

AGENDA
CITY COMMISSION MEETING
VENETIAN CENTER, 1 DOZIER COURT
MONDAY, MAY 10, 2021 5:30 PM

1. CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

2. PROCLAMATIONS

A. None

3. PRESENTATION

A. None

4. PUBLIC COMMENTS:

This section is reserved for members of the public to bring up matters of concern or opportunities for praise. Issues brought up will not be discussed in detail at this meeting. Issues will either be referred to the proper staff or will be scheduled for consideration at a future City Commission Meeting. Comments are limited to three minutes.

5. CONSENT AGENDA:

Routine items are placed on the Consent Agenda to expedite the meeting. If the Commission/Staff wish to discuss any item, the procedure is as follows: (1) pull the item(s) from the Consent Agenda; (2) vote on remaining items with one roll call vote, (3) discuss each pulled item and vote by roll call

A. CITY COMMISSION MEETING MINUTES:

1. Regular meeting held April 26, 2021

B. PURCHASING ITEMS:

1. Purchase request by Public Works / Solid Waste for an air curtain burner

using a General Services Administration (GSA) Multiple Award Schedule (MAS) from Air Burners, Inc. for an amount of \$135,211.03.

2. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Construction Services Agreement with US Water Services Corporation for an amount of \$85,711.00; and providing an effective date.
3. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Construction Change Order No. 4 with Evergreen Construction Management, Inc. for the Aquatic Complex project for an amount of \$151,823.28 and amending the owner contingency amount to \$198,586.65; and providing an effective date.

C. RESOLUTIONS:

1. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Revised Memorandum of Agreement to reimburse U.S. Customs and Border Protection (CBP), for costs related to FY 2021 IT Refresh, repealing the memorandum executed on April 26, 2021 by Resolution 10,847; and providing an effective date.
2. Resolution of the City Commission of the City of Leesburg, Florida authorizing and directing the Mayor and City Clerk to execute a Third Amendment to Amended and Restated Ground Lease between the City of Leesburg and Venetian Gardens Site Holdings, LLC for the purpose of ratifying and confirming previous agreements despite lack of two witnesses to signatures; and providing an effective date.

**6. PUBLIC HEARINGS AND NON-ROUTINE ITEMS:
COMPREHENSIVE PLAN INFORMATION SIGN-UP SHEET (YELLOW)
AVAILABLE**

A. SECOND READING OF ORDINANCES

1. None

B. FIRST READING OF ORDINANCES

1. An Ordinance of the City of Leesburg, Florida, amending the mixed-use PUD (Planned Unit Development) on approximately 640 +/- acres to extend the timeframe of the development for a property generally located north of Poe Road at the intersection of CR 44, west of Radio Road and extending

northwest to Haines Creek, as legally described in Sections 3, 4, and 5, Township 19 South, Range 25 East, Lake County, Florida; and providing an effective date. (Orange Bend)

2. An Ordinance of the City of Leesburg, Florida, amending Chapter 17, Pensions and Retirement, Article IV, Police Officers' Retirement Fund, of the Code of Ordinances of the City of Leesburg; amending Section 1, Definitions; providing for codification; providing for severability of provisions; repealing all Ordinances in conflict herewith; and providing an effective date.

C. NON-ROUTINE ITEMS

1. None

7. INFORMATIONAL REPORTS:

The following reports are provided to the Commission in accordance with the Charter/Ordinances. No action required.

A. Financial Reports as of March 2021

8. CITY ATTORNEY ITEMS:

9. CITY MANAGER ITEMS:

10. ROLL CALL:

11. ADJOURN:

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE HUMAN RESOURCES DEPARTMENT, ADA COORDINATOR, AT 728-9740, 48 HOURS IN ADVANCE OF THE MEETING.

F.S.S. 286.0105 "If a person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting, they will need a record of the proceedings, and that for such purpose they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." The City of Leesburg does not provide this verbatim record.

**AGENDA MINUTES
CITY COMMISSION MEETING
VENETIAN CENTER, 1 DOZIER COURT
MONDAY, APRIL 26, 2021 5:30 PM**

1. CALL TO ORDER

The City of Leesburg Commission held a regular meeting Monday, April 26, 2021, at the Venetian Center. Mayor Christian called the meeting to order at 5:32 p.m. with the following members present:

Commissioner Jimmy Burry
Commissioner Jay Connell
Commissioner Mike Pederson
Mayor John Christian

Commissioner Dan Robuck was absent. Also present were City Manager (CM) Al Minner, City Clerk (CC) J. Andi Purvis, City Attorney (CA) Fred Morrison, the news media, and others.

INVOCATION

Greg Beliveau gave the invocation followed by the Pledge of Allegiance to the Flag of the United States of America.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

2. PROCLAMATIONS

A. None

3. PRESENTATION

A. None

4. PUBLIC COMMENTS:

This section is reserved for members of the public to bring up matters of concern or opportunities for praise. Issues brought up will not be discussed in detail at this meeting. Issues will either be referred to the proper staff or will be scheduled for consideration at a future City Commission Meeting. Comments are limited to three minutes.

None

5. CONSENT AGENDA:

Routine items are placed on the Consent Agenda to expedite the meeting. If the Commission/Staff wish to discuss any item, the procedure is as follows: (1) pull the item(s) from the Consent Agenda; (2) vote on remaining items with one roll call vote, (3) discuss each pulled item and vote by roll call

Items pulled for discussion:

5.C.10 = Agreement to Donate Property and a Quitclaim Deed between the City of Leesburg and the Community Development Corporation of Leesburg, Inc. (the "CDC")

Commissioner Pederson moved to adopt the Consent Agenda except for **5.C.10** and Commissioner Burry seconded the motion.

The roll call vote was:

Commissioner Connell	Yes
Commissioner Burry	Yes
Commissioner Pederson	Yes
Mayor Christian	Yes

Four yeas, no nays, the Commission adopted the Consent Agenda, as follows:
(Each item has its coordinating Resolution number listed below the header)

A. CITY COMMISSION MEETING MINUTES:

- 1. Regular meeting held April 12, 2021**

B. PURCHASING ITEMS:

- 1. Purchase request from Public Works / Wastewater Collections for the purchase of lift station controllers and communications modules to Barney's Pumps, Inc. for an amount of \$95,785.00.**
- 2. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Task Order with Halff Associates, Inc. (fka BESH, Inc) for professional services to prepare a wastewater master plan for an amount of \$110,500.00; and providing an effective date.**

Resolution 10,837

- 3. Resolutions of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute three contract**

Amendments to extend agreements with Electrical Works, Prime Electric, and Lakeside Electrical.

- a. **Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a contract amendment amending an existing contract with Joe Ciceri Public Services, Inc., d/b/a Electrical Works; and providing an effective date.**

Resolution 10,838

- b. **Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a contract amendment amending an existing contract with Lakeside Electrical Services, LLC; and providing an effective date.**

Resolution 10,839

- c. **Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a contract amendment amending an existing contract with Prime Electric, LLC; and providing an effective date.**

Resolution 10,840

C. RESOLUTIONS:

1. **Resolution of the City Commission of the City of Leesburg, Florida, authorizing the Mayor and City Clerk to execute a Gas Service Agreement between the City of Leesburg and Leesburg Senior Housing RE, LLC for the purpose of setting forth the terms under which the city will provide natural gas utility service to the Senior Housing development known as Stonegate; and providing an effective date.**

Resolution 10,841

2. **Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Gas Service Agreement between the City of Leesburg and A.A. Moukhtara Company, a/k/a A.A. Moukhtara, Inc., for the purpose of setting forth the terms under which the city will provide natural gas service to the development known as Tara Oaks, Phase 1A SW; and providing an effective date.**

Resolution 10,842

3. **Resolution of the City Commission of the City of Leesburg, Florida, authorizing and directing the Mayor and City Clerk to execute a Gas Service Agreement between the City of Leesburg and A.A. Moukhtara Company, a/k/a A.A. Moukhtara Inc, for the purpose setting forth the terms under which the city will provide natural gas service to the development known as Tara Oaks, Phase 1B NW; and providing an effective date.**

Resolution 10,843

4. **Resolution of the City Commission of the City of Leesburg, Florida, authorizing and directing the Mayor and City Clerk to execute a Gas Service Agreement between the City of Leesburg and Tara Village, Inc., for the purpose setting forth the terms under which the city will provide natural gas service to the Development known as Tara Oaks, Phase 1C SE; and providing an effective date.**

Resolution 10,844

5. **Resolution of the City Commission of the City of Leesburg, Florida amending the Fiscal Year 2020-21 Budget for the General, Capital Projects, Gas, Airport, Gas Tax and Fleet Services Funds for the Second Quarter.**

Resolution 10,845

6. **Resolution of the City Commission of the City of Leesburg, Florida authorizing the Leesburg Police Department to apply for and, if awarded, accept a Florida Department of Transportation (FDOT) State Safety Office grant to fund an Aging Road User Program (CP-2020-00290); and providing an effective date.**

Resolution 10,846

7. **Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Memorandum of Agreement to Reimburse U. S. Customs and Border Protection (CBP), for costs related to FY 2021 IT Refresh; and providing an effective date.**

Resolution 10,847

8. **Resolution of the City Commission of the City of Leesburg, Florida, accepting a Utility Easement to the City of Leesburg from CHS Management Corporation, a Virginia Corporation, for the purpose of granting the City an Easement over the property described therein; and**

providing an effective date.

Resolution 10,848

- 9. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Second Amendment to Amended and Restated Ground Lease between the City of Leesburg and Venetian Gardens Site Holdings, LLC; and providing an effective date.**

Resolution 10,849

- 10. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute an Agreement to Donate Property and a Quitclaim Deed between the City of Leesburg and the Community Development Corporation of Leesburg, Inc. (the "CDC"); and providing an effective date.**

ADOPTED RESOLUTION 10,850

Mayor Christian stated he needed to abstain from voting on this item and passed the gavel to Mayor Pro Tem Pederson.

Commissioner Burry introduced the resolution to be read by title only. CC Purvis read the resolution by title only.

Commissioner Burry made motion to adopt the resolution and Commissioner Connell seconded the motion.

Mayor Pro Tem Pederson requested comments from the Commission and the audience.

Commissioner Connell commented that he may already have the answer to this question, but wants confirmation on the amount of money the City has involved with acquiring this piece of property; whether it be attorney fees or code enforcement actions in terms of cleaning it up. Does the City have any taxpayer money involved with acquiring this piece of property. **CM Minner** responded that the City acquired this lot back in 2007; and he doubled checked with the City Attorney and Riley Snively, Chief Code Enforcement today, and to both their knowledge we have no money tied up in this parcel.

The roll call vote was:

Commissioner Burry	Yes
Commissioner Connell	Yes
Mayor Pro Tem Pederson	Yes
Commissioner Christian	Abstain

Three yeas, one abstain, no nays, the Commission adopted the resolution.

- 6. PUBLIC HEARINGS AND NON-ROUTINE ITEMS:
COMPREHENSIVE PLAN INFORMATION SIGN-UP SHEET (YELLOW)**

AVAILABLE

A. SECOND READING OF ORDINANCES

1. **An Ordinance of the City of Leesburg, Florida, changing the zoning on approximately 20.63 +/- acres from C-3 (General Commercial) and R-2 (Medium Density Residential) to PUD (Planned Unit Development) to allow for mixed use development for a property generally located west of U.S. Highway 27 and north of County Road 25A, as legally described in Section 34, Township 19 South, Range 24 East, Lake County, Florida; and providing an effective date. (Manuella Apts.)**

ADOPTED ORDINANCE 21-16

Commissioner Pederson introduced the ordinance to be read by title only. CC Purvis read the ordinance by title only.

Commissioner Pederson made motion to adopt the ordinance and Commissioner Burry seconded the motion.

Mayor Christian requested comments from the Commission and the audience.

Mayor Christian asked if they had the four different examples for the apartment types. **Planning & Zoning Manager (PZM) Miller** responded that the examples on the first page are the ones that they are seeking approval for. The examples on the second page are the typical approval type apartments in terms of design, which meet the architectural standards within a PUD zoning. He stated that Greg Beliveau, owner of LPG, is present tonight to speak on this and answer any questions the Commission may have.

Commissioner Burry asked what the apartment sizes entail. **Mr. Beliveau** responded one and two bedroom apartments because they are geared towards the workforce; that is who this was marketed for.

There will be no three bedroom apartments. They had no opposition from their neighbors and the only issue they had to deal with was upgrading a buffer. The minimum square footage for the apartments is eight hundred and fifty square feet and goes up from there.

The roll call vote was:

Commissioner Pederson	Yes
Commissioner Connell	Yes
Commissioner Burry	Yes
Mayor Christian	Yes

Four yeas, no nays, the Commission adopted the ordinance.

2. **An Ordinance of the City of Leesburg, Florida, rezoning approximately 0.28 acres from C-1 (Neighborhood Commercial) to SPUD (Small Planned Unit Development) to allow for a mechanic shop for a property generally located north of West Main Street and west of Lone Oak Drive as Legally described in Section 27, Township 19 South, Range 24 East, Lake County, Florida; and providing an effective date.**

TABLED ORDINANCE

Mayor Christian stated staff has requested that this item be pushed back another couple weeks and tabled to the next meeting. **PZM Miller** commented they would like to have this pushed back again because there were some issues getting the parties together. They have to get these two parties together and have them come to an agreement so this can be brought back to the Commission for a vote. Unfortunately, most of this was his fault due to being out of town. **Mayor Christian** asked for a motion to table this item until the next meeting.

Commissioner Pederson made motion to table the ordinance and Commissioner Burry seconded the motion.

The roll call vote was:

Commissioner Connell	Yes
Commissioner Burry	Yes
Commissioner Pederson	Yes
Mayor Christian	Yes

Four yeas, no nays, the Commission tabled the ordinance.

B. FIRST READING OF ORDINANCES

1. None

C. NON-ROUTINE ITEMS

1. None

7. INFORMATIONAL REPORTS:

The following reports are provided to the Commission in accordance with the Charter/Ordinances. No action required.

A. Financial Reports as of February 2021

There were no comments.

8. CITY ATTORNEY ITEMS:

CA Morrison had nothing.

9. CITY MANAGER ITEMS:

CM Minner had nothing.

10. ROLL CALL:

Commissioner Pederson commented that the gardens in Venetian Gardens look great, but the canals are all clogged up. He knows part of it is when the wind blows the wrong way, but he is not sure who is responsible for cleaning that the city, county or state. With the park looking so good, the canals are a detriment and he wanted to know if there was something the city could do to improve upon that. **CM Minner** answered that is on our radar scope, it is the city's responsibility, because they are our canals. Staff has been out there a couple times trying to get more aeration in the canals and also waiting for the seasons to help cleanse them. We also had discussions with some aquatic vegetation removal companies, but those numbers that came back were astronomical; in the six figure mark. That was not authorized to move forward because that would have had to come back to the Commission. Staff is still trying to figure out different ways to get them cleaned and are looking at doing smaller portions that are a little more manageable. **Commissioner Pederson** mentioned he is not sure how thick it is, but it almost looks like surface material. **CM Minner** replied it is surface material and there may be some aquatic spray type stuff to use. **Commissioner Pederson** added he lives back behind Venetian Gardens so he sees this all the time and that is the reason he had to bring it up. He drives by it everyday, looks at it, and it almost looks like someone could just scrap it off the top, but if it is not that simple he will just be quiet. He is just looking for a temporary fix. He saw the aerating systems before, but he is trying to beautify the canals and bring them in line with how the rest of the park looks. **CM Minner** suggested at this stage, and he knows it is not an immediate fix, but his suggestion would be to let the Director of Public Works work his angles to see if we can get that cleared up. If it is just to intolerable, then we will go the bigger route and put together a purchase order with more information on what it would cost to get the canals cleaned immediately. Remembering that was a big number, if the costs were below fifty thousand dollars it would have been taken care of already. **Commissioner Pederson** remarked that he appreciates that and wanted to bring this to everyone's attention. **Commissioner Burry** commented he remembers at one point where we did something out there with trying to move the water, but you can still see it. It did not necessarily work well, but revisiting that might be something.

Commissioner Burry reminded everyone that they are still giving out vaccinations at the Lake Square Mall. If you want to get your first vaccine you have until May 4th. Then they are going to close that site down for the Pfizer and Moderna vaccines. You can still get your second dose through May 25th. He encourages everyone to get their vaccines.

Commissioner Connell had nothing.

Mayor Christian thanked the Commission on behalf of the CDC for the lot donation. They are looking to build single-family homes throughout the City of Leesburg, which is a very important need in our City. He then asked the city attorney if the Stay and Save hotel foreclosure action went through. **CA Morrison** answered that a foreclosure was filed, but they just learned today that the address which was on the tax roll for the owner turned out to be a CPA office in Orlando and not their residence. They are now searching for another address, he believes they found one in Apopka, and they will try to serve it there.

11. ADJOURN:

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE HUMAN RESOURCES DEPARTMENT, ADA COORDINATOR, AT 728-9740, 48 HOURS IN ADVANCE OF THE MEETING.

F.S.S. 286.0105 "If a person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting, they will need a record of the proceedings, and that for such purpose they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." The City of Leesburg does not provide this verbatim record.

The meeting adjourned at 5:44 p.m.

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.B.1.

Meeting Date: May 10, 2021

From: Mike Thornton, (Purchasing Manager), Cliff Kelsey, (Public Works Director)

Subject: Purchase request by Public Works / Solid Waste for an air curtain burner using a General Services Administration (GSA) Multiple Award Schedule (MAS) from Air Burners, Inc. for an amount of \$135,211.03.

Staff Recommendation:

Staff recommends approval of the purchase request to Air Burners, Inc. for an amount of \$135,211.03.

Analysis:

The City's Solid Waste Division is requesting the purchase of an air curtain burner for the disposal of vegetative debris/waste. An air curtain burner is used to incinerate vegetative debris using a containment system, very high temperatures, and an air curtain. An air curtain burner uses a blower to create an air curtain that contains smoke and particulate matter within the combustion chamber. The particulate matter is returned making the use of an air curtain burner a very clean alternative to open pile burning to dispose of vegetative material.

The piece of equipment selected, uses a proprietary construction and configuration that makes it self contained and portable with the use of a standard roll-on roll-off dumpster truck. The equipment can be moved to where the vegetative debris is located providing a more efficient and quick disposal by eliminating the need to haul or move piles of debris.

This air curtain burner will be used to dispose of vegetative debris that is dropped at the closed landfill by residents, debris generated by city crews, and will be used for debris reduction resulting for storm events.

Use of the equipment to reduce storm event debris may be a FEMA reimbursable expense on an hourly basis. The City could claim equipment costs to reduce debris resulting from a declared storm event.

Procurement Analysis:

Procurement has reviewed the departments request to use the GSA MAS Schedule and deems this purchase a single source purchase. Single source due to this being the only self-contained and portable air curtain burner on the market. Procurement approves the use of the GSA MAS Schedule and agrees this is a single source purchase due to a unique and beneficial requirement of the unit being portable.

Procurement requests and recommends the City Commission waive the policy requirement for a competitive solicitation and approve the purchase as a single source as well as using a cooperative

contract in the form of a GSA MAS. Local governments are permitted to use a few GSA MAS Schedules. The schedule for disaster recovery and management is one of the permitted schedules for local government use. For reference the others are law enforcement/public safety and Information Technology.

Options:

1. Approve the purchase request to Air Burners, Inc. for an amount of \$135,211.03; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

A budget adjustment has been processed to move funds from operating to capital equipment. Funds are available for this purchase.

Account No.	046-5143-534.64-10
Project No.	460004
WF No.	WF1335710 / 001
Requisition	53179
Budget	\$135,211.03
Available	\$135,211.03

Submission Date and Time: 5/5/2021 3:30:16 PM

ROLL-OFF FIREBOX SPECIFICATIONS



General: A self-contained, completely assembled above ground Air Curtain Burner (air curtain incinerator or FireBox) with a refractory lined burn-container and steel floor and fittings for cable-hoist trucks or hook-lift trucks in accordance with ANSI Specification Z245.60 for portable applications. The S119R is protected by US Patent Number 7895956.

Designed for the high temperature burning of forest slash, agricultural green waste, land clearing debris, storm debris, and other waste streams in compliance with the requirements of US EPA 40CFR60. The FireBox is also used for disaster recovery and Department of Homeland Security contingencies.

Shipped from the factory completely assembled ready for immediate use.

1	Power	Three-cylinder Turbo Diesel Engine approx. 49 HP, HATZ Model 3H50TIC (Requires no DEF) or equivalent engine; Emissions certified US EPA Tier 4 FINAL; Engine mounted PTO	
2	Burn Container (FireBox)	4" (102 mm) thick refractory panels filled with proprietary thermal ceramic material; Two full height rear doors; Two ignition holes	
3	Safety Systems	Engine over temperature and overspeed shut down; Loss of cooling fluid shutdown; Loss of oil pressure shutdown; Lockable steel front deck security enclosure	
4	Instrument Panel	MBW electronic engine control with preset throttle settings: key switch, tachometer, hour meter, fuel gauge, oil pressure and water temperature and safety shutdown features	
5	Air Supply	Custom heavy duty fan	
6	Fuel Tank	58 Gallon (220 L) minimum fuel tank capacity	
7	Transportation & Set-up	Shipped completely assembled; Ready for immediate use; Lifting pads provided for crane lifting	
8	Options	Ash clean-out rake with standard universal quick disconnect for Skidsteer or Bobcat;	
9	Average Through-put	3-5 Tons per Hour (Average – See Note)	
10	Fuel Consumption	Approx. 1.9 gal/hr. (9.5 L/hr.)	
11	Weight	39,900 lbs. (18,100kg)	
12	Dimensions	Overall Size L x W x H	Fire Box L x W x H
	Cable-Hoist Version	27' 6" x 7' 2" x 8' 3" (8.4m x 2.2m x 2.5m)	19' x 5' x 6' (5.8m x 1.5m x 1.8m)
	Hook-Lift Version	27' 1" x 7' 2" x 8' 3" (8.3m x 2.2m x 2.5m)	19' x 5' x 6' (5.8m x 1.5m x 1.8m)

Note:

Achievable through-put depends on several variables, especially the nature of the waste material, the burn chamber temperature and the loading rate.

All weights and dimensions are approximate and metric conversions are rounded. Specifications are subject to change without notice.

AIR BURNERS, INC.

4390 SW Cargo Way • Palm City, FL 34990

Phone 772-220-7303 • FAX 772-220-7302

E-mail: info@airburners.com • www.AirBurners.com

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Rev. 01.04.2021

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.B.2.

Meeting Date: May 10, 2021

From: Mike Thornton, (Purchasing Manager), Cliff Kelsey, (Public Works Director)

Subject: Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Construction Services Agreement with US Water Services Corporation for an amount of \$85,711.00; and providing an effective date.

Staff Recommendation:

Staff recommends award of Invitation for Bid IFB 210161 and approval of the resolution authorizing execution of a Construction Services Agreement with US Water Services Corporation for an amount not to exceed \$85,711.00.

Analysis:

The purpose of this project is to replace a Force Main located at the Canal Street Wastewater Treatment Facility. The current force main is an aging 16-inch ductile iron force main that may fail and will be replaced with a new 16-inch C900 PVC force main. The old force main will be abandoned in place and filled with flowable fill and properly capped.

Procurement Analysis:

The Procurement Division issued Invitation for Bid (IFB) 210161 on March 22, 2021. Staff directly notified known contractors of the opportunity as well as posting to the City's e-procurement platform. Thirteen (13) suppliers attended a mandatory pre-bid meeting on March 30, 2021. On April 20, 2021, the City received three (3) bid responses.

SUMMARY OF BID RESPONSES

<u>Bidder Name</u>	<u>Bidder Location</u>	<u>Total Bid Amount</u>
US Water Services Corporation	New Port Richey, FL (office in Leesburg, FL)	\$85,711.00
Bulldog Sitework, LLC	Lady Lake, FL	\$98,219.36
Barracuda Bldg Corp	Apopka, FL	\$143,547.00

The City's Local Vendor Preference (LVP) policy was not a factor as the low bidder qualifies as a Tier I (5%) Local Vendor as they have an office in Leesburg located on Griffin Road.

Procurement has deemed US Water Services Corporation as a responsible bidder submitting a responsive bid. Procurement recommends award of the Invitation for Bid to US Water Services Corporation.

Options:

1. Approve the resolution authorizing execution of the Agreement with US Water Services Corporation for \$85,711.00; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

Budget Adjustment has been processed to move funds for this project.

Account No.	044-4099-535.63-10
Project No.	440002
WF No.	WF1300123/1
Requisition	53238
Budget	\$158,253.00
Available	\$151,025.50

Submission Date and Time: 5/5/2021 3:30:42 PM

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A
CONSTRUCTION SERVICES AGREEMENT WITH US WATER SERVICES
CORPORATION FOR AN AMOUNT OF \$85,711.00; AND PROVIDING AN
EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:**

THAT the Mayor and City Clerk are hereby authorized to execute an agreement with US Water Services Corporation whose address is 4939 Cross Bayou Boulevard, New Port Richey, FL 34652 for construction services related to the installation of a new force main at the Canal Street Wastewater Treatment Facility pursuant to Invitation for Bid 210161.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 10th day of May 2021.

Mayor

ATTEST:

City Clerk

AGREEMENT FOR CONTRUCTION SERVICES

THIS AGREEMENT is made as of the 10th day of May in the year 2020, between The City of Leesburg, a Florida Municipal Corporation, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the "CITY"), and **US WATER SERVICES CORPORATION** whose address is 4939 Cross Bayou Boulevard, New Port Richey, FL 34652 (hereinafter referred to as the "CONTRACTOR").

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties to this Agreement, and for other good and valuable considerations, the parties agree as follows:

1. **Contract Documents.** The following documents and information are incorporated by reference and made part hereof; and shall comprise the Contract Documents.

- a. This Agreement; and
- b. Invitation for Bid (IFB) 210161 – Force Main Headworks – Canal Street Wastewater Facility in its entirety; and
- c. Supplemental Conditions included as Attachment 'B'; and
- d. The CONTRACTOR'S response to IFB 210161 made electronically on April 20th, 2021.

2. **Scope of Services.** The CONTRACTOR shall furnish the following services generally described as the "**FORCE MAIN HEADWORKS-CANAL STREET WASTEWATER FACILITY**" to the CITY as listed in Invitation for Bid 210161. Nothing herein shall limit the CITY'S right to obtain bids or proposals for services from other contractors for same or similar work.

3. **Total Construction Cost.** The CONTRACTOR shall perform the Services for a total price not to exceed **\$85,711.00**. The cost of these services shall not exceed this amount unless the CITY has executed a written change order approving any increase in price.

4. **Labor and Materials.** The CONTRACTOR shall furnish all labor, material and equipment necessary for satisfactory contract performance. When not specifically identified in the technical specifications, such materials and equipment shall be of a suitable type and grade for the purpose. All material, workmanship, and equipment shall be subject to the inspection and approval of the CITY's representative.

5. **Professional License.** The CONTRACTOR holds a Certified Underground Utility and Excavation Contractor number CUC1223914 issued by the State of Florida. The name of the Qualifying Agent is Gary Deremer. CONTRACTOR must maintain this license during the full duration of this Agreement.

6. **Term of Agreement.** This Agreement shall commence upon the date of execution and shall remain in effect until such time as the contracted services have been completed, and

accepted by the CITY's authorized representative, unless earlier terminated in accordance with its provisions. Those portions imposing warranty requirements on CONTRACTOR, together with any implied warranties under law, will continue to remain in effect until completion of the expressed and/or implied warranty periods.

7. **Commencement and Completion.** The CITY and the CONTRACTOR mutually agree time is of the essence with respect to the dates and times set forth in the Agreement Documents. To that end, the CONTRACTOR will commence work not later than **FOURTEEN (14)** continuous calendar days after CITY issues a Notice to Proceed, and will diligently and continuously prosecute the work at such a rate, and with sufficient forces as will allow the CONTRACTOR to achieve Final Completion no later **FOURTY-FIVE (45)** continuous calendar days after CITY issues a Notice to Proceed, subject only to any adjustments in the contract time that may be authorized by change orders properly issued in accordance with the Agreement Documents. In executing this Agreement, CONTRACTOR affirms the time set for completion is reasonable.

8. **Liquidated Damages.** The CONTRACTOR shall consider all contingent work which has to be done by other parties arising from any cause whatsoever, and shall not plead his need of knowledge of said contingent work as an excuse for delay in his work or for non-performance.

If the work is not completed in full by the deadline specified, then for each day thereafter on which the work has not been completed, CONTRACTOR shall pay to the CITY liquidated damages in the amount of **ONE HUNDRED AND TWENTY-FIVE (\$250.00)** per calendar day, which CITY is hereby authorized to deduct from the final draw before paying any remaining amount to CONTRACTOR. The parties agree that it would be impossible or extremely difficult to compute the actual damages suffered by the CITY due to late completion of the work, that it is therefore appropriate to provide for liquidated damages in this Contract, and that the amount of liquidated damages specified is reasonable and bears a substantial relationship to the probable amount of actual damages the CITY would suffer, and therefore does not constitute a penalty or forfeiture. CONTRACTOR acknowledges that this provision is material to the CITY and that the Owner would not have entered into this Contract but for this provision and that as a result of the Owner's reliance on this provision, the CONTRACTOR shall be stopped to deny or dispute the validity or enforceability of this liquidated damage clause.

Nothing shall be construed as limiting the right of the CITY to declare the Contract forfeited, or to take over the work, or to claim damages for the failure of the CONTRACTOR to abide by each and every one of the terms of the Contract Documents. The completion date shall be construed as being the date on which the work is fully accepted by the CITY.

9. **Termination for Convenience or Cause.**

a. **For Convenience.** The CITY may terminate this Agreement at any time without cause by providing the CONTRACTOR with SEVEN (7) calendar days advance notice in writing, delivery by email is acceptable. In the event of termination for convenience, all finished or unfinished deliverable items prepared by the CONTRACTOR under this Agreement shall, at the option of the CITY, become the CITY's property. If the Agreement is terminated for convenience by the CITY as provided herein, the CONTRACTOR shall be paid for services satisfactorily completed, less payment or compensation previously made. The CONTRACTOR shall not incur any additional expenses after receiving the written notice of termination.

b. **For Cause or Default.** If, through any cause, the CONTRACTOR should fail to fulfill in a timely and proper manner its obligations under this Agreement, other than for the instances listed below due to "Force Majeure," the CITY will have the right to terminate this Agreement by providing a written notice (Show Cause Notice) to the CONTRACTOR requiring a written response due within FIVE (5) calendar days from receipt of the written notice as to why the Agreement should not be terminated for default. The CITY's Show Cause Notice shall include an Agreement termination date at least SEVEN (7) calendar days subsequent to the due date for the CONTRACTOR's response. Should the CONTRACTOR fail to respond to such show cause notice, or if the CITY determines that the reasons provided by the CONTRACTOR for failure of the CONTRACTOR to fulfill its contractual obligations do not justify continuation of the contractual relationship, the Agreement shall be considered to have been terminated for default on the date indicated in the Show Cause Notice. Should the CITY determine that the CONTRACTOR provided adequate justification that a termination for default is not appropriate under the circumstances; the CITY shall have a unilateral option to either continue the Agreement according to the original contract provisions or to terminate the contract for convenience. In the event that the CITY terminates the contract for default, all finished or unfinished deliverable items under this contract prepared by the CONTRACTOR shall, at the option of the CITY, become CITY property, and the CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials. Notwithstanding this compensation, the CONTRACTOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of this Agreement, and the CITY may withhold any payment due the CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due the CITY from such breach can be determined.

In case of default by the CONTRACTOR, the CITY may procure the services from other sources and hold the CONTRACTOR responsible for any excess cost occasioned thereby. The CITY reserves the right to require a performance bond or other acceptable alternative performance guarantees from the successor CONTRACTOR without expense to the CITY.

In addition, in the event of default by the CONTRACTOR under this Agreement, the CITY may immediately cease doing business with the CONTRACTOR, immediately terminate for cause all existing Agreements the CITY has with the CONTRACTOR, and debar the CONTRACTOR from doing future business with the CITY.

Upon the CONTRACTOR filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the CONTRACTOR, the CITY may immediately terminate, for cause, this Agreement and all other existing agreements the CONTRACTOR has with the CITY, and debar the CONTRACTOR from doing future business with the CITY.

The CITY may terminate this Agreement for cause without penalty or further obligation at any time following Agreement execution, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of the CITY is at any time while the Agreement or any extension thereof is in effect, an employee or agent of any other party to the Agreement in any capacity or consultant to any other party of the Agreement with respect to the subject matter of the Agreement. Additionally, the CITY may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the CITY from any other party to the Agreement.

Upon receipt of a termination action, for convenience or cause, the CONTRACTOR shall promptly discontinue all affected work (unless the notice directs otherwise) and deliver or otherwise make available to the City all data, drawings, reports specifications, summaries and other such information, as may have been accumulated by the CONTRACTOR in performing this contract, whether completed or in process.

10. **Force Majeure.** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Should there be such an occurrence that impacts the ability of either party to perform their responsibilities under this contract, the nonperforming party shall give immediate written notice to the other party to explain the cause and probable duration of any such nonperformance.

11. **Insurance Requirements.**

a. Scope of Insurance - The CONTRACTOR shall procure and maintain at its own expense, the following minimum insurance coverage, unless otherwise specified in the Contract Documents.

- i All required insurance shall be provided by insurers acceptable to the CITY with an A.M. Best rating of at least A: VII.
- ii The CONTRACTOR shall require, and shall be responsible for assuring that any and all of its subcontractors secure and maintain such insurance that are required by law to be provided on behalf of their employees and others until the completion of that subcontractors work.
- iii The required insurance shall be secured and maintained for not less than the limits required by the CITY, or as required by law, whichever is greater.
- iv. The required insurance shall not limit the liability of the CONTRACTOR. The CITY does not represent these coverages or amounts to be adequate or sufficient to protect the CONTRACTOR's interests or liabilities, but are merely required minimums.

- iv The provisions of the required insurance are subject to the approval of the City's Risk Manager, and upon request, the CONTRACTOR shall make available certified copies of the various policies for inspection.
- v All liability insurance, except professional liability, shall be written on an occurrence basis.
- vi The CONTRACTOR waives its right of recovery against the CITY to the extent permitted by its insurance policies.
- vii Insurance required of the CONTRACTOR, or any other insurance of the CONTRACTOR shall be considered primary, and insurance of the CITY, if any, shall be considered excess as applicable to any claims which arise out of the agreement, Contract or lease.

b. Certificate of Insurance - The CONTRACTOR shall provide evidence of required minimum insurance by providing the CITY an ACORD or other Certificate of Insurance in forms acceptable to the Risk Manager for the CITY, before any work under the agreement, Contract or lease begins.

- i Except for workers' compensation and professional liability, the CONTRACTOR's insurance policies shall be endorsed to name the City of Leesburg as additional insured to the extent of the agreement, Contract or lease.
- ii The Certificate(s) of Insurance shall designate the CITY as certificate holder as follows: City of Leesburg, Attn: Purchasing Manager, P.O. Box 490630, Leesburg, Florida 34749-0630.
- iii The Certificate(s) of Insurance shall include a reference to the project and/or purchase order number.
- iv The Certificate(s) of Insurance shall indicate that the CITY shall be notified at least thirty (30) days in advance of cancellation.
- v The Certificate(s) of Insurance shall include all deductibles and/or self-insurance retentions for each line of insurance coverage.
- vi The CONTRACTOR, at the discretion of the Risk Manager for the CITY, shall provide information regarding the amount of claims payments or reserves chargeable to the aggregate amount of the CONTRACTOR's liability coverage(s).

c. Comprehensive General Liability - The CONTRACTOR shall purchase and maintain Commercial General Liability coverage on forms no more restrictive than the latest editions of the Commercial General Liability policies of the Insurance Services Office (ISO). The Commercial General Liability policy shall provide minimum limits of \$1,000,000 per occurrence combined single limit that includes coverage for bodily and personal injury and property damage liability for premises, operations, products and completed operations*, independent Contractors, Contractual liability covering the agreement, Contract or lease, broad form property damage coverage, and property damage resulting from explosion, collapse or underground exposures (x, c, u).

- i. For remodeling and construction projects, the CONTRACTOR shall purchase and maintain products and completed operations coverage for

a minimum of three (3) years beyond the CITY's acceptance of the project.

d. Business Automobile Liability - The CONTRACTOR shall purchase and maintain Business Automobile Liability coverage on forms no more restrictive than the latest editions of the Business Automobile Liability policies of the Insurance Services Office (ISO). The Business Automobile Liability policy shall provide minimum limits of \$1,000,000 per occurrence combined single limit that includes coverage for claims for bodily injury and property damage arising from the use of motor vehicles, including on-site and off-site operations, and owned, non-owned and hired vehicles, and employee non-ownership use.

e. Workers' Compensation - The CONTRACTOR shall purchase and maintain Workers' Compensation insurance for all workers' compensation obligations imposed by state law and with employers liability limits of at least \$100,000 each accident and \$100,000 each employee with \$500,000 policy limit for disease.

12. **Waiver of Lien.** The CONTRACTOR agrees to make payment of all proper charges for labor and materials supplied and CONTRACTOR shall hold harmless the CITY against any claim arising out of any unpaid bills for labor, services, or materials furnished for the project covered by this Agreement.

13. **Indemnification.** The CONTRACTOR agrees to make payment of all proper charges for labor required in the aforementioned work and CONTRACTOR shall indemnify CITY and hold it harmless from and against any loss or damage, claim or cause of action, and any attorneys' fees and court costs, arising out of: any unpaid bills for labor, services or materials furnished to this project; any failure of performance of CONTRACTOR under this Agreement; or the negligence of the CONTRACTOR in the performance of its duties under this Agreement, or any act or omission on the part of the CONTRACTOR, his agents, employees, or servants. CONTRACTOR shall defend, indemnify, and save harmless the CITY or any of their officers, agents, or servants and each and every one of them against and from all claims, suits, and costs of every kind and description, including attorney's fees, and from all damages to which the CITY or any of their officers, agents, or servants may be put by reason of injury to the persons or property of others resulting from the performance of CONTRACTOR'S duties under this Agreement, or through the negligence of the CONTRACTOR in the performance of its duties under this Agreement, or through any act or omission on the part of the CONTRACTOR, his agents, employees, or servants.

If, however, this Agreement is a "construction contract" as defined in and encompassed by the provision of Florida Statutes § 725.06, then the following shall apply in place of the aforementioned indemnification provision:

The CONTRACTOR shall indemnify the CITY and hold it, its officers, and its employees harmless from liabilities, losses, and costs, including, but not limited to, reasonable attorney's fees to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of

this Agreement. The liability of the CONTRACTOR shall, however, be limited to one million and 00/100 dollars (\$1,000,000.00) per occurrence, and the obligation of the CONTRACTOR to indemnify the CITY shall be limited to acts, omissions, or defaults of the CONTRACTOR; any contractors, subcontractors, sub-subcontractors, material men, or agents or employees of any of them, providing labor, services or materials in connection with the project; and the CITY, its officers, agents and employees, provided however that the CONTRACTOR shall not be obligated to indemnify the CITY against losses arising from the gross negligence, or willful, wanton, or intentional misconduct of the CITY, its officers, agents and employees, or against statutory violations or punitive damages except to the extent caused by or resulting from the acts or omissions of the CONTRACTOR, or any contractors, subcontractors, sub-subcontractors, material men, or agents or employees of any of them, providing labor, services, or materials in connection with this Agreement.

14. **Codes, Laws, and Regulations.** CONTRACTOR will comply with all applicable codes, laws, regulations, standards, and ordinances in force during the term of this Agreement.

15. **Permits, Licenses, and Fees.** CONTRACTOR will obtain and pay for all permits and licenses required by law that are associated with the CONTRACTOR'S performance of the Scope of Services. All permits and licenses required by law or requirements of the Request for Proposal will remain in force for the full duration of this Agreement and any extensions.

16. **Public Records Retention.** CONTRACTOR shall keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the services being provided by CONTRACTOR herein. CONTRACTOR shall provide the public with access to public records on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes. CONTRACTOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law. CONTRACTOR shall meet all requirements for retaining public records and transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY by CONTRACTOR in a format that is compatible with the information technology systems of the CITY.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORDIA STATUTES TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECOREDRELS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 352-728-9731, 501 W. MEADOW STREET, LEESBURG, FLORIDA 34748.

17. **Access to Records.** The services provided under this Agreement may be funded in part by a grant from a government agency other than the CITY. As a requirement of grant funding CONTRACTOR shall make records related to this project available for examination to any local, state or federal government agency, or department, during CONTRACTOR'S normal business hours. Said records will be maintained for a period of five (5) years after the date of the invoice.

18. **Contingent Fees Prohibited.** The CONTRACTOR warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event of a breach of this provision, the CITY shall have the right to terminate this Agreement without further liability and at its discretion, deduct from the contract price, or otherwise recover, the full amount of any such fee, commission, percentage, gift or consideration paid in breach of this Agreement.

19. **Acceptance of Goods or Services.** The goods delivered as a result of an award from this solicitation shall remain the property of the CONTRACTOR, and services rendered under the Agreement will not be deemed complete, until a physical inspection and actual usage of the product(s) and/or service(s) is (are) accepted by the CITY and shall be in compliance with the terms herein, fully in accord with the specifications and of the highest quality.

Any goods and/or services purchased as a result of this solicitation and/or Agreement may be tested and/or inspected for compliance with specifications. In the event that any aspect of the goods or services provided is found to be defective or does not conform to the specifications, the CITY reserves the right to terminate the solicitation or initiate corrective action on the part of the CONTRACTOR, to include return of any non-compliant goods to the CONTRACTOR at the CONTRACTOR's expense, requiring the CONTRACTOR to either provide a direct replacement for the item, or a full credit for the returned item. The CONTRACTOR shall not assess any additional charge(s) for any conforming action taken by the CITY under this clause. The CITY will not be responsible to pay for any product or service that does not conform to the contract specifications.

In addition, any defective product or service or any product or service not delivered or performed by the date specified in the purchase order or contract, may be procured by the CITY on the open market, and any increase in cost may be charged against the awarded contractor. Any cost incurred by the CITY in any re-procurement plus any increased product or service cost shall be withheld from any monies owed to the CONTRACTOR by the CITY for any contract or financial obligation.

This project will be inspected by an authorized representative of the CITY. This inspection shall be performed to determine acceptance of work, appropriate invoicing, and warranty conditions.

20. **Ownership of Documents.** All data, specifications, calculations, estimates, plans, drawings, construction documents, photographs, summaries, reports, memoranda, and other documents, instruments, information and material prepared or accumulated by the CONTRACTOR (or by such sub-consultants and specialty consultants) in rendering services hereunder shall be the sole property of the CITY who may have access to the reproducible copies at no additional cost other than printing. Provided, that the CONTRACTOR shall in no way be liable or legally responsible to anyone for the CITY'S use of any such materials for another PROJECT, or following termination. All original documents shall be permanently kept on file at the office of the CONTRACTOR.

21. **Independent Contractor.** The CONTRACTOR agrees that he or she is an independent contractor and not an agent, joint venture, or employee of the CITY, and nothing in this Agreement shall be construed to be inconsistent with this relationship or status. None of the benefits provided by the CITY to its employees, including but not limited to, workers' compensation insurance, unemployment insurance, or retirement benefits, are available from the CITY to the CONTRACTOR. CONTRACTOR will be responsible for paying his own Federal income tax and self-employment tax, or any other taxes applicable to the compensation paid under this Agreement. The CONTRACTOR shall be solely and primarily responsible for his and her acts during the performance of this Agreement.

22. **Assignment.** Neither party shall have the power to assign any of the duties or rights or any claim arising out of or related to the Agreement, whether arising in tort, contract, or otherwise, without the written consent of the other party. These conditions and the entire Agreement are binding on the heirs, successors, and assigns of the parties hereto.

23. **No Third Party Beneficiaries.** This Agreement gives no rights or benefits to anyone other than the CONTRACTOR and the CITY.

24. **Jurisdiction.** The laws of the State of Florida shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it. In the event of any litigation arising under or construing this Agreement, venue shall lie only in Lake County, Florida.

25. **Contact Person.** The primary contact person under this Agreement for each party is listed here. Contact person and information may be updated as needed by written, electronic mail is acceptable, communication to the other party. Notifying party shall receive confirmation the other party has received the change to the Contact Person.

CONTRACTOR Contact Information

Name/Title: Christina Crego, Bid Administrator

Address: 4939 Cross Bayou Boulevard

City, State & Zip: New Port Richey, FL 34652

Telephone: (727) 848-8292

Email Address: ccrego@uswatercorp.net

CITY Contact Information

Name/Title: Robert Beard, Wastewater Operations Supervisor

Telephone: (352) 516-7151

Email Address: Robert.beard@leesburgflorida.gov

26. **Approval of Personnel.** The CITY reserves the right to approve the contact person and the persons actually performing the services on behalf of CONTRACTOR pursuant to this Agreement. If CITY, in its sole discretion, is dissatisfied with the contact person or the person or persons actually performing the services on behalf of CONTRACTOR pursuant to this Agreement, CITY may require CONTRACTOR assign a different person or persons be designated to be the contact person or to perform the CONTRACTOR services hereunder.

27. **Disclosure of Conflict.** The CONTRACTOR has an obligation to disclose to the CITY any situation that, while acting pursuant to this Agreement, would create a potential conflict of interest between the CONTRACTOR and his duties under this Agreement.

28. **Warranty.** The CONTRACTOR agrees that, unless expressly stated otherwise in the bid or proposal, the product and/or service furnished as a result of an award from this solicitation shall be covered by the most favorable commercial warranty the CONTRACTOR gives to any customer for comparable quantities of products and/or services and the rights and remedies provided herein are in addition to said warranty and do not limit any right afforded to the CITY by any other provision of this solicitation.

The CONTRACTOR hereby acknowledges and agrees that all materials, except where recycled content is specifically requested, supplied by the CONTRACTOR in conjunction with this Agreement shall be new, warranted for their merchantability, and fit for a particular purpose.

29. **Risk of Loss.** The CONTRACTOR assumes the risk of loss of damage to the CITY's property during possession of such property by the CONTRACTOR, and until delivery to, and acceptance of, that property to the CITY. The CONTRACTOR shall immediately repair, replace or make good on the loss or damage without cost to the CITY, whether the loss or damage results from acts or omissions (negligent or not) of the CONTRACTOR or a third party. The CONTRACTOR shall indemnify and hold the CITY harmless from any and all claims, liability, losses and causes of action which may arise out of the fulfillment of this Agreement. The CONTRACTOR shall pay all claims and losses of any nature whatsoever in connection therewith, and shall defend all suits, in the name of the CITY when applicable, and shall pay all costs and judgments which may issue thereon.

30. **Employment Eligibility.** The CONTRACTOR is obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide 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 this Agreement, 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 this contract is terminated for a violation of the statute by the CONTRACTOR, the CONTRACTOR may not be awarded a public contract for a period of ONE (1) year after the date of termination.

31. **Illegal Alien Labor** - CONTRACTOR shall comply with all provisions of the Federal Immigration and Control Act of 1986 (8 U.S. Code § 1324 a) and any successor federal laws, as well as all provisions of Section 448.09, Florida Statutes, prohibiting the hiring and continued employment of aliens not authorized to work in the United States. CONTRACTOR shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into an Agreement with a subcontractor that fails to certify to the CONTRACTOR that the subcontractor is following the terms stated within. The CONTRACTOR nor any subcontractor employed by him shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. CONTRACTOR agrees that it shall confirm the employment eligibility of all employees through participation in E-Verify or an employment eligibility program approved by the Social Security Administration and will require same requirement to confirm employment eligibility of all subcontractors.

All cost incurred to initiate and sustain the aforementioned programs shall be the responsibility of the CONTRACTOR. Failure to meet this requirement may result in termination of the Agreement by the CITY.

32. **Employment Eligibility.** The CONTRACTOR is obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide 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 this Agreement, 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 this contract is terminated for a violation of the statute by the CONTRACTOR, the CONTRACTOR may not be awarded a public contract for a period of ONE (1) year after the date of termination.

33. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which may be considered an original, but all of which together shall constitute but one and the same instrument. This Agreement when signed by a party may be delivered by electronic mail or facsimile transmission with the same force and effect as if the same were an executed and delivered original, manually-signed counterpart.

34. **Authority to Obligate.** Each person signing this agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and bind and obligate such party with respect to all provisions contained in this agreement.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date indicated in the preamble to the Agreement.

US WATER SERVICES CORPORATION

By: _____

Printed: _____

Its: _____
(Title)

CITY OF LEESBURG, FLORIDA

John Christian, Mayor

ATTEST:

Andi Purvis, City Clerk

Approved as to form:

Fred A. Morrison, City Attorney

Attachment ‘A’
SCHEDULE OF CONTRACT ITEMS

[Use only if applicable. If bid is a lump sum this Attachment is not needed.]

[illegible]

Attachment 'B'
SUPPLEMENTAL CONDITIONS – CONSTRUCTION

1. DEFINITIONS

The following definitions shall apply. Whenever the following terms (or pronouns in place of them) are used in the Contract Documents, the intent and meaning of such terms shall be interpreted as follows:

- a. **City Project Representative:** There shall be authorized representative(s) of the CITY assigned to make all necessary inspections of the work performed by the CONTRACTOR and for such other purposes as outlined in the Contract Documents.
- b. **City Technical Representative:** There may be a designated Project Representative assigned by the CITY to inspect the technical aspects of the project. To insure the project is being constructed as designed.
- c. **Engineer of Record:** The Engineer of Record designated by the CITY following Contract Execution.
- d. **Engineer:** The design professional (engineer, architect, landscape architect or surveyor) designated by the CITY to serve as the design professional representing the CITY.
- e. **Notice to Proceed (NTP):** The official Notice from the CITY to the CONTRACTOR providing the date work may begin and the date the performance period begins. The NTP date will be mutually agreed to at or following the pre-construction meeting. CONTRACTOR shall sign the acknowledgement section of the NTP and return to the Purchasing Division. The NTP shall become a part of the Contract Documents.
- f. **Subcontractor:** Includes only those having a direct contract with the CONTRACTOR and it includes one who furnished material worked to a special design according to the plans or specifications of this work, but does not include one who merely furnishes material not so worked.
- g. **Work:** The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract Documents.
- h. **Manual(s):** Equipment documentation meant for the end user/consumer of the equipment. CONTRACTOR shall provide all Manuals to the CITY upon substantial completion. Retainage may not be released until the CITY has received all Manuals relevant to the equipment incorporated into the project.
- i. **Surety:** The corporate body which is bound with and for the CONTRACTOR which is primarily liable and which guarantees the faithful performance of the bid and/or agreement.
- j. **Plans, Drawings and/or Sketches:** Graphic representations of the work to be performed or reproductions thereof.
- k. **Specifications:** Broadly defined, the specifications include all data bound together herein or referenced on the plans, including, but not limited to, General Conditions, Technical Specifications, Special Conditions, Geotechnical Investigation, Supplemental Conditions (if any), other detailed technical specifications, exhibits and all addenda.

- l. **Defective:** An adjective which when modifying the word Work refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by CITY at Substantial Completion or CITY has taken beneficial use of completed portions).
- m. **Shop Drawings:** All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for CONTRACTOR to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by CONTRACTOR to illustrate material or equipment for some portion of the Work.
- n. **Substantial Completion:** The Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer as evidenced by Engineer's definitive certificate of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended; or if there be no such certificate issued, when final payment is due. The terms "substantially complete" and "substantially completed" as applied to any Work refer to Substantial Completion thereof.
- o. **Underground Facilities:** All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

2. INSPECTION OF WORK

The Project Representative and his representatives shall, at all times, have access to the work whenever it is in preparation or progress and the CONTRACTOR shall provide proper facilities for such access and for inspection. The work will be conducted under the general direction of the Project Representative of the CITY and is subject to inspection by his appointed inspectors to insure compliance with the terms of the contract. No inspector is authorized to change any provisions of the specifications without written authorization of the CITY, nor shall the presence or absence of an inspector relieve the CONTRACTOR from any requirements of the contract.

If the specifications, the Project Representative's instructions, laws, ordinances or any public authority require any work to be specifically tested or approved, the CONTRACTOR shall give the CITY timely notice of its readiness for inspection, and if the inspection is by another authority than the Project Representative, of the date fixed for such inspection. Inspections by the Project Representative will be promptly made, and where practicable at the source of supply. If any work should be covered up without approval or consent of the CITY, it shall, if required by the Project Representative, be uncovered for examination at the CONTRACTOR's expense.

Re-examination of questioned work may be ordered by the Project Representative and, if so ordered, the work shall be uncovered by the CONTRACTOR. If such work is found in accordance with the contract documents, the CITY will pay the cost of re-examination and replacement. If

such work is found not in accordance with the contract documents, the CONTRACTOR shall pay such cost.

3. TESTS

The Project Representative will have the right to require all materials to be submitted to test prior to incorporation in the work. In some instances, it may be expedient to make these tests at the source of supply and for this reason it is requested that the CONTRACTOR furnish the source

before incorporating material in the work. This does not in any way obligate the Project Representative to perform tests for acceptance of material and does not relieve the CONTRACTOR of his responsibility to furnish satisfactory material. The CONTRACTOR shall furnish two copies of manufacturer's certificate of compliance with these specifications covering manufactured items incorporated in the work.

All field tests for compaction of earthwork and of material incorporated in the sub grade and base will be performed by technicians of a materials testing laboratory approved by the CITY. All tests performed by the laboratory to ascertain that the material, as placed, meets the required specification will be at the expense of the CONTRACTOR and should be included in the bid items as such.

4. TOOLS, PLANT AND EQUIPMENT

If any time before the commencement or during the progress of the work, tools, plant or equipment appears to the Project Representative to be insufficient, inefficient or inappropriate to secure the quality of work required, or the proper rate of progress, the Project Representative will notify the CITY of such conditions. The Engineer will provide written notification to the CONTRACTOR of CITY's quality and/or schedule concerns. The CONTRACTOR will respond in writing within 5 business days of receiving the CITY's notice and will propose remedial actions to address the quality and/or schedule concerns.

5. COLLECTION AND DISPOSAL OF WASTE

The CONTRACTOR shall collect waste from construction areas and elsewhere; handle hazardous, dangerous, or unsanitary waste materials separately from other waste by containerizing properly; dispose of material in a lawful manner. The CONTRACTOR shall be responsible for the transportation and disposal costs of all waste construction materials.

6. BURNING OF DEBRIS

For any areas where the burning of debris is permitted, the CONTRACTOR will be required to request a permit therefore, from the fire authority having jurisdiction in the area in due advance time, and if such permission is granted he shall rigidly abide by all provisions and requirements of such permit. In no case will burning be permitted until the fire authorities have adequately checked the size of the pile to be burned, the weather conditions and any other factors which might affect the proper control of the burning operation.

7. MAINTENANCE OF TRAFFIC

Where construction is located in public right of ways, traveled streets and roads, the CONTRACTOR shall exercise extreme care in seeing that sufficient area is provided and kept open for police, fire, ambulance, mail and private vehicular traffic.

The CONTRACTOR shall ensure that each person supervising the selection, placement and maintenance of Traffic Control Devices in the FDOT Work Zone shall be certified by attending an FDOT approved MOT training course. A copy of these certifications shall be submitted to the CITY of Leesburg upon request.

8. PROTECTION AGAINST POLLUTION

The CONTRACTOR shall comply with all legal regulations pertaining to pollution as are applicable to the site and he shall take all measures necessary to assure that no pollution, temporary or permanent, occurs to any lakes or other water areas as a result of runoff from the areas within which he is working.

This shall include the installation of temporary construction turbidity screens or hay bales along the edge of existing wetlands prior to the start of construction. These areas shall be as shown on the plans.

CONTRACTOR shall maintain the fuel storage area in accordance with local, state and federal regulations. Refueling vehicles and refueling techniques shall also comply with all applicable regulations. Clean-up of the fuel storage area shall be as required by the regulations and in accordance with these regulations.

9. TEMPORARY FENCING AND BARRICADES

The CONTRACTOR shall at his cost erect barricades sufficient to prevent injury to persons or damage to property, including the CONTRACTOR's personal property and materials. The CITY shall not be held responsible for the loss, theft, or vandalism of the CONTRACTOR's equipment or other personal property, including construction materials and supplies. Fences shall be constructed to prevent entry of unauthorized persons; cover trenches and holes when not in use; erect barriers at sharp changes in plane more than four (4) feet high. Should construction operations temporarily obstruct road passage, the CONTRACTOR shall at his cost provide suitable flagmen to control vehicular traffic on the road. Permits to use construction equipment on Florida Department of Transportation Right-of-Way shall be secured by the CONTRACTOR prior to actual beginning of work. The CONTRACTOR shall, at his cost, remove all temporary protection from the work site upon completion of the work.

10. WORKMANSHIP, MATERIALS, APPLIANCES, AND EMPLOYEES

All work will be done in a competent and workmanlike manner. All materials, equipment and supplies furnished by the CONTRACTOR for permanent incorporation in the work shall be new and of quality standards specified. Workmanship shall be first class and the finished product equal to the best-accepted standards of the trade for the category of work performed. It is the CITY's intent to obtain a high-quality job that will operate and function with least maintenance costs. The CONTRACTOR shall, if requested by CITY, furnish satisfactory evidence as to the kind and quality of materials.

Unless otherwise stipulated, the CONTRACTOR shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and other facilities necessary for the execution and completion of the work.

The CONTRACTOR shall, at all times, enforce strict discipline and good order among his employees and shall not employ on the work any unfit person or anyone not skilled in the work assigned to him.

Neither party shall employ or hire any employees of the other party without his consent.

11. GENERAL QUALITY AND STANDARDS

To facilitate rapid examination, detailed specifications concerning basic requirements for labor, materials, equipment and/or incidentals to be used on the project are included under the various divisions in as brief a form as is consistent with clarity. The primary concern of the detailed specifications is for standards of performance expected for the finished work.

When in the detailed specifications reference is made to a particular code or specification, the latest edition of said code or specification shall apply.

The interests of the CITY, the CONTRACTOR and others concerned with the work require the inclusion of certain general governing requirements and standards, as a precaution against contingency and to provide for the conditions under which the construction and the administration of the work will be carried out.

General requirements for the quality of the work, when not otherwise covered in more specific detail in the specifications, will be governed by acceptable standards of the trade.

These specifications consider the project as a whole and assume it's completion under a general contract. Further, the scope of subcontracts and the quantities of materials and labor supplied to the CONTRACTOR by others are assumed to be matters governed by agreement between the CONTRACTOR and his Subcontractors and suppliers and not by agreement between the CITY and any Subcontractor or suppliers.

Various sections of the construction specifications are intended to govern only the quality of work and/or materials incidental to the particular branch of work mentioned in the section title. Sections are not intended as itemizations of the work materials to be furnished or to limit or define the scope of any subcontract or agreement to furnish material and labor.

The furnishing of all items of material, labor, equipment and/or incidentals necessary to the completion of the work as a whole will be expected when such items are called for on the drawings by diagram, note or schedule, are listed in the specifications, or are reasonably inferred by either or a combination of both.

During the construction operations under this contract, the CITY may elect to contract other work for the project. The CONTRACTOR shall coordinate his operations with those of any other such CONTRACTORS as well as any work of constructing or adjusting utilities by any other

authorities, to the end that the least practical handicap to the work of all such CONTRACTORS or authorities will result.

12. PROJECT COORDINATION

The CONTRACTOR shall coordinate construction operations that are dependent upon each other for proper installation, connection and operation. The CONTRACTOR shall make adequate provisions to accommodate items scheduled for later installation.

The CONTRACTOR shall inspect both the substrate and conditions under which the work is to be performed. The CONTRACTOR shall not proceed until unsatisfactory conditions have been corrected in an acceptable manner.

The CONTRACTOR shall inspect materials or equipment immediately upon delivery and again prior to installation. The CONTRACTOR shall reject damaged and defective items.

The CONTRACTOR shall supervise construction activities to ensure that no part of the construction is subject to deleterious exposure during the construction period. Where applicable, such exposures include, but are not limited to, the following: Unprotected storage, Improper shipping and handling, Theft, Vandalism.

13. COORDINATION WITH UTILITY COMPANIES

CONTRACTOR shall coordinate with all utility installations. CONTRACTOR shall notify the appropriate utility companies, in writing, adequately in advance of the time frame set aside for such utility installation. The utility companies referred to herein shall include, but not be limited to, Power, Gas, Telephone, and Cable Television. CONTRACTOR shall coordinate the installation of "sleeves" for the utility companies as may be required.

CONTRACTOR shall supply the CITY with copies of all correspondence notifying the utility companies of his intended schedule of construction and the expected date for their respective utility installations. Written notices shall be sent to the utility companies at sixty (60) days, thirty (30) days and two (2) weeks prior to the time at which the utility installation should begin.

14. SUPERVISION

CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. CONTRACTOR shall be responsible to see that the finished Work complies accurately with the Contract Documents.

If the CONTRACTOR, in the course of the work, finds any discrepancy between the drawings and the physical conditions of the locality, or any errors or omissions in the drawing or in layout as given by points and instructions, it shall be his duty to immediately inform the Project Representative, in writing, and the Project Representative will promptly verify the same. Any work done after such discovery, until authorized, will be done at the CONTRACTORS' risk.

15. CONSTRUCTION SUPERINTENDENT

CONTRACTOR shall employ a Construction Superintendent who shall be present on-site or available throughout the duration of the project and shall remain associated with the project until completion unless otherwise requested to be replaced by the CITY. The superintendent shall be experienced in the work required and perform all coordination activities generally conducted by project superintendents including, but not limited to, subcontractor coordination, utility installations, inspections, testing, material deliveries, etc. The superintendent shall be present at the pre-construction meeting and shall remain on the project until completion. The owner reserves the right to request a resume of experience for the superintendent including, but not limited to, requesting references from recent projects. Substitution of superintendents after the start of the work shall be approved by the owner in advance. All communications given to the superintendent shall be as binding as if given to CONTRACTOR.

16. WAGE RATES/EQUAL EMPLOYMENT OPPORTUNITY

Wage rates for laborers, mechanics and apprentices shall not be less than those established by the Florida Department of Labor and Employment Security and/or the United States Department of Labor for this work, as may be attached hereto. The CONTRACTOR must insure Equal Employment Opportunity as part of the awarded contract and also subcontracts awarded by the CONTRACTOR.

17. SUBCONTRACTS

The CONTRACTOR shall, as soon as practicable after signing the contract, notify the Project Representative in writing of any changes in the names of subcontractors proposed for the work as listed on the bid form. The CONTRACTOR shall not employ subcontractors, unless they are approved by the Project Representative.

The CONTRACTOR agrees that he is as fully responsible to the CITY for the acts and omissions of his subcontractors and of persons, either directly or indirectly, employed by them, as he is for the acts and omissions of persons directly employed by him.

Nothing contained in the contract documents shall create any contractual relation between any subcontractors and the CITY.

18. PRE-CONSTRUCTION MEETING

The CITY shall schedule a meeting after the Notice of Award. The Project Representative, Engineer, and CONTRACTOR shall attend this mandatory meeting. The following items shall be completed:

- a. Submission of list of Subcontractors, Schedule of Values and Progress Schedule.
- b. Designation of Personnel representing the parties in Contract, and the Engineer.
- c. Use of premises by CITY and the CONTRACTOR.
- d. Survey layout and scheduling.
- e. Security and housekeeping procedures.
- f. Requirements for start-up of equipment.
- g. Inspection and acceptance of equipment put into service during construction period.

At least ten (10) days before submission of the first Application for Payment a conference attended by CONTRACTOR, Engineer and others as appropriate will be held to finalize the schedules submitted by CONTRACTOR. The finalized progress schedule will be acceptable to Engineer as providing an orderly progression of the Work to completion within the Contract Time, but such acceptance will neither impose on Engineer responsibility for the progress or scheduling of the Work nor relieve CONTRACTOR from full responsibility thereto. The finalized schedule of Shop Drawing submissions will be acceptable to Engineer as providing a workable arrangement for processing the submissions. The finalized schedule of values will be acceptable to Engineer as to form and substance.

19. ORDER OF COMPLETION

The CONTRACTOR shall submit at such times as may be requested by the Project Representative, schedules which shall show the order in which the CONTRACTOR proposes to carry on the work with dates on which the CONTRACTOR will start the several parts of the work and estimated dates of completion of the several parts. The CITY retains the right to dictate to the CONTRACTOR the order of completion of the work.

20. MATERIALS AND EQUIPMENT SCHEDULES

As soon as practicable and within ten (10) days after the date of award of contract and before any material or equipment is purchased, the CONTRACTOR will submit to the CITY for approval a complete list, in triplicate, of materials to be incorporated in the work and samples of each listed material. The list shall include catalog numbers, cuts, diagrams; drawings and such other descriptive data as may be required. No consideration will be given to partial lists submitted from time to time. Approval of materials will be based on manufacturers' published ratings. Any materials listed that are not in accordance with the specification requirements may be rejected.

When one or more manufacturer's items are specified, it shall be understood that the item(s) so specified are hereby approved as to suitability and no substitutions will be permitted unless followed by such qualifying phrases as equal "approval equal" or "as approved" in which case the approval of the CITY for items not specified shall be obtained before they may be used.

21. CONTRACTOR'S REQUESTS FOR INTERPRETATION (RFIs)

Should CONTRACTOR be unable to determine from the Contract Documents the exact material, process, or system to be installed; or when the elements of construction are required to occupy the same space (interference); or when an item of Work is described differently at more than one place in the Contract Documents; the CONTRACTOR shall request that the Architect/Engineer (AE), or CITY Representative, make an interpretation of the requirements of the Contract Documents to resolve such matters. CONTRACTOR shall comply with procedures specified herein to make Requests for Interpretation (RFIs).

- a. Submission of RFIs: RFIs shall be prepared and submitted on a form provided by the CITY.
 - i. Forms shall be completely filled in, and if prepared by hand, shall be fully legible after copying by xerographic process.
 - ii. Each RFI shall be given a discrete, consecutive number.

- iii. Each page of the RFI and each attachment to the RFI shall bear the CITY's project name, project number, date, RFI number and a descriptive title.
 - iv. CONTRACTOR shall sign all RFIs attesting to good faith effort to determine from the Contract Documents the information requested for interpretation. Frivolous RFIs shall be subject to reimbursement from CONTRACTOR to CITY for fees charged by A/E, A/E consultants and other design professionals engaged by the CITY.
- b. Subcontractor-Initiated and Supplier-Initiated RFIs: RFIs from subcontractors and material suppliers shall be submitted through, be reviewed by and be attached to an RFI prepared, signed and submitted by CONTRACTOR. RFIs submitted directly by subcontractors or material suppliers will be returned unanswered to the CONTRACTOR.
 - i. CONTRACTOR shall review all subcontractor- and supplier-initiated RFIs and take actions to resolve issues of coordination, sequencing and layout of the Work.
 - ii. RFIs submitted to request clarification of issues related to means, methods, techniques and sequences of construction or for establishing trade jurisdictions and scopes of subcontracts will be returned without interpretation. Such issues are solely the CONTRACTOR'S responsibility.
 - iii. CONTRACTOR shall be responsible for delays resulting from the necessity to resubmit an RFI due to insufficient or incorrect information presented in the RFI.
- c. Requested Information: CONTRACTOR shall carefully study the Contract Documents to ensure that information sufficient for interpretation of requirements of the Contract Documents is not included. RFIs that request interpretation of requirements clearly indicated in the Contract Documents will be returned without interpretation.
 - i. In all cases in which RFIs are issued to request clarification of issues related to means, methods, techniques and sequences of construction, for example, pipe and duct routing, clearances, specific locations of Work shown diagrammatically, apparent interferences and similar items, the CONTRACTOR shall furnish all information required for the A/E or CITY's Representative to analyze and/or understand the circumstances causing the RFI and prepare a clarification or direction as to how the CONTRACTOR shall proceed.
 - ii. If information included with this type RFI by the CONTRACTOR is insufficient, the RFI will be returned unanswered.
- d. Unacceptable Uses for RFIs: RFIs shall not be used to request the following:
 - i. Approval of submittals
 - ii. Approval of substitutions
 - iii. Changes that entail change in Contract Time and Contract Sum
 - iv. Different methods of performing Work than those indicated in the Contract Drawings and Specifications
- e. Disputed Requirements: In the event the CONTRACTOR believes that a clarification by the CITY's A/E, or Representative, results in additional cost or time, CONTRACTOR shall comply with the method for requesting a Change Order.
- f. RFI Log: CONTRACTOR shall prepare and maintain a log of RFIs, and at any time requested by the CITY's Representative, the CONTRACTOR shall furnish copies of the log showing all outstanding RFIs.

- g. Review Time: Architect/Engineer or CITY Representative (CITY) shall return RFIs to CONTRACTOR and within five (5) calendar days of receipt. RFIs received after 12:00 noon shall be considered received on the next regular working day for the purpose of establishing the start of the five-calendar day response period.

22. SUBMITTAL REQUIREMENTS OF CONTRACTOR

After checking and verifying all field measurements and after complying with applicable procedures specified in the General Requirements, CONTRACTOR shall submit to Engineer for review in accordance with the accepted schedule of Shop Drawing submissions, or for other appropriate action if so indicated in the Special Conditions, five copies (unless otherwise specified in the General Requirements) of all Shop Drawings, which will bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR'S responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as Engineer may require. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable Engineer to review the information as required.

CONTRACTOR shall also submit to Engineer for review with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and accompanied by a specific written indication that CONTRACTOR has satisfied CONTRACTOR'S responsibilities under the Contract Documents with respect to the review of the submission and will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended.

Before submission of each Shop Drawing or sample CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.

At the time of each submission, CONTRACTOR shall give Engineer specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and in addition, shall cause a specific notation to be made on each Shop Drawing submitted to Engineer for review of each such variation.

Engineer will review with reasonable promptness Shop Drawings and samples, but Engineer's review will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences or procedures of construction (except where a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review of a separate item as such will not indicate review of the assembly in which the item functions. CONTRACTOR shall make corrections required by Engineer, and shall return the required number of corrected copies of Shop Drawings and submit as required new samples for review. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

Engineer's review of Shop Drawings or samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called Engineer's attention to each such variation at the time of submission as required by this Article and Engineer has given written review each such variation by a specific written notation thereof incorporated in or accompanying the Shop Drawing or sample review; nor will any review by Engineer relieve CONTRACTOR from responsibility for errors or omissions in the Shop Drawings or from responsibility for having complied with the provisions herein.

Where a Shop Drawing or sample is required by the Specifications, any related Work performed prior to Engineer's review of the pertinent submission will be the sole expense and responsibility of CONTRACTOR.

23. CHANGES IN THE WORK

Any Change in the Work will be documented in writing and approved by the CITY in writing. Changes that increase the cost of the work may need to be approved by CITY Commission depending on the dollar value of the increase change order. No work may be performed prior to the change being approved by CITY.

The Contract Price constitutes the total compensation payable to the CONTRACTOR for performing the work. All duties, responsibilities and obligations assigned to or undertaken by the CONTRACTOR shall be at his expense without change in the Contract Price.

The Contract Price may only be changed by a Change Order. Any claim for an increase in the Contract Price, shall be delivered in writing to the CITY and the Engineer within fifteen days of the occurrence of the event giving rise to the claim. Notice of the amount of the claim with supporting data shall be delivered within forty-five days of such occurrence unless the Engineer allows an additional period of time to ascertain accurate cost data. All claims for adjustments in the Contract Price shall be determined by the Engineer if the CITY and CONTRACTOR cannot otherwise agree on the amount involved. The Engineer(s) decision shall be final and binding. Any change in the Contract Price resulting from any such claim shall be incorporated in a Change Order.

The value of any work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

- a. where the work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved, or ii. by mutual acceptance of a lump sum, or
- b. on the basis of the cost of the work plus a CONTRACTOR's fee for overhead and profit.

24. DETAIL DRAWINGS AND INSTRUCTIONS

The CITY will furnish, with reasonable promptness, additional instructions by means of drawings or otherwise, necessary for the proper execution of the work. All such drawings and instructions will be consistent with the contract documents, true developments thereof and reasonably inferable therefrom.

25. OWNERSHIP OF DRAWINGS

All drawings, specifications and copies thereof furnished by the CITY are the property of the CITY. They are not to be used on other work and, with the exception of the signed contract set, are to be returned to the CITY, at the request of the CITY upon the completion of the work.

26. SURVEYS, PERMITS AND REGULATIONS

The CITY will furnish horizontal and vertical control necessary to layout the work in an orderly and workmanlike manner.

Horizontal Control furnished by the CITY shall consist of adequately marked property corners or offset corners, with dimensions as shown on the drawings. Vertical Control will consist of benchmarks established within the immediate area of the work.

It shall be the responsibility of the CONTRACTOR to furnish all construction layout of the work, including, but not limited to, layout and elevations for the construction and final grade of the site.

The CONTRACTOR shall maintain and preserve all stakes and marks established by the CITY and should such stakes or marks be carelessly or willfully destroyed or damaged by the CONTRACTOR, said stakes or marks shall be replaced by the CITY at the expense of the CONTRACTOR.

The CONTRACTOR will set the horizontal and vertical control only at the beginning of the job as specified above. Interim staking during the job and all staking and layout work not furnished by the CITY as specified above shall be the responsibility of the CONTRACTOR.

The CITY will furnish all personnel and equipment and materials to make such surveys as are necessary to determine the quantities of work performed.

The CITY will furnish environmental permits unless otherwise specified. The CONTRACTOR shall obtain any and all required permits from all appropriate government agencies.

Work permits and licenses necessary for the prosecution of the work shall be secured and paid for by the CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be secured and paid for by the CITY unless otherwise specified. The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the CONTRACTOR observes that the drawings and specifications are at variance therewith, he shall promptly notify the CITY in writing and any necessary changes shall be adjusted as provided in the contract for changes in the work. If the CONTRACTOR performs work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the CITY, he shall bear all cost arising there from.

27. ROYALTIES AND PATENTS

There may be a design, device, material or process included in these plans and specifications which may be covered by letters, patent or copyright. Prior to use of any design, device, material or process, or its incorporation into the construction, the CONTRACTOR shall secure indemnity

from his subcontractors or material suppliers that will protect and save harmless the CITY from all loss on account thereof.

The CONTRACTOR shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the CITY harmless from loss on account thereof, except that the CITY shall be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified, but if the CONTRACTOR has information that the process or article specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the CITY.

28. PROTECTION OF WORK AND PROPERTY

The CONTRACTOR shall continuously maintain adequate protection of all his work from damage and shall protect the CITY's property from injury or loss arising in connection with this contract. The CONTRACTOR shall at all times protect all public and privately-owned property, structures, utilities, and work of any kind against damage or interruption of service which may result from the operations of the CONTRACTOR. Damage or interruption to service resulting from failure to do so shall be repaired or restored by or at the expense of the CONTRACTOR except such as may be directly due to errors in the contract documents or caused by the agents or employees of the CITY.

29. DEDUCTIONS FOR UNCORRECTED WORK

If the Project Representative deems it inexpedient to correct work injured or done, not in accordance with the contract, an equitable deduction from the contract price will be made therefore.

30. DELAYS AND EXTENSION OF TIME

If the CONTRACTOR be delayed at any time, in the progress of the work by an act of neglect of the CITY or of his employees, or by any other CONTRACTOR employed by the CITY or by Changes ordered in the work or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the CONTRACTOR's control, or by delay authorized by the Project Representative, or by any cause which the Project Representative may decide to justify the delay, then the time of completion will be extended for any such reasonable time as the Project Representative may decide.

No such extension will be made for delay occurring more than seven (7) days before claim therefore is made in writing to the CITY. In the case of a continuing cause or delay, only one claim is necessary.

If no schedule or agreement stating the dates upon which drawings shall be furnished is made, then no claim for delay will be allowed on account of failure to furnish drawings until two weeks after demand for such drawings and not then unless such claims be reasonable.

31. CORRECTION OF WORK BEFORE FINAL PAYMENTS

The CONTRACTOR shall promptly remove from the premises all materials condemned by the Project Representative as failing to conform to the contract, whether incorporated in the work or not, and the CONTRACTOR shall promptly replace and re-execute his own work in accordance

with the contract and without expense to the CITY and shall bear the expense of making good all work of other CONTRACTORS destroyed or damaged by such removal or replacement.

If the CONTRACTOR does not correct such condemned work and material within a reasonable time fixed by written notice, the CITY may correct it at the expense of the CONTRACTOR. If the CONTRACTOR does not pay the expense of such correction within three (3) days thereafter, the CITY may, upon three (3) days written notice, deduct all the cost and expenses that should have been borne by the CONTRACTOR.

32. THE CITY'S RIGHT TO DO WORK

If the CONTRACTOR should neglect to prosecute the work properly or fail to perform any provision of this contract, the CITY after three (3) days written notice to the CONTRACTOR, may, without prejudice to any other remedy he may have, make good such deficiencies at the CONTRACTOR's expense.

33. SUSPENSION OF WORK

The CITY may at any time suspend the work or any part thereof by giving five (5) days notice to the CONTRACTOR in writing. The work shall be resumed by the CONTRACTOR within ten (10) days after the date fixed in a written notice to resume work from the

CITY to the CONTRACTOR. The CITY will reimburse the CONTRACTOR for expense incurred by the CONTRACTOR in connection with the work under this contract as a result of such suspension unless the suspension was recommended to the CITY by the Project Representative to enforce the contract or for any violation of the contract.

34. REMOVAL OF EQUIPMENT

In the case of annulment of this contract before completion, from any cause whatever, the CONTRACTOR, if notified to do so by the CITY, shall promptly remove any part or all of his equipment and supplies from the property of the CITY, failing which, the CITY will have the right to remove such equipment and supplies at the expense of the CONTRACTOR.

35. USE OF COMPLETED PORTIONS

Use by CITY of any finished part of the Work, which has specifically been identified in the Contract Documents, or which CITY, Engineer and CONTRACTOR agree constitutes a separately functioning and useable part of the Work that can be used by CITY without significant interference with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following:

- a. CITY at any time may request CONTRACTOR in writing to permit CITY to use any such part of the Work which CITY believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees, CONTRACTOR will certify to CITY and Engineer that said part of the Work is substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify CITY and Engineer in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such

- request, CITY, CONTRACTOR and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify CITY and CONTRACTOR in writing giving the reasons therefore. If Engineer considers that part of the Work to be substantially complete, the provisions of Substantial Completion will apply with respect to certification of that part of the Work and the division of responsibility in respect thereof and access thereto.
- b. CITY may at any time request CONTRACTOR in writing to permit CITY to take over operation of any such part of the Work although it is not substantially complete. A copy of such request will be sent to Engineer and within a reasonable time thereafter CITY, CONTRACTOR and Engineer shall make an inspection of that part of the Work to determine its status of completion and will prepare a list of the items remaining to be completed or corrected thereon before final payment. If CONTRACTOR does not object in writing to CITY and Engineer that such part of the Work is not ready for separate operation by CITY, Engineer will finalize the list of items to be completed or corrected and will deliver such list to CITY and CONTRACTOR together, with a written recommendation as to the division of responsibilities pending final payment between CITY and CONTRACTOR with respect to security, operation, safety, maintenance, utilities, insurance, warranties and guarantees for that part of the Work, which will become binding upon CITY and CONTRACTOR at the time when CITY takes over such operation (unless they shall have otherwise agreed in writing and so informed Engineer). During such operation and prior to Substantial Completion of such part of the Work, CITY shall allow CONTRACTOR reasonable access to complete or correct items on said list and to complete other related Work.
 - c. If CITY finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, such use or occupancy may be accomplished in accordance with this Article; provided that no such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected the changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be cancelled or lapse on account of any such partial use or occupancy.

36. PROMPT PAYMENT

It is the policy of the CITY that payment for all purchases by the CITY shall be made in a timely manner and that interest payments will be made on late payments in accordance with Part VII, Chapter 218, Florida Statutes, known as the Florida Prompt Payment Act.

37. APPLICATION FOR PAYMENT

The CONTRACTOR shall submit to the CITY, at least 20 days before the date established for each progress payment (but not more often than once a month), an Application for Payment filled out and signed by CONTRACTOR covering the work completed as of the date of the Application. Upon review and approval by the CITY and Engineer (if applicable).

The retained percentage (retainage) amount with respect to the progress payments shall initially be 10% unless stated otherwise in the Construction Services Agreement. Retainage amounts and retainage process shall be governed by Florida Statute 255.078 – Public Construction Retainage.

CONTRACTOR shall, before any draw is issued, provide a sworn statement to CITY attesting that all services, materials and labor, furnished to the project to the date of the draw request have been paid for in full, or listing the amounts due for such services, materials and labor, and if any amounts are listed as being due, the CITY shall have the right to pay those amounts directly to the persons to whom they are due, with the balance of the draw amount to be paid to CONTRACTOR, and if the draw is insufficient to pay the amounts then due for services, materials and labor, the CITY shall pay those to whom such amounts are due on a pro rata basis until the draw is exhausted, and any remaining amounts due others shall be paid first out the next draw due.

The CITY shall not be required to issue progress payments pursuant to the draw schedule until the CITY has verified, by on-site inspection, that construction has in fact progressed to the stage at which a draw is required and that the work done and materials furnished are in compliance with the Contract Documents, and all applicable technical codes. The final draw due upon “completion” shall not be payable until the CITY, its Project Representative or Engineer of Record has determined the work has been completed in accordance with the Contract Documents and a Certificate of Completion has been issued by the CITY.

38. PAYMENTS WITHHELD

The CITY may withhold or, on account of subsequently discovered evidence, recover the whole or part of any payment to such an extent as may be necessary to protect the CITY from loss on account of—

- a. Defective work not remedied.
- b. Claims filed or reasonable evidence indicating probable filing of claims.
- c. Failure of the CONTRACTOR to make payments properly to subcontractors or for materials or labor.
- d. The Project Representative's opinion that the contract cannot be completed for the balance then unpaid.
- e. Damage to another CONTRACTOR.
- f. Failure to maintain adequate progress. vii. Damage to the building resulting from the negligence of the CONTRACTOR.

When the above grounds are removed, payment will be made for amounts withheld because of them.

39. FINAL PAYMENT APPLICATION

Administrative actions and submittals that must precede or coincide with submittal of the final payment Application for Payment include the following:

- a. Completion of Project closeout requirements.
- b. Completion of items specified for completion after Substantial Completion.
- c. Assurance that unsettled claims will be settled.
- d. Transmittal of required project construction records to CITY.
- e. Final Clean Up as outlined in these General Conditions

Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, Engineer will make a final inspection with CITY and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies.

After CONTRACTOR has completed all such corrections to the satisfaction of Engineer and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, marked-up record documents and other documents--all as required by the Contract Documents, and after Engineer has indicated that the Work is acceptable (subject to the provisions under Waiver of Claims), CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to CITY) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by CITY, CONTRACTOR may furnish receipts or releases in full; an affidavit of CONTRACTOR that the releases and receipts include all labor, services, material and equipment for which a Lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which CITY or CITY's property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any Subcontractor Supplier fails to furnish a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to CITY to indemnify CITY against any Lien.

If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation--all as required by the Contract Documents, Engineer is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application to CITY for payment. Thereupon Engineer will give written notice to CITY and CONTRACTOR that the Work is acceptable subject to the provisions found under "Waiver of Claims". Otherwise, Engineer will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. Thirty days after presentation to CITY of the Application and accompanying documentation, in appropriate form and substance, and with Engineer's recommendation and notice of acceptability, the amount recommended by Engineer will become due and will be paid by CITY to CONTRACTOR.

If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed and if Engineer so confirms, CITY shall, upon receipt of CONTRACTOR's final Application for Payment and recommendation of Engineer, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by CITY for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to Engineer with the Application for such

payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

40. CONTRACTOR'S CONTINUING OBLIGATION

CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by Engineer, nor the issuance of a certificate of Substantial Completion, nor any payment by CITY to CONTRACTOR under the Contract Documents, nor any use or occupancy of the Work or any part thereof by CITY, nor any act of acceptance by CITY nor any failure to do so, nor any review and approval of a Shop Drawing or sample submission, nor the issuance of a notice of acceptability by Engineer, nor any correction of defective Work by CITY will constitute an acceptance of Work not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents (except as provided under Waiver of Claims)

41. DAMAGES

Any claim for damage arising under a resulting Agreement shall be made in writing to the party liable within ten (10) days after the first observance of such damage and not later than the time of final payment, except as expressly stipulated otherwise in the case of faulty work or materials.

42. EQUIPMENT STARTUP

Equipment startup shall be in accordance of the manufacturer's recommendations, and as required to demonstrate performance to the Engineer and CITY in accordance with the specifications. The CONTRACTOR shall provide 30-days' notice to the Engineer and CITY of the date on which all equipment and systems will be ready for startup. The startup date shall be arranged as required by the CITY's operational schedule with consideration of the schedule needs of the Engineer and CONTRACTOR.

43. COMPLETION OF WORK

The CONTRACTOR shall be considered "substantially complete" when the equipment and systems have been used without failure for seven (7) continuous days, and in the opinion of the CITY, it's Project Representative or Engineer of Record, all work has been completed in general accordance with the plans and specifications and all test reports, inspections, etc. have been completed and delivered to the Engineer. Substantial completion shall also mean that degree of completion which allows the CITY to occupy and use the facilities. When the Engineer deems the work to be "substantially complete" he shall indicate this to the CITY in writing with copies to the CONTRACTOR. The date of contract completion shall be the same date at which the CONTRACTOR is considered substantially complete by the Engineer.

44. ACCEPTANCE OF FINISHED WORK

The CITY shall make final acceptance inspection of the Project covered by this Contract when the Project is completed and finished in all respects in accordance with the Contract Documents. CONTRACTOR shall furnish to the Engineer or CITY Representative a complete set of As-Built drawings. These drawings shall be prepared by a licensed Surveyor in the State of Florida and shall be submitted to the Engineer within five (5) days following the completion of the work.

45. FINAL CLEAN UP

The CONTRACTOR shall complete all cleaning operations before requesting final inspection.

The CONTRACTOR shall, as directed by the Project Representative, remove from the CITY's property and from all public and private property, at his own expense, all temporary structures, rubbish, and waste materials resulting from his operation.

The CONTRACTOR shall remove temporary protection and facilities installed for protection of the work during construction.

The CONTRACTOR shall comply with all regulations of authorities having jurisdiction and safety standards for cleaning. The CONTRACTOR shall not burn waste materials. The CONTRACTOR will not discharge volatile, harmful or dangerous materials into drainage systems. The CONTRACTOR will remove all waste materials from the site and dispose of in a lawful manner. Materials of value remaining after completion of associated work will become the owner's property. The CONTRACTOR will arrange for the disposition of these materials as directed by the CITY.

The CONTRACTOR shall rake the grounds that are neither paved nor planted to a smooth, even textured surface.

46. TREES

It shall be the responsibility of the CONTRACTOR to protect all trees within the limits of the work and as designated by the Project Representative.

47. GUARANTY

CONTRACTOR warrants and guarantees to CITY that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to CONTRACTOR. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in the paragraph in this section labeled 'Inspections, Correction, Removal Of Defective Work'.

All equipment, materials and installation and workmanship furnished by the CONTRACTOR under the terms of the Contract, shall be guaranteed by the CONTRACTOR against defective workmanship, mechanical and physical defects, leakage, breakage and other damages and failure, under normal operation for a period of two (2) years or as otherwise specified in the Technical Specifications and after the date of acceptance thereof by the CITY, and each item of equipment or materials and installation proving to be defective within the specified period of guaranty shall be replaced, without cost to the CITY, by the CONTRACTOR or by the Surety. The period of guaranty of such replacement shall be from and after the date of final acceptance of the Project by the CITY, provided however, that where any item or equipment or material comes with a manufacturer's warranty of two (2) years or longer, that warranty shall take precedence over the warranty of CONTRACTOR hereunder.

48. INDEMNITY

The CONTRACTOR agrees to make payment of all proper charges for labor required in the aforementioned work and defend, indemnify, and save harmless the CITY and Engineer or any of their officers, agents, or servants and each and every one of them against and from all claims, suits, and costs of every kind and description, including attorney's fees, and from all damages to which the CITY and Engineer or any of their officers, agents, or servants may be put by reason of injury to the persons or property of others resulting from the performance of CONTRACTOR's duties under the Contract, or through the negligence of the CONTRACTOR in the performance of its duties under this Contract, or through any act or omission on the part of the CONTRACTOR, his agents, employees, or servants or subcontractors.

Provided, however, if this Contract is deemed, by a court of competent jurisdiction, to be a construction contract for the purposes of Section 725.06, Florida Statutes, any obligation of the CONTRACTOR to defend, indemnify or hold harmless an CITY and Engineer shall be limited to an obligation to indemnify and hold harmless the CITY and Engineer, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of this Contract.

49. ASSIGNMENT

Neither party to the contract shall assign the contract or sublet it as a whole without the written consent of the other, nor shall the CONTRACTOR assign any moneys due, or to become due to him hereunder, without the previous written consent of the Project Representative.

50. RIGHTS OF VARIOUS INTERESTS

Wherever work being done by the CITY's forces, or by the other CONTRACTORS, is contiguous to work covered by this contract, the respective rights of the various interests involved will be established by the Project Representative, to secure the completion of the various portions of the work in general harmony.

51. SEPARATE CONTRACTS

The CITY reserves the right to let other contracts in connection with this work. The CONTRACTOR shall afford other CONTRACTORS reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly conduct and coordinate his work with theirs.

If any part of the CONTRACTOR's work depends, for proper execution or results upon the work of any other CONTRACTOR, the CONTRACTOR shall inspect and promptly report to the Project Representative any defects in such work that render it unsuitable for such proper execution and results. His failure to so inspect and report shall constitute an acceptance of the other CONTRACTOR's work as fit and proper for the reception of his work, except as to defects which may develop in the other CONTRACTOR's work after the execution of the work.

To insure the proper execution of his subsequent work, the CONTRACTOR shall measure work already in place and shall at once report to the Project Representative any discrepancy between the executed work and the drawings.

52. LANDS FOR WORK

The CITY will provide the lands upon which the work under this contract is to be done, except that the CONTRACTOR shall provide land required for the erection of temporary construction facilities and storage of his material, together with right of access to same.

53. ACCESS TO RECORDS

The CITY, the Florida Department of State, or any of their duly authorized representatives shall have access to any books, documents, papers or any other records prepared by the CONTRACTOR that are directly pertinent to the work produced under this Agreement for making audit, examination, excerpts and transcription. Such records will be maintained for five (5) years after the completion of the work and until claims or audit findings have been resolved which were initiated prior to the expiration of the five (5) year period.

54. EXECUTION, CORRELATION AND INTENT OF DOCUMENTS

The Agreement shall be signed in quadruplicate by the CITY and the CONTRACTOR. The Contract Documents comprise the entire agreement between CITY and CONTRACTOR concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of the place of the Project.

It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or Laws or Regulations in effect at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of CITY, CONTRACTOR or Engineer, or any of their consultants, agents or employees from those set forth in the Contract Documents, nor shall it be effective to assign to Engineer, or any of Engineer's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of these Supplemental Conditions. Clarifications and interpretations of the Contract Documents shall be issued by Engineer.

If, during the performance of the Work, CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, CONTRACTOR shall so report to Engineer in writing at once and before

proceeding with the Work affected thereby shall obtain a written interpretation or clarification from Engineer; however, CONTRACTOR shall not be liable to CITY or Engineer for failure to report any conflict, error or discrepancy in the Contract Documents unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

55. CONTRACTOR'S UNDERSTANDING

CONTRACTOR has visited the site, has called for utility locates and has familiarized itself with the local conditions under which the work is to be performed, both underground and above ground and both on and off premises and has correlated these observations with the requirements of the proposed contract documents; all as considered necessary or pertinent to the work, and any failure to thus make all such prior investigations and studies shall in no way act as a waiver of any of the terms of the contract. No verbal agreement or conversation with any officer, agent or employee of the CITY, either before or after the execution of this contract, shall affect or modify any of the terms or obligations herein contained

56. FAMILIARITY WITH LAWS

The CONTRACTOR is required to be familiar with all Federal, State and Local laws, ordinances, rules and regulations that in any manner affect the work. Ignorance on the part of the CONTRACTOR will in no way relieve him from responsibility.

57. SALES TAX

The CONTRACTOR is required to pay Florida sales and use taxes on all materials purchased for this project unless otherwise specified in the document. All Florida sales and use taxes will be included in the submitted bid price(s).

58. CLARIFICATIONS AND INTERPRETATIONS OF CONTRACT DOCUMENTS

It is the duty of the CONTRACTOR to notify the Engineer, in writing, in the event of any doubt or question as to the true meaning of any provision in the Contract Documents. The Engineer's decision thereon shall be final. Annotated dimensions on drawings shall govern and work not dimensioned shall be as clarified by the Engineer. Work not particularly shown or specified shall be the same as similar parts that are shown or specified. Materials or work described in words which have a well-known technical or trade meaning shall be deemed to refer to such recognized standard.

Engineer will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as Engineer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If CONTRACTOR believes that a written clarification or interpretation justifies an increase in the Contract Price or an extension of the Contract Time then CONTRACTOR shall notify CITY in accordance with the Agreement.

Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work there under. Claims, disputes and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and claims in respect of changes in the Contract Price or Contract Time will be referred initially to Engineer in writing with a request for

a formal decision in accordance with this paragraph, which Engineer will render writing within a reasonable time. Written notice of each such claim, dispute and other matters will be delivered by the claimant to Engineer and the other party to the Agreement promptly (but in no event later than thirty days) after the occurrence of the event giving rise thereto, and written supporting data will be submitted to Engineer and the other party within sixty days after such occurrence unless Engineer allows an additional period of time to ascertain more accurate data in support of the claim.

When functioning as interpreter and judge under this Article, Engineer will not show partiality to CITY or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by Engineer pursuant this Article with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as permitted by the Agreement.) will be a condition precedent to any exercise by CITY or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute or other matter.

59. LIMITATIONS ON ENGINEER'S RESPONSIBILITIES

Neither Engineer's authority to act nor any decision made by Engineer in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of Engineer to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization performing any of the Work, or to any surety for any of them.

Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of Engineer as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to Engineer any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of this Article.

Engineer will not be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and Engineer will not be responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents.

Engineer will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.

60. SAFETY AND PRECAUTION

CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

- a. all employees on the Work and other persons and organizations who may be affected thereby;
- b. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and iii. other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and Underground Facilities not designated for removal, relocation or replacement in the course of construction.

CONTRACTOR shall comply with all applicable Laws and Regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss to any property referred to in paragraph caused, directly or in this Article directly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of CITY or Engineer or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR). CONTRACTOR's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to CITY and CONTRACTOR that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

CONTRACTOR shall designate a responsible representative at the site whose duty shall be the prevention of accidents. This person shall be CONTRACTOR's superintendent unless otherwise designated in writing by CONTRACTOR to CITY.

In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from Engineer or CITY, is obligated to act to prevent threatened damage, injury or loss. CONTRACTOR shall give

Engineer prompt written notice that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If Engineer determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Work Directive Change or Change Order will be issued to document the consequences of the changes or variations.

61. RECORD DOCUMENTS

CONTRACTOR shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Written Amendments, reviewed Shop Drawings, Change Orders, Work Directive Changes, Field Orders and written interpretations and clarifications in good order and annotated to show all changes made during construction. These record documents together with all reviewed samples and a counterpart of all reviewed Shop Drawings will be available to

Engineer for reference. Upon completion of the Work, these record documents or as-builts, samples and Shop Drawings will be delivered to Engineer for CITY. Upon delivery of such documents to Engineer, the CONTRACTOR shall provide a written certification, signed and dated, that all documents accurately and completely reflect all deviations from or changes in the original Contract Documents made during construction of the project.

Record documents shall be up-to-date and available for review by the resident project representative prior to each application for progress payment. Payment will not be made for construction of items not shown on the record documents.

These requirements also supplement those of Item 66. Not less than two percent (2%) of the contract price shall be retained until correct record drawings, specifications, addenda, modifications and shop drawings are delivered to and reviewed by the Engineer.

62. PHYSICAL CONDITIONS-UNDERGROUND FACILITIES

Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site are based on information and data furnished to CITY or Engineer by the owners of such Underground Facilities or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

- a. CITY and Engineer shall not be responsible for the accuracy or completeness of any such information or data; and
- b. CONTRACTOR shall have full responsibility for reviewing and checking all such information and data, for locating all Underground Facilities shown or indicated in the Contract Documents, for coordination of the Work with the owners of such Underground Facilities during construction, for the safety and protection thereof and repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price.

The word facility as used in this subsection titled "Utilities" includes any pipe conveying gases or liquids and appurtenances attached thereto; cables, conduits, wires, ducts and appurtenances; poles and appurtenances; any of which may be buried below grade or installed at or above grade level. A facility excludes irrigation pipes, service connections and traffic signal wiring. A service connection is a pipe (excluding irrigation pipes), cable, wire, duct or conduit that is intended to connect a facility with a user. The word Utility as used in this subsection titled "Utilities" refers to the entity having legal owner-ship of the facility, service connection, irrigation pipe, or traffic signal wiring.

The Engineer has endeavored to determine the existence of underground facilities at the site of the work from the records of the utilities with known facilities in the vicinity of the work. The position of these facilities as derived from such records is shown on the plans. Service connections, irrigation pipes, and traffic signal wiring may not be shown on the plans. The CONTRACTOR shall make his own investigations, including exploratory excavations and contact with Utilities, to determine the exact locations and type of existing facilities, service connections, irrigation pipes, and traffic signal wiring prior to commencing work in the area and shall be responsible for any damage thereto.

Damage, injury, or loss resulting in whole or in part from the CONTRACTOR's failure to locate and preserve a facility, service connection, irrigation pipe, or traffic signal wiring shall under no circumstances be deemed attributable to the fault of the Drawings or Specifications or to the acts or omissions of the CITY or Engineer or anyone employed by either of them or anyone for whose acts either of them may be liable.

With respect to underground facilities, no claim for a change in the contract price may be allowed unless the CONTRACTOR discovers an underground facility which is not indicated or referred to in the Contract Documents or which is in a position differing materially and significantly from that indicated or referred to in the Contract Documents. If such discovery is made, the CONTRACTOR shall promptly notify in writing the CITY, Engineer and the Utility. The CITY may make changes in the alignment and grade of the work.

At no additional cost to the CITY, the CONTRACTOR shall replace, remove, relocate, protect, or temporarily maintain a facility which is not in a position differing materially and significantly from that indicated or referred to in the Contract Documents. At no additional cost to the CITY, the CONTRACTOR shall adjust the top elevation of all valve boxes and manholes to match the finish grade or pavement surface and shall replace, remove, relocate, protect, or temporarily maintain all service connections, irrigation pipes, and traffic signal wiring. The work on the facility, service connection, irrigation pipe or traffic signal wiring shall be done in a manner satisfactory to the Utility, it being understood that the Utility has the option of doing such work with his own forces, or permitting the work to be done by the CONTRACTOR.

63. PHYSICAL CONDITIONS

- a. Exploration and Reports: Reference is made in the Special Conditions to those reports of exploration and tests of subsurface conditions at the site that have been utilized by Engineer in preparation of the Contract Documents. Such reports are not guaranteed as to accuracy or completeness and are not part of the Contract Documents.
- b. Unforeseen Conditions: CONTRACTOR shall promptly notify CITY and Engineer in writing of any subsurface or latent physical conditions at the site or in an existing structure differing materially from those indicated or referred to in the Contract Documents. Engineer will promptly review those conditions and advise CITY in writing if further investigation or tests are necessary.

Promptly thereafter, CITY shall obtain the necessary additional investigations and tests and furnish copies to Engineer and CONTRACTOR. If Engineer finds that the results of such investigations or tests indicate that there are subsurface or latent physical conditions which differ materially from those intended in the Contract Documents, and which could not reasonably have been anticipated by CONTRACTOR, a Change Order shall be issued incorporating the necessary revisions.

64. REVIEW OF APPLICATION FOR PROGRESS PAYMENT

Engineer will, within ten days after receipt of each Application for Payment, to either indicate in writing a recommendation of payment and present the Application to CITY, or return the Application to CONTRACTOR indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.

Ten (10) days after presentation of the Application for Payment with Engineer's recommendation, the amount recommended will become due and when due will be paid by CITY to CONTRACTOR.

Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to CITY, based on Engineer's on-site observations of the Work in progress as an experienced and qualified design professional and on Engineer's review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of Engineer's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work, and to any other qualifications stated in the recommendation); and that CONTRACTOR is entitled to payment of the amount recommended. However, by recommending any such payment Engineer will not thereby be deemed to have represented that exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents or that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid additionally by CITY or CITY to withhold payment to CONTRACTOR.

Engineer's recommendation of final payment will constitute an additional representation by Engineer to CITY that the conditions precedent to CONTRACTOR's being entitled to final payment have been fulfilled.

Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make such representations to CITY. Engineer may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or test, nullify any such payment previously recommended; to such extent as may be necessary in Engineer's opinion to protect CITY from loss.

CITY may refuse to make payment of the full amount recommended by Engineer because claims have been made against CITY on account of CONTRACTOR's performance or furnishing of the Work or Liens have been filed in connection with the Work or there are other items entitling CITY to a set-off against the amount recommended, but CITY must give CONTRACTOR immediate written notice (with a copy to Engineer) stating the reasons for such action.

65. SUBSTANTIAL COMPLETION

When CONTRACTOR considers the entire Work ready for its intended use, CONTRACTOR shall notify CITY and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that Engineer issue a certificate of Substantial Completion. Within a reasonable time thereafter, CITY, CONTRACTOR and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify CONTRACTOR in writing giving the reasons therefore. If Engineer considers the Work

substantially complete, Engineer will prepare and deliver to CITY a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. CITY shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will within fourteen days after submission of the tentative certificate to CITY notify CONTRACTOR in writing, stating the reasons therefore. If, after consideration of CITY's objections, Engineer considers the Work substantially complete, Engineer will within said fourteen days execute and deliver to CITY and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from CITY. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to CITY and CONTRACTOR a written recommendation as to division of responsibilities pending final payment between CITY and CONTRACTOR with respect to security, operation, safety, maintenance, heat, utilities, insurance and warranties. Unless CITY and CONTRACTOR agree otherwise in writing and so inform Engineer prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendations will be binding on CITY and CONTRACTOR until final payment.

CITY shall have the right to exclude CONTRACTOR from the Work after the date of Substantial Completion, but CITY shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

66. INSPECTIONS, CORRECTION, REMOVAL OF DEFECTIVE WORK

Engineer and Engineer's representatives, other representatives of CITY, testing agencies and governmental agencies with jurisdictional interests will have access to the Work at reasonable times for their observation, inspecting and testing. CONTRACTOR shall provide proper and safe conditions for such access.

CONTRACTOR shall give Engineer timely notice of readiness of the Work for all required inspections or tests.

If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) to specifically be inspected, tested or approved, CONTRACTOR shall assume full responsibility therefore, pay all costs in connection therewith and furnish Engineer the required certificates of inspection, testing or approval. CONTRACTOR shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with CITY's or Engineer's acceptance of a Supplier of materials or equipment proposed to be incorporated in the Work, or of materials or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work. The cost of all inspections, tests and approvals in addition to the above which are required by the Contract Documents shall be paid by CITY (unless otherwise specified). All inspections, tests or approvals other than those required by Laws or Regulations of any public body having jurisdiction shall be performed by organizations acceptable to CITY and CONTRACTOR (or by Engineer if so specified).

If any Work (including the work of others) that is to be inspected, tested or approved is covered without written concurrence of Engineer, it must, if requested by Engineer, be uncovered for observation. Such uncovering shall be at CONTRACTOR's expense unless CONTRACTOR has given Engineer timely notice of CONTRACTOR's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

Neither observations by Engineer nor inspections, tests or approvals by others shall relieve CONTRACTOR from CONTRACTOR's obligations to perform the Work in accordance with the Contract Documents.

If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at CONTRACTOR's expense.

If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, CONTRACTOR, at Engineer's request, shall uncover, expose or otherwise make available for observation, inspection or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, CONTRACTOR shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, (including but not limited to fees and charges of engineers, architects, attorneys and other professionals), and CITY shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, may make a claim therefore as provided in Special Conditions. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction; and, if the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefore as provided in Special Conditions.

If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, CITY may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of CITY to stop the Work shall not give rise to any duty on the part of CITY to exercise this right for the benefit of CONTRACTOR or any other party.

If required by Engineer, CONTRACTOR shall promptly either correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by Engineer, remove it from the site and replace it with non-defective Work. CONTRACTOR shall bear all direct, indirect and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby.

67. ACCEPTANCE OF DEFECTIVE WORK; CORRECTION OF DEFECTIVE WORK BY THE CITY

If, instead of requiring correction or removal and replacement of defective Work, CITY (and, prior to Engineer's recommendation of final payment) prefers to accept it, CITY may do so. CONTRACTOR shall bear all direct, indirect and consequential costs attributable to CITY's

evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness and to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals). If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and CITY shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, CITY may make a claim. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to CITY.

If CONTRACTOR fails within a reasonable time after written notice of Engineer to proceed to correct and to correct defective Work or to remove and replace rejected Work as required by Engineer, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, CITY may, after seven days' written notice to CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph CITY shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, CITY may exclude CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which CITY has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow CITY, CITY's representatives, agents and employees such access to the site as may be necessary to enable CITY to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of CITY in exercising such rights and remedies will be charged against CONTRACTOR in an amount approved as to reasonableness by Engineer, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and CITY shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, CITY may make a claim. Such direct, indirect and consequential costs will include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of CONTRACTOR's defective Work. CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by CITY of CITY's rights and remedies hereunder.

68. ARBITRATION

Before bringing any action in any court of competent jurisdiction pertaining to any claim, dispute or other matter in question arising out of or relating to the Contract Documents or the breach thereof, in an amount less than \$25,000, except for claims which have been waived by the making and acceptance of final payment, the claimant/objector (Party A) shall first offer to arbitrate the question(s) with the other party to the contract (Party B) by notifying him in writing and setting forth in such notice the question(s) to be arbitrated.

Party B can select to arbitrate or not. If Party B agrees to arbitrate he shall so advise Party A in writing within ten days after receipt of Party A's notice. Notice by Party B that he does not wish

to arbitrate or failure of Party B to notify Party A within the ten-day period will give Party A the right to institute a court action.

If Party B agrees to arbitrate, the arbitration shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association except as modified herein. In such event, the agreement to arbitrate shall be specifically enforceable under the provisions of the Florida Arbitration Code, S682, Fla. Stat., as it may be from time to time amended. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof.

If Party B agrees to arbitrate, then Party A shall file its notice of demand for arbitration in writing with Party B and with the American Arbitration Association, and a copy shall be filed with the Engineer. Notice of demand for arbitration shall be served on the parties referred to herein no later than thirty days from the date Party B agrees to arbitrate the issues in question.

Failure to serve the notice of demand for arbitration shall constitute a waiver and abandonment of the claims for which arbitration is sought. Notice of demand for arbitration shall in no event be made on any claim, dispute or other matter in questions which would be barred by the applicable statute of limitations.

If the dollar amount of the claim exceeds \$25,000, arbitration may only be utilized if both Party A and party B agree to arbitrate.

The CONTRACTOR shall carry on the Work and maintain the progress schedule during any arbitration proceedings, unless otherwise mutually agreed in writing.

The Florida Rules of Civil Procedure pertaining to discovery shall apply to both parties during arbitration, and, at the CITY's sole option, any and all arbitration arising out of or relating to any of the Contract Documents or any breach thereof shall include by consolidation, joinder, or joint filing any additional person or entity not a party to this Agreement to the extent necessary for the final resolution of the matter in controversy.

At least one of the members of the arbitration panel must be an attorney licensed to practice law in the State of Florida.

The surety shall be bound by the arbitration award to the same extent as the CONTRACTOR is bound.

The arbitration panel shall submit a written opinion with findings of fact and conclusions of law stating the basis for the decision made, and including an award of arbitration that may be confirmed by a court of competent jurisdiction.

Unless CITY agrees to the contrary, the location of any and all arbitration proceedings shall be in Lake County, Florida.

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.B.3.

Meeting Date: May 10, 2021

From: Mike Thornton, (Purchasing Manager), Cliff Kelsey, (Public Works Director)

Subject: Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Construction Change Order No. 4 with Evergreen Construction Management, Inc. for the Aquatic Complex project for an amount of \$151,823.28 and amending the owner contingency amount to \$198,586.65; and providing an effective date.

Staff Recommendation:

Staff recommends approval of the resolution authorizing execution of Change Order No. 4 and amending the project budget and owner contingency amount.

Analysis:

The purpose of this item is to seek commission approval of the construction change order for the Aquatic Complex Project. The change orders are listed and defined as follows:

PCO #5 - \$90,437.48 - Work Already Completed - This additional amount is required due to required changes for building code and state health department code. The contract amount was based on the 'Plans for Bidding' not on a 'Conformed Set'. The Conformed set are those plans used for construction. There were required changes by the Leesburg Building Department and the State of Florida Health Department. The Health Department regulates swimming pool construction. The most notable change as the change to the slope of the deck surrounding the pool.

PCO #6 - \$10,835.29 - Owner Direct Purchase Administrative Costs - The City opted to use Owner Direct Purchase (ODP) in order to realize savings related to sales tax. When the City uses ODP the equipment and materials being purchased are exempt from state sales tax. The City's use of ODP was not included in the original solicitation or the executed contract. This amount covers the contractors administrative work effort in managing the ODP transactions issued by the City. The City has so far realized a tax savings of \$60,806.80.

PCO #7 - \$2,781.59 - Permit Fee Reimbursement - The City solicits construction bids less the building permit fees. This amount is to reimburse the contractor for the actual costs to obtain and pay for the building permits. The City is not exempt from paying permit fees on City projects.

PCO #8 - \$21,632.26 - Fill Dirt Between Pool Systems - Work Already Completed - This additional amount is for fill dirt that was needed in between the geotechnical base envelope and the pool envelope. The need for fill dirt in between these systems was not clearly called out on the design drawings. The fill dirt was needed to ensure the pool edge elevation was at the correct level.

PCO #9 - \$9,441.74 - Changes to Storm water - Changes due to field conflicts. Also adding a type C inlet structure per the storm water changes.

PCO #10 - \$7,547.65 - Added Clearing & Grading - Additional clearing and grading necessary due to the City's acquisition of a property adjacent to the project property.

PCO #11 - \$1,906.04 - Waterproofing - City requested that waterproofing to the block wall behind the brick façade be added.

PCO #12 - \$2,229.71 - Wall Insulation - City requested wall insulation be added for improved thermal performance of the climate controlled building.

PCO #13 - (\$1,162,817.17) - ODP Credit - This amount represents the City issued purchase orders for Owner Direct Purchase (ODP). The City issued \$1,102,010.37 to sub-contractors or material suppliers. These ODP purchase orders provided a state sales tax savings of \$60,806.80. The sales tax savings less the ODP administration fee is \$49,971.51. This amount is used to offset some of the cost of this change order no. 4.

PCO #14 - \$5,011.52 - Tree Removal - Removal of five (5) trees requested by the City. Trees and pools are not a good combination. Trees drop leaves that end up in the pool and the pool filtration system. These trees would have added additional maintenance to the pool and pool filter system. Removing the trees now during construction is the best option to avoid future problems.

Net change to Evergreen contract is a reduction of \$1,010,993.89. This is not a reduction in the Aquatics Complex costs as the ODP costs were paid to other vendors and will offset this decrease.

In addition to the listed Proposed Change Orders (PCO) the City is also amending the project budget and amending the Owner Contingency amount to \$198,586.65. The Owner Contingency amount is to be used for only those changes directed by the City and approved by the City Manager. The City does not anticipate any major construction related change orders as the digging has been completed and all unknown or unforeseen conditions have reasonably been identified.

Here are the takeaways:

- The Aquatics Complex costs have increased by \$151,823.28 (PCO's above except for PCO #13)
- The City has realized Sales Tax Savings from ODP \$60,806.80 which can be used to offset the increased costs
- City Manager requests the Budget and Contingency for the project be set at \$198,586.65 should additional funds be needed

Procurement Analysis:

In accordance with City Purchasing Policy the value of these change orders (increase) require City Commission approval.

Options:

1. Approve the resolution authorizing execution of Change Order No. 4 and amending the Owner Contingency Amount; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

The Aquatics Complex budget will be adjusted as follows:

Increased costs	\$151,823.28
Evergreen Contingency	(\$37,000.00) -approved 9/28/20
Previous change orders (pedestal removal and footer)	\$5,267.87
Sales Tax Savings	<u>(\$60,806.80)</u>
Evergreen budget impact	\$59,284.35
Additional Contingency requested for Aquatics Complex Project	<u>\$198,586.65</u>
Total increase in Aquatics Complex budget	\$257,871.00

The \$257,871.00 will be moved from the canceled Highway 441 Median Improvement Airport View to Sleepy Hollow project that is included in the current Capital Projects budget and funded with a Transfer from the Solid Waste Fund.

Account No.	031-8125-572.62-10
Project No.	310081
WF No.	WF1169883 / 001
Requisition	TBD
Budget	\$5,233,498.00
Available	\$0.00

Submission Date and Time: 5/5/2021 3:31:15 PM

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A
CONSTRUCTION CHANGE ORDER NO. 4 WITH EVERGREEN
CONSTRUCTION MANAGEMENT, INC. FOR THE AQUATIC COMPLEX
PROJECT FOR AN AMOUNT OF \$151,823.28 AND AMENDING THE OWNER
CONTINGENCY AMOUNT TO \$198,586.65; AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, on September 28, 2020 the Leesburg City Commission approved Resolution 10,723 authorizing execution of a Construction Services Agreement Evergreen Construction Management, Inc. in the amount of \$4,822,000.00

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:**

THAT the Mayor and City Clerk are hereby authorized to execute a Construction Change Order No. 4 with Evergreen Construction Management whose address is 30941 Suneagle Drive, Mount Dora, Florida 32758 for required changes on the Aquatic Facility Project for an amount of \$151,823.28.

THAT the Leesburg City Commission allocates and approves an additional \$198,586.65 as an Owner Contingency for this project. This Owner Contingency may be used for any changes to the project the City requests and deems necessary. Usage of the Owner Contingency will be approved by the City Manager.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 10th day of May 2021.

Mayor

ATTEST:

City Clerk

City of Leesburg, Florida
CONSTRUCTION CHANGE ORDER

Change Number: 4

Date Prepared: 4/21/2021

City PO No.: 536149

Project Name: LEESBURG AQUATIC COMPLEX

A/E Firm: CPH, Inc.

Contractor: Evergreen Construction Mgmt

Address: 500 W. Fulton St.

Address: 30941 Suneagle Drive

City: Sanford

City: Mount Dora

State/Zip: Florida 32771

State/Zip: Florida 32758

Phone: (407) 425-0452

Phone: _____

DESCRIPTION OF CHANGE (Attach additional pages if required.)	Decrease In	Increase In
Evergreen PCO #005 - Per Attached		\$90,437.48
Evergreen PCO #006 - Per Attached		\$10,835.29
Evergreen PCO #007 - Per Attached		\$2,781.59
Evergreen PCO #008 - Per Attached		\$21,632.26
Evergreen PCO #009 - Per Attached		\$9,441.74
Evergreen PCO #010 - Per Attached		\$7,547.65
Evergreen PCO #011 - Per Attached		\$1,906.04
Evergreen PCO #012 - Per Attached		\$2,229.71
PCO #013 ODP Purchases PO Amount as of 04/20/21	\$1,102,010.37	
PCO #013 ODP Purchases Tax Amount as of 04/20/21	\$60,806.80	
PCO #14 - Tree Removal (5) at City's Request		\$5,011.52
Subtotal:	\$1,162,817.17	\$151,823.28
Total Add (Deduct):	(\$1,010,993.89)	

Notice to Proceed Date:	11/2/2020	Contract Amount Information	
Contract Time	Days	Substantial Completion Date	Original Contract Amount
Original Contract Time	314	9/12/2021	Previously Approved CO's
Not Changed:			Present Contract Amount
Increased by:	0	9/12/2021	This CO Add (Deduct)
Decreased by:	0	9/12/2021	New Contract Amount
			Total Change Orders %
			-20.9%

This Change Order is an amendment to the Contract between Contractor and the City, all contract provisions shall apply unless specifically exempted. The amount and time change designated are the maximum agreed to by both the City and the Contractor for this change. In consideration of the foregoing adjustments in Contract time and Contract sum, the Contractor hereby releases City from all claims, demands or causes of action arising out of the transactions, events and occurrences giving rise to this Change Order. This written Change Order is the entire agreement between City and Contractor with respect to this Change Order. No other modifications shall apply to this Contract amendment unless expressly provided herein.

RECOMMENDED	AGREED	APPROVED
Signature, City Project Manager	Signature, Contractor	Signature, Authorized City Representative*
(Date)	(Date)	(Date)

*Authorized City Representative will be determined by the Purchasing Manager and is dependent on the dollar value of all Change Orders on this project. /PURCO

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.C.1.

Meeting Date: May 10, 2021

From: Tracey Dean, (Airport Manager)

Subject: Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Revised Memorandum of Agreement to reimburse U.S. Customs and Border Protection (CBP), for costs related to FY 2021 IT Refresh, repealing the memorandum executed on April 26, 2021 by Resolution 10,847; and providing an effective date.

Staff Recommendation:

Staff recommends approval of the Memorandum of Agreement to Reimburse CBP.

Analysis:

By Resolution 10,847, dated April 26, 2021, Commission entered into a Memorandum of Agreement to reimburse CBP for FY 2021 IT Refresh costs. Stephen Y. Dubose, CBP Port Director of Orlando, executed the agreement on April 28, 2021. Deborah J. Applegate, Field Office Facilities Program Manager, identified errors in their prepared document, and is requesting execution of the corrected version. Below is a summary of the changes made in the document. It was an error in using an incorrect form for a "User Fee Facility". There are also some updates to the document, including equipment upgrade notification timing.

- First Paragraph did not call out User Fee and did not include all of the legal authorities.
 - Old: "...below named location. The legal authority for CBP to enter into and to require such an agreement is found at 8 U.S.C. §§ 1223(b) and 1356(a)."
 - New: "...below named User Fee Airport location. The legal authority for CBP to enter into and require such an agreement is found at 6 U.S.C. § 231; 8 U.S.C. §§ 1223-1224, 1356(a); 19 U.S.C. §§ 58(b), 1459, 1461, 1499, 1524, 1644a; 8 C.F.R. Part 234; 19 C.F.R. Part 122."
- Equipment Upgrades
 - Old: "CBP will provide the Leesburg International Airport at minimum a 60-day notice advance of required upgrades."
 - New: "CBP will provide Leesburg International Airport a minimum of 180 days advance notice of any required upgrades."
- Authorization:
 - Old: "Agreement to these terms is attested by the signatures below."

- New: “Authorized Representative The signatory to this MOA represents and warrants that he or she is a duly authorized representative of Leesburg International Airport, with full power and authority to enter into this MOA and to bind Leesburg International Airport with regard to all matters relating to this agreement.”
- Old document used the term ‘General Aviation Facility (GAF)’ several times following Leesburg International Airport. These were removed in the new document since it is a User Fee Facility.
- Minor wording changes throughout which makes the document read better.

Procurement Analysis:

Options:

1. Approve the Memorandum of Agreement to Reimburse CBP; or,
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

None

Submission Date and Time: 5/5/2021 3:32:00 PM

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A
REVISED MEMORANDUM OF AGREEMENT TO REIMBURSE U.S.
CUSTOMS AND BORDER PROTECTION (CBP), FOR COSTS RELATED TO
FY 2021 IT REFRESH, REPEALING THE MEMORANDUM EXECUTED ON
APRIL 26, 2021 BY RESOLUTION 10,847; AND PROVIDING AN EFFECTIVE
DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:**

THAT the Mayor and City Clerk are hereby authorized to execute a Memorandum of Agreement to reimburse CBP for costs relating to FY 2021 IT Refresh.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 10th day of May 2021.

Mayor

ATTEST:

City Clerk



**U.S. Customs and
Border Protection**

U. S. CUSTOMS AND BORDER PROTECTION (CBP) MEMORANDUM OF AGREEMENT TO REIMBURSE CBP

This Memorandum of Agreement (“MOA”) outlines the agreement between the below named User Fee Airport Owner/Operator (Sponsor) and CBP regarding the Sponsor’s responsibility to reimburse CBP for costs related to providing communications and information technology (IT) equipment and services at the below named User Fee Airport location. The legal authority for CBP to enter into and require such an agreement is found at 6 U.S.C. § 231; 8 U.S.C. §§ 1223-1224, 1356(a); 19 U.S.C. §§ 58(b), 1459, 1461, 1499, 1524, 1644a; 8 C.F.R. Part 234; 19 C.F.R. Part 122.

Airport Owner/Operator: **Leesburg International Airport (Sponsor)**
Location: 8807 Airport Blvd
Leesburg, Florida 34788

LEESBURG INTERNATIONAL AIRPORT RESPONSIBILITIES

Data and Cabling

The Leesburg International Airport is responsible for the procurement and installation of all data cabling and electrical components required for connectivity of systems and equipment, according to CBP Office of Information Technology (OIT) provided specifications. The Leesburg International Airport is required to provide a two week advanced notice of all cable pulls to allow CBP to observe installation.

Reimbursement of Equipment and Recurring Costs

The Leesburg International Airport agrees to reimburse CBP for all equipment and connectivity costs, including installation, maintenance, and recurring costs, at the Leesburg International Airport, 8742 Airport Blvd, Leesburg, FL 34788. Current estimated equipment costs total \$91,607.83. The estimated annual recurring costs are \$20,525.83. CBP OIT’s Cost Estimate titled “LSR005A-OFO-21096C” is attached.

The Leesburg International Airport will be billed the actual costs for the equipment identified in CBP OIT’s Cost Estimate LSR005A-OFO-21096C, along with any outstanding reimbursements due from any previously executed agreement(s). Recurring out-year network circuit charges, and the cost of any necessary replacement equipment not covered under warranty, will also be billed to Leesburg International Airport.

Equipment Upgrades

Upgrades to CBP required equipment and connectivity may be required on a schedule determined by CBP (approximately every 3-5 years, as needed). Leesburg International Airport is responsible for the cost of required upgrades. CBP will provide Leesburg International Airport a minimum of 180 days advance notice of any required upgrades.

Payment Process

A copy of this signed agreement will be forwarded to the CBP National Finance Center (NFC). Upon receipt and installation of all equipment, the NFC will issue Leesburg International Airport a bill for the actual equipment costs not to exceed \$91,607.83 as detailed in CBP OIT Cost Estimate LSR005A-OFO-21096C. The CBP NFC will bill Leesburg International Airport 90-days prior to the due date for recurring out-year network and connectivity charges owed, along with any sums owed for replacement equipment not covered by manufacturer warranties.

Pursuant to 19 C.F.R. § 24.3a, any amounts due CBP under the terms of this agreement that are more than 30 days past-due will begin accruing interest charges based on U.S. Treasury borrowing rates and may ultimately be referred for collection.

Leesburg International Airport Accounts Payable Information

Tax Identification Number: 59-6000362
Bill To Representative: Tracey Dean Airport Manager
Phone Number: 352-728-9720
Email Address: tracey.dean@leesburgflorida.gov
Address: PO Box 490630 Leesburg FL 34749 Attn: Airport

Equipment Ownership

CBP will retain possessory ownership of all equipment used in CBP operations until CBP vacates the premises. CBP will transfer the equipment reimbursed by Leesburg International Airport when CBP vacates the premises. Within two months (60-days) of installation and reimbursement, CBP OIT will deliver a list of serial numbers and/or other identification and warranty information for Leesburg International Airport reimbursed equipment to the point of contact listed below.

Leesburg International Airport Equipment Administrator: Tracey Dean
Email Address: tracey.dean@leesburgflorida.gov
Phone Number: 352-516-7236
Ship to Address: 8807 Airport Blvd, Leesburg FL 34788

U.S. CUSTOMS AND BORDER PROTECTION (CBP) RESPONSIBILITIES

Equipment Connectivity and Maintenance

CBP OIT will be responsible for ordering and installing required circuit, data equipment, and connection(s) from Leesburg International Airport to the CBP National Data Center. CBP is also responsible for imaging, maintaining, and controlling all equipment listed in the attached CBP OIT Cost Estimate LSR005A-OFO-21096C. Leesburg International Airport will incur no CBP OIT charged service fees for any equipment maintenance/repair/replacement covered by CBP procured equipment warranties.

Data Ownership

All data entered and/or stored in any manner on the equipment covered by this MOA shall belong to the United States and is confidential and protected information. It is CBP's

responsibility to properly remove data before possession of any equipment is transferred to Leesburg International Airport. In the event data inadvertently remains on any equipment after transfer, Leesburg International Airport shall keep the information confidential and immediately notify CBP so that CBP can remove the data.

AUTHORIZATION

Authorized Representative

The signatory to this MOA represents and warrants that he or she is a duly authorized representative of Leesburg International Airport, with full power and authority to enter into this MOA and to bind Leesburg International Airport with regard to all matters relating to this agreement.

Agreement to these terms is attested by the signatures below.

Signature
John Christian
City of Leesburg, Mayor

Email Address

Date

Signature
Stephen Y. Dubose
Port Director Orlando
Office of Field Operations, Miami Field Office
U.S. Customs and Border Protection

Email Address

Date

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.C.2.

Meeting Date: May 10, 2021

From: Al Minner, (City Manager)

Subject: Resolution of the City Commission of the City of Leesburg, Florida authorizing and directing the Mayor and City Clerk to execute a Third Amendment to Amended and Restated Ground Lease between the City of Leesburg and Venetian Gardens Site Holdings, LLC for the purpose of ratifying and confirming previous agreements despite lack of two witnesses to signatures; and providing an effective date.

Staff Recommendation:

Approve Third Amendment to the Ski Beach Restaurant lease.

Analysis:

Venetian Gardens Site Holdings will be going through a change of partnership. In closing a deal that changes the ownership compassion, the new buyers believe that the City's agreement and amendments need two witnesses. This amendment addresses that request.

Procurement Analysis:

N/A

Options:

1. Approve as presented; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

None

Submission Date and Time:

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING AND DIRECTING THE MAYOR AND CITY
CLERK TO EXECUTE A THIRD AMENDMENT TO AMENDED AND
RESTATED GROUND LEASE BETWEEN THE CITY OF LEESBURG AND
VENETIAN GARDENS SITE HOLDINGS, LLC FOR THE PURPOSE OF
RATIFYING AND CONFIRMING PREVIOUS AGREEMENTS DESPITE LACK
OF TWO WITNESSES TO SIGNATURES; AND PROVIDING AN EFFECTIVE
DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:**

THAT the Mayor and City Clerk are hereby authorized and directed to execute a Third Amendment to Amended and Restated Ground Lease between the City of Leesburg and Venetian Gardens Site Holdings, LLC, for the purpose of ratifying and confirming the validity of previous documents executed by the parties related to the lease of the restaurant site at Venetian Gardens, despite the lack of two witnesses to some signatures on the various documents.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 10th day of May 2021.

THE CITY OF LEESBURG, FLORIDA

Mayor

ATTEST:

City Clerk

**THIRD AMENDMENT TO AMENDED AND
RESTATED GROUND LEASE**

THIS THIRD AMENDMENT is entered into on the date shown below, between THE CITY OF LEESBURG, FLORIDA, as Landlord, and VENETIAN GARDENS SITE HOLDINGS, LLC, as Tenant,

WITNESSETH:

THAT the parties previously entered into an Amended and Restated Ground Lease (the “Original Lease”) which was effective as of July 24, 2018. Section 7.1 of the Original Lease required Tenant to commence and complete construction of improvements on the leased site by a specified deadline. On March 17, 2021, Landlord and Tenant entered into an Amendment to Amended and Restated Ground Lease (the “First Amendment”) pursuant to which such deadlines were modified. On April 26, 2021, Landlord and Tenant entered into a Second Amendment to Amended and Restated Ground Lease (the “Second Amendment”) pursuant to which such deadlines were again modified. (The Original Lease, as amended by the First Amendment and Second Amendment, is hereinafter referred to as the “Amended Lease.”) The parties have entered into this Amendment confirm the validity of the Original Lease, First Amendment and Second Amendment, despite the fact that they were each witnessed by two witnesses.

NOW THEREFORE, in consideration of the Amended Lease, the mutual covenants and promises contained in this Amendment, the sum of \$10.00, and other good and valuable considerations, in hand paid and given by each party to the other, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree to amend the Amended Lease as set forth below:

1. Landlord’s signatures on the Original Lease, First Amendment and Second Amendment were not witnessed by two witnesses. Tenant’s signatures on the First Amendment and Second Amendment were not witnessed by two witnesses. Subsequent to the effective date of the Original Lease, Florida law was amended to delete the requirement that leases be witnessed by two witnesses. Nonetheless, to avoid any doubt concerning the effectiveness of the Amended Lease, the parties agree that, virtue of this Third Amendment being witnessed by two witnesses, the Original Lease, First Amendment and Second Amendment shall also be deemed to have been witnessed by two witnesses.

2. Except as specifically amended by this instrument, the Amended Lease shall continue in full force and effect as initially executed between the parties.

3. This Amendment may be executed in multiple counterparts, each of which may be considered an original, but all of which together shall constitute but one and the same instrument. This Amendment, when signed by a party, may be delivered by electronic mail or facsimile transmission with the same force and effect as if it were an executed and delivered original, manually-signed counterpart.

4. Nothing expressed or referred to in this Amendment is intended or will be construed to give any person or entity other than the actual, named parties hereto and their respective successors and assigns, any legal or equitable right, remedy or claim under or with respect to the Lease or this Amendment, or any provision hereof, it being the intention of the parties hereto that this Amendment and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Amendment and their respective successors and assigns, and that no third party beneficiaries are to be created either expressly or by implication.

5. The Effective Date of this Amendment shall be the date on which it receives final approval

by the Leesburg City Commission, at a public meeting where a quorum is present, and this Amendment was duly placed on the agenda for consideration and disposition.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Amendment on the dates shown below.

THE CITY OF LEESBURG, FLORIDA

Witness

Print Witness Name

Witness

Print Witness Name

ATTEST: _____
ANDI PURVIS, City Clerk

APPROVED AS TO FORM AND CONTENT:

CITY ATTORNEY

BY: _____
JOHN CHRISTIAN, Mayor

DATE: May ____, 2021

VENETIAN GARDENS SITE HOLDINGS, LLC

Witness

Print Witness Name

Witness

Print Witness Name

BY: _____
ROY T. BOYD, III, Manager

DATE: May ____, 2021

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 6.B.1.

Meeting Date: May 10, 2021

From: Dan Miller, (Planning and Zoning Manager)

Subject: An Ordinance of the City of Leesburg, Florida, amending the mixed-use PUD (Planned Unit Development) on approximately 640 +/- acres to extend the timeframe of the development for a property generally located north of Poe Road at the intersection of CR 44, west of Radio Road and extending northwest to Haines Creek, as legally described in Sections 3, 4, and 5, Township 19 South, Range 25 East, Lake County, Florida; and providing an effective date. (Orange Bend)

Staff Recommendation:

Planning and Zoning Staff and Planning Commission recommend approval of the request to amend the mixed-use PUD (Planned Unit Development) on approximately 640 +/- acres to extend the timeframe of the development.

Analysis:

The project site is approximately 640 +/- acres, and is generally located north of Poe Road at the intersection of CR 44, west of Radio Road and extending northwest to Haines Creek, as shown on the attached maps. At this time, the property is ranch lands. No changes to the conditions of the approved Planned Unit Development have been requested. The existing land uses surrounding the property are residential, orange grove, timber, pasture, school, government, and church. City of Leesburg utilities are available nearby.

The Planning Commission held a public hearing on the application on March 18, 2021 and recommended approval.

Procurement Analysis:

N/A

Options:

1. Approve the request for extended timeframe of PUD (Planned Unit Development); or
2. Other such action as the Commission may deem appropriate.

Fiscal Impact:

Future development of this site will create a substantial positive fiscal impact on the City of Leesburg, in the form of impact and utility fees, plus ad valorem taxes.

Submission Date and Time: 5/5/2021 3:33:43 PM

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, AMENDING THE MIXED-USE PUD (PLANNED UNIT DEVELOPMENT) ON APPROXIMATELY 640 +/- ACRES TO EXTEND THE TIMEFRAME OF THE DEVELOPMENT FOR A PROPERTY GENERALLY LOCATED NORTH OF POE ROAD AT THE INTERSECTION OF CR 44, WEST OF RADIO ROAD AND EXTENDING NORTHWEST TO HAINES CREEK, AS LEGALLY DESCRIBED IN SECTIONS 3, 4, AND 5, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. (ORANGE BEND)

BE IT ENACTED BY THE PEOPLE OF THE CITY OF LEESBURG, FLORIDA, that:

Section 1.

Based upon the petition of Lowrie Brown Investment Co., John M. Brown, Vice President, (Greg Beliveau, agent) petitioner of the property hereinafter described, which petition has heretofore been approved by the City Commission of the City of Leesburg Florida, pursuant to the provisions of the Laws of Florida, the said property located in Lake County, Florida, is hereby amended to extend the timeframe of the development, to-wit:

(Legal Description)
(See Exhibit B)

Section 2.

This ordinance shall become effective upon its passage and adoption, according to law.

PASSED AND ADOPTED at the regular meeting of the City Commission of the City of Leesburg, Florida, held on the _____ day of _____, 2021.

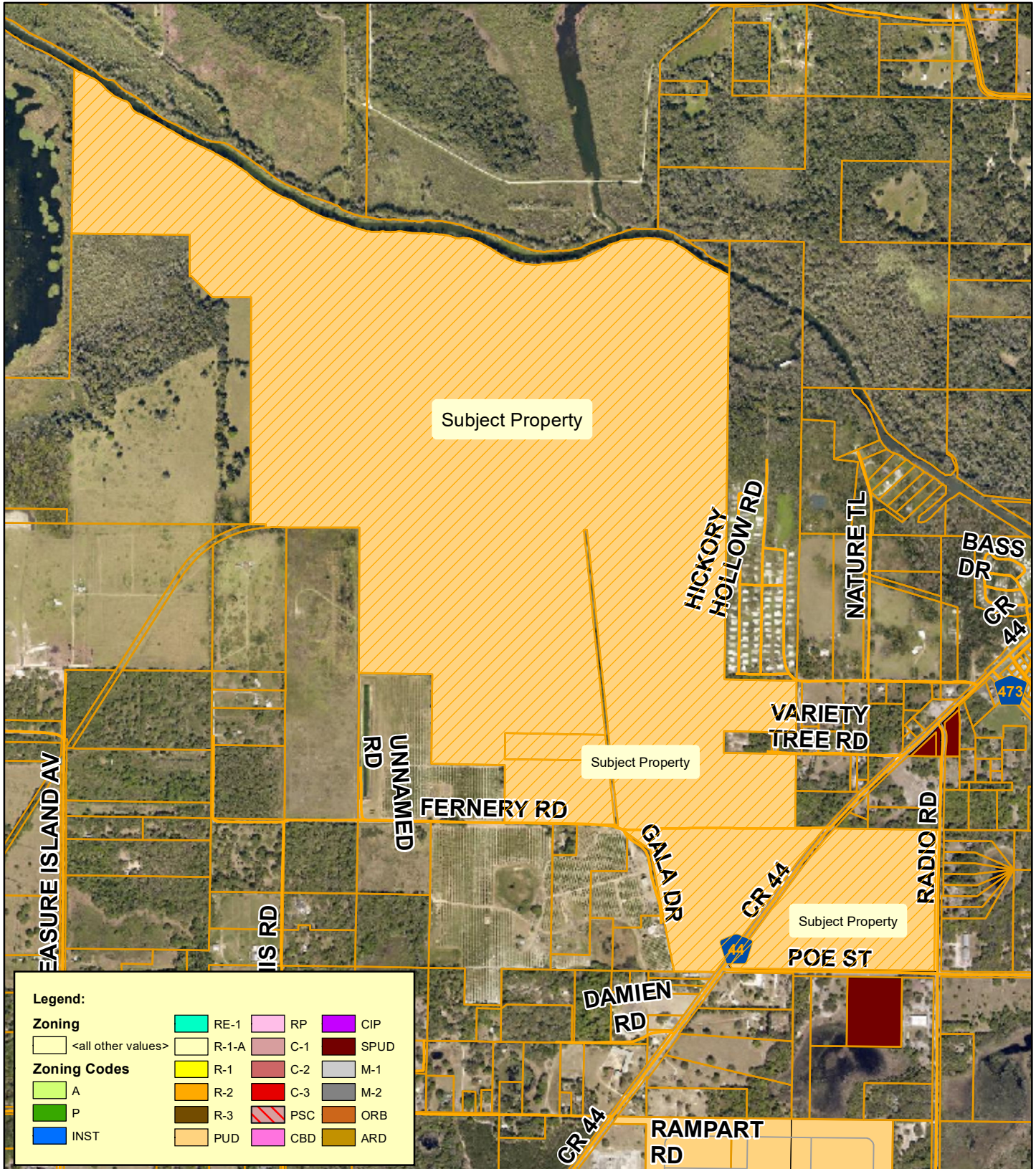
THE CITY OF LEESBURG

Mayor

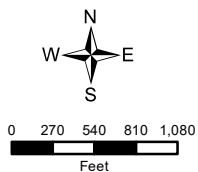
ATTEST:

City Clerk

Zoning



**Planning
& Zoning
Division**



PUD-21-27 - Orange Bend PUD

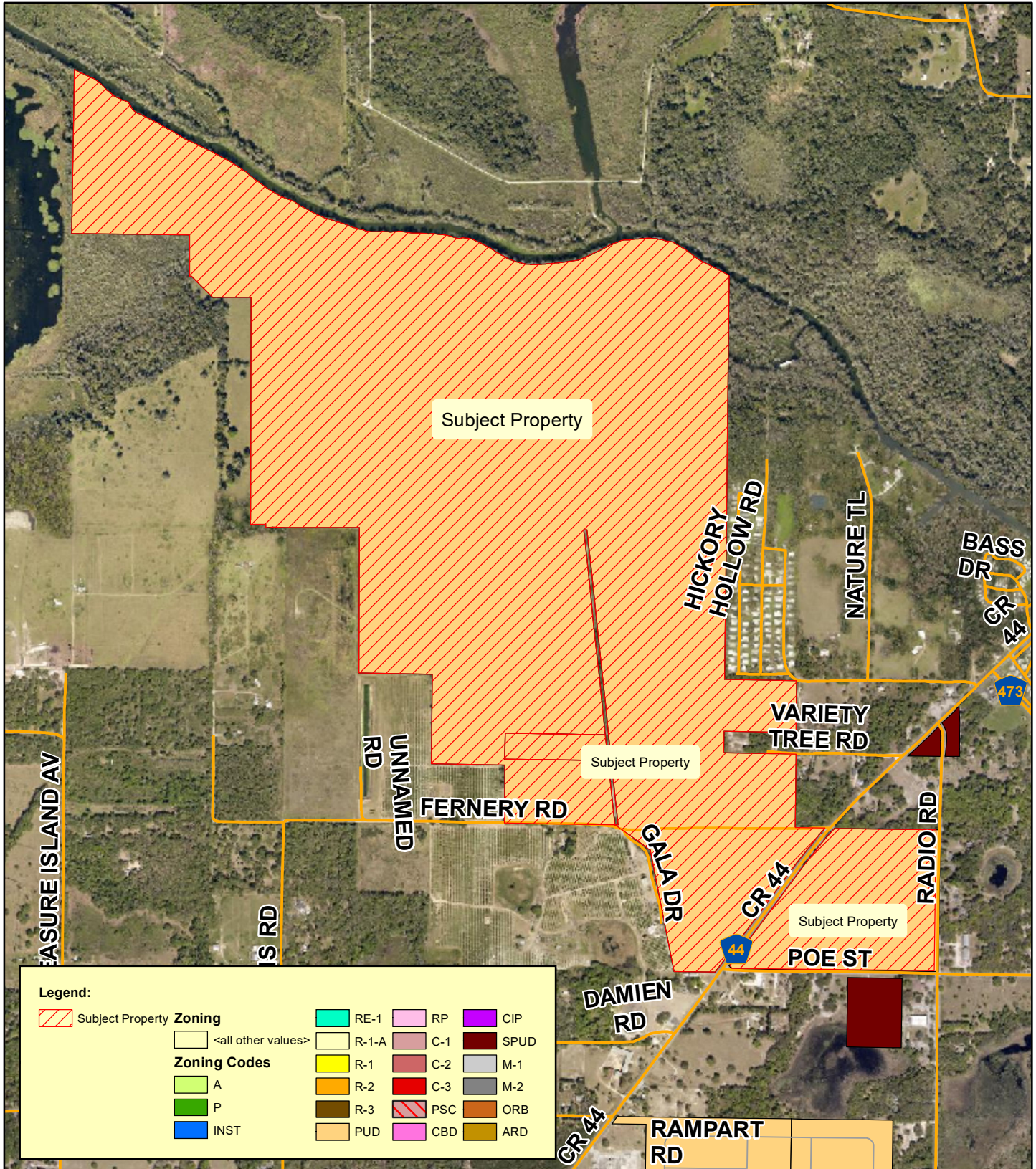
AK#s: 1535921; 1387060

Sections 33 and 34, Township 18 South, Range 25 East; and

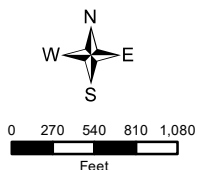
Section 03, Township 19 South, Range 25 East

March 3, 2021

Zoning



**Planning
& Zoning
Division**



PUD-21-27 - Orange Bend PUD

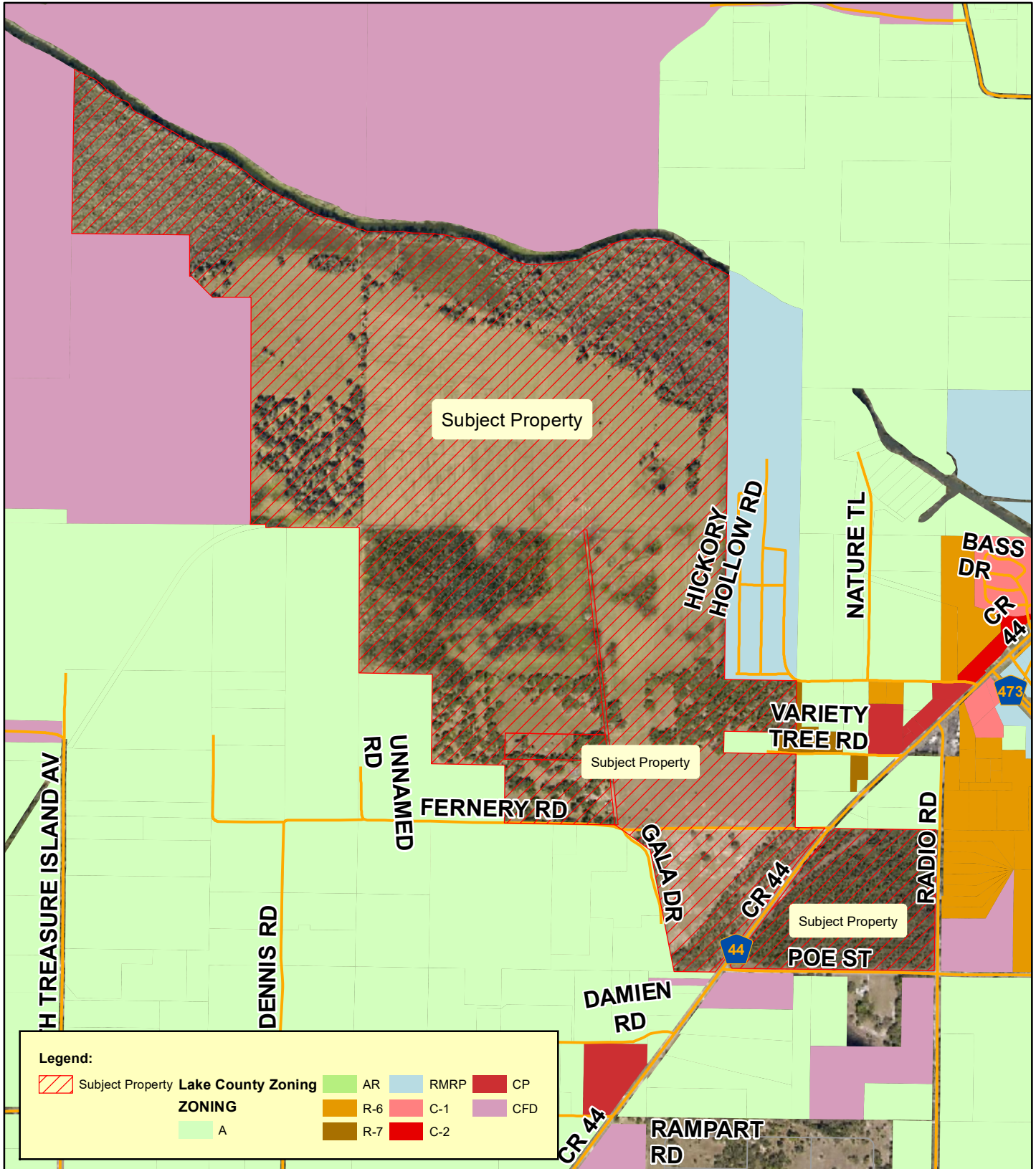
AK#s: 1535921; 1387060

Sections 33 and 34, Township 18 South, Range 25 East; and

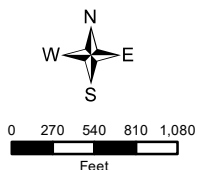
Section 03, Township 19 South, Range 25 East

March 3, 2021

Lake County Zoning



**Planning
& Zoning
Division**



PUD-21-27 - Orange Bend PUD

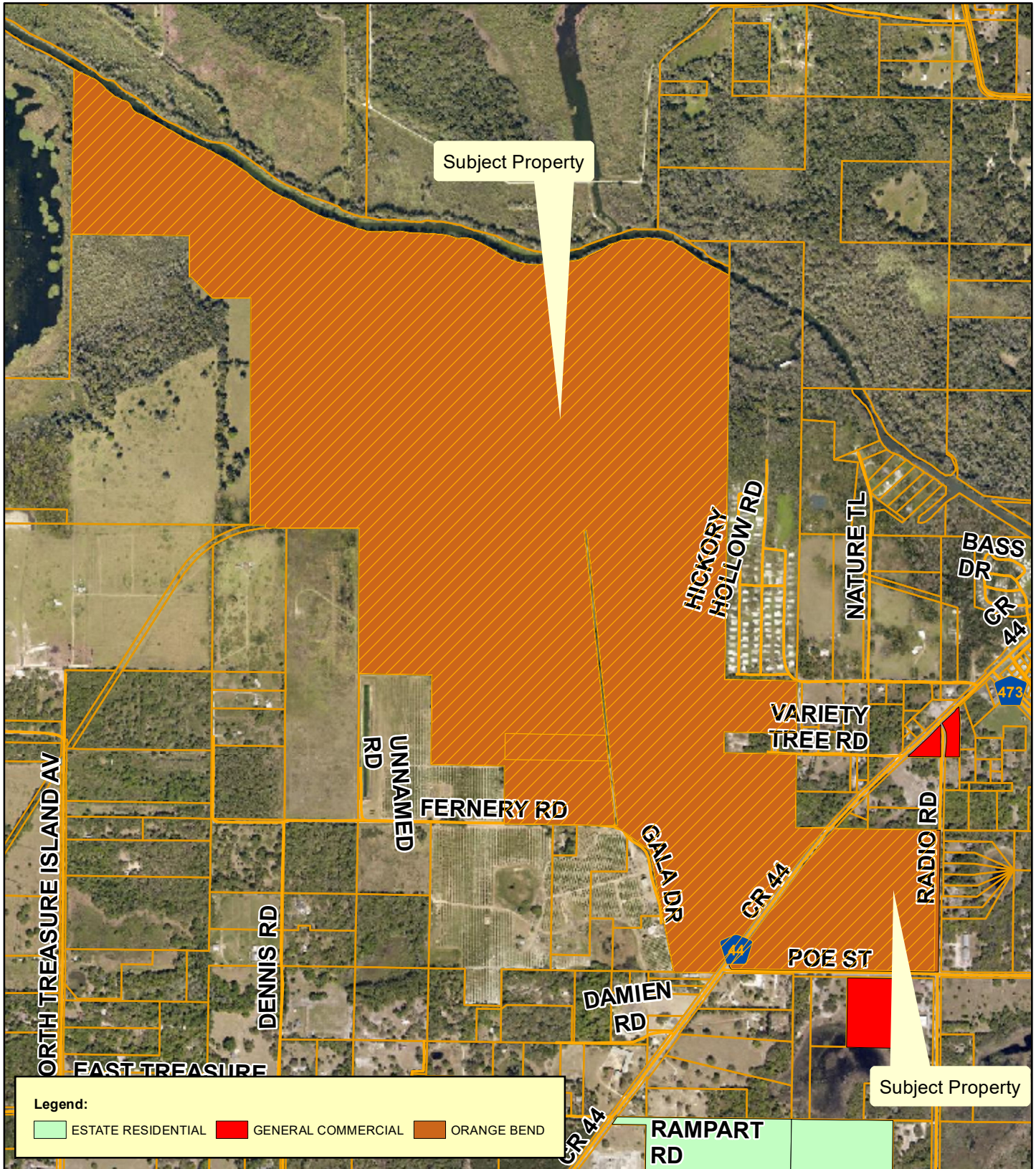
AK#s: 1535921; 1387060

Sections 33 and 34, Township 18 South, Range 25 East; and

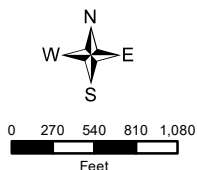
Section 03, Township 19 South, Range 25 East

March 3, 2021

Future Land Use



**Planning
& Zoning
Division**



PUD-21-27 - Orange Bend PUD

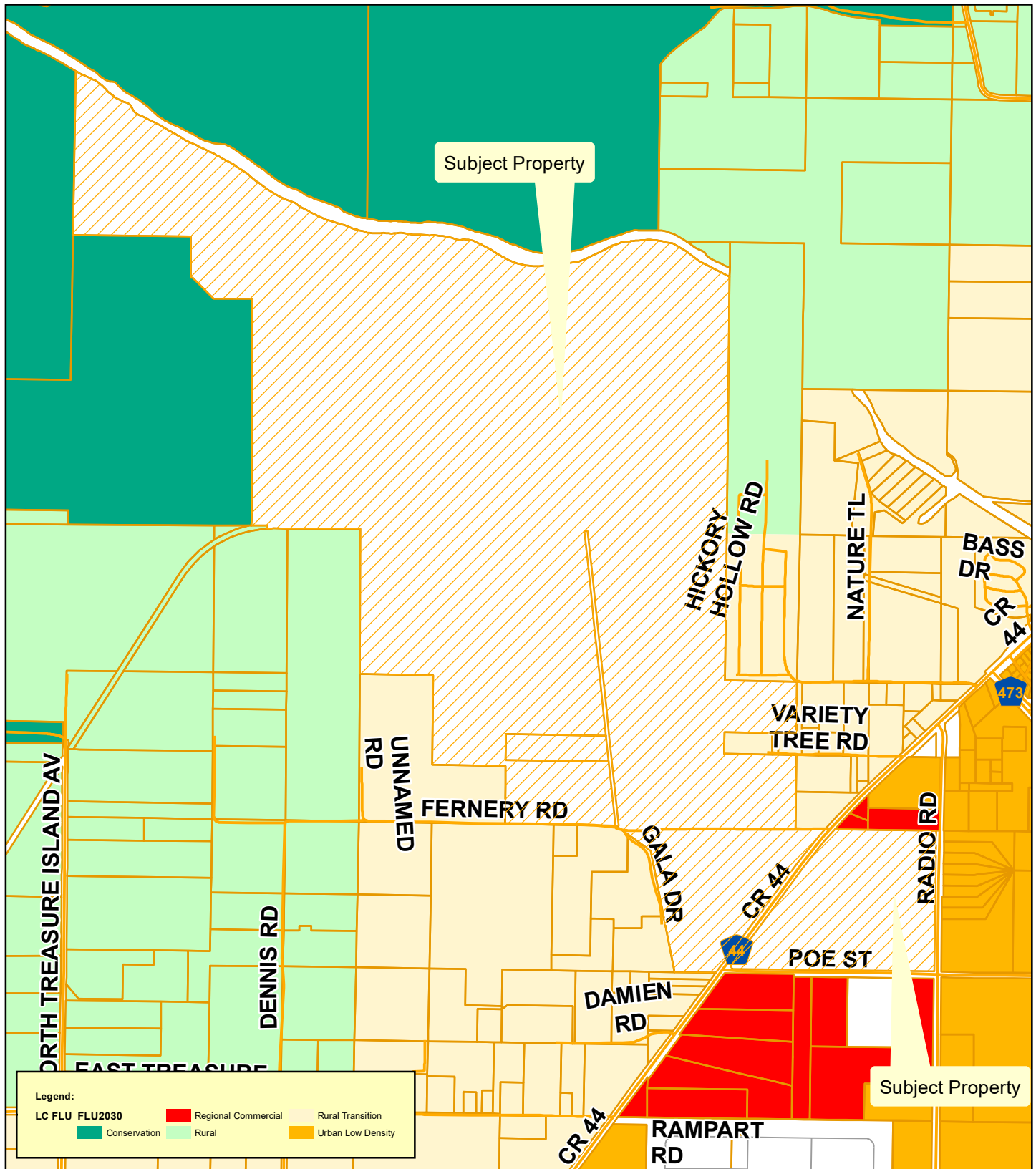
AK#s: 1535921; 1387060

Sections 33 and 34, Township 18 South, Range 25 East; and

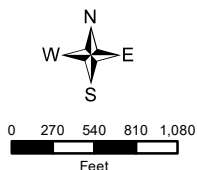
Section 03, Township 19 South, Range 25 East

March 3, 2021

Lake County Future Land Use



**Planning
& Zoning
Division**



PUD-21-27 - Orange Bend PUD

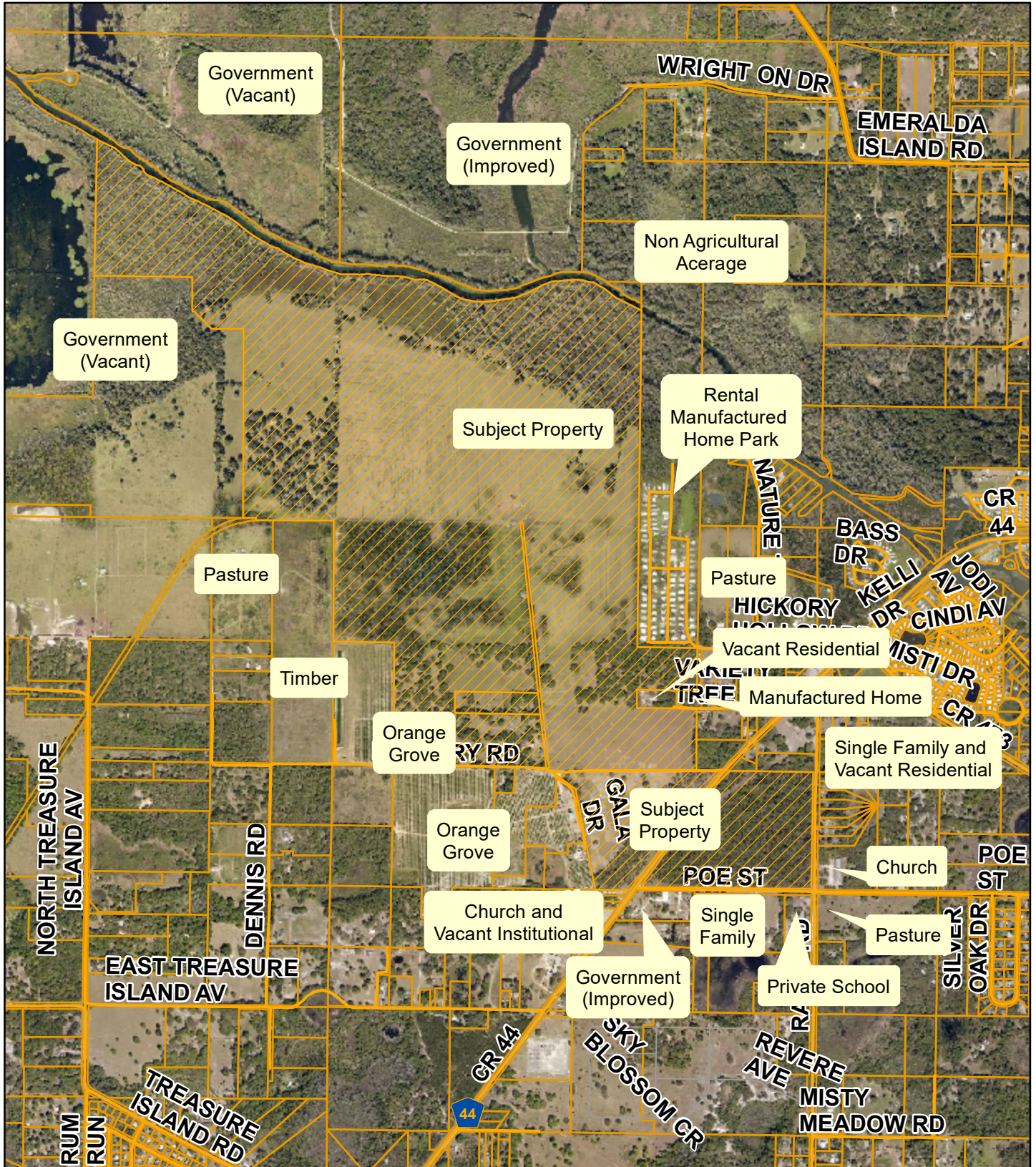
AK#s: 1535921; 1387060

Sections 33 and 34, Township 18 South, Range 25 East; and

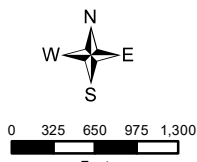
Section 03, Township 19 South, Range 25 East

March 3, 2021

Surrounding Land Uses



**Planning
& Zoning
Division**



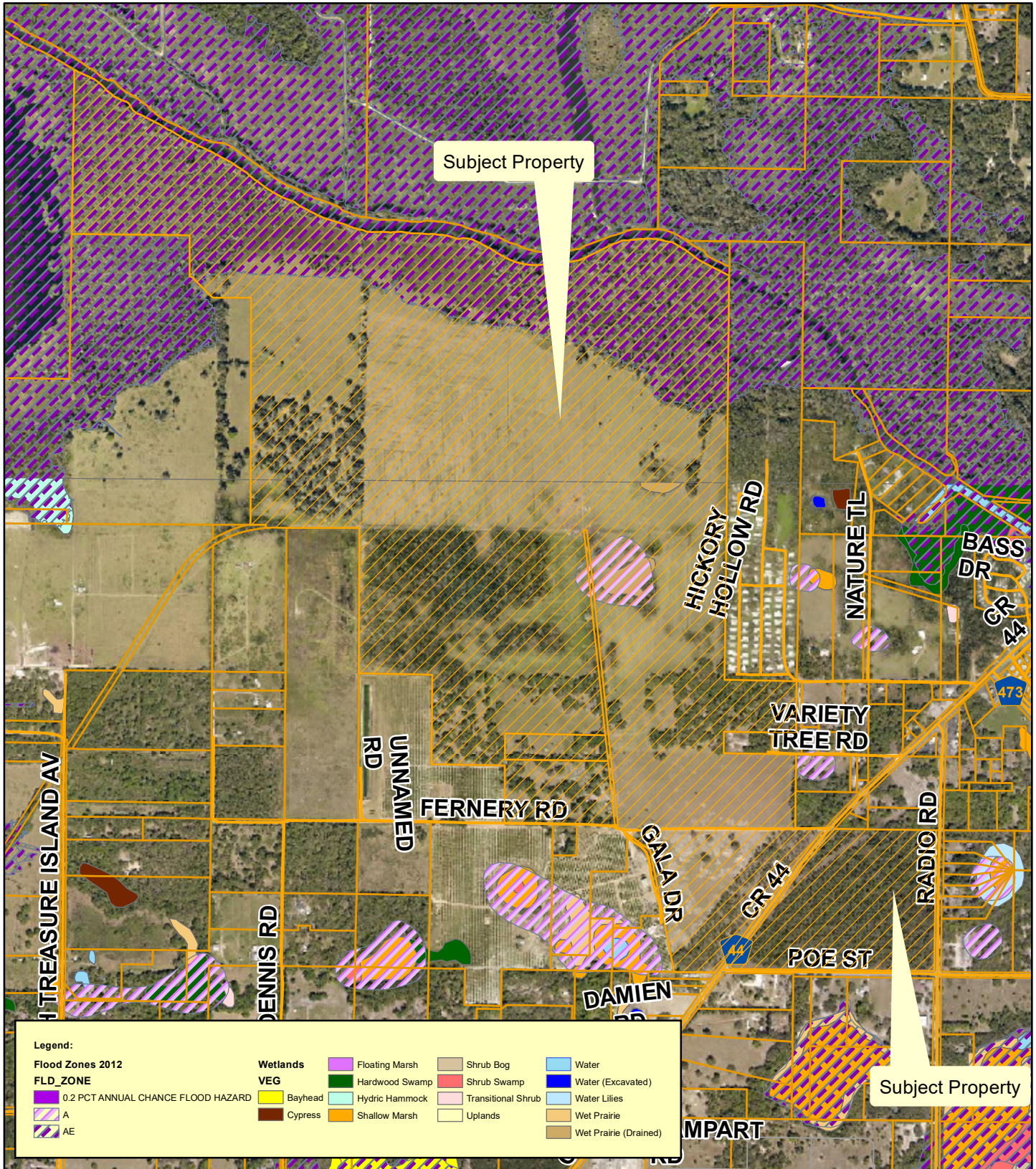
PUD-21-27 - Orange Bend PUD

AK#s: 1535921; 1387060

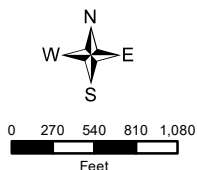
Sections 33 and 34, Township 18 South, Range 25 East; and
Section 03, Township 19 South, Range 25 East

February 26, 2021

Wetlands and Flood Zones



**Planning
& Zoning
Division**



PUD-21-27 - Orange Bend PUD

AK#s: 1535921; 1387060

Sections 33 and 34, Township 18 South, Range 25 East; and

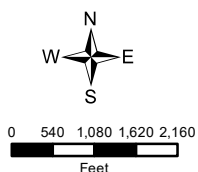
Section 03, Township 19 South, Range 25 East

March 3, 2021

Community Redevelopment Area



**Planning
& Zoning
Division**



PUD-21-27 - Orange Bend PUD

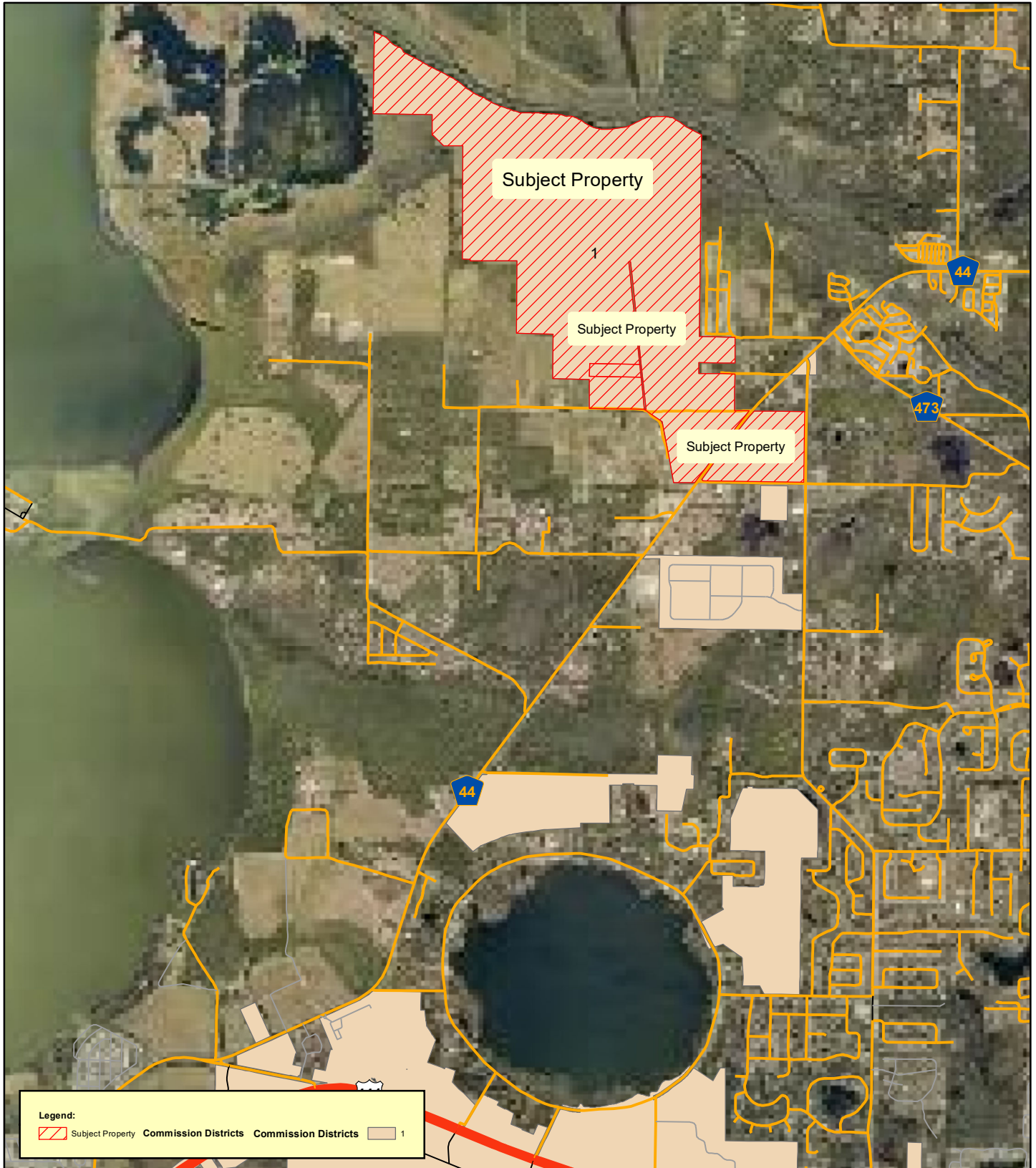
AK#s: 1535921; 1387060

Sections 33 and 34, Township 18 South, Range 25 East; and

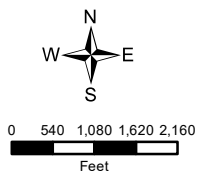
Section 03, Township 19 South, Range 25 East

March 3, 2021

Commission District



**Planning
& Zoning
Division**



PUD-21-27 - Orange Bend PUD

AK#s: 1535921; 1387060

Sections 33 and 34, Township 18 South, Range 25 East; and

Section 03, Township 19 South, Range 25 East

March 3, 2021

**CITY OF LEESBURG PLANNING & ZONING DIVISION
DEPARTMENTAL REVIEW SUMMARY**

DATE: March 1, 2021
OWNER: Lowrie Brown Investment Co., John M. Brown, Vice President
PETITIONER: Lowrie Brown Investment Co., John M. Brown, Vice President
PROJECT: Orange Bend PUD
REQUEST: Amend existing mixed used PUD
CASE NO.: PUD-21-27

THE FOLLOWING COMMENTS RECEIVED FROM EACH DEPARTMENT:

POLICE

No comments received as of 3/12/21

FIRE

No comments from Fire Department. Amanda Stevenson 3/2/21

ELECTRIC

This is outside Leesburg Electric's service territory. Steve Davis 3/1/21

GAS

No comments received as of 3/12/21

GIS

No comment from the GIS department. Tammy Magamoll 3/2/21

BUILDING

No comments received as of 3/12/21

PUBLIC WORKS

Public Works has no issues with this! Cliff Kelsey 3/5/21

ADDRESSING

No comments received as of 3/12/21

ECONOMIC DEVELOPMENT

No comments received as of 3/12/21

LAKE COUNTY PUBLIC WORKS

Did they submit a traffic impact analysis for the proposed PUD? Lake County will need to review this TIA and LS-MPO will need to review it as well. Thanks, Seth Lynch 3/5/21

I have attached comments for the PUD-21-27 Orange Bend PUD. Please let me know if you have

questions or comments. Also, this development will most likely have to install a traffic signal at the entrance off of CR 44. The traffic study will have to meet the Lake-Sumter MPO guidelines for TIA and include a signal warrant analysis. They will need to utilize the most recent data that MPO has for CR 44 and surrounding roads. Thanks, Seth Lynch 3/9/21

LAKE COUNTY SCHOOLS

Please find attached the school districts' Adequate Public Facilities Determination letter for the Orange Bend PUD. Let me know if you have any questions. Helen LaValley 3/5/21

PUBLIC RESPONSES

Approval

1 approval

Disapproval

1 disapproval with comments

No comment

no comment

Notice of Appearance filed:

PUBLIC COMMENTS (APPROVAL WITH REQUESTS)

PUBLIC COMMENTS (DISAPPROVAL)

Donald W. Shoemaker – Hwy 441 – Radio Rd & 473 can not handle any more traffic, no more housing in this area till infrastructure is vastly improved.

PUBLIC COMMENTS (UNDECIDED)

Mary R. Trowbridge – Will large (25" DBH & greater or large hammocks) of oak trees be maintained, especially on the section on Radio Road (between Poe & 44)? & there are some beautiful trees & hammocks here* How are traffic patterns being addressed? Entrances/especially on Radio Rd. Where?



Department of Public Works, Engineering Division
P.O. Box 7800 • 350 N. Sinclair Ave. • Tavares, FL 32778

March 9, 2021

Dan Miller,
Planning & Zoning Manager
City of Leesburg
Planning and Zoning Department
204 North 5th Street
Leesburg, Florida 34749
(sent via email)

RE: PROJECT: Orange Bend / Planned Unit Development - Mixed Use Planned Use Development
CASE NO.: PUD-20-27

Lake County recommended requirements for the Orange Bend PUD impacts to roadways and drainage systems:

CR 44:

- Access off of CR 48 will need to utilize Rumford Rd. in order to meet Lake County access management code requirements for spacing from Number Two Road.
- Left and Right Turn Lanes on CR 44 at the development's entrance will be required.
- A sidewalk will be required along the western side of CR 44.
- A trail will be required along the eastern side of CR 44 for the Lake Yale Trail shown on the Trail Master Plan. This trail must be included in the design for the offsite road improvements and constructed with the development.
- Additional right-of-way will be required for CR 44 meeting a minimum width of 120-ft but may be larger with the offsite road and right-of-way improvements.
- Utility easements will need to be provided along CR 44.

Poe Road:

- An 8-ft sidewalk (sidewalk) will be required along Poe Rd northern frontage from CR 44 to Radio Rd.

Radio Road:

- A sidewalk will be required along Radio Rd.

P 352.253.6000 • F 352.253.9025
Board of County Commissioners • www.lakecountyfl.gov

Douglas B. Shields
District 1

Sean M. Parks, AICP, QEP
District 2

Kirby Smith
District 3

Leslie Campione
District 4

Josh Blake
District 5

Fernery Road:

- A portion of Fernery Road is shown to be fully within the development boundaries. This portion of the road will need to be vacated and removed. From CR 44 to the subdivision internal road. The portion west of internal connector road will need to be improved to meet city and county paved road standard.
- A sidewalk should be provided along Fernery Rd.
- Additional right-of-way for Fernery Rd will need to be dedicated with future development plans.

Internal connectivity:

- The development is recommended to have internal pedestrian and bicycle connectivity throughout the development and to the Lake Yale Trail along CR 44.
- Fernery Rd shall be allowed access through the proposed internal connector road to and from CR 44.
- Gala Dr and Denis Rd, both unmaintained roads off Fernery Rd, shall be allowed access through the proposed internal connector road to and from CR 44.

Traffic:

- A Traffic Impact Analysis will be required of this development for review by the County.

Flood Study:

- Development will be responsible for a drainage and flood study to determine the flood zones within and partially crossing into the development area. The flood study will require review by both the city and county. The study will evaluate downstream impacts from stormwater outfall from this site.

Stormwater Management:

- The site's stormwater management design will need to be reviewed by Lake County when submitted to both the City of Leesburg and St Johns River Water Management District. We may require Lake County stormwater design standards on ponds that outfall or affect surrounding unincorporated lands.

Sincerely,

Seth Lynch

Seth Lynch
Development Engineer/Project Manager
Lake County Department of Public Works
Engineering Division
slynch@lakecountyfl.gov

Cc: Fred Schneider, Public Works Director for Lake County
Jeff Earhart, Engineering Manager for Lake County
Tim McClendon, Planning Director for Lake County
Kandi Harper, Senior Planner for City of Leesburg
Michael Woods, Executive Director for Lake-Sumter MPO



Superintendent:
Diane S. Kornegay, M.Ed.

School Board Members:
District 1
Bill Mathias
District 2
Kristi Burns, Ph.D.
District 3
Marc Dodd
District 4
Molly Cunningham
District 5
Stephanie Luke

201 West Burleigh Boulevard • Tavares • FL 32778-2496
(352) 253-6500 • Fax: (352) 253-6503 • www.lake.k12.fl.us

March 5, 2021

Via Email

Ms. Kandi Harper, Senior Planner
Planning and Zoning Dept.
City of Leesburg
204 North 5th Street
Leesburg, FL 34749

**RE: Orange Bend PUD Amendment (PUD-21-27) – City of Leesburg
Adequate Public Facilities Determination (APF01-2021)**

Dear Ms. Harper:

The School District has reviewed the proposed residential development information for property located in proximity to the intersection of Poe Road and CR44. The property is approximately 640 +/- acres. The proposed development will consist of 800 single-family units and 195 multi-family units for 995 dwelling units.

The residential development will generate approximately three hundred thirty five (335) students. Based on current school attendance zones, the schools impacted by the proposed residential project are as follows:

- | | |
|------------------------------|---------------|
| • Treadway Elementary School | 125% Capacity |
| • Tavares Middle School | 81% Capacity |
| • Tavares High School | 110% Capacity |

This project does have the potential to adversely impact the assigned schools. The District's current Five Year Capital Plan includes a capital project to provide relief for the high school. However, a capital project has not been scheduled to address the elementary school capacity. In order to provide capacity relief to the elementary school a potential attendance boundary adjustment may be required in the future.

Please be advised that school concurrency review is required prior to final development order approval. The information contained in this letter does not constitute school concurrency review. The capacities referenced above do not include current valid capacity reservations. Please be advised that proportionate share mitigation may be required at time of school concurrency review.

Should you have any questions or need additional information please contact me at (352) 253-6694 or by email at lavalleyh@lake.k12.fl.us.

Sincerely,

Helen LaValley
Growth Planning Department

Encl: Adequate Public Facilities Determination

"Equal Opportunity in Education and Employment"



Lake County Schools Adequate Public Facilities Determination

REVIEWING AUTHORITY	Lake County Schools	LCS APF01-2021
PROJECT NAME/CASE#	Orange Bend PUD Amendment (PUD-21-27)	
ITEM DESCRIPTION	Proposed 800 single family dwelling units and 195 multi-family units. 640 acres	
LOCATION	North of intersection of Poe Road and CR44, west of Radio Road, extending northwest to Haines Creek	
AK's	1387060, 1535921	

	SF-DU	MF-DU	MH-DU	SF Impacts	MF Impacts	Totals
NEW DU IMPACT (units)				800	195	995
STUDENT GENERATION	0.350	0.282	0.185	280	55	335
Elementary School	0.157	0.153	0.095	125	30	155
Middle School	0.079	0.061	0.044	63	12	75
High School	0.114	0.068	0.046	91	13	104

*Students generated may differ from distribution percentages due to rounding

CSA #7

	Enrollment 2024-2025	Concurrency Capacity*	Projected Five Year Capacity %	Student Enrollment w/ Impact	% of Perm. Capacity w/ Impact	Planned Capacity Project
Assigned Schools:						
Treadway Elementary	887	833	106%	1,042	125%	No
Tavares Middle	1,079	1,427	76%	1,154	81%	No
Tavares High	1,564	1,514	103%	1,668	110%	Yes

*Lake County School District Five-Year Plan, Fiscal Year 2021-2025

Please note that this is NOT a School Concurrency capacity reservation.

Please be aware that at time of school concurrency review that proportionate share mitigation may be required.
This review does not include already reserved capacities.

Prepared by: Helen LaValley, Lake County Schools Growth Planning Dept.

Issue Date: 3/5/2021



CITY OF LEESBURG PLANNING & ZONING DIVISION RECOMMENDATIONS

OWNER: Lowrie Brown
PROJECT: Lowrie Brown Ranch – Orange Bend
REQUEST: Planned Developments Rezoning - PUD (Planned Unit Development)
CASE NO.: RZ-21-27 Lowrie Brown Ranch – Orange Bend
MEETING DATE: March 18, 2021

THE PLANNING & ZONING DIVISION RECOMMENDS:

APPROVAL of the request

based on the following information and reason(s):

1. The request to annex the subject property, amend the Comprehensive Plan Future Land Use Map and rezone the property to PUD (Planned Unit Development) was approved in 2017 under Ordinances 17-06, 17-08 and 17-09 respectively.
2. The proposed request is to delete ***Section 13.C Development Phasing***, from the approved PUD zoning. This section did require substantial commencement within a 48-month time period.
3. Planning and Zoning staff recommendations of previous rezoning (case RZ 16-67 (attached hereto) as approved by ordinance 17-08, remain valid reasons for approval of this request.
4. Phasing provisions in PUD zonings have not had the intended effect of moving development forward, but, over the course of time, have generally proven to be unnecessary regulations and disincentives to future development. Over the past year, staff has begun removing this provision from the requirements from the majority of PUD zoning applications.

Action Requested:

1. Vote to approve the recommendation to amend the zoning conditions on the subject property to eliminate ***Section 13.C Development Phasing*** from the approved Orange Bend Planned Unit Development Conditions, which include Attachment 1 (October 20, 2016 Staff Recommendation), and Exhibits A-C dated March 18, 2021 and forward to the City Commission for consideration.



2016 RECOMMENDATION (Attachment 1)
CITY OF LEESBURG PLANNING & ZONING DIVISION
RECOMMENDATIONS

OWNER: Lowrie Brown
PROJECT: Lowrie Brown Ranch
REQUEST: Planned Developments Rezoning - PUD (Planned Unit Development)
CASE NO.: RZ-16-87
MEETING DATE: October 20, 2016

THE PLANNING & ZONING DIVISION RECOMMENDS:

APPROVAL of the request

for the following reason(s):

1. The proposed request to rezone the subject property from A (Agricultural) and County R-1 (Rural Residential) to City PUD (Planned Unit Development) is compatible with adjacent property zoned A (Agricultural) and County R-1 (Rural Residential) to the north, west and south, R-3 (Medium Residential District) to the west and south, and R-6 (Urban Residential District) to the east.
2. The proposed request is compatible with the existing future land use designation of County Urban Low Density to the north, south and west, and with property having an existing future Land Use of Urban Medium Density to the east.
3. The proposed request is consistent with the City's Growth Management Plan, Future Land Use Element, Goal I, Objective 1.6.

Action Requested:

1. Vote to approve the recommendation to rezone the subject property from County A (Agricultural) and County R-1 (Rural Residential) to City PUD (Planned Unit Development) with the Brown Ranch Planned Unit Development Conditions attached as Exhibits A-C hereto, dated October 20, 2016 and forward to the City Commission for consideration.

**BROWN RANCH
(Orange Bend)
PLANNED UNIT DEVELOPMENT CONDITIONS
March 18, 2021**

This Planned Unit Development Conditions for a PUD (Planned Unit Development) District is granted by the City of Leesburg Planning Commission, Lake County, Florida to Lowrie Brown Investment Company "Permittee" for the purposes and subject to the terms and conditions as set forth herein pursuant to authority contained in Chapter 25 "Zoning", Section 25-278 "Planned Unit Development" of the City of Leesburg Code of Ordinances, as amended.

BACKGROUND: The "Permittee" has requested a Planned Unit Development (PUD) zoning district to allow construction of a proposed mixed use development comprised of a maximum of 799 single family and 196 townhouse and multifamily residential units, and 283,700 square feet of mixed use (commercial & government/institutional uses) on approximately 640 acres generally located north of County Road 44 and south of Haines Creek, on a site annexed into the City of Leesburg in accordance with their PUD application and supplemental information.

1. **PERMISSION** is hereby granted to Lowrie Brown Investment Company to construct, operate, and maintain a Planned Unit Development in and on real property in the City of Leesburg, in accordance with the requirements set forth herein. The property is more particularly described as follows:

2. **LEGAL DESCRIPTION:**
See attached legal Exhibit B.

3. **LAND USES**

The above-described property, containing approximately 640 acres, shall be used for single family, townhouse and multi-family residential uses, along with a mix of commercial and institutional/government uses, as described below. The property is currently in agricultural uses and shall be allowed to remain in such use until such time as each phase is developed.

- A. **Permitted Uses**

1. Detached single family residential units
2. Townhouse single family residential units
3. Multi-family residential units
4. Retail shops
5. Banking and investment services
6. Restaurants/Diners
7. Bakeries
8. Liquor/package stores
9. Indoor recreation and entertainment
10. Medical/ dental offices and services
11. Personal Services
12. Music/dance/gymnasium uses
13. Community Centers
14. Mini-storage/flex space
15. Churches/houses of worship
16. Art galleries

17. Hotels
18. General office uses
19. Lounges/bars
20. Government offices and uses
21. Education facilities
22. Day Care
23. Residential Uses
24. Youth Activity centers
25. ACLF/Assisted living/nursing homes
26. RV/Boat Storage
27. Accessory structures for residential uses.
28. Temporary sales center offices (modular or site-built) shall be allowed during construction and sales in all areas.
29. Interim Agricultural uses as noted above, to include timber, citrus, cattle, horses, hay and sod production. These uses shall be allowed to continue until such time as the nearest pod has achieved either 50% build out of the square footage for commercial uses or 50% of the total residential units are constructed for the nearest residential pod. Should any disagreement over use arise, City Staff may consult Lake County Agriculture zoning district regulations.

B. Support Services

1. A site, not to exceed one (1) acre, shall be dedicated to the City of Leesburg for support services, i.e. fire station, police substation, emergency services or other municipal uses.

C. Prohibited Uses

1. All uses not specifically permitted within these conditions under Permitted Uses above shall be prohibited.

D. Other Related Uses

1. Other related uses may be included by written determination of the Planning & Zoning Manager. Such uses shall be consistent with the intent and purpose of the zoning requirements set forth in these PUD conditions, and shall meet the parking standards as required herein. Parking availability may limit the permitted uses.

2. Development/Land Use Matrix

Pod #	Acreage	Land Use	Building SF	Density	MF Units	SF Units
Pod 1	11.69	Commercial	100,000	8500 sf/ acre		
Pod 2	19.73	MUC	165,000	8500 sf/ acre		
Pod 3	13.06	MF		8.0	100	
Pod 4A	5.70	MF		6.0	34	
Pod 4B	10.16	MF		6.0	62	
Pod 5	9.65	SF		4.0		38
Pod 6	29.19	SF		5.5		161
Pod 7	28.46	SF		4.0		113
Pod 8	23.46	SF		3.0		70
Pod 9	8.83	Club		0.0		
Pod 10	18.08	SF		2.0		36
Pod 11	16.35	SF		3.0		49
Pod 12	5.76	SF		2.0		12
Pod 13	10.67	SF		2.0		21
Pod 14	7.68	SF		2.0		15
Pod 15	47.56	SF		1.5		71
Pod 16	27.18	SF		3.0		82
Pod 17	27.27	SF		2.0		55
Pod 18	12.86	SF		6.0		76
Pod 19	2.20	Commercial	18,700	8500 sf/ acre		
TOTAL	335.54		283,700		196	799

Phases may be developed in any order depending on engineering and market demand.

4. DEVELOPMENT STANDARDS

A. General Development Standards

1. Where not addressed by these Planned Unit Development Conditions, the minimum development standards for all development shall default to the requirements City of Leesburg Code of Ordinances as amended.
2. Minimum distance between structures shall be 10 feet; measured from building wall to building wall and the roof overhang shall not exceed 40 percent of the distance between the building wall and the property line.
3. Accessory structures shall have a minimum rear and side setback of 5 feet and single accessory structures that are not attached to the principal structure shall not occupy more than 30 percent of the required rear yard.
4. An attached screened enclosure (no solid roof) must maintain a minimum setback of five (5) feet from the side and rear property line.
5. As part of the site plan approval process, city staff shall review final site design standards in accordance with the approved PUD (Planned Unit Development) zoning conditions set forth herein.

B. Residential Development Standards

1. The project shall contain a maximum gross density not to exceed 1.6 units per acre on the approximately 640 acre site, as shown in the Development/Land Use Matrix in Section 3 above.
2. The minimum residential lot development standards shall be as follows:
 - a. For detached single family units:
 - i. Minimum house size: 1,400 square feet. Each additional bedroom to added above the minimum house size shall be a minimum of 120 square feet.
 - ii. Each residential structure shall have a minimum two car garage
 - iii. Minimum lot size shall be 6,250 square feet.
 - iv. Minimum lot width for all interior lots shall be no less than 50 feet.
 - v. Maximum impervious surface for residential lots shall be sixty-five (65) percent.
 - vi. Maximum building height: two (2) stories and 35 feet
 - vii. Minimum building setbacks for detached single family units shall be:
 - Front setback – 20 minimum (may be staggered);
 - Rear setback – 20 feet;
 - Side setback – 10 feet as stated in 4.A.2
 - Street side setback - 15 feet
 - Accessory structures – 5 feet
 - b. For single family townhouse units:
 - i. Minimum house size: 1,100 square feet
 - ii. Minimum lot size shall be 2,200 sq. ft.
 - iii. Minimum lot width shall be no less than 22 feet.
 - iv. Maximum impervious surface for residential lots shall be sixty-five (65) percent.
 - v. Maximum building height: two (2) stories and 35 feet
 - vi. Minimum building setbacks for single family townhouse units shall be:
 - Front setback – 20 minimum (may be staggered);
 - Rear setback – 20 feet;

Side setback – 10 feet as stated in 4.A.2; common wall setback is 0 feet.

Street side setback - 15 feet

Accessory structures – 5 feet

c. Multi-family residential units

- i. Shall meet the minimum lot and standards as prescribed under the C-3 (Highway Commercial) zoning designation for residential units.
- ii. Shall be consistent with the Architectural and Design Standards noted in section 5.C shown herein.

d. Platting

- i. All lots shall be required to be platted through the City of Leesburg subdivision plan approval process.

C. Commercial Development Standards

1. Commercial Development Standards shall follow the C-3 (Highway Commercial) development standards except as amended herein.
2. Impervious surface coverage for commercial, government/ institutional areas within this site shall not exceed eighty (80) percent of the gross site area.
3. A minimum of twenty (20) percent of the site within the commercial, government/institutional areas shall be developed as open space, including retention areas, buffer and landscaped areas. Parking areas and vehicle access areas shall not be considered in calculating open space.
4. Maximum Building Height:
Two (2) stories and 45 feet for commercial.

D. Spatial Requirements

1. Spatial requirements set forth herein shall be deemed satisfied provided as-built measurements do not deviate from such requirement by more than five (5) percent.
2. Signage: All signs placed or constructed on the property shall comply with *Article VI- Sign Regulations, Section 25-421 through Section 25-426*, City of Leesburg Code of Ordinances, as amended.
3. Parking
 - a. The permittee shall have off-street parking spaces within the property per an approved site plan pursuant to the City of Leesburg Code of Ordinances, which shall include the required number of handicapped parking spaces.
 - b. The location and design of the proposed parking areas will be reviewed during the site plan review process to provide for adequate parking, which may limit the permitted uses of the site.

5. DESIGN STANDARDS AND REQUIREMENTS

A. Residential Design

1. All buildings shall utilize at least three (3) of the following design features including garage vehicle doors to provide visual relief along all elevations of the single-family units. Designs may vary throughout the development.
 - a) Dormers
 - b) Gables
 - c) Recessed or raised entries
 - d) Covered porch entries
 - e) Cupolas
 - f) Pillars or decorative posts
 - g) Bay window (minimum 12 inch projections)
 - h) Eaves (minimum 6-inch projections)
 - i) Front windows with arched glass tops and minimum 4-inch trim.
 - j) Garage vehicle doors shall incorporate the following elements: raised decorative panels, decorative glass panels or panes, decorative hinges, etc.
 - k) Front doors shall incorporate the following decorative elements: raised decorative panels, decorative glass panels or panes, decorative handles, etc.
2. Exterior building materials contribute significantly to the visual impact of a building on the community. These materials shall be well designed and integrated into a comprehensive design style for the project. The total exterior wall area of each building elevation shall be composed of one of the following:
 - a) At least thirty-five percent (35%) full-width brick or stone (not including window and door areas and related trim areas), with the balance being any type of lap siding and/or stucco.
 - b) At least thirty percent (30%) full-width brick or stone, with the balance being stucco and/or a “cementitious” lap siding. (A “cementitious” lap siding product is defined as a manufactured strip siding composed of cement-based materials rather than wood fiber-based or plastic-based materials. For example, Masonite or vinyl lap siding would not be allowed under this option.).
 - c) All textured stucco, provided there are unique design features such as recessed garages, tile or metal roofs, arched windows etc. in the elevations of the buildings or the buildings are all brick stucco. Unique design features shall be reviewed by the Community Development Director for compliance.

B. Commercial Design

1. The City of Leesburg has recently adopted Architectural Standards under Ordinance 16-35. These standards, as amended, shall govern the design of all structures within the commercial and government/institutional areas.

C. Design Variations

1. Other similar design variations meeting the intent of this section may be approved by the Community Development Director or designee.

6. LANDSCAPING AND BUFFER REQUIREMENTS

- A. Except as otherwise provided herein, a minimum twenty-five (25) foot landscape buffer, as shown on the attached Conceptual Site Plan (Exhibit C) shall be provided along the all boundaries (south, west and east) of the property. The northern boundaries of Pods 10,

12, 13, 14, 15 and 19 and the western boundary of Pod 15 shall be exempt from the landscape buffer. The northern boundary of Pod 5 and eastern boundary of Pods 7 and 10 shall be exempt from this buffer requirement and remain in an undisturbed condition except as noted in 6.B. below.

- B. In order to shield, both visually and physically, the property currently described as Alt Key #1702593 from any negative impacts associated with abutting uses, a minimum fifty (50) foot buffer shall be provided along the eastern boundary of Pods 7 and 10 and along the northern boundary of Pod 5 (Exhibit D). The buffer shall be completely opaque from the ground up to a minimum height of six (6) feet in the areas along the perimeter of said buffer. The balance of the buffer width will be a combination of planted and natural vegetation as shown in Exhibit D. The buffer shall not be considered to be part of the abutting residential lot, nor shall buffer be used a part of the required recreation area or drainage system for the property. The perimeter of the buffer may utilize a masonry wall, vinyl fence or planted hedge or any combination thereof which maintains a completely opaque buffer. The buffer must be at least three (3) feet in height at installation capable of attaining full height and opacity within twenty-four (24) months thereafter. No roads may be constructed adjacent to the buffer.
- C. Land uses allowed within the upland buffers are limited to overlooks, boardwalks, hiking trails, walkways, passive recreation activities and stormwater facilities as permitted by St. Johns River Water Management District, except that such uses shall not be allowed in the buffer described in 6.B. above.
- D. An upland buffer shall be placed along Haines Creek as required by the City of Leesburg, Florida Department of Environmental Protection, St. Johns River Water Management District and/or U.S. Army Corp of Engineers, whichever is more restrictive.
- E. All other property shall meet all landscaping and buffering requirements in accordance with regulations contained within the City of Leesburg Code of Ordinances, and at a minimum shall contain the following plantings as noted in Figures A and B below:

Figure A

Canopy Trees (per 100 l.f.)	2 per 100 linear ft
Tree CAL/Height	2" cal, 12' overall height
Optional Ornamental Trees (per 100 l.f.)	3 per 100 linear ft
Tree CAL/Height	2" cal, 7' overall height
Shrub Screen (per 100 l.f.)	
Square Ft. of Shrubs	(33) 3 gal plants, 18"—24" minimum at installation (depending on species); hedges to be 36"—42" high by thirty-six (36) inches wide hedge or continuous landscape screen with a ninety (90) percent opacity within one (1) year of planting
Container size	3 gal

Figure B



- C. Variations to the landscape requirements of the code may be approved by the Community Development Director or designee, as long as the intent of the PUD and the Landscaping Code are maintained, including consideration of existing fencing on adjacent properties and existing natural vegetative buffers.

7. **SITE ACCESS**

- A. Main access to the property from County Road 44 will be the one boulevard type (divided landscaped roadway) as shown on the conceptual plan, and as approved through the City of Leesburg development and permitting processes. Any additional access shall be subject to the City of Leesburg, Florida Department of Transportation and Lake County permitting and review processes.
- B. All internal or external access points for the development are subject to review and approval by the appropriate permitting agency, including FDOT, Lake-Sumter Metropolitan Planning Organization, Lake County and the City of Leesburg as applicable.
- C. Each internal access along the main entry road as shown on the Conceptual plan attached hereto shall provide a decorative entry feature to include a concrete, brick or stucco wall, fencing or signage at least five (5) feet in height, on each side of the entryway. This feature may be used for signage per City of Leesburg Code of Ordinances, as amended.
- D. Subject to approval by the City and/or Lake County, Pod 5 may access Hickory Hollow Road. No other portion of the property may access Hickory Hollow Road. Prior to any portion of Pod 5 accessing Hickory Hollow Road, the Permittee shall at a minimum: (1) be required to obtain all appropriate connection permits and approvals from the City and/or Lake County; (2) cause Hickory Hollow Road to be improved to City or County standards for a public road; and (3) cause Hickory Hollow Road to be dedicated to the City or County for use as a public road.

8. **TRANSPORTATION IMPROVEMENTS**

- A. All future transportation improvements requirements shall be based on a current traffic analysis and shall be contingent upon Site Plan approval of the project site by City staff during the development review and permitting process. All required transportation improvements shall comply with all regulations and permitting requirements of the City

of Leesburg, Lake County, Lake-Sumter MPO and/or the Florida Department of Transportation as applicable. Said improvements will be the responsibility of the Permittee

- B. Any right-of-way that may be required shall be based on projected needs and shall be contingent upon site plan approval by City staff during the development review and permitting process.
- C. The Permittee shall provide all necessary improvements/signalization within and adjacent to the development as required by Lake County, the Lake-Sumter MPO and City of Leesburg.
- D. All roads within the development shall be designed and constructed to meet the City of Leesburg requirements.
- E. The Permittee shall be responsible for obtaining all necessary Lake County permits and a copy of all permits shall be provided to the City of Leesburg.
- F. The City of Leesburg will not be responsible for the maintenance or repair of any of the roads or transportation improvements. The Permittee shall establish an appropriate legal entity that will be responsible to pay the cost and perform the services to maintain the roads and transportation improvements. However, should the Permittee desire to dedicate the proposed project's internal road system to the City of Leesburg; the City, at its discretion, may accept or not accept the road system. Prior to acceptance, the Permittee shall demonstrate to the City that the road system is in suitable condition and meets City of Leesburg requirements. As a condition of accepting the roadway system the City may create a special taxing district or make other lawful provisions to assess the cost of maintenance of the system to the residents of the project, and may require bonds or other financial assurance of maintenance for some period of time.

9. STORMWATER MANAGEMENT/UTILITIES

- A. Prior to receiving final development approval for each phase, the Permittee shall submit a stormwater management plan and utility plan acceptable to the City of Leesburg. Prior to any clearing, grubbing, or disturbance of natural vegetation in any phase of the development, the Permittee shall provide:
 - 1. A detailed site plan that demonstrates no direct discharge of stormwater runoff generated by the development into any wetlands or onto adjacent properties.
 - 2. A stormwater management system designed and implemented to meet all applicable St. Johns River Water Management District and City of Leesburg requirements.
 - 3. A responsible legal entity for the maintenance of the stormwater management system on the plat prior to the approval of the final plat of record. A homeowners or property owners association is an acceptable maintenance entity.
 - 4. The 100-year flood plain shown on all plans and lots.
 - 5. The appropriate documentation that any flood hazard boundary has been amended in accordance with Federal Emergency Management Agency requirements, if the 100 year flood plain is altered and /or a new 100 year flood elevation is established in reference to the applicable flood insurance rate map.
 - 6. A copy of the Management and Storage of Surface Waters permit obtained from St. Johns River Water Management District shall be provided to the City during the site plan review process.

7. Should the Permittee desire to dedicate the proposed project's stormwater management system to the City of Leesburg; the City, at its discretion, may accept or not accept the stormwater management system. Prior to acceptance, the Permittee shall demonstrate to the City the stormwater management system is in a suitable condition and meets City of Leesburg and St. Johns River Water Management District requirements. As a condition of accepting the system the City may create a special taxing district or make other lawful provisions to assess the cost of maintenance of the system to the residents of the project.
- B. The drainage system shall be designed to prevent runoff or other drainage from flowing from any portion of the property to the abutting property described as Alt Key #1702593.

10. WETLANDS AND FLOOD ZONES

- A. All wetlands on the project site shall be identified by a jurisdictional wetland boundary line, and the location and extent of each wetland shall be determined by the Department of Environmental Protection, St. Johns River Water Management District and/or U.S. Army Corp of Engineers. Each wetland shall be placed on a suitable map, signed and sealed by a surveyor registered to practice in Florida and shall be submitted as part of the preliminary plat application. Any notice of violation from any affected agency shall be cause for a cease and desist order on permits issued by the City of Leesburg until such time as the violation has been resolved with the appropriate agency(s).
- B. Buildings or structures shall be a minimum of 50 feet from any wetland jurisdiction boundary.
- C. Wetlands shall have a minimum upland buffer as established by the Department of Environmental Protection, St. Johns River Water Management District and/or U.S. Army Corp of Engineers; whichever is more restrictive. All upland buffers shall be naturally vegetated and upland buffers that are devoid of natural vegetation shall be re-planted with native vegetation or as required by St. Johns River Water Management District and/or U.S. Army Corp of Engineers.
- D. Land uses allowed within the upland buffers for wetlands are limited to stormwater facilities as permitted by St. Johns River Water Management District.
- E. If wetland alteration is permitted by St. Johns River Water Management District and/or U.S. Army Corp of Engineers, wetland mitigation shall be required in accordance with permit approvals from St. Johns River Water Management District or U.S. Army Corp of Engineers, whichever is more restrictive.
- F. A wildlife management plan for the project site shall be prepared based on the results of an environmental assessment of the site and any environmental permit required from applicable governmental agencies. The wildlife management plan shall be submitted to the City as part of the site plan application process.
- G. A map indicating the location of the 100-year flood plain.
- H. The appropriate documentation that any flood hazard boundary has been amended in accordance with Federal Emergency Management Agency requirements, if the 100 year flood plain is altered and/or a new 100 year flood elevation is established in reference to the applicable flood insurance rate map.

11. DRAINAGE AND UTILITIES

- A. Prior to receiving Final Development Plan Approval, the "Permittee" shall submit, if applicable, a Master Site Drainage Plan and Utility Implementation Plan acceptable to the City of Leesburg. Prior to removal, renovation or demolition of any existing development on the site, the permittee shall provide:
- 1) A detailed site plan demonstrating no direct discharge of stormwater runoff generated by the development into any natural surface waters or onto adjacent properties shall be required.
 - 2) A detailed site plan indicating all provisions for electric, water, sewer, and natural gas in accordance with the site plan review process as required by the City of Leesburg Code of Ordinances.
 - 3) The City of Leesburg intends to service the property with water and wastewater services at this time. At the time of connection, all regulations in place at the time of the request shall be required, including but not limited to impact fees, connection and utility service deposit charges. The cost of supplying all water and wastewater lines and other necessary infrastructure such as lift stations to the development shall be the responsibility of the developer or property owner.

12. MAINTENANCE

- A. With the exception of any public utilities, streets and sidewalks, maintenance of all site improvements, including but not limited to roadways, drives, internal sidewalks, landscaping and stormwater retention/drainage shall be the responsibility of the property owner. A property owners' association shall serve as an appropriate entity for all common properties within the development.

13. DEVELOPMENT PHASING

- A. The proposed project may be constructed in phases in accordance with the Planned Unit Development Conditions and Conceptual Plan. Each phase may be subdivided in to multiple sub-phases as needed by the Permittee. Changes to the development conditions or conceptual plan, other than those conditions described in this agreement, shall be revised in accordance with the Planned Development review process.
- B. As the project may be constructed in multiple phases, each phase shall have infrastructure necessary to support and serve that phase.
- ~~C. Implementation of the project shall commence within 48 months of approval of this PUD (Planned Unit Development). In the event that the conditions of the PUD have not been substantially implemented during the required time period, the PUD shall be scheduled with due notice for reconsideration by the Planning Commission at their next available regular meeting. The Planning Commission will consider whether to extend the PUD approval or rezone the property to another appropriate zoning classification.~~

14. MISCELLANEOUS CONDITIONS

- A. The uses of the proposed project shall only be those uses identified in the approved Planned Unit Development Conditions. Any other proposed use must be specifically authorized in accordance with the Planned Development amendment process.
- B. There shall be no changes to the buffering requirements as set forth in paragraph 6.B. above, nor shall a change to the Conceptual Plan or other Planned Unit Development Conditions be allowed which would affect the property currently described as Alt Key #1702593, unless such change is approved by the City Commission no sooner than ten (10) days after notice of such proposed variation has been mailed to the record owner of the property currently described as Alt Key #1702593. All other changes to either the Conceptual Plan or the Planned Unit Development Conditions shall be processed in accordance with the Planned Development review process.
- C. No person, firm or corporation shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building structure, or alter the land in any manner without first submitting the necessary plans and obtaining appropriate approvals in accordance with the City of Leesburg Codes.
- D. Construction and operation of the proposed use(s) shall at all times comply with the Planned Unit Development conditions set forth herein, and with all City and other governmental agencies rules and regulations.
- E. The transfer of ownership or lease of any or all of the property described in this PUD Agreement shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to the Planned Unit Development established and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following the procedures as described in the City of Leesburg Land Development Code, as amended.
- F. These PUD Conditions shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor, and shall be subject to each and every condition as set forth herein.
- G. A wildlife management plan for the project site shall be prepared based on the results of the environmental permit approvals obtained from applicable governmental agencies.
- H. All operations shall be carried on entirely within an enclosed structure, except as permitted under accessory uses of Section 25-284, City of Leesburg Code of Ordinances, as amended.

15. LEVELS OF SERVICE

A. Levels of Service

- 1. As submitted the proposed zoning change, when developed, will result in demands on public facilities which would exceed the current capacity of some public facilities, such as, but not limited to water, wastewater, roads, drainage, and solid waste. However, no final development order (site plan and building permits) shall be granted for proposed development until there is a finding that all public facilities and services required for the development have sufficient capacity at or above the adopted level of service (LOS) to accommodate the impacts of the development, or that improvements

necessary to bring facilities up to their adopted LOS will be in place concurrent with the impacts of the development.

B. Utilities

1. Projected Capacities

- a. The City's utility planning efforts draw upon phasing, capacity and service requirements, based upon information provided by the applicant. The City develops its plans consistent with sound engineering principles, prudent fiscal practices and due regard for regulatory compliance.
- b. If the development requires construction of new distribution or collection lines, the developer will be required to construct such facilities to provide service. The developer will bear the cost of design, permitting and construction. Any such facilities must be constructed in a fashion consistent with the City's master plans and to the City standards and specifications.

2. Commitment of Capacity

There are no previous commitments of any existing or planned excess capacity.

3. Ability to Provide Services

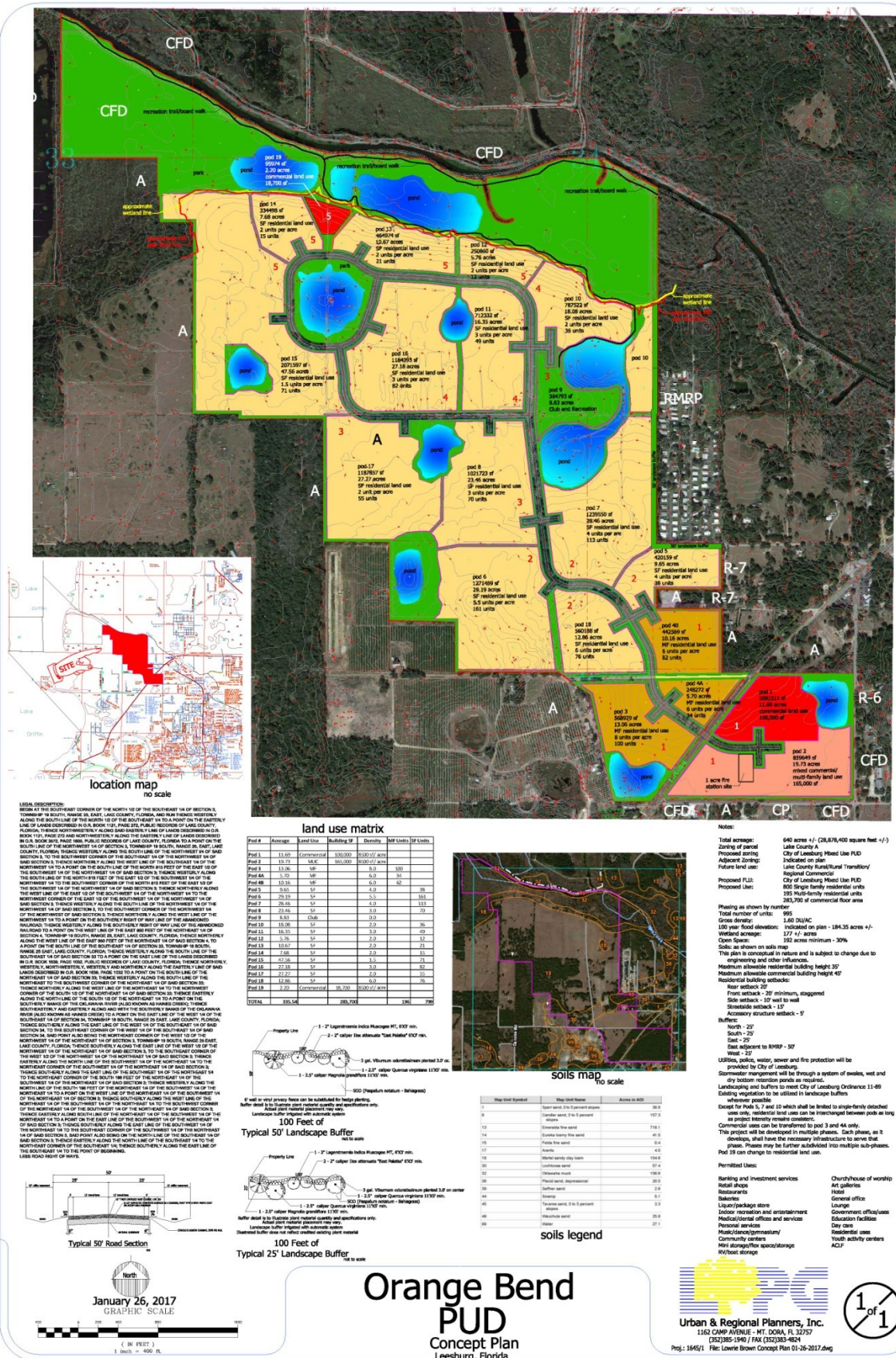
At this time, the City intends to provide water, wastewater and reclaimed water service to this development.

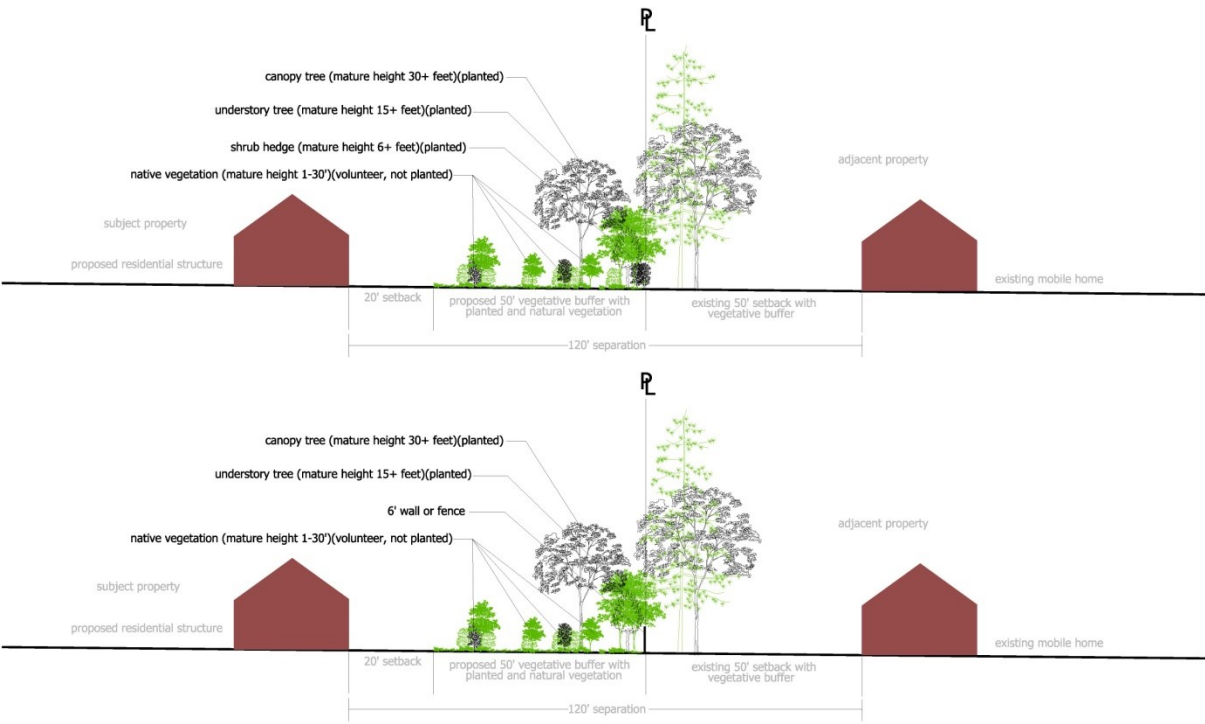
Legal Description

LEGAL DESCRIPTION:

BEGIN AT THE SOUTHEAST CORNER OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 3, TOWNSHIP 19 SOUTH, RANGE 25, EAST, LAKE COUNTY, FLORIDA, AND RUN THENCE WESTERLY ALONG THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 TO A POINT ON THE EASTERLY LINE OF LANDS DESCRIBED IN O.R. BOOK 1121, PAGE 272, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE NORTHWESTERLY ALONG SAID EASTERLY LINE OF LANDS DESCRIBED IN O.R. BOOK 1121, PAGE 272 AND NORTHWESTERLY ALONG THE EASTERLY LINE OF LANDS DESCRIBED IN O.R. BOOK 3572, PAGE 1805, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA TO A POINT ON THE SOUTH LINE OF THE NORTHWEST 1/4 OF SECTION 3, TOWNSHIP 19 SOUTH, RANGE 25, EAST, LAKE COUNTY, FLORIDA; THENCE WESTERLY ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 3, TO THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 3; THENCE NORTHERLY ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 TO A POINT ON THE SOUTH LINE OF THE NORTH 815 FEET OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 3; THENCE WESTERLY ALONG THE SOUTH LINE OF THE NORTH 815 FEET OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 TO THE SOUTHWEST CORNER OF THE NORTH 815 FEET OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 3; THENCE NORTHERLY ALONG THE WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 TO THE NORTHWEST CORNER OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 3; THENCE WESTERLY ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 3, TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE NORTHWEST OF SAID SECTION 3; THENCE NORTHERLY ALONG THE WEST LINE OF THE NORTHWEST 1/4 TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF THE ABANDONED RAILROAD; THENCE WESTERLY ALONG THE SOUTHERLY RIGHT OF WAY LINE OF THE ABANDONED RAILROAD TO A POINT ON THE WEST LINE OF THE EAST 850 FEET OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 19 SOUTH, RANGE 25, EAST, LAKE COUNTY, FLORIDA; THENCE NORTHERLY ALONG THE WEST LINE OF THE EAST 850 FEET OF THE NORTHEAST 1/4 OF SAID SECTION 4, TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 33, TOWNSHIP 18 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA; THENCE WESTERLY ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 33 TO A POINT ON THE EAST LINE OF THE LANDS DESCRIBED IN O.R. BOOK 1639, PAGE 1032, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE NORTHERLY, WESTERLY, NORTHWESTERLY, WESTERLY AND NORTHERLY ALONG THE EASTERLY LINE OF SAID LANDS DESCRIBED IN O.R. BOOK 1639, PAGE 1032 TO A POINT ON THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 33; THENCE WESTERLY ALONG THE SOUTH LINE OF THE NORTHEAST TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 33; THENCE NORTHERLY ALONG THE WEST LINE OF THE NORTHEAST 1/4 TO THE NORTHWEST CORNER OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 33; THENCE EASTERLY ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 TO A POINT ON THE SOUTHERLY BANKS OF THE OKLAWAHA RIVER (ALSO KNOWN AS HAINES CREEK); THENCE SOUTHEASTERLY AND EASTERLY ALONG AND WITH THE SOUTHERLY BANKS OF THE OKLAWAHA RIVER (ALSO KNOWN AS HAINES CREEK) TO A POINT ON THE EAST LINE OF THE WEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 34, TOWNSHIP 18 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA; THENCE SOUTHERLY ALONG THE EAST LINE OF THE WEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 34, TO THE SOUTHEAST CORNER OF THE WEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 34, SAID POINT ALSO BEING THE NORTHEAST CORNER OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 3, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA; THENCE SOUTHERLY ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 3, TO THE SOUTHEAST CORNER OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 3; THENCE EASTERLY ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 3; THENCE SOUTHERLY ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 TO THE NORTHEAST CORNER OF THE SOUTH 198 FEET OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 3; THENCE WESTERLY ALONG THE NORTH LINE OF THE SOUTH 198 FEET OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 TO A POINT ON THE WEST LINE OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 3; THENCE SOUTHERLY ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 3; THENCE EASTERLY ALONG SOUTH LINE OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 TO A POINT ON THE EAST LINE OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 3; THENCE SOUTHERLY ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 TO THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 3, SAID POINT ALSO BEING ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3; THENCE EASTERLY ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 TO THE NORTHEAST CORNER OF THE SOUTHEAST 1/4; THENCE SOUTHERLY ALONG THE EAST LINE OF THE SOUTHEAST 1/4 TO THE POINT OF BEGINNING.

LESS ROAD RIGHT OF WAYS.





City of Leesburg Lake Front City

Agenda Memorandum

Item No: 6.B.2.

Meeting Date: May 10, 2021

From: Al Minner, (City Manager)

Subject: An Ordinance of the City of Leesburg, Florida, amending Chapter 17, Pensions and Retirement, Article IV, Police Officers' Retirement Fund, of the Code of Ordinances of the City of Leesburg; amending Section 1, Definitions; providing for codification; providing for severability of provisions; repealing all Ordinances in conflict herewith; and providing an effective date.

Staff Recommendation:

Approve the City Ordinance amending the City of Leesburg Municipal Police Officers' Retirement Fund, amending Chapter 17, Section 1, Definitions, to amend the definition of Salary.

Analysis:

The actuary for the Police Pension fund believes that the definition of special duty pay in the CBA should make all special pay a pensionable benefit. However, the City has not withdrawn the members' 7.65% contribution for non-City related special duty pay. This modification to the CBA will make all special pay pensionable and require an employee contribution. The modification should ever so slightly benefit the City.

Procurement Analysis:

N/A

Options:

1. Approve the Ordinance as presented; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

Submission Date and Time: 5/5/2021 3:35:15 PM

ORDINANCE NO. 21-_____

**AN ORDINANCE OF THE CITY OF LEESBURG,
AMENDING CHAPTER 17, PENSIONS AND RETIREMENT,
ARTICLE IV, POLICE OFFICERS' RETIREMENT FUND, OF
THE CODE OF ORDINANCES OF THE CITY OF
LEESBURG; AMENDING SECTION 1, DEFINITIONS;
PROVIDING FOR CODIFICATION; PROVIDING FOR
SEVERABILITY OF PROVISIONS; REPEALING ALL
ORDINANCES IN CONFLICT HERewith AND PROVIDING
AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA;**

SECTION 1: That Chapter 17, Pensions and Retirement, Article IV, Police Officers' Retirement Fund, of the Code of Ordinances of the City of Leesburg, is hereby amended by amending Section 1, Definitions, to amend the definition of Salary, to read as follows:

* * * * *

Salary means the total compensation for services rendered to the City as a Police Officer reportable on the Member's W-2 form, less Christmas bonuses and uniform allowances, and excluding any payments for extra duty or special detail work performed on behalf of a second party employer on or after October 1, 2017 and prior to July 1, 2021, but including payments for extra duty or special detail work performed on behalf of a second party employer on and after July 1, 2021, any lump sum payment for accrued annual leave, accrued sick leave, accrued compensatory leave or paid time off, plus all tax deferred, tax sheltered or tax exempt items of income derived from elective employee payroll deductions or Salary reductions. For service earned after January 22, 2013 (the "effective date"), Salary shall not include more than three hundred (300) hours of overtime per calendar year and shall also not include payments for accrued unused sick or annual leave. Provided however, in any event, payments for overtime in excess of three hundred (300) hours per year or accrued unused sick or annual leave accrued as of the effective date and attributable to service earned prior to the effective date, may still be included in Salary for pension purposes even if the payment is not actually made until on or after the effective date. In any event, with respect to unused sick leave and unused annual leave accrued prior to the effective date, Salary will include the lesser of the amount of sick or annual leave time accrued on the effective date or the actual amount of sick or annual leave time for which the retiree receives payment at the time of retirement, regardless of whether the amount of sick or annual leave was, at some time prior to retirement, reduced below the amount on the effective date.

Compensation in excess of the limitations set forth in Section 401(a)(17) of the Code as of the first day of the Plan Year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions for any Plan Year beginning on or after January 1, 2002, may not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). Compensation means compensation during the fiscal year. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than 12 months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12. If the compensation for any prior determination period is taken into account in determining a Member's contributions or benefits for the current Plan Year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. The limitation on compensation for an "eligible employee" shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. "Eligible employee" is an individual who was a Member before the first Plan Year beginning after December 31, 1995.

SECTION 2: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Leesburg.

SECTION 3: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid 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.

SECTION 5: That this Ordinance shall be effective upon adoption.

PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COMMISSION
OF THE CITY OF LEESBURG, FLORIDA, HELD ON THE ____ DAY OF _____, 2021.

Mayor-Commissioner, John Christian

ATTEST:

City Clerk

Miscellaneous Accounts Receivable Customers With Unpaid Balances

Prepared by Finance

March 31, 2021

CURRENTLY WORKED BY PROVIDING DEPARTMENT OR FINANCE

013 Fund

Arnold, Dorian	Working with Housing Dept	Housing Rent	\$	2,425.00
Tucker, Shetonia	Working with Housing Dept	Housing Rent	\$	1,400.00
			\$	<u>3,825.00</u>

041 Fund

Angulo, Carlos Alberto		Damage to City Property	\$	5,714.13
Elliott, Lauren E		Damage to City Property	\$	2,096.98
Ethier, Shirley		Damage to City Property	\$	11,855.78
Foster, Steven Michael		Damage to City Property	\$	6,811.07
Holston, Judith		Damage to City Property	\$	1,044.05
Humphreys, Brian Conrad		Damage to City Property	\$	600.67
Kling, Ryan	With City Attorney for Collections	Damage to City Property	\$	3,971.63
Serrano, Josue		Damage to City Property	\$	4,956.04
Stiglianese, Margaret		Damage to City Property	\$	481.26
White, Christina		Damage to City Property	\$	4,502.90
			\$	<u>42,034.51</u>

013 FUND TOTAL	\$	3,825.00
041 FUND TOTAL	\$	42,034.51
	\$	<u>45,859.51</u>

Total **\$** **45,859.51**

Expected write offs as of Mar 31, 2021

Every September, the Finance Director informs the Commission the dollar amount of customer accounts to be written off. Listed below are the amounts for the prior fiscal years and how the City is trending for fiscal years 2019 and 2020.

Fiscal Write Off Year	Projected Written Off	Actual Written Off	Add'l Amount Collected
2019-2020	\$ 284,281	666,005	381,724
2018-2019	342,912	284,276	(58,636)
2017-2018	394,427	268,001	(126,426)
2016-2017	345,913	314,552	(31,361)
2015-2016	491,091	440,511	(50,580)
2014-2015	431,543	364,023	(67,519)
2013-2014	292,507	258,246	(34,261)
2012-2013	280,544 *	216,319	(64,225)
2011-2012	380,227 *	341,414	(38,813)

Projected
Fiscal year 2020 - Month by Month
10/01/19- 09/30/20

Month	Amount Written Off	Number of Accounts	
		Commercial	Residential
October	\$ 19,944	1	77
November	31,154	4	86
December	36,983	0	96
January	37,762	6	101
February	26,751	3	80
March	19,023	5	68
April	32,336	4	81
May	21,442	5	53
June	17,783	3	64
July	17,863	3	51
August	7,320	0	29
September	15,920	2	35
Accounts to be written off*	\$ 284,281	36	821
Prior Yr to Date	\$ 342,912	47	887
difference - () negative	\$ 58,631	11	66

Average Account Balance	
Commercial	Residential
142.21	257.17
128.78	326.26
0.00	385.24
259.66	358.46
326.45	322.14
267.03	256.20
316.00	383.60
268.40	379.22
432.26	257.60
1,371.46	269.58
0.00	252.40

Projected
Fiscal year 2020 - Month by Month
10/01/20- 09/30/21

Month	Amount Written Off	Number of Accounts		Average Account Balance	
		Commercial	Residential	Commercial	Residential
October	\$ 19,918	3	53	511.79	346.85
November	41,356	6	79	247.65	504.69
December	36,068	3	77	546.70	445.82
January	40,881	4	77	107.41	530.92
February	41,591	2	85	333.51	481.46
March	24,850	1	51	28.37	496.43
April					
May					
June					
July					
August					
September					
Accounts to be written off	\$ 204,663	19	422		
Prior Yr to Date	\$ 171,617	19	508		
difference - () negative	\$ 33,046	0	(86)		

City of Leesburg, Florida
Report of Receipts and Disbursements by Fund
For the Period Beginning On Oct. 1, 2020 and Ending on March 31, 2021

Prepared by: Finance Department

Fund Name	Adopted Budget	Receipts				Budget Balance
		Revenues Amount	Non-Revenue Receipts * Amount	Total Receipts Amount	Percentage	
001 General Fund	\$ 14,423,326	\$ 12,163,846	\$ 5,243,644	\$ 17,407,490	121%	(\$ 2,984,164)
Special Revenue Funds						
013 Housing Assistance	68,274	31,045	0	31,045	45%	37,229
021 Debt Service Fund	808,080	0	1,613,347	1,613,347	200%	(805,267)
031 Capital Projects Fund	4,856,596	43,043	817,985	861,027	18%	3,995,569
132 Local Option Sales Tax	913,490	1,016,798	0	1,016,798	111%	(103,308)
121 Police Forfeiture Fund	3,498	436	0	436	12%	3,062
122 Police Education Fund	3,000	1,655	0	1,655	55%	1,345
133 Gas Tax	571,995	301,037	0	301,037	53%	270,958
141 Police Impact Fees	56,096	111,962	0	111,962	200%	(55,866)
142 Fire Impact Fees	0	12,001	0	12,001	0%	(12,001)
143 Recreation Impact Fees	0	83,242	0	83,242	0%	(83,242)
151 Building Fund	637,134	432,588	21,020	453,608	71%	183,526
Community Redevelopment Agencies						
016 Greater Leesburg CRA Fund	352,764	545,390	0	545,390	155%	(192,626)
017 Carver Heights CRA Fund	232,484	413,304	0	413,304	178%	(180,820)
018 Highway 27/441 CRA Fund	630,338	1,188,606	0	1,188,606	189%	(558,268)
Total General Governmental Funds	23,557,075	16,344,953	7,695,996	24,040,949	102%	(483,874)
Enterprise Funds						
014 Stormwater Utility Fund	936,782	811,056	0	811,056	87%	125,726
041 Electric Utility Fund	38,987,587	27,048,822	446,233	27,495,055	71%	11,492,532
042 Gas Utility Fund	4,177,915	3,733,773	69,682	3,803,455	91%	374,460
043 Water Utility Fund	5,925,398	4,436,611	87,605	4,524,216	76%	1,401,182
044 Wastewater Utility Fund	19,238,840	6,923,905	0	6,923,905	36%	12,314,935
046 Sanitation Services Fund	2,373,526	2,245,993	0	2,245,993	95%	127,533
048 Airport Fund	4,237,342	2,681,001	0	2,681,001	63%	1,556,341
Internal Service Funds						
064 Health Insurance Fund	3,634,266	3,343,115	0	3,343,115	92%	291,151
065 Workers' Compensation Insurance Fund	329,502	348,770	0	348,770	106%	(19,268)
066 Risk Management Fund	448,398	835,990	0	835,990	186%	(387,592)
510 Fleet Maintenance Fund	2,262,645	1,429,925	692,531	2,122,456	94%	140,189
Pension Trust Funds						
061 Municipal Police Retirement Trust Fund	954,384	3,938,758	0	3,938,758	413%	(2,984,374)
062 Municipal Firemen's Retirement Trust Fund	817,524	3,598,203	0	3,598,203	440%	(2,780,679)
063 General Employees' Retirement Fund	1,667,694	6,133,521	0	6,133,521	368%	(4,465,827)
Total All Funds	\$ 109,548,878	\$ 83,854,396	\$ 8,992,047	\$ 92,846,443	85%	\$ 16,702,435

* Interfund Charges and Transfers, Developer Contributions, and Debt Proceeds

NOTE - Amounts may not sum due to rounding.

City of Leesburg, Florida
Report of Receipts and Disbursements by Fund
For the Period Beginning On Oct. 1, 2020 and Ending on March 31, 2021

Prepared by: Finance Department

Fund Name	Disbursements			Budget Balance	Excess of Receipts Over (Under) Disbursements
	Adopted Budget	Amount	Percentage		
<u>General Fund</u>	\$ 14,423,326	\$ 14,253,713	99%	\$ 169,613	\$ 3,153,777
<u>Special Revenue Funds</u>					
Housing Assistance	68,274	57,765	85%	10,509	(26,720)
Debt Service Fund	808,080	1,318,448	163%	(510,368)	294,900
Capital Projects Fund	4,856,596	3,930,766	81%	925,830	(3,069,739)
Local Option Sales Tax	913,490	980,703	107%	(67,213)	36,095
Police Forfeiture Fund	3,498	0	0%	3,498	436
Police Education Fund	3,000	6,027	201%	(3,027)	(4,371)
Gas Tax	571,995	593,526	104%	(21,531)	(292,489)
Police Impact Fees	56,096	43,631	78%	12,465	68,330
Fire Impact Fees	0	160	0%	(160)	11,841
Recreation Impact Fees	0	4,100	0%	(4,100)	79,142
Building Fund	637,134	708,197	111%	(71,063)	(254,589)
<u>Community Redevelopment Agencies</u>					
Greater Leesburg CRA Fund	352,764	575,507	163%	(222,743)	(30,117)
Carver Heights CRA Fund	232,484	57,450	25%	175,034	355,854
Highway 27/441 CRA Fund	630,338	163,053	26%	467,285	1,025,553
<u>Total General Governmental Funds</u>	23,557,075	22,693,047	96%	864,028	1,347,902
<u>Enterprise Funds</u>					
Stormwater Utility Fund	936,782	521,932	56%	414,850	289,124
Electric Utility Fund	38,987,587	27,592,746	71%	11,394,841	(97,690)
Gas Utility Fund	4,177,915	3,155,306	76%	1,022,609	648,150
Water Utility Fund	5,925,398	3,879,433	65%	2,045,965	644,782
Wastewater Utility Fund	19,238,840	4,896,271	25%	14,342,569	2,027,634
Sanitation Services Fund	2,373,526	2,423,046	102%	(49,520)	(177,053)
Airport Fund	4,237,342	1,238,802	29%	2,998,540	1,442,199
<u>Internal Service Funds</u>					
Health Insurance Fund	3,634,266	4,429,895	122%	(795,629)	(1,086,781)
Workers' Compensation Insurance Fund	329,502	447,369	136%	(117,867)	(98,600)
Risk Management Fund	448,398	835,129	186%	(386,731)	861
Fleet Maintenance Fund	2,262,645	1,965,916	87%	296,729	156,540
<u>Pension Trust Funds</u>					
Municipal Police Retirement Trust Fund	954,384	579,388	61%	374,996	3,359,370
Municipal Firemen's Retirement Trust Fund	817,524	740,247	91%	77,277	2,857,956
General Employees' Retirement Fund	1,667,694	1,481,367	89%	186,327	4,652,154
Total All Funds	\$ 109,548,878	\$ 76,879,894	70%	\$ 32,668,984	\$ 15,966,549

City of Leesburg, Florida
Report of Receipts and Disbursements by Fund
For the Period Beginning On October 1, 2019 and Ending on March 31, 2020

Prepared by: Finance Department

Fund Name	Adopted Budget	Receipts				Budget Balance
		Revenues Amount	Non-Revenue Receipts * Amount	Total Receipts Amount	Percentage	
001 General Fund	\$ 15,791,504	\$ 10,557,129	\$ 5,199,510	\$ 15,756,639	100%	\$34,865
Special Revenue Funds						
013 Housing Assistance	59,118	54,392	0	54,392	92%	4,726
021 Debt Service Fund	767,598	0	1,535,199	1,535,199	200%	(767,601)
031 Capital Projects Fund	5,934,862	95,952	4,745,264	4,841,216	82%	1,093,646
132 Local Option Sales Tax	1,398,570	950,135	0	950,135	68%	448,435
121 Police Forfeiture Fund	3,498	1,332	0	1,332	38%	2,166
122 Police Education Fund	3,000	2,459	0	2,459	82%	541
133 Gas Tax	413,556	320,602	0	320,602	78%	92,954
141 Police Impact Fees	14,000	76,618	0	76,618	547%	(62,618)
142 Fire Impact Fees	-	8,025	0	8,025	0%	(8,025)
143 Recreation Impact Fees	12,498	58,675	0	58,675	469%	(46,177)
151 Building Fund	645,548	528,513	14,340	542,853	84%	102,695
Community Redevelopment Agencies						
016 Greater Leesburg CRA Fund	231,954	431,786	0	431,786	186%	(199,832)
017 Carver Heights CRA Fund	204,450	326,835	0	326,835	160%	(122,385)
018 Highway 27/441 CRA Fund	412,374	789,304	0	789,304	191%	(376,930)
Total General Governmental Funds	25,892,530	14,201,759	11,494,313	25,696,071	99%	196,459
Enterprise Funds						
014 Stormwater Utility Fund	1,285,044	805,847	0	805,847	63%	479,197
041 Electric Utility Fund	34,616,090	26,407,795	207,294	26,615,089	77%	8,001,001
042 Gas Utility Fund	4,072,785	3,544,426	39,241	3,583,667	88%	489,118
043 Water Utility Fund	5,322,704	4,520,425	68,342	4,588,767	86%	733,937
044 Wastewater Utility Fund	11,414,786	6,662,303	0	6,662,303	58%	4,752,483
046 Sanitation Services Fund	2,193,114	2,488,522	0	2,488,522	113%	(295,408)
048 Airport Fund	3,178,917	873,010	0	873,010	27%	2,305,907
Internal Service Funds						
064 Health Insurance Fund	3,351,570	3,096,332	0	3,096,332	92%	255,238
065 Workers' Compensation Insurance Fund	382,404	375,058	0	375,058	98%	7,346
066 Risk Management Fund	363,846	776,584	0	776,584	213%	(412,738)
510 Fleet Maintenance Fund	2,749,010	1,617,907	671,764	2,289,671	83%	459,339
Pension Trust Funds						
061 Municipal Police Retirement Trust Fund	878,850	(1,447,856)	0	(1,447,856)	-165%	2,326,706
062 Municipal Firemen's Retirement Trust Fund	846,774	857,534	0	857,534	101%	(10,760)
063 General Employees' Retirement Fund	1,694,400	(2,585,392)	0	(2,585,392)	-153%	4,279,792
Total All Funds	\$ 98,242,824	\$ 62,194,254	\$ 12,480,954	\$ 74,675,208	76%	\$ 23,567,616

NOTE - Amounts may not sum due to rounding.

* Interfund Charges and Transfers, Developer Contributions, and Debt Proceeds

City of Leesburg, Florida
Report of Receipts and Disbursements by Fund
For the Period Beginning On October 1, 2019 and Ending on March 31, 2020

Prepared by: Finance Department

Fund Name	Disbursements			Budget Balance	Excess of Receipts Over (Under) Disbursements
	Adopted Budget	Amount	Percentage		
<u>General Fund</u>	\$ 15,791,504	\$ 16,864,949	107%	(\$ 1,073,445)	(\$ 1,108,310)
<u>Special Revenue Funds</u>					
Housing Assistance	59,118	71,516	121%	(12,398)	(17,124)
Debt Service Fund	767,598	1,222,329	159%	(454,731)	312,870
Capital Projects Fund	5,934,862	3,335,270	56%	2,599,592	1,505,946
Local Option Sales Tax	1,398,570	1,594,108	114%	(195,538)	(643,974)
Police Forfeiture Fund	3,498	0	0%	3,498	1,332
Police Education Fund	3,000	5,851	195%	(2,851)	(3,392)
Gas Tax	413,556	527,381	128%	(113,825)	(206,779)
Police Impact Fees	14,000	11,021	79%	2,979	65,598
Fire Impact Fees	0	80	0%	(80)	7,945
Recreation Impact Fees	12,498	27,900	223%	(15,402)	30,775
Building Fund	645,548	377,233	58%	268,315	165,621
<u>Community Redevelopment Agencies</u>					
Greater Leesburg CRA Fund	231,954	331,526	143%	(99,572)	100,260
Carver Heights CRA Fund	204,450	59,812	29%	144,638	267,023
Highway 27/441 CRA Fund	412,374	151,119	37%	261,255	638,186
<u>Total General Governmental Funds</u>	25,892,530	24,580,095	95%	1,312,435	1,115,976
<u>Enterprise Funds</u>					
Stormwater Utility Fund	1,285,044	503,778	39%	781,266	302,069
Electric Utility Fund	34,616,090	26,901,442	78%	7,714,648	(286,353)
Gas Utility Fund	4,072,785	3,160,151	78%	912,634	423,516
Water Utility Fund	5,322,704	3,718,585	70%	1,604,119	870,182
Wastewater Utility Fund	11,414,786	4,709,839	41%	6,704,947	1,952,464
Sanitation Services Fund	2,193,114	2,292,413	105%	(99,299)	196,109
Airport Fund	3,178,917	1,137,088	36%	2,041,829	(264,078)
<u>Internal Service Funds</u>					
Health Insurance Fund	3,351,570	3,565,547	106%	(213,977)	(469,215)
Workers' Compensation Insurance Fund	382,404	333,052	87%	49,353	42,006
Risk Management Fund	363,846	775,160	213%	(411,314)	1,424
Fleet Maintenance Fund	2,749,010	1,869,479	68%	879,531	420,192
<u>Pension Trust Funds</u>					
Municipal Police Retirement Trust Fund	878,850	537,032	61%	341,819	(1,984,887)
Municipal Firemen's Retirement Trust Fund	846,774	699,224	83%	147,550	158,310
General Employees' Retirement Fund	1,694,400	1,516,830	90%	177,570	(4,102,222)
Total All Funds	\$ 98,242,824	\$ 76,299,714	78%	\$ 21,943,110	(\$ 1,624,506)

**CITY OF LEESBURG
CASH AND INVESTMENTS BY FUND
3/31/2021**

POOLED CASH & INVESTMENTS	TOTAL	GENERAL FUND	SPECIAL REVENUE FUNDS GROUP	DEBT SERVICE FUNDS	CAPITAL PROJECTS FUND	ELECTRIC UTILITY FUND	GAS UTILITY FUND	WATER UTILITY FUND	WASTEWATER TREATMENT FUND	COMMUNICATION FUND	SANITATION SERVICES FUND	STORM WATER FUND	AIRPORT FUND	BUILDING PERMITS FUND	INTERNAL SERVICE FUNDS GROUP
OPERATING CASH	\$ 78,044,545.60	\$14,989,288.69	\$4,824,974.33	\$ 660,376.23	\$ 741,429.17	\$ 16,793,646.71	\$ 3,271,649.62	\$ 6,183,784.13	\$ 16,743,020.68		\$ 2,090,722.32	\$2,813,471.80	\$907,437.81	\$ 2,376,185.90	\$ 5,648,558.21
RESTRICTED CASH															
CUSTOMER DEPOSITS	6,046,269.55					4,707,283.97	777,915.52	555,720.06	2,190.00		3,160.00				
RENEWL & REPLCMNT	15,274,509.99	1,116,700.90	10,555.40			3,394,250.10	829,999.98	2,840,897.30	5,954,386.68		850,000.00				277,719.63
BOND/NOTE SINKING FUND	20,657,602.77		299,197.44			5,767,535.81	65,579.79	570,577.76	13,954,711.97						
INFRASTRUCTURE DEVELOPMENT															
SIGN GRANT & HUD SHIP															
HWY 441/27 CRA - Restricted Surplus	600,000.00		600,000.00												
IMPACT FEES	4,634,751.30							887,272.59	3,747,478.71						
OTHER RESTRICTED CASH	5,465,628.10		72,025.81		5,191,299.30		202,300.99								
DEVELOPER CONTRIBUTIONS	2,439,964.92					2,417,735.52	22,229.40								
RATE STABILIZATION	1,922,092.00					1,922,092.00									
SUBTOTAL OF RESTRICTED CASH	57,040,816.63	1,116,700.90	981,778.65		5,191,299.30	18,208,897.40	1,898,025.68	4,854,467.71	23,658,767.36		853,160.00				277,719.63
TOTAL POOLED CASH	\$135,085,362.23	\$ 16,105,989.59	\$ 5,806,752.98	\$ 660,376.23	\$ 5,932,728.47	\$ 35,002,544.11	\$ 5,169,675.30	\$ 11,038,251.84	\$ 40,401,788.04	\$ -	\$ 2,943,882.32	\$ 2,813,471.80	\$907,437.81	\$ 2,376,185.90	\$ 5,926,277.84
NON-POOLED RESTRICTED CASH															
CASH WITH FISCAL AGENT	1,568,644.56			818,178.85			125,871.32	261,822.47	362,771.92						
DEPOSITORY TRUST ACCOUNT	165,100.14						165,100.14								
DEP-WELLS FARGO															
SUBTOTAL NON-POOLED CASH	1,733,744.70			818,178.85			290,971.46	261,822.47	362,771.92						
TOTAL POOLED CASH AND INVEST	\$136,819,106.93	\$16,105,989.59	\$ 5,806,752.98	\$1,478,555.08	\$5,932,728.47	\$35,002,544.11	\$5,460,646.76	\$11,300,074.31	\$40,764,559.96		\$2,943,882.32	\$2,813,471.80	\$907,437.81	\$2,376,185.90	\$5,926,277.84

INDIVIDUAL SPECIAL REVENUE FUNDS

POOLED CASH & INVESTMENTS	SPECIAL REVENUE FUNDS TOTAL	HOUSING ASSISTANCE FUND	GREATER LEESBURG CRA FUND	CARVER HEIGHTS CRA FUND	HIGHWAY 441/27 CRA FUND	POLICE FORFEITURE FUND	POLICE EDUCATION FUND	DISCRETIONARY SALES TAX FUND	GAS TAX FUND	POLICE IMPACT FUND	FIRE IMPACT FUND	RECREATION IMPACT FUND
OPERATING CASH	\$ 4,824,974.33	\$ 283,826.32	\$ 119,892.11	\$ 541,387.05	\$ 2,068,055.82	\$ 80,717.87	\$ (1,120.41)	\$ 432,232.87	\$ 600,633.26	\$ 535,554.95	\$ 35,532.17	\$ 128,262.32
RESTRICTED CASH												
HUD SHIP PROGRAM & \$HOUSE PROCEEDS	72,025.81	72,025.81										
BOND/NOTE SINKING FUND	299,197.44		51,061.06		248,136.38							
SIGN GRANT												
R&R / OTHER RESTRICTED	10,555.40	10,555.40										
CUSTOMER DEPOSITS	600,000.00				600,000.00							
SUBTOTAL OF RESTRICTED CASH	\$ 981,778.65	\$ 82,581.21	\$ 51,061.06	\$ -	\$ 848,136.38	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL POOLED CASH	\$ 5,806,752.98	\$ 366,407.53	\$ 170,953.17	\$ 541,387.05	\$ 2,916,192.20	\$ 80,717.87	\$ (1,120.41)	\$ 432,232.87	\$ 600,633.26	\$ 535,554.95	\$ 35,532.17	\$ 128,262.32
NON-POOLED RESTRICTED CASH												
DEP-WELLS FARGO	\$ -											
SUBTOTAL NON-POOLED CASH	\$ -											
TOTAL POOLED CASH AND INVEST	\$ 5,806,752.98	\$ 366,407.53	\$ 170,953.17	\$ 541,387.05	\$ 2,916,192.20	\$ 80,717.87	\$ (1,120.41)	\$ 432,232.87	\$ 600,633.26	\$ 535,554.95	\$ 35,532.17	\$ 128,262.32

INTERNAL SERVICE FUNDS

POOLED CASH & INVESTMENTS	INTERNAL SERVICE FUNDS TOTAL	HEALTH INSURANCE FUND	WORKERS' COMPENSATION FUND	RISK MANAGEMENT FUND	FLEET MAINTENANCE FUND
OPERATING CASH	\$ 5,648,558.21	\$ 270,932.59	\$ 1,978,042.66	\$ 159,340.57	\$ 3,240,242.39
RESTRICTED CASH	277,719.63				277,719.63
SUBTOTAL OF RESTRICTED CASH	\$ 277,719.63	\$ -	\$ -	\$ -	\$ 277,719.63
TOTAL POOLED CASH	\$ 5,926,277.84	\$ 270,932.59	\$ 1,978,042.66	\$ 159,340.57	\$ 3,517,962.02
TOTAL POOLED CASH AND INVESTMENTS	\$ 5,926,277.84	\$ 270,932.59	\$ 1,978,042.66	\$ 159,340.57	\$ 3,517,962.02

**CITY OF LEESBURG
INVESTMENT REPORT
3/31/2021**

DESCRIPTION	BALANCE 3/31/2021
BANK OPERATING AND SAVINGS ACCOUNTS	
Truist Bank - Disbursement	\$62,663,582
TD Bank - Savings	4,004,630
CenterState Bank - Savings	1,679,637
Centerstate Bank - CD	4,071,886
Synovus - CD	2,082,957
	\$74,502,692
LOCAL GOVERNMENT INVESTMENT POOLS	
FLSAFE	7,770,859
FLCLASS	9,833,395
FLPRIME	5,983,417
	23,587,670
U S TREASURY MONEY MARKET FUND (FGU Deposit)	165,100
US BANK (Fiscal Agent)	1,568,645
CHANDLER ASSET MANAGEMENT (SECURITIES)	35,495,000
PUBLIC TRUST ADVISORS (SECURITIES)	1,500,000
	36,995,000
TOTAL INVESTMENTS	136,819,107
MARKET ADJUSTMENT	440,344
TOTAL VALUE OF INVESTMENTS	<u><u>\$137,259,451</u></u>

