERCs as defined and identified herein although said Owner ERC's expired on April 24, 2011.
3. The Owner is the owner of certain real property situated in Polk County, Florida, more particularly described on **Exhibit "B"** attached hereto and incorporated herein by this reference (the "Property") which is the Vista Del Lago Phase II Replat Subdivision.
4. On June 22, 2021, the Owner requested that the Town reactivate 37 of the 223 Wastewater ERCs (Original ERC Certificates 1649 through 1685).

5. The 37 Owner ERCs requested for reactivation would have accrued TWENTY-EIGHT THOUSAND THREE HUNDRED FIVE DOLLARS and zero cents (\$28,305.00) in idle capacity charges from April 24, 2006 through June 22, 2021 which remains unpaid.

6. On June 23, 2020, the Town introduced and passed Resolution No. 20-13 (the "Resolution"). A copy of the Resolution is attached hereto as Exhibit "C" and made a part hereof by reference.

7. The Resolution provides for a temporary waiver of certain Town of Dundee Idle Capacity Fee(s) for a period of eighteen (18) months beginning on June 23, 2020 and automatically sunseting on December 23, 2021.

8. On June 22, 2021, the Town agreed to reactivate the 37 Owner ERCs (Original ERC Certificates 1649 through 1685) for a period of twenty-four (24) months beginning on June 22, 2021 and automatically terminating on June 22, 2023.

9. The Town acknowledges that all Town wastewater impact fees have been paid by Owner or its predecessor in interest for the Town's allocation of wastewater capacity for the Owner ERCs pursuant to the Agreements and that the Town presently has adequate permitted capacity in its wastewater plant for the wastewater capacity represented by the Owner ERCs described above.

10. Owner contemplates the transfer or assignment of the 37 Owner ERCs (Original ERC Certificates 1649 through 1685) to Richmond American Homes, for construction of single-family homes to be located within the municipal limits of the Town.

11. The parties covenant and agree that they have the power and authority to enter into this Amendment and bind themselves to the provisions of this Amendment.

**ACCORDINGLY**, in consideration of the Recitals stated above and other good and valuable mutual consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**SECTION 1. RECITALS; OWNERSHIP.** The Recitals above are true and correct and form a material part of this Amendment. The Town acknowledges and agrees Owner owns the Owner ERCs which are the subject matter of this Amendment.

**SECTION 2. DEFINITIONS.** All capitalized terms not defined herein shall have the same meaning as defined in the Agreements.

**SECTION 3. GRANT OF EXTENSION.**

A. The Town, pursuant to the terms of this Amendment, hereby reactivates said 37 Owner ERCs and grants to the Owner an extension of the term of the 37 Owner ERCs of equivalent capacity in the Town's Wastewater Treatment Plant represented by Wastewater ERC Certificates listed on Schedule "1" (Original ERC Certificates 1649 through 1685) through a period expiring June 22, 2023 ("Expiration Date").

B. In consideration for such extension, within thirty (30) calendar days after mutual execution of this Agreement and approval by the Town Commission, Owner shall

pay TWENTY-EIGHT THOUSAND THREE HUNDRED FIVE DOLLARS and zero cents (\$28,305.00) in immediately available funds to the Town in full satisfaction of the wastewater idle capacity charges outstanding as of the date of this Agreement and due through June 22, 2021 and pay any and all other charges that may be due pursuant to Chapter 54 of the Town's Code of Ordinances. To the extent the Town determines that any other idle capacity charges are due in accordance with Chapter 54 of the Town's Code of Ordinances regarding the Water and Wastewater Owner ERCs that are the subject of this Agreement then Owner agrees to pay said charges to the Town within thirty (30) calendar days of receipt of an invoice sent to Owner for same. No refunds of any idle capacity charges paid by Owner shall be given by the Town.

C. Once the Owner has paid the sum of TWENTY-EIGHT THOUSAND THREE HUNDRED FIVE DOLLARS and zero cents (\$28,305.00) in immediately available funds to the Town, all previously issued certificates representing the Wastewater Owner ERCs extended herein and that are the subject of this Agreement shall be returned to the Town and cancelled and of no force and effect. Thereafter, in exchange for the returned certificates, the Town will issue new certificates for Wastewater Owner ERCs extended herein and that are the subject matter of this Agreement and provide same to the Owner. Provided however that the terms of the Agreement attached hereto as Exhibit "A" shall not control and when new certificates are issued by the Town to Owner. No Wastewater capacity in the Town's Wastewater Utility Systems shall be reserved beyond June 22, 2023 and Wastewater Owner ERCs extended herein shall expire on June 22, 2023.

#### **SECTION 4. GRANT OF OPTION.**

A. The Town, pursuant to the terms of this Amendment and in addition to any rights granted to Owner under the Agreements or under applicable law, hereby grants to the Owner an option to transfer, from time to time (i) all or a portion of the Owner ERCs to a third party ("ERC Transferee") without transferring fee simple title to all or any portion of the Property ("ERC Transfer"), and/or (ii) transfer of all or any portion of the Property to a third party ("Property Transferee"; ERC Transferees and Property Transferees are collectively "Transferees") and retain all or any Owner ERCs ("Property Transfer"; "ERC Transfers" and "Property Transfers" are collectively "Independent Transfers"). Owner may exercise such option in its sole and absolute discretion.

B. At least thirty (30) days prior to any Independent Transfer as defined herein, Owner shall provide written notice to the Town thereof ("Transfer Notice"), which shall include the Transferee's (i) name, (ii) address, (iii) employer identification number (EIN) or federal tax identification number, and (iv) contact information (including telephone number, fax number, and e-mail address, as applicable). The parties agree that Owner shall enter into transfer and/or assignment agreement with Richardson American Holdings of Houston, LP in the event of any transfer and/or assignment of the Owner ERCs and that notice was previously given by Owner for this specific anticipated Independent Transfer.

C. In the case of an Owner ERC Transfer of all outstanding ERCs, Owner shall no longer be liable for any idle capacity charges which may accrue with respect to the applicable Owner ERCs if Transferee executes a written commitment to pay such charges. In that event the Transferee must also comply with all of the conditions and

obligations in the Agreement and this Amendment including but not limited to the provisions of Section 6 B of this Amendment.

**SECTION 5. OBLIGATIONS OF TOWN.**

A. The Town shall allocate wastewater capacity for the Owner ERCs in the name of Owner and/or its successors and assigns in accordance with all applicable laws and Ordinances and the terms of the Agreements, as amended by this Amendment, through the Expiration Date.

B. The Town shall, within ten (10) days following receipt of Owner's request, provide a written statement to Owner certifying the current number of Owner ERCs in the name of Owner.

**SECTION 6. AGREEMENT TO COOPERATE.** The parties agree to cooperate and to do all things reasonably necessary to accomplish the terms of this Amendment, and that they respectively shall, upon being requested by the other party to do so, execute and deliver promptly any and all such authorizations, instruments, papers or documents of any and every kind and character as may be reasonably required, necessary or proper for the purpose of giving full force and effect to this Amendment and to the covenants, conditions, and agreements contained herein. Except as specifically modified by this Amendment, all of the terms, covenants, conditions and agreements of the Agreements shall remain in full force and effect.

**SECTION 7. DISCLAIMER OF THIRD-PARTY BENEFICIARIES.** This Amendment is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

**SECTION 8. SEVERABILITY.** If any part of this Amendment is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Amendment if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Amendment is declared to be severable.

**SECTION 9. LAND USE APPROVALS.** Owner acknowledges and understands that the Town is prohibited from engaging in "Contract Zoning" or the bartering away of its legislative prerogative. As such this Amendment shall not be construed as a basis for (1) granting or assuring or indicating or (2) refusing to grant or preventing any future grant of land use or zoning approvals, permissions, variances, special exceptions, or rights with respect to the Property.

**SECTION 10. BINDING UPON SUCCESSORS.** This Amendment shall be binding upon and shall inure to the benefit of the successors or assigns of the parties hereto.

**SECTION 11. APPLICABLE LAW AND VENUE.** This Amendment and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida. Venue for any dispute or cause of action under the Agreements, as modified by this Amendment, shall be exclusively in the state courts of competent subject matter jurisdiction in Polk County, Florida.

**SECTION 12. NOTICES.** All notices, demands, requests and other communications required or permitted by the Agreements, as modified by this Amendment, by any party hereto to any other party shall be in writing and shall be validly given or made by any party, or any party's attorney on behalf of such party, only if personally served or delivered by Federal Express or other similar reputable national courier service keeping records of deliveries and attempted deliveries. In the event of personal service, notice shall be deemed effective when delivered. Service by courier shall be conclusively deemed made on the second business day delivery is attempted or upon receipt, whichever is sooner.

TOWN: TOWN OF DUNDEE  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000  
Attention: Town Manager

With a copy to:  
*(which shall not  
constitute notice)* Frederick J. Murphy, Jr.  
Town Attorney, Town of Dundee  
P.O. Drawer 30  
245 South Central Avenue  
Bartow, Florida 33830

OWNER: HILLTOP GROVES, LLC  
Lee Saunders, Member Manager  
5529 U.S. Highway 98 North  
Lakeland, FL 33809

Any person or entity may change their address for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the others, which notice of change of address shall not become effective, however, until the actual receipt thereof by the others.


**SECTION 13. ENTIRE AGREEMENT.** The Agreement, as modified by this Amendment, constitute the entire agreement between the parties. Modifications to and waivers of the provisions herein shall not be binding unless made in writing and signed by the parties hereto and approved by the Town's governing body. Except as expressly amended by this Amendment, the terms and conditions of the Agreement and the Assignment shall remain unchanged and unamended, and are hereby ratified and confirmed. In the event of any conflict between the terms of the Agreement and Amendment, the terms of this Amendment shall control.

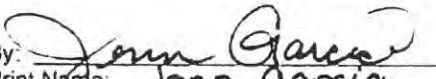
[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, Owner and the Town have executed or have caused this Amendment, with the named Exhibits attached, if any, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Amendment.


ATTEST:

THE TOWN OF DUNDEE

By:   
Print Name: Sam Pennington  
As Its: Mayor  
Date: 7/13/2021

By:   
Print Name: Jenn Garcia  
As Its: Town Clerk

FOR THE USE AND RELIANCE  
OF TOWN OF DUNDEE ONLY.  
APPROVED AS TO FORM

By:   
Frederick J. Murphy, Jr.  
Town Attorney



## OWNER:

HILLTOP GROVES, LLC,  
a Florida limited liability company

By: [Signature]  
Name Lee Saunders  
Title Member Manager

Signed and delivered  
In the presence of:

[Signature]  
Print Name: David C. Cook  
[Signature]  
Print Name: Tom Sanders

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was acknowledged before me this 18 day of July, 2020, by LEE SAUNDERS, as Member Manager of HILLTOP GROVES, LLC, on behalf of the company, HILLTOP GROVES, LLC. He is ☒ personally known to me or ☐ has produces \_\_\_\_\_ as identification and ☐ (did) ☐ (did not) take an oath.



PAMELA G. CHANCEY  
Commission # HH 010422  
Expires October 15, 2021  
Bonded Thru Budget Notary Services

[Signature]  
Signature of Person Taking Acknowledgement

Pamela G. Chancey  
Name of Acknowledger Types, Printed, or Stamped

Officer (K. V. M. J. R.)  
Title or Rank

Serial Number, if any

EXHIBIT "A"  
to Amendment

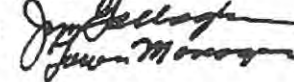
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Agreement #4

DEVELOPER'S AGREEMENT  
REGARDING THE FUNDING OF THE  
DESIGN, PERMITTING AND  
CONSTRUCTION OF THE  
EXPANSION OF THE TOWN OF DUNDEE'S  
WASTEWATER TREATMENT PLANT

PAID APR 25 2005

IN FULL



THIS AGREEMENT ("Agreement") is made on this 25<sup>th</sup> day of July, 2004, by and between Hilltop Groves, LLC (the "Developer/Owner") and the TOWN OF DUNDEE, a municipal corporation organized and existing under the laws of the State of Florida (the "Town").

WITNESSETH

WHEREAS, the Town operates a wastewater treatment plant that is presently serving close to or at its capacity; and

WHEREAS, the Town is presently expanding its municipal limits through annexation which will bring growth and development to the Town; and

WHEREAS, in order to accommodate the anticipated growth it will be necessary for the Town to expand the permitted capacity of its wastewater treatment plant from 90,000 gallons per day to 700,000 gallons per day or more; and

WHEREAS, several of the property owners and Developers of land within the Town limits have had discussions with the Town in order to determine the most feasible way to immediately expand the wastewater treatment plant; and

WHEREAS, the Town has retained Envisors Consulting Engineers to prepare a preliminary design report which was presented to the Town Council at a special meeting on March 23, 2004 which identified the relative costs and expenses of expanding the wastewater treatment plant to 700,000 gallons per day or more; and

WHEREAS, if the Town Council were to proceed under the usual financing methods to obtain the necessary funds for design, permitting and expanding the wastewater treatment plant it would take at least 18 to 20 months from the present time to explore such financing; and

WHEREAS, in order to address the immediate needs of growth and development and to accelerate the design, permitting and construction of an expansion of the wastewater treatment plant, the Town of Dundee has indicated that it will move forward with the design, permitting and construction of an expansion of its wastewater treatment plant if those Developers who desire the extra capacity will immediately and irrevocably fund the costs of the expansion up front based on the equivalent residential connections (ERC) each Developer/Owner proposes to connect to the Town's wastewater treatment plant. Such funding will permit the Town of Dundee to greatly accelerate the design,

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permitting and construction of the expansion to its wastewater treatment plant. Further, without such funding it is not likely that the Town would be able to expand its permitted capacity for the wastewater treatment plant at any time now or in the near future;

**WHEREAS**, the Town is presently working with Polk County to enter into an Interlocal Agreement to allow the Town to tap into Polk County's wastewater treatment plant located in the Waverly area of Polk County, Florida, as a short term way to address the Town's need for additional wastewater treatment capacity; and

**WHEREAS**, such short term temporary capacity in the Town's waste water system that results from the diversion of waste water flows to Polk County's Waverly Plant will be connected only to customers who have been issued certificates of occupancy and on a first come first served basis until such additional wastewater treatment capacity is exhausted; and

**WHEREAS**, after the short term temporary capacity is exhausted, those wishing to connect to the sewer system will have to wait until new capacity resulting from the sewer plant expansion project becomes available; and

**WHEREAS**, the Town of Dundee Code of Ordinances requires the payment of certain connection fees on the basis of the number of Equivalent Residential Connections (ERC) proposed to be connected to the utility system. Further, the Town Code permits developer's agreements which set forth in detail the terms and conditions under which the Town will provide utility service to the Developer's/Owner's property; and

**WHEREAS**, the Town deems such an agreement necessary to facilitate the construction of expansion of the Town's wastewater treatment plant; and

**WHEREAS**, it is therefore deemed to be in the interest of the public health, safety and welfare for the Town and an appropriate exercise of the Town's authority to enter into the instant Developer's Agreement.

**NOW, THEREFORE**, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

- 1.0 Recitals. The foregoing recitals are incorporated herein by reference as if recited in full and serve as a factual stipulation upon which the parties agree is the basis of the instant Developer's Agreement.
- 2.0 Purpose. The purpose of this Developer's Agreement is to memorialize the Developer's/Owner's financial commitment to the Town relating to the expansion of the Town's wastewater treatment plant.
- 3.0 Wastewater Treatment Plant Capacity. In order to assure that sufficient capacity exists in the Town's wastewater treatment plant it will be

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necessary to design, permit and construct an expansion of the Town's wastewater treatment plant in order to allow capacity of at least 700,000 gallons per day to accommodate anticipated and projected growth and development in the Town. In order to allow the Town to immediately begin the design, permitting and construction of an expansion to its wastewater treatment plant, the Developer/Owner will be required to pay to the Town in cash the amount of \$691,267.50 which amount is based on a total of 266 ERCs the Developer/Owner proposes to connect to the Town's wastewater treatment plant and is related to the 71,820 gpd in equivalent capacity that the Developer/Owner will need from the Town's expanded wastewater treatment plant. In addition the Developer/Owner shall be required to post an Irrevocable Letter of Credit or other security reasonably acceptable to the Town and in the form attached hereto as Exhibit "A". Pursuant to paragraph 4 below, the Developer/Owner is obligated to pay said funds to the Town in order to purchase 266 ERCs which represents 71,820 gpd in equivalent capacity.

#### 4.0 Developer's/Owner's Obligations.

- 4.1.1. The Developer/Owner agrees to pay to the Town the sum of \$691,267.50 in cash, cashier's check or cleared funds payable to the Town of Dundee to purchase 266 ERCs that it proposes to connect to the Town's wastewater treatment plant and which represents 71,820 gpd in equivalent capacity in accordance with the following:
- 4.1.2. The sum of One Hundred Seven Thousand Eight Hundred Forty Eight Dollars and Fourteen Cents (\$107,848.14) in cash, cashier's check or cleared funds payable to the Town of Dundee upon its execution of this Agreement. The balance of Five Hundred Eighty Three Thousand Four Hundred Nineteen Dollars and Thirty Six (\$583,419.36) shall be paid in cash, cashier's check or cleared funds payable to the Town of Dundee in three (3) installments in accordance with the following schedule:

Payment for the amount of \$107,848.12 is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment for the amount of \$107,848.12 is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

Payment for the amount of \$367,723.12 is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the

PAID  
MIDMORIAN  
CR # 07-448 3560716

## EXHIBIT "A" to Amendment

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Town's engineer and sewer plant operational permits are in hand for the sewer plant expansion project that is expected to occur on or before December 31, 2005.

The Town's certifications described above shall be final and binding on Developer/Owner and will require the immediate payment to the Town of the funds requested and due.

- 4.1.3. In addition, to secure its obligations to the Town under this Agreement and upon the execution of this Agreement the Developer/Owner shall deliver to the Town an irrevocable letter of credit in the form as set forth as Exhibit "A" attached hereto. To the extent payments are not made by the Developer/Owner under paragraph 4.1.2 above within fourteen (14) days after written notice by the town requesting payment, the Town may draw upon any or all such cash or letters of credit in whole or in part to provide funds to pay for the design, permitting and construction of the wastewater treatment plan expansion as more particularly set forth herein. The Town shall not be obligated to commence the design, permitting and any phase of construction of the improvements to the wastewater treatment plant unless and until the Developer/Owner of the development has delivered to the Town the required cash and letter of credit.
- 4.1.4. Developer/Owner acknowledges and agrees that the Town's willingness to enter into this Developer's Agreement shall not be construed as a waiver by the Town of any applicable law, ordinance, rule or regulation for the construction of any future developments.
- 4.1.5. In the event the Developer/Owner assigns and/or conveys its interest in any real property that is being used to calculate the ERC to the Town's wastewater system, the new Owner of such property may upon notice to the Town join in this Agreement and pay the required contribution for the purchase of the 266 ERCs for the applicable property provided such notice is given within thirty (30) days after the closing of the contract for purchase, but in no event beyond the term of this Agreement. In any event unless and until the new Owner joins in this Agreement and becomes obligated to the same extent as the Developer/Owner hereunder, the Developer/Owner shall remain obligated to the Town for all obligations hereunder.
- 4.1.6. Subject to the provisions in paragraph 5.1.4 below any funds paid to the Town hereunder shall be non-refundable in the event that the Developer chooses not to move forward with the proposed development.
- 5.0 Town's Obligations.

## EXHIBIT "A" to Amendment

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- 5.1.1 Subject to the Developer's/Owner's compliance with its obligations under this Agreement, the Town shall commence the design and permitting of the expansion of its wastewater treatment plant immediately. Upon completion of design and permitting the Town shall commence construction of the expansion of its wastewater treatment plant with an anticipated completion date no later than 16 months from the effective date of this Agreement.
- 5.1.2 Reservation of Capacity. In consideration for the payment by the Developer/Owner as more particularly set forth in paragraph 4 above the Town hereby reserves 71,820 gpd in equivalent capacity for the Developer/Owner based on 266 ERCs purchased hereunder. In the event the Developer/Owner determines that it does not need all of the reservation of capacity/ERC's purchased hereunder then such reservation of capacity/purchased ERC's may be assignable and/or sold by the Developer but only with the Town's prior written consent and as contemplated in paragraph 4.1.5 above. It is agreed that the Town's consent will not be unreasonably withheld. Furthermore, all reservations of capacity pursuant to the terms of this Agreement shall exist for only five (5) years from the date that the expanded Wastewater Treatment Plant is fully online and operational. If within five (5) years from the date that the expanded Wastewater Treatment Plant is online and fully operational, the Developer/Owner and/or its successors and/or assigns or those persons or entities who have purchased the ERC's have not used the reserved capacity then it must sell such reserved capacity 266 ERC's representing 71,820 gpd (or portion thereof) in equivalent capacity back to the Town. In this event, payment arrangements shall be determined solely by the Town. The Developer and the Town agree that the foregoing provision is necessary to insure that the Town's ability to provide appropriate municipal services regarding the collection and treatment of wastewater and other effluent is not compromised by unused capacity.
- 5.1.3 The Town's obligations under this Agreement are conditioned on obtaining total funds and/or commitments of at least \$3.3 million. All funds collected from developers for this project shall be maintained in a separate bank account at Wachovia Bank, N.A. and titled "Dundee Sewer Plant Expansion Account" and such funds shall not be commingled with any other Town funds and shall not be appropriated to any other Town project, except that any funds remaining in the Dundee Sewer Plant Expansion Account after completion of the project and after all project expenses are paid in full, may be appropriated subject to any restrictions established for the use of sewer impact fees. Bank statements for the Dundee Sewer Plant Expansion Account, including any reports of daily account activity, shall be made available to the public upon request as such reports become available to the Town. In the event that the Town is unable to secure the required up front cash along with letters of credit



# EXHIBIT "A" to Amendment

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from developers prior to August 27, 2004 its obligations to expand the wastewater treatment plant and provide a reservation of capacity as described herein are null and void and all monies collected shall be refunded without interest at that time.

- 5.1.4 If the sewer plant expansion project is begun but not fully completed within 3 years from the effective date of this Agreement, then the Developers/Owners shall have the option to seek a refund of monies paid by the Developer/Owners hereunder without interest and in a manner and frequency determined solely by the Town so that such a refund will not compromise, harm, and/or impair the Town's fiscal condition and/or ability to provide necessary municipal services to its citizens. If in the event there is not sufficient waste water treatment capacity available to fulfill the Town's obligations under this agreement, the Town will have no objection to the Developer beginning development utilizing septic tank and without requiring the Developer to install dry lines.
- 6.0 Authority. The Developer/Owner affirmatively represents that it has the requisite authority to transact business in the State of Florida and has the requisite authority to enter into this Agreement.
- 7.0 Binding Effect. The Burdens of this Developer's Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. However no assignments of this Agreement shall be allowed unless the Town consents in writing to same.
- 8.0 Applicable Law, Jurisdiction and Venue. This Developer's Agreement, and the rights and obligations of the Town and the Developer/Owner hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Polk County, Florida. If any provision of this Developer's Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Developer's Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 9.0 Exhibits. All exhibits attached hereto contain additional terms of this Developer's Agreement and are incorporated herein by reference.
- 10.0 Captions and Paragraph Headings. Captions and paragraph headings contained in this Developer's Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Developer's Agreement, nor the intent of any provision hereof.



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- 11.0 Definitions. Unless specifically defined herein, the terms used in this Developer's Agreement shall be assigned the meanings, interpretations and/or definitions applied to, or provided in, the Town of Dundee Code of Ordinances and/or Florida Law.
- 12.0 Counterparts. This Developer's Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Developer's Agreement.
- 13.0 Merger. This Developer's Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein.
- 14.0 Effective Date and Duration. This Agreement shall become effective after it has been duly approved by the Town Council and executed by all parties. It shall remain in full force and effect for a period of five (5) years from that date.
- 15.0 Amendment. This Developer's Agreement may only be amended by mutual consent of the parties in writing.
- 16.0 Further Assurances. Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, execute, acknowledge and deliver, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Developer's Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Developer's Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Developer's Agreement, and to coordinate the performance of their respective obligations under the terms of this Developer's Agreement. To the extent of any conflict with the development conditions or other rules and regulations, which may otherwise govern the Development, the terms and conditions of this Developer's Agreement shall prevail.
- 17.0 Notices. Any notices or reports required by this Developer's Agreement shall be sent to the following:

For the Town:                      Town Manager  
                                             Town of Dundee  
                                             Post Office Box 1000  
                                             105 Center Street  
                                             Dundee, FL 33838-1000

**EXHIBIT "A"**  
**to Amendment**

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With a Copy to: Frederick J. Murphy, Jr. Town Attorney  
Town of Dundee  
Post Office Drawer 30  
245 South Central Avenue  
Bartow, Florida 33830

For the Developer/Owner: Joe Saunders  
Hilltop Groves, LLC  
5529 U.S. 98 North  
Lakeland, FL 33809

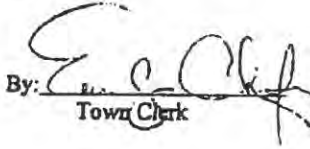
With copy to: Attn: Rick Miller  
Miller, Crosby & Miller  
P.O. Box 8169  
Lakeland, FL 33802


IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Developer's Agreement on the day(s) and year set forth below.

(SEAL)

TOWN COUNCIL OF THE  
TOWN OF DUNDEE

ATTEST:

By:   
Town Clerk

By:   
Kevin Kitto - Mayor

Date: 11th August 04

Approved by Town Attorney

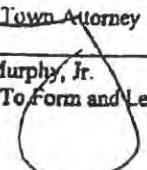
By:   
Frederick J. Murphy, Jr.  
Approved As To Form and Legal  
Sufficiency.

EXHIBIT "A"  
to Amendment

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WITNESSES

{ DEVELOPER }

*[Signature]*  
*Attest: [Signature]*  
*[Signature]*

Hilltop Groves, LLC

By:

*Joe L. Saunders*  
Joe L. Saunders

Its: Managing Member

STATE OF FLORIDA  
COUNTY OF Polk

The foregoing instrument is hereby acknowledged before me this 28<sup>th</sup> day of July, 2004, by Joe L. Saunders, as Managing Member of { DEVELOPER }, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

*[Signature]*  
NOTARY PUBLIC

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



Errol J. Chalm  
My Commission 00344579  
Expires August 28, 2007

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**Exhibit A**  
**MIDFLORIDA Federal Credit Union**  
**Business Services**  
**Irrevocable Letter of Credit**

Date Issued: August 25, 2004

Letter of Credit No. 302997

**Beneficiary:** Town of Dundee  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838

Honorable Mayor and Town Council Members:

We hereby issue our irrevocable letter of credit in your favor, for the account of Hilltop Groves, LLC, 5529 U.S. 98 North, Lakeland, Florida 33809 in the aggregate amount of USD Five hundred eighty three thousand four hundred nineteen dollars and thirty six cents (\$583,419.36) available to you in three payments upon presentation of your draft(s) at sight on ourselves when accompanied by an affidavit signed jointly by the Town Mayor and Town Manager of Dundee, both authorized representatives of the Town of Dundee, certifying each stage of sewer plant expansion completion has been reached and stating that funds are due and payable by Hilltop Groves, LLC in return for the Town of Dundee reserving and assigning a total of 288 ERC's of sewer plant capacity exclusively for utilization by Hilltop Groves, LLC in accordance with the following schedule as agreed:

Payment No. 1, for the amount of \$107,848.12 is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment No. 2, for the amount of \$107,848.12 is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

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Payment No. 3, for the amount of \$367,723.12 is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the Town's engineer for the sewer plant expansion project, which is expected to occur on or before December 31, 2005.

The Town's certifications described herein as to payment requests shall be final and binding on Hilltop Groves, LLC and the MIDFLORIDA Federal Credit Union and once delivered to Hilltop Groves, LLC requires immediate payment to the Town of the funds requested.

This Irrevocable letter of credit sets forth in full the terms of our undertaking. This undertaking shall not in any way be modified, amended, or amplified by reference to any document or contract referred to herein.

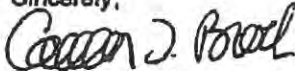
Drafts drawn under this credit must state on their face "drawn under MIDFLORIDA Federal Credit Union irrevocable letter of credit number 302997 dated August 25, 2004.

It is a condition of this letter of credit that it shall be deemed automatically extended without amendment for one year from the present or any future expiry date unless at least (number of days) prior to such expiration date, we notify you in writing by certified mail or express courier that we elect not to renew this letter of credit for any such additional one year period.

We hereby agree with you that draft(s) drawn under and in compliance with the terms and conditions of this credit shall be duly honored if presented together with documents as specified and the original of this credit, at this office on or before December 31, 2005.

Except as otherwise expressly stated herein, this letter of credit is subject to the Uniform Customs and Practices for Documentary Credits, established by the International Chamber of Commerce, as in effect on the date of issuance of this credit.

Sincerely,



Cameron Brock  
Assistant Vice President  
MIDFLORIDA Federal Credit Union  
Business Services

6/24/2021

EXHIBIT B  
to Amendment

Change Browser Language

[Skip to main content](#)  
[Home Page](#) » [Return To Search Results](#)

**Parcel Details: 27-28-23-000000-013010**

TAX EST	PRC FALCO	PRC	TRIML PRC	TRIM	TRIML TRIM	TAX BIL
---------	-----------	-----	-----------	------	------------	---------

## Owners

HILLTOP GROVES LLC	100%
--------------------	------

**Mailing Address**

Address 1 5529 US HIGHWAY 98 N

Address 2

Address 3 **LAKELAND FL 33809-3103**

**Site Address**

Address 1 0 LAKE HATCHINEHA RD

Address 2

City **HAINES CITY**

State FL

Zip Code **33844**

### Parcel Information

Neighborhood **140996.00**  
Show Recent Sales in this  
Neighborhood

Subdivision **NOT IN SUBDIVISION**

Property (DOR) **Unplatted tracts 10 - 29.99 acres**  
Use Code **(Code: 9920)**

**Acreage 19.20**

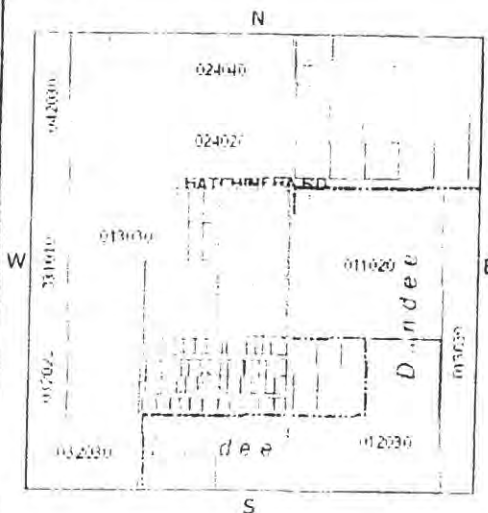
Taxing District **DUNDEE/SWFWMD** (Code: 90460)

Community  
Redevelopment  
Area **NOT IN CRA**

## Property Desc

DISCLAIMER

### Area Map



## Mapping Worksheets (plats) for 272823

Mapping Worksheet Mapping Worksheet Printable PDF  
HTML (opens in new  
tab)

### Sales History

**Important Notice:** If you wish to obtain a copy of a deed for this parcel, click on the blue QR Book/Page number. Doing so will cause you to leave the Property Appraiser's website and access the Folk County Clerk of the Circuit Court's Official Records Search. Once the document opens, click the printer icon to print the document. If you have any issues opening the document once you have met all the listed system

<https://www.polkpa.org/CamaDisplay.aspx?OutputMode=Display&SearchType=RealEstate&ParcelID=272823000000013010>

9/4

5/24/2021

### EXHIBIT B to Amendment

requirements, please contact the Clerk's office at (863)534-4000 and ask to speak to an IT staff member. If the Book/Page number does not have a blue link to Official Records, the deed may not be available through the online search of the Clerk of the Circuit Court. In order to obtain a copy of the deed you will need to contact the Clerk of the Circuit Court Indexing Department at 863-534-4516. If the Type Inst is an "R", the document is not available through the Clerk of the Circuit Court's Official Records Search. Please contact the Property Appraiser to order "R" type instruments.

OR Book/Page	Date	Type Inst	Vacant/ Improved	Grantee	Sales Price
10919/00747	07/2019	W	V	HILLTOP GROVES LLC	\$316,000
10620/01186	08/2018	W	V	POWELL EARL	\$190,000
5802/1949	05/2004	W	V	HILLTOP GROVES LLC	\$200,000
2595/0876	12/1987	C	V	WYROSDICK CHARLES	\$180,000
2592/1128	12/1987	C	V		\$180,000
2590/1823	12/1987	W	V		\$180,000

### Exemptions

**Note:** The drop down menus below provide information on the amount of exemption applied to each taxing district. The HX—first \$25,000 homestead exemption may be allocated to one or more owners. The HB—second \$25,000 amended homestead exemption reflects the name of the first owner only.

Code	Bld. #	Description	% Ownership	Renew Cd	Year Name	Note	Value
------	--------	-------------	-------------	----------	-----------	------	-------

If you have a Senior Exemption (Additional Homestead Exemption for Persons 65 and Older): For the 2021 tax year, the allowable total household adjusted gross income received during 2020 could not exceed \$31,100. If your total household adjusted gross income exceeded this limit.

Receiving no notification from the qualified senior will be considered a sworn statement, under penalty of perjury, that the income does not exceed the limit.

If you would like to receive a notice of renewal electronically, please send us an email at [polkpa@polkpa.org](mailto:polkpa@polkpa.org) with your name, property address, and confirmation of your request.

### PERMITS

The Polk County Property Appraiser's Office does not issue or maintain permits. Please contact the appropriate permitting agency to obtain information. This property is located in the **DUNDEE/SWFWMD** taxing district. The beginning of the description indicates permit agency (UNINCORP is an abbreviation for Unincorporated **POLK COUNTY**).

### Land Lines

LN	Land Dscr	Ag/GreenBelt	Land Unit Type	Front	Depth	Units
1	Residential	N	A	0	0	19.20

**NOTICE:** All information ABOVE this notice is current (as of Wednesday, June 23, 2021 at 2:17:12 AM). All information BELOW this notice is from the 2020 Tax Roll, except where otherwise noted.

### Value Summary (2020)

Desc	Value
Land Value	\$192,037
Building Value	\$0
Misc. Items Value	\$0
Land Classified Value	\$0
Just Market Value	\$192,037
Cap Differential and Portability	\$0
Agriculture Classification	\$0
Assessed Value	\$192,037

<https://www.polkpa.org/CamaDisplay.aspx?OutputMode=Display&SearchType=RealEstate&ParcelID=27282300000013010>

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6/24/2021

Exempt Value (County)

Taxable Value (County)

# EXHIBIT B to Amendment

\$0

\$192,037

## Values by District (2020)

District Description	Final Tax Rate	Assessed Value	Final Assessed Taxes	Exemption	Final Tax Savings	Taxable Value	Final Taxes
BOARD OF COUNTY COMMISSIONERS	6.899000	\$192,037	\$1,324.86	\$0	\$0.00	\$192,037	\$1,324.86
POLK COUNTY SCHOOL BOARD - STATE	3.687000	\$192,037	\$708.04	\$0	\$0.00	\$192,037	\$708.04
POLK COUNTY SCHOOL BOARD - LOCAL	2.248000	\$192,037	\$431.70	\$0	\$0.00	\$192,037	\$431.70
TOWN OF DUNDEE	7.900000	\$192,037	\$1,517.09	\$0	\$0.00	\$192,037	\$1,517.09
SOUTHWEST FLA WATER MGMT DIST	0.266900	\$192,037	\$51.25	\$0	\$0.00	\$192,037	\$51.25
		<b>Assessed Taxes:</b>	<b>\$4,032.94</b>	<b>Tax Savings:</b>	<b>\$0.00</b>	<b>Total Taxes:</b>	<b>\$4,032.94</b>

## Non-Ad Valorem Assessments (2020)

LN	Code	Desc	Units	Rate	Assessment
1	ST460	DUNDEE STORMWATER UTILITY	1.00	34.50	\$34.50
<b>Total Assessments</b>					<b>\$34.50</b>

## Taxes

Desc	Last Year	2020 Final
Taxing District	DUNDEE/SWFWMD (Code: 90460)	DUNDEE/SWFWMD (Code: 90460)
Millage Rate	21.4226	21.0009
Ad Valorem Assessments	\$4,319.63	\$4,032.94
Non-Ad Valorem Assessments	\$34.50	\$34.50
<b>Total Taxes</b>	<b>\$4,354.13</b>	<b>\$4,067.44</b>

Your final tax bill may contain Non-Ad Valorem assessments which may not be reflected on this page, such as assessments for roads, drainage, garbage, fire, lighting, water, sewer, or other governmental services and facilities which may be levied by your county, city or any other special district. Visit the Polk County Tax Collector's site for Tax Bill information related to this account. Use the Property Tax Estimator to estimate taxes for this account.

## Prior Year Final Values

### 2019

Land Value	\$201,639.00
Building Value	\$0.00
Misc. Items Value	\$0.00
Just Value (Market)	\$201,639.00

<https://www.polkpa.org/CamaDisplay.aspx?OutputMode=Display&SearchType=RealEstate&ParcelID=272823000000013010>

3/4

6/24/2021

Property Search  
**EXHIBIT B**  
**to Amendment**

SOH Deferred Val	\$0.00
Assessed Value	\$201,639.00
Exempt Value (County)	\$0.00
Taxable Value (County)	\$201,639.00
<b>2018</b>	
Land Value	\$192,037.00
Building Value	\$0.00
Misc. Items Value	\$0.00
Just Value (Market)	\$192,037.00
Assessed Value	\$960.00
Exempt Value (County)	\$0.00
Taxable Value (County)	\$960.00
<b>2017</b>	
Land Value	\$182,435.00
Building Value	\$0.00
Misc. Items Value	\$0.00
Just Value (Market)	\$182,435.00
Assessed Value	\$960.00
Exempt Value (County)	\$0.00
Taxable Value (County)	\$960.00
<b>2016</b>	
Land Value	\$182,435.00
Building Value	\$0.00
Misc. Items Value	\$0.00
Just Value (Market)	\$182,435.00
Assessed Value	\$24,965.00
Exempt Value (County)	\$0.00
Taxable Value (County)	\$24,965.00

**DISCLAIMER:**

The Polk County Property Appraiser makes every effort to produce and publish the most current and accurate information possible. The PCPA assumes no responsibility for errors in the information and does not guarantee that the data are free from errors or inaccuracies. Similarly the PCPA assumes no responsibility for the consequences of inappropriate uses or interpretations of the data. No warranties, expressed or implied, are provided for the data herein, its use, or its interpretation. Utilization of the search facility indicates understanding and acceptance of this statement by the user.

Last Updated: Wednesday, June 23, 2021 at 2:17:12 AM

**EXHIBIT "C"**  
**to Amendment**

**RESOLUTION NO. 20-13**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, MAKING FINDINGS AND, IN ACCORDANCE WITH SECTION 54-18 OF THE CODE OF ORDINANCES OF THE TOWN OF DUNDEE, TEMPORARILY WAIVING IDLE CAPACITY CHARGE(S) FOR A PERIOD OF EIGHTEEN (18) MONTHS BEGINNING ON THE EFFECTIVE DATE OF THIS RESOLUTION AND PROVIDING FOR THE FULL AMOUNT OF THE TOWN OF DUNDEE IDLE CAPACITY CHARGE(S) TO AUTOMATICALLY BE REINSTITUTED UPON THE EXPIRATION OF EIGHTEEN (18) MONTHS FROM THE EFFECTIVE DATE OF THIS RESOLUTION; PROVIDING FOR APPLICABILITY OF THE TEMPORARY WAIVER OF IDLE CAPACITY CHARGES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in accordance with Section 54-18 of the Code of Ordinances of the Town of Dundee, Florida, the Town Commission has reviewed the current charge(s) for reserved capacity arising out of current and active Equivalent Residential Connection(s) ("ERC") in the Town of Dundee water and wastewater utility system; and

**WHEREAS**, in accordance with Section 54-18(c) of the Code of Ordinances of the Town of Dundee, Florida, the Town Commission may, from time to time, set the amount(s) charged and collected for Idle Capacity charges by resolution; and

**WHEREAS**, in March, 2007 in accordance with Section 54-18 of the Code of Ordinances of the Town of Dundee, the Town Commission adopted Resolution 07-09 establishing Idle Capacity Charges; and

**WHEREAS**, in response to the COVID-19 pandemic and economic difficulties arising therefrom, the Town Commission desires to stimulate new development within the Town of Dundee, Florida, and promote economic activity within the Town of Dundee, Florida; and

**WHEREAS**, the Town Commission desires, for a temporary period of time not to exceed eighteen (18) months and beginning on the effective date of this Resolution, to waive the Idle Capacity Charges imposed by the Town of Dundee, Florida, for any current and active unredesigned ERC and/or paid connection fee; and

**WHEREAS**, the Town Commission finds that a temporary waiver of the Town of Dundee Idle Capacity Charges, for a period of time not to exceed eighteen (18) months beginning on the effective date of this Resolution, will promote the development, growth, and vitality of the Town of Dundee, Florida, and will further the health, safety and welfare of the citizens and residents of the Town of Dundee, Florida.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA:**

Resolution No. 20-13 Page 1

**EXHIBIT "C"**  
**to Amendment**

**Section 1.** The above recitals are incorporated as a factual basis for the passage of this Resolution.

**Section 2.** The current amount of all Town of Dundee Idle Capacity Charges as set forth in Section 54-18 of the Code of Ordinances of the Town of Dundee, Florida, and first established by Resolution 07-09 of the Town Commission of the Town of Dundee and related schedules of such charges that may be on file in the Town Clerk's office are hereby temporarily waived for a period of eighteen (18) months beginning on the effective date of this Resolution; and all Idle Capacity Charges shall automatically be reinstated to the amount(s) charged on the effective date of this Resolution as of December 23, 2021. All other provisions of Section 54-18 of the Code of Ordinances of the Town of Dundee, Florida, and Resolution 07-09 shall remain in full force and effect.

**Section 3.** The temporary waiver of the Town of Dundee Idle Capacity Charges established by this Resolution shall apply prospectively beginning on the effective date of this Resolution. The temporary waiver of the Town of Dundee Idle Capacity Charges shall not be applicable to waive any currently past-due or delinquent charge(s) for unpaid Idle Capacity Charges; and the temporary waiver of the Town of Dundee Idle Capacity Charges shall not be applicable to unredeemed EREs which are inactive, expired, and/or have not been renewed by the Town Commission on or before the effective date of this Resolution.

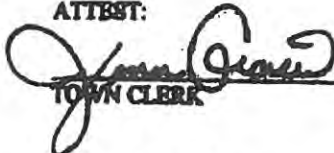
**Section 4.** This Resolution shall be effective immediately upon passage by the Town Commission.

**INTRODUCED AND PASSED** by the Town Commission of the Town of Dundee, Florida, in regular session this 23rd day of June, 2020.

**TOWN OF DUNDEE, FLORIDA**

  
**MAYOR - Sam Perment**

**ATTEST:**

  
**TOWN CLERK**

**Approved as to form:**

  
**TOWN ATTORNEY - Frederick J. Murphy, Jr.**

Resolution No. 20-13 Page 2



# EXHIBIT E

File 21000060785 **Stewart Title Guaranty Company**  
**Combined Statement**

11/1/2021 11:21 AM

Stewart Title Guaranty Company, Tampa			
3402 West Cypress Street, Tampa, FL 33607, (813) 789-8620			
Escrow Officer: Janice Coulton			
Seller(s)	Hilltop Groves, L.L.C., 6529 U.S. Highway 98 North, Lakeland, FL 33609		
Buyer(s)	Richmond American Homes of Florida, LP, 2822 Commerce Park Drive, Suite 100, Orlando, FL 32819		
Lender(s)			
Property	Property Address Lake Hatchineha Road Dundee, Florida 33844		
	Sta/Store Number Hilltop		
	PIN 27-28-23-000000-013010		
Closing Date	11/4/2021	Disbursement Date	11/4/2021
	Buyer		Proration Date 11/4/2021
Debit	Credit	Debit	Credit
		Sales Price/Consideration	
\$1,702,000.00		Contract sales price	\$1,702,000.00
		Deposits	
	\$25,000.00	Initial Earnest Money Deposit	
		Prorations	
\$847.57		County taxes 11/4/2021 to 1/1/2022 @ \$4,076.23/yr	\$847.57
		Other Adjustments	
\$259,000.00		Reimbursement to Seller for Sewer Impacts fees \$3,500.00 per Lot x 74 Lots	\$259,000.00
		Title Charges	
\$760.00		Settlement or closing fee to Stewart Title Commercial Services - Tampa	\$760.00
		Title Insurance to Stewart Title Guaranty Company	
\$7,613.00		Owner's coverage \$1,702,000.00 \$8,630.00 - FL 9106 r 5 14 REM Unimprvd Land OP STG \$863.00 - FL Survey Comm STG \$100.00	
\$226.00		Document Coordination Fee to Stewart Title Commercial Services - Tampa	\$226.00
\$500.00		Search Fee - Invoice No. 61176 to Stewart Title Commercial Services - Tampa	
		Recording Fees/Transfer Charges	
		Recording fees: Special Warranty Deed - Estimate	\$100.00
		Documentary Stamps Deed	\$11,914.00
		Additional Charges	
		2021 Real Estate Taxes - Account #272823- 000000-013010 to Joe G. Tadder, CFC, Tax Collector for Polk County	\$4,076.23
\$1,970,735.57	\$26,000.00	Subtotals	\$17,084.33
	\$1,946,735.57	Balance due from Buyer	
		Balance due to Seller	\$1,944,863.34
\$1,970,735.57	\$1,970,735.57	Totals	\$1,981,847.87

File 21000060185

**Stewart Title Guaranty Company  
Combined Statement**

11/1/2021 11:21 AM

Buyer and Seller (Transferee and Transferor) understand the Closer or Escrow Agent on behalf of Stewart Title Guaranty Company - Stewart Title Guaranty Company - Commercial Services has assembled this information representing the transaction from the best information available from other sources and cannot guarantee the accuracy thereof. Any real estate agent or lender involved may be furnished a copy of this statement. Buyer and Seller (Transferee and Transferor) understand that tax and insurance premiums and reserves were based on figures for the preceding year or supplied by others, or based on estimated figures for current year, and, in the event of any change for current year, all necessary adjustments must be made between Buyer and Seller (Transferee and Transferor) directly. The undersigned hereby authorizes Stewart Title Guaranty Company - Stewart Title Guaranty Company - Commercial Services to make expenditures and disbursements as shown above and approve the same for payment. The undersigned also acknowledge receipt of proceeds as applicable, and receipt of a copy of this Statement.

Dated as of this 2nd day of November 2021

Buyer(s):

RICHMOND AMERICAN HOMES OF FLORIDA LP,  
a Colorado limited partnership

BY: RAH of Florida, Inc. a Colorado corporation,  
General Partner

BY: [Signature]  
Name: F.B. Brown - Oak Grove  
Title: V.P., Land

Seller(s):

HILLTOP GROVES, L.L.C.,  
a Florida limited liability company

By: [Signature]  
Name: Lee Saunders  
Title: Manager

Stewart Title Guaranty Company,  
a Texas Corporation

Date \_\_\_\_\_

By: \_\_\_\_\_  
Janice Coulton  
Commercial Escrow Officer



This document prepared by and Return to:  
 Richmond American Homes of Florida LP  
 2822 Commerce Park Drive #100  
 Orlando, FL 32819

INSTR # 2021295125  
 BK 11979 Pgs 0250-0251 PG(s)2  
 11/12/2021 07:29:43 AM  
 STACY M. BUTTERFIELD,  
 CLERK OF COURT POLK COUNTY  
 RECORDING FEES 18.50  
 DEED DOC 11,914.00

Grantee Tax ID# 33-1077584  
 Parcel Tax ID#272823-000000-013010

### SPECIAL WARRANTY DEED

**THIS SPECIAL WARRANTY DEED** ("Deed") is made this 3 day of November, 2021, between **HILLTOP GROVES, L.L.C.**, a Florida limited liability company, whose address is 5529 US 98N, Lakeland, FL 33809 ("Grantor"), and **RICHMOND AMERICAN HOMES OF FLORIDA, LP**, a Colorado limited partnership, whose address is 2822 Commerce Park Drive, Suite 100, Orlando, Florida 32819 ("Grantee").

### WITNESSETH:

That Grantor, for and in consideration of the sum of TEN and NO/100 DOLLARS (\$10.00), to it in hand paid by the Grantee, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor has bargained and sold and does hereby grant and convey unto the Grantee and the Grantee's heirs, successors and assigns forever, in fee simple absolute, all of Grantor's right, title, and interest in and to the following described land, situate, lying and being in Polk County, Florida, to wit ("Property"):

THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 23, TOWNSHIP 28 SOUTH, RANGE 27 EAST, LESS AND EXCEPT A STRIP OF LAND 15 FEET IN WIDTH OFF THE NORTHERLY, EASTERLY AND SOUTHERLY SIDES THEREOF FOR PUBLIC HIGHWAY PURPOSES, ALSO LESS AND EXCEPT ADDITIONAL ROAD RIGHT-OF-WAY AS SHOWN IN DEED RECORDED IN OFFICIAL RECORDS BOOK 447, PAGE 570, OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA.

TOGETHER WITH all tenements, hereditaments, improvements, fixtures, and appurtenances thereto belonging or in anywise appertaining.

To have and to hold the Property in fee simple forever.

GRANTOR covenants that at the time of delivery of this deed, except as set forth on Exhibit "A" hereto, the Property is free of any liens or encumbrances, and Grantor hereby specially warrant the title to the Property, and will defend it against the lawful claims and demands of all persons claiming by, through or under Grantor, but against none other.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Grantor has executed this Special Warranty Deed as of the day, month and year first above written.

**GRANTOR:**

**WITNESSES:**

Pam Chancey  
Print Name: Pam Chancey

P. H. H.  
Print Name: A. David Norris

HILLTOP GROVES, L.L.C., a Florida limited liability company

By: [Signature]  
Name: LEE SAUNDERS - HILLTOP GROVES, LLC  
Title: MANAGER

STATE OF FLORIDA )  
COUNTY OF Polk )

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 3 day of December 2021, by Lee Saunders of Hilltop Grove, L.L.C., a Florida limited liability company, on behalf of the corporation.

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced: \_\_\_\_\_



PAMELA G. CHANCEY  
Commission # HH 010422  
Expires October 15, 2024  
Bonded Thru Budget Notary Services

[Signature]  
(Signature of Notary Public)

Pamela G. Chancey  
(Print, Type, or Stamp Commissioned Name of Notary Public)

My Commission expires: 10-15-2024

Affix Notary SEAL

Online Notary: ☐ (Check Box if acknowledgment done by Online Notarization)



# EXHIBIT F

Item 4.

**THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:**

Frederick J. Murphy, Jr., Esquire  
Boswell & Dunlap, LLP  
Post Office Drawer 30  
245 South Central Avenue (33830)  
Bartow, Florida 33831  
Telephone (863) 533-7117  
Facsimile (863) 533-7412



INSTR # 2024009674  
BK 12972 Pgs 256-303 PG(s)48  
RECORDED 01/12/2024 10:20:59 AM  
STACY M. BUTTERFIELD, CLERK OF COURT  
POLK COUNTY  
RECORDING FEES \$409.50  
RECORDED BY mlj/lbpr

For Recording Purposes Only

**SECOND AMENDMENT TO AGREEMENT REGARDING RESERVED CAPACITY IN  
THE TOWN OF DUNDEE'S WASTEWATER TREATMENT PLANT**

THIS AMENDMENT TO DEVELOPER'S AGREEMENT REGARDING THE FUNDING OF THE DESIGN, PERMITTING AND CONSTRUCTION OF THE EXPANSION OF THE TOWN OF DUNDEE'S WASTEWATER TREATMENT PLANT ("Amendment"), made and entered into this 14th day of November, 2023, by and between the **TOWN OF DUNDEE**, a municipal corporation organized and existing under the laws of the State of Florida (the "Town"), and **RICHMOND AMERICAN HOMES OF FLORIDA, LP**, a Colorado limited partnership ("Owner").

**RECITALS**

1. On or about July 28, 2004, the Town and Hilltop Groves LLC, a Florida Limited Liability Company, entered into that certain Developer's Agreement Regarding the Funding of the Design, Permitting and Construction of the Expansion of the Town of Dundee's Wastewater Treatment Plant (the "Agreement") a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference.

2. On or about November 3, 2021, the Owner acquired 74 wastewater ERCs ("Owner ERCs") from **HILLTOP GROVES, LLC**, a Florida limited liability company, by Special Warranty Deed (the "Deed") which were the subject of the Agreement. Copies of the Deed and closing statement are attached hereto as **Composite Exhibit "B"** and made a part hereof by reference.

3. On or about September 13, 2022, the Town and Richmond American Homes of Florida, LP, a Colorado limited partnership, entered into that certain Amendment to Developer's Agreement Regarding the Funding of the Design, Permitting and Construction of the Expansion of the Town of Dundee's Wastewater Treatment Plant (the "First Amendment") a copy of which is attached hereto as **Exhibit "C"** and incorporated herein by reference.

4. The Town and Owner have determined that, at this time, the Owner holds, albeit expired, 25 Wastewater ERCs representing 6,750 gallons per day (GPD) in

1

equivalent capacity in the Town's Wastewater Utility System represented by ERC Certificates numbered 2022-50 through 2022-74 (formerly numbered 1735 through 1759).

5. The Owner has not otherwise conveyed, assigned, pledged, hypothecated or otherwise redeemed any of said certificates representing the Owner ERCs as defined and identified herein although said Owner ERCs expired on October 24, 2022.

6. The Owner is the owner of certain real property situated in Polk County, Florida, more particularly described on **Exhibit "B"** attached hereto and incorporated herein by this reference (the "Property") which is also known as the Seasons at Hilltop Subdivision.

7. On September 14, 2023, the Owner requested that the Town reactivate 25 of the Wastewater ERCs numbered 2022-50 through 2022-74 (formerly numbered 1735 through 1759).

8. The Owner submitted ERCs 2022-01 through 2022-49 (formerly numbered 1686 through 1734) to the Town for the development of single-family homes in and/or for the Seasons of Hilltop Subdivision.

9. As part of the First Amendment (see attached Exhibit "C"), the idle capacity fees for the 25 ERCs requested for reactivation were paid through October 24, 2022.

10. The 25 Owner ERCs requested for reactivation have accrued One Thousand Four Hundred Sixty-Two Dollars and 50 cents (\$1,462.50) in idle capacity charges from October 25, 2022 through November 24, 2023 which remains unpaid.

11. The Town acknowledges that all Town wastewater impact fees have been paid by Owner or its predecessor in interest for the Town's allocation of wastewater capacity for the Owner ERCs pursuant to the Agreement, and the Town presently has adequate permitted capacity in its wastewater plant for the wastewater capacity represented by the Owner ERCs described above.

12. Owner received the transfer or assignment of the 25 Owner ERCs for construction of single-family homes to be located within the municipal limits of the Town.

13. The parties covenant and agree that they have the power and authority to enter into this Amendment and bind themselves to the provisions of this Amendment.

**ACCORDINGLY**, in consideration of the Recitals stated above and other good and valuable mutual consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**SECTION 1. RECITALS: OWNERSHIP.** The Factual Recitals above are true and correct and form a factual and material basis of this Amendment. The Town acknowledges and ratifies the transfer of the Owner ERCs, and the Town further acknowledges and

agrees that Owner owns the Owner ERCs which are the subject matter of this Amendment.

**SECTION 2. DEFINITIONS.** All capitalized terms not defined herein shall have the same meaning as defined in the Agreements.

**SECTION 3. GRANT OF EXTENSION.**

A. The Town, pursuant to the terms of this Amendment, hereby reactivates said 25 Owner ERCs and grants to the Owner an extension of the term of the 25 Owner ERCs of equivalent capacity in the Town's Wastewater Treatment Plant represented by Wastewater ERC Certificates (Original ERC Certificates 1686 through 1759) through a period expiring November 24, 2024 (the "Expiration Date").

B. In consideration for such extension, within thirty (30) calendar days from the date on which this Amendment is approved by the Town Commission, the Owner shall pay One Thousand Four Hundred Sixty-Two Dollars and 50 cents (\$1,462.50) in immediately available funds to the Town in full satisfaction of the wastewater idle capacity charges outstanding as of the date of this Amendment and due through November 24, 2023 and pay any and all other charges that may be due pursuant to Chapter 54 of the Town's Code of Ordinances. To the extent the Town determines that any other idle capacity charges are due in accordance with Chapter 54 of the Town's Code of Ordinances regarding the Wastewater Owner ERCs that are the subject of this Agreement, then Owner agrees to pay said charges to the Town within thirty (30) calendar days of receipt of an invoice sent to Owner for same. No refunds of any idle capacity charges paid by Owner shall be given by the Town.

C. Once the Owner has paid the sum of One Thousand Four Hundred Sixty-Two Dollars and 50 cents (\$1,462.50) in immediately available funds to the Town, all previously issued certificates representing the Wastewater Owner ERCs extended herein and that are the subject of this Amendment shall be returned to the Town and cancelled and of no force and effect. Thereafter, in exchange for the returned certificates, the Town will issue new certificates for Wastewater Owner ERCs extended herein and that are the subject matter of this Amendment and provide same to the Owner. Provided however that the terms of the Agreement attached hereto as Exhibit "A" shall not control when new certificates are issued by the Town to Owner. No Wastewater capacity in the Town's Wastewater Utility Systems shall be reserved beyond November 24, 2024, and the Owner ERCs extended herein shall expire on November 24, 2024.

**SECTION 4. GRANT OF OPTION.**

A. The Town, pursuant to the terms of this Amendment and in addition to any rights granted to Owner under the Agreement or under applicable law, hereby grants to the Owner an option to transfer, from time to time (i) all or a portion of the Owner ERCs to a third party ("ERC Transferee") without transferring fee simple title to all or any portion of the Property ("ERC Transfer"), and/or (ii) transfer of all or any portion of the Property to a third party ("Property Transferee"; ERC Transferees and Property Transferees are collectively "Transferees") and retain all or any Owner ERCs ("Property Transfer"; "ERC Transfers" and "Property Transfers" are collectively "Independent Transfers"). Owner may exercise such option in its sole and absolute discretion.



B. At least thirty (30) days prior to any Independent Transfer as defined herein, Owner shall provide written notice to the Town thereof ("Transfer Notice"), which shall include the Transferee's (i) name, (ii) address, (iii) employer identification number (EIN) or federal tax identification number, and (iv) contact information (including telephone number, fax number, and e-mail address, as applicable). The parties agree that Owner shall enter into transfer and/or assignment agreement with **RICHMOND AMERICAN HOMES OF FLORIDA, LP**, in the event of any transfer and/or assignment of the Owner ERCs and that notice was previously given by Owner for this specific anticipated Independent Transfer.

C. In the case of an Owner ERC Transfer of all outstanding ERCs, Owner shall no longer be liable for any idle capacity charges which may accrue with respect to the applicable Owner ERCs if Transferee executes a written commitment to pay such charges. In that event the Transferee must also comply with all of the conditions and obligations in the Agreement and this Amendment including but not limited to the provisions of Section 6 B of this Amendment.

#### **SECTION 5. OBLIGATIONS OF TOWN.**

A. The Town shall allocate wastewater capacity for the Owner ERCs in the name of Owner and/or its successors and assigns in accordance with all applicable laws and Ordinances and the terms of the Agreements, as amended by this Amendment, through the Expiration Date.

B. The Town shall, within ten (10) days following receipt of Owner's request, provide a written statement to Owner certifying the current number of Owner ERCs in the name of Owner.

**SECTION 6. AGREEMENT TO COOPERATE.** The parties agree to cooperate and to do all things reasonably necessary to accomplish the terms of this Amendment, and that they respectively shall, upon being requested by the other party to do so, execute and deliver promptly any and all such authorizations, instruments, papers or documents of any and every kind and character as may be reasonably required, necessary or proper for the purpose of giving full force and effect to this Amendment and to the covenants, conditions, and agreements contained herein. Except as specifically modified by this Amendment, all of the terms, covenants, conditions and agreements of the Agreements shall remain in full force and effect.

**SECTION 7. DISCLAIMER OF THIRD-PARTY BENEFICIARIES.** This Amendment is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

**SECTION 8. SEVERABILITY.** If any part of this Amendment is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Amendment if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Amendment is declared to be severable.

**SECTION 9. LAND USE APPROVALS.** Owner acknowledges and understands that the Town is prohibited from engaging in "Contract Zoning" or the bartering away of its



legislative prerogative. As such this Amendment shall not be construed as a basis for (1) granting or assuring or indicating or (2) refusing to grant or preventing any future grant of land use or zoning approvals, permissions, variances, special exceptions, or rights with respect to the Property.

**SECTION 10. BINDING UPON SUCCESSORS.** This Amendment shall be binding upon and shall inure to the benefit of the successors or assigns of the parties hereto.

**SECTION 11. APPLICABLE LAW AND VENUE.** This Amendment and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida. Venue for any dispute or cause of action under the Agreements, as modified by this Amendment, shall be exclusively in the state courts of competent subject matter jurisdiction in Polk County, Florida.

**SECTION 12. NOTICES.** All notices, demands, requests and other communications required or permitted by the Agreements, as modified by this Amendment, by any party hereto to any other party shall be in writing and shall be validly given or made by any party, or any party's attorney on behalf of such party, only if personally served or delivered by Federal Express or other similar reputable national courier service keeping records of deliveries and attempted deliveries. In the event of personal service, notice shall be deemed effective when delivered. Service by courier shall be conclusively deemed made on the second business day delivery is attempted or upon receipt, whichever is sooner.

TOWN: TOWN OF DUNDEE  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838-1000  
Attention: Town Manager

With a copy to:  
*(which shall not  
constitute notice)* Frederick J. Murphy, Jr.  
Town Attorney, Town of Dundee  
P.O. Drawer 30  
245 South Central Avenue  
Bartow, Florida 33830

OWNER: RICHMOND AMERICAN HOMES OF FLORIDA, LP  
2822 Commerce Park Drive, Suite 100  
Orlando, Florida 32819

Any person or entity may change their address for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the others, which notice of change of address shall not become effective, however, until the actual receipt thereof by the others.

**SECTION 13. ENTIRE AGREEMENT.** The Agreement, as modified by this Amendment, constitute the entire agreement between the parties. Modifications to and waivers of the provisions herein shall not be binding unless made in writing and signed by the parties hereto and approved by the Town's governing body. Except as expressly

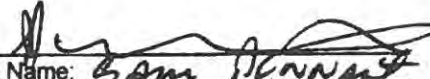
amended by this Amendment, the terms and conditions of the Agreement and the Assignment shall remain unchanged and unamended, and are hereby ratified and confirmed. In the event of any conflict between the terms of the Agreement and Amendment, the terms of this Amendment shall control.


**[SIGNATURE PAGES TO FOLLOW]**

IN WITNESS WHEREOF, Owner and the Town have executed or have caused this Amendment, with the named Exhibits attached, if any, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Amendment.

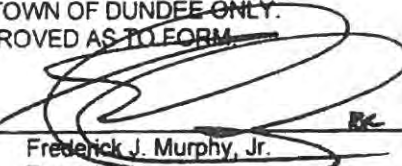
**ATTEST:**

**THE TOWN OF DUNDEE**

By:   
 Print Name: Sam Pennant  
 As Its: Mayor  
 Date: \_\_\_\_\_

By:   
 Print Name: Fredrick J. Murphy, Jr.  
 As Its: Town Clerk

FOR THE USE AND RELIANCE  
 OF TOWN OF DUNDEE ONLY.  
 APPROVED AS TO FORM.

By:   
 Frederick J. Murphy, Jr.  
 Town Attorney

## OWNER:

RICHMOND AMERICAN HOME OF FLORIDA, LP,  
a Colorado limited partnership

By: [Signature]

Name: TIMOTHY J. WHEELER  
Title: DIRECTOR OF LAND DEVELOPMENT

Signed and delivered  
in the presence of:

Print Name: [Signature]Print Name: [Signature]

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was acknowledged before me this 11 day of Jan,  
2024 ~~2022~~, by Timothy Wheeler, as director of RICHMOND AMERICAN HOMES  
OF FLORIDA, LP, on behalf of the company, RICHMOND AMERICAN HOMES OF  
FLORIDA, LP. He is ☐ personally known to me or ☒ has produces divulgence  
identification and ☐ (did) ☐ (did not) take an oath.

[Signature]  
Signature of Person Taking Acknowledgment  
Notary Public State of Florida  
Shawanda Concepcion  
My Commission HH 354973  
Name of Acknowledged Party [Signature], or Stamped  
notary  
Title or Rank  
Serial Number, if any.

## EXHIBIT A

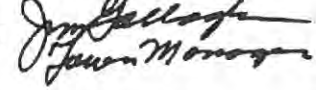
Final Draft 07/28/2004

Agreement #4

DEVELOPER'S AGREEMENT  
REGARDING THE FUNDING OF THE  
DESIGN, PERMITTING AND  
CONSTRUCTION OF THE  
EXPANSION OF THE TOWN OF DUNDEE'S  
WASTEWATER TREATMENT PLANT

PAID APR 25 2006

IN FULL



THIS AGREEMENT ("Agreement") is made on this 25<sup>th</sup> day of July, 2004, by, Town of Dundee  
and between Hilltop Groves, LLC (the "Developer/Owner") and the TOWN OF DUNDEE, a municipal corporation organized and existing under the laws of the State of Florida (the "Town").  
P.O. Box 1000 Dundee, FL 33838

WITNESSETH

**WHEREAS**, the Town operates a wastewater treatment plant that is presently serving close to or at its capacity; and

**WHEREAS**, the Town is presently expanding its municipal limits through annexation which will bring growth and development to the Town; and

**WHEREAS**, in order to accommodate the anticipated growth it will be necessary for the Town to expand the permitted capacity of its wastewater treatment plant from 90,000 gallons per day to 700,000 gallons per day or more; and

**WHEREAS**, several of the property owners and Developers of land within the Town limits have had discussions with the Town in order to determine the most feasible way to immediately expand the wastewater treatment plant; and

**WHEREAS**, the Town has retained Envisors Consulting Engineers to prepare a preliminary design report which was presented to the Town Council at a special meeting on March 23, 2004 which identified the relative costs and expenses of expanding the wastewater treatment plant to 700,000 gallons per day or more; and

**WHEREAS**, if the Town Council were to proceed under the usual financing methods to obtain the necessary funds for design, permitting and expanding the wastewater treatment plant it would take at least 18 to 20 months from the present time to explore such financing; and

**WHEREAS**, in order to address the immediate needs of growth and development and to accelerate the design, permitting and construction of an expansion of the wastewater treatment plant, the Town of Dundee has indicated that it will move forward with the design, permitting and construction of an expansion of its wastewater treatment plant if those Developers who desire the extra capacity will immediately and irrevocably fund the costs of the expansion up front based on the equivalent residential connections (ERC) each Developer/Owner proposes to connect to the Town's wastewater treatment plant. Such funding will permit the Town of Dundee to greatly accelerate the design,

## Exhibit A

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permitting and construction of the expansion to its wastewater treatment plant. Further, without such funding it is not likely that the Town would be able to expand its permitted capacity for the wastewater treatment plant at any time now or in the near future;

**WHEREAS**, the Town is presently working with Polk County to enter into an Interlocal Agreement to allow the Town to tap into Polk County's wastewater treatment plant located in the Waverly area of Polk County, Florida, as a short term way to address the Town's need for additional wastewater treatment capacity; and

**WHEREAS**, such short term temporary capacity in the Town's waste water system that results from the diversion of waste water flows to Polk County's Waverly Plant will be connected only to customers who have been issued certificates of occupancy and on a first come first served basis until such additional wastewater treatment capacity is exhausted; and

**WHEREAS**, after the short term temporary capacity is exhausted, those wishing to connect to the sewer system will have to wait until new capacity resulting from the sewer plant expansion project becomes available; and

**WHEREAS**, the Town of Dundee Code of Ordinances requires the payment of certain connection fees on the basis of the number of Equivalent Residential Connections (ERC) proposed to be connected to the utility system. Further, the Town Code permits developer's agreements which set forth in detail the terms and conditions under which the Town will provide utility service to the Developer's/Owner's property; and

**WHEREAS**, the Town deems such an agreement necessary to facilitate the construction of expansion of the Town's wastewater treatment plant; and

**WHEREAS**, it is therefore deemed to be in the interest of the public health, safety and welfare for the Town and an appropriate exercise of the Town's authority to enter into the instant Developer's Agreement.

**NOW, THEREFORE**, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

- 1.0 Recitals. The foregoing recitals are incorporated herein by reference as if recited in full and serve as a factual stipulation upon which the parties agree is the basis of the instant Developer's Agreement.
- 2.0 Purpose. The purpose of this Developer's Agreement is to memorialize the Developer's/Owner's financial commitment to the Town relating to the expansion of the Town's wastewater treatment plant.
- 3.0 Wastewater Treatment Plant Capacity. In order to assure that sufficient capacity exists in the Town's wastewater treatment plant it will be

## Exhibit A

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necessary to design, permit and construct an expansion of the Town's wastewater treatment plant in order to allow capacity of at least 700,000 gallons per day to accommodate anticipated and projected growth and development in the Town. In order to allow the Town to immediately begin the design, permitting and construction of an expansion to its wastewater treatment plant, the Developer/Owner will be required to pay to the Town in cash the amount of \$691,267.50 which amount is based on a total of 266 ERCs the Developer/Owner proposes to connect to the Town's wastewater treatment plant and is related to the 71,820 gpd in equivalent capacity that the Developer/Owner will need from the Town's expanded wastewater treatment plant. In addition the Developer/Owner shall be required to post an Irrevocable Letter of Credit or other security reasonably acceptable to the Town and in the form attached hereto as Exhibit "A". Pursuant to paragraph 4 below, the Developer/Owner is obligated to pay said funds to the Town in order to purchase 266 ERCs which represents 71,820 gpd in equivalent capacity.

#### 4.0 Developer's/Owner's Obligations.

- 4.1.1. The Developer/Owner agrees to pay to the Town the sum of \$691,267.50 in cash, cashier's check or cleared funds payable to the Town of Dundee to purchase 266 ERCs that it proposes to connect to the Town's wastewater treatment plant and which represents 71,820 gpd in equivalent capacity in accordance with the following:
- 4.1.2. The sum of One Hundred Seven Thousand Eight Hundred Forty Eight Dollars and Fourteen Cents (\$107,848.14) in cash, cashier's check or cleared funds payable to the Town of Dundee upon its execution of this Agreement. The balance of Five Hundred Eighty Three Thousand Four Hundred Nineteen Dollars and Thirty Six (\$583,419.36) shall be paid in cash, cashier's check or cleared funds payable to the Town of Dundee in three (3) installments in accordance with the following schedule:

Payment for the amount of \$107,848.12 is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment for the amount of \$107,848.12 is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

Payment for the amount of \$367,723.12 is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the

PAID  
MIDPRIORITY  
CR # 07-448 3560716



## Exhibit A

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Town's engineer and sewer plant operational permits are in hand for the sewer plant expansion project that is expected to occur on or before December 31, 2005.

The Town's certifications described above shall be final and binding on Developer/Owner and will require the immediate payment to the Town of the funds requested and due.

- 4.1.3. In addition, to secure its obligations to the Town under this Agreement and upon the execution of this Agreement the Developer/Owner shall deliver to the Town an irrevocable letter of credit in the form as set forth as Exhibit "A" attached hereto. To the extent payments are not made by the Developer/Owner under paragraph 4.1.2 above within fourteen (14) days after written notice by the town requesting payment, the Town may draw upon any or all such cash or letters of credit in whole or in part to provide funds to pay for the design, permitting and construction of the wastewater treatment plan expansion as more particularly set forth herein. The Town shall not be obligated to commence the design, permitting and any phase of construction of the improvements to the wastewater treatment plant unless and until the Developer/Owner of the development has delivered to the Town the required cash and letter of credit.
- 4.1.4. Developer/Owner acknowledges and agrees that the Town's willingness to enter into this Developer's Agreement shall not be construed as a waiver by the Town of any applicable law, ordinance, rule or regulation for the construction of any future developments.
- 4.1.5. In the event the Developer/Owner assigns and/or conveys its interest in any real property that is being used to calculate the ERC to the Town's wastewater system, the new Owner of such property may upon notice to the Town join in this Agreement and pay the required contribution for the purchase of the 266 ERCs for the applicable property provided such notice is given within thirty (30) days after the closing of the contract for purchase, but in no event beyond the term of this Agreement. In any event unless and until the new Owner joins in this Agreement and becomes obligated to the same extent as the Developer/Owner hereunder, the Developer/Owner shall remain obligated to the Town for all obligations hereunder.
- 4.1.6. Subject to the provisions in paragraph 5.1.4 below any funds paid to the Town hereunder shall be non-refundable in the event that the Developer chooses not to move forward with the proposed development.
- 5.0 Town's Obligations.

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- 5.1.1 Subject to the Developer's/Owner's compliance with its obligations under this Agreement, the Town shall commence the design and permitting of the expansion of its wastewater treatment plant immediately. Upon completion of design and permitting the Town shall commence construction of the expansion of its wastewater treatment plant with an anticipated completion date no later than 16 months from the effective date of this Agreement.
- 5.1.2 Reservation of Capacity. In consideration for the payment by the Developer/Owner as more particularly set forth in paragraph 4 above the Town hereby reserves 71,820 gpd in equivalent capacity for the Developer/Owner based on 266 ERCs purchased hereunder. In the event the Developer/Owner determines that it does not need all of the reservation of capacity/ERC's purchased hereunder then such reservation of capacity/purchased ERC's may be assignable and/or sold by the Developer but only with the Town's prior written consent and as contemplated in paragraph 4.1.5 above. It is agreed that the Town's consent will not be unreasonably withheld. Furthermore, all reservations of capacity pursuant to the terms of this Agreement shall exist for only five (5) years from the date that the expanded Wastewater Treatment Plant is fully online and operational. If within five (5) years from the date that the expanded Wastewater Treatment Plant is online and fully operational, the Developer/Owner and/or its successors and/or assigns or those persons or entities who have purchased the ERC's have not used the reserved capacity then it must sell such reserved capacity 266 ERC's representing 71,820 gpd (or portion thereof) in equivalent capacity back to the Town. In this event, payment arrangements shall be determined solely by the Town. The Developer and the Town agree that the foregoing provision is necessary to insure that the Town's ability to provide appropriate municipal services regarding the collection and treatment of wastewater and other effluent is not compromised by unused capacity.
- 5.1.3 The Town's obligations under this Agreement are conditioned on obtaining total funds and/or commitments of at least \$3.3 million. All funds collected from developers for this project shall be maintained in a separate bank account at Wachovia Bank, N.A. and titled "Dundee Sewer Plant Expansion Account" and such funds shall not be commingled with any other Town funds and shall not be appropriated to any other Town project, except that any funds remaining in the Dundee Sewer Plant Expansion Account after completion of the project and after all project expenses are paid in full, may be appropriated subject to any restrictions established for the use of sewer impact fees. Bank statements for the Dundee Sewer Plant Expansion Account, including any reports of daily account activity, shall be made available to the public upon request as such reports become available to the Town. In the event that the Town is unable to secure the required up front cash along with letters of credit

## Exhibit A

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from developers prior to August 27, 2004 its obligations to expand the wastewater treatment plant and provide a reservation of capacity as described herein are null and void and all monies collected shall be refunded without interest at that time.

- 5.1.4 If the sewer plant expansion project is begun but not fully completed within 3 years from the effective date of this Agreement, then the Developers/Owners shall have the option to seek a refund of monies paid by the Developer/Owners hereunder without interest and in a manner and frequency determined solely by the Town so that such a refund will not compromise, harm, and/or impair the Town's fiscal condition and/or ability to provide necessary municipal services to its citizens. If in the event there is not sufficient waste water treatment capacity available to fulfill the Town's obligations under this agreement, the Town will have no objection to the Developer beginning development utilizing septic tank and without requiring the Developer to install dry lines.
- 6.0 Authority. The Developer/Owner affirmatively represents that it has the requisite authority to transact business in the State of Florida and has the requisite authority to enter into this Agreement.
- 7.0 Binding Effect. The Burdens of this Developer's Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. However no assignments of this Agreement shall be allowed unless the Town consents in writing to same.
- 8.0 Applicable Law, Jurisdiction and Venue. This Developer's Agreement, and the rights and obligations of the Town and the Developer/Owner hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Polk County, Florida. If any provision of this Developer's Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Developer's Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 9.0 Exhibits. All exhibits attached hereto contain additional terms of this Developer's Agreement and are incorporated herein by reference.
- 10.0 Captions and Paragraph Headings. Captions and paragraph headings contained in this Developer's Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Developer's Agreement, nor the intent of any provision hereof.

## Exhibit A

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- 11.0 Definitions. Unless specifically defined herein, the terms used in this Developer's Agreement shall be assigned the meanings, interpretations and/or definitions applied to, or provided in, the Town of Dundee Code of Ordinances and/or Florida Law.
- 12.0 Counterparts. This Developer's Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Developer's Agreement.
- 13.0 Merger. This Developer's Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein.
- 14.0 Effective Date and Duration. This Agreement shall become effective after it has been duly approved by the Town Council and executed by all parties. It shall remain in full force and effect for a period of five (5) years from that date.
- 15.0 Amendment. This Developer's Agreement may only be amended by mutual consent of the parties in writing.
- 16.0 Further Assurances. Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, execute, acknowledge and deliver, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Developer's Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Developer's Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Developer's Agreement, and to coordinate the performance of their respective obligations under the terms of this Developer's Agreement. To the extent of any conflict with the development conditions or other rules and regulations, which may otherwise govern the Development, the terms and conditions of this Developer's Agreement shall prevail.
- 17.0 Notices. Any notices or reports required by this Developer's Agreement shall be sent to the following:

For the Town:                      Town Manager  
                                          Town of Dundee  
                                          Post Office Box 1000  
                                          105 Center Street  
                                          Dundee, FL 33838-1000

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With a Copy to: Frederick J. Murphy, Jr. Town Attorney  
Town of Dundee  
Post Office Drawer 30  
245 South Central Avenue  
Bartow, Florida 33830

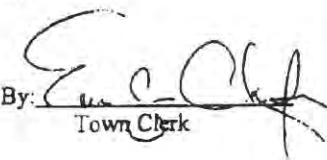
For the Developer/Owner: Joe Saunders  
Hilltop Groves, LLC  
5529 U.S. 98 North  
Lakeland, FL 33809

With copy to: Attn: Rick Miller  
Miller, Crosby & Miller  
P.O. Box 8169  
Lakeland, FL 33802

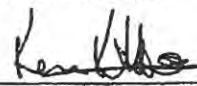
IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Developer's Agreement on the day(s) and year set forth below.

(SEAL)

ATTEST:

By:   
Town Clerk

TOWN COUNCIL OF THE  
TOWN OF DUNDEE

By:   
Kevin Kitto - Mayor

Date: 11th August 04

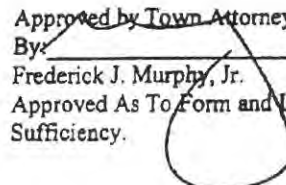
Approved by Town Attorney  
By:   
Frederick J. Murphy, Jr.  
Approved As To Form and Legal  
Sufficiency.

Exhibit A

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WITNESSES

{ DEVELOPER }

*[Signature]*  
*Angela Strickland*  
*Angela Strickland*

Hilltop Groves, LLC

By:

*Joe L. Saunders*  
 Joe L. Saunders

Its: Managing Member

STATE OF FLORIDA  
 COUNTY OF Polk

The foregoing instrument is hereby acknowledged before me this 28<sup>th</sup> day of July, 2004, by Joe L. Saunders, as Managing Member of { DEVELOPER }, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

*[Signature]*  
 NOTARY PUBLIC

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



Emily J. Chalm

My Commission DD244879

Expires August 28, 2007

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Book12972/Page272 CFN#2024009674

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Book12982/Page762 CFN#2024017430

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**Exhibit A**

**MIDFLORIDA Federal Credit Union  
Business Services  
Irrevocable Letter of Credit**

Date Issued: August 25, 2004Letter of Credit No. 302997

**Beneficiary:** Town of Dundee  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838

Honorable Mayor and Town Council Members:

We hereby issue our irrevocable letter of credit in your favor, for the account of **Hilltop Groves, LLC, 5529 U.S. 98 North, Lakeland, Florida 33809** in the aggregate amount of **USD Five hundred eighty three thousand four hundred nineteen dollars and thirty six cents (\$583,419.36)** available to you in three payments upon presentation of your draft(s) at sight on ourselves when accompanied by an affidavit signed jointly by the Town Mayor and Town Manager of Dundee, both authorized representatives of the Town of Dundee, certifying each stage of sewer plant expansion completion has been reached and stating that funds are due and payable by **Hilltop Groves, LLC** in return for the Town of Dundee reserving and assigning a total of **266 ERC's** of sewer plant capacity exclusively for utilization by **Hilltop Groves, LLC** in accordance with the following schedule as agreed:

Payment No. 1, for the amount of **\$107,848.12** is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment No. 2, for the amount of **\$107,848.12** is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;



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Final Draft 07/28/2006

Payment No. 3, for the amount of **\$367,723.12** is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the Town's engineer for the sewer plant expansion project, which is expected to occur on or before December 31, 2005.

The Town's certifications described herein as to payment requests shall be final and binding on **Hilltop Groves, LLC** and the **MIDFLORIDA Federal Credit Union** and once delivered to **Hilltop Groves, LLC** requires immediate payment to the Town of the funds requested.

This irrevocable letter of credit sets forth in full the terms of our undertaking. This undertaking shall not in any way be modified, amended, or amplified by reference to any document or contract referred to herein.

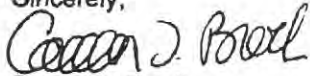
Drafts drawn under this credit must state on their face "drawn under **MIDFLORIDA Federal Credit Union** irrevocable letter of credit number **302997** dated **August 25, 2004**."

It is a condition of this letter of credit that it shall be deemed automatically extended without amendment for one year from the present or any future expiry date unless at least (number of days) prior to such expiration date, we notify you in writing by certified mail or express courier that we elect not to renew this letter of credit for any such additional one year period.

We hereby agree with you that draft(s) drawn under and in compliance with the terms and conditions of this credit shall be duly honored if presented together with documents as specified and the original of this credit, at this office on or before December 31, 2005.

Except as otherwise expressly stated herein, this letter of credit is subject to the Uniform Customs and Practices for Documentary Credits, established by the International Chamber of Commerce, as in effect on the date of issuance of this credit.

Sincerely,



Cameron Brock  
Assistant Vice President  
MIDFLORIDA Federal Credit Union  
Business Services

Exhibit B

File 21000000185

**Stewart Title Guaranty Company**  
**Combined Statement**

11/1/2021 11:21 AM

Stewart Title Guaranty Company, Tampa

3402 West Cypress Street, Tampa, FL 33607, (813) 788-6620

Escrow Officer: Janice Coulton

**Seller(s)** Hilltop Groves, L.L.C., 6528 U.S. Highway 98 North, Lakeland, FL 33809  
**Buyer(s)** Richmond American Homes of Florida, LP, 2822 Commerce Park Drive, Suite 100, Orlando, FL 32819  
**Lender(s)**  
**Property** Property Address  
 Lake Hatchineha Road Dundee, Florida 33644

Site/Store Number  
 Hilltop

PIN  
 27-28-23-000000-013010

Closing Date 11/4/2021 Disbursement Date 11/4/2021 Proration Date 11/4/2021  
 Buyer Seller

Debit	Credit		Debit	Credit
\$1,702,000.00		Sales Price/Consideration		
		Contract sales price		\$1,702,000.00
	\$26,000.00	Deposits		
		Initial Earnest Money Deposit		
\$847.57		Prorations		
		County taxes 11/4/2021 to 1/1/2022 @ \$4,075.23/yr		\$847.57
\$268,000.00		Other Adjustments		
		Reimbursement to Seller for Sewer Impacts fees		\$268,000.00
		\$3,800.00 per Lot x 74 Lots		
\$760.00		Title Charges		
		Settlement or closing fee to Stewart Title	\$760.00	
		Commercial Services - Tampa		
\$7,613.00		Title Insurance to Stewart Title Guaranty Company		
		Owner's coverage \$1,702,000.00 @ \$8,800.00		
		- FL 9 1 06 r 5 14 REM Unimprvd Land CP BTG		
		\$883.00		
		- FL Survey Comm BTG \$108.00		
\$225.00		Document Coordination Fee to Stewart Title	\$225.00	
		Commercial Services - Tampa		
\$500.00		Search Fee - Invoice No. 51175 to Stewart Title		
		Commercial Services - Tampa		
		Recording Fees/Transfer Charges		
		Recording fees: Special Warranty Deed - Estimate	\$100.00	
		Documentary Stamps Deed	\$11,914.00	
		Additional Charges		
		2021 Real Estate Taxes - Account #272823-		
		000000-013010 to Joe G. Yabder, CFC, Tax	\$4,075.23	
		Collector for Polk County		
\$1,978,738.57	\$26,000.00	Subtotals	\$17,644.33	\$1,981,847.57
	\$1,946,738.57	Balance due from Buyer		
		Balance due to Seller	\$1,844,563.34	
\$1,978,738.57	\$1,978,738.57	Totals	\$1,981,847.57	\$1,981,847.57

Page 1

Book12972/Page275 CFN#2024009674

Page 20 of 48

Book12982/Page765 CFN#2024017430

Page 129 of 160

Exhibit B

File 21000060185

**Stewart Title Guaranty Company  
Combined Statement**

11/11/2021 11:21 AM

Buyer and Seller (Transferor and Transferee) understand the Closser or Escrow Agent on behalf of Stewart Title Guaranty Company - Stewart Title Guaranty Company - Commercial Services has assembled this information representing the transaction from the best information available from other sources and cannot guarantee the accuracy thereof. Any real estate agent or lender involved may be furnished a copy of this statement. Buyer and Seller (Transferor and Transferee) understand that tax and insurance provisions and reserves were based on figures for the preceding year or supplied by others, or based on estimated figures for current year, and, in the event of any change for current year, all necessary adjustments must be made between Buyer and Seller (Transferor and Transferee) directly. The undersigned hereby authorizes Stewart Title Guaranty Company - Stewart Title Guaranty Company - Commercial Services to make expenditures and disbursements as shown above and approve the same for payment. The undersigned also acknowledge receipt of proceeds as applicable, and receipt of a copy of this Statement.

Dated as of this 2nd day of November 2021

**Buyer(s):**

**RICHMOND AMERICAN HOMES OF FLORIDA LP,**  
a Colorado limited partnership

By: **RAH of Florida, Inc.,** a Colorado corporation,  
General Partner

By: [Signature]  
Name: F.B. [Signature]  
Title: V.P., Land

**Seller(s):**

**HILTON GROVES, L.L.C.,**  
a Florida limited liability company

By: [Signature]  
Name: Lee Saunders  
Title: Manager

Stewart Title Guaranty Company,  
a Texas Corporation

Date \_\_\_\_\_

By: \_\_\_\_\_  
Janice Coulton  
Commercial Escrow Officer

Page 2

Exhibit B

INSTR # 2021295125  
 BK 11979 Pgs 0250-0251 PG(s)2  
 11/12/2021 07:29:43 AM  
 STACY M. BUTTERFIELD,  
 CLERK OF COURT POLK COUNTY  
 RECORDING FEES 18.50  
 DEED DOC 11,914.00

This document prepared by and Return to:  
 Richmond American Homes of Florida LP  
 2822 Commerce Park Drive #100  
 Orlando, FL 32819

Grantee Tax ID# 33-1077984  
 Parcel Tax ID# 272823-000000-013010

### SPECIAL WARRANTY DEED

**THIS SPECIAL WARRANTY DEED ("Deed")** is made this 3 day of November, 2021, between **HILLTOP GROVES, L.L.C.**, a Florida limited liability company, whose address is 5529 US 98N, Lakeland, FL 33809 ("Grantor"), and **RICHMOND AMERICAN HOMES OF FLORIDA, LP**, a Colorado limited partnership, whose address is 2822 Commerce Park Drive, Suite 100, Orlando, Florida 32819 ("Grantee").

### **WITNESSETH:**

That Grantor, for and in consideration of the sum of TEN and NO/100 DOLLARS (\$10.00), to it in hand paid by the Grantee, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor has bargained and sold and does hereby grant and convey unto the Grantee and the Grantee's heirs, successors and assigns forever, in fee simple absolute, all of Grantor's right, title, and interest in and to the following described land, situate, lying and being in Polk County, Florida, to wit ("Property"):

THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 23, TOWNSHIP 28 SOUTH, RANGE 27 EAST, LESS AND EXCEPT A STRIP OF LAND 15 FEET IN WIDTH OFF THE NORTHERLY, EASTERLY AND SOUTHERLY SIDES THEREOF FOR PUBLIC HIGHWAY PURPOSES, ALSO LESS AND EXCEPT ADDITIONAL ROAD RIGHT-OF-WAY AS SHOWN IN DEED RECORDED IN OFFICIAL RECORDS BOOK 447, PAGE 570, OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA.

TOGETHER WITH all tenements, hereditaments, improvements, fixtures, and appurtenances thereto belonging or in anywise appertaining.

To have and to hold the Property in fee simple forever.

GRANTOR covenants that at the time of delivery of this deed, except as set forth on Exhibit "A" hereto, the Property is free of any liens or encumbrances, and Grantor hereby specially warrant the title to the Property, and will defend it against the lawful claims and demands of all persons claiming by, through or under Grantor, but against none other.

*[Signature Page Follows]*

## Exhibit B

IN WITNESS WHEREOF, the Grantor has executed this Special Warranty Deed as of the day, month and year first above written.

## GRANTOR:

HILLTOP GROVES, L.L.C., a Florida limited liability company

## WITNESSES:

Pam Chancey  
Print Name: Pam Chancey

A. David Norris  
Print Name: A. David Norris

By: Lee Saundero  
Name: LEE SAUNDERO - HILLTOP GROVES, LLC  
Title: MANAGER

STATE OF FLORIDA )  
COUNTY OF Polk )

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 3 day of November, 2021, by Lee Saundero of Hilltop Grove, L.L.C., a Florida limited liability company, on behalf of the corporation.

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced: \_\_\_\_\_

Pam Chancey  
(Signature of Notary Public)

Pamela G Chancey  
(Print, Type, or Stamp Commissioned Name of Notary Public)



PAMELA G. CHANCEY  
Commission #HN 010422  
Expires October 15, 2024  
Served thru Budget Notary Services

My Commission expires: 10-15-2024

Affix Notary SEAL

Online Notary: ☐ (Check Box if acknowledgment done by Online Notarization)

Stacy M. Butterfield POLK  
CFN# 2021295125 OR BK 11979 PG 251 Pgs 0250-0251 11/12/2021 07:29:43 AM

Book12972/Page278 CFN#2024009674

Page 23 of 48

## Exhibit C

**THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:**

Frederick J. Murphy, Jr., Esquire  
 Boswell & Dunlap, LLP  
 Post Office Drawer 30  
 245 South Central Avenue (33830)  
 Bartow, Florida 33831  
 Telephone (863) 533-7117  
 Facsimile (863) 533-7412

For Recording Purposes Only

**AMENDMENT TO AGREEMENT REGARDING RESERVED CAPACITY IN THE  
TOWN OF DUNDEE'S WASTEWATER TREATMENT PLANT**

THIS AMENDMENT TO DEVELOPER'S AGREEMENT REGARDING THE FUNDING OF THE DESIGN, PERMITTING AND CONSTRUCTION OF THE EXPANSION OF THE TOWN OF DUNDEE'S WASTEWATER TREATMENT PLANT ("Amendment"), made and entered into this 13th day of September, 2022, by and between the TOWN OF DUNDEE, a municipal corporation organized and existing under the laws of the State of Florida (the "Town"), and RICHMOND AMERICAN HOMES OF FLORIDA, LP, a Colorado limited partnership ("Owner").

**FACTUAL RECITALS**

1. On or about July 28, 2004, the Town and Hilltop Groves LLC, a Florida Limited Liability Company, entered into that certain Developer's Agreement Regarding the Funding of the Design, Permitting and Construction of the Expansion of the Town of Dundee's Wastewater Treatment Plant (the "Agreement") a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

2. On or about November 3, 2021, the Owner acquired 74 wastewater ERCs ("Owner ERCs") from HILLTOP GROVES, LLC, a Florida limited liability company, by Special Warranty Deed (the "Deed") which were the subject of the Agreement. Copies of the Deed and closing statement are attached hereto as Composite Exhibit "B" and made a part hereof by reference.

3. The Town and Owner have determined that, at this time, the Owner holds, albeit expired, 74 Wastewater ERCs representing 19,980 gallons per day (GPD) in equivalent capacity in the Town's Wastewater Utility System represented by ERC Certificates numbered 1686 through 1759.

4. The Owner has not otherwise conveyed, assigned, pledged, hypothecated or otherwise redeemed any of said certificates representing the Owner ERCs as defined and identified herein although said Owner ERCs expired on April 24, 2011.

## Exhibit C

5. The Owner is the owner of certain real property situated in Polk County, Florida, more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference (the "Property") which is the Seasons at Hilltop Subdivision.

6. On September 13, 2022, the Owner requested that the Town reactivate 74 of the Wastewater ERCs (Original ERC Certificates 1686 through 1759).

7. On June 22, 2021, the Town Commission approved the reactivation and transfer of ERCs 1606-1648 and 1649-1685 to the Vista Del Lago, LLC for the development of the Vista Del Lago, Phase II and Phase III subdivisions.

8. The 74 Owner ERCs requested for reactivation would have accrued Fifty-Nine Thousand Nine Hundred Forty Dollars and zero cents (\$59,940.00) in Idle capacity charges from April 24, 2006 through October 24, 2022 which remains unpaid.

9. On June 23, 2020, the Town introduced and passed Resolution No. 20-13 (the "Resolution"). A copy of the Resolution is attached hereto as Exhibit "C" and made a part hereof by reference.

10. The Resolution provides for a temporary waiver of certain Town of Dundee Idle Capacity Fee(s) for a period of eighteen (18) months beginning on June 23, 2020 and automatically sunseting on December 23, 2021.

11. The Town acknowledges that all Town wastewater impact fees have been paid by Owner or its predecessor in interest for the Town's allocation of wastewater capacity for the Owner ERCs pursuant to the Agreement and that the Town presently has adequate permitted capacity in its wastewater plant for the wastewater capacity represented by the Owner ERCs described above.

12. Owner received the transfer or assignment of the 74 Owner ERCs for construction of single-family homes to be located within the municipal limits of the Town.

13. The parties covenant and agree that they have the power and authority to enter into this Amendment and bind themselves to the provisions of this Amendment.

ACCORDINGLY, in consideration of the Recitals stated above and other good and valuable mutual consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**SECTION 1. RECITALS: OWNERSHIP.** The Factual Recitals above are true and correct and form a factual and material basis of this Amendment. The Town acknowledges and ratifies the transfer of the Owner ERCs, and the Town further acknowledges and agrees that Owner owns the Owner ERCs which are the subject matter of this Amendment.

**SECTION 2. DEFINITIONS.** All capitalized terms not defined herein shall have the same meaning as defined in the Agreement.



## Exhibit C

**SECTION 3. GRANT OF EXTENSION.**

A. The Town, pursuant to the terms of this Amendment, hereby reactivates said 74 Owner ERCs and grants to the Owner an extension of the term of the 74 Owner ERCs of equivalent capacity in the Town's Wastewater Treatment Plant represented by Wastewater ERC Certificates (Original ERC Certificates 1686 through 1759) through a period expiring September 13, 2023 ("Expiration Date").

B. In consideration for such extension, within thirty (30) calendar days after mutual execution of this Agreement and approval by the Town Commission, Owner shall pay Fifty-Nine Thousand Nine Hundred Forty Dollars and zero cents (\$59,940.00) in immediately available funds to the Town in full satisfaction of the wastewater idle capacity charges outstanding as of the date of this Agreement and due through October 24, 2022 and pay any and all other charges that may be due pursuant to Chapter 54 of the Town's Code of Ordinances. To the extent the Town determines that any other idle capacity charges are due in accordance with Chapter 54 of the Town's Code of Ordinances regarding the Water and Wastewater Owner ERCs that are the subject of this Agreement then Owner agrees to pay said charges to the Town within thirty (30) calendar days of receipt of an invoice sent to Owner for same. No refunds of any idle capacity charges paid by Owner shall be given by the Town.

C. Once the Owner has paid the sum of Fifty-Nine Thousand Nine Hundred Forty Dollars and zero cents (\$59,940.00) in immediately available funds to the Town, all previously issued certificates representing the Wastewater Owner ERCs extended herein and that are the subject of this Agreement shall be returned to the Town and cancelled and of no force and effect. Thereafter, in exchange for the returned certificates, the Town will issue new certificates for Wastewater Owner ERCs extended herein and that are the subject matter of this Agreement and provide same to the Owner. Provided however that the terms of the Agreement attached hereto as Exhibit "A" shall not control and when new certificates are issued by the Town to Owner. No Wastewater capacity in the Town's Wastewater Utility Systems shall be reserved beyond September 13, 2023 and the Owner ERCs extended herein shall expire on September 13, 2023.

**SECTION 4. GRANT OF OPTION.**

A. The Town, pursuant to the terms of this Amendment and in addition to any rights granted to Owner under the Agreement or under applicable law, hereby grants to the Owner an option to transfer, from time to time (i) all or a portion of the Owner ERCs to a third party ("ERC Transferee") without transferring fee simple title to all or any portion of the Property ("ERC Transfer"), and/or (ii) transfer of all or any portion of the Property to a third party ("Property Transferee"; ERC Transferees and Property Transferees are collectively "Transferees") and retain all or any Owner ERCs ("Property Transfer"; "ERC Transfers" and "Property Transfers" are collectively "Independent Transfers"). Owner may exercise such option in its sole and absolute discretion.

B. At least thirty (30) days prior to any Independent Transfer as defined herein, Owner shall provide written notice to the Town thereof ("Transfer Notice"), which shall include the Transferee's (i) name, (ii) address, (iii) employer identification number (EIN) or federal tax identification number, and (iv) contact information (including telephone number, fax number, and e-mail address, as applicable). The parties agree that Transferee shall enter into transfer and/or assignment agreement with RICHMOND

## Exhibit C

**AMERICAN HOMES OF FLORIDA, LP.** In the event of any transfer and/or assignment of the Owner ERCs and that notice was previously given by Owner for this specific anticipated Independent Transfer.

C. In the case of an Owner ERC Transfer of all outstanding ERCs, Owner shall no longer be liable for any idle capacity charges which may accrue with respect to the applicable Owner ERCs if Transferee executes a written commitment to pay such charges. In that event the Transferee must also comply with all of the conditions and obligations in the Agreement and this Amendment.

**SECTION 5. OBLIGATIONS OF TOWN.**

A. The Town shall allocate wastewater capacity for the Owner ERCs in the name of Owner and/or its successors and assigns in accordance with all applicable laws and Ordinances and the terms of the Agreements, as amended by this Amendment, through the Expiration Date.

B. The Town shall, within ten (10) days following receipt of Owner's request, provide a written statement to Owner certifying the current number of Owner ERCs in the name of Owner.

**SECTION 6. AGREEMENT TO COOPERATE.** The parties agree to cooperate and to do all things reasonably necessary to accomplish the terms of this Amendment, and that they respectively shall, upon being requested by the other party to do so, execute and deliver promptly any and all such authorizations, instruments, papers or documents of any and every kind and character as may be reasonably required, necessary or proper for the purpose of giving full force and effect to this Amendment and to the covenants, conditions, and agreements contained herein. Except as specifically modified by this Amendment, all of the terms, covenants, conditions and agreements of the Agreements shall remain in full force and effect.

**SECTION 7. DISCLAIMER OF THIRD-PARTY BENEFICIARIES.** This Amendment is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

**SECTION 8. SEVERABILITY.** If any part of this Amendment is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Amendment if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Amendment is declared to be severable.

**SECTION 9. LAND USE APPROVALS.** Owner acknowledges and understands that the Town is prohibited from engaging in "Contract Zoning" or the bartering away of its legislative prerogative. As such this Amendment shall not be construed as a basis for (1) granting or assuring or indicating or (2) refusing to grant or preventing any future grant of land use or zoning approvals, permissions, variances, special exceptions, or rights with respect to the Property.

## Exhibit C

**SECTION 10. BINDING UPON SUCCESSORS.** This Amendment shall be binding upon and shall inure to the benefit of the successors or assigns of the parties hereto.

**SECTION 11. APPLICABLE LAW AND VENUE.** This Amendment and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida. Venue for any dispute or cause of action under the Agreement, as modified by this Amendment, shall be exclusively in the state courts of competent subject matter jurisdiction in Polk County, Florida.

**SECTION 12. NOTICES.** All notices, demands, requests and other communications required or permitted by the Agreements, as modified by this Amendment, by any party hereto to any other party shall be in writing and shall be validly given or made by any party, or any party's attorney on behalf of such party, only if personally served or delivered by Federal Express or other similar reputable national courier service keeping records of deliveries and attempted deliveries. In the event of personal service, notice shall be deemed effective when delivered. Service by courier shall be conclusively deemed made on the second business day delivery is attempted or upon receipt, whichever is sooner.

TOWN: TOWN OF DUNDEE  
P.O. Box 1000  
202 East Main Street  
Dundee, Florida 33838-1000  
Attention: Town Manager

With a copy to:  
(which shall not  
constitute notice)

Frederick J. Murphy, Jr.  
Town Attorney, Town of Dundee  
P.O. Drawer 30  
245 South Central Avenue  
Bartow, Florida 33830

OWNER: RICHMOND AMERICAN HOMES OF FLORIDA, LP  
2822 Commerce Park Drive, Suite 100  
Orlando, Florida 32819

Any person or entity may change their address for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the others, which notice of change of address shall not become effective, however, until the actual receipt thereof by the others.

**SECTION 13. ENTIRE AGREEMENT.** The Agreement, as modified by this Amendment, constitute the entire agreement between the parties. Modifications to and waivers of the provisions herein shall not be binding unless made in writing and signed by the parties hereto and approved by the Town's governing body. Except as expressly amended by this Amendment, the terms and conditions of the Agreement and the Assignment shall remain unchanged and unamended, and are hereby ratified and

Exhibit C

confirmed. In the event of any conflict between the terms of the Agreement and Amendment, the terms of this Amendment shall control.

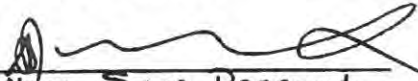
**[SIGNATURE PAGES TO FOLLOW]**

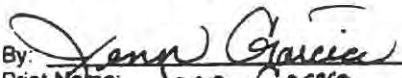
## Exhibit C

IN WITNESS WHEREOF, Owner and the Town have executed or have caused this Amendment, with the named Exhibits attached, if any, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Amendment.

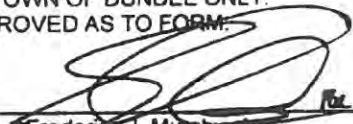
## ATTEST:

## THE TOWN OF DUNDEE

By:   
Print Name: Sam Pennant  
As Its: Mayor  
Date: 09/15/2022

By:   
Print Name: Jenn Garcia  
As Its: Town Clerk

FOR THE USE AND RELIANCE  
OF TOWN OF DUNDEE ONLY.  
APPROVED AS TO FORM:

By:   
Frederick J. Murphy, Jr.  
Town Attorney

## Exhibit C

## OWNER:

RICHMOND AMERICAN HOME OF FLORIDA, LP,  
a Colorado limited partnership

By: [Signature]  
Name: KENNETH SMITH  
Title: DIVISION PRESIDENT

Signed and delivered  
In the presence of:

[Signature]  
Print Name: SCOTT HAWKINS

[Signature]  
Print Name: Joshua Rivera

STATE OF FLORIDA  
COUNTY OF ~~POLK~~ Orange

The foregoing instrument was acknowledged before me this 22 day of September, 2022, by Kenneth Smith, as Division President of RICHMOND AMERICAN HOMES OF FLORIDA, LP, on behalf of the company, RICHMOND AMERICAN HOMES OF FLORIDA, LP. He is ☒ personally known to me or ☐ has produces \_\_\_\_\_ as identification and ☐ (did) ☐ (did not) take an oath.

[Signature]  
Signature of Person Taking Acknowledgement

Joshua Rivera  
Name of Acknowledger Types, Printed, or Stamped

Notary, Production Coordinator  
Title or Rank

14 122819  
Serial Number, if any.



Exhibit A  
to Hilltop Groves ERC Agreement

EXHIBIT A

Final Draft 07/28/2004

Agreement #4

**DEVELOPER'S AGREEMENT  
REGARDING THE FUNDING OF THE  
DESIGN, PERMITTING AND  
CONSTRUCTION OF THE  
EXPANSION OF THE TOWN OF DUNDEE'S  
WASTEWATER TREATMENT PLANT**

PAID APR 25 2006

IN FULL  
*[Signature]*  
*[Signature]*

THIS AGREEMENT ("Agreement") is made on this <sup>28<sup>th</sup></sup> day of July, 2004, by and between Hilltop Groves, LLC (the "Developer/Owner") and the TOWN OF DUNDEE, a municipal corporation organized and existing under the laws of the State of Florida (the "Town"). Town of Dundee  
P.O. Box 1000  
Dundee, FL 33828

**WITNESSETH**

WHEREAS, the Town operates a wastewater treatment plant that is presently serving close to or at its capacity; and

WHEREAS, the Town is presently expanding its municipal limits through annexation which will bring growth and development to the Town; and

WHEREAS, in order to accommodate the anticipated growth it will be necessary for the Town to expand the permitted capacity of its wastewater treatment plant from 90,000 gallons per day to 700,000 gallons per day or more; and

WHEREAS, several of the property owners and Developers of land within the Town limits have had discussions with the Town in order to determine the most feasible way to immediately expand the wastewater treatment plant; and

WHEREAS, the Town has retained Envisors Consulting Engineers to prepare a preliminary design report which was presented to the Town Council at a special meeting on March 23, 2004 which identified the relative costs and expenses of expanding the wastewater treatment plant to 700,000 gallons per day or more; and

WHEREAS, if the Town Council were to proceed under the usual financing methods to obtain the necessary funds for design, permitting and expanding the wastewater treatment plant it would take at least 18 to 20 months from the present time to explore such financing; and

WHEREAS, in order to address the immediate needs of growth and development and to accelerate the design, permitting and construction of an expansion of the wastewater treatment plant, the Town of Dundee has indicated that it will move forward with the design, permitting and construction of an expansion of its wastewater treatment plant if those Developers who desire the extra capacity will immediately and irrevocably fund the costs of the expansion up front based on the equivalent residential connections (ERC) each Developer/Owner proposes to connect to the Town's wastewater treatment plant. Such funding will permit the Town of Dundee to greatly accelerate the design,



Final Draft 07/28/2004

4

permitting and construction of the expansion to its wastewater treatment plant. Further, without such funding it is not likely that the Town would be able to expand its permitted capacity for the wastewater treatment plant at any time now or in the near future;

WHEREAS, the Town is presently working with Polk County to enter into an Interlocal Agreement to allow the Town to tap into Polk County's wastewater treatment plant located in the Waverly area of Polk County, Florida, as a short term way to address the Town's need for additional wastewater treatment capacity; and

WHEREAS, such short term temporary capacity in the Town's waste water system that results from the diversion of waste water flows to Polk County's Waverly Plant will be connected only to customers who have been issued certificates of occupancy and on a first come first served basis until such additional wastewater treatment capacity is exhausted; and

WHEREAS, after the short term temporary capacity is exhausted, those wishing to connect to the sewer system will have to wait until new capacity resulting from the sewer plant expansion project becomes available; and

WHEREAS, the Town of Dundee Code of Ordinances requires the payment of certain connection fees on the basis of the number of Equivalent Residential Connections (ERC) proposed to be connected to the utility system. Further, the Town Code permits developer's agreements which set forth in detail the terms and conditions under which the Town will provide utility service to the Developer's/Owner's property; and

WHEREAS, the Town deems such an agreement necessary to facilitate the construction of expansion of the Town's wastewater treatment plant; and

WHEREAS, it is therefore deemed to be in the interest of the public health, safety and welfare for the Town and an appropriate exercise of the Town's authority to enter into the instant Developer's Agreement.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

- 1.0 Recitals. The foregoing recitals are incorporated herein by reference as if recited in full and serve as a factual stipulation upon which the parties agree is the basis of the instant Developer's Agreement.
- 2.0 Purpose. The purpose of this Developer's Agreement is to memorialize the Developer's/Owner's financial commitment to the Town relating to the expansion of the Town's wastewater treatment plant.
- 3.0 Wastewater Treatment Plant Capacity. In order to assure that sufficient capacity exists in the Town's wastewater treatment plant it will be

Final Draft 07/28/2004

necessary to design, permit and construct an expansion of the Town's wastewater treatment plant in order to allow capacity of at least 700,000 gallons per day to accommodate anticipated and projected growth and development in the Town. In order to allow the Town to immediately begin the design, permitting and construction of an expansion to its wastewater treatment plant, the Developer/Owner will be required to pay to the Town in cash the amount of \$691,267.50 which amount is based on a total of 266 ERCs the Developer/Owner proposes to connect to the Town's wastewater treatment plant and is related to the 71,820 gpd in equivalent capacity that the Developer/Owner will need from the Town's expanded wastewater treatment plant. In addition the Developer/Owner shall be required to post an Irrevocable Letter of Credit or other security reasonably acceptable to the Town and in the form attached hereto as Exhibit "A". Pursuant to paragraph 4 below, the Developer/Owner is obligated to pay said funds to the Town in order to purchase 266 ERCs which represents 71,820 gpd in equivalent capacity.

#### 4.0 Developer's/Owner's Obligations

- 4.1.1. The Developer/Owner agrees to pay to the Town the sum of \$691,267.50 in cash, cashier's check or cleared funds payable to the Town of Dundee to purchase 266 ERCs that it proposes to connect to the Town's wastewater treatment plant and which represents 71,820 gpd in equivalent capacity in accordance with the following:
- 4.1.2. The sum of One Hundred Seven Thousand Eight Hundred Forty Eight Dollars and Fourteen Cents (\$107,848.14) in cash, cashier's check or cleared funds payable to the Town of Dundee upon its execution of this Agreement. The balance of Five Hundred Eighty Three Thousand Four Hundred Nineteen Dollars and Thirty Six (\$583,419.36) shall be paid in cash, cashier's check or cleared funds payable to the Town of Dundee in three (3) installments in accordance with the following schedule:

Payment for the amount of \$107,848.12 is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment for the amount of \$107,848.12 is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

Payment for the amount of \$367,723.12 is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the

PAID  
MIDWEST  
CR# 07-448 3546716

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Town's engineer and sewer plant operational permits are in hand for the sewer plant expansion project that is expected to occur on or before December 31, 2005.

The Town's certifications described above shall be final and binding on Developer/Owner and will require the immediate payment to the Town of the funds requested and due.

- 4.1.3. In addition, to secure its obligations to the Town under this Agreement and upon the execution of this Agreement the Developer/Owner shall deliver to the Town an irrevocable letter of credit in the form as set forth as Exhibit "A" attached hereto. To the extent payments are not made by the Developer/Owner under paragraph 4.1.2 above within fourteen (14) days after written notice by the town requesting payment, the Town may draw upon any or all such cash or letters of credit in whole or in part to provide funds to pay for the design, permitting and construction of the wastewater treatment plan expansion as more particularly set forth herein. The Town shall not be obligated to commence the design, permitting and any phase of construction of the improvements to the wastewater treatment plant unless and until the Developer/Owner of the development has delivered to the Town the required cash and letter of credit.
- 4.1.4. Developer/Owner acknowledges and agrees that the Town's willingness to enter into this Developer's Agreement shall not be construed as a waiver by the Town of any applicable law, ordinance, rule or regulation for the construction of any future developments.
- 4.1.5. In the event the Developer/Owner assigns and/or conveys its interest in any real property that is being used to calculate the ERC to the Town's wastewater system, the new Owner of such property may upon notice to the Town join in this Agreement and pay the required contribution for the purchase of the 266 ERCs for the applicable property provided such notice is given within thirty (30) days after the closing of the contract for purchase, but in no event beyond the term of this Agreement. In any event unless and until the new Owner joins in this Agreement and becomes obligated to the same extent as the Developer/Owner hereunder, the Developer/Owner shall remain obligated to the Town for all obligations hereunder.
- 4.1.6. Subject to the provisions in paragraph 5.1.4 below any funds paid to the Town hereunder shall be non-refundable in the event that the Developer chooses not to move forward with the proposed development.

#### 5.0 Town's Obligations.

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- 5.1.1 Subject to the Developer's/Owner's compliance with its obligations under this Agreement, the Town shall commence the design and permitting of the expansion of its wastewater treatment plant immediately. Upon completion of design and permitting the Town shall commence construction of the expansion of its wastewater treatment plant with an anticipated completion date no later than 16 months from the effective date of this Agreement.
- 5.1.2 Reservation of Capacity. In consideration for the payment by the Developer/Owner as more particularly set forth in paragraph 4 above the Town hereby reserves 71,820 gpd in equivalent capacity for the Developer/Owner based on 266 ERCs purchased hereunder. In the event the Developer/Owner determines that it does not need all of the reservation of capacity/ERC's purchased hereunder then such reservation of capacity/purchased ERC's may be assignable and/or sold by the Developer but only with the Town's prior written consent and as contemplated in paragraph 4.1.5 above. It is agreed that the Town's consent will not be unreasonably withheld. Furthermore, all reservations of capacity pursuant to the terms of this Agreement shall exist for only five (5) years from the date that the expanded Wastewater Treatment Plant is fully online and operational. If within five (5) years from the date that the expanded Wastewater Treatment Plant is online and fully operational, the Developer/Owner and/or its successors and/or assigns or those persons or entities who have purchased the ERC's have not used the reserved capacity then it must sell such reserved capacity 266 ERC's representing 71,820 gpd (or portion thereof) in equivalent capacity back to the Town. In this event, payment arrangements shall be determined solely by the Town. The Developer and the Town agree that the foregoing provision is necessary to insure that the Town's ability to provide appropriate municipal services regarding the collection and treatment of wastewater and other effluent is not compromised by unused capacity.
- 5.1.3 The Town's obligations under this Agreement are conditioned on obtaining total funds and/or commitments of at least \$3.3 million. All funds collected from developers for this project shall be maintained in a separate bank account at Wachovia Bank, N.A. and titled "Dundee Sewer Plant Expansion Account" and such funds shall not be commingled with any other Town funds and shall not be appropriated to any other Town project, except that any funds remaining in the Dundee Sewer Plant Expansion Account after completion of the project and after all project expenses are paid in full, may be appropriated subject to any restrictions established for the use of sewer impact fees. Bank statements for the Dundee Sewer Plant Expansion Account, including any reports of daily account activity, shall be made available to the public upon request as such reports become available to the Town. In the event that the Town is unable to secure the required up front cash along with letters of credit

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from developers prior to August 27, 2004 its obligations to expand the wastewater treatment plant and provide a reservation of capacity as described herein are null and void and all monies collected shall be refunded without interest at that time.

- 5.1.4 If the sewer plant expansion project is begun but not fully completed within 3 years from the effective date of this Agreement, then the Developers/Owners shall have the option to seek a refund of monies paid by the Developer/Owners hereunder without interest and in a manner and frequency determined solely by the Town so that such a refund will not compromise, harm, and/or impair the Town's fiscal condition and/or ability to provide necessary municipal services to its citizens. If in the event there is not sufficient waste water treatment capacity available to fulfill the Town's obligations under this agreement, the Town will have no objection to the Developer beginning development utilizing septic tank and without requiring the Developer to install dry lines.
- 6.0 Authority. The Developer/Owner affirmatively represents that it has the requisite authority to transact business in the State of Florida and has the requisite authority to enter into this Agreement.
- 7.0 Binding Effect. The Burdens of this Developer's Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. However no assignments of this Agreement shall be allowed unless the Town consents in writing to same.
- 8.0 Applicable Law, Jurisdiction and Venue. This Developer's Agreement, and the rights and obligations of the Town and the Developer/Owner hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Polk County, Florida. If any provision of this Developer's Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Developer's Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 9.0 Exhibits. All exhibits attached hereto contain additional terms of this Developer's Agreement and are incorporated herein by reference.
- 10.0 Captions and Paragraph Headings. Captions and paragraph headings contained in this Developer's Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Developer's Agreement, nor the intent of any provision hereof.

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- 11.0 Definitions. Unless specifically defined herein, the terms used in this Developer's Agreement shall be assigned the meanings, interpretations and/or definitions applied to, or provided in, the Town of Dundee Code of Ordinances and/or Florida Law.
- 12.0 Counterparts. This Developer's Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Developer's Agreement.
- 13.0 Merger. This Developer's Agreement constitutes the entire understanding of the parties. It supersedes any prior understandings, agreements, or obligations between them upon the subjects covered in this Agreement. There are no representations, promises, guarantees or warranties other than those set forth herein.
- 14.0 Effective Date and Duration. This Agreement shall become effective after it has been duly approved by the Town Council and executed by all parties. It shall remain in full force and effect for a period of five (5) years from that date.
- 15.0 Amendment. This Developer's Agreement may only be amended by mutual consent of the parties in writing.
- 16.0 Further Assurances. Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, execute, acknowledge and deliver, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Developer's Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Developer's Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Developer's Agreement, and to coordinate the performance of their respective obligations under the terms of this Developer's Agreement. To the extent of any conflict with the development conditions or other rules and regulations, which may otherwise govern the Development, the terms and conditions of this Developer's Agreement shall prevail.
- 17.0 Notices. Any notices or reports required by this Developer's Agreement shall be sent to the following:

For the Town:	Town Manager Town of Dundee Post Office Box 1000 105 Center Street Dundee, FL 33838-1000
---------------	------------------------------------------------------------------------------------------------------

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With a Copy to: Frederick J. Murphy, Jr. Town Attorney  
Town of Dundee  
Post Office Drawer 30  
245 South Central Avenue  
Bartow, Florida 33830

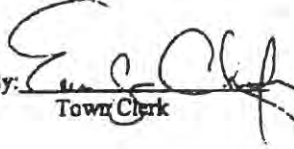
For the Developer/Owner: Joe Saunders  
Hilltop Groves, LLC  
5529 U.S. 98 North  
Lakeland, FL 33809

With copy to: Attn: Rick Miller  
Miller, Crosby & Miller  
P.O. Box 8169  
Lakeland, FL 33802

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Developer's Agreement on the day(s) and year set forth below.

(SEAL)

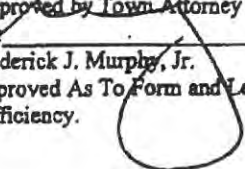
ATTEST:

By:   
Town Clerk

TOWN COUNCIL OF THE  
TOWN OF DUNDEE

By:   
Kevin Kitto - Mayor

Date: 11<sup>th</sup> August 04

Approved by Town Attorney  
By:   
Frederick J. Murphy, Jr.  
Approved As To Form and Legal  
Sufficiency.



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WITNESSES

( DEVELOPER )

*[Signature]*  
Joe L. Saunders

Hilltop Groves, LLC

By:

*[Signature]*  
Joe L. Saunders

Its: Managing Member

STATE OF FLORIDA

COUNTY OF Polk

The foregoing instrument is hereby acknowledged before me this 28<sup>th</sup> day of July, 2004, by Joe L. Saunders, as Managing Member of ( DEVELOPER ), on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

*[Signature]*  
 NOTARY PUBLIC

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



Emily J. Chalm  
 My Commission CD244879  
 Expires August 28, 2007

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**Exhibit A**

**MIDFLORIDA Federal Credit Union  
Business Services  
Irrevocable Letter of Credit**

Date Issued: August 25, 2004Letter of Credit No. 302997

**Beneficiary:** Town of Dundee  
P.O. Box 1000  
105 Center Street  
Dundee, Florida 33838

Honorable Mayor and Town Council Members:

We hereby issue our irrevocable letter of credit in your favor, for the account of Hilltop Groves, LLC, 5529 U.S. 98 North, Lakeland, Florida 33809 in the aggregate amount of USD Five hundred eighty three thousand four hundred nineteen dollars and thirty six cents (\$583,419.36) available to you in three payments upon presentation of your draft(s) at sight on ourselves when accompanied by an affidavit signed jointly by the Town Mayor and Town Manager of Dundee, both authorized representatives of the Town of Dundee, certifying each stage of sewer plant expansion completion has been reached and stating that funds are due and payable by Hilltop Groves, LLC in return for the Town of Dundee reserving and assigning a total of 266 ERC's of sewer plant capacity exclusively for utilization by Hilltop Groves, LLC in accordance with the following schedule as agreed:

Payment No. 1, for the amount of \$107,848.12 is due and payable upon completion of the design engineering and putting of the project out to public bid as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before March 1, 2005;

Payment No. 2, for the amount of \$107,848.12 is due and payable upon 50% of completion of the actual construction of the sewer plant expansion project as certified by the Town's engineer for the sewer plant expansion project, that is expected to occur on or before August 1, 2005;

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Payment No. 3, for the amount of \$367,723.12 is due and payable upon 100% completion and "start-up" of the expanded sewer plant as certified by the Town's engineer for the sewer plant expansion project, which is expected to occur on or before December 31, 2005.

The Town's certifications described herein as to payment requests shall be final and binding on Hilltop Groves, LLC and the MIDFLORIDA Federal Credit Union and once delivered to Hilltop Groves, LLC requires immediate payment to the Town of the funds requested.

This irrevocable letter of credit sets forth in full the terms of our undertaking. This undertaking shall not in any way be modified, amended, or amplified by reference to any document or contract referred to herein.

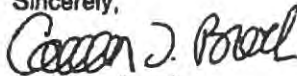
Drafts drawn under this credit must state on their face "drawn under MIDFLORIDA Federal Credit Union Irrevocable letter of credit number 302997 dated August 25, 2004.

It is a condition of this letter of credit that it shall be deemed automatically extended without amendment for one year from the present or any future expiry date unless at least (number of days) prior to such expiration date, we notify you in writing by certified mail or express courier that we elect not to renew this letter of credit for any such additional one year period.

We hereby agree with you that draft(s) drawn under and in compliance with the terms and conditions of this credit shall be duly honored if presented together with documents as specified and the original of this credit, at this office on or before December 31, 2005.

Except as otherwise expressly stated herein, this letter of credit is subject to the Uniform Customs and Practices for Documentary Credits, established by the International Chamber of Commerce, as in effect on the date of issuance of this credit.

Sincerely,



Cameron Brock  
Assistant Vice President  
MIDFLORIDA Federal Credit Union  
Business Services

Exhibit B  
Hilltop Groves ERC Agreement

EXHIBIT B

INSTR # 2021295125  
BK 11979 Pgs 0250-0251 PG(s)2  
11/12/2021 07:29:43 AM  
STACY M. BUTTERFIELD,  
CLERK OF COURT POLK COUNTY  
RECORDING FEES 18.50  
DEED DOC 11,914.00

This document prepared by and Return to:  
Richmond American Homes of Florida LP  
2822 Commerce Park Drive #100  
Orlando, FL 32819

Grantee Tax ID# 33-1077984  
Parcel Tax ID# 272823-000000-013010

### SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED ("Deed") is made this 3 day of November, 2021, between **HILLTOP GROVES, L.L.C.**, a Florida limited liability company, whose address is 5529 US 98N, Lakeland, FL 33809 ("Grantor"), and **RICHMOND AMERICAN HOMES OF FLORIDA, LP**, a Colorado limited partnership, whose address is 2822 Commerce Park Drive, Suite 100, Orlando, Florida 32819 ("Grantee").

### WITNESSETH:

That Grantor, for and in consideration of the sum of TEN and NO/100 DOLLARS (\$10.00), to it in hand paid by the Grantee, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor has bargained and sold and does hereby grant and convey unto the Grantee and the Grantee's heirs, successors and assigns forever, in fee simple absolute, all of Grantor's right, title, and interest in and to the following described land, situate, lying and being in Polk County, Florida, to wit ("Property"):

THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 23, TOWNSHIP 28 SOUTH, RANGE 27 EAST, LESS AND EXCEPT A STRIP OF LAND 15 FEET IN WIDTH OFF THE NORTHERLY, EASTERLY AND SOUTHERLY SIDES THEREOF FOR PUBLIC HIGHWAY PURPOSES, ALSO LESS AND EXCEPT ADDITIONAL ROAD RIGHT-OF-WAY AS SHOWN IN DEED RECORDED IN OFFICIAL RECORDS BOOK 447, PAGE 570, OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA.

TOGETHER WITH all tenements, hereditaments, improvements, fixtures, and appurtenances thereto belonging or in anywise appertaining.

To have and to hold the Property in fee simple forever.

GRANTOR covenants that at the time of delivery of this deed, except as set forth on Exhibit "A" hereto, the Property is free of any liens or encumbrances, and Grantor hereby specially warrant the title to the Property, and will defend it against the lawful claims and demands of all persons claiming by, through or under Grantor, but against none other.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Grantor has executed this Special Warranty Deed as of the day, month and year first above written.

## GRANTOR:

HILLTOP GROVES, L.L.C., a Florida limited liability company

## WITNESSES:

Pam Chancey  
Print Name: Pam Chancey

D. David Norris  
Print Name: D. David Norris

By: Lee Saundero  
Name: LEE SAUNDERO - HILLTOP GROVES, LLC  
Title: MANAGER

STATE OF FLORIDA )

COUNTY OF Polk )

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 3 day of November 2021, by Lee Saundero of Hilltop Grove, L.L.C., a Florida limited liability company, on behalf of the corporation.

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced: \_\_\_\_\_

Pamela G. Chancey  
(Signature of Notary Public)

Pamela G. Chancey  
(Print, Type, or Stamp Commissioned Name of Notary Public)



PAMELA G. CHANCEY  
Commission # NH 010422  
Expires October 18, 2024  
Renewed This Budget History Database

My Commission expires: 10-18-2024

Affix Notary SEAL

Online Notary: ☐ (Check Box if acknowledgment done by Online Notarization)

Stacy M. Butterfield POLK  
CFN# 2021295125 OR BK 11979 PG 251 Pgs 0250-0251 11/12/2021 07:29:43 AM

Exhibit B  
Hilltop Groves ERC Agreement

Exhibit **EXHIBIT B**

File 21000000105

**Stewart Title Guaranty Company  
Combined Statement**

11/1/2021 11:21 AM

Stewart Title Guaranty Company, Tampa

3402 West Cypress Street, Tampa, FL 33607, (813) 700-0020

George Officer: Justice Gaudin

**Seller(s)** Hilltop Groves, LLC, 4650 U.S. Highway 90 North, Lakeland, FL 33809  
**Buyer(s)** Richmond American Homes of Florida, LP, 2622 Commerce Park Drive, Suite 100, Orlando, FL 32816  
**Lender(s)**  
**Property** Property Address  
Lake Haldimochie Road Dundee, Florida 33544

**Star/Store Number**  
Hilltop

**FIN**  
27-00-23-000000-013010

**Closing Date** 11/1/2021 **Disbursement Date** 11/1/2021 **Preparation Date** 11/1/2021

Debit	Credit	Debit	Credit
\$1,702,500.00			\$1,702,500.00
	Settle Price/Commission		
	Settle price plus		
	Escrow fee		
	\$20,000.00 Initial Escrow Money Deposit		
	Escrow fee		
\$647.37			\$647.37
	County issue 11/1/2021 to 11/1/2021 \$1,176,500.00		
\$200,000.00			\$200,000.00
	Other Adjustments		
	Reimbursement to Seller for Owner Impact fee		
	\$0.00 per Lot x 74 Lots		
\$700.00			\$700.00
	Title Charges		
	Statement or closing fee to Stewart Title		
	Commercial Services - Tampa		
\$7,913.04			\$7,913.04
	Title Insurance to Stewart Title Guaranty Company		
	Owner's mortgage \$1,700,000.00 \$0.00		
	- FL 9106 r 8 14 REM Unimproved Land OP STG		
	\$0.00		
\$225.00			\$225.00
	- FL Survey Comm STG \$100.00		
	Document Commission Fee to Stewart Title		
\$600.00			\$600.00
	Commercial Services - Tampa		
	Search Fee - Ordinance No. 61176 to Stewart Title		
	Commercial Services - Tampa		
	Power of Attorney - \$100.00		
	Recording Fee - Special Warranty Deed - Hillsborough		
	\$100.00		\$100.00
	Documentary Stamp Deed		
	\$11,514.00		\$11,514.00
	Additional Charges		
	2021 Real Estate Taxes - Amount \$27,823-		
	200000-013010 to Joe G. Tucker, CPC, Tax		
	Collector for Palm County		
\$1,675,786.87			\$1,675,786.87
	Settlement		
\$1,675,786.87			\$1,675,786.87
	Balance due from Buyer		
\$1,675,786.87			\$1,675,786.87
	Balance due to Seller		
\$1,675,786.87			\$1,675,786.87
	Total		
\$1,675,786.87			\$1,675,786.87

Page 1

File 21000000185

**Stewart Title Guaranty Company  
Combined Statement**

11/12/2021 11:21 AM

Buyer and Seller (Transferee and Transferor) understand the Clear or Gross Agent on behalf of Stewart Title Guaranty Company - Stewart Title Guaranty Company - Commercial Services has obtained the information representing the transaction from the best information available from other sources and cannot guarantee the accuracy thereof. Any and all title report of lender involved may be furnished a copy of this statement. Buyer and Seller (Transferee and Transferor) understand that tax and insurance premiums and charges were based on figures for the preceding year or supplied by others, or based on estimated figures for current year, and, in the event of any change for current year, all necessary adjustments must be made between Buyer and Seller (Transferee and Transferor) directly. The undersigned hereby attests that Stewart Title Guaranty Company - Stewart Title Guaranty Company - Commercial Services to make expenditures and disbursements as shown above and approve the same for payment. The undersigned also acknowledges receipt of proceeds as applicable, and receipt of a copy of this Statement.

Dated as of this 2nd day of November, 2021

Buyer/for

**RICHMOND AMERICAN HOMES OF FLORIDA LP,**  
a Colorado limited partnership

BY: **RAH of Florida, Inc.**, a Colorado corporation,  
General Partner

By: [Signature]  
Title: V.P., Legal

By: [Signature]  
Title: Manager

Stewart Title Guaranty Company,  
a Title Corporation

By: [Signature]  
Title: Commercial Services Officer

Date

Page 2



## EXHIBIT C

## RESOLUTION NO. 20-13

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, MAKING FINDINGS AND, IN ACCORDANCE WITH SECTION 54-18 OF THE CODE OF ORDINANCES OF THE TOWN OF DUNDEE, TEMPORARILY WAIVING IDLE CAPACITY CHARGE(S) FOR A PERIOD OF EIGHTEEN (18) MONTHS BEGINNING ON THE EFFECTIVE DATE OF THIS RESOLUTION AND PROVIDING FOR THE FULL AMOUNT OF THE TOWN OF DUNDEE IDLE CAPACITY CHARGE(S) TO AUTOMATICALLY BE REINSTATED UPON THE EXPIRATION OF EIGHTEEN (18) MONTHS FROM THE EFFECTIVE DATE OF THIS RESOLUTION; PROVIDING FOR APPLICABILITY OF THE TEMPORARY WAIVER OF IDLE CAPACITY CHARGES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in accordance with Section 54-18 of the Code of Ordinances of the Town of Dundee, Florida, the Town Commission has reviewed the current charge(s) for reserved capacity arising out of current and active Equivalent Residential Connection(s) ("ERC") in the Town of Dundee water and wastewater utility system; and

**WHEREAS**, in accordance with Section 54-18(c) of the Code of Ordinances of the Town of Dundee, Florida, the Town Commission may, from time to time, set the amount(s) charged and collected for Idle Capacity charges by resolution; and

**WHEREAS**, in March, 2007 in accordance with Section 54-18 of the Code of Ordinances of the Town of Dundee, the Town Commission adopted Resolution 07-09 establishing Idle Capacity Charges; and

**WHEREAS**, in response to the COVID-19 pandemic and economic difficulties arising therefrom, the Town Commission desires to stimulate new development within the Town of Dundee, Florida, and promote economic activity within the Town of Dundee, Florida; and

**WHEREAS**, the Town Commission desires, for a temporary period of time not to exceed eighteen (18) months and beginning on the effective date of this Resolution, to waive the Idle Capacity Charges imposed by the Town of Dundee, Florida, for any current and active unredeemed ERC and/or paid connection fee; and

**WHEREAS**, the Town Commission finds that a temporary waiver of the Town of Dundee Idle Capacity Charges, for a period of time not to exceed eighteen (18) months beginning on the effective date of this Resolution, will promote the development, growth, and vitality of the Town of Dundee, Florida, and will further the health, safety and welfare of the citizens and residents of the Town of Dundee, Florida.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA:**

Resolution No. 20-13 Page 1

**Section 1.** The above recitals are incorporated as a factual basis for the passage of this Resolution.


**Section 2.** The current amount of all Town of Dundee Idle Capacity Charges as set forth in Section 54-18 of the Code of Ordinances of the Town of Dundee, Florida, and first established by Resolution 07-09 of the Town Commission of the Town of Dundee and related schedule of such charges that may be on file in the Town Clerk's office are hereby temporarily waived for a period of eighteen (18) months beginning on the effective date of this Resolution; and all Idle Capacity Charges shall automatically be reinstated to the amount(s) charged on the effective date of this Resolution as of December 23, 2021. All other provisions of Section 54-18 of the Code of Ordinances of the Town of Dundee, Florida, and Resolution 07-09 shall remain in full force and effect.

**Section 3.** The temporary waiver of the Town of Dundee Idle Capacity Charges established by this Resolution shall apply prospectively beginning on the effective date of this Resolution. The temporary waiver of the Town of Dundee Idle Capacity Charges shall not be applicable to waive any currently past-due or delinquent charge(s) for unpaid Idle Capacity Charges; and the temporary waiver of the Town of Dundee Idle Capacity Charges shall not be applicable to unredeemed ERCs which are inactive, expired, and/or have not been renewed by the Town Commission on or before the effective date of this Resolution.

**Section 4.** This Resolution shall be effective immediately upon passage by the Town Commission.

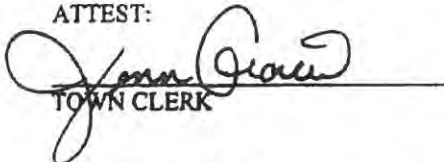
**INTRODUCED AND PASSED** by the Town Commission of the Town of Dundee, Florida, in regular session this 23rd day of June, 2020.

**TOWN OF DUNDEE, FLORIDA**



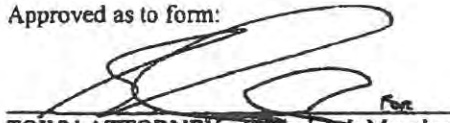
MAYOR- Sam Pennant

ATTEST:



TOWN CLERK

Approved as to form:



TOWN ATTORNEY - Frederick J. Murphy, Jr.

Resolution No. 20-13 Page 2



**RESOLUTION NO. 20-13**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, MAKING FINDINGS AND, IN ACCORDANCE WITH SECTION 54-18 OF THE CODE OF ORDINANCES OF THE TOWN OF DUNDEE, TEMPORARILY WAIVING IDLE CAPACITY CHARGE(S) FOR A PERIOD OF EIGHTEEN (18) MONTHS BEGINNING ON THE EFFECTIVE DATE OF THIS RESOLUTION AND PROVIDING FOR THE FULL AMOUNT OF THE TOWN OF DUNDEE IDLE CAPACITY CHARGE(S) TO AUTOMATICALLY BE REINSTATED UPON THE EXPIRATION OF EIGHTEEN (18) MONTHS FROM THE EFFECTIVE DATE OF THIS RESOLUTION; PROVIDING FOR APPLICABILITY OF THE TEMPORARY WAIVER OF IDLE CAPACITY CHARGES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in accordance with Section 54-18 of the Code of Ordinances of the Town of Dundee, Florida, the Town Commission has reviewed the current charge(s) for reserved capacity arising out of current and active Equivalent Residential Connection(s) ("ERC") in the Town of Dundee water and wastewater utility system; and

**WHEREAS**, in accordance with Section 54-18(c) of the Code of Ordinances of the Town of Dundee, Florida, the Town Commission may, from time to time, set the amount(s) charged and collected for Idle Capacity charges by resolution; and

**WHEREAS**, in March, 2007 in accordance with Section 54-18 of the Code of Ordinances of the Town of Dundee, the Town Commission adopted Resolution 07-09 establishing Idle Capacity Charges; and

**WHEREAS**, in response to the COVID-19 pandemic and economic difficulties arising therefrom, the Town Commission desires to stimulate new development within the Town of Dundee, Florida, and promote economic activity within the Town of Dundee, Florida; and

**WHEREAS**, the Town Commission desires, for a temporary period of time not to exceed eighteen (18) months and beginning on the effective date of this Resolution, to waive the Idle Capacity Charges imposed by the Town of Dundee, Florida, for any current and active unredeemed ERC and/or paid connection fee; and

**WHEREAS**, the Town Commission finds that a temporary waiver of the Town of Dundee Idle Capacity Charges, for a period of time not to exceed eighteen (18) months beginning on the effective date of this Resolution, will promote the development, growth, and vitality of the Town of Dundee, Florida, and will further the health, safety and welfare of the citizens and residents of the Town of Dundee, Florida.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA:**

**Section 1.** The above recitals are incorporated as a factual basis for the passage of this Resolution.

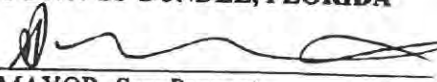
**Section 2.** The current amount of all Town of Dundee Idle Capacity Charges as set forth in Section 54-18 of the Code of Ordinances of the Town of Dundee, Florida, and first established by Resolution 07-09 of the Town Commission of the Town of Dundee and related schedule of such charges that may be on file in the Town Clerk's office are hereby temporarily waived for a period of eighteen (18) months beginning on the effective date of this Resolution; and all Idle Capacity Charges shall automatically be reinstated to the amount(s) charged on the effective date of this Resolution as of December 23, 2021. All other provisions of Section 54-18 of the Code of Ordinances of the Town of Dundee, Florida, and Resolution 07-09 shall remain in full force and effect.

**Section 3.** The temporary waiver of the Town of Dundee Idle Capacity Charges established by this Resolution shall apply prospectively beginning on the effective date of this Resolution. The temporary waiver of the Town of Dundee Idle Capacity Charges shall not be applicable to waive any currently past-due or delinquent charge(s) for unpaid Idle Capacity Charges; and the temporary waiver of the Town of Dundee Idle Capacity Charges shall not be applicable to unredeemed ERCs which are inactive, expired, and/or have not been renewed by the Town Commission on or before the effective date of this Resolution.

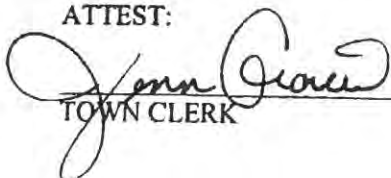
**Section 4.** This Resolution shall be effective immediately upon passage by the Town Commission.

**INTRODUCED AND PASSED** by the Town Commission of the Town of Dundee, Florida, in regular session this 23rd day of June, 2020.

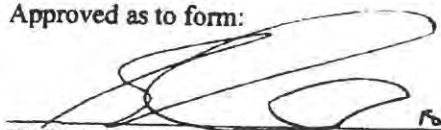
**TOWN OF DUNDEE, FLORIDA**

  
MAYOR- Sam Pennant

ATTEST:

  
TOWN CLERK

Approved as to form:

  
TOWN ATTORNEY - Frederick J. Murphy, Jr.

Resolution No. 20-13 Page 2



# TOWN COMMISSION MEETING

May 27, 2025 at 6:30 PM

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<b>AGENDA ITEM TITLE:</b>	DISCUSSION & ACTION, RFP 25-03 COMMERCIAL SOLID WASTE
<b>SUBJECT:</b>	The Town Commission will consider authorizing the Town Manager to release a Request for Proposal (RFP) 25-03 for the renewal of the Commercial Solid Waste contract with Republic Services.
<b>STAFF ANALYSIS:</b>	Staff has prepared a Request for Proposals (RFP) 25-03 for Commercial Solid Waste Services for the Town of Dundee, as the current contract is due for renewal. The proposed RFP outlines a 12-month contract term with a provision allowing the Town to terminate the agreement with written notice. Staff is requesting authorization to finalize posting dates, advertise the RFP for bids, and return to the Commission with the submitted proposals for review and approval at a future meeting."
<b>FISCAL IMPACT:</b>	None
<b>STAFF RECOMMENDATION:</b>	Staff recommends approval
<b>ATTACHMENTS:</b>	Table of Contents Work Scop General Provisions Work Summary

# THE TOWN OF DUNDEE, FLORIDA



## REQUEST FOR PROPOSAL FOR

**Commercial Solid Waste Collection and services**

**RFP NUMBER: 25-00**

**Responses are due by**

### MAIL OR DELIVER RESPONSES TO:

Town of Dundee  
Attn: RFP 25-00  
202 East Main Street  
PO BOX 1000  
Dundee, FL 33838

### Contact:

Erica Anderson  
Assistant Town Manager/Town Clerk  
Town of Dundee  
Email: eanderson@townofdundee.com  
(863) 438-8330, Ext 258



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**RFP 25-00**

**FY 2024-2025 Commercial Solid Waste Collection and services**

**Sealed Bids marked “SEALED BID – FY 2024-25 Commercial Solid Waste Collection and services**

will be received by the Town Manager of the Town of Dundee, Florida, **until ???** at P.O. Box 1000, 202 East Main Street, Dundee, Florida 33838, for the following:

Furnish all labor, materials, equipment and supervision necessary to Demo existing floor plan as shown in Exhibit A and construct a floor plan as shown in Exhibit B contractor will be responsible to submit plans for approval and permitting.

On \_\_\_\_\_, bids will then and there be publicly opened and read aloud at a meeting of the Purchasing Review Committee.

A Pre-Bid meeting will be held at Town Hall, 202 East Main Street, Dundee, Florida 33838, at \_\_\_\_\_ for the purpose of answering any questions bidders may have in reference to the project(s).

The project specified shall be furnished in accordance with this Request for Proposal, Work Specifications, Terms and Conditions, and Work Summary attached hereto and made a part hereof as if fully set forth herein.

Questions may be submitted to the **Town Clerk until 4:30pm on ???, 2025**. For more information regarding this RFP 20-02, please contact **Erica Anderson, Town Clerk, (863) 438-8330 or by e-mail at [eanderson@townofdundee.com](mailto:eanderson@townofdundee.com)**

**Public Records** - It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each governmental agency. §119.01, Fla. Stat. (2019). As such, do not submit any document(s) that you do not want to be made public.

Bidders shall submit bids on the Proposal and Bid Form furnished by the Town. Please note the NON-COLLUSION AFFIDAVIT OF PRIME BIDDER form which must also be completed. A W-9 form must be attached to the bid when returned by the responding vendor. Payment will be rendered to the name and ID appearing on the W-9. A client reference list that includes at least three (3) references and a summary of the bidders' qualifications and experience should be submitted in the bid packet. The bidder shall submit a tentative timeline detailing the process and anticipated timeline necessary to complete the project.

**An original and five (5) copies, a total of six (6), of the proposal shall be submitted in sealed envelopes/packages addressed to Trevor Douthat Town Clerk , Town of Dundee, Florida, and marked **RFP 25-00:** Commercial Solid Waste Collection and services**

The Town of Dundee welcomes your response to this RFP. The Town of Dundee reserves the right to reject any proposal found to be non-responsive, vague, non-conforming, or irresponsible. The Town of Dundee may withdraw all or part of this RFP at any time to protect its best interest. The desire of the Town of Dundee to pursue proposals shall in no way obligate the Town to compensate you for your efforts or to execute a contract. All proposers are asked to be thorough yet concise in the response(s) to this RFP. The failure to provide a response in the manner prescribed herein shall be grounds for disqualification.

The Town of Dundee reserves the right to reject any and all bids, waive informalities, re-advertise, and the Town of Dundee may enter into a contract determined, in the sole discretion of the Town of Dundee, to be in its best interest, in accordance with the Terms and Conditions referenced herein above.

## TOWN OF DUNDEE – GENERAL PROVISION CLAUSE(S) TERMS AND CONDITIONS

### 1) GENERAL CONDITIONS:

- a) Bidders are required to submit their proposals subject to and upon the express terms and conditions set forth herein.
- b) Bidders shall thoroughly examine the specifications, instructions, all other Contract Documents (as defined in Section 2), visit the site of this project (if applicable) and fully acquaint itself, at its own risk, with all conditions which may affect completion of this project and/or delivery of bid items.
- c) These Terms and Conditions and any Contract Documents are subject and subordinate to any existing or future state, federal, or local law, regulation, or written policy, which may be applicable hereto, including any applicable building codes.
- d) Notwithstanding anything in this Request For **Commercial solid waste collection and services No. 25-00 (the "RFP")** to the contrary, the obligation of the Town of Dundee (the "Town") to furnish payment is expressly subject to appropriation(s) of sufficient public funds by the Town Commission of the Town of Dundee, Florida. In the event the Town Commission of the Town of Dundee fails to appropriate sufficient funds to satisfy the payment obligations to the successful bidder of any kind or type, the Town and/or successful bidder may immediately terminate any agreement entered into pursuant to this RFP and be released from any future responsibility or liability thereunder.

### e) **PUBLIC RECORDS:**

The Town and Contractor (as defined in Section 2) agree that the Contractor shall comply with Florida's public records laws to specifically include the following:

Public Records. Consultant/Bidder/Contractor agrees to:

- i) Keep and maintain public records required by the public agency to perform the service.
- ii) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copies within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the 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 contract term and following completion of the contract if the Contractor does not transfer the records to the public agency.
- iv) Upon completion of the Contract (as defined in Section 2), transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public

records to the public agency upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

- f) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-438-8330, [eanderson@townofdundee.com](mailto:eanderson@townofdundee.com) P.O. Box 1000, 202 East Main Street, Dundee, Florida 33838.**

**If the Contractor does not comply with a public records request, the Town shall enforce the Contract provisions which may include immediate termination of the Contract.**

- g) It shall be understood and agreed that by the submission of a proposal, the Contractor, if awarded a contract, shall save harmless and fully indemnify the Town and any of its officers, or agents from any and all damages that may, at any time, be imposed or claimed for infringement of any patent right, trademark, or copyright of any person or persons, association, or corporation, as the result of the use of such articles by the Town, or any of its officers, agents, or employees, and of which articles the Contractor is not the patentee, assignee, licensee, or lawfully entitled to sell same.
- h) It is the intent of the Town that this RFP promotes competitive bidding. It shall be the bidder's responsibility to advise the Town at the address noted on the cover letter, if any language, requirements, etc. inadvertently limits the requirements stated in this RFP to a single source. Such notification shall be received in writing not later than ten (10) days prior to the bid opening date.
- i) Bidders must possess any applicable business, contractor, or occupational licenses at the time of submission of the bid. The Town may request proof of such licensure. Bidders shall also obtain all permits required for this project.
- j) The Town shall be entitled to rely on the written representations of the bidder. No claims shall be paid by the Town unless in writing and approved by the Town. Additionally, sovereign immunity is not waived as to any verbal representations or comments made by the Town.
- k) Unless detailed elsewhere in the bid documents, proof of insurance naming the Town as an additional insured shall be required of the successful bidder (on any project requiring work, labor, and/or installation on Town property) with the following minimum coverage: workers compensation, general liability, and automobile insurance in an amount and form acceptable to the Town, with limits of not less than one-million dollars and zero cents (\$1,000,000.00).

## 2) DEFINITIONS

Words used in the RFP and/or Contract Documents any and all attachment(s) and/or exhibit(s) incorporated and made a part hereof shall possess their everyday and ordinary meaning, provided however, that where one (1) of the following listed terms is used, such term(s) shall possess the corresponding meaning, as follows:

- a) **APPLICABLE LAW:** Any contract entered into pursuant to this RFP shall be construed in accordance with the laws of the State of Florida.
- b) **BUSINESS DAYS:** Any calendar day which is not a Saturday, Sunday or holiday which is recognized by the Town of Dundee, Florida.
- c) **CALENDAR DAYS:** Any and all days in a 365-day calendar year.
- d) **CHANGES:** The Town, without invalidating the Contract, may order changes, including additions, deletions, or modifications. The Parties recognize that said changes may affect price and time for performance, in which event appropriate adjustments will be considered. All such changes in the work shall be authorized in writing, signed by the Town Manager or his/her designee. The price and the time for performance may be changed only by Change Order Request. By written instructions to the Contractor, the Town may make minor changes in the work which are consistent with the purpose of the work, and which do not change the contract price or time for completion. The Town Manager shall be notified of any proposed changes in: (a) materials used, (b) manufacturing process, or (c) construction. However, changes shall not be binding upon the Town unless evidenced by a Change Order Request issued and signed by the Town Manager.
- e) **DAYS:** A calendar day unless specifically stated otherwise.
- f) **TOWN:** The Town of Dundee, Florida, a Florida municipal corporation, and/or its authorized representative vested with home rule authority pursuant to the Municipal Home Rule Powers Act, Chapter 166 of the Florida Statutes, and Article VIII, §2 of the Florida Constitution; and the Town is therefore vested with governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, including the general exercise of any power for municipal purposes.
- g) **CONTRACT:** The agreement entered into and executed by the Town and Contractor and includes, but shall not be limited to, the Contract Documents.
- h) **CONTRACTOR:** The successful bidder who enters into the Contract with the Town to complete the project set forth in the RFP.
- i) **DEFAULT:** Default in promised delivery of supplies, completion of project, or failure to meet specifications authorizes the Town to terminate the Contractor's right to proceed with the order/work by giving the Contractor written notice. The defaulting Contractor may, at the discretion of the Town, be charged the increase in cost(s) of obtaining the goods/services elsewhere.

- j) **CONTRACT DOCUMENTS:** The RFP; Terms and Conditions; Contract; Bond; Performance Bond; Maintenance Bond; Contract Bond; Special Provisions; Specifications; Technical Specifications; Proposal and Bid Form; Engineering Plans and/or Drawings; Addenda issued before, during and after the bidding period for the RFP; Change Orders issued after the Contract is let; and any other document incorporated by reference and/or annexed hereto.
- k) **INDEMNIFICATION:** Contractor shall hold harmless, indemnify, and defend the Town, its elected officials, appointed officers, and employees, representatives, or agents, against any claims, action, loss, damage, injury, liability, tax, assessment, cost or expense of whatever kind (including, but not by way of limitation, attorneys' fees and court costs (in bankruptcy, trial and appellate matters in any judicial and/or administrative tribunal) arising out of and/or incidental to the Contractor performance of this Contract. Other specific references to the Contractor duty to indemnify the Town and hold it harmless, which may be set forth herein, shall be construed as in addition to, and not as a limitation of the requirements of this section. The Town shall be entitled to recover its reasonable attorneys' fees, including trial and appellate, and court costs in the event judicial and/or administrative enforcement of this Contractor indemnity is required.
- l) **INSPECTION:** The goods and services purchased are subject to the inspection and approval by the Town. The Town reserves the right to reject goods and services which do not conform to provisions of the Contract Documents.
- m) **INSURANCE:** As specified in the Contract Documents.
- n) **LIMITATION ON MUNICIPAL INDEMNITY:** To the extent that the Contract calls for the Town to indemnify any party thereto, the following sentence shall be appended to the indemnity and shall control the indemnity as if set forth therein, as follows:
  - i) "Provided, however, that regardless of whether any such obligations incurred hereunder are based on tort, contract, statute, strict liability, negligence, product liability or otherwise, the obligations of the Town of Dundee under this indemnification provision shall be limited in the same manner that would have applied if such obligations were based on, or arose out of, an action at law to recover damages in tort and were subject to Section 768.28, Florida Statutes, as that section existed at the inception of this Contract." Provided further, no waiver of the Town's sovereign immunity is intended to be made herein.
  - ii) The addition of this language shall not be construed to create Town indemnifications where none are expressly made in the terms and conditions of the contract or agreement.
- o) **STATEMENT OF ASSURANCE:** No bids submitted shall be considered unless the bidder warrants that, upon execution of a Contract with the Town, it shall:
  - i) not engage in employment practices that have the effect of discriminating against employees or prospective employees because of race, color, religion, sex, national origin, age, handicap, or marital status; and
  - ii) will submit such reports as the Town may thereafter require to assure compliance.



- p) **SUB-CONTRACTOR:** An individual, person, firm, company, corporation, association, entity, society, or group which enters into a contract with the Contractor to do a portion of the work on and/or for the project.
- q) **TITLE:** The risk of loss of goods covered by the Contract Documents shall remain with the Seller and/or Contractor until the goods have been delivered to a designated site and actually received by the Town. Any damage to the material and equipment, or loss of any kind, occasioned in transit shall be borne by the Seller and/or Contractor.
- r) **WARRANTY:** The Contractor shall not incorporate in the work of a project any materials or equipment subject to a chattel mortgage, a conditional sales contract, or any other agreement permitting a vendor to retain an interest. The Contractor shall warrant clear title to all materials and equipment incorporated in the work when the project is completed, and the Contractor shall deliver to the Town the improvements it has incorporated free of any lien or claim. The provisions of this section shall be included in all contracts with vendors and Sub-Contractors. **Vendors who furnish materials without a formal contract shall be given notice by the Contractor that this provision exists.**
- s) **VENUE:** Any legal or equitable action or proceeding concerning this Contract shall be brought in the State Courts of Polk County, Florida.

### 3) INTERPRETATIONS OR ADDENDA:

- a) No oral interpretation will be made to any Contractor as to the meaning of the Contract Documents or any part thereof to include any error, omission, discrepancy, or vagueness. Every request for such an interpretation shall be made in writing to the Town Manager. Any inquiry received prior to the cut-off time and date for questions will be given consideration. Where necessary, interpretations made to a Contractor will be in the form of an Addendum to the Contract Documents ("Addenda"), and when issued by the Town, will be on file and available to the public upon request at the Town.
- b) The Town shall not be responsible for the safe delivery of the Addenda and/or notification of same. It shall be the Contractor responsibility to make inquiry as to the Addenda issued. All such Addenda shall become part of the Contract Documents, whether received or not.

### 4) MANUFACTURER'S NAMES AND APPROVED EQUIVALENTS:

- a) Unless specifically set forth in the specifications, any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification are for information and not intended to unfairly limit competition. The Contractor may offer any brand for which they are an authorized representative, which meets or exceeds the specification(s) for any item(s) and/or deliverables required in the RFP. If bids are based on equivalent products, indicate on the Bid Form (see attachment), the manufacturer's name and number. The Contractor shall submit with their proposal descriptive literature and/or complete specifications. Reference to literature submitted with a previous bid will not satisfy the provision. The Contractor shall also explain in detail the reasons why the proposed equivalent will meet the specifications and not be considered

an exception thereto. Bids which do not comply with these requirements are subject to rejection within the discretion of the Town.

- b) **Alternate bids shall not be considered unless alternate bids are specifically required by the technical specifications set forth in the Contract Documents. For purposes of this provision, alternate bids shall mean any bid which deviates from the specific type of product; method of construction; or plans specified in the RFP.**

## 5) SAMPLES:

Samples of products, when called for, must be furnished free of expense and may, upon request, be returned at the Contractor expense. Each individual sample must be labeled with the Contractor name, manufacturer's name brand name and number, bid number and item reference. If forwarding instructions, payment for postage, and/or pick-up, is not made by the Contractor within ninety (90) days of the bid opening, the commodities shall be disposed of by the Town.

## 6) PROTEST PROCEDURES:

The Town encourages prompt and fair handling of all complaints and disputes with the business community. In order to resolve disputed matters in a fair, timely and equitable manner, without fear of retribution on the part of a vendor or person, the following shall apply:

- a) All formal responses to the RFP shall include the following statement: **"NOTE: THE FAILURE TO FOLLOW THE BID PROTEST PROCEDURE REQUIREMENTS WITHIN THE TIME FRAMES PRESCRIBED HEREIN AS ESTABLISHED BY THE TOWN OF DUNDEE, FLORIDA, SHALL CONSTITUTE A WAIVER OF BIDDERS PROTEST AND ANY RESULTING CLAIMS."**
- b) **RIGHT TO PROTEST:** Any aggrieved, actual, or prospective bidder in connection with the RFP may protest to the Town Manager of the Town prior to the award of a contract by the Town Commission of the Town of Dundee.
- c) **NOTIFICATION:** The Town shall post all recommendation of awards available for review by the General Public.
- d) **INITIAL NOTICE:** Any person adversely affected by an intended decision or action with respect to the initial recommendation of award of any bid or action shall file a written notice of intent to file a protest. For the purpose of computation of time, the initial notice of intent to file a protest must be received by the Town Manager no later than 3:00 p.m. on the third (3rd) workday following the date of the notice of the initial recommendation of award (excluding Saturdays, Sundays and legal Town holidays).

In addition, a non-refundable protest bond (the "Bond") in the amount of one thousand dollars and zero cents (\$1,000.00) in the form of a cashier's check payable to the Town shall be submitted with the initial notice of intent to file a protest. The initial notice of intent to file protest shall be in writing and shall state the basis of the protest (recommendation of award protest or other) and clearly indicate that its purpose is to serve as the initial notice of intent to file a protest. Failure to clearly indicate its intent or failure to provide a Bond shall constitute a waiver of the right to seek any remedy provided under these protest procedures.

Upon the timely receipt of an initial notice of intent to file a protest and the required Bond, the Town shall toll (put on hold) any further actions related to the recommendation of award (except as noted below). Should the affected party decide to withdraw its initial notice of intent to file a protest during the tolled action the Bond will be refunded in full. This is the only reason the Town will refund the Bond other than a finding in favor of the protestor.

**If during tolled action, the Town Manager determines that an Emergency Purchase (as defined by the Code of Ordinances of the Town of Dundee) is necessary, action may be taken to secure the goods or services.**

- e) **FORMAL NOTICE:** Any person who has filed an initial notice of intent to file a protest, as described above, shall file a formal written protest within ten (10) calendar days after the date of the filing of the initial notice of intent to file a protest. Any amendment to the formal written protest shall be in writing and received by the Town Manager within ten (10) calendar days of the date of the initial notice of intent to file a protest. No amendments to the protest will be allowed after the ten (10) calendars day period has expired.

**The formal written protest shall contain the following:**

- i) Town bid number and/or title (if applicable);
  - ii) Name and/or address of the Town department, division or agency affected;
  - iii) The name and address of the affected party;
  - iv) The title and position of the person submitting the protest;
  - v) A statement of disputed issues of material fact;
  - vi) If there are no disputed material facts, the written letter must so indicate;
  - vii) Concise statement of the facts alleged;
  - viii) Statement identifying with specificity the rule(s), regulation(s), statute(s), ordinance(s), and/or constitutional provision(s) entitling the affected party to the relief requested;
  - ix) Statement identifying with specificity the relief which an entitlement is alleged; and
  - x) Such other information as the affected party deems to be material to the issue.
- f) **PROTEST MEETING:** The Town will notify all parties and schedule a protest meeting. The protest will be presented to the Protest Committee, which shall be made up of three (3) members consisting of the Town Manager or his/her designee who shall serve as the Chairperson, the Town of Dundee Finance Director or his/her designee and a designated member of the Purchasing Review Committee. The Town Attorney or designee shall be present and act in an advisory capacity to the Protest Committee.

The Protest Committee shall meet with the protesting party within fourteen (14) business days of receipt of the formal written protest. The response time may be extended, if necessary. All affected parties will be notified of the location, date and time of the bid protest meeting and will be allowed the opportunity to make their presentation to the Bid Protest Committee. The parties may bring a representative if they so choose.

The Town Manager shall present the background for the protest to the Bid Protest Committee. The purpose of the protest meeting is: (1) to question and review the basis of the protest; (2) to evaluate the facts and merits of the protest; and (3) gather information in order to make a decision.

The agenda for the bid protest meeting will be:

- i) The background as to why the recommendation for award was made or why the vendor was not selected.
  - ii) The protesting party or their representative will speak to how they were adversely affected by the decision of the Town.
  - iii) Any other affected parties or their representative will be given the opportunity for rebuttal and to present any facts that they deem are relevant to the protest.
  - iv) During the meeting, the Bid Protest Committee may ask questions of all parties as necessary.
- g) The Bid Protest Committee will render their decision in writing within five (5) business days of the bid protest meeting.
- h) The Town Manager may conduct an evidentiary hearing if there are disputed issues of material fact. The Town Manager will conduct a review and make a final written decision within ten (10) business days after the rendering of the decision of the Bid Protest Committee. **The Town Manager's decision shall be final and binding. No further protests of the action in question will be heard by the Town.**
- i) Any person who is aggrieved by the final and binding decision of the Town Manager shall be entitled to a review of the final and binding decision by the 10th Judicial Circuit Court of Polk County, Florida, by filing an appropriate petition with the Clerk of the Court within 30 calendar days following the rendering of the Town Manager's final and binding decision.

## 7) PROPOSALS:

- a) The bid must contain a manual signature of an authorized representative in the space provided on the applicable form. Each party shall be responsible for the accuracy of his/her/its proposal. A party cannot obtain relief by pleading that its bid was in error.
- b) Submittals to the RFP shall be received no later than the time and date set forth in the RFP. No bid shall be accepted after the specified deadline or at any location other than that specified in the RFP. Any bid received late or because of submittal to another location will be maintained unopened in the bid file. Bids properly received will be opened at the time, date, and place set forth in the RFP.

- c) The Town may elect to cancel or postpone the RFP at any time prior to the time and date set to open the subject bid(s).
- d) Sealed bids, proposals, or replies received by the Town pursuant to the RFP are exempt from disclosure under Section 119.071 of the Florida Statutes and s.24(a), Art. I of the Florida Constitution until such time as the Town provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.
- e) If the Town rejects all bids, proposals, or replies submitted in response to the RFP and the Town concurrently provides notice of its intent to reissue the RFP, the rejected bids, proposals, or replies remain exempt from disclosure under Section 119.071 of the Florida Statutes and s. 24(a), Art. I of the Florida Constitution until such time as the Town provides notice of an intended decision concerning the reissued RFP or until the Town withdraws the reissued RFP. A bid, proposal, or reply is not exempt for longer than twelve (12) months after the initial Town notice rejecting all bids, proposals, or replies.
- f) Bid and a non-collusion affidavit(s) (see attachments) should be submitted on the forms furnished by the Town and completed without additions, modifications, deletions, and erasures. Bids not submitted on attached bid form(s) shall be rejected. Bids must be typed or printed in ink. All corrections must be initialed. Each bidder shall deliver its sealed proposal to the location specified by the RFP. It is the bidder responsibility to assure that its bid is delivered at the proper time and place of the bid opening. Bids which are not received, as set forth in the RFP, shall not be considered by the Town.
- g) Telegraph, telephone, e-mail, electronically transmitted, or facsimile (FAX) bids shall not be considered. Bids may be modified, in writing, provided such modification is received at the location specified for submission and prior to the time and date set for the bid opening. Each bidder shall be solely responsible for the costs associated with the preparation and submittal of its bid in response to the RFP.
- h) **BIDS RECEIVED AFTER THE TIME AND DATE SET FOR THE BID OPENING SHALL NOT BE CONSIDERED.**

## **8) PRICES, TERMS, AND PAYMENT:**

- a) Prices shall be firm and good for ninety (90) days after the bid opening and shall include all labor, materials, supplies, equipment, overhead, profit, insurance, applicable taxes, packing, shipping charges, and delivered to any point designated by the Town.
- b) **Taxes:** (For purchase of products only) - Bids shall not include federal excise or state sales taxes in bid prices of products only as these are not applicable to municipalities.
- c) **Discounts:** Contractor may offer a cash discount for prompt payment; however, such discounts shall NOT be considered in determining the lowest net cost for bid evaluation

purposes. The bidder(s) are encouraged to reflect cash discounts in the unit prices quoted. Any discount offered shall allow no less than fifteen (15) business days for payment.

#### **9) SUBMITTING A "NO BID" OR A "NO CHARGE":**

Any bidder intending to not bid on some of the item(s) sought by this solicitation must mark those item(s) as "No Bid." However, if some of the item(s) are being offered at no charge, then items must be marked as "No Charge." Items that are left blank shall be considered a "No Bid" for that item, and the bid shall be evaluated accordingly.

#### **10) MISTAKES; INACCURACIES; INCOMPLETE INFORMATION:**

- a) All bidders are expected to examine the specifications, delivery schedule, bid prices, and all instructions pertaining to supplies and services. The failure to do so will be at the bidder risk.
- b) **In the Purchasing of goods or supplies, without labor, where the bid contains a mistake in extension or total bid amount, the unit price will govern.** The Town shall be entitled to presume that a mistake has been made where the unit price and total or extension do not equate.
- c) The Town reserves the right to contact a bidder, telephonically or in writing, to clarify inconsistent, inaccurate, or confusing information regarding the proposal submitted. As well, the Town reserves the right to demand the execution or re-execution of the proposal, affidavits, or certification required to be accompanied with the bid proposal, when it appears to the Town that the deficiency was an oversight in good faith. It shall be presumed that proposals submitted without a single signature on an affidavit or on the proposal is non-responsive and shall not be considered for clarification or correction.

#### **11) SAFETY STANDARDS:**

Unless otherwise stipulated in the bid, all manufactured items and fabricated assemblies shall comply with applicable requirements of federal, state, and local law, including, but not limited to, the Occupational Safety and Health Act and regulations or standards thereunder.

#### **12) INVOICING AND PAYMENT:**

The Contractor shall be paid upon submission of proper invoices to the Town at the prices stipulated in the Contract at the time the order is placed, after delivery and acceptance of the goods, less deductions, if any, within thirty (30) business days after approval of invoice by the Town. If a cash discount is taken by the Town on a prompt payment invoice, payment shall be made within the time specified, but not less than fifteen (15) business days. All invoices shall include the purchase order number for purchases against any contract resulting from this bid. An original and one (1) copy of the invoice shall be submitted. Failure to follow these instructions may result in

delay in processing invoices for payment. In addition, the purchase order number must appear on bills of lading, packages, cases, delivery lists and correspondence. No overcharge will be paid. In the event an invoice is submitted with an overcharge, a credit memo must be submitted in order to correct such overcharge. Any applicable discounts that apply as a result of the Contract shall be taken even though the allowable time has lapsed due to the time awaiting credit memorandum(s).

### **13) WITHDRAWAL OF PROPOSALS:**

A bid proposal may be withdrawn prior to the time fixed for the bid opening, if proper written notification is received, at the location specified for submission in the RFP, prior to the time fixed for the bid opening. A proposal may also be withdrawn if the Town does not accept it within ninety (90) calendar days after the date fixed for the bid opening. Notwithstanding any withdrawal, all bid documents received by the Town in response to the RFP shall remain the property of the Town.

### **14) NONCOLLUSION AGREEMENT:**

Any bidder submitting a bid for the RFP shall execute and submit with its bid a non-collusion affidavit (see attachments) which states that it has not entered into a collusive agreement with any other person, firm, or corporation in regard to any bid submitted in response to the RFP.

### **15) REJECTION OF BIDS:**

The Town may reject a bid if:

- a) The bidder misstates or conceals any material fact in the bid;
- b) The bid does not strictly conform to the law or the requirements which includes, but is not limited to, the terms and conditions set forth in the RFP; or
- c) A bid is submitted in bad faith and/or in a manner intended to undermine the competitive sealed bid selection process.

**The Town Manager and/or the Town Commission shall have the right to act in the best interests of the Town and reject any and all bids and request the entire transaction be rebid. The Town may also waive any minor informalities, irregularities, or technicalities in any bid.**

### **16) STATEMENT OF QUALIFICATIONS:**

Each bidder shall, upon request of the Town, submit a statement of qualifications, its experience record in furnishing a particular commodity or constructing any type of improvements embraced in the Contract Documents, its organization and equipment available for the work contemplated, and, when specifically requested by the Town, appropriate financial information which would assist in determining the ability and solvency to perform work contemplated by the Contract Documents.



The bidder may also be requested to furnish references which the Town may use to verify claims of competency. The Town shall have the right to take such steps as it deems necessary to determine the ability of the bidder to perform its obligations under the Contract Documents; and the bidder shall furnish the Town all such information and data for this purpose as it may request.

**The right is reserved to reject any bid where an investigation of the available evidence or information does not satisfy the Town that the bidder is qualified to carry out properly the terms of the Contract Documents.**

#### **17) AWARD OF CONTRACT:**

- a) The Town reserves the right to award contract(s) to more than one Contractor, to split awards, to award contracts by item or group of items, to make partial awards, or to decrease or increase any or all quantities that is in the Town's best interest.
- b) The Contractor may qualify its bid for acceptance by the Town on an "All or None" basis. An "All or None" basis bid must include all items upon which bids are invited. Contractor is hereby notified that a bid submitted on an "All or None" basis is at risk for rejection in instances where the Town may deem it necessary to split or divide a project as set forth herein. **Contractor shall denote on the front page of the bid proposal as to whether the bid is an "All or None" bid.**
- c) A written award of acceptance mailed or otherwise furnished to the Contractor results in a binding contract without further action by either party.
- d) After issuance of a notice of intent to award and no protests having been timely filed, award shall be made to the lowest, most responsive, and responsible party (or as specified in the RFP). Additional criteria as set forth in the RFP will be considered in the award of the bid. The lowest most responsive and responsible party will be determined after evaluation of the bid by the Town. In determining the lowest most responsive and responsible party, in addition to price, the following may be considered as criteria if noted in the bid documents:
  - i) Evaluations and quality of performance on previous projects;
  - ii) Ability, capacity, equipment and skill of the party to fulfill the contract;
  - iii) Ability to fulfill the contract within the time specified, without delay;
  - iv) Character, integrity, reputation, judgment, experience and efficiency;
  - v) Previous compliance with laws and ordinances relating to the contract;
  - vi) Sufficiency of the financial resources to fulfill the contract;
  - vii) Quality, availability and adaptability of the supplies or contractual services;
  - viii) Ability to provide future maintenance and service, as required or needed; and
  - ix) Number and scope of conditions attached to the bid.

#### **18) OTHER GOVERNMENTAL ENTITIES:**

The Town encourages and agrees to the Contractor extending the pricing, terms, and conditions of this RFP and the Contract (if there is any such resulting contract) to other governmental entities at the discretion and/or option of the Contractor.

#### **19) PERFORMANCE:**

- a) Contractor shall keep the Town advised at all times of status of the work performed pursuant to the Contract Documents. The Contractor's default in promised delivery of supplies, completion of project, or failure to meet specifications authorizes the Town to terminate the Contractor's right to proceed with the Contract. In the event the Town terminates the Contractor's right to proceed, the Town shall provide the Contractor with written notice; and thereafter, the Town may purchase supplies and services elsewhere. Any increase in charge(s) and/or cost(s) incurred by the Town shall be charged to the defaulting Contractor.
- b) The Contract shall not be terminated, or the Contractor charged with liquidated damages (if otherwise provided for in the Contract Documents) because of any delays due to unforeseeable cause beyond the fault or negligence of the Contractor including, but not limited to, acts of God, acts of the Town, fires, floods, epidemics, strikes, (with which the Contractor has no direct connections), and unusually severe weather. The Contractor shall, within ten (10) calendar days from the beginning of such delay, notify the Town, in writing, of the cause for the delay. If, in the opinion of the Town, the failure of Contractor to perform the conditions of this Contract is occasioned by or is the result of acts or events over which the Contractor has no control, said delay in performance may be excused.
- c) The Contractor shall take into account all contingent work which has to be done by other parties, arising from any cause whatsoever, and shall not plead its want of knowledge of said contingent work as an excuse for delay in its work or for the non-performance thereof.

#### **20) SERVICE AND WARRANTY:**

Unless otherwise specified, the Contractor shall define any warranty service and replacements that will be provided during and subsequent to this Contract. Contractor shall explain on an attached sheet to what extent warranty and service facilities are provided.

#### **21) GOVERNMENTAL RESTRICTIONS:**

In the event any governmental restrictions may be imposed which would necessitate alteration of the materials, quality, workmanship, or performance of the items offered on this proposal prior to their delivery, it shall be the responsibility of the Contractor to notify the Town immediately after learning of such restriction including, but not limited to, indicating in writing the specific regulation which required an alteration. The Town reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel the Contract at no expense to the Town.

**22) PRICE AND ADJUSTMENTS:**

Any price decrease effectuated during the term of the Contract and/or any time specified for performance therein, either by reason of market change or on the part of the Contractor to other customers, shall be passed on to the Town.

**23) EQUAL EMPLOYMENT OPPORTUNITY:**

No bids submitted shall be considered unless the bidder(s) warrants that upon execution of a Contract with the Town, it shall not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, sex, national origin, age, handicap, or marital status, and will submit such reports as the Town may thereafter require to assure compliance.

**24) OCCUPATIONAL HEALTH AND SAFETY (FLORIDA RIGHT-TO-KNOW-LAW):**

- a) In compliance with Chapter 442, Florida Statutes, any item delivered from a Contract resulting from this RFP, which contains a toxic substance as listed on the FLORIDA SUBSTANCE LIST, shall be accompanied by a Material Safety Data Sheet (MSDS) which product shall be labeled as such as well. These MSDS shall be forwarded to: Town of Dundee, Attn: Town Manager, P.O. Box 1000, 202 East Main Street, Dundee, Florida 33838.
- b) The MSDS shall be maintained by the Town and must include the following information:
  - i) The Division/Department to which the material was shipped.
  - ii) The chemical name and the common name of the toxic substance.
  - iii) The hazards or other risks in the use of the toxic substance, including:
    - (1) The potential for fire, explosion, corrosivity, and reactivity;
    - (2) The known acute health effects and chronic health effects of risks from exposure to the toxic substance, including those medical conditions which are generally recognized as being aggravated by exposure to toxic substance; and
    - (3) The primary routes of entry and symptoms of overexposure.
  - iv) The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.
  - v) The emergency procedures for spills, fire, disposal, and first aid.

- vi) A description of the known specific potential health risks posed by the toxic substance, which description is written in lay terms and is intended to alert any person who reads this information.
- vii) The year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

## **25) TIE BIDS:**

The Town Manager shall make award of all tie bids. In accordance with Florida law, a firm which is a drug-free workplace shall have precedence. In the event that both or neither firm is a drug-free workplace, tie bids may be awarded to one of the bidders based on any of the criteria listed below (in descending order), or as otherwise directed by the Town Manager to comply with all of the Source Selection provisions of Town of Dundee Ordinance No. 14-17 (*codified in Sec. 2-159*) and the Code of Ordinances of the Town of Dundee:

- a) Where tie bids are between bidders, one of which is a business whose principal place of business is located in the Town of Dundee utility service area and the other bidder is not, the recommended award shall be to the bidder located in the Town of Dundee utility service area.
- b) Where tie bids are between bidders, one of which is a business whose principal place of business is located in Polk County and the other bidder is not, the recommended award shall be to the bidder located in Polk County.
- c) Availability or completion period.
- d) Previous vendor record on similar projects or requirements.
- e) Business location closest to the Town.

## **26) NOTICE:**

- a) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

- b) A company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of One Million (\$1,000,000) or more if that, at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract, the company: (a) Is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel.
- c) Any contract for goods and/or services in and amount of \$1,000,000.00 or more will be subject to termination by the Town if the contractor is found to have been placed on the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Sector List, or been engaged in business operations in Cuba or Syria or has been placed on the Scrutinized Companies that Boycott Israel list, or is engaged in a boycott of Israel.

## **27) UNAUTHORIZED ALIEN(S):**

- a) The Contractor agrees that unauthorized aliens shall not be employed nor utilized in the performance of the requirements of this solicitation. The Town shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a). Such violation shall be cause for unilateral termination of any agreement and/or the Contract by the Town. As part of the response to this RFP, the successful party shall complete and submit the attached form "AFFIDAVIT CERTIFIATION IMMIGRATION LAWS".
- b) Employers may avail themselves of a program by the U.S. Immigration and Customs Enforcement called E-Verify. E-Verify is an Internet-based system operated by U.S. Citizenship and Immigration Services (USCIS), part of the Department of Homeland Security (DHS), in partnership with the Social Security Administration (SSA). E-Verify is currently free to employers. E-Verify provides an automated link to Federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers.
- c) If your company wishes to avail themselves of this program, you can register online for E-Verify at <https://www.vis-dhs.com/EmployerRegistration>, which provides instructions for completing the registration process. At the end of the registration process, you will be required to sign a Memorandum of Understanding (MOU) that provides the terms of agreement between you as the employer, the SSA, and DHS. An employee who has signatory authority for the employer can sign the MOU. Employers can use their discretion in identifying the best method by which to sign up their locations for E-Verify. To find out more about E-Verify, please visit [www.dhs.gov](http://www.dhs.gov) le-verify or contact USCIS at 1-888-464- 4218.

## **CONSTRUCTION-RELATED CLAUSES**

The construction-related clauses shall apply to all work performed pursuant to the Contract Documents by either the Contractor or by any Subcontractor engaged to do a portion of the work.

The Contractor shall supply each of its Subcontractors with a copy of all of the Contract Documents.

## **28) ERRORS:**

If the Contractor discovers any error, omission, or vagueness in the Contract Documents, the Contractor shall report this discovery to the Town immediately upon learning of same. Work done after such a discovery and before the Town corrects the error, omission, or vagueness shall be at the Contractor's risk.

## **29) UNIT PRICES:**

The unit prices for each of the several items in the proposal (see attached Bid Form) of each bidder shall include its pro rata share of overhead so that the sum of the products obtained by multiplying the quantity shown for each item by the unit price bid represents the total bid. Any bid not conforming to this requirement may be rejected as non-responsive. Special attention is called to this provision for should conditions make it necessary to revise the quantities, no limit will be fixed for such increased or decreased quantities nor extra compensation allowed, provided the net monetary value of all such additive and subtractive changes in quantities of such items of work (i.e., difference in cost) shall not increase or decrease the original contract price by more than twenty-five percent (25%) for work not covered in the drawings and technical specifications.

## **30) SALES TAX SAVINGS PROCEDURE/OWNER DIRECT PURCHASES:**

This procedure will be in accordance with Florida Administrative Code, Public Works Contracts, and Section 212.08(6) of the Florida Statutes.

The Town reserves the right to purchase all equipment, materials, and supplies that are components of a construction bid, but generally will purchase only major equipment, materials, and supplies. When the Town exercises this option the following procedures shall be used for ordering, receiving, and paying for the component(s) selected.

### **a) BID PRICES.**

The bid shall include the appropriate Florida State sales tax for all components of the bid that makes up the lump sum amount submitted.

### **b) ORDERING.**

- i) The Town may exercise its right to direct purchase any component of the bid, at the Contractor's rate, in order to save the sales tax on the selected component, which may include equipment, materials, and supplies contained within the bid. The items selected will then be purchased directly from the vendors that the Contractor used to submit their bid to the Town and therefore made a part of the Contract. The Contractor shall fully cooperate with the Town, providing information for the

preparation of purchase orders for these direct purchases, monitoring deliveries, and approving invoices.

- ii) Following receipt of a sales tax savings form from the Contractor, the Town will issue a purchase order, and certificate of entitlement, to the material supplier for the component selected for owner direct purchase (ODP). The purchase order, and certificate, will be sent to the Contractor, who shall verify that the order was issued correctly, and if so, send to the material supplier. A separate form shall be used for each item or group of items selected for ODP.
- iii) The Contract shall be reduced by the amount of all construction materials plus taxes selected by the Town, for direct purchase.

c) EXPEDITING.

The Contractor shall be responsible for expediting delivery to ensure that material is received on time to maintain the construction schedule.

d) RECEIPT.

The Contractor shall sign for and receive all materials; and retain packing slips and delivery tickets for all materials delivered for the performance of the Contract. The Contractor and Subcontractors shall be responsible for the safe care, custody, and control of all materials.

i) BILLINGS/PAYMENTS.

- i) All ODP's shall be billed to the Town in care of the Contractor.
- ii) The Contractor shall check all invoices for accuracy and completeness when received. The Contractor shall be responsible for immediately notifying the supplier of any billing errors and requesting corrected invoices as necessary.
- iii) Receipts and invoices must be processed in a timely manner in order to take advantage of any discount payment terms. **All discounts shall accrue to the Town.**
- iv) The Contractor shall prepare a direct purchase report for the Town upon submittal of each pay request.

j) OTHER CONSIDERATIONS.

- i) The Town shall have title to all items of which any payment has been made pursuant to the Contract Documents.
- ii) The Contractor shall assume the risk of damage or loss at the time of the purchase.



- iii) The selection of ODP for any item(s) contained within the bid does not relieve the Contractor from liability for that item as it may related to the quantity ordered, the maintenance and care of the item when delivered, or the installation or incorporation of the item in the work to be performed in accordance with the Contract Documents.
- iv) The Town shall have access to all necessary records in order to conduct audits to determine the correctness and accuracy of any item purchased in accordance with the Contract Documents.
- v) To be entitled to purchase materials tax exempt for a public works project, a governmental entity is required to issue a Certificate of Entitlement to each vendor and to the governmental entity's contractor to certify that the tangible personal property purchased from that vendor will go into or become a part of a public works.

### **31) INSPECTION:**

- a) For the Town, the Contractor shall provide facilities for safe and convenient access to any completed work, work-in-progress, and preparation for work to be done.
- b) The Town shall examine the work to assure its conformity with the Contract Documents. The Town will assist the Contractor in correctly interpreting the plans, specifications, and other Contract Documents, but this assistance will not require that the Town give early notice of rejection of work or materials.
  - i) The examination and/or assistance by the Town shall not relieve the Contractor of the Contractor's responsibility of any actions it may take or neglect by Contractor or its Subcontractors in performing the work.
  - ii) The Town shall not be responsible for Contractor's means, methods, techniques, sequences of starting, stopping, or resuming work, or procedures of construction, or the safety precautions and programs incident thereto, and the Town shall not be responsible for Contractor's failure to perform the work in accordance with the Contract Documents.
  - iii) The Town shall not be responsible for the acts or omissions of Contractor or any Subcontractors, or any of Contractor's agents or employees.
  - iv) Neither the Town's authority to act under these Contract Documents, nor any decision made by the Town in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the Town to Contractor, any subcontractor, any materialman, fabricator, supplier or any of their agents, or employees or any other person performing any of the work.

- c) The Town shall retain authority to make a final decision in any matter which involves interpretation of plans and other Contract Documents including, but not limited to, quality and quantities of materials used, construction and progress of work, work completed and estimates.
- d) If the Town finds any materials or work faulty, it shall so inform the Contractor; the Contractor shall replace, at its expense, and as soon as possible, said faulty materials or work. If the Contractor does not replace the faulty materials or work within a reasonable length of time, the Town may stop the work, furnish materials and men to replace the faulty work, and deduct the expense incurred by the Town from the amount due, or which will become due the Contractor.
- e) The Town may reinspect work which has been passed and it shall be permitted to reject faulty work which existed but was not apparent at the time of a previous inspection.
- f) The Town may order the Contractor to uncover work which has been covered without the consent of the Town. The Contractor shall bear the expense of the extra work. The Town may order the Contractor to uncover work which has been covered with the consent of the Town. If the questioned work is found to be without fault, the Contractor may charge the Town for this extra work; if the questioned work is found faulty, the Contractor shall bear the expense of the extra work.

### **32) SUPERVISION:**

The Contractor shall maintain a superintendent, who fulfills the Town's requirements, on this project at any time work is in progress and furnish efficient and skilled supervision of all work. The Contractor may change project superintendents only if the change is approved by the Town or if the Contractor discharges the project superintendent. If the Contractor is not present, the Town shall be permitted to consider the project superintendent the Contractor's agent; and the Town shall consider instructions given to the superintendent as binding as instructions given to the Contractor.

### **33) ACCIDENT PREVENTION:**

- a) No laborer or mechanic employed in the performance of the Contract shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to health or safety as determined under construction safety and health standards promulgated by the Secretary of Labor.
- b) The Contractor shall exercise proper precautions at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of Contractor's prosecution of the work. Machinery, equipment, and all hazards shall be guarded in accordance with safety provisions to the extent that such provisions are not in conflict with applicable laws.
- c) The Contractor shall maintain an accurate record of all cases of death, occupational disease, or injury requiring medical attention or causing loss of time from work, arising

out of and in the course of employment on work under the Contract. The Contractor shall promptly furnish the Town with these reports.

#### **34) CLAIMS FOR ADDITIONAL PAY:**

If the Town issues written instructions which the Contractor believes will involve additional work and cost, the Contractor may assert a claim for extra cost only if it gives written notice to the Town Manager or his/her designee immediately after it receives the instructions and before it complies with those instructions. **The Contractor may assert a claim for extra cost without advance written notice only if immediate compliance with the instructions given by the Town is necessary to meet an emergency which endangers life or property.**

If the Contractor asserts a claim for extra pay, the Town may cancel the instructions and deny the claim or follow the procedure(s) set forth herein for "CHANGES". The cost or credit to the Town from a change in the work shall be determined from price information in the bid form, or by a lump sum price agreement with the Contractor, or a price based on the Contractor's cost for labor, materials, equipment, supervision, and insurance plus fifteen percent (15%) for profit and overhead, or as the parties otherwise agree.

#### **35) FITTING AND COORDINATION OF THE WORK:**

The Contractor shall be responsible for the proper fitting of all work and for the coordination of the operations of all trades, subcontractors, or materialmen engaged in the performance of the Contract. The Contractor shall be prepared to guarantee to each of its Subcontractors the locations and measurements which they may require for the fitting of their work to all surrounding work.

#### **36) SUB-CONTRACTING:**

Nothing in the Contract Documents shall be construed to create a contractual relationship between the Town and a Subcontractor doing a portion of the work on this project, nor shall it create any obligation on the part of the Town to pay or see to the payment of any moneys due any Subcontractor. The Town shall hold the Contractor responsible for the work done by any of its Subcontractors. For any portion of the work to be sub-contracted, a list of the Subcontractors shall be furnished to the Town Manager prior to the commencing of this project(s).

#### **37) MUTUAL RESPONSIBILITY OF CONTRACTORS:**

If, through acts or neglect on the part of the Contractor, any other contractor or any subcontractor shall suffer loss or damage in the performance of the Contract, the Contractor shall settle with such other, contractor or subcontractor by agreement or arbitration, if such other contractor or subcontractor will so settle. If such other contractor or subcontractor shall assert any claim against the Town on account of any damage alleged to have been so sustained, the Town will notify the Contractor, who shall defend at Contractor's own expense any suit based upon such claim, and, if any judgment or claims against the Town shall be allowed, the Contractor shall pay or satisfy such judgment or claim and pay all attorney's fees, costs, and expenses in connection therewith.

**38) LINES AND GRADES:**

The Town shall establish a base line and a benchmark at each location of any separate portion of this project. The Contractor shall reference all base lines, benchmarks, and property monuments and re-establish in their original state any which are disturbed during work on this project. The Contractor shall verify in the field all base lines, elevations, and dimensions shown on the plans, report any error, omission, or discrepancy it discovers, and assume full responsibility for its grades.

**39) ASSIGNMENT OR NOVATION:**

The Contractor shall not assign or transfer, whether by assignment or novation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under the Contract without the express written consent of the Town; provided however, that assignments to banks, trust companies and/or other financial institutions of payments due to Contractor may be made without the consent of the Town.

**40) OTHER CONTRACTS:**

The Town may award, or may have awarded other contracts for additional work, and the Contractor shall cooperate fully with such other contractors, by scheduling its own work with that to be performed under other contracts as may be directed by the Town or Town Manager. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor as scheduled, on this project or any other project.

**41) PATENT INFRINGEMENT:**

The Contractor shall indemnify the Town, its officers, its agents, and its employees and hold all free of liability and unharmed by any suit or claim which results from the incorporation of any patented or unpatented invention, device, process, or system in the work of this project.

**42) SHOP DRAWINGS:**

Where a portion of this project requires the use of shop drawings, the Contractor shall submit four (4) copies of these drawings and a schedule of the required work to the Town. The Town shall review these drawings promptly and note any corrections required to meet the intent of the plans and specifications. The Contractor shall make the noted revisions and submit four (4) copies of the revised drawings to the Town. The Town's approval of the shop drawings shall not relieve the Contractor of its responsibility for any error in the shop drawings and any deviation from the plans and specifications.

**43) PLANS AND SPECIFICATIONS:**

- a) The Town shall furnish the Contractor one (1) set of the plans and specifications when the Town notifies the Contractor to begin work. The Contractor shall keep this set available at the project site at all times. If the Contractor wants more than one (1) set of

plans and specifications, the Contractor may obtain these if it pays the cost of reproduction.

- b) The original plans and specifications, and any copies of these plans and specifications the Town furnishes the Contractor, shall remain the property of the Town. They shall not be used on work other than this project. The Town may ask the Contractor to return all copies of the plans and specifications when the work is completed. The Contractor shall coordinate the requirements of the plans, specifications, and all other Contract Documents prepared for this project.

#### **44) SUB-SURFACE DATA:**

The Town does not guarantee the accuracy of the sub-surface data shown on the plans. Where it will influence its execution of the Contract, the Contractor shall, with its own resources, verify ground water elevations, soil conditions, wetland jurisdictional boundary, the location of underground structures, sewers, water pipes, gas lines, telephone cables, electric cables, conduits and other such underground infrastructure.

#### **45) FACILITIES, MATERIALS, AND EMPLOYEES:**

- a) Unless it is otherwise stipulated in the Contract Documents, the Contractor shall be responsible for supervision, electric power, water, and any other facilities required to complete this project.
- b) The Contractor shall incorporate in the work of this project only materials, equipment, and methods which conform to the Town's applicable specifications.
- c) Unless otherwise specifically provided for in the Technical Specifications, all workmanship, equipment, materials, and articles incorporated in the work shall be new and the best grade of the respective kinds for the purpose. Where equipment, materials, articles, or workmanship are referred to in the Technical Specifications as "equal to" any particular standard, the Town shall decide the question of equality.
- d) The Contractor shall furnish to the Town for approval the manufacturer's detailed specifications for all machinery, mechanical and other special equipment, which it contemplates installing, together with full information as to type, performance characteristics, and all other pertinent information as required, and shall likewise submit for approval, as required, full information concerning all other materials or articles which it proposes to incorporate in the work.
- e) Machinery, mechanical and other equipment, materials, or articles installed or used without such prior approval shall be at the risk of subsequent rejection.
- f) Materials specified by reference to the number or symbol of a specific standard, such as an A.S.T.M. Standard, a federal specification or other similar standard, shall comply with requirements in the latest revision thereof and any amendment or supplement

thereto in effect on the date of the RFP, except as limited to type, class, or grade, or modified in such reference. The standards referred to, except as modified in the technical specifications shall have full force and effect as though printed therein.

- g) The Contractor shall use only employees with skills at least equal to the requirements of their work assignment on this project.

#### **46) TESTS AND INSPECTIONS OF MATERIALS AND EQUIPMENT:**

- a) Unless it is otherwise stipulated in the Contract Documents, the tests and inspections of materials and equipment incorporated in the work of this project shall be made at the Contractor's expense by independent laboratories and agencies approved by the Town.
- b) The Contractor shall instruct any laboratory or agency making, required tests to furnish the Town with a copy of the report made on each test and inspection.

#### **47) PROTECTION OF WORK, MATERIALS, PROPERTY, AND THE PUBLIC:**

The Contractor shall protect the work of this project and the stored materials not yet incorporated in the work, on site or off site, from injury, damage, and loss. The Contractor shall protect and save from damage all public and private property adjacent to the project site. The Contractor shall guard all excavations by appropriate means; and shall protect the public from hazard. Receipt of progress payment(s) shall not affect the obligations of the Contractor under this provision.

#### **48) PROTECTION OF MONUMENTS:**

The Contractor shall protect and save from damage or movement all survey monuments, permanent reference monuments, property monuments, reference points, and benchmarks. If the work demands the temporary removal of such a monument, point, or benchmark, the Contractor shall notify the Town who shall reference the monument, point, or benchmark and reset it without cost to the Contractor. If the Contractor damages, moves, or destroys a monument, point, or benchmark, the Town may restore such by a registered surveyor at the Contractor's expense and withhold the cost from money otherwise due the Contractor from the Town.

#### **49) USE OF PREMISES:**

The Contractor shall confine its equipment, storage or materials, and construction operations to the limits set forth in the Contract Documents and as prescribed by ordinances or permits, or as determined by the Town, and shall not unreasonably encumber the site or public right-of-way with its materials and construction equipment.

#### **50) WORK PROGRESS:**

- a) If the Contractor fails to proceed with the diligence required to complete the project within the time set forth in the Contract or within an extension of that time which the

Town may grant, the Town may terminate the Contractor's right to proceed with the work by providing written notice to the Contractor.

- b) If the Town terminates the Contractor's right to proceed, the Town may choose to proceed with the work, take possession of the materials on the project site, incorporate these materials in the work, and hold the Contractor and its sureties liable for payment of excess costs the Town may incur, or demand the surety to complete the project as permitted under the terms and conditions of the performance bond. The execution of the Contract by Contractor shall constitute an acknowledgment of the surety's consent to this provision.
- c) If the Town does not terminate the Contractor's rights to proceed, the Contractor shall proceed with the work; in this event, it will be impossible to determine the actual damage the delay has caused. In lieu of payment of actual damage, the Contractor and its sureties shall be liable for the payment of the fixed, agreed, and liquidated damages as may be set forth in the Contract Documents for each calendar day of delay beyond the contract time.

#### **51) REQUESTS FOR INTERPRETATION AND INFORMATION:**

- a) All requests for interpretation shall be in writing and submitted to the Town Manager. Whenever a written request for interpretation(s) of the Contract Documents is properly submitted, the request(s) shall be answered by way of Addenda. All Addenda will be sent to each party holding Contract Documents. The Town shall not be responsible for the safe delivery of the Addenda.

It shall be the responsibility of the party to make inquiry as to the issuance of any Addenda to the Contract. All Addenda shall become part of the Contract Documents and all parties shall be bound by such Addenda, whether received or not.

- b) It shall be the responsibility of the Contractor to make timely requests of the Town for any additional information not already in its possession which should be furnished by the Town under the terms of the Contract, and which it will require in the planning and execution of the work. Such request may be submitted from time to time as the need is approached, but each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing and list the various times and the latest date by which each will be required by the Contractor. The first list shall be submitted, within two (2) weeks after Contract award and shall be as complete as possible at that time. The Contractor shall, if requested, furnish promptly any assistance and information the Town may require in responding to these requests of the Contractor. The Contractor shall be fully responsible for any delay in its work or to others arising from its failure to comply fully with the provisions of this section.

#### **52) DISPUTES:**



- a) All disputes arising under this Contract or its interpretation, except those disputes covered by FEDERAL LABOR STANDARD PROVISIONS (if applicable), whether involving law or fact, extra work, and/or all claims for alleged breach of the Contract shall within ten (10) calendar days of commencement of the dispute be presented by the Contractor to the Town for decision. All papers pertaining to claims shall be filed in quadruplicate. Such notice need not detail the amount of the claim but shall state the facts surrounding the claim in sufficient detail to identify the claim, together with its character and scope. At all time(s) during the pendency of a dispute, the Contractor shall proceed with the work as directed. Any claim not presented within the time limit specified in this paragraph shall be deemed to have been waived by the Contractor.
- b) The Contractor shall submit in detail its claim and proof thereof. Each decision by the Town shall be final. Each decision by the Town will be in writing and mailed to the Contractor by registered or certified mail, return receipt requested, directed to the Contractor's last known address.
- c) If the Contractor does not agree with any decision of the Town, it shall in no case allow the dispute to delay the work but shall notify the Town promptly that it is proceeding with the work under protest.

### **53) CONTRACTOR INSURANCE:**

**For contracts not exceeding \$500,000.00 dollars the following insurance requirements shall be met:**

- i) The Contractor shall, at its own expense, procure and maintain, with insurers acceptable to the Town (the "Owner"), the types and amounts of insurance conforming to the minimum requirements set forth herein. The Contractor shall not commence work until the required insurance is in force and evidence of insurance acceptable to the Owner has been provided to and approved by the Owner. As evidence of compliance with the insurance required herein, the Contractor shall furnish Owner with (a) a fully completed satisfactory Certificate of Insurance evidencing all coverage required herein, with a copy of the actual notice of cancellation endorsement(s) as issued on the policies and a copy of the actual additional insured endorsement as issued on the Commercial General Liability policy, signed by an authorized representative of the insurer(s) verifying inclusion of Owner's officials, officers and employees as Additional Insureds in the Commercial General Liability coverage; (b) the original of the policy(ies); or (c) other evidence satisfactory to Owner. Such evidence shall include thirty (30) days written notice of cancellation to the Owner for all coverage. With respect to Property Insurance, an appropriate Evidence of Property Insurance form, or a copy of the policy itself shall be satisfactory evidence of insurance. Until such insurance is no longer required by this Contract, the Contractor shall provide the Owner with renewal or replacement evidence of insurance at least thirty (30) days prior to the expiration or termination of such insurance.

**(1) Worker's Compensation Insurance:**

- (a) Such insurance shall be no more restrictive than that provided by the Standard Workers' Compensation Policy, as filed for use in Florida by the National Council of Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Act, where appropriate, coverage is to be included for the Federal Employer's Liability Act and any other applicable Federal or State law. The policy shall be endorsed to provide the Owner with thirty (30) days' notice of cancellation. The minimum amount of coverage (inclusive of any amount provided by an umbrella or excess policy) shall be:
- |      |                        |                       |
|------|------------------------|-----------------------|
| (i)  | Part One: "Statutory"  |                       |
| (ii) | Part Two: \$500,000.00 | Each Accident         |
|      | \$500,000.00           | Disease-Policy Limit  |
|      | \$500,000.00           | Disease-Each Employee |
- (b) The policy shall be endorsed to waive the insurer's right to subrogation against Owner and its officials, officers and employees in the manner which would result from the attachment of National Council on Compensation Insurance's (NCCI) Waiver of Our Right to Recover from Others' Endorsement (Advisory Form WC 00 03 13) with Owner and its officials, officers and employees scheduled thereon.

**(2) General Liability Insurance:**

- (a) Such insurance shall be no more restrictive than that provided by the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those required by ISO or the State of Florida or those described below. The policy must be endorsed to provide the Owner with thirty (30) days' notice of cancellation. The coverage may include restrictive endorsements excluding coverage for liability arising out of:
- (i) Mold, Fungus or Bacteria
  - (ii) Terrorism
  - (iii) Sexual Molestation
- (b) Unless the work under this Contract includes activities, which would be the subject of such exclusions, the coverage may also exclude coverage for liability arising out of:
- (i) Architects and Engineers Professional Liability
  - (ii) Exterior Insulation and Finish Systems (EIFS)

- (c) The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

(i) \$1,000,000.00	General Aggregate
(ii) \$1,000,000.00	Products/Completed Operations Aggregate
(iii) \$1,000,000.00	Personal and Advertising Injury
(iv) \$1,000,000.00	Each Occurrence

### **(3) Automobile Liability Insurance:**

Such insurance shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of the standard Business Auto Policy (ISO Form CA 00 01) without restrictive endorsements, including coverage for liability contractually assumed, and shall cover all owned, non- owned, and hired autos used in connection with the performance of the work. The policy must be endorsed to provide the Owner with thirty (30) days' notice of cancellation. Such insurance shall not be subject to any aggregate limit and the minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be:

- (i) \$1,000,000.00 Each Occurrence – BI/PD Combined

### **(4) Property Insurance:**

- (a) If the Contract includes: (1) construction of a new above-ground structure or structures; (2) any addition(s), improvement(s), alteration(s) or repair(s) to an existing above-ground structure or structures; or (3) the installation of machinery or equipment into an existing structure or structures, the Contractor shall provide, in a policy acceptable to Owner, "all risk" (i.e., Special Form) property insurance on any such construction, additions, machinery or equipment. The amount of the insurance shall be no less than the estimated replacement value at the time of the Owner's final acceptance of such new structures, addition(s), improvement(s), alteration(s), repair(s), machinery or equipment<sup>1</sup>. The coverage shall not be subject to any restriction with respect to occupancy or use by the Owner and, subject to thirty (30) days prior written notice to the Owner, shall remain in full effect until final acceptance by the Owner. The policy must be endorsed to provide the Owner with thirty (30) days' notice of cancellation. The Owner shall be an insured on this policy. The maximum deductible shall be \$500 per occurrence.
- (b) If the Contract includes: (1) construction of a new above-ground structure or structures located within a Special Flood Hazard Area (100 year floodplain), or (2) any addition(s), improvement(s), alteration(s) or repair(s) to an existing above-ground structure or structures located within a Special Flood Hazard Area (100 year floodplain), Flood

insurance must also be provided on such new structure(s), addition(s), improvement(s), alteration(s) or repair(s) for the lesser of: (1) the estimated replacement value at the time of the final acceptance of such new structure(s), addition(s), improvement(s), alteration(s) or repair(s), or (2) the maximum amount of flood insurance available through the National Flood Insurance Program.

- (c) The insurance provided by the Contractor and its Subcontractors shall apply on a primary basis. Any insurance maintained by the Owner, shall be excess of and shall not contribute with the insurance provided by the Contractor and its subcontractors. Except as otherwise specifically authorized in this Contract, or for which prior written approval has been obtained hereunder, the insurance maintained by the Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention. Under limited circumstances, the Owner may permit the application of a deductible or permit the Contractor to self-insure, in whole or in part, one or more of the insurance coverages required by the Contract. The Contractor shall pay on behalf of the Owner or Owner's officials, officers, and employees any deductible or self-insured retention applicable to a claim against the Owner or the Owner's officials, officers, and employees.
- ii) The insurance provided by the Contractor shall be endorsed to provide that the Insurer waives its rights against the Owner and Owner's officials, officers, and employees.
- iii) Compliance with these insurance requirements shall not limit the liability of the Contractor or its Subcontractors. Any remedy provided to the Owner by the insurance provided by the Contractor and its subcontractors shall be in addition to and not in lieu of any other remedy (including, but not limited to, as an indemnitee of the Contractor) available to the Owner under the Contract or otherwise.
- iv) Neither approval nor failure to disapprove insurance furnished by the Contractor shall relieve the Contractor from responsibility to provide insurance as required by the Contract and the Contract Documents.

#### **54) INDEMNIFICATION:**

- a) The Contractor shall indemnify and hold harmless the Town, its elected officials, officers, agents, and employees, from and against any and all claims, costs, losses, and damages (including but not limited to all fees and reasonable charges of attorneys, and other professionals, and all court or other dispute resolution costs), liabilities, expenditures, taxes and assessments, or cause and/or causes of action of any kind (including negligent, reckless, or willful or intentional acts or omission of the Contractor including but not limited to subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees and any person or

organization directly or indirectly employed and/or utilized by the Contractor to perform or furnish any work or anyone for whose acts any of them may be liable), to the extent arising from, relative to, or caused by the performance of any services as may be described or provided in the Contract Documents, and/or any services pursuant to the Contract issued hereunder. Such indemnification shall specifically include, but not be limited to, claims, damages, losses, liabilities, and expenses (including but not limited to all fees and reasonable charges of attorneys, and other professionals, and all court or other dispute resolution costs) to the extent arising out of or from:

- i) Any omission, default, or negligent act of the Contractor including but not limited to subcontractors, sub-subcontractors, sub-consultants, sub-sub-consultants, materialmen, or agents of any tier or their respective employees, (including negligent, reckless, willful or intentional acts or omissions);
  - ii) Any and all bodily injuries, sickness, disease or death;
  - iii) Injury to or destruction of tangible property, including the loss of use resulting therefrom;
  - iv) Other such damages, liabilities, or losses received or sustained by any person or persons during or on account of any operations connected with this Contract and/or any work arising out of the Contract Documents; and/or
  - v) The violation of any federal, state, county or city laws, by-laws, ordinances, or regulations by the Contractor including but not limited to subcontractors, sub-subcontractors, sub-consultants, sub-sub-consultants, materialmen, or agents of any tier or their respective employees and/or persons and/or entities under Contractor's direction and/or control.
  - vi) Any indemnification hereunder shall not include claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of the Town or its elected officials, officers, agents, and employees, or for statutory violation or punitive damages **except** and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the Contractor or any of the Contractor's subcontractors, sub-subcontractors, sub-consultants, sub-sub-consultants, materialmen, or agents of any tier or their respective employees.
- b) This contractual indemnity is authorized by Section 725.06 of the Florida Statutes.
  - c) This contractual indemnity shall survive the termination of this Contract.
  - d) Contractor shall indemnify, and hold harmless the Town, its elected officials, officers, agents, and employees from liability for damages to persons or property caused by any act, omission, or default of Contractor (specifically including, but not limited to, Contractor's negligent or grossly negligent acts, omissions, or defaults) to the extent it relates to, pertains to, or arises from the Contract or Contractor's performance thereof.

This contractual indemnity is authorized by Sections 725.06 and 725.08 (if applicable) of the Florida Statutes. Contractor also agrees to indemnify, defend, save and hold harmless the Town, its elected officials, officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and cause and causes of action of every name and description including but not limited to reasonable attorney's fees and reasonable attorney's fees in appellate or bankruptcy proceedings, that may be brought against the Town, its elected officials, officers, agents and employees, on account of any claims, fees, royalties, or costs for any invention or patent or for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation.

- e) In the event of any claims or suits which fall within either of the foregoing indemnities, payment of any amount due pursuant thereto shall, after receipt of written notice by Contractor from the Town that such amount is due, be made by Contractor prior to the Town being required to pay same, or in the alternative, the Town, at the Town's option, may make payment of an amount so due and the Contractor shall promptly reimburse the Town for same, together with interest thereon at the rate of 6% per annum simple interest from the day of the Town's payment.
- f) Additionally, if Contractor, after receipt of written notice from the Town fails to make any payment due hereunder to the Town, Contractor shall pay any reasonable attorney's fees or costs incurred by the Town in securing any such payment from Contractor.
- g) Nothing contained herein is intended nor shall it be construed to waive the Town's Sovereign Immunity and/or the Town's limits of liability as set forth in Section 768.28 of the Florida Statutes, as amended from time to time, regardless of whether any such obligations are based in tort, contract, statute, strict liability, and negligence, product liability or otherwise. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist in the Town's favor
- h) The Contractor shall not be entitled to an increase in the contract price or payment or compensation of any kind from Town for direct, indirect, consequential, impact or other costs, expenses or damages including but not limited to costs of acceleration or inefficiency or extended overhead, arising because of delay, disruption, interference or hindrance from any cause whatsoever whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by Contractor for hindrances or delays due solely to fraud, bad faith or active malicious interference on the part of Town. Otherwise, Contractor shall be entitled only to extensions of the contract time as the sole and exclusive remedy for excusable events of delay.
- i) The Town reserves the right to include a provision for liquidated damages as a result of any delay by the Contractor.

- j) The Contractor and its subcontractors and/or sub-subcontractors agree by entering into the Contract to a waiver of subrogation for each required policy herein. When required by the insurer or should a policy condition not permit the Contractor or subcontractor or sub-subcontractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then the Contractor or subcontractor or sub-subcontractor agree to notify the insurer and request the policy be endorsed with a “waiver of transfer of rights against others” or its equivalent. This “waiver of subrogation” requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should the Contractor or subcontractor or sub-subcontractor enter into such an agreement on a pre-loss basis.
- k) Acceptance by the Contractor of the last payment shall be a release to the Town and every officer and agent thereof, from all claim(s) and liability hereunder for anything done or furnished for, or relating to the work, or for any act or neglect of the Town or of any person relating to or affecting the work.
- l) The parties agree that to the extent the written terms of this Indemnification conflict with any provisions of Florida law or Florida Statute(s), in particular Sections 725.06 and 725.08 of the Florida Statutes, the written terms of this Indemnification shall be deemed by any court of competent jurisdiction to be modified in such a manner as to be in full and complete compliance with all such laws or statutes and to contain such limiting conditions, or limitations of liability, or to not contain any unenforceable, or prohibited term or terms, such that this Indemnification shall be enforceable in accordance with and to the greatest extent permitted by Florida law.

#### **55) BID BOND:**

- a) In cases where the bid price exceeds \$30,000.00, each bid must be accompanied by a certified check, cashier's check or a bid bond in an amount not less than five per-cent (5%) of the base bid, as guarantee that the Contractor will not withdraw from the competition after the opening of the bids, and will, within twenty-five (25) calendar days after receipt of written notice of award, enter into the Contract with the Town in accordance with the Contract Documents. **Should the Contractor fail to enter into a contract, the bid bond shall be forfeited as liquidated damages.**
- b) **No proposal or bid shall be considered unless accompanied by a bid bond in the amount and form specified.**

#### **56) PERFORMANCE AND PAYMENT BOND:**

- a) In cases where the bid price exceeds \$30,000.00 and/or for utility contracts covered by Section 180.24 of the Florida Statutes, the successful bidder shall be required to furnish a performance bond in an amount equal to one hundred percent (100%) of the contract price as security for the faithful performance of the contract. The Contractor shall also furnish a payment bond in an amount equal to one hundred percent (100%) of the



contract price as security for the payment of all persons performing labor on the project under the contract and furnishing material(s).

- b) The performance bond and the payment bond may be in one or separate instruments in accordance with applicable law. Subject bonds are due within twenty-five (25) calendar days after written notice of award is received. Subject bonds shall also be recorded in the public records of Polk County [per F.S. 255.05(1)(a)] with proof of the recording furnished with the bonds or a certified recorded copy.

#### **57) BONDING COMPANY QUALIFICATIONS:**

- a) All bonds shall be written through a reputable and responsible surety bond agency licensed to do business in the State of Florida and with a surety company or corporation meeting the following specifications:
  - i) Minimum rating of “A-” or better;
  - ii) Financial Size Category of “VII” according to the A.M. Best Company; and
  - iii) Current Certificate of Authority as acceptable surety on Federal Bonds in accordance with the latest edition of the United States Treasury Department Circular 570 entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and As Acceptable Reinsurance Companies" and shall be accepted for an amount not exceeding the underwriting limitations thereon.
- b) All surety companies are subject to approval and may be rejected by the Town without cause in the same manner that bids may be rejected.
- c) **Awards of \$500,000 or less:** Bonds shall be written with a surety company meeting the qualifications as set forth in Paragraph a) above, or the qualifications set forth in Section 287.0935 of the Florida Statutes.
- d) **Power of Attorney:** An Attorney-in-fact which signs a contract bond shall file with said bond a certified and effectively dated copy of the power of attorney. The power of attorney shall bear the raised seal of the surety company.
- e) The failure to furnish the required bond(s) within twenty-five (25) calendar days or within such extended period as the Town may grant shall constitute a default, and the Town may either award the contract to the next most responsive and responsible bidder or re-advertise for bids, and may charge against the original successful bidder the difference between the amount of its bid and the amount for which a contract for the work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the bid bond. If a more favorable bid is received by re-advertising, the defaulting bidder shall have no claim against the Town for a refund.

**58) PAYMENT:**

The Contract Documents shall set forth the terms and condition(s) relating to the contract price, payment(s), timing of payment(s), progress payment(s), and final payment. The Contract Documents shall be negotiated, approved, and executed by the Town and Contractor no later than 30 calendar days following the date on which the Town awards the contract and/or project.

**59) LIENS:**

No liens of any type shall be allowed, including labor, materials, rentals, or services furnished.

**60) GUARANTEE:**

- a) The Contractor shall guarantee all materials, equipment, and workmanship for a period of no less than one (1) year from the date the Town accepts the completed project in its entirety. The Contractor shall replace, repair, or restore any faulty materials, equipment, work, and incidental damage during this period of guarantee.
- b) Neither the final payment nor any provision in the Contract Documents shall relieve the Contractor of the responsibility for negligence or faulty materials or workmanship within the extent and period provided by law. Upon written notice, the Contractor shall remedy all defects due thereto and pay all expenses for any damage to other work and/or property of the Town resulting therefrom.
- c) A notice of defect(s) will be issued by the Town. Upon receipt by the Contractor of such written notice, the Contractor shall immediately investigate any and all claimed defects. Should the Contractor feel that any claimed defect is invalid, it shall so advise, in writing, to the Town within ten (10) calendar days after receipt of said notice.
- d) Defects shall be remedied by the Contractor within thirty (30) calendar days after receipt of notice. Within ten (10) calendar days after completion of such corrective measures, the Contractor shall notify the Town, in writing, of correction in defects. The Contractor shall transmit to the Town a copy of each certified statement as required below.
- e) Each Subcontractor shall transmit to the Contractor, in duplicate, on its business letterhead, addressed to both the Contractor and Town, a certified statement as to:
  - i) The work performed and/or materials supplied; and
  - ii) A guarantee in accordance with requirements of the Contract Documents appertaining to said work and/or materials.

**61) THE CONSTRUCTION AGREEMENT:**

- a) The Town will require the Contractor to execute a contract. Upon execution of the Contract, the Contract and Contract Documents become the Contract between the Town and Contractor.
- b) The contract between the Town and Contractor shall be negotiated, approved, and executed by the Town and Contractor no later than 30 calendar days following the date on which the Town awards the contract and/or project to the Contractor.
- c) The Contractor cannot claim modification of the Contract because of any representation made by an employee of the Town or any other person.
- d) In the event the contract is not negotiated, approved, and executed within the time period set forth herein, the Town may, in its sole discretion, award the project and/or contract to the next most responsive and responsible bidder or withdraw the RFP and re-advertise the RFP.

**62) CONSTRUCTION SCHEDULE:**

- a) The Contractor shall submit to the Town for review and approval, a construction schedule at least five (5) business days before the start of project.
- b) The Contractor shall complete the work, phase(s), and/or part(s) of the project in the order set forth in the approved construction schedule.
- c) The Contractor's receipt of an approved construction schedule does not authorize the Contractor to begin work on the project.
- d) The Town's issuance of a Notice to Proceed authorizes the Contractor to commence work on the project.

**63) FINAL INSPECTION:**

- a) When the work on this project(s) is substantially completed, the Contractor shall notify the Town, in writing, at least three (3) business days before the inspection date that the work will be ready for final inspection on a definite date. The Contractor shall expressly provide the date for final inspection.
- b) Prior to the final inspection, the Contractor shall clear the project site of all trash, rubbish, and debris and restore all damage done to the project site and adjacent areas during the performance of the project. The Contractor's duty to clear the project site prior to final inspection does not relieve the Contractor of the obligation to keep the project site free from trash, rubbish, and debris during the performance of the Contract.

**64) CONSTRUCTION AND CONSULTING EVALUATION:**

- a) The award of contracts by the Town for construction and/or consulting service(s) is based on the lowest responsive/responsible bid (for construction) or in accordance with the guidelines and requirements of Section 287.055 of the Florida Statutes (Consultants Competitive Negotiation Act) for applicable consulting services. In addition, the Town will consider the previous performance of any bidder who may have completed work for the Town or other entity
- b) A Construction and Consulting Evaluation Form shall be completed by the department head or Town Manager for the project. The form shall be completed upon the completion of the project and submitted to the Office of the Town Clerk for retention.
- c) This form will be completed on all firms performing construction and/or consulting work for the Town of Dundee. Furthermore, the Town may, at its discretion, provide this form to other entities for whom the noted firm has completed work.

## **WORK SUMMARY**

### **PART 1 – GENERAL**

- 1.01 – WORK BY CONTRACTOR**
- 1.02 – CONTRACTOR USE OF SITE**
- 1.03 – SEQUENCE OF WORK**

### **PART 2 – PRODUCTS**

### **PART 3 – CONTRACT CLOSEOUT**

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### **PART 1 – GENERAL**

#### **1.01 – WORK BY CONTRACTOR**

**A.** The “FY 2024-25 Commercial Solid Waste Collection and services” located at 202 E Main Street, Dundee Florida 33838 Includes a complete cost for collection of the Town of Dundee’s Commercial Solid Waste and Collection Services. The Bidder must supply a total cost for Dumpsters and 95-gallon Carts with a purposed collection schedule. With a list of employees and trucks that will be assigned to the routes.

#### **B. EXPERIENCE AND HISTORY**

- Include an introduction that clearly demonstrates a comprehensive understanding of the Proposer of the objective and scope of this RFP.
- Provide a description and history of the firm focusing on experience.
- State the number of years the company has been in business.
- Demonstrate the firm’s current capacity and current expertise with commercial solid waste collection. Bidders must have a minimum of three (3) years’ experience in commercial solid waste collection. Evidence in form and substance satisfactory to the Town that the business has operated as a going concern in refuse collection and disposal must be included with the bid.
- Provide at least three (3) references for which your company has provided commercial solid waste services, including contact names, addresses, telephone numbers, and e-mail addresses. References may or may not be contacted during the bid process.

#### **C. PERSONNEL AND EQUIPMENT**

- The respondent must be able to provide sufficient staff to meet the RFP requirements. Provide a statement of how your company meets this RFP requirement:

- A list of the minimum number of employees in each type of position that will support this contract must be included, to include two (2) drivers, one (1) account receivable, and one (1) local project manager.
- Provide an organizational chart, resumes and summary of key staff qualifications.
- A designated representative that is readily available by telephone and/or email to handle all invoicing concerns, questions, and adjustments.
- A designated local project manager that is readily available by telephone, cell phone and/or email to handle all concerns and questions regarding service calls.
- Bids shall provide an adequate number of vehicles for commercial collections services. The Town requires one (1) front load garbage truck for Front Load Dumpsters that is less than 7 years old and (1) Asl, rear loader truck for 95gallon totes. The vehicle must be available for use on the first day of the contract, TBA. Evidence in the form of registration and VIN# or a lease agreement for the length of the Town's contract must be given to the Town within 48 hours after the notification to the potential lowest responsible bidder. Failure to produce these documents within the allotted time frame will disqualify the bidder.
- The Town requires a second front load truck In the event of equipment failure to the primary truck. Evidence in the form of registration and VIN; a lease agreement for the length of the Town's contract; or a notarized statement from the truck owner stating that they will give your company access to a front load truck as a backup must be given to the Town within 48 hours after the notification to the potential lowest responsible bidder. Failure to produce these documents within the allotted time frame will disqualify the bidder.
- The bidder must provide a detailed strategy plan that explains how your company will guarantee continued service in the event of multiple equipment failures and/or employee shortages.
- The Town currently has approximately 98 dumpsters that require one (1) to six (5) pickups per week. All solid waste dumpsters shall be slant top, front load containers with black plastic lids and plugs, or flat top with side doors. All dumpsters shall be kept in good operating condition and painted at all times. Evidence in the form of a notarized statement of current ownership or a commitment letter from the vendor guaranteeing delivery to your firm no later than TBA must be included in this bid. Bidder must also provide 95-gallon totes to the commercial accounts that currently have totes and not dumpsters.
- 95-gallon totes quantity – 62 regular totes
- Dumpster Sizes and quantity -
  - 2yard – 21
  - 4yard – 35
  - 6yard – 16
  - 8yard - 26
- Provide a statement as to whether the proposer typically hires other individuals or subcontracts with other firms and provide a statement as to what type of situation would dictate this action. Any use of subcontractors must have prior approval by the Town.

#### **D. RESPONSIVENESS TO RFP**

- Proposers shall provide a narrative statement that illustrates their understanding of the requirements of the project.
- Proposals shall include the complete name and address of their firm and the name, mailing address, email address, and telephone number of the person the Town should contact regarding the proposal.
- The proposers shall confirm that the firm will comply with all the provisions in this RFP and that the firm is not currently involved in official reorganization or bankruptcy proceedings. The Proposer must be authorized or have the ability to transact business in the State of Florida. Proposals shall be signed by a company officer empowered to bind the company. A proposer's failure to include these items in their proposals may cause their proposal to be determined to be non-responsive and the proposal may be rejected.
- Proposers shall provide a sample invoice with their bid.

#### **E. SCOPE OF SERVICES**

To routinely service commercial dumpsters within the Town limits of Town of Dundee in accordance with the needs of the Town's customers.

- Any agreement between the Town and the commercial solid waste company will include fixed pricing based on dumpster sizes and number of pickups per week.
- The contractor shall provide and maintain ownership of commercial dumpsters supplied to the customers.
- The following shall be holidays for purposes of this contract:
  - New Year's Day
  - Memorial Day
  - Independence Day
  - Labor Day
  - Thanksgiving Day
  - Christmas Day
- If a customer's normal collection day falls on a scheduled holiday, then the customer's commercial waste will be picked up one day later in that particular week.
- All complaints by customers shall be made to the Town. In turn, the Town will contact the contractor who will provide prompt and courteous attention. In the case of alleged missed scheduled collections, the contractor shall investigate and if such allegations are verified, shall arrange for the collection of the refuse within 24 hours after the complaint is received. If a problem continues to exist, the Public Works Director shall investigate.
- Responses to new service request, change in size of dumpster, extra pickups, or replacement of damaged dumpster shall be made within 48 hours after the request is received by the contractor.



- All refuse, once picked up by the contractor, shall become the sole property of the contractor. Refuse hauled by the contractor shall be so contained, tied or enclosed that leaking, spilling, blowing out, or any other loss thereof shall be prevented, and in the case of any loss, shall be quickly recovered by the contractor.
- All refuse collected for disposal by the contractor shall be transported to a State/ County approved disposal site.
- All solid waste dumpsters shall be slant top, front load containers with black plastic lids and plugs. All dumpsters shall be kept in good operating condition and painted at all times.
- The Town will not accept any rear load dumpsters.
- The contractor shall conduct operations under this contract in compliance with all applicable local, State and Federal requirements to include, but not limited to FDEP and EPA.
- Bidders shall be deemed an independent contractor as to all work required and not an agent or employee of the Town.

#### F. TERMS/CONTRACT

The following are some of the major points within the proposed contract. Please refer to the attached contract for full terms and conditions.

- **TERMS OF CONTRACT** - The term of this contract will be for a period of three (1) years beginning **TBA** and ending **TBA**. If the contractor is not in default of the terms of this service agreement, contractor has the option of one (1)One-year renewal (if agreeable to the Town). The option period, if exercised, shall be by contractor delivery to the Town not less than six (6) months prior to the expiration of the contract term, the contractor's written notice of intent to renew. Contact must provide the Town with the freedom to exit the contract with a written notice for no less than a period of 60days.
- **RATES** - Disposal costs. In the event that tipping fees increase, the Town and contractor may renegotiate appropriately the rates on the Bid Form. Such renegotiation will only take place upon the contractor's written notice to the Town of Dundee. The contractor shall not charge for lock bars requested by customers.
- **BILLING** - The contractor will bill the Town on the 1st of each month for services performed during the previous month. The Town shall pay the contractor in full within 30 days of receipt of a valid invoice regardless of whether or not the Town collects such monies from the customers serviced. All invoices will be in a format acceptable to the Town. The contractor shall not service any dumpsters without express consent from the Town of Dundee. Payment for additional services may not be made if the services were not requested by the Town of Dundee's Sanitation Department prior to the date of services.
- **TRANSITION PERIOD** - In the event that the awarding contractor is a different contractor from the current provider, there will be a 5-week transition period for replacement of the dumpsters currently owned and maintained by current contractor. The new contractor will be expected to work closely with Public Works and Town Administration to ensure no interruption of service to the Town's existing customers. The transition period will begin **TBA**.

- **PERFORMANCE BOND** - Simultaneously, with delivery of the executed contract, the Contractor shall furnish a surety bond as security for faithful performance of this contract. The surety on such bond shall be duly authorized by a surety company satisfactory to the City and be in the amount of \$200,000.

## 1.02 – CONTRACTOR USE OF SITE

- A. The Contractor will not work on or keep his equipment on any private property without the permission of the property owner involved. The Contractor, during the construction period may leave their rollers, paver, and other essential equipment on adjacent streets as long as no private driveways are blocked and all equipment is marked with reflective barricades. The Contractor shall be responsible for damages to any private property including trees, curbs, mailboxes, private yards and street signs. The Contractor shall not prime or resurface over any mud, dirt, paper or rock. All heavy accumulations shall be removed by the Contractor at his expense. No asphalt shall be placed in the rain or when the temperature is below 55°F.
- B. The Contractor shall be responsible for locating and securing required storage and/or staging areas.
- C. It shall be the Contractors responsibility to obtain a water construction meter for any water that may be needed on this project.
- D. All surfaces shall be swept clean after the completion of the work. Sweeping shall include the removal of mud, dirt, rocks, debris, and may require scraping. The sweeping must pick up the debris from the surface and not merely blow it onto adjacent yards. Payment will be on a lump sum basis for the estimated length of street paving.

## 1.03 – SEQUENCE OF WORK

- A. The Town of Dundee reserves the right to determine what locations will be completed and in what order.

## PART 2 – PRODUCTS

All products and material shall meet or exceed all specifications shown on the drawings and in written form or required by the Town of Dundee.

## PART 3 – CONTRACT CLOSEOUT

### 1.1 CLOSEOUT PROCEDURES

- A. Submit written certification that Contract Documents have been reviewed, work has been inspected and work is complete in accordance with Contract Documents and ready for Town inspection.
- B. Submit final application for payment identifying total adjusted contract sum, previous payments, and sum remaining due.

## **1.2 FINAL CLEANING**

- A.** Execute final cleaning prior to final inspection.
- B.** Clean surfaces exposed to view, remove stains and foreign substances.
- C.** Clean disturbed portions of site, sweep paved areas, rake clean landscaped surfaces.
- D.** Remove waste and surplus materials, rubbish and construction facilities from the site.

## **1.3 ADJUSTING**

- A.** Adjust operating products and equipment to ensure smooth and unhindered operation.

## **1.4 WARRANTIES**

- A.** All work, materials, and workmanship shall be warranted for a minimum of one calendar year from the date of acceptance by the Town of Dundee.

## FY 2024-2025 Commercial Solid waste and services

Dundee, Florida 33838

467

**EXHIBIT – A**

**EXHIBIT – B**

**AFFIDAVIT CERTIFICATION**  
**IMMIGRATION LAWS**

THE TOWN OF DUNDEE, FLORIDA, WILL NOT INTENTIONALLY AWARD TOWN CONTRACTS TO ANY CONTRACTOR WHO KNOWINGLY EMPLOYS UNAUTHORIZED ALIEN WORKERS, CONSTITUTING A VIOLATION OF THE EMPLOYMENT PROVISIONS CONTAINED IN 8 U.S.C. SECTION 1324 a(e) AND/OR SECTION 274A(e) OF THE IMMIGRATION AND NATIONALITY ACT ("INA").

THE TOWN OF DUNDEE, FLORIDA, MAY CONSIDER THE EMPLOYMENT BY ANY CONTRACTOR OF UNAUTHORIZED ALIENS A VIOLATION OF SECTION 274A(e) OF THE INA. **SUCH VIOLATION BY THE RECIPIENT OF THE EMPLOYMENT PROVISIONS CONTAINED IN SECTION 274A(e) OF THE INA SHALL BE GROUNDS FOR UNILATERAL CANCELLATION OF THE CONTRACT BY THE TOWN OF DUNDEE.**

BIDDER ATTESTS THAT THEY ARE FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

Company Name \_\_\_\_\_

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

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

Title \_\_\_\_\_

PRIVATE PROVIDER FIRM \_\_\_\_\_

**THIS SECTION TO BE COMPLETED BY A NOTARY PUBLIC:**

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

SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_

NOTARY PUBLIC: CHECK ONE PERSONALLY KNOWN TO ME \_\_\_ Produced I.D. \_\_\_\_\_

TYPE OF ID PRODUCED \_\_\_\_\_

SIGN: \_\_\_\_\_

PRINT: \_\_\_\_\_

## **NONCOLLUSION AFFIDAVIT OF BIDDER**

**State of Florida**

**County of Polk**

**I \_\_\_\_\_ (“Affiant”), being first duly sworn, deposes and says that:**

- (1) Affiant is \_\_\_\_\_ (insert job title) of \_\_\_\_\_ (insert name of company) the bidder that submitted the attached bid;
- (2) Affiant is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid;
- (3) Such bid is genuine and is not a collusive or sham bid;
- (4) Neither the said Affiant nor any of his/her/its officers, partners, owners, agents, representatives, employees or parties in interest, including Affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other bidder, firm or person to submit a collusive or sham bid in connection with the Contract for which the attached bid has been submitted or has refrained from bidding in connection with such Contract; nor in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder; nor has fixed any overhead, profit or cost element of the bid price, or the bid price of any other bidder; nor has secured through any collusion, conspiracy, connivance or unlawful agreement, any advantage against the Town of Dundee or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Affiant or any of its agents, representatives, owners, employees, or parties in interest.

### **THIS SECTION TO BE COMPLETED BY A NOTARY PUBLIC:**

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

SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_

NOTARY PUBLIC: CHECK ONE PERSONALLY KNOWN TO ME \_\_\_\_ Produced I.D. \_\_\_\_\_

TYPE OF ID PRODUCED \_\_\_\_\_

SIGN: \_\_\_\_\_

PRINT: \_\_\_\_\_



## **CERTIFICATION OF DRUG-FREE WORKPLACE**

I \_\_\_\_\_ (“Undersigned”), certify that:

- (1) Undersigned is \_\_\_\_\_ (insert job title) and duly authorized to act on behalf of the Contractor \_\_\_\_\_ that submitted the attached bid.
- (2) Undersigned acknowledges that Preference shall be given to businesses with drug-free workplace programs.
- (3) Undersigned acknowledges that whenever two (2) or more bids which are equal with respect to price, quality, and service are received by the Town for the Purchasing of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process.
- (4) In order to have a drug-free workplace program, a business shall:
  - (a) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in-the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
  - (b) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
  - (c) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (a).
  - (d) In the statement specified in subsection (a), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 of the Florida Statutes or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
  - (e) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
  - (f) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

The Undersigned, as the person authorized to sign this CERTIFICATION OF DRUG-FREE WORKPLACE, does hereby certify that the Contractor, \_\_\_\_\_, acknowledges, understands, and complies fully with the above requirements.

DATE: \_\_\_\_\_ NAME OF ENTITY: \_\_\_\_\_

PHONE/FAX: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

## **SALES TAX SAVINGS FORM**

**CONTRACT NUMBER:** \_\_\_\_\_

**NAME OF PROJECT:** \_\_\_\_\_

<b>MATERIALS</b>	<b>(1) Amount in Contract</b>	<b>(2) Sales Tax</b>	<b>(3) Net Amount</b>

- (1) This is the amount to be deducted from contract by change order.
- (2) The amount of the sales tax included in the material purchase line item supplied by the Contractor.
- (3) The amount to be used by the Town to make the material purchase per the Contractor's stated quantities.



# TOWN COMMISSION MEETING

May 27, 2025 at 6:30 PM

<b>AGENDA ITEM TITLE:</b>	DISCUSSION & ACTION, SECURITY UPGRADES AT THE DEVELOPMENT SERVICES BUILDING
<b>SUBJECT:</b>	The Town Commission will consider upgrading to the Development Services Building to include cameras and locks.
<b>STAFF ANALYSIS:</b>	<p>Town staff has obtained quotes for the installation of new locks and surveillance cameras at the Development Services Building. This initiative is in direct response to ongoing safety concerns and is intended to enhance security for Town staff and protect municipal assets.</p> <p>The proposed upgrades will include access control systems and modern surveillance technology, providing improved monitoring and restricted entry capabilities. The installation is expected to deter unauthorized access, support incident response efforts, and contribute to a safer work environment for employees and visitors.</p>
<b>FISCAL IMPACT:</b>	\$15,177.29
<b>STAFF RECOMMENDATION:</b>	Staff recommends approval of Everon Solutions Quote
<b>ATTACHMENTS:</b>	Quote Sheet

**TOWN OF DUNDEE  
PRICE QUOTE SHEET**

DATE: 5/13/2025DEPARTMENT: BUILDING DEPT/ CODENAME OF PERSON SECURING THE QUOTE: John viceGENERAL DESCRIPTION OF ITEM: to add locks and cameras to building for safety reasonsVendor Selected: ☒**VENDOR #1**COMPANY NAME: EVERON SOLUTIONSCONTACT NUMBER: 407-739-1081NAME OF REPRESENTATIVE: MIKE G.PRICE: \$15,177.29SHIPPING: N/ACOMMENTS: ADD CAMERA'S AND SECURTIY LOCKS TO BUILDINGVendor Selected: ☒**VENDOR #2**COMPANY NAME: PRECISION SAFE AND LOCK LLCCONTACT NUMBER: 863-293-4098NAME OF REPRESENTATIVE: STEVEPRICE: \$1,740.00SHIPPING: N/ACOMMENTS: ADD SECURITY LOCKS TO BUILDINGVendor Selected: ☐**VENDOR #3**COMPANY NAME: A&A LOCKS AND REPAIRCONTACT NUMBER: 863-509-8601NAME OF REPRESENTATIVE: XAVIERPRICE: NO QOUTESHIPPING: N/ACOMMENTS: ADD SECURITY LOCKS TO BUILDINGDEPARTMENT DIRECTOR/SUPERVISOR: Jahmather (JH)DATE: 5/13/2025

FINANCE DIRECTOR APPROVAL: \_\_\_\_\_

DATE: \_\_\_\_\_

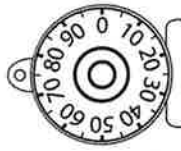
TOWN MANAGER APPROVAL: \_\_\_\_\_

DATE: \_\_\_\_\_

ADDITIONAL COMMENTS: \_\_\_\_\_

SOLE SOURCE JUSTIFICATION: \_\_\_\_\_

DSB Building  
Quote # 1



**PRECISION**  
SAFE & LOCK, LLC.

217 Avenue G SW  
Winter Haven, FL 33880  
(863) 293-4098  
office@precisionsafeandlock.com

Item 6.

## Estimate

ESTIMATE#

1337

DATE

05/05/2025

PO#

### CUSTOMER

DUNDEE, TOWN OF  
P.O. Box 1000  
DUNDEE FL 33838  
(813) 439-1086

### SERVICE LOCATION

DUNDEE, TOWN OF  
124 Dundee Rd  
Dundee FL 33838  
(813) 439-1086

### DESCRIPTION

Jonathan Vice called needs quote ASAP on access control on the code enforcement building. Customer is available all day Wednesday call 863-514-6636 when on the way. Please get Jonathan's email that he wants the quote sent to.

## Estimate

Description	Qty	Rate	Total
Service Call	1.00	100.00	100.00
Labor	8.00	105.00	840.00
7440-628	1.00	0.00	0.00
Wire / electrical Parts	1.00	50.00	50.00
RT-1 Remote Release Kit	1.00	120.00	120.00
Storefront Dead Latch and Paddle Handle	1.00	250.00	250.00
AIPHONE WL-11 Wireless video Intercom	1.00	380.00	380.00
POLK Sales Tax		7.00%	0.00

### CUSTOMER MESSAGE

**Estimate Total:**

**\$1,740.00**

### PRE-WORK SIGNATURE

Signed By:

# Equipment and Investment Statement for: TOWN OF DUNDEE 124 DUNDEE RD-VIDEO SURVEILLANCE

**Site Information:** DUNDEE TOWN OF BUILDING DEPT, 124 DUNDEE ROAD, 124 DUNDEE ROAD, DUNDEE, FL 33838

## Scope of Work:

VIDEO SURVEILLANCE SYSTEM INSTALL:

1-SPECO 8 CHANNEL 8TB NVR

1-UPS / SURGE

1-WALLMOUNT RACK

1-BATTERY BACK UP

6-SPECO HD 4MP TURRET CAMERAS

(PLEASE SEE ATTACHED DRAWING)

SET UP FOR REMOTE VIEW VIA APP OR PC

POC JONATHAN VICE-JVICE@TOWNOFDUNDEE.COM

## Inclusions/Exclusions:

CUSTOMER will be responsible for providing any 110VAC required for the proper operation of the security equipment. CUSTOMER will be responsible for providing IT support for Firewall and Port opening on their network when using an IP device.

ADT will perform the installation, conduct tests and inspections during normal business hours and days: 8AM to 5 PM Mon-Fri. using standard labor rates excluding Union and prevailing wage rates.

ADT Extended Service Plan (ESP) includes the following:

Labor (M-F normal working hours)

All listed head end parts are covered.

All listed peripherals are covered.

## Equipment List:

Quantity	Description
1000	CAT 6 UTP CMR 1000-BOX WHITE
1	8 Channel 4K H.265 IP NVR with 8TB Storage With Built in POE
1	Wall Mount for O4D6M/O8D6M/VLDT6M, H8D6M
1	Smart-UPS X 750VA Rack/Tower SMX750C
6	4MP AI IP Turret Camera, IR, 2.8-12mm Motorized Lens, Incl J
1	WALL MOUNT 10RU X 22 inch DEEP RACK (20 inch USABLE
1	SURGE PROTECTOR 120 VAC
1	Power Strip Mnt For DWR Rack

## Existing Equipment List:

Quantity	Description
16	Indoor Dome Camera, 2.7-13.5mm Varifocal P-Iris Lens, 5MP at 20fps/4MP at 30fps, HD-Analog/HD-TVI/HD-CVI/Legacy Res, T-WDR, 100ft IR, TDN w/IR Cut Filter, Smart 3D-DNR, OSD Control Via Coax, IP66



**Recurring Services:**

<b>Description</b>	<b>Amount</b>
Service Plan	\$141.55
Video	\$4.00
<b>Sub Total Monthly Charge:</b>	<b>\$145.55</b>

<b>Summary of Charges for: TOWN OF DUNDEE 124 DUNDEE RD-VIDEO SURVEILLANCE</b>		
<b>Installation Price</b>		<b>\$9,362.09</b>
<b>Total Installation Price*</b>		<b>\$9,362.09</b>
<b>Total Monthly Recurring Services Charges*</b>		<b>\$145.55</b>
		*Plus applicable tax
<b>Schedule of Values</b>	<b>30/70</b>	<b>30% of Contract Value Upon Contract Acceptance</b>
		<b>70% of Contract Value at Final Acceptance</b>

### **Equipment and Investment Statement for: TOWN OF DUNDEE-ADD 1 DOOR ACCESS CONTROL SYSTEM**

**Site Information:** DUNDEE TOWN OF BUILDING DEPT, 124 DUNDEE ROAD, 124 DUNDEE ROAD, DUNDEE, FL 33838

**Scope of Work:**

1 DOOR BRIVO ACCESS CONTROL SYSTEM INSTALL:

1-ACS300

1-TRI TECH CARD READER

1 POWER SUPPLY

1 DOOR RELEASE

25 FOBS

\*\*\*SEE ATTACHED DRAWING FOR DEVICE LOCATIONS\*\*\*

**Inclusions/Exclusions:**

Everon will perform the installation, conduct tests and inspections during normal business hours and days: 8AM to 5 PM Mon-Fri. using standard labor rates excluding Union and prevailing wage rates.

Connection To Existing Equipment: It is mutually understood and agreed that Everon assumes no responsibility whatsoever for the maintenance, operation, non-operation, actuation, non-actuation or needless or erroneous actuation of the existing equipment; that service may be terminated by Everon in the event the existing equipment is not in good working operating condition and Everon shall not be liable for any damage of subject to any penalty as a result of such termination. Any repairs to or replacement of existing equipment at the time of reconnection will be charged to the customer on a time and materials basis at the prevailing rates.

Everon Extended Service Plan (ESP) includes the following:

Labor (M-F normal working hours)

All listed head end parts are covered.

All listed peripherals are covered.

eSuite Online Services

eSuite is an online portal that gives customers access to information, video, and hosted service subscriptions. eSuite offerings include:

eSuite 1Data Manager Burglary and fire signal account management, reporting, and management subscription service available in two levels:

Primary Available to all monitored commercial customers for no additional fee. Includes the ability to manage site contacts and to view site level signal activity.

Premier Includes open and close signal logging services, ad hoc and scheduled reporting options and access to the Business Partner tabs and functions including daily dashboards.

**PIN MANAGEMENT SERVICES**

PIN (Personal Identification Number) Management service is provided on a subscription-basis only and must be purchased as an addition to eSuite 1Data Manager Premier level service. PIN Management refers to the ability to request edits to actual site level user panel codes. PIN Management service allows an authorized customer user to request PIN code changes to their on-site panels via the 1Data Manager Premier portal. PIN code edits are then downloaded to the customer site panels as requested as soon as possible. The PIN Management subscription entitles the customer to one (1) PIN code change request per month, per subscribed site. Site PIN Management change request maximums may be aggregated across the total number of customer sites, not to exceed the total number of two per site. Everon reserves the right to charge for PIN Management change requests that exceed the two per site maximum per month, per download.

**Equipment List:**

Quantity	Description
1	PS Series 12V, 7Ah General Purpose Rechargeable SLA Battery,
50	CAT 6 UTP CMR 1000-BOX WHITE
200	PROFUSION ACCESS CNTL PLENUM 5
1	Single gang tri-technology reader. Compatible with Brivo Mob
25	Unified Credential - Smart Keyfob Ev3 - 8K. Compatible With
1	Wireless Transmitter, One receiver, Two transmitters W/Mount
1	Access Control Power Supply 12
1	Onair ACS300 IP door controller with WiFi & BLE for up to tw

**Recurring Services:**

Description	Amount
Access Control	\$17.00
Service Plan	\$20.00
Sub Total Monthly Charge:	\$37.00

Summary of Charges for: TOWN OF DUNDEE-ADD 1 DOOR ACCESS CONTROL SYSTEM	
Installation Price	\$5,815.20
Total Installation Price*	\$5,815.20

Total Monthly Recurring Services Charges*		\$37.00
		*Plus applicable tax
Schedule of Values	30/70	30% of Contract Value Upon Contract Acceptance 70% of Contract Value at Final Acceptance

Item 6.

## Investment Summary

Item 6.

### Summary of Charges for: TOWN OF DUNDEE 124 DUNDEE RD-VIDEO SURVEILLANCE

Installation Price	\$9,362.09
--------------------	------------

Total Installation Price*	\$9,362.09
---------------------------	------------

Total Monthly Recurring Services Charges*	\$145.55
-------------------------------------------	----------

\*Plus applicable tax

### Summary of Charges for: TOWN OF DUNDEE-ADD 1 DOOR ACCESS CONTROL SYSTEM

Installation Price	\$5,815.20
--------------------	------------

Total Installation Price*	\$5,815.20
---------------------------	------------

Total Monthly Recurring Services Charges*	\$37.00
-------------------------------------------	---------

\*Plus applicable tax

### Total Proposal Option

Installation Price	\$15,177.29
--------------------	-------------

Total Installation Price*	\$15,177.29
---------------------------	-------------

Total Monthly Recurring Services Charges*	\$182.55
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\*Plus applicable tax

*Pricing above is as of the date of this Proposal and Rider and valid for 30 days unless a change in equipment cost occurs. Government tariffs or levies may cause these prices to increase, even if such tariffs or levies are enacted after the date of this Proposal and Rider. Please speak to your sales representative for solutions to minimize risk of tariff-related price increases.*

If Everon and Customer are parties to a mutually signed, written agreement, then the terms of that agreement control. If Everon and Customer are not parties to a signed contract, then the scope of work and prices set forth above are based upon and subject to the Everon Terms and Conditions ("Terms") available at <https://www.everonsolutions.com/terms-and-conditions-sale>. Any modifications to the Terms may result in pricing changes. Any other terms and conditions are rejected by Everon unless in a document signed by an authorized representative of Everon.



Proposal prepared for:

**DUNDEE, TOWN OF**

Presented by:

**Mike Giampoala**

**5.13.2025**

Sales Agreement ID: 892109771



May 13, 2025

DUNDEE, TOWN OF  
PO BOX 1000  
DUNDEE, FL 33838

On behalf of Everon, thank you for the opportunity to respond to your RFP/solicitation for DUNDEE, TOWN OF.

Everon is a leading national integrator and premier service provider of commercial security, fire and life safety. We support more than 300,000 customer locations, backed by our national strength, and over 5,000 employees, including 2,300 technicians, across more than 100 locations. Our company draws on an outstanding legacy of service excellence that is strengthened by our people's decades of industry expertise to emerge as an innovator and service excellence champion, protecting commercial property, people, and assets. We measure success on achieving customer goals and developing strong, long-lasting partnerships through every project and customer interaction. As a national company with local offices, our broad footprint is designed to provide you with a quality service experience to meet your specific needs and exceed your expectations.

We look forward to next-step discussions in order to provide DUNDEE, TOWN OF with best-in-class solutions and service as your One Ideal Partner, and to help you achieve your security, fire and life safety objectives now and into the future. Thank you for your consideration.

Respectfully,

Mike Giampoala  
Sr Comm Security Conslt  
Everon



## 1. Executive summary

### 1.1. Powered by Experience. Driven by Excellence.

Everon is a leading national integrator and premier service provider of commercial security, fire and life safety. We support more than 300,000 customer locations backed by our national strength and local knowledge of over 5,000 employees – including 2,300 technicians – across 100 offices, and two dedicated monitoring and operations centers. Our corporate offices are based in Boca Raton, Florida with our Innovation & Operations HQ in Dallas, Texas.

**300,000+**  
Customer Locations

Everon draws on an outstanding legacy of service excellence that is strengthened by over a decade of industry expertise – with many leaders having spent the majority of their careers in the industry. Our organization was built over the last decade by some of the most trusted names in commercial security that include ADT Commercial, Protection 1, and Red Hawk Fire & Security. In that time, we focused on providing comprehensive, scalable solutions to address unique needs of mid-market, national and large-scale organizations, and established a new industry standard for customer-driven service excellence and delivery. With GTCR's acquisition of ADT Commercial in 2023, we've now emerged as an innovator and service excellence champion protecting commercial people, property, and assets across industries. Through our predecessor companies, we built a reputation as one of the nation's best commercial security providers, with decades of experience and a proven record of excellence in customer service.

**100+**  
Locations with Local  
Leadership

**2,300+**  
Technicians

Today, we are Everon. We are ever focused on being game-changers and innovators, breaking new ground to propel the industry forward with a customer-focused approach to optimizing your security and life safety ecosystem. We are ever committed to being the dedicated partner and security advisor you can trust.

**2**  
Company-Owned UL Listed  
Monitoring and Operations  
Centers

Everon is committed to protecting your organization at every level. Engaging with us gives you access to an industry-leading range of security, fire, and life safety offerings, backed by our state-of-the-art, | national-scale 24/7/365 monitoring infrastructure. And it means you will benefit from our commitment to innovation: Ongoing investment in new technologies and new capabilities, including cutting-edge technology in unique applications, AI-powered solutions, enterprise-level systems for complex environments, and much more.

Our commitment to our customers is based on a foundational principle: We commit to the protection of your facilities and assets as though they are our own. And we respond to your dedication to your people's safety with our own tenacity. We consistently deliver a great customer experience—making us a trusted



partner across industries and solutions. Our experienced security, fire, and life safety experts, paired with our innovative approach to providing best-in-class service, allow us to deliver exceptional customer service across your enterprise, whether you have one location or 1,000.

Our specialized commercial team members have deep technical knowledge, complex design skillsets, and multiple enterprise-level technology, security, and fire certifications. Our Integrated Solutions team provides design development oversight, technical support and engineering, and cross-discipline project management for your complex commercial environments. Our National Fire & Life Safety Team provides fire alarm, sprinkler, and suppression system expertise from NICET and NFPA certified specialists; voice evacuation and mass notification solutions; and in-house system design-build services. The experts at our Network Operations Center design, deploy, and manage security networks, as well as provide hosted infrastructure (IaaS), cloud device health and environmental monitoring, and managed administrative services. And our industry experts have decades of specialized experience and in-depth understanding of the unique solutions and technologies needed to address your specific business challenges.

We know standard, off-the-shelf solutions don't work for leading-edge, complex organizations. We can help you build a flexible and customizable security, fire, and life safety program to meet your unique business challenges, and to help protect your people, property, and assets—while minimizing risk to your organization. We aim to build customer-driven partnerships by helping identify the products and services that work best for your business needs and meet your security, fire, and life safety objectives in the most effective manner. Building solutions to meet your enterprise-level objectives is our specialty—we'll help you find the best combination of products and services from our comprehensive suite of security, fire, and life safety technologies to cover your locations inside and out.

## 1.2 Our Guiding Principles

- **Customers Are Our True North:** We know that our reputation is based on how we serve our customers.
- **Our People Are the Difference:** We strive to be the best technically trained team in the business.
- **Dedicated to Commercial:** We are purposefully built to serve the integrated security, fire, and life safety needs of our customers.
- **One Ideal Partner:** We are a full-service national company with nimble local delivery teams.

## FD24000 National League of Cities (NLC): Community Engagement Academy - FY 2025

### eCivics Grant Detail

Grant: FD24000 National League of Cities (NLC): Community Engagement Academy - FY 2025

Provided for: Erica Anderson of Florida League of Cities

On Tuesday, May 20, 2025 5:36:02 AM Pacific Daylight Time

### Summary

<b>Type:</b>	Foundation
<b>Agency:</b>	FD Foundation
<b>Office:</b>	National League of Cities (NLC)
<b>Total Assets:</b>	\$51,241,556
<b>Last Tax Filing:</b>	09/30/2023
<b>Match Required:</b>	No
<b>Actual Funds:</b>	Unspecified
<b>Payment Type:</b>	Unspecified
<b>Project Period:</b>	12 Months
<b>Project Start Date:</b>	September 2025
<b>Project End Date:</b>	September 2026
<b>Solicitation Date:</b>	Unknown
<b>Next Due:</b>	06/30/2025 (Application)
<b>Eligible Applicants:</b>	Local Government
<b>Multipart Grant:</b>	No

The purpose of this program is to create a resilient and robust infrastructure for integrating resident voices into city governance. Awarded cities will be provided with the opportunity to build new relationships with community partners and ensure that every community member is heard, especially those from historically marginalized groups.

Selected cities will develop the fundamental capacity to develop a more inclusive and community-led approach to governance through tailored technical assistance, practical tools, and peer learning engagements. Ultimately, cities will lay the groundwork for a community-driven future.

Supported city governments will unlock transformative potential by moving beyond transactional, one-time engagements and instead authentically engage residents through ongoing two-way dialogue and shared decision-making. This deeper level of involvement is intended to create more impactful solutions, and also repair trust with historically marginalized communities, particularly when prior engagement has been lacking or dismissive.

The Cities of Opportunity (CoO) Community Engagement Academy will offer a cohort experience for cities seeking to deepen their approach and build essential capacity and infrastructure for long-term community engagement. Over the course of the academy, city teams will be guided through a stepwise process to evaluate their current community engagement efforts and pinpoint opportunities to strengthen existing capacity, ultimately developing a concrete workplan outlining the strategies and milestones needed to implement vital community engagement infrastructure.

The academy will include:

- Bimonthly workshops for capacity building and strategy development to create sustainable and bidirectional community engagement infrastructure
- Paid travel to an in-person convening in Washington, D.C., in February 2026, for three team members
- One-on-one technical assistance support with subject matter experts from the funding agency and partner organizations
- Peer engagement opportunities for city teams to connect with one another and exchange ideas and experiences in building out their community engagement infrastructure
- Additional tools, resources, and networking opportunities through the initiative

The academy will empower city leaders and their community partners to fundamentally shift their approach to community engagement by building capacity and establishing essential infrastructure for long-term, sustained engagement beyond one-off interactions. As a result, participating cities will establish:

An institutional commitment to community engagement as a core value of their operations

Infrastructure for long-term engagement, such as community outreach departments or leads, accessible communication channels for regular d  
staff practices that support long-term community engagement, and consistent processes for soliciting and integrating resident input for decision  
Enhanced capacity for community partnerships through reimagining the potential of city relationships with community partners

Applicant cities must demonstrate:

Support of the mayor and/or city manager for participation in the academy

Readiness and commitment to assemble an effective core team

Commitment to participation in the full academy programming including all workshops, one-on-one technical assistance sessions, and independent preparation

An understanding of key priorities and existing gaps in community engagement for the city, including specific populations who are under-represented in the current community engagement structure

A commitment to engaging with residents that have been historically under-represented

Dedication to advancing health and well-being for all residents in their community

An issue or opportunity that could ultimately benefit from an improved engagement process

A commitment to sustain meaningful engagement with the community beyond the time frame of the academy

**An optional webinar is scheduled for this program.**

Applicants may submit an optional letter of intent prior to submitting applications.

This program is related to the National League of Cities (NLC): Community Health and Wellbeing Accelerator program, known in *eCivis Grants Network* as FD23999.

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**Apply now to join two new technical assistance cohorts organized by NLC's [Cities of Opportunity Initiative](#). Each opportunity supports leaders in making strategic, systems-level change to improve the health and wellbeing of their communities.**

These programs will provide bespoke, expert-level technical assistance to city government staff and officials who envision a future for their communities based on a foundation of trust and innovation to improve health and wellbeing outcomes for all residents.

Each cohort program lasts 12 months and applies proven frameworks to empower city leaders to develop solutions to the challenges their communities face in health and wellbeing. To decide which program is right for you, review the information below and register to attend the [informational webinar on May 20<sup>th</sup> at 1 PM ET.](#)

### Which Program is Right for You?

## The Community Engagement Academy

Six cities will embark on a transformative journey to integrate resident voices into city governance. Selected cities will enhance their ability to deeply and continually engage residents and partners to improve health outcomes for all. Through tailored technical assistance, practical tools, and peer learning engagements, participants will develop the fundamental capacity to build a more inclusive and community-led approach to governance.

### This program is right for cities that:

- Have a vision for community engagement based in transparency and collaborative communication with residents;
- View resident voice as a key factor in their information gathering process and wish to institutionalize the practice of communicating with individuals and community

[Learn more about the Community Engagement Academy](#)

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Accept

- Are ready to develop reliable infrastructures for communication and relationship development with local partners and community groups for long-term collaboration.

## The Community Health and Wellbeing Accelerator

Six cities will address the root cause of health disparities by building their capacity, leveraging their assets, and driving transformative policy and systems changes. Participating cities will leverage the proven Cities of Opportunity approach, which includes expert coaching, tools, and a curated peer learning environment, yielding proven impacts in resident health and wellbeing.

### **This program is right for cities that:**

- Are searching for a proven framework to align city staff and officials in their work to support a shared mission of improving health and wellbeing for all residents;
- Want to actively engage executive leadership in a partnership for systems change and thoughtful policy development; and,
- Can build a cross-sector team of enthusiastic team members from city departments and local partners to carry out a comprehensive work plan to improve community health and wellbeing outcomes.

### **Important Information**

- Applications are due by 11:59 PM ET on Monday, June 30, 2025.
- The support of your city, town or village's top executive is required.
- During each program, cities will be expected to participate in one in-person convening in Washington, DC.
- Cities may choose to apply to both cohorts, though they will only be chosen for one of the two cohorts.

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Find out which opportunity is best for you and get insights into the application process by attending a webinar on **Tuesday, May 20**.

*Item 7.*

**REGISTER NOW**

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# TOWN COMMISSION MEETING

May 27, 2025, at 6:30 PM

<b>AGENDA ITEM TITLE:</b>	DISCUSSION & ACTION, NATIONAL LEAGUE OF CITIES – COMMUNITY ENGAGEMENT GRANT OPPORTUNITY
<b>SUBJECT:</b>	The Town Commission will consider the NLC grant application and the placement of one commissioner to be appointed as the liaison for the group.
<b>STAFF ANALYSIS:</b>	The Cities of Opportunity (CoO) Community Engagement Academy will offer a cohort experience for cities seeking to deepen their approach and build essential capacity and infrastructure for long-term community engagement. Over the course of the academy, city teams will be guided through a stepwise process to evaluate their current community engagement efforts and pinpoint opportunities to strengthen existing capacity, ultimately developing a concrete workplan outlining the strategies and milestones needed to implement vital community engagement infrastructure. Awarded cities will be provided with the opportunity to build new relationships with community partners and ensure that every community member is heard, especially those from historically marginalized groups.
<b>FISCAL IMPACT:</b>	There is no fiscal impact as a result of this item. The National League of Cities pays all fees.
<b>STAFF RECOMMENDATION:</b>	At the will of the Commission
<b>ATTACHMENTS:</b>	eCivis Grant Detail