

**AGENDA
CITY COMMISSION MEETING
VENETIAN CENTER, 1 DOZIER COURT
MONDAY, OCTOBER 25, 2021 5:30 PM**

1. CALL TO ORDER

INVOCATION

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

2. PROCLAMATIONS:

3. PRESENTATIONS:

A. Leesburg Center for the Arts Murals - Maria Stefanovic

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 October 11, 2021

B. PURCHASING ITEMS:

1. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute Amendment One with Facci Bella, Inc. extending the existing Agreement for an additional two (2)

years and applying a cost adjustment of 3% per renewal term to the annual compensation for management of LakeFront TV; and providing an effective date.

- 2. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Leesburg Police Department to disburse forfeiture funds in the amount of \$36,571.00 for the purchase of police duty gear and firearms; 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 Amendment 3 to a fixed unit price agreement with Perfect Fit Image Apparel, Inc. for the purchase of fire retardant (FR) uniforms; and providing an effective date.**
- 4. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Piggyback Agreement with Paqco, Inc. for on-call pavement and base repair construction services; and providing an effective date.**
- 5. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute Amendment Two to an existing Agreement with Allied Universal Corporation for Annual Chlorine Gas; and providing an effective date.**
- 6. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Construction Services Agreement with Bulldog Sitework, LLC. for an amount of \$82,705.60; and providing an effective date.**
- 7. Resolution of the City Commission of the City of Leesburg, Florida authorizing the City Manager to approve all new and replacement vehicle/equipment purchases for Fiscal Year 2022; and providing an effective date.**
- 8. Resolutions authorizing the execution of amendments to extend two agreements.**
 - a. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute Amendment One with Danus Utilities, Inc. extending the term of an existing Fixed Unit Price Construction Services Agreement; and providing an effective date.**
 - b. Resolution of the City Commission of the City of Leesburg, Florida**

authorizing the Mayor and City Clerk to execute Amendment One with Utility Technicians, Inc. extending the term of an existing Fixed Unit Price Construction Services Agreement; and providing an effective date.

C. RESOLUTIONS:

- 1. Resolution of the City Commission of the City of Leesburg, Florida, authorizing and directing the Mayor and City Clerk to execute a Directive to Florida Gas Utility to purchase firm gas supply at discount pricing from Black Belt Energy; 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 natural gas service agreement between the City of Leesburg, Florida and Abbington Oaks, Inc.; and providing an effective date.**
- 3. Resolution of the City Commission of the City of Leesburg, Florida authorizing and directing the Mayor and City Clerk to execute a natural gas service agreement between the City of Leesburg, Florida and Tara Village, Inc. for the purpose of setting forth the terms and conditions under which the City of Leesburg, Florida will supply natural gas service to the development referred to as Tara Oaks Subdivision; and providing an effective date.**
- 4. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a declaration of public use and benefit statement for the transfer of FDOT parcels 25-19-24-0001-000-02000 and 25-19-24-0001-000-01900, E. Dixie Avenue and U.S. Highway 441 stormwater retention ponds, to the City of Leesburg via the FDOT Surplus Property Process; 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. An Ordinance of the City of Leesburg, Florida, annexing certain real property consisting of approximately 148.67 +/- acres; being generally located east of U.S. Highway 27 and on the north side of Dewey Robbins Road, lying in Sections 31 and 32, Township 20 South, Range 25 East, Lake County, Florida. Providing that said property so annexed shall be liable for its proportionate share of the existing and future indebtedness of said city; providing that such annexed property shall be subject to all laws and**

ordinances of said city as if all such territory had been a part of the City of Leesburg at the time of passage and approval of said laws and ordinances; providing that such annexed territory shall be placed in City Commission District 3; and providing an effective date. (Hodges Reserve AX)

2. **An Ordinance amending the Future Land Use Map of the Comprehensive Plan of the City of Leesburg, Florida, changing the Future Land Use Map Designation of certain property containing 148.67 +/- acres from Lake County Rural to City of Leesburg Estate Residential, for a property generally located east of U.S. Highway 27 and on the north side of Dewey Robbins Road, as legally described in Sections 31 and 32, Township 20 South, Range 25 East, Lake County, Florida; and providing an effective date. (Hodges Reserve LGCP)**
3. **An Ordinance of the City of Leesburg, Florida, changing the zoning on approximately 148.67 +/- acres from Lake County A (Agriculture) to City PUD (Planned Unit Development) to allow for a single-family residential subdivision for a property generally located east of U.S. Highway 27 and on the north side of Dewey Robbins Road, as legally described in Sections 31 and 32, Township 20 South, Range 25 East, Lake County, Florida; and providing an effective date. (Hodges Reserve)**

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. None**

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, OCTOBER 11, 2021 5:30 PM**

1. CALL TO ORDER

The City of Leesburg Commission held a regular meeting on Monday, October 11, 2021, at the Venetian Center. Mayor Christian called the meeting to order at 5:33 p.m. with the following members present:

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

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

Mayor Christian stated that the invocation and the Pledge of Allegiance to the Flag of the United States of America were previously done by Commissioner Jasper at the Carver Heights/Montclair Area CRA meeting.

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

2. PROCLAMATIONS:

A. None

3. PRESENTATIONS:

A. Pine Street Complete Streets and Redevelopment Final Concept Brief

Nikel Jindal, CPH, stated they held two public outreach workshops with the stakeholders in order to develop some ideas on how to handle the road and to enhance the vibrancy of the corridor. They are here tonight, to present where they are with the planning portion of the conceptual design and to get feedback on what they could do to get this project implemented. **Kurt Luman**, Project Manager, CPH stated they have had a couple of quarterly meetings with the community to come up with and get some feedback from the community and the city, to find out what kind of improvements they were looking for in order

to balance the needs of the area and the roadway.

Referring to the slides, he showed the existing road conditions. He then showed the overall layout from Canal Street from the west to Lake Street on the east. He pointed out in the rendering where the new Aquatic Center is under construction. During that project, the City donated an additional thirty feet of right of way, which is shown by a yellow line along the north side of Pine Street. That helped them meander the roadway to the north to add some onstreet parking, along with some intersection improvements with brickpavers, potentially a roundabout located at Rambo and some other safety improvements as it goes further east behind UF Health. On the next slide, he showed in more detail, on a block by block basis, the first segment from Canal Street to Childs Street. They were able to meander the road north to add some onstreet parking, which was a real need of the community for the businesses on the south, and adding some parking for the Aquatic Center on the north, along with enhancing the corridor with some landscaping. They also added eight-foot wide sidewalks and added a raised crosswalk near the driveway to the Aquatic Center. That was a request from one of the public meetings to have that pedestrian crosswalk from the north to the south side of the businesses. They were also asked to provide some traffic calming. Referring to another slide, looking from Childs Street to Knott Street, there was a desire from the community to provide a statement-piece for the corridor. They looked at putting a roundabout there but that would require a partnership with UF Health because that would involve land acquisition of a right of way from the hospital. They would need that partnership in order to accommodate the roundabout. This would also provide a wonderful place for a statement-piece for the community. It would potentially add some aesthetics and an opportunity for a statute or a monument inside the roundabout at this intersection. It would also provide for more traffic calming. Once we are able to get behind UF Health, we can slow the cars down and have eight-foot wide sidewalks. It will have landscaped areas and raised crosswalks for the employees of UF Health to walk from the south side of the roadway to the north side and that will make it more pedestrian friendly. It will slow cars down and make the area more multimobile for all users. The intersection at Rambo is one where they had to look at some different options. Referring to another rendering, looking at the left roundabout, this one they had in the initial concept. It is a smaller roundabout with a brickpaver center island. It would accommodate the designed vehicles to make sure that trucks could turn the corners and that they could do the maneuvers. We would also want to be able to utilize the central island to traverse it, for vehicle tracking. The larger roundabout proposed requires a little more area for the intersection, but it provides a greenspace in the middle where you could add a community feature or some sort of monument on the island to help identify the Pine Street corridor. It would still provide traffic calming and the aesthetics for the intersection. This would still require the coordination and partnership with UF Health to acquire the additional right of way needed. Referring to a rendering, he pointed out what the intersection would look like if UF Health decided not to participate. He showed where they could beautify the intersection with some brick pavers for the crosswalk to signify where there would be a crossing. He then asked for some directions from the Commission. He knows a few meetings ago, they received authorization for the final design phase. They will be moving into the ninety percent design permit for the project and then the final design should end in March 2022.

Commissioner Burry asked about the roundabouts and commercial semi-type traffic. Does that play into what we could have or not have? He assumes the hospital has some of that type of traffic coming in that way towards Lake Street. **Mr. Luman** responded that both these designs take into account FDOT design standards and that would be fifty. That is typical for semi-trucks going through this area. We use auto-cad and it has an auto-turn analysis which shows vehicle tracking and turning radius along with the trailer hauling. This program shows where the wheels track behind the tractor. These roads would accommodate emergency vehicles, solid waste trucks and semi-trucks. It is designed for all types of vehicles. All the green space will have plantings and trees so that will create a boulevard feeling throughout the whole corridor. It will also include lighting along the corridor that will match the lighting

on Main Street. **Commissioner Robuck** asked if he could review what they wanted to do at the intersection of Childs and Pine Street. **Mr. Luman** answered that they were looking at providing brick paver crosswalks similar to Main Street. They would follow the same pattern and the same brick type to make it uniform throughout the city. **Commissioner Pederson** questioned the width of the road at Pine Street off Canal Street. It is very narrow now. How wide will that be? **Mr. Luman** replied one thing that helps make the traffic calm will be the narrowing of the road. However, the road right now is fairly wide because people can actually park on the road. They would have two ten-foot travel lanes, which is the minimum standard for the local roadways. We will also have onstreet parking for the first segment between Canal and Childs and for the remainder of the roadway there will be two ten-foot travel lanes, which meet the FDOT design criteria for local municipalities. **Mayor Christian** pointed out that people can park on the road now. With the new design, people will not be parking directly on the road. They will be off the road and there will be two ten-foot roadways going through, which is standard. We currently have ten feet of roadway and people are parking on that ten-foot roadway, so we really only have maybe seven feet of roadway because the cars are parked on the roads. Once the cars are off the road and parked in their own designated parking space, there will be more room. **Mr. Luman** stated that will also allow for the ladder sidewalks, landscaping areas, lighting and beautification elements of it. Currently, there are five-foot sidewalks and this will allow for eight-foot sidewalks as well as green space. **Mayor Christian** then said that it would be similar to Main Street. **Commissioner Pederson** remarked that they all seemed to be narrow to him. He just wanted to make sure the road was wide enough to accommodate the school buses coming through and larger trucks having a swimming pool. He believes it is a great design and by spending all this money he wanted to make sure the road was wide enough. **Mayor Christian** thanked CPH for holding the community meetings. The hospital was there along with some downtown organizations. They did a very good job listening to everyone's concerns and they did their best to put it into the plan. He thanked CPH again for listening and implementing a plan that kept everyone happy. He believes everybody got a little bit of what they wanted.

Dr. Erika Jasper gave kudos to CPH and to the DPW Director, Cliff Kelsey and his staff, because they did a wonderful job meeting with the community and listening to the design concepts. She wanted to thank them publicly. As a sidenote, she wanted to mention that she does like the idea of the larger roundabout.

Commissioner Robuck wanted to know if we had started conversations with the hospital about the idea of the roundabout. **CM Minner** responded that they have a little bit. They have had some initial discussions, but they will go in earnest now. **Mr. Luman** mentioned that they wanted to get some direction from the Commission before moving forward with the hospital. **CM Minner** said the next step would be having discussions with the hospital, finishing the designs and then taking this out to bid.

Mayor Christian thanked everyone for their hard work and their dedication to Leesburg.

4. **PUBLIC COMMENTS:**

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Tanya Thompson, Pleasantview, stated she was here to talk about the A21 walk for freedom. They are hosting in partnership with the Fathers House church, and A21, which is a global organization that fights against human trafficking. This Saturday they are having a walk and the registration will be held in this room at the Venetian Center. They are walking around the Venetian Garden Park. The walk will start at

9:00 a.m. The first step will actually be taken at ten and it is a silent single file walk to bring awareness to the community about human trafficking. After the walk, around 11:00 a.m., they will have a lunch to learn. They will have some people who are a part of the anti-human trafficking taskforce come in and share information about human trafficking. She wanted to make the community aware of this event and if anyone was interested in attending the walk, you could go to A21.org/leesburg. They currently have two hundred and sixty-five people registered in the community and they are hoping for a lot more.

David Sedar, Wintergreen Drive, Fruitland Park, stated that what we do today can improve all our tomorrows. He lives in Fruitland Park, but he attends commission meetings all over the area. Last week he attended the Planning and Zoning meeting in Lake County. He said it was his honor to be in front of the commission again because they are the elected officials and the gladiators. He goes to church on Sundays and hopes a lot more people go to church. Bikefest is coming up in Leesburg and he loves coming to downtown Leesburg. They just had a carshow on Saturday and Leesburg is a cool place to be. He was privileged and honored to be here and he is a concerned citizen.

5. CONSENT AGENDA:

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Items pulled for discussion:

5.B.1.A - Construction Change Order Number 1 with Evergreen Construction management, INC. for the Teen Center Project;

5.B.1.B - Amend the project budget by adding an additional \$240,000 and authorizing the City Manager to approve additional expenditures (Teen Center Project);

5.C.1 - Conveyance of a vacant lot to Carmela Daley for development of a single family home as part of the In-fill Housing Program;

5.C.3 - Facility Use Agreement with the Boys & Girls Clubs of Central Florida, Inc.;

5.C.6 - Vacant land sales contract with Bertha M. Hill for the City-owned lot at 2107 Waitman Avenue;

5.C.7 - Civic Organization Funding Agreements for Fiscal Year 2021-22;

5.C.13 - American Recovery Grant Funding Agreements;

Commissioner Robuck moved to adopt the Consent Agenda except for 5.B.1.A, 5.B.1.B, 5.C.1, 5.C.3, 5.C.6, 5.C.7, and 5.C.13, and Commissioner Pederson seconded the motion.

The roll call vote was:

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

Five yeas, no nays, the Commission adopted the Consent Agenda, as follows:
(Each item has its coordinated resolution number listed below the header)

A. CITY COMMISSION MEETING MINUTES:

1. Regular meeting held September 27, 2021

B. PURCHASING ITEMS:

1. Resolutions authorizing execution of a Construction Change Order No. 1 with Evergreen Construction, Inc. for the Teen Center Project and a Resolution amending the Teen Center budget and authorizing the City Manager to approve future additional expenditures on the Teen Center project not to exceed an additional \$240,000.

a. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Construction Change Order Number 1 with Evergreen Construction Management, Inc. for the Teen Center project in the amount of \$166,022.62; and providing an effective.

ADOPTED RESOLUTION 10,938

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

Commissioner Pederson made a motion to adopt the resolution and Commissioner Burry seconded the motion.

Mayor Christian requested comments from the Commission and the audience.

Commissioner Robuck stated he needed to pull this item because Evergreen is a customer of his, so he needs to abstain.

The roll call vote was:

Commissioner Burry	Yes
Commissioner Pederson	Yes
Commissioner Connell	Yes
Commissioner Robuck	Abstain
Mayor Christian	Yes

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

b. Resolution of the City Commission of the City of Leesburg, Florida amending the project budget adding an additional \$240,000.00 and authorizing the City Manager to approve additional expenditures such as construction change orders and owner supplied equipment

up to the amended project budget amount; and providing an effective date.

ADOPTED RESOLUTION 10,939

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

Commissioner Burry made a motion to adopt the resolution and Commissioner Pederson seconded the motion.

Mayor Christian requested comments from the Commission and the audience.

Commissioner Robuck stated again that this is a customer, so he must abstain from voting.

The roll call vote was:

Commissioner Pederson	Yes
Commissioner Connell	Yes
Commissioner Burry	Yes
Commissioner Robuck	Abstain
Mayor Christian	Yes

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

C. RESOLUTIONS:

- 1. Resolution of the City Commission of the City of Leesburg, Florida approving the conveyance of a vacant lot to Carmela Daley for development of a single family home as part of the In-fill Housing Program; and providing an effective date.**

ADOPTED RESOLUTION 10,940

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

Commissioner Pederson made a motion to adopt the resolution and Commissioner Burry seconded the motion.

Mayor Christian requested comments from the Commission and the audience.

Commissioner Robuck stated that Homes in Partnership is also a customer, so he has to abstain from voting.

The roll call vote was:

Commissioner Connell	Yes
Commissioner Burry	Yes
Commissioner Pederson	Yes

Commissioner Robuck
Mayor Christian

Abstain
Yes

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

2. Resolutions related to the Leesburg International Airport Apron Rehabilitation Project.

- a. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute Amendment 2 to Public Transportation Grant Agreement 444872-1-94-01, between the City of Leesburg and the State of Florida Department of Transportation, for the purpose of adding construction funds, based on bids, for the Leesburg International Airport Apron Rehabilitation Project; and providing an effective date.**

ADOPTED RESOLUTION 10,928

- b. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a construction services agreement with CW Roberts Contracting, Inc. for an amount of \$2,254,738.50; and providing an effective date.**

ADOPTED RESOLUTION 10,929

- c. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Task Order with GAI Consultants, Inc. for an amount of \$229,730.00; and providing an effective date.**

ADOPTED RESOLUTION 10,930

- 3. Resolution of the City Commission of the City of Leesburg, Florida, authorizing the Mayor and City Clerk to enter into a Facility Use Agreement with the Boys & Girls Clubs of Central Florida, Inc.; and providing an effective date.**

ADOPTED RESOLUTION 10,941

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

Commissioner Burry made a motion to adopt the resolution and Commissioner Robuck seconded the motion.

Mayor Christian requested comments from the Commission and the audience.

Commissioner Burry stated he pulled this to question the forty-year timeframe. He remembers a discussion on a fifty-year lease on a building at the airport and we did not like that. He wanted to have some comment on whether this forty-year lease was appropriate. **Commissioner Robuck** replied that at the airport he likes to see shorter leases because the city is getting paid. On this item he views it as we are getting paid by them running the program for us. It is the city's benefit for the contract to be longer because they are committed to providing that programming, which is what we are getting in return.

CM Minner stated we had this discussion with the Commission three years ago when we started this venture. We signed a memorandum of understanding (MOU) between the City Commission and the Boys and Girls Club and that kicked off the design of the Teen Center and it put everything and the mechanism in place. That is where the initial forty-year term started. With the forty-year commitment through that process, there was a discussion amongst the Commissioners about whether we wanted a Teen Center and how we would manage that Teen Center. Ultimately, the Boys and Girls Club came to be a big compromise, with some of the Commissioners wanting to have a Teen Center and keeping it in-house, while some of the Commissioners did not want a Teen Center at all, so the Boys and Girls Club seemed to be a good vehicle. We would have the capital dollars that we could spend and a long-term position for years. Plus, the forty-year term could be viewed as good because it keeps it out of the general fund. Also, that forty-year commitment was driven by the Boys and Girls Club. They are hard negotiators, but essentially, their forty-year commitment was because it came hand in hand with the five hundred thousand dollar contribution. Their position was because of that contribution level of five hundred thousand dollars, their donors would want to see a long-term commitment to the facility and hence the forty years. Those are all the things that went in to come up with the forty-year term.

Mayor Christian remarked that for him in the first paragraph where it talks about the Teen Center having exclusive use for the Club, he has no problem with that. However, it goes on to say that the City's gymnasium is not part of the Club, but then it states subject to future agreement that the City and Club shall enter into the use of the gym from time to time by Club members. It appears that we have a gymnasium that was in existence before the Club built the Club here. We, the citizens, cannot go into the Club, but we are going to say from time to time you can come and kick the City residents out for use of the gym. That does not seem fair. He does not think we should enter into an agreement where the Club could, whenever they want, just call the City and say hey we want to use the gymnasium. That should be programmed with what the City already does, and the City should not feel pressured to shut down the gymnasium or our current programming for the Club to utilize it. This agreement should be better worded so, in the future down the road, the City will not feel pressured or obligated. In the first paragraph, it says that the Club shall enter into use of the gym from time to time by Club members at a future agreement. He wants to make sure that we are all clear, especially with them being hard negotiators, that is not part of the agreement and it should not be part of the negotiations. **CM Minner** replied the City Attorney helped him out on this, but that does state with a future agreement. So, that is not a bulldoze to where, if they want to use it, they will get in. The Boys and Girls Club would have to seek a future agreement from the City to be able to use the basketball area. That is not carte blanche that is in the City's favor, which gives the Boys and Girls Club a platform. If they would like to use the basketball court, they would have the opportunity to ask for it. It puts us in the driver's seat. We are still in control, but he does not envision that being exercised. It is in the agreement for future consideration, but remember there would have to be a future agreement and both parties would have to mutually agree.

Mayor Christian wanted to know why that has to be included in this agreement? Whether a citizen or if his church wanted to use the gymnasium, we should have a procedure in place where we would go to the city to pay a fee to use the gymnasium. We should use the same fee structure, but they should not get preferred treatment. He sees this being a problem five years down the road when a new commission is seated and we have new staff. It will put the City at a disadvantage because this is in the agreement. If he were to come to the City, being from the Club's perspective, say five years down the road, he would say that it says in this current agreement, that we could make a future agreement, so I am here for that future agreement. To him, it says that we are talking about a legal document or a contract of an agreement. It is not that he wants to use the gym on Friday at a certain time because that could be a simple phone call. This puts it in a legal document where he could sit down and say we need to draw up a document that says give me every Friday from six to twelve and that will be the agreement. Then some could be sitting on the Commission voting no on the agreement two years from now. This is a concern and has been from day one. The gymnasium was built years ago for the entire community and if any group monopolized it, it would be a disfranchise from the intent of the gymnasium. That strikes a real alarm for him in this agreement. Even though we are in the drivers seat today, three or four years from now someone could sit down and draw up an agreement that could take over a ten thousand square foot gymnasium built for all our youth and that is not fair. This should not even be in the document. It even goes further in this document and talks about how they are going to keep insurance. With the maintenance part, where the City is responsible for all the maintenance repairs with the defects of construction and the Club shall conduct all routine maintenance and cleans the entire center. Then, if they have a problem, they will call the City and we are responsible for fixing it. If we do not fix it, they will fix it within fifteen days and the City will receive an invoice from the Club for reimbursement of such costs. It is things like this for the Boys and Girls Club. If they have a problem, they tell us to fix it and if we do not fix it, they send us an invoice. It then goes even further, where if the City comes or enters for an inspection, if the City sees a problem, it says in Section 10, that the City shall see if the Club is in compliance and we shall recover the cost from the Club and in which case, the out of pocket cost shall be considered additional rent from the Club within fifteen days after the Club receives receipt of invoice. With their track record, he would like to have something in place where we are going out and inspecting this facility on a regular basis. We need to have a checklist so that, even if he is not on this Commission and he is a regular community member, he would like to be able to hold someone accountable who was not checking and making sure that this facility was not being maintained properly. Someone in the City has to keep a checklist, because what if they come back saying the City did or did not fix a problem? We need to keep records. We need to keep records of the deficiencies and if we do or do not fix them. The other hand, what if the Club sees something that they want done and if we do not fix it, then they fix it and send us a bill. If we find something when we go in there that they have done or if someone has broken something or if we find that there was a deficiency and we fix it, we should send them a bill. We should put pressure on a non-profit to pay a bill for anything that has been broken. He thinks that this agreement has not been written to protect the City or the previous facility that the Club is currently in, which they have not taken very good care of. We need to add something where we are monitoring this facility on a regular basis to make sure that it is being kept up to a City of Leesburg standard because of their track record. It is imperative to have this in the agreement, especially with a forty-year contract. We have to make sure this building is maintained properly. **CA Morrison** stated that provision where they are able to assess the City for things was added by them. It was much worse and he and the City Manager pushed back pretty hard on that. Believe it or not, what you are seeing is a significant compromise on their part from where they proposed initially. It was really bad to begin with and this was about as far as we could get with them, but if it is the will of the Commission, we can go back to them and try again. They were very insistent on having that in there and initially we told them that it had to come out completely. They said no, they were not going to proceed with it, so we went back and forth and this was the end result. **Mayor Christian** asked what the take and pushback was on this. **CA Morrison** responded that he told them that provision, as they initially put it in, had to come out

and they said no way, they wanted it in there. It appears in several places besides the ones you flagged. They are through out the whole lease, but this is the best they could get through the negotiations. If the Commission turns it down, they will go back and say we have a problem and we need to talk further about this. **Mayor Christian** said he does have a problem with this, but he wanted to listen to what the other Commissioners had to say and how they felt about it. **Commissioner Robuck** agrees this is too aggressive, especially for someone who is supposed to be a partner. We are supposed to be discussing giving them three hundred thousand dollars in just a few minutes and we have already given them money and buildings in the past. It just seems like this is a lease between two adversaries. He believes this should be sent back. **Commissioner Connell** stated that he pretty much had the same conversation with the City Manager this afternoon. His concerns were pretty much the same as the Mayors. **Commissioner Pederson** remarked that he brought up a great point and, being a past boardmember of the Boys and Girls Club, he can tell you when you bring in hundreds of kids to a property like this they are rough on buildings. We are spending roughly five times more than what they are spending on building construction. He is pro Boys and Girls Club and he thinks this will be great for the City, but he does not think the requests from the city are unreasonable. The way he reads it, we needed to cover the defects from construction for a period of time, but with the kids' wear and tear, he would say that falls on the Club. That part he does not think is unreasonable. As far as the first comment, where we have exclusive control of the gym, he does respect those comments. That language in the contract does not concern him because a future commission could change it with or without that clause. However, he does agree with the maintenance. **CM Minner** asked the Commission to grant the City Attorney the authority to modify those changes. They can redline the agreement with the changes requested, so it does not have to come back to this body. They will have the agreement before the Boys and Girls Club, they will know what was approved. If they fail to sign it, we will be back before this Commission and if they sign it, we will be done. **Commissioner Pederson** replied that he is sure the Club is maintaining all their other buildings so he has no problem asking them. He does not think it is unreasonable to pushback on the Club for maintaining the building. **CM Minner** responded that they were saying the same thing, he just wanted to add in that they give the City Attorney the authority to modify the agreement and to execute it. What we need is an amendment to modify the agreement and then vote yes on that, so it can be executed and then it is up to the Boys and Girls Club. **Mayor Christian** asked if there were any public comments before making this amendment. He then asked for an amendment to send it to the City Attorney to negotiate with the Club on the maintenance along with the other items which had been brought up. **CM Minner** then said we need a motion to allow the City Attorney to modify the maintenance clauses.

Commissioner Robuck made a motion to amend the resolution to allow the City Attorney to modify the maintenance clauses per the discussion and Commissioner Burry seconded the motion.

Mayor Christian pointed out that he is very pro Boys and Girls Club, but, for the record, we are not charging them any rent. So, when someone is giving someone a bill for rent that is only one dollar a month for the lease, you should maintain what you have been given. This facility is worth almost three million dollars, so this is something that should automatically be understood. He believes that we need to monitor that facility to ensure that it is being kept up to a City standard.

The roll call vote on the amendment was:

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

Five yeas, no nays, the Commission approved the motion.

The roll call vote as amended was:

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

Five yeas, no nays, the Commission adopted the resolution as amended.

- 4. Resolution of the City Commission of the City of Leesburg, Florida authorizing and directing the Mayor and City Clerk to execute a Directive to Florida Gas Utility to purchase firm gas supply at discount pricing from Municipal Gas Authority of Georgia; and providing an effective date.**

ADOPTED RESOLUTION 10,931

- 5. Resolution of the City Commission of the City of Leesburg, Florida, authorizing the expenditure of the funds for Natural Gas extension to the Eagle Tail Landing Development prior to developer Hanover 623 Holdings, LLC providing funds for Phases subsequent to Phase 1 of the Development; and providing an effective date.**

ADOPTED RESOLUTION 10,932

- 6. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a vacant land sales contract between the City of Leesburg and Bertha M. Hill for a City owned lot at 2107 Waitman Avenue; and providing an effective date.**

ADOPTED RESOLUTION 10,942

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

Commissioner Robuck made a motion to adopt the resolution and Commissioner Pederson seconded the motion.

Mayor Christian requested comments from the Commission and the audience.

Commissioner Robuck stated the reason he pulled this item was because he wanted to point out the work Ken Thomas was doing finding homeowners that want to build houses in the community where they live. He fully supports this and the only thing that is a little different than the other ones that are normally before the commission is that this is an individual homeowner as opposed to others who have been non-

profit organizations. It is not about this one specifically, but he wanted to make an amendment and he would like to see this set up as a standard practice on all lots that we sell to individuals, where if they do not build within five years, the City would have the right to purchase that lot back at the original sales price. Mostly to just stop it if a property was not being maintained or something and if we wanted to go back, we could have some say in doing that. He believes that Ken Thomas reached out to the homeowner already and they were fine with this amendment because they do plan on building within that timeframe.

Commissioner Robuck made a motion to amend the motion giving the City the right to repurchase the property at the original sales price after five years if construction has not started, and Commissioner Burry seconded the motion.

The roll call vote on the amendment was:

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

Five yeas, no nays, the Commission approved the amendment.

The roll call vote as amended was:

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

Five yeas, no nays, the Commission adopted the resolution as amended.

Mayor Christian pointed out that Ms. Hill is here tonight and he congratulated her. He also commented that she is Dr. Erika Jasper's mom and twin.

7. **Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute Civic Organization Funding Agreements for Fiscal Year 2021-22 with Band Parents Association of Leesburg High School, Inc., Boys and Girls Clubs of Central Florida, Inc., Community Development Corporation of Leesburg, Inc., Leesburg Area Chamber of Commerce, Inc., Leesburg Arts Festival DBA Leesburg Center for the Arts, Leesburg Partnership, Inc. and Melon Patch Players, Inc.; and providing an effective date.**

ADOPTED RESOLUTION 10,943

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

Commissioner Pederson made a motion to adopt the resolution and Commissioner Robuck seconded the motion.

Mayor Christian stated that he pulled this because he needed to abstain from voting. He then requested comments from the Commission and the audience. There were none.

The roll call vote was:

Commissioner Robuck	Yes
Commissioner Burry	Yes
Commissioner Pederson	Yes
Commissioner Connell	Yes
Mayor Christian	Abstain

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

8. **Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a Civic Organization Funding Agreement for Fiscal Year 2021-22 with Leesburg Cemeteries, Inc.; and providing an effective date.**

ADOPTED RESOLUTION 10,933

9. **Resolution of the City Commission of the City of Leesburg, Florida establishing the special events venue area for the November 11-14, 2021 Bikefest event; and providing an effective date.**

ADOPTED RESOLUTION 10,934

10. **Resolution of the City Commission of the City of Leesburg, Florida establishing the per square foot cost recovery fee for businesses located within the November 11-14, 2021 Leesburg Bikefest Venue area; and providing an effective date.**

ADOPTED RESOLUTION 10,935

11. **Resolution of the City Commission of the City of Leesburg, Florida approving a special transfer in Fiscal Year 21-22 from the Solid Waste fund in the amount of \$350,000 for various Capital Projects; and providing an effective date.**

ADOPTED RESOLUTION 10,936

- 12. Resolution of the City Commission of the City of Leesburg, Florida, adopting Revisions to the City of Leesburg Personnel Policy 115; and providing an effective date.**

ADOPTED RESOLUTION 10,937

- 13. Resolution of the City Commission of the City of Leesburg, Florida authorizing approval of the American Recovery Grant Funding Agreements; and providing an effective date.**

ADOPTED RESOLUTION 10,944

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

Commissioner Robuck made a motion to adopt the resolution and Commissioner Pederson seconded the motion.

Mayor Christian commented that he would need to abstain from voting on this item. He then requested comments from the Commission and the audience.

Commissioner Robuck stated that he would like to amend the Boys and Girls Club agreement to be contingent upon them agreeing to the terms in the lease for the Facility Use Agreement and Commissioner Pederson seconded the motion.

Commissioner Robuck remarked maybe giving them a three hundred thousand dollar incentive would help them accept the changes.

The roll call vote on the amendment was:

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

Five yeas, no nays, the Commission amended the motion.

The roll call vote was:

Commissioner Pederson	Yes
Commissioner Connell	Yes
Commissioner Robuck	Yes
Commissioner Burry	Yes
Mayor Christian	Abstain

Five yeas, no nays, one abstain, the Commission adopted the resolution as amended.

**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, annexing certain real property consisting of approximately 18.5 +/- acres; and being generally located south of U.S. Highway 441 and east of Sunnyside Drive, lying in Section 33, Township 19 South, Range 25 East, Lake County, Florida; providing that said property so annexed shall be liable for its proportionate share of the existing and future indebtedness of said city; providing that such annexed property shall be subject to all laws and ordinances of said city as if all such territory had been a part of the City of Leesburg at the time of passage and approval of said laws and ordinances; providing that such annexed territory shall be placed in City Commission District 1; and providing an effective date. (Sunnyside Subdivision AX)**

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

Mayor Christian requested comments from the Commission and the audience.

Commissioner Pederson pointed out that this item has previously been before this Commission and the only thing he can see different is the density level. **PZM Miller** said yes, they asked for an increase of one hundred and sixty-four units total. **CM Minner** stated that there are eighteen units on one side.

Greg Beliveau of LPG Planning Group stated there are eighteen acres and they dropped from eighteen lots to four lots. **Commissioner Robuck** asked if he knew if part of that large parcel was part of the old Sunnyside agreement, which technically is not legally binding by the City, but is that part of the larger parcel? Is it all of it, part of it or none of it? **PZM Miller** stated it is his understanding that it is.

Commissioner Robuck wanted to know if it covered the whole parcel. **PZM Miller** agreed that it was. **Commissioner Robuck** asked if this was all under low density, high density or if there was a mix?

PZM Miller answered that part of it is at low density and another part is very low. **Commissioner Robuck** asked before the next meeting if we could get a breakdown of how many acres are in low and how many are in very low, so we could better understand what this looks like. **Commissioner Burry** remarked that we are essentially looking at three different items here. He wanted to reserve his comments until we reached the third item on the agenda for this. **Mayor Christian** stated that this was the first reading, but because the public came out, he wanted to allow the public time to come and speak.

Murry Tucker stated that because this was the first reading, the Sunnyside Association decided that we

are not going to present tonight. We are going to wait until the next meeting when the vote comes. He also asked the citizens who came out to please hold their concerns until the next meeting, so they can get this meeting over with. It will also save a lot of time and we will not have to hear the same thing over and over again. We will be able to get right to the point next time. The question was asked about the acreage and it was about a fifty-fifty split. Half of it is low and half of it is very low. That was in his presentation from the last meeting. That was also entered into the record and the City Clerk should have that information. The only other thing he wanted to mention was that if you have not been out to Sunnyside and taken a leisurely drive, you should. You should drive around the interior of Sunnyside and really take a look around. Look at what the development trend has been over the last twenty years, and then look around and see if you think this development would fit into this area. He thinks that would make it pretty clear.

Mr. Beliveau stated he would not be making his presentation tonight, recognizing that this is first reading. They will have the actual documentation for each category along with the graphics that will show what they will be presenting. If they would like, they could also provide that information ahead of time. That way, it will be available for the packets prior to the second reading. He also stated that it was not fifty-fifty, but he would provide that information for them. In the interest of time, they will have all the experts here for the second reading because they have already been through this a few times and they already know what the issues are. They will have everything prepared for that.

2. **An Ordinance amending the Future Land Use Map of the Comprehensive Plan of the City of Leesburg, changing the Future Land Use Map Designation of certain property containing 18.5 +/- acres from Lake County Rural to City of Leesburg Estate, for a property generally located south of U.S. Highway 441 and east of Sunnyside Drive as legally described in Section 33, Township 19 South, Range 25 East, Lake County, Florida; and providing an effective date. (Sunnyside Landing)**

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

Mayor Christian requested comments from the Commission and the audience.

PZM Miller stated in the ordinance itself for this future land use map change they need to delete Section Two which transmits the ordinance to DEO. This ordinance was written a while back and during the summer the State of Florida changed the large scale transmittal requirements from ten acres to fifty acres, so this would no longer be considered a large scale amendment and we would not be transmitting it to the State. We would just need to delete that section from the Ordinance. **Mayor Christian** inquired if that had to be deleted tonight or if that can be covered at the next meeting. **CA Morrison** answered that can be handled prior to the next meeting. **Mayor Christian** then said to delete section two of the Ordinance.

Murry Tucker asked if they were to hand in the land split early, could they please put it in the Planning and Zoning section, because he would like to see if it is greatly off from what his experts had deemed it to be. **Mayor Christian** asked if that could be put up Planning and Zoning. **CA Morrison** replied that it would not go back to Planning and Zoning because it has already been there. **Mr. Beliveau** informed him that he would be happy to send him one personally. **Mayor Christian** then asked Mr. Tucker if he could provide everyone else in Sunnyside with a copy of that. **Mr. Tucker** replied that he could forward that on.

3. **An Ordinance of the City of Leesburg, Florida, changing the zoning on approximately 139 +/- acres from Lake County R-1 (Rural Residential) to City PUD (Planned Unit Development) to allow for a single-family residential subdivision for a property generally located south of U.S. Highway 441 and east of Sunnyside Drive, as legally described in Section 33, Township 19 South, Range 25 East, Lake County, Florida; and providing an effective date. (Sunnyside Landing PUD)**

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

Mayor Christian requested comments from the Commission and the audience.

Commissioner Burry commented that this project being brought forward is very similar to what was brought forward ten months ago and that was voted down. Our Planning Commission voted it down seven to nothing. The concerns from the meeting in December were that the roads could not handle the capacity and the density if it was a lot higher than what had been negotiated through that 2004 agreement. Also, this still seems to be too dense of a neighborhood for this area. Nothing has changed, the roads have not been improved significantly. The County did some road work out there, but he cannot really tell what they have done. The density on the interior of the piece has actually gone up, not down. He is not in favor of this project.

Commissioner Robuck mentioned that he was in favor of this project the last time it came before them. Things have changed since then and, for him, the big thing has been all the growth we have seen on the south end and it was high in the sky a year ago. Now we have a bunch of approved developments and we are having a bunch of conversations about our CUP and where the water sits. Now there are concerns about density and what we are seeing elsewhere and we may not have enough water to where we can keep approving these developments. The market has changed and the market could support a higher end product in this area than what it could in the past, which is a positive thing. Even if the developer walks away, it could be useful for the Commission at the second reading to indicate what, if anything, that we may approve out there. Maybe that is something this developer is not interested in, but for him he will be in favor of some form of development. This, however, is not it. If we do not have the votes for this, we could at least talk about what type of development it could look like out there. **Commissioner Pederson** said he was against this development the last time over the density and roads and his position has not changed.

Mike Stoval, Froglog Lane, said it was hard to hear some of the comments again. This is the second time around for them on this. They have something special out there and they have a rural feel in an urban area. That is a good thing for any City to have. It is a mix of density and that was the point of the Sunnyside Agreement, which he understands the City is not bound by. He agrees with Commissioner Robuck that it is land and someone owns it. He is not naive to think nothing would ever be built on that, but the kind of development that they would like to see is the same kind of development they already have. He would encourage the Commission to keep that in mind.

David Hedrick, Sunnyside Drive, stated he lives right across the street from Froglog Lane. He moved here a year ago from California. He likes to say he escaped from that state because it has changed quite a bit. They have a very special area over there and it is paradise for those that live there. It sounds like someone wants to tear down paradise and put up a parking lot all to pad somebody's pocket. It would not be for the City, because the City would have to build the infrastructure for it sooner or later and it would actually cost the City more. All he asked for was if you have a piece of property like this that draws people from all over the country into this area because it is beautiful and it represents Florida and he just

loves it here, please leave it. He also asked that we not let Florida become California.

Mayor Christian stated this item will lay over until a future meeting. Staff has been given instructions on what the Commission needs along with any documentation that is given needs to be shared, so that everyone has access to that information before coming to the second reading.

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 August 2021

Mayor Christian asked if there was anything in this report that they needed to be aware of. **CM Minner** replied no.

8. CITY ATTORNEY ITEMS:

CA Morrison had no comment to offer tonight.

9. CITY MANAGER ITEMS:

CM Minner stated we obviously missed our pool opening date. We were trying to open the pool for Labor Day, but we missed that. Evergreen has now changed that date to October 29th. They are still angling for that and they are about ninety percent complete. They are having some wrapup issues with getting everything done. Although Evergreen has not said, we are anticipating it to be more like Thanksgiving. Whatever the case may be, we are constantly reviewing it. Hopefully, it will be closer to October 29th, to allow for a little swimming before it gets too cold. He will keep everyone posted.

Mayor Christian asked if he had an update on the Teen Center. **CM Minner** replied that they are cruising along on the Teen Center and we are still looking at the March 2022 deadline.

10. ROLL CALL:

The Commissioner had no further comment for the evening.

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 6:32 p.m.

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.B.1.

Meeting Date: October 25, 2021

From: Al Minner, (City Manager)

Subject: Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute Amendment One with Facci Bella, Inc. extending the existing Agreement for an additional two (2) years and applying a cost adjustment of 3% per renewal term to the annual compensation for management of LakeFront TV; and providing an effective date.

Staff Recommendation:

Staff recommends approval of the resolution authorizing execution of Amendment One with Facci Bella, Inc.

Analysis:

The City has an existing Agreement with Facci Bella, Inc. for Facci Bella, Inc. to provide video production services for the City's Lake Front TV public access channel. In addition to production services, Facci Bella provides day-to-day operations of the channel in programming and scheduling.

Procurement Analysis:

The original contract was approved by City Commission via resolution 10,336 on December 17, 2018. The current Agreement has an initial term of three (3) years which ends on December 16, 2021.

The Agreement allows for extension of the Agreement for up to two (2) additional years. This Amendment One extends the Agreement for two (2) years and includes increases to the management fee of 3% per year as was included in the original agreement.

Options:

1. Approve the resolution authorizing execution of Amendment One with Facci Bella, Inc.; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

The cost of the Lake Front TV management services is budgeted and available in the Public Outreach Division.

Account No. 001-1220-512.34-10

Project No.	LKFTTV
Budget	\$166,200
Available	\$166,200

Submission Date and Time: 10/20/2021 3:08:33 PM

RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT ONE WITH FACCI BELLA, INC. EXTENDING THE EXISTING AGREEMENT FOR AN ADDITIONAL TWO (2) YEARS AND APPLYING A COST ADJUSTMENT OF 3% PER RENEWAL TERM TO THE ANNUAL COMPENSATION FOR MANAGEMENT OF LAKEFRONT TV; 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 Amendment One to agreement with **FACCI BELLA, INC.** whose address is 27650 SE Highway 42, Umatilla, Florida 32784 for management services related to the operation of the City's Public Access Channel - Lake Front TV.

THAT Amendment One becomes effective on the 17th day of December 2021 following expiration of the original Agreement.

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 on the 25th day of October, 2021.

Mayor

ATTEST:

City Clerk

**AMENDMENT ONE TO AN
AGREEMENT FOR MANAGEMENT SERVICES**

THIS AMENDMENT is made and is effective as of the 17th day of December in the year 2021, between **THE CITY OF LEESBURG, FLORIDA**, a Florida Municipal Corporation, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (“CITY”), and **FACCI BELLA, INC.**, a Maryland corporation whose address is 27650 SE Highway 42, Umatilla, Florida 32784 whose address is (“CONTRACTOR”).

WITNESSTH:

On December 17, 2018, pursuant to resolution 10366 the CITY and CONTRACTOR entered into an Agreement for Management Services to provide services for the management of the City’s public access cable channel (“LakeFrontTV”). The original Agreement for Management Services.

The CITY and the CONTRACTOR desire to execute this Amendment Number One (“Amendment”) to the original Agreement for Management Services, modifying said Agreement as described herein.

NOW THEREFORE, for and in consideration of the mutual covenants and promises contained in this Task Order, the CITY and the CONTRACTOR do hereby agree as set forth below:

1. **RECITALS**

The above recitals are true and correct and are incorporated herein.

2. **AMENDMENT**

- a. **Term of Agreement.** The Parties agree to extend the term of the Agreement for Management Services through December 17, 2023 as permitted by the original Agreement.
 - i. Renewal Term 1 is December 18, 2021 through December 17, 2022.
 - ii. Renewal Term 2 is December 18, 2022 through December 17, 2023
- b. **Compensation.** CONTRACTOR will receive the annual compensation for each of the Renewal Terms as follows:
 - i. Renewal Term 1 annual compensation is \$162,716.31 (Current +3%). This amount will be paid by the CITY to the CONTRACTOR on a monthly basis in the amount of \$13,559.69.
 - ii. Renewal Term 2 annual compensation is \$167,597.80 (Renewal Term 1 +3%). This amount will be paid by the CITY to the CONTRACTOR on a monthly basis in the amount of \$13,966.48.

3. MODIFICATION

Except as specifically modified by this Amendment, all terms and conditions of the prior agreement shall continue in full force and effect as originally executed. Nothing herein shall be deemed or construed to amend or modify any other contract or undertaking between the City and Contractor other than as defined above.

4. 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.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date stated in the preamble.

FACCI BELLA, INC.

Signature: _____

Printed: Dr. Anna Marie Chwastiak

Its: President

THE CITY OF LEESBURG, FLORIDA

By: _____
John Christian, Mayor

Attest:

J. Andi Purvis, City Clerk

Approved as to form:

Fred A. Morrison, City Attorney

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.B.2.

Meeting Date: October 25, 2021

From: Mike Thornton, (Purchasing Manager), Robert Hicks, (Police Chief)

Subject: Resolution of the City Commission of the City of Leesburg, Florida authorizing the Leesburg Police Department to disburse forfeiture funds in the amount of \$36,571.00 for the purchase of police duty gear and firearms; and providing an effective date.

Staff Recommendation:

Staff recommends the use of Police Forfeiture Funds in the amount of \$36,571.00 for the purchase of police duty gear and firearms.

Analysis:

There are several factors considered when transitioning to a new firearm platform including age, wear, cost, safety and usability. The police department transitioned to our current duty sidearm, Glock 21SF .45 caliber, in early 2008. They have received extensive use during in-service training, advanced firearms training courses and department qualifications. Historical and current data shows that 9mm ammunition is considerably cheaper (approximately 45%) than 45 caliber. Due to advances in technology over the last couple of decades, 9mm ammunition is equally effective in law enforcement applications. The FBI conducted extensive ammunition testing and switched back to 9mm in 2015. 9mm ammunition produces less recoil. Therefore, officers tend to be more accurate and controllable for all sizes of officers.

Our current duty handgun is available in one size. This can be problematic when dealing with officers that have smaller hands. The handgun we intend to purchase, Sig Sauer P320, is modular. It has different sized grip modules to fit different hand sizes. New grip modules can be purchased for less than \$50.

Another benefit to the grip modules is that if they are damaged they can be easily replaced because the current firing mechanism for the gun simply drops in. If the grip portion of our current handguns is damaged, it requires the purchase of a new firearm, as the grip portion is serialized and defined by law as a firearm.

The utilization of available forfeiture funds for the purchase of the duty sidearms, ammunition, and associated gear allows us to complete this important transition with no impact on the Police department budget.

Procurement Analysis:

The Procurement Division requested quotes on September 7, 2021 for the Purchase of Duty Gear and

Firearms as well as the Buy-Back of old duty gear and firearms. Various responses were received for the Firearm Purchase and each Group (Group 1: Firearm Buy-Back and Group 2: Duty Gear Purchase). As indicated by the Quote Summary, Dana Safety Supply provided the most favorable unit pricing in all categories. Staff evaluated the quote submitted by Dana Safety Supply and deemed the firm to be the lowest responsive and responsible. Dana Safety Supply is reputable and are authorized dealers for Florida law enforcement.

Dana Safety Supply is the only supplier that provides pricing on all items to be purchased and all items to be traded in. A summary of the pricing is provided here.

<u>Item Description</u>	<u>Dana Safety Supply Pricing</u>
Hand Gun Purchase	\$48,865.00
Duty Gear Purchase	\$20,505.58
Gun Buy Back (Credit)	(\$31,500.00)
Duty Gear Buy Back (Credit)	(\$1,300.00)
Total Considering Purchase and Credits	\$36,570.58

Options:

1. Approve the resolution authorizing use of Police Forfeiture Funds for the purchase from Dana Safety Supply; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

This purchase was not included in the current budget. The Police Forfeiture fund has adequate available funds to make this purchase. A budget adjustment will be necessary to add this purchase to the current budget.

Account No.	121-2111-521.49-81
Requisition	53904

Submission Date and Time: 10/20/2021 3:10:14 PM

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING THE LEESBURG POLICE DEPARTMENT TO
DISBURSE FORFEITURE FUNDS IN THE AMOUNT OF \$36,571.00 FOR THE
PURCHASE OF POLICE DUTY GEAR AND FIREARMS; AND PROVIDING
AN EFFECTIVE DATE.**

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

THAT the Leesburg Police Department is hereby authorized to disburse forfeiture funds in the amount of \$36,570.58 for the purchase of new duty gear and firearms.

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 on the 25th day of October 2021.

Mayor

ATTEST:

City Clerk

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.B.3.

Meeting Date: October 25, 2021

From: Mike Thornton, (Purchasing Manager), Brad Chase, (Electric Director)

Subject: Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute Amendment 3 to a fixed unit price agreement with Perfect Fit Image Apparel, Inc. for the purchase of fire retardant (FR) uniforms; and providing an effective date.

Staff Recommendation:

Staff recommends approval of the resolution authorizing execution of Amendment 3 with Perfect Fit Image Apparel, Inc.

Analysis:

The purpose of this amendment is to renew a Fixed Unit Price Agreement to be used for annual FR Uniform purchases. The National Fire Protection Association (NFPA) Regulation 70E requires employees working on and around electrical equipment to wear arc flash personal protective equipment (PPE).

Procurement Analysis:

The contract allows for the extension of the term and price adjustments. This amendment will extend the term for one (1) additional year through September 30, 2022.

Options:

1. Approve the resolution authorizing execution of the amendment with Perfect Fit Image Apparel, Inc.; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

The Electric Department budgets for this expenditure each fiscal year. Funds are available for the purchase of FR Uniforms in the 2022 Fiscal Year.

Account No. 041-1062-531-52-15

Submission Date and Time: 10/20/2021 3:12:10 PM

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE
AMENDMENT 3 TO A FIXED UNIT PRICE AGREEMENT WITH PERFECT
FIT IMAGE APPAREL, INC. FOR THE PURCHASE OF FIRE RETARDANT
(FR) UNIFORMS; 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 Amendment 3 with Perfect Fit Image Apparel, Inc. whose address is 430 Airport Road, Suite A, Gallatin, Tennessee 37066 for Purchase of Fire Retardant uniforms/garments pursuant to Invitation for Bid 180181.

THAT all future expenditures for goods ordered under this Agreement are approved provided the Commission has appropriated funds in the applicable fiscal year. Should the department fail to budget funds for orders under this Agreement or purchases exceed the appropriated funds, commission approval for any orders will be required.

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 on the 25th day of October 2021.

Mayor

ATTEST:

City Clerk

**THIRD AMENDMENT OF
TO A UNIT PRICE AGREEMENT**

THIS AMENDMENT is made as of the **25th** day of **October 2021**, between **THE CITY OF LEESBURG, FLORIDA** a Florida Municipal Corporation, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (“CITY”), and **PERFECT FIT IMAGE APPAREL, INC.** whose address is 430 Airport Road, Suite A, Gallatin, Tennessee 37066 (“CONTRACTOR”).

RECITALS:

On March 1, 2018 the CITY received bid responses in response to Invitation for Bid 180181.

On March 26, 2018, the Leesburg City Commission approved Resolution 10168 authorizing execution of a Fixed Unit Price Services Agreement with the CONTRACTOR whereby the CONTRACTOR agreed to provide flame-resistant garments to the CITY (hereinafter referred to as the “Agreement”).

On March 23, 2019 the Leesburg City Commission approved Resolution 10501 authorizing execution of a First Amendment to the Agreement extending the term and providing a unit cost adjustment on items.

On September 14, 2020 the Leesburg City Commission approved Resolution 10706 authorizing execution of a Second Amendment to the Agreement extending the term and providing a unit cost adjustment on items.

Now the Parties wish to enter into a third amendment to the Agreement extending the term and providing a unit cost adjustment on some items.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties to this Agreement and from other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals.

The above recitals are true and correct and are incorporated by reference herein and made a part hereof.

2. Amendment.

The Agreement is amended as follows:

- a. The parties agree to extend the term of the agreement to September 30, 2022;
and
- b. The unit prices are revised as permitted in the Agreement and included as Attachment ‘A’.

3. **Modification.**

Except as specifically modified by this Amendment, all terms and conditions of the prior agreement shall continue in full force and effect as originally executed. Nothing herein shall be deemed or construed to amend or modify any other contract or undertaking between the CITY and CONTRACTOR other than as defined above.

4. **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.

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

“PERFECT FIT IMAGE APPAREL, INC.”

By: Jennifer Floyd

Its: Sales Manager
(Title)

CITY OF LEESBURG, FLORIDA

By: _____
John Christian, Mayor

ATTEST:

Andi J. Purvis, City Clerk

Approved as to form:

Fred A. Morrison, City Attorney

ATTACHMENT 'A'

Item	Item Description	Item #	Unit	Amended Unit Price
1	Short Sleeve Tee Shirt No Pocket	DF2-CM-446TS-DS	EA	\$42.00
2	Short Sleeve Tee Shirt No Pocket-Larger Sizes	DF2-CM-446TS-DS	EA	\$45.00
3	Short Sleeve T-shirt Pocket Navy	100234	EA	\$53.50
4	Short Sleeve T-shirt Pocket Navy - Large Sizes	100234	EA	\$58.50
5	Henley Long Sleeve Shirt Grey- All Sizes	SEL2GY	EA	\$59.00
6	Henley Long Sleeve Shirt Navy- All Sizes	SEL2NV	EA	\$59.00
7	Denim Pants	488AC14	EA	\$53.00
8	Denim Pants	498AC14	EA	\$53.00
9	Denim Pants	FR13MMS	EA	\$55.00
10	Denim Pants	FRB004	Discounted	
11	Denim Pants	FRB13	EA	\$65.00
12	Zipper Sweatshirt	SEH4NV - All Sizes	EA	\$142.00
13	Duck Coat	101618	EA	\$159.00
14	Duck Coat	101618- Larger Sizes	EA	\$179.00
15	Long Sleeve T-shirt	100235	EA	\$60.50
16	Long Sleeve T-shirt Upsize	100235	EA	\$65.50
17	Hooded Sweatshirt	SWS12	EA	\$135.00
18	Hooded Sweatshirt- Upsizes	SWS12-	EA	\$145.00
19	Hooded Zipper Sweatshirt	SWS12Z	EA	\$145.00
20	Hooded Zipper Sweatshirt Upsizes	SWS12Z	EA	\$155.00
21	Twill Button Down	104138	EA	\$85.00
22	Twill Button Down Upsize	104138	EA	\$90.00
23	Crew Neck	10022330	EA	\$56.00
24	Crew Neck-Upsize	10022330	EA	\$61.00
25	Jeans	FRAC47D	EA	\$67.00
26	Denim Jeans	FR13MWZ	EA	\$52.00
27	Canvas Pants	PLJ6NV	EA	\$72.00
28	Jacket	102179	EA	\$168.00
29	Jacket-Upsizes	102179	EA	\$188.00
30	Denim Jeans	PSj2SD	EA	\$72.00
31	Hooded Sweatshirt	102907	EA	\$169.00
32	Hooded Sweashirt - Upsizes	102907	EA	\$189.00
33	Zipper Sweatshirt	102908	EA	\$179.00
34	Zipper Sweatshirt Upsize	102908	EA	\$199.00
35	Headwear	102869	EA	\$32.00
36	Canvas Pants	104205	EA	\$90.00
37	Henley	10022598	EA	\$62.00
38	Henley Upsize	10022598	EA	\$67.00
39	Canvas Pants	FRB159	EA	\$69.00
40	Henley	100237	EA	\$63.00
41	Henley Upsize	100237	EA	\$68.00
42	Denim Jeans	10030263	EA	\$88.00

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.B.4.

Meeting Date: October 25, 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 Piggyback Agreement with Paqco, Inc. for on-call pavement and base repair construction services; and providing an effective date.

Staff Recommendation:

Staff recommends approval of the resolution authorizing execution of the Piggyback Agreement with Paqco, Inc.

Analysis:

The Public Works Department has the need for an on-call contract for asphalt repairs. These repairs may be needed for minor road repairs, resurfacing, and patching. This contract will allow Public Works to call the contractor without obtaining additional quotes.

Procurement Analysis:

This agreement is a Piggyback Agreement using an awarded contract by Lake County Board of County Commissioners. The City's purchasing policy allows for the use of contracts awarded by other government entities. Creation of a Piggyback Agreement is the most efficient method of contracting for these construction services.

Options:

1. Approve the resolution authorizing the execution of the Piggyback Agreement with Paqco, Inc.; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

This contract will be a city-wide contract. When departments order services under the contract, they will pay for the services from the appropriate expense account within their department.

Submission Date and Time: 10/20/2021 3:13:54 PM

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A
PIGGYBACK AGREEMENT WITH PAQCO, INC. FOR ON-CALL PAVEMENT
AND BASE REPAIR CONSTRUCTION SERVICES; 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 Piggyback Agreement with Paqco, Inc. whose address is 101 Weber Ave, Leesburg, Florida 34748 for construction services related to pavement repairs pursuant to the Agreement.

THAT all future expenditures for commodities (goods & services) ordered under this Agreement are approved provided the Commission has appropriated funds in the applicable fiscal year. Should the department fail to budget funds for orders under this Agreement or purchases exceed the appropriated funds, commission approval for any orders will be required.

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 on the 25th day of October 2021.

Mayor

ATTEST:

City Clerk

**AGREEMENT TO PIGGYBACK A CONTRACT FOR SERVICES
BID BY ANOTHER PUBLIC ENTITY**

THIS AGREEMENT is made as of the 25th day of October in the year 2021, Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the “CITY”), and **PAQCO, INC** whose address is 101 Weber Ave, Leesburg, Florida 34748 (“CONTRACTOR”).

WHEREAS, PAQCO, INC (“CONTRACTOR”), entered into a Contract dated June 1, 2019 with Lake County, Florida resulting from the award of the Contracting Entity’s Solicitation ITB 19-0921. The Contract is included here as ATTACHMENT ‘A’.

WHEREAS, CONTRACTOR, and Contracting Entity executed Amendment 1 to the Contract extended the term through May 31, 2021.

WHEREAS, CONTRACTOR, and Contracting Entity executed Amendment 2 to the Contract extended the term through May 31, 2022.

WHEREAS, The City of Leesburg, a Florida municipal corporation (“CITY”) has the legal authority to “piggyback” a contract procured by another government entity when seeking to utilize the same or similar services provided by the said contract; and

WHEREAS, the CITY desires to “piggyback” the above referenced Contract between the CONTRACTOR and Lake County, Florida for utilization of the same or similar services for On -Call Pavement and Base Repair and the Contractor and Lake County consent to the aforesaid “piggybacking”.

NOW THEREFORE, having found it to be in the public interest,

1. **Affirmation.** The CONTRACTOR affirms and ratifies the terms and conditions of the above referenced Contract with Lake County, Florida and agrees to perform the services set forth herein for the CITY in accordance with the terms of said Contract through the ending date of the Contract.

2. **Changes.** Services shall be provided in accordance with the terms of the Contract with “Lake County” except for the following changes. All other terms shall remain.

a. **Point of Delivery.** Services for the CITY shall be made to the locations as designated by the CITY.

b. **Party Substitution.** References to “Lake County, Florida”, “Lake County”, or “COUNTY” will be replaced with City of Leesburg (CITY).

3. **Amendment.** Any Amendments to “piggybacked” Contract between CONTRACTOR and Lake County shall be automatically incorporated into this piggyback Contract.

4. **Counterparts.** Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures

for all purposes hereunder and shall bind the parties to the same extent as that of an original signature. Any such facsimile or electronic mail transmission shall constitute the final agreement of the parties and conclusive proof of such agreement. Any such electronic counterpart shall be of sufficient quality to be legible either electronically or when printed as hardcopy. The CITY shall determine legibility and acceptability for public record purposes. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

[Signature page follows.]

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

PAQCO, INC.

By:  _____
Fay Paquette (Oct 1, 2021 17:19 EDT)

Printed: Fay Paquette _____

Its: Vice President _____
(Title)

CITY OF LEESBURG, FLORIDA

John Christian, Mayor

ATTEST:

J. Andi Purvis, City Clerk

Approved as to form:

Fred A. Morrison, City Attorney

ATTACHMENT 'A'**MODIFICATION OF CONTRACT**

Modification Number: Two (2) Effective Date: 6/1/2021	Contract Number: 19-0921 Title: On-Call Pavement and Base Repair Contractor Effective Date: June 1, 2019
Contracting Officer: Bill Ponko E-mail Bponko@lakecountyfl.gov Telephone Number: (352) 343-9389	Contractor Name and Address: Name: PAQCO, Inc Address: 101 Weber Avenue City: Leesburg, Florida 3748 ATTENTION: Jay S. Paquette, President
Issued By: Procurement Services Lake County Administration Building 315 W. Main St., Suite 441 Tavares, Florida 32778-7800	
INSTRUCTIONS: Contractor shall sign Signature Block showing acceptance of the below written modification and <u>return this form to Procurement Services within ten (10) days after receipt.</u> Once fully executed, a copy of this modification will be returned to the Contractor to attach to the original Contract.	
DESCRIPTION OF MODIFICATION: Contract modification to extend the agreement for a period of one (1) year, expiring on May 31, 2022.	
CONTRACTOR SIGNATURE BLOCK Signature: <u>[Signature]</u> Print Name: <u>FAY PAQUETTE</u> Title: <u>VICE PRESIDENT</u> Date: <u>2/1/21</u> E-mail: <u>fay@paqcoinc.com</u> Secondary E-mail: <u>dane@paqcoinc.com</u>	LAKE COUNTY SIGNATURE BLOCK Signature: <u>[Signature]</u> Print Name: <u>William Ponko</u> Title: <u>Contracting Officer</u> Date: <u>2/1/21</u>
Distribution: Original – Bid File Copy – Contractor Contracting Officer	

ATTACHMENT 'A'**MODIFICATION OF CONTRACT**

Modification Number: One (1) Effective Date: 6/1/2020	Contract Number: 09-0921 Title: <u>On-Call Pavement and Base Repair Contractor</u> Effective Date: June 1, 2019
Contracting Officer: Bill Ponko E-mail: Bponko@lakecountyfl.gov Telephone Number: (352) 343-9389	Contractor Name and Address: Name: PAQCO, Inc. Address: 101 Weber Avenue City: Leesburg, Florida 34748 ATTENTION: Jay S. Paquette, President
Issued By: Procurement Services Lake County Administration Building 315 W. Main St., Suite 441 Tavares, Florida 32778-7800	
INSTRUCTIONS: Contractor shall sign Signature Block showing acceptance of the below written modification and <u>return this form to Procurement Services within ten (10) days after receipt</u> . Once fully executed, a copy of this modification will be returned to the Contractor to attach to the original Contract.	
DESCRIPTION OF MODIFICATION: Contract modification to extend the agreement for a period of one (1) year, expiring on May 31, 2021.	
CONTRACTOR SIGNATURE BLOCK Signature: <u>[Signature]</u> Print Name: <u>FAY PAQUETTE</u> Title: <u>Vice President</u> Date: <u>3-30-20</u> E-mail: <u>fay@pqcoinc.com</u> Secondary E-mail: <u>Roxanne@pqcoinc.com</u>	LAKE COUNTY SIGNATURE BLOCK Signature: <u>[Signature]</u> Print Name: <u>Ronald A. Falcetta</u> Title: <u>Contracting Officer</u> Date: <u>3/30/2020</u>
Distribution: Original – Bid File Copy – Contractor Contracting Officer	

ATTACHMENT 'A'

**AGREEMENT BETWEEN
LAKE COUNTY, FLORIDA
AND PAQCO, INC.
FOR ON-CALL PAVEMENT AND BASE REPAIR CONTRACTOR
ITB # 19-0921**

This is an Agreement between Lake County, Florida, a political subdivision of the State of Florida (the COUNTY), by and through its Board of County Commissioners, and PAQCO, Inc., a Florida for profit corporation, its successors and assigns (the CONTRACTOR).

WITNESSETH:

WHEREAS, the COUNTY publicly submitted an Invitation to Bid (ITB#) 19-0921, seeking entities to provide on-call road repairs for the COUNTY; and

WHEREAS, CONTRACTOR desires to perform such services subject to the terms of this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, understandings, conditions, promises, covenants and payment hereinafter set forth, and intending to be legally bound, the parties hereby agree as follows:

Article 1. Recitals

1. The foregoing recitals are true and correct and incorporated herein.

Article 2. Scope of Professional Services

2.1 On the terms and conditions set forth in this Agreement, the COUNTY hereby engages CONTRACTOR to provide to provide all labor, materials, and equipment to completed on-call road repairs, including base repairs, milling, installation of asphalt, and installation of striping to match the preexisting markings, for Lake County as more specifically listed in **Attachment A - Scope of Services** and **Attachment B -Addendums**, attached hereto and incorporated herein,. The Scope of Services may be modified by an amendment to this Agreement, but to be effective and binding such amendment must be in writing and signed by an authorized representative of the CONTRACTOR and the Lake County Public Works Department. CONTRACTOR acknowledges and agrees that if work is assigned to CONTRACTOR, each individual project shall have a specific scope agreed to by the parties by way of a task work order. **ALL TASK WORK ORDERS SHALL BE REVIEWED AND APPROVED BY THE LAKE COUNTY OFFICE OF PROCUREMENT SERVICES AND THE LAKE COUNTY ATTORNEY'S OFFICE FOR THE COUNTY PRIOR TO THE CONTRACTOR BEGINNING ANY WORK ON THE ASSIGNED PROJECT OR PAYMENT BEING MADE TO CONTRACTOR.**

2.2 This Agreement shall commence on the first calendar day of the month succeeding approval of the Agreement by the COUNTY, unless otherwise stipulated in the Notice of Award Letter distributed by the County's Office of Procurement Services; and contingent upon the completion and submittal of all required pre-award documents. The initial term of this Agreement will be for twelve (12) months and will remain in effect until completion of the expressed and/or implied warranty period. The COUNTY reserves the sole right to renew this Agreement for four (4) additional one (1) year periods. CONTRACTOR shall maintain, for the entirety of the stated additional period(s), if any, the same prices, terms, and conditions included within this Agreement.

Prior to completion of each exercised contract term, the COUNTY may consider an adjustment to price based on the percentage change between the base index and the current month index according to the State of Florida DMS bulk fuel gasoline and diesel for unleaded gas, Florida PAD 1, Orlando. It is the CONTRACTOR's responsibility to request in writing any pricing adjustment under this provision. The

ATTACHMENT 'A'

AGR BETWEEN LAKE COUNTY AND PAQCO FOR ON-CALL PAVEMENT AND BASE REPAIR CONTRACTING, 19-0921

contract unit prices may be adjusted based on the movement of the stated index. The base index value will be the index number for the month prior to the due date of the solicitation. The current month index will be the last month's index published before the request for a price redetermination is made. The COUNTY reserves the right to also request index-based adjustments if it is deemed to be in the COUNTY's best interest.

CONTRACTOR's written request for adjustment should be submitted thirty (30) calendar days prior to expiration of the then current contract term. The adjustment request must clearly substantiate the requested increase. The written request for adjustment should not be in excess of the relevant pricing index change. If no adjustment request is received, the COUNTY will assume that CONTRACTOR has agreed that the optional term may be exercised without pricing adjustment. Any adjustment request received after the commencement of a new option period shall not be considered.

The COUNTY reserves the right to reject any written price adjustments submitted by CONTRACTOR and to not exercise any otherwise available option period based on such price adjustments. Continuation of this Agreement beyond the initial period, and any option subsequently exercised, is a County prerogative, and not a right of the CONTRACTOR. This prerogative will be exercised only when such continuation is clearly in the best interest of the COUNTY.

2.3 CONTRACTOR agrees that this Agreement will be an open quantity contract. The COUNTY does not guarantee to CONTRACTOR any minimum amount of work throughout the term of this Agreement. Furthermore, CONTRACTOR agrees and acknowledges that in the event CONTRACTOR cannot meet the COUNTY's specifications, including but not limited to time for completion or cost for individual project, that the COUNTY reserves the sole right to offer the individual project to the COUNTY's other CONTRACTOR(s).

2.4 Any work that commences prior to and will extend beyond the expiration date of the current Agreement period shall, unless terminated by mutual written agreement between the COUNTY and CONTRACTOR, continue until completion at the same prices, terms and conditions.

2.5 CONTRACTOR shall utilize the U.S. Department of Homeland Security's E-Verify system in accordance with the terms governing use of the system to confirm the employment eligibility of all new persons hired by CONTRACTOR during the term of this Agreement. CONTRACTOR shall include in all contracts with subcontractors performing work pursuant to any contract arising from this Agreement an express requirement that the subcontractors utilize the U.S. Department of Homeland Security's E-Verify system in accordance with the terms governing use of the system to confirm the employment eligibility of all new employees hired by the subcontractors during the term of the contract.

Article 3. Payment

3.1 Payment shall be based upon a lump sum fee, arrived at utilizing the hourly rates set forth in Pricing Schedule, attached hereto and incorporated herein as **Attachment C**. The personnel needed for each individual project shall be determined through the Task Work Order.

3.2 CONTRACTOR shall submit invoices to the COUNTY user department within thirty (30) calendar days from delivery of goods or services. Under no circumstances may the invoices be submitted to the COUNTY in advance of the delivery and acceptance of the items. All invoices must contain the contract and purchase order number (if applicable), the specific task number, date and location of delivery or service, and confirmation of acceptance of the goods or services by the appropriate COUNTY representative.

ATTACHMENT 'A'

AGR BETWEEN LAKE COUNTY AND PAQCO FOR ON-CALL PAVEMENT AND BASE REPAIR CONTRACTING, 19-0921

3.3 The COUNTY will make payment on all invoices in accordance with the Florida Prompt Payment Act, Chapter 218, Part VII, Florida Statutes. Failure to submit invoices in the prescribed manner will delay payment, and CONTRACTOR may be considered in default and this Agreement may be terminated.

3.4 Other than the fees and rates set forth in Attachment B, CONTRACTOR shall not be entitled to payment for any expenses, fees, or other costs it may incur at any time and in any connection with its performance hereunder.

3.5 In the event any part of this Agreement is to be funded by federal, state, or other local agency monies, CONTRACTOR agrees to comply with all requirements of the funding entity applicable to the use of the monies, including full application of requirements involving the use of minority firms, women's business enterprises, and labor surplus area firms. CONTRACTOR is advised that payments under this Agreement may be withheld pending completion and submission of all required forms and documents required of CONTRACTOR pursuant to the grant funding requirements. A copy of the requirements will be supplied to CONTRACTOR by the COUNTY upon request.

Article 4. COUNTY Responsibilities

4.1 The COUNTY shall pay in accordance with the provisions set forth in this Agreement.

4.2 The COUNTY retains the right to inspect all work to verify compliance with this Agreement.

Article 5. Special Terms and Conditions

5.1 Termination. This Agreement may be terminated by the COUNTY upon thirty (30) days advance written notice to the other party; but if any service under this Agreement is in progress but not completed as of the date of termination, then this Agreement may be extended upon written approval of the COUNTY until said service is completed and accepted.

A. Termination for Convenience. In the event this Agreement is terminated or cancelled upon the request and for the convenience of the COUNTY with the required thirty (30) day advance written notice, COUNTY shall reimburse CONTRACTOR for actual work satisfactorily completed and reasonable expenses incurred.

B. Termination for Cause. Termination by the COUNTY for cause, default, or negligence on the part of CONTRACTOR shall be excluded from the foregoing provision. Termination costs, if any, shall not apply. The 30-day advance notice requirement is waived in the event of termination for cause.

C. Termination Due to Unavailability of Funds in Succeeding Fiscal Years. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, this Agreement shall be canceled, and CONTRACTOR shall be reimbursed for services satisfactorily performed and the reasonable value of any non-recurring costs incurred but not amortized in the price of the services delivered under this Agreement.

5.2 Assignment of Agreement This Agreement shall not be assigned or sublet except with the written consent of Lake County's Procurement Services Director. No such consent shall be construed as making the COUNTY a party to the assignment or subcontract or subjecting the COUNTY to liability of any kind to any assignee or subcontractor. No assignment or subcontract shall under any circumstances relieve CONTRACTOR of liability and obligations under this Agreement and all transactions with the COUNTY must be through CONTRACTOR. In the event CONTRACTOR is acquired in whole or in part by another entity, including any takeovers effectuated by a stock buyout, or similar acquisition

ATTACHMENT 'A'

AGR BETWEEN LAKE COUNTY AND PAQCO FOR ON-CALL PAVEMENT AND BASE REPAIR CONTRACTING, 19-0921

process, CONTRACTOR shall notify the COUNTY immediately. The COUNTY shall have the option of terminating this Agreement in the event the acquiring entity does not meet with the COUNTY's approval. Any acquisition or hostile takeover may result in termination of this Agreement for cause.

5.3 Insurance.

A. CONTRACTOR shall purchase and maintain, without cost or expense to the COUNTY, policies of insurance as indicated below, with a company or companies authorized to do business in the State of Florida, and which are acceptable to the COUNTY, insuring CONTRACTOR against any and all claims, demands, or causes of action whatsoever, for injuries received or damage to property relating to the performance of duties, services and obligations of CONTRACTOR under the terms and provisions of the Agreement. An original certificate of insurance, indicating that CONTRACTOR has coverage in accordance with the requirements of this section, must be furnished by CONTRACTOR to the COUNTY within five (5) working days of such request and must be received and accepted by the COUNTY prior to contract execution and before any work begins.

The parties agree that the policies of insurance and confirming certificates of insurance shall insure CONTRACTOR is in accordance with the following minimum limits:

- (i) General Liability insurance on forms no more restrictive than the latest edition of the Occurrence Form Commercial General Liability policy (CG 00 01) of the Insurance Services Office or equivalent without restrictive endorsements, with the following minimum limits and coverage:

- Each Occurrence/General Aggregate \$1,000,000/\$2,000,000
 - Products-Completed Operations: \$2,000,000
 - Personal & Adv. Injury: \$1,000,000
 - Fire Damage: \$50,000
 - Medical Expense: \$5,000
 - Contractual Liability: Included

- (ii) Automobile liability insurance, including owned, non-owned and hired autos with the following minimum limits and coverage:

- Combined Single Limit: \$1,000,000

- (iii) Workers' compensation insurance in accordance with Chapter 440, Florida Statutes, and/or any other applicable law requiring workers' compensation (Federal, maritime, etc.). If not required by law to maintain workers' compensation insurance, the CONTRACTOR must provide a notarized statement that if he or she is injured, he or she will not hold the COUNTY responsible for any payment or compensation for that injury.

- (iv) Employer's liability insurance with the following minimum limits and coverage:

- Each Accident : \$1,000,000
 - Disease-Each Employee: \$1,000,000
 - Disease-Policy Limit: \$1,000,000

- (v) Professional liability and/or specialty insurance (medical malpractice, engineers, architect, CONTRACTOR, environmental, pollution, errors and omissions, etc.) as applicable, with minimum limits of \$1,000,000 per claim and annual aggregate of \$2,000,000.

ATTACHMENT 'A'

AGR BETWEEN LAKE COUNTY AND PAQCO FOR ON-CALL PAVEMENT AND BASE REPAIR CONTRACTING, 19-0921

B. Lake County, a Political Subdivision of the State of Florida, and the Board of County Commissioners, shall be named as additional insured as their interest may appear all applicable policies, except workers' compensation and professional liability.

C. Certificate(s) of insurance shall provide for a minimum of thirty (30) days prior written notice to the COUNTY of cancellation or nonrenewal of the required insurance. It is the CONTRACTOR's specific responsibility to ensure that any such notice is provided within the stated timeframe. Certificate(s) of insurance shall identify the RFP number in the Description of Operations section of the Certificate.

D. CONTRACTOR must provide a copy to the COUNTY of all policy endorsements, reflecting the required coverage, with Lake County listed as an additional insured along with all required provisions to include waiver of subrogation. *(Note: A simple COI WILL NOT be accepted in lieu of the policy endorsements).*

E. Certificate of insurance shall evidence a waiver of subrogation in favor of the COUNTY, that coverage shall be primary and noncontributory, and that each evidenced policy includes a Cross Liability or Severability of Interests provision, with no requirement of premium by the COUNTY.

F. Certificate holder shall be:

LAKE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA,
AND THE BOARD OF COUNTY COMMISSIONERS.
P.O. BOX 7800
TAVARES, FL 32778-7800

G. All self-insured retentions shall appear on the certificate(s) and shall be subject to approval by the COUNTY. At the option of the COUNTY, the insurer shall reduce or eliminate such self-insured retentions.

H. The COUNTY shall be exempt from, and in no way liable for, any sums of money, which may represent a deductible or self-insured retention in any insurance policy. The payment of such deductible or self-insured retention shall be the sole responsibility of CONTRACTOR and/or sub-CONTRACTOR providing such insurance.

I. CONTRACTOR shall be responsible for sub-CONTRACTORS, if any, and their insurance. Sub-CONTRACTORS are to provide Certificates of Insurance to the COUNTY evidencing coverage and terms in accordance with CONTRACTOR's requirements.

J. Failure to obtain and maintain such insurance as set out above will be considered a breach of contract and may result in termination of this Agreement for cause.

K. Neither approval by the COUNTY of any insurance supplied by CONTRACTOR, nor a failure to disapprove that insurance, shall relieve CONTRACTOR of full responsibility of liability, damages, and accidents as set forth herein.

5.4 Conflict of Interest. CONTRACTOR agrees that it will not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Agreement, or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government. Further, CONTRACTOR certifies that no officer, agent, or employee of the COUNTY has any material interest either directly or indirectly in the business of CONTRACTOR and that no such person may have any such interest at any time during the term of this Agreement unless approved by the COUNTY.

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5.5 Public Entity Crimes. A person or affiliate who has been placed on the convicted vendor list following a conviction of a public entity crime may not be awarded or perform work as a CONTRACTOR, supplier or sub-CONTRACTOR under a contract with any public entity in excess of the threshold amount provided in Florida Statutes, section 287.017 for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

5.6 Indemnity. CONTRACTOR shall indemnify and hold the COUNTY and its agents, officers, commissioners or employees harmless for any damages resulting from failure of CONTRACTOR to take out and maintain the above insurance. In accordance with Section 725.08, Florida Statutes, the CONTRACTOR agrees for good and valuable consideration to indemnify, and hold the COUNTY, its commissioners, and its employees free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities to the extent resulting from the negligent act, error or omission of CONTRACTOR, its agents, employees or representative, in the performance of CONTRACTOR'S duties set forth in this Agreement.

5.7 Independent Contractor. CONTRACTOR, and all its employees, agree that they will be acting as independent contractors and will not be considered or deemed to be an agent, employee, joint venturer, or partner of the COUNTY. CONTRACTOR shall have no authority to contract for or bind COUNTY in any manner and shall not represent itself as an agent of COUNTY or as otherwise authorized to act for or on behalf of COUNTY.

5.8 Ownership of Deliverables. Upon completion of and payment for a task CONTRACTOR agrees all tasks and/or deliverables under this Agreement, and other data generated or developed by CONTRACTOR under this Agreement or furnished by COUNTY to CONTRACTOR shall be and/or remain the property of COUNTY. CONTRACTOR shall perform any acts that may be deemed necessary or desirable by COUNTY to more fully transfer ownership of all Tasks and/or deliverables to COUNTY, at COUNTY's expense. Additionally, CONTRACTOR hereby represents that it has full right and authority to perform its obligations specified in this Agreement. CONTRACTOR and COUNTY recognize that CONTRACTOR'S work product submitted in performance of this Agreement is intended only for the project described in this Agreement. COUNTY'S alteration of CONTRACTOR'S work product or its use by COUNTY for any other purpose shall be at COUNTY'S sole risk.

5.9 Return of Materials. Upon the request of the COUNTY, but in any event upon termination of this Agreement, CONTRACTOR shall surrender to the COUNTY all memoranda, notes, records, drawings, manuals, computer software, and other documents or materials pertaining to the services hereunder, that were furnished to the CONTRACTOR by the COUNTY pursuant to this Agreement. CONTRACTOR may keep copies of all work product for its records.

5.10 Retaining Other Contractors. Nothing herein shall be deemed to preclude the COUNTY from retaining the services of other persons or entities undertaking the same or similar services as those undertaken by CONTRACTOR or from independently developing or acquiring materials or programs that are similar to, or competitive with, the services provided under this Agreement.

5.11 Truth in Negotiation Certificate. For all lump-sum or cost-plus fixed fee agreements exceeding \$150,000, the firm awarded the agreement must execute a truth in negotiation certificate stating that the wage rates and other factual unit costs are accurate, complete and current, at the time of contracting. Any agreement requiring this certificate shall contain a provision that the original agreement price and any additions shall be adjusted to exclude any significant sums by which the COUNTY determines the agreement price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such agreement adjustments shall be made within one (1) year following the end of the contract. Execution of this Agreement constitutes execution of the Truth in Negotiation Certificate.

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5.12 Codes and Licenses. All work completed under this Agreement shall conform to all applicable federal, state and local statutes, codes, regulations and ordinances. During the term of this Agreement, CONTRACTOR must be appropriately licensed to provide the services provided under this Agreement.

5.13 Prohibition Against Contingent Fees. CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

5.14 Public Records. Pursuant to Section 119.0701, Florida Statutes, CONTRACTOR shall comply with the Florida Public Records' laws, and shall:

1. Keep and maintain public records required by the COUNTY to perform the services identified in this Agreement.
2. Upon request from the COUNTY's custodian of public records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if CONTRACTOR does not transfer the records to the COUNTY.
4. Upon completion of the contract, transfer, at no cost, to the COUNTY all public records in possession of CONTRACTOR or keep and maintain public records required by the COUNTY to perform the service. If CONTRACTOR transfers all public records to the COUNTY upon completion of the contract, CONTRACTOR shall destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the contract, CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY's custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT LAKE COUNTY PROCUREMENT, 315 WEST MAIN STREET, P.O. BOX 7800, TAVARES, FL 32778 OR AT 352-343-9424 OR VIA EMAIL AT purchasing@lakecountyfl.gov.

Failure to comply with this subsection will be deemed a breach of the Agreement and enforceable as set forth in Section 119.0701, Florida Statutes.

5.15 Right to Audit. The COUNTY reserves the right to require CONTRACTOR to submit to an audit by any auditor of the COUNTY'S choosing. CONTRACTOR shall provide access to all of its records which relate directly or indirectly to this Agreement at its place of business during regular business hours. CONTRACTOR shall retain all records pertaining to this Agreement and upon request

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make them available to the COUNTY for three (3) years following expiration of the Agreement. CONTRACTOR agrees to provide such assistance as may be necessary to facilitate the review or audit by the COUNTY to ensure compliance with applicable accounting and financial standards. Additionally, CONTRACTOR agrees to include the requirements of this provision in all contracts with sub-CONTRACTORS in connection with the work performed under this Agreement.

If an audit inspection or examination pursuant to this section discloses overpricing or overcharges of any nature by CONTRACTOR to the COUNTY in excess of one percent (1%) of the total contract billings, in addition to making adjustments for the overcharges, the reasonable actual cost of the COUNTY'S audit shall be reimbursed to the COUNTY by CONTRACTOR. Any adjustments and/or payments which must be made as a result of any such audit or inspection of CONTRACTOR'S invoices and/or records shall be made within a reasonable amount of time, but in no event shall the time exceed ninety (90) days, from presentation of the COUNTY'S audit findings to CONTRACTOR.

5.16 Completion of Work. All work performed by CONTRACTOR shall be in accordance with good commercial practice. The work schedule and completion dates must be adhered to by CONTRACTOR, except in such cases where the completion date will be delayed due to acts of God, strikes, or other causes beyond the control of CONTRACTOR. In these cases, CONTRACTOR shall notify the COUNTY of the delays in advance of the original completion so that a revised delivery schedule can be appropriately considered by the COUNTY. Should CONTRACTOR fail to complete the work within the number of days stated in its offer, or the "not-to-exceed" timeframe cited above, it is hereby agreed and understood that the COUNTY reserves the authority to termination this Agreement and to secure the services of another contractor to complete the work. If the COUNTY exercises this authority, the COUNTY will reimburse CONTRACTOR for work which was completed and found acceptable, if any, to the COUNTY in accordance with the contract specifications. The COUNTY may, at its option, demand payment from CONTRACTOR, through an invoice or credit memo, for any additional costs over and beyond the original contract price which were incurred by the COUNTY as a result of having to secure the services of another contractor. If the CONTRACTOR fails to honor this invoice or credit memo, the County may terminate this Agreement for default.

5.17 Accuracy. CONTRACTOR is responsible for the professional quality, technical accuracy, timely completion and coordination of all the services furnished hereunder. CONTRACTOR must promptly correct all apparent and latent deficiencies and/or defects in work, and/or any work that fails to conform to the contract documents regardless of project completion status. All corrections shall be made within seven (7) calendar days after such rejected defects, deficiencies, and/or non-conformances are verbally reported to CONTRACTOR by the County's project administrator, who may confirm all such verbal reports in writing. CONTRACTOR shall bear all costs of correcting such rejected work. If CONTRACTOR fails to correct the work within the period specified, the COUNTY may, at its discretion, notify CONTRACTOR, in writing, that CONTRACTOR is subject to contractual default provisions if the corrections are not completed to the satisfaction of the COUNTY within seven (7) calendar days of receipt of the notice. If CONTRACTOR fails to correct the work within the period specified in the notice, the COUNTY shall place CONTRACTOR in default, obtain the services of another vendor to correct the deficiencies, and charge the CONTRACTOR for these costs, either through a deduction from the final payment owed to CONTRACTOR or through invoicing. If CONTRACTOR fails to honor this invoice or credit memo, the COUNTY may terminate the contract for default.

5.18 Acceptance of Goods or Services. The products delivered will remain the property of the CONTRACTOR, and services rendered under this Agreement will not be deemed complete, until a physical inspection and actual usage of the products or services is accepted by the COUNTY and must

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be in compliance with the terms in the contract, fully in accord with the specifications and of the highest quality. Any goods or services purchased under this Agreement may be tested/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 COUNTY reserves the right to terminate this Agreement 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 charges for any conforming action taken by the COUNTY under this clause. The COUNTY 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 COUNTY on the open market, and any increase in cost may be charged against the CONTRACTOR. Any cost incurred by the COUNTY in any re-procurement plus any increased product or service cost will be withheld from any monies owed to CONTRACTOR by the COUNTY for any contract or financial obligation.

5.19 Warranty. CONTRACTOR agrees that the product or service furnished to the COUNTY will be covered by the most favorable commercial warranty the vendor gives to any customer for comparable quantities of products or services and the rights and remedies provided in this Agreement will be in addition to the warranty and do not limit any right afforded to the County by any other provision.

5.20 Business Hours of Operation. No work may be done on County Holidays, Saturday, Sunday, or on any days between the hours of 5:00 P.M. and 7:00 A.M. except when such work is necessary for the proper care and protection of the work already performed, and when permission to do such work is secured from the County Department representative. No overtime work may be started without prior approval of the immediate project manager or his/her designated representative. County Holidays are as follows: New Year's Day; Martin Luther King, Jr. Day; Presidents' Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Day after Thanksgiving; and Christmas Day.

5.21 Minimum Wage. The wage rate paid to all laborers, mechanics, and apprentices employed by the CONTRACTOR for the work under the Agreement may not be less than the prevailing wage rates for similar classifications of work as established by the Federal government and enforced by the U.S. Department of Labor, Wages and Hours Division, and Florida's Minimum Wage requirements in Article X, Section 24(f) of the Florida Constitution and enforced by the Florida Legislature by statute or the State Agency for Workforce Innovation by rule, whichever is higher.

5.22 Protection of Property. All existing structures, utilities, services, roads, trees, shrubbery and property in which the COUNTY has an interest must be protected against damage or interrupted services at all times by the CONTRACTOR during the term of this contract, and the CONTRACTOR will be held responsible for repairing or replacing damaged property to the satisfaction of the COUNTY which is damaged by reason of the CONTRACTOR's operation on the property. In the event the CONTRACTOR fails to comply with these requirements, the COUNTY reserves the right to secure the required services and charge the costs of such services back to the CONTRACTOR. All items damaged as a result of CONTRACTOR or subcontractor operations belonging to third parties, such as but not limited to: sidewalks, irrigation, curbs, pipes, drains, water mains, pavement, mail boxes, turf, signs, or other property must either be repaired or replaced by the CONTRACTOR, at the CONTRACTOR's expense, in a manner prescribed by, and at the sole satisfaction of the COUNTY. In the event the CONTRACTOR fails to comply with these requirements, the COUNTY reserves the right to secure the required services and charge the costs of such services back to the CONTRACTOR. All items within a facility belonging to third parties, or to commissioners, officers, employees, lessees, invitees, or agents

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of the COUNTY, including but not limited to personal items and furniture, must either be repaired or replaced by the CONTRACTOR, at the CONTRACTOR's expense, in a manner prescribed by, and at the sole satisfaction of the COUNTY. The CONTRACTOR shall re-grade and re-sod any areas that are disturbed by the CONTRACTOR during the course of the work being completed.

5.23 Clean-Up. CONTRACTOR shall be responsible for the removal of all surplus material and debris from the work site at the end of each work day, and dispose of in an appropriate and lawful manner. All costs associated with clean-up and debris removal shall be included in the lump sum price stated elsewhere herein. CONTRACTOR shall leave the site clean and neat.

5.24 Risk of Loss. The CONTRACTOR assumes the risk of loss of damage to the COUNTY'S property during possession of such property by the CONTRACTOR, and until delivery to and acceptance of that property to the COUNTY. The CONTRACTOR shall immediately repair, replace or make good on the loss or damage without cost to the COUNTY, whether the loss or damage results from acts or omissions, negligent or otherwise, of the CONTRACTOR or a third party.

5.25 Accident Notification. If in the course of completing work as part of this Agreement there is an accident that involves the public, the CONTRACTOR shall as soon as possible inform the COUNTY of the incident by telephone. The CONTRACTOR shall follow up in writing within two (2) business days of the incident. If law enforcement was involved and has written a report, the CONTRACTOR shall forward a copy of the report to the COUNTY.

5.26 License and Permits. The CONTRACTOR shall remain appropriately licensed throughout the term of this Agreement. If the CONTRACTOR employs the services of a subcontractor, the CONTRACTOR shall ensure that any subcontractor is appropriately licensed throughout the course of the Service. Failure to maintain all required licenses will entitle the COUNTY, at its option, to terminate this Agreement. It is the responsibility of the CONTRACTOR to ensure that all required licenses, permits, and fees (to include any inspection fees) required for this project are obtained and paid for, and shall comply with all laws, ordinances, regulations, and building or other code requirements applicable to the work contemplated. Damages, penalties, or fines imposed on the COUNTY or CONTRACTOR for failure to obtain required licenses, permits, inspection or other fees, or inspections will be borne by the CONTRACTOR.

Article 6. Miscellaneous Provisions

6.1 This Agreement is made under, and in all respects shall be interpreted, construed, and governed by and in accordance with, the laws of the State of Florida. Venue for any legal action resulting from this Agreement shall lie in Lake County, Florida. CONTRACTOR waives its right to a jury trial for any action arising from this Agreement.

6.2 The captions utilized in this Agreement are for the purposes of identification only and do not control or affect the meaning or construction of any of the provisions hereof.

6.3 This Agreement shall be binding upon and shall inure to the benefit of each of the parties and of their respective successors and permitted assigns.

6.4 This Agreement may not be amended, released, discharged, rescinded or abandoned, except by a written instrument duly executed by each of the parties hereto, unless otherwise stated herein.

6.5 The failure of any party hereto at any time to enforce any of the provisions of this Agreement will in no way constitute or be construed as a waiver of such provision or of any other provision hereof, nor in any way affect the validity of, or the right thereafter to enforce, each and every provision of this Agreement.

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6.6 During the term of this Agreement CONTRACTOR assures COUNTY that it is in compliance with Title VII of the 1964 Civil Rights Act, as amended, and the Florida Civil Rights Act of 1992, in that CONTRACTOR does not on the grounds of race, color, national origin, religion, sex, age, disability or marital status, discrimination in any form or manner against CONTRACTOR employees or applicants for employment. CONTRACTOR understands and agrees that this Agreement is conditioned upon the veracity of this statement of assurance.

6.7 Any individual, corporation, or other entity that attempts to meet its contractual obligations with the COUNTY through fraud, misrepresentation or material misstatement, may be debarred for up to five (5) years. The COUNTY as a further sanction may terminate or cancel any other contracts with such individual, corporation, or entity. Such individual or entity shall be responsible for all direct or indirect costs associated with termination or cancellation, including attorney's fees.

6.8 With the consent of CONTRACTOR, other agencies, including Lake County, Florida, may make purchases in accordance with the contract. Any such purchases shall be governed by the same terms and conditions as stated herein with the exception of the change in agency name.

6.9 CONTRACTOR shall act as the prime CONTRACTOR for all required items and services and shall assume full responsibility for the procurement and maintenance of such items and services. CONTRACTOR shall be considered the sole point of contact with regards to all stipulations, including payment of all charges and meeting all requirements of this Agreement. All sub-CONTRACTORS will be subject to advance review by the COUNTY in terms of competency and security concerns. No change in sub-CONTRACTORS shall be made without consent of the COUNTY. CONTRACTOR shall be responsible for all insurance, permits, licenses and related matters for any and all sub-CONTRACTORS. Even if the sub-CONTRACTOR is self-insured, the COUNTY may require the CONTRACTOR to provide any insurance certificates required by the work to be performed.

6.10 The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

6.11 Wherever provision is made in this Agreement for the giving, service or delivery of any notice, statement or other instrument, such notice shall be in writing and shall be deemed to have been duly given, served and delivered, if delivered by hand or mailed by United States registered or certified mail, addressed as follows:

If to CONTRACTOR:

Paqco, Inc.
101 Weber Avenue
Leesburg, FL 34748

If to COUNTY:

Lake County Manager
315 W. Main Street
P.O. Box 7800
Tavares, FL 32778

Each party hereto may change its mailing address by giving to the other party hereto, by hand delivery, United States registered or certified mail notice of election to change such address.

Article 7. Scope of Agreement

7.1 This Agreement is intended by the parties hereto to be the final expression of their Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made. Any items not covered under this contract will need to be added via written addendum, and pricing negotiated based on final specifications.

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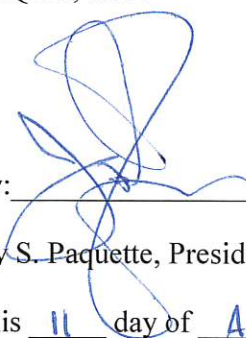
7.2 This Agreement contains the following attachments, all of which are incorporated into this Agreement:

Attachment A – Scope of Services
Attachment B - Addendums
Attachment C – Pricing Schedule

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: COUNTY through its Board of County Commissioners, signing by and through its Chairman and by CONTRACTOR through its duly authorized representative.

CONTRACTOR

PAQCO, INC.

By: 

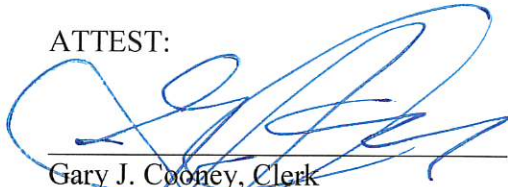
Jay S. Paquette, President

This 11 day of APRIL, 2019.

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ATTEST:



Gary J. Cooney, Clerk
Board of County Commissioners of
Lake County, Florida

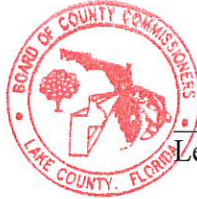
Approved as to form and legality:

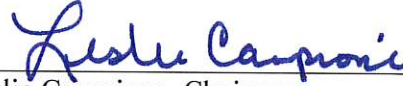


Melanie Marsh, County Attorney

COUNTY

BOARD OF COUNTY COMMISSIONERS
OF LAKE COUNTY, FLORIDA





Leslie Campione, Chairman

This 10th day of May, 2019.

ATTACHMENT 'A'

ATTACHMENT A – SCOPE OF SERVICES

PAVEMENT AND BASE REPAIR CONTRACTOR, ON-CALL

Pursuant to the terms and conditions of this Agreement, the Contractor as the vendor agrees to provide services to the County as set forth in this Scope of Services. The vendor must furnish all labor, equipment, fuel, materials, and any other items needed to perform all operations necessary to complete this work in strict accordance with these specifications, any applicable drawings, and is subject to the terms and conditions of the contract.

The County estimates using approximately 6,500 square yards of base repairs per fiscal year. This quantity is an estimate only and is given only to allow for preparation of the bid. QUANTITIES ARE NOT GUARANTEED FROM THIS INVITATION TO BID. Any contract entered into will be on an as-needed basis.

The vendor must provide competent and qualified personnel to perform the work as required by the contract specifications. The vendor must, at all times, maintain good discipline and order at the work site. The vendor shall provide a list of all foreman and supervisors who will perform the work, to include twenty-four (24) hour emergency contact telephone numbers. The vendor will maintain a dress code for their employees with a minimum of shirt, safety vest, shorts and shoes, in decent condition, at all times while on the jobsite. The County will require that the vendor remove from the work site any of the vendor's personnel that the County Project Manager determines to be incompetent, careless or otherwise objectionable. Upon receipt of the written notice, the vendor must remove the cited personnel immediately. No request for time extensions will be granted for the removal of any cited personnel.

The vendor must furnish the County Project Manager with a list of all subcontractors performing work on the contract, if any, with their contact information.

Unless otherwise specified, all work under the contract must be completed in accordance with the most recent edition of the Florida Department of Transportation's (FDOT's) "Standard Plans for Road and Bridge Construction".

It will be the responsibility of the vendor to make a video in DVD, flash drive, or electronic format of all current conditions such as, but not limited to: driveways, road intersections, vegetation, etc., before any work commences. The vendor will focus on any deficient conditions present at the time of the recording. The date and time must be recorded on the video at the time it is being created. A copy of the video must be supplied to the County Project Manager before the commencement of any work as outlined on the Project Order Form.

NOTICE TO PROCEED

All work must be ordered by the County Project Manager with a Notice to Proceed.

The vendor will have sixty (60) calendar days to COMPLETE the project from the date of receipt of the work request regardless of the amount of work described unless otherwise stated on the Notice to Proceed. No additional days will be provided for normal weather delays. Average number of days of rainfall will be determined by the Southeast Regional Climate Center which can be found at the following link:

http://www.sercc.com/climateinfo/historical/historical_fl.html .

Days for calculating actual rainfall are days recorded with rainfall on the Weather Underground website which can found at the following link: <http://www.wunderground.com> .

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If above average rainfall occurs, the vendor may request a time extension to complete the project. Should the vendor be obstructed or delayed in the prosecution of, or completion of the project as a result of unforeseeable causes beyond the control of the vendor, and not due to his fault or neglect, including but not restricted to acts of nature or the public enemy, acts of government, discovery of pre-existing hazardous materials, utility conflicts, epidemics, quarantine regulations, employee strikes or lockouts, the vendor must notify the County Project Manager in writing within two (2) business days after the commencement of such delay, stating the cause or causes of the delay, or be deemed to have waived any right which the vendor will have had to request a time extension.

If the vendor complies with the two (2) business days' notice requirement, the County Project Manager will ascertain the facts and the extent of the delay being claimed. The County Project Manager's findings of fact will be final and conclusive on the parties. The vendor must cooperate with the County Project Manager's investigation of the delays by providing any schedules, correspondence or other data that will be required to complete the findings of fact. Extensions to the contract time will be granted for only delays that impact the vendor's construction schedule. Any extensions of contract time will be given at the discretion of the County Project Manager and must be authorized by a Change Order approved in accordance with Board policy.

The vendor must contact the County Project Manager two (2) business days prior to starting any job. All work, once started, must be completed before any other work will commence on subsequent work projects. The only exception will be when the County determines that such other work is in the best interest of the County and should be expedited.

METHOD OF OPERATIONS

The Notice to Proceed will outline the area and dimension to receive pavement repair. This area must be field marked in pink paint. Each area on the Notice to Proceed must have an individual calculation of square yards to repair. This yardage calculation will determine which unit cost will be assessed for that particular repair should multiple repairs occur on one Notice to Proceed.

The vendor must assess the County a single mobilization/demobilization charge for each repair not within 2,640 feet of the beginning or end of another repair. Example 1: County provides a Notice to Proceed to the vendor outlining two (2) repairs on Maple Street. The repairs are 300 hundred feet from the end of one repair to the beginning of the next. The vendor will only be permitted to assess one (1) mobilization/demobilization charge. Example 2: County provides a Notice to Proceed to the vendor outlining two (2) repairs on Elm Street. The repairs are 2,750 feet from the end of one repair to the beginning of the next. The vendor will be permitted to assess two (2) mobilization/demobilization charges. Example 3: County provides a Notice to Proceed to the vendor outlining four (4) repairs on Pine Street. The repairs are 565 feet from the end of the first repair to the beginning of the second, 1,698 feet from the end of the second repair to the beginning of the third, and 1,500 feet from the end of the third repair to the beginning of the fourth. The vendor will be permitted to assess one (1) mobilization/demobilization charge as distance between any one repair does not exceed 2,640 feet. The mobilization/demobilization charge must include all costs associated with the complete mobilization and demobilization of labor and equipment to and from the jobsite.

Questions or issues concerning the repair sizes or any other information listed on the Notice to Proceed will be addressed and agreed upon in writing by the County Project Manager prior to

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performance of work. Any work performed without such an agreement by all parties will be paid as stated on the Notice to Proceed in accordance with the terms and conditions of the contract.

ROAD BASE REPAIRS

The vendor must saw cut outside the area marked with paint. All saw cuts will be performed to leave only square or rectangular shaped repairs. Any jagged or misshaped repairs will be rejected and replaced by the vendor at no additional cost to the County.

Upon performing saw cutting of existing pavement. The vendor must remove existing asphalt, road base material, and any sub-base/sub-grade material necessary to accommodate the installation of a minimum depth of eight (8) inches of compacted limerock base and one (1) inch of asphalt, unless otherwise directed on the Notice to Proceed, or to a depth determined by the County Project Manager. Finished elevation of the repair must be at base pre-repair condition and shall allow for the specified depth of asphalt, unless otherwise directed by the County in writing on the Notice to Proceed.

The unit cost for road base repair must be all inclusive to include all of the following items: traffic control, saw cutting, excavation, limerock installation and compaction, trucking, disposal, and any other incidental charges associated with the repair. Asphalt must be specified and invoiced under a different line item.

MILLING

At the discretion of the County, milling may be required to repair an area without doing base repairs.

If milling is required and traffic is to be maintained prior to the placement of the new asphaltic concrete, the vendor must ensure that suitable transitions between areas of varying thickness are created to allow for a smooth longitudinal riding surface. The vendor must sweep all milled areas in a manner that will minimize dust prior to opening to traffic or before starting the overlay process. All millings created by this process will become the property of the vendor and it will be the vendor's responsibility to remove them from the project site. The County Project Manager will determine the thickness of the area to be milled. Milling will occur in increments of one (1) inch. The vendor will be compensated at the unit price for the milling as specified in the vendor's bid.

ASPHALT

The vendor must install and compact Recycled SP9.5 hot mix asphalt at a depth of one (1) inch unless otherwise noted on the Notice to Proceed. The vendor must install the new asphalt to ensure that the transition joints are not excessive and a good quality ride is provided when finished. The final result of the installation of the asphalt must provide an even transition with the existing area. No more than one-quarter ($\frac{1}{4}$) inch difference in height will be allowed for the transition of the two (2) areas.

Payment will be calculated by the square yard as stated on the Notice to Proceed and will be all inclusive, but not limited to the following items: traffic control, asphalt installation and compaction, trucking, any disposal, and any other incidental charges associated with the repair. A tack coat must be used to ensure a good bond to the existing base and asphalt. Asphalt must be installed at a minimum rate of one (1) inch thick compacted, unless otherwise specified by the County Project Manager.

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Asphalt restoration associated with road base repairs must be completed no later than forty-eight (48) hours after removal. Under no circumstances will the vendor leave open areas unattended for more than the specified time frame, unless authorized in writing by the County Project Manager.

STRIPING

Unless otherwise directed by the County Project Manager, all pavement markings must be installed to meet the existing layout and must be included as a separate unit cost item on the Notice to Proceed. It is the responsibility of the vendor to ensure the current (before resurfacing) striping layout is recorded so that the same layout is placed on the newly resurfaced road, unless the County supplies a new pattern to be used. Any striping installed in a different layout than that previously existing must be removed and replaced by the vendor at no additional cost to the County unless previously directed in writing.

Any roadway markings that are disturbed as part of the base repair must be replaced with thermoplastic markings, as directed by the County Project Manager. All pavement marking work will be performed in accordance with the requirements of the latest edition of the following manuals and publications, including, but not limited to: the Florida Department of Transportation "Standard Plans for Road and Bridge Construction" and the Federal Highway Administration "Manual of Uniform Traffic Control Devices".

PUBLIC NOTIFICATION OF WORK

At the discretion of the County Project Manager, the vendor may be required to utilize Portable Changeable Message Signs (PCMS, FDOT Index 102-600) for public notification of work.

When the vendor is required to install a Portable Changeable Message Sign (PCMS, FDOT Index 102-600), it must be located at each end of the proposed work zone, unless directed otherwise by the County Project Manager, two (2) days prior to construction and all during construction in order to inform residents and roadway users of the impending construction. The PCMS must display lane closure information including but not limited to anticipated lanes to be closed, extent of lane closure (i.e. "Next 2 Miles"), daily hours of closure, and temporary speed restrictions. Any and all costs associated with the PCMS will be all inclusive in the lump sum bid price.

The vendor will be compensated on a per unit per day rate as stated on the Notice to Proceed form. Any and all costs associated with the Portable Changeable Message Signs must be all inclusive and shall be invoiced at the unit rate as stated on the bid sheet.

UNDERGROUND UTILITIES

Any required ground digging or subsurface work shall be done in accordance with Chapter 556, Florida Statutes. It shall be the responsibility of the vendor to have all underground utilities located before any work shall begin. This can be done by contacting Sunshine State One Call at 1-800-432-4770. The repairs of any damaged underground utilities as a result of the work being performed by the vendor shall be the responsibility of the vendor. The proper utility company shall be contacted immediately if damage has occurred to expedite the repairs. The vendor shall notify the County Project Manager.

MAINTENANCE OF TRAFFIC (MOT)

Unless otherwise specified, the standard specifications to be used for the work shall be the most applicable and the most stringent of the following:

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- A. Maintenance of traffic shall be the responsibility of the vendor, is part of the vendor's proposal price, and shall confirm to FDOT's most current editions of "STANDARD PLANS FOR ROAD AND BRIDGE CONSTRUCTION" or FDOT's "ROADWAY AND TRAFFIC DESIGN STANDARDS", or Federal Highway Administration (FHWA) "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)," and all supplemental specifications thereto. These documents can be ordered from FDOT, Maps and Publications Department, 605 Suwannee Street, Tallahassee, Florida 32399-0450, or by going to the FDOT website at: www.dot.state.fl.us/mapsandpublications.
- B. All costs associated with MOT must be included in the vendor's proposal price. No separate line items for MOT will be included in the cost estimate. If the vendor does not comply with the FDOT and the FHWA (i.e. signs, qualified flaggers, or barricades), the County reserves the right to direct the vendor to cease operation until deficiencies are corrected. In addition, no road closures shall be allowed except in the case of emergencies.
1. All lane closures shall have the prior approval of the County's Project Manager.
 2. The foregoing above requirements are to be considered as minimum and the vendor's compliance shall in no way relieve the vendor of final responsibility for providing adequate traffic control devices for the protection of the public and vendor's employees throughout the work area.
 3. The use of public roads and streets by the vendor shall provide a minimal inconvenience to the public and traffic. Furthermore, if the vendor is utilizing the road by driving the slow moving equipment, the operator shall allow no more than three (3) vehicles to be backed up behind them at any time before pulling to the side to let traffic pass.

DAMAGE

All items damaged as a result of the vendor or subcontractor operations, such as but not limited to, sidewalks, seating, curbs, pipes, drains, water mains, pavement, mailboxes, turf, etc., shall be either repaired or replaced by the vendor, at its expense, in a manner prescribed by and at the sole satisfaction of the Project Manager. Any invoices submitted to the County which are determined to be the result of damage done by the vendor, shall be the responsibility of the vendor. County reserves the right to pay any such invoices and deduct such costs from the vendor's invoice. Repairs, or receipt of repairs, shall be completed and submitted to the County prior to submission of the vendor's invoice for work accomplished.

If the vendor damages a County sign or other property owned by the County, it shall be the responsibility of the vendor to repair the item back to the original condition. If the repair is not in accordance with County standards, the County shall repair the item and deduct the associated cost from the amount due the vendor.

Complaints shall be addressed by the vendor within forty-eight (48) hours and a written report shall be submitted to the Project Manager outlining actions taken to correct the complaint. The vendor shall notify the Project Manager immediately of any complaints given directly to the vendor.

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EQUIPMENT

The vendor shall furnish equipment of a type and quantity to perform the work satisfactorily within the time specified herein this solicitation. If, in the opinion of the County Project Manager, the vendor has insufficient equipment on the job to satisfactorily complete the work within the required time, the vendor shall provide additional equipment as directed by the County Project Manager.

County reserves the right to inspect and approve all equipment before it is placed in service. If at any time the County Project Manager determines that any equipment is deficient in any way, the vendor shall remove the equipment from service immediately, and the equipment shall remain out of service until the deficiency is corrected to the satisfaction of the County Project Manager. Inspection and approval of the vendor's equipment by the County Project Manager shall not relieve the vendor of responsibility or liability for injury to persons or damage to property caused by the operation of the vendor's equipment, nor shall it relieve the vendor of the responsibility to meet the established time for the completion.

QUALITY CONTROL/CORING

At the discretion of the County, an independent testing firm may be obtained by the County to take coring samples from the repaired areas. The County will have the option of completing one (1) core per repaired area and one (1) core per every ten (10) square yards of repair if the size of the repair is greater than ten (10) square yards. If it is determined that the repairs meet the specifications as outlined within, the County will bear the cost of the coring. If it is determined that the work does not meet the specifications as outlined within, the vendor will be responsible for the cost associated with the coring and shall be responsible to make the necessary corrections to the work to meet the specifications. The cost incurred by the County for the coring will be deducted from the submitted invoice.

SUBCONTRACTOR/MATERIAL SUPPLIERS

If subcontractors or materials suppliers are to be used by the vendor, the vendor must provide a listing of such subcontractors and materials suppliers with the vendor's acceptance of the Notice to Proceed. The listing must include the name of each subcontractor/material supplier proposed, the work or the material the subcontractor/material supplier will provide, and the percentage of the overall proposed project. Prior to final payment to the vendor, vendor must provide Certification of Payment to Subcontractors/Materials Suppliers before the invoice is processed and paid.

EMERGENCIES

The vendor shall have a responsible person available at or reasonably near the County on a twenty-four (24) hour basis, seven (7) days a week, who may be contacted in emergencies and in cases where immediate action must be taken to maintain traffic or to handle any other problem that might arise. The vendor's responsible person for supervision of emergencies shall speak and understand, both verbally and in writing, the English language. The vendor shall submit to the County Project Manager, the phone numbers and names of personnel designated to be contacted in cases of emergencies. Included in this list shall be twenty-four (24) hour contact phone numbers for all subcontractors, if any, performing work under this agreement. This list shall contain the name of their supervisors responsible for work pertaining to this contract.

SAFETY

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All standard equipment, work operations, safety equipment, personal protective equipment, and lighting required or mandated by State, Federal, OSHA, or ADA regulations must be provided. Any safety devices installed by the manufacturer must be in place and in proper working order at all times. If the County Project Manager determines that equipment is deficient in safety devices, the vendor will be notified immediately. The vendor must immediately repair or remove the equipment from service until the deficiency is corrected to the satisfaction of the County Project Manager.

The County Project Manager will periodically monitor work site for safety. Should there be safety or health violations, the County Project Manager has the authority, but not the duty, to require the vendor to correct the violation in an expeditious manner. If there is any situation deemed unsafe by the County Project Manager, the project must be shut down immediately upon notice and must not resume work until the unsafe condition has been remedied.

Should the work site be in a hazardous area, the County will take reasonable actions to furnish the vendor with information concerning hazards such as types or identification of known toxic material, machine hazards, Material Safety Data Sheets (MSDS), or any other information that would assist the vendor in the planning of a safe work site. The vendor retains the ultimate responsibility to ensure all work is performed in a manner consistent with all applicable safety standards and directives.

The vendor must be aware that while working for the County, representatives from agencies such as the United States Department of Labor, Occupational Safety and Health Administration (OSHA) are invitees and need not have warrants or permission to enter the work site.

The vendor must designate a competent person who can communicate with all personnel of its organization whose duty shall be the prevention of accidents at the site. This person will be the vendor's Project Foreman unless otherwise designated in writing by the vendor to the County. All communications to the Project Foreman will be as binding as if given to the vendor.

HAZARDOUS MATERIALS

The vendor is responsible for notifying the County Project Manager of any hazardous materials used by the vendor on the work site and providing the County Project Manager with a copy of the Material Safety Data Sheets (MSDS) as required by federal law, as applicable. A copy of the Material Safety Data Sheets (MSDS) must be kept on the project work site at all times.

Any spillage of hazardous materials must be reported immediately to the County Project Manager and cleaned up in accordance with all Local, State and Federal Regulations. The clean-up cost of any spillage of hazardous materials caused by the vendor will be the sole responsibility of the vendor. A copy of a complete report showing compliance with local, state, and federal agencies must be given to the County Project Manager.

If any hazardous materials or conditions are discovered during normal operations, it is the responsibility of the vendor to immediately contact the County Project Manager with a description and the location of the condition.

LIQUIDATED DAMAGES

The County and the vendor recognize that, since time is of the essence for services as part of the contract, the County could suffer financial loss if the work is not completed within the time specified.

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The County will be entitled to assess charges, as liquidated damages, but not as a penalty, for each calendar day after the scheduled completion date. The project will be deemed to be completed on the date it is accepted by the County Project Manager. The vendor hereby expressly waives and relinquishes any right which it may have to seek to characterize the above-noted liquidated damages as a penalty. The parties agree that the liquidated damages sum represents a fair and reasonable estimate of the County's actual damages at the time of contracting if the vendor fails to complete the work in a timely manner. The liquidated damages will be as follows:

Specific Project Amount	Daily Charge Per Calendar Day
\$5,000 and under	\$25
Over \$5,000 but less than \$10,000	\$75
\$10,000 or more but less than \$20,000	\$150
\$20,000 or more but less than \$30,000	\$250
\$30,000 or more but less than \$40,000	\$350
\$40,000 or more but less than \$50,000	\$450
Over \$50,000 but less than \$250,000	\$544

Any vendor that is in default for not completing the work within the time specified will be removed from the bidder's list, at the option of the County, and not permitted to bid work for Lake County until the project is complete and the liquidated damages sum is satisfied.

The County will retain from the compensation to be paid to the vendor the above described sum. If the vendor continues to fail to complete any or all remaining scheduled work, the County will charge the vendor any additional costs that would be incurred over and above the original contract cost. This amount will be considered a minimum to complete all remedial work, correct deficient work, clean up the project and other miscellaneous tasks as required to complete all work specified. This amount is in addition to the liquidated damages prescribed above and will not be construed as a penalty.

WORK ACCEPTANCE

Upon written notice from the vendor that the work is complete, the County Project Manager will make a final inspection with the vendor and will notify the vendor in writing of any deficiencies in the project. The vendor must correct all deficiencies before final acceptance and payment is made. If the deficiency is not properly corrected and there is a third inspection, the County will assess an eighty-dollar (\$80.00) fee to the vendor. The eighty-dollar (\$80.00) fee will be assessed for every re-inspection. The fee is assessed to offset the additional County labor costs and vehicle usage required for unnecessary inspections and the fee will be deducted from the final invoice.

WARRANTY

All work performed under the contract must be warranted to provide, at a minimum, the specified performance criteria for a period of at least eighteen (18) months after completion of the project and acceptance by the County. Acceptability of this work will be determined based on both end-result and performance-based criteria. Performance criteria are as follows: Fatigue (Alligator) Cracking: Replace any segment that has a fatigue cracking condition rating exceeding the low severity level for more than ten percent (10%) of the pavement surface area in any segment during the warranty period. Rutting: Replace the segment where any rutting resulting from failure of the base is more than one-half (½) inch depth as measured with a 10-foot long straightedge. Potholes: The vendor will be responsible for the repair of any potholes that emerge in the surface area. If the

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surface area of all potholes totals five percent (5%) or more of the segment's surface area, the vendor must replace the segment.

It is the County's responsibility to monitor warranted work to determine the performance. This includes performance of tests, recording observations, providing the vendor with access to this information, and notifying the vendor in writing of any required warranty work.

It is the vendor's responsibility to supply all material, labor, equipment and expertise to perform warranty work at no additional cost to the County. The vendor must provide the County with certification that all materials, mixtures, and workmanship meet or exceed the requirements specified in this solicitation. The vendor must complete all warranty repairs and permanent replacement as directed by the County, maintaining traffic control as specified in this solicitation. The vendor must repair the areas within thirty (30) calendar days from notification by the County. In the event of any failure of the repaired area, in accordance with the performance criteria in this solicitation, the County and the vendor will determine if the failure is due to the materials or workmanship being at fault. If the failure is due to the materials or workmanship being at fault, the vendor must repair the failed areas at no cost to the County. In cases where the failure resulted from drainage problems or an unexpected increase in traffic/truck equivalent single axle loadings (ESALs), then the County will be responsible for any needed repairs at no cost to the vendor. In cases where the overlay was inadequate or poorly constructed by the vendor, then the vendor must replace the defective area utilizing overlay as specified in this solicitation, at no cost to the County.

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ATTACHMENT B – ADDENDUMS



OFFICE OF PROCUREMENT SERVICES
315 WEST MAIN STREET, SUITE 441
PO BOX 7800
TAVARES FL 32778-7800

PHONE: (352) 343-9839
FAX: (352) 343-9473

ADDENDUM NO. 2

Date: March 28, 2019

Invitation to Bid (ITB) 19-0921

On-Call Pavement and Base Repair Contractor

It is the vendor's responsibility to ensure their receipt of all addenda, and to clearly acknowledge all addenda within their initial bid or proposal response. Acknowledgement may be confirmed either by inclusion of a signed copy of this addendum with their response by completion and/or return of the addendum acknowledgement section of the solicitation. Failure to acknowledge each addendum may prevent the bid or proposal from being considered for award.

This addendum DOES NOT change the date for receipt of bids.

Questions/Answers:

Q1. Striping of thermoplastic, most striping firms, will not place thermo until the asphalt has cured at least 14 days. The bid has no provision for temporary paint until thermo can be placed. Please confirm that the intent is to place thermoplastic and not paint. And please confirm where to price the temporary paint if thermoplastic is the basis of the bid?

A1. The provision for temporary or permanent paint will be identified per project as stated in Section 2 – Statement of Work – Striping

“Unless otherwise directed by the County Project Manager, all pavement markings must be installed to meet existing layout and must be included as a separate unit cost item on the Notice to Proceed.”

The vendor shall supply a cost to install temporary paint and thermoplastic markings. This cost shall be listed on the “Total Price” column and include all costs associated in the temporary paint and thermoplastic markings on the newly attached pricing sheet titled “Pavement Markings”.

Addendum to Modify the below section with the highlighted inserts and changes.

Section 2 – Statement of Work – Notice to Proceed

NOTICE TO PROCEED

All work must be ordered by the County Project Manager with a Notice to Proceed.

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The vendor will have sixty (60) calendar days to COMPLETE the project from the date of receipt of the work request regardless of the amount of work described unless otherwise stated on the Notice to Proceed. A fourteen (14) day asphalt cure time shall be allowed in addition to the sixty (60) calendar days to complete the project for the placement of thermoplastic striping. No additional days will be provided for normal weather delays. Average number of days of rainfall will be determined by the Southeast Regional Climate Center which can be found at the following link:

Section 2 – Statement of Work – Striping

STRIPING

Unless otherwise directed by the County Project Manager, all pavement markings must be installed to meet the existing layout and must be included as a separate unit cost item on the Notice to Proceed. It is the responsibility of the vendor to ensure the current (before resurfacing) striping layout is recorded so that the same layout is placed on the newly resurfaced road, unless the County supplies a new pattern to be used. Any striping installed in a different layout than the previously existing must be removed and replaced by the vendor at no additional cost to the County unless previously directed in writing.

Any pavement markings that are disturbed as part of the base repair must be replaced as directed by the County Project Manager. A fourteen (14) day asphalt cure time will be allowed in addition to the sixty (60) calendar days to complete the project for the placement of thermoplastic striping. All pavement marking work will be performed in accordance with the requirements of the latest edition of the following manuals and publications, including, but not limited to: the Florida Department of Transportation "Standard Plans for Road and Bridge Construction" and the Federal Highway Administration "Manual of Uniform Traffic Control Devices".

The Revised Bid Form above Line 21 refers to "Permanent Thermoplastic Striping", however, it should refer to "PAVEMENT MARKINGS". I am attaching a new Bid Form titled Final Bid Form to be used for your response to this solicitation.

Acknowledgement of Addendum:

Firm Name: PAQCO, INC Date: 3-28-19
Signature: [Signature] Title: Vice President
Typed/Printed Name: FAY PAQUETTE

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ATTACHMENT C -PRICING SCHEDULE

CONTRACTOR agrees to provide services to the COUNTY, pursuant to the terms and conditions of this Agreement, under the following pricing schedule:

FINAL BID FORM

Item No.	Description	UOM	Price Per Unit	Estimated Usage	Total Price
1	Mobilization/Demobilization Charge	EACH	\$1,750.00	20	\$35,000.00
2	Portable Changeable (Variable) Message Signs	EACH DAY	\$800.00	10	\$8,000.00
3	Base Repair (10-20 SY)	SQUARE YARD	\$60.00	200	\$12,000.00
4	Base Repair (>20-50 SY)	SQUARE YARD	\$50.00	500	\$25,000.00
5	Base Repair (>50-100 SY)	SQUARE YARD	\$40.00	400	\$16,000.00
6	Base Repair (>100-200 SY)	SQUARE YARD	\$33.50	1500	\$50,250.00
7	Base Repair (>200 SY)	SQUARE YARD	\$27.50	1000	\$27,500.00
8	Additional one inch per SY for linerock to be installed	SQUARE YARD	\$2.00	50	\$100.00
9	Milling (10-20 SY)	SQUARE YARD	\$35.00	25	\$875.00
10	Milling (>20-50 SY)	SQUARE YARD	\$28.00	50	\$1,400.00
11	Milling (>50-100 SY)	SQUARE YARD	\$25.00	100	\$2,500.00
12	Milling (>100-200 SY)	SQUARE YARD	\$22.50	500	\$11,250.00
13	Milling (>200 SY)	SQUARE YARD	\$20.00	1500	\$30,000.00
14	Asphalt Repair (10-20 SY)	SQUARE YARD	\$17.50	225	\$3,937.50
15	Asphalt Repair (>20-50 SY)	SQUARE YARD	\$15.00	550	\$8,250.00
16	Asphalt Repair (>50-100 SY)	SQUARE YARD	\$14.00	500	\$7,000.00
17	Asphalt Repair (>100-200 SY)	SQUARE YARD	\$12.50	2000	\$25,000.00
18	Asphalt Repair (>200 SY)	SQUARE YARD	\$12.50	2500	\$25,000.00 ^{REV} \$31,250.00
19	Additional one inch per SY for asphalt to be installed	SQUARE YARD	\$8.75	500	\$4,375.00

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20	Asphalt Per Ton	TON	\$130.00	5,000	\$ 650,000.00
PAVEMENT MARKINGS					
21	4-Inch White Line	LINEAR FOOT	\$ 1.50	125	\$ 187.50
22	4-Inch Yellow Line	LINEAR FOOT	\$ 1.50	125	\$ 187.50
23	6-Inch White Line	LINEAR FOOT	\$ 1.75	2,500	\$ 4,375.00
24	6-Inch Yellow Line	LINEAR FOOT	\$ 1.75	2,500	\$ 4,375.00
25	18-Inch White Line For Gore Areas	LINEAR FOOT	\$ 3.50	500	\$ 1,750.00
26	18-Inch Yellow Line for Gore Areas	LINEAR FOOT	\$ 3.50	500	\$ 1,750.00
27	Symbol - Single Arrow*	EACH	\$ 80.00	5	\$ 400.00
28	Symbol - Combination Arrow*	EACH	\$ 115.00	5	\$ 575.00
29	Message - School*	EACH	\$ 215.00	5	\$ 1,075.00
30	Message - Railroad Crossing*	EACH	\$ 215.00	5	\$ 1,075.00
31	Message - Only*	EACH	\$ 115.00	5	\$ 575.00
32	Message - Merge*	EACH	\$ 150.00	5	\$ 750.00
33	Message - Stop*	EACH	\$ 150.00	5	\$ 750.00
34	Message Miscellaneous, 4-6 Letters	EACH	\$ 150.00	5	\$ 750.00
35	24-Inch White Stop Bar	EACH	\$ 100.00	20	\$ 2,000.00
36	Raised Pavement Markings	EACH	\$ 6.50	500	\$ 3,250.00
Additional Items					
37	Night Work Charge (Including Lights)	EACH HOUR	\$ 300.00	40	\$ 12,000.00

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38	Cost Per Day for Law Enforcement Officer To Assist With MOT - 8 Hour Shift; Only Used If Project Manager Requests Service	DAY	\$400 ⁰⁰	\$	\$2,000.00
Grand Total					\$2,000.00 ^{KAT} \$987,512.50

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.B.5.

Meeting Date: October 25, 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 Amendment Two to an existing Agreement with Allied Universal Corporation for Annual Chlorine Gas; and providing an effective date.

Staff Recommendation:

Staff recommends approval of the resolution authorizing the execution of Amendment Two to an existing Agreement with Allied Universal Corporation for Annual Chlorine Gas.

Analysis:

The City's Water and Waste Water Divisions use chlorine gas to treat both potable water and wastewater. The purpose of this agreement is to establish a fixed unit price agreement with a vendor to provide chlorine gas in 150 lb. bottles and 2,000 lb. cylinders.

Procurement Analysis:

On February 12, 2018, the City Commission approved Resolution 10,146 authorizing award of Invitation for Bid 180141 and execution of a fixed unit price agreement with Allied Universal Corporation for chlorine gas products. Staff requests the contract unit prices are amended as follows:

Chlorine Gas – 150 lb. Bottles will now be **\$110.00 per Bottle**
Chlorine Gas – 2,000 lb. Cylinders will now be **\$1,065.00 per Cylinder**

All other terms of the Agreement will remain the same.

Options:

1. Approve the resolution authorizing execution of Amendment Two with Allied Universal Corporation; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

Both the water and wastewater division budget for this expenditure each fiscal year. Funds are budgeted

and available in Fiscal Year 2022.

Submission Date and Time: 10/20/2021 3:15:04 PM

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE
AMENDMENT TWO TO AN EXISTING AGREEMENT WITH ALLIED
UNIVERSAL CORPORATION FOR ANNUAL CHLORINE GAS; 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 Amendment Two with Allied Universal Corporation, whose address is 3901 N.W. 115 Avenue, Miami, FL 33178, for Chlorine Gas (IFB 180141).

THAT all future expenditures for commodities (goods & services) ordered under this Agreement are approved provided the Commission has appropriated funds in the applicable fiscal year. Should the department fail to budget funds for orders under this Agreement or purchases exceed the appropriated funds, commission approval for any orders will be required.

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 on the 25th day of October 2021.

Mayor

ATTEST:

City Clerk

**SECOND AMENDMENT
OF A FIXED UNIT PRICE AGREEMENT**

THIS AGREEMENT is made as of the 25th day of October 2021, between **THE CITY OF LEESBURG, FLORIDA** 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 **ALLIED UNIVERSAL CORPORATION** whose address is 3901 N.W. 115 Avenue, Miami, FL 33178 (hereinafter referred to as the “CONTRACTOR”).

WITNESSETH:

THAT, on February 12, 2018, the CITY and CONTRACTOR entered into a unit price supply agreement whereby the CONTRACTOR agreed to provide Chlorine Gas products to the CITY (hereinafter referred to as the “Agreement”).

WHEREAS, the parties wish to extend the term of the Agreement and have entered into this Amendment for that purpose.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties to this Agreement and from other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated by reference herein and made a part hereof.
2. **Amendment.** The parties agree to amend the agreement as follows:
 - a. The term of the Agreement is extended through September 30, 2022.
 - b. The parties agree to revise the unit pricing to reflect an increase as detailed in Attachment ‘A’
3. **Modification.** Except as specifically modified by this Amendment, all terms and conditions of the prior agreement shall continue in full force and effect as originally executed. Nothing herein shall be deemed or construed to amend or modify any other contract or undertaking between the CITY and CONTRACTOR other than as defined above.
4. **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.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Agreement for professional services.

ALLIED UNIVERSAL CORPORATION

By: _____

Printed: _____

Its: _____
(Title)

CITY OF LEESBURG, FLORIDA

John Christian, Mayor

ATTEST:

J. Andi Purvis, City Clerk

Approved as to form:

Fred A. Morrison, City Attorney

ATTACHMENT 'A'

Revised Unit Pricing – Reflects an increase to original contract pricing.

Item No.	Item Description	Unit Price
1	CHLORINE GAS 150 lb. Bottles	\$110.00
2	CHLORINE GAS 2,000 lb. Cylinders	\$1,065.00

[End of Attachment]

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.B.6.

Meeting Date: October 25, 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 Bulldog Sitework, LLC. for an amount of \$82,705.60; and providing an effective date.

Staff Recommendation:

Staff recommends approval of the resolution authorizing execution of the Construction Services Agreement with Bulldog Sitework, LLC. for an amount of \$82,705.60.

Analysis:

The purpose of this project is to relocate water and wastewater utility lines located near or at the intersection of US Highway 441 and Picciola Road. The utilities must be relocated as they are in conflict with road widening work to be completed by the Florida Department of Transportation (FDOT). The road widening will require the relocation of traffic signal poles. The new location for the poles are where the underground water and wastewater lines are currently located. The City is fully responsible for the relocation of the utility lines and will receive no compensation from FDOT.

Procurement Analysis:

In order to expedite the project and not hold up the work FDOT staff solicited quotes from contractors qualified to complete the work. Those quotes are summarized here.

- Bulldog Sitework, LLC. (Lady Lake) - \$82,705.60
- Marion Rock, Inc. (Ocala) - \$84,896.75
- CW Roberts (Wildwood) - \$120,170.75

Bulldog Sitework, LLC. submitted the lowest price for the work and staff recommends awarding the Contract to Bulldog Sitework, LLC. The City's Local Vendor Preference was applied, but was not a factor as Bulldog Sitework, LLC. qualifies as a Tier II Local Vendor.

Options:

1. Approve the resolution authorizing execution of the Agreement with Bulldog Sitework, LLC. for an

amount of \$82,705.60; or

2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

These funds are available in the current Water and Wastewater Funds.

Account No.	043-3081-533.46-25 044-4081-535.46-25
Project No.	436016 447012
WF No.	N/A
Requisition	53896

Submission Date and Time: 10/20/2021 3:17:42 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 BULLDOG SITEWORK,
LLC. FOR AN AMOUNT OF \$82,705.60; 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 BULLDOG SITEWORK, LLC. whose address is 609 Highway 466, Lady Lake, Florida 32159 for construction services for the Picciola Road Utility Relocation project pursuant to the Contract 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 on the 25th day of October 2021.

Mayor

ATTEST:

City Clerk

AGREEMENT FOR CONTRUCTION SERVICES

THIS AGREEMENT is made as of the 25th day of October in the year 2021, 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 **BULLDOG SITEWORK, LLC** whose address is 609 Highway 466., Lady Lake, Florida 32159 (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. The Professional Drawings prepared by Riddle Newman Engineering, Inc. titled Picciola Utility Relocation dated 2/3/2021 and a Revision #2 date of 4/21/202 are incorporated by reference; and
- c. CONTRACTOR Proposal included as Attachment 'A'; and
- d. Supplemental Conditions included as Attachment 'B'; and

2. **Scope of Services.** The CONTRACTOR shall furnish the following services generally described as the "**PICCIOLA UTILITY RELOCATION**" to the CITY as listed in the Contract Documents. 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 **\$82,705.60**. 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 Contractor's License issued by the State of Florida.

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 **FIVE (5)** 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 **TWENTY ONE (21)** 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. **Notice to Procure.** The City may issue a Notice to Procure in advance of the official Notice to Proceed to allow the CONTRACTOR to place orders for material necessary for this project.

9. **Liquidated Damages. None**

10. **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.

11. **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.

12. 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, FLORIDA STATUTES TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS 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: Naiara Petralanda

Address: 609 Highway 466

City, State & Zip: Lady Lake, Florida 32159

Telephone: 352-365-2364

Email Address: naiara@bulldogsitework.com

CITY Contact Information

Name/Title: Ryan Gerdon, Project Manager

Telephone: 352-728-9786 x2433

Email Address: ryan.gerdon@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. **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.

33. **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.

BULLDOG SITEWORK, LLC

By: _____

Printed: _____

Its: _____
(Title)

CITY OF LEESBURG, FLORIDA

John Christian, Mayor

ATTEST:

J. Andi Purvis, City Clerk

Approved as to form:

Fred A. Morrison, City Attorney



Attachment 'A'
Bulldog Sitework LLC

609 HWY 466
Lady Lake, FL 32159
(352) 267 4664
www.BulldogSitework.com

Attn: Ryan Gerdon
Project: Picciola Utility Relocation
Date: 10/04/2021

Dear Mr. Gerdon:

The proposed quote includes labor, materials and equipment for the items listed on the attached bid. The proposal is based on plans dated 04/21/2021, drawn by Riddle-Newman Engineering, Inc.

Included on the bid are the following checked items:

- | | |
|---|---|
| ☒ Survey & Staking | ☐ Relocation Conflicting Utilities (Power Poles, Conduits, etc.) |
| ☐ Permits | ☐ Relocation of Endangered Animals or Plants |
| ☐ Seed | ☐ Irrigation Relocation |
| ☐ Density Test | ☒ Sod |
| ☒ As-built Survey | ☐ Clearing & Grubbing |
| ☐ Asphalt Repair | ☐ Erosion Control/Silt Fencing |
| ☐ Water Meter | ☐ Dewatering |
| ☐ NPDES Permit | ☐ Rock Removal |
| ☐ Additional Insurance Requirements | ☐ Bond |
| ☐ Removal & Replacement of Unsuitable Material | ☐ Concrete Repair |
| ☐ Hazardous Waste or Substandard Soil Removal | ☒ Maintenance of Traffic |
| | ☐ Video (TV Pipe) |

We appreciate your business.
Sincerely,

Naiara Petralanda

Naiara Petralanda
Bulldog Sitework LLC
Naiara@BulldogSitework.com

Attachment 'A'**Bulldog Sitework LLC**

609 HWY 466
Lady Lake, FL 32159
(352) 267 4664
www.BulldogSitework.com

Attn: Ryan Gerdon

Leesburg Public Works Department
352.705.0248
Ryan.Gerdon@leesburgflorida.gov

Bid Proposal for Picciola Utility Relocation

10/04/2021

ITEM	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
General conditions					
01-00031	Project Management and Coordination	1	l/s	3184.00	3184.00
01-00060	Mobilization/demobilization	1	l/s	4040.00	4040.00
01-00051	Cleaning and temporary utilities	1	l/s	492.00	492.00
02-00021	Survey/lay-out/as-builts	1	l/s	2352.00	2352.00
34-07100	M.O.T	1	l/s	744.00	744.00
Sub Total					10812.00
Potable Water					
33-40103	6" PVC	60	lf	211.94	12716.40
33-40204	Fire hydrant assembly	1	ea	5810.95	5810.95
33-40208	Blow-off test and chlorinate	1	l/s	543.95	543.95
02-00041	Remove concrete	1	l/s	415.15	415.15
37-01000	Replace concrete	1	l/s	2870.40	2870.40
36-01000	Sod disturbed areas	800	sf	0.69	552.00
33-40206	Temporary jumper	1	ea	1380.00	1380.00
Sub Total					24288.85
Sanitary sewer					
33-20203	10" PVC SDR 26	130	lf	103.37	13438.10
33-20303	Standard manhole	2	ea	4375.75	8751.50
33-20305	Doghouse manhole (installation and tie in)	1	ea	8422.10	8422.10
33-20701	Tie into existing	1	l/s	4864.00	4864.00
33-20700	Plug existing	2	l/s	877.45	1754.90
01-00071	Locate existing utilities	1	l/s	2213.75	2213.75
37-02000	Asphalt repair	1	l/s	3574.20	3574.20
37-01000	Concrete sidewalk repair	1	l/s	2357.50	2357.50
31-02219	Final grade and sod	1	l/s	2012.50	2012.50
33-20900	Testing	1	l/s	216.20	216.20
Sub Total					47604.75
Grand Total					82705.60

Note:

All testing for the water and sewer lines as well as the chlorination of the water lines is included.

All other testing is excluded.

Bulldog Sitework LLC provides one-year warranty on material and workmanship.

Please note that this estimate/proposal is valid for a period of 30 days.

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 attachments 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 other-wise). 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 ownership 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.7.

Meeting Date: October 25, 2021

From: Mike Thornton, (Purchasing Manager), Al Minner, (City Manager)

Subject: Resolution of the City Commission of the City of Leesburg, Florida authorizing the City Manager to approve all new and replacement vehicle/equipment purchases for Fiscal Year 2022; and providing an effective date.

Staff Recommendation:

Staff recommends the City Commission authorize the City Manager to approve all budgeted vehicle/equipment purchases for Fiscal Year 2022.

Analysis:

The current automotive and equipment market is unstable. Lead times are long and prices are increasing. In addition, the order windows from the automotive manufacturers are not certain and have limited availability. Due to these conditions, the City's typical process for the approval and ordering of vehicles will add the risk of the City missing manufacturer order windows. Another factor affecting the market is that manufacturers have a set manufacturing capacity for all vehicles. Some of those manufacturing slots are being reallocated from fleet vehicles to the retail/consumer manufacturing allocation. The manufacturing allocation for fleet equipment and fleet sales is being decreased.

This resolution will allow the Procurement Division to obtain quotes from competitively awarded cooperative contracts such as Sourcewell (fka NJPA) and following City Manager approval, Procurement can issue a purchase order for the vehicle or equipment. This process will eliminate a two to potentially three week waiting period while City Commission approval is sought. During that time, the available allocations for the different vehicles could be given to other government agencies or fleet sales.

Procurement Analysis:

The Procurement Division will request quotes from automotive and equipment dealers using competitively awarded cooperative contracts. Contracts awarded by entities such as State of Florida Department of Management Services, Sourcewell (fka NJPA), and HGAC Buy. The City has used all three of these cooperative contracts for past purchases.

The list of vehicle and equipment purchases is attached. The listed equipment is the equipment being replaced. The listed equipment will be replaced with like equipment.

Options:

1. Approve the resolution authorizing the City Manager to approve all budgeted vehicle and equipment purchases for Fiscal Year 2022; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

Funds are budgeted and available for the purchase of vehicles and equipment. Replacement equipment will be purchased from the Fleet Division equipment replacement budget. New equipment has been budgeted in the respective departments' capital purchase budget.

Submission Date and Time: 10/20/2021 3:19:08 PM

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING THE CITY MANAGER TO APPROVE ALL NEW
AND REPLACEMENT VEHICLE/EQUIPMENT PURCHASES FOR FISCAL
YEAR 2022; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the new vehicle and equipment market, as with most markets, is very unstable.

WHEREAS, any delay in placing orders for vehicles and equipment could result in a significant delay in delivery of the vehicles and equipment.

WHEREAS, the City's typical method of requesting quotes, seeking City Commission approval, and placing orders creates a longer processing time that may result in the City missing limited allocation slots for vehicle and equipment orders.

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

THAT the City Manager has been granted the authority to approve all budgeted vehicle and equipment purchases for Fiscal Year 2022.

THAT all purchases will have available funding as verified by the City's Budget Manager and Finance Director prior to purchase orders being issued and orders being placed.

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 on the 25th day of October 2021.

Mayor

ATTEST:

City Clerk

FISCAL YEAR 2022 VEHICLE AND EQUIPMENT BUDGETED REPLACEMENTS AND NEW

DEPT.	REPLACES UNIT#	DESCRIPTION	CONDITION SCORE	REPLACE OR NEW	COST/BUDGET
CANAL ST.	739	2001 F-150	35.1	REPLACE	\$27,500
ELECTRIC	4039	2007 ALTEC BUCKET	53.7	REPLACE	\$253,000
FLEET	637	2001 F-350 UTILITY	48.3	REPLACE	\$45,000
SOLID WASTE	9095	2013 AUTOMATED REFUSE TRUCK	70.84	REPLACE	\$280,000
TURNPIKE	724	2002 S-10	35.05	REPLACE	\$27,500
WWT COLL.	723	2002 C2500 UTILITY	38	REPLACE	\$38,000
ELECTRIC	470	1998 ARROWBOARD	31.6	REPLACE	\$5,500
FIRE	647	2003 EXPLORER	39.2	REPLACE	\$35,000
GAS	508	2012 F-550 UTILITY	48.4	REPLACE	\$61,000
GAS	509	2012 F-550 UTILITY	44.8	REPLACE	\$61,000
GAS	4020	2004 TRENCHER	39.1	REPLACE	\$80,000
POLICE	8111	2012 CHARGER	39.27	REPLACE	\$52,400
POLICE	8114	2012 CHARGER	38.63	REPLACE	\$52,400
POLICE	8002	2013 CHARGER	39.7	REPLACE	\$52,400
POLICE	8003	2013 CHARGER	39.72	REPLACE	\$52,400
POLICE	8004	2013 CHARGER	39.1	REPLACE	\$52,400
POLICE	8007	2013 CHARGER	38.4	REPLACE	\$52,400
POLICE	8008	2013 CHARGER	40.8	REPLACE	\$52,400
POLICE	8131	2013 CHARGER	39.84	REPLACE	\$52,400
POLICE	8132	2014 CHARGER	39	REPLACE	\$52,400
POLICE	8157	2017 EXPLORER K-9	61.74	REPLACE	\$55,350
RECREATION	200	1993 JD TRACTOR	51.7	REPLACE	\$35,000
RECREATION	222	2002 C1500	39	REPLACE	\$27,500
RECREATION	291	2010 KUBOTA UTV	33.25	REPLACE	\$12,000
TURNPIKE	7058	2007 KUBOTA UTV	37.2	REPLACE	\$12,000
WATER	2022	2005 F-150	38.58	REPLACE	\$27,500
WATER	9072	2005 F-150 EXT. CAB	39.88	REPLACE	\$27,500
WATER	301	2012 KUBOTA ZERO TURN		REPLACE	\$7,700
SOLID WASTE	NEW	NEW AUTOMATED REFUSE TRUCK	N/A		\$250,000
ELECTRIC	NEW	NEW BUCKET/SERVICE TRUCK	N/A		\$200,000
GAS DEPARTMENT	NEW	EQUIPMENT TRAILER	N/A		\$8,000
				Total Budget	\$2,047,650

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.B.8.

Meeting Date: October 25, 2021

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

Subject: Resolutions authorizing the execution of amendments to extend two agreements.

Staff Recommendation:

Staff recommends approval of the resolutions authorizing execution of Amendment One with Danus Utilities, Inc. and Utility Technicians, Inc. extending the term of the original Agreements with each contractor for lift station rehabilitation services.

Analysis:

The City has two (2) awarded contracts for Lift Station Rehabilitation Services. These contracts allow the Public Works Department to request a proposal from one of the Contractors whenever a lift station requires significant repairs or rehabilitation. This is a much more efficient method to obtain these services. Prior to these contracts being awarded, Public Works and Procurement would issue a Invitation for Bid whenever a Lift Station required rehabilitation. Each of the contracts has a contract item schedule and associated cost for each work item.

Procurement Analysis:

The City Commission approved Resolutions 10,739 and 10,740 on October 26, 2020 authorizing execution of the Fixed Unit Price Agreements for Construction Services with each of the Contractors, Danus and Utility Technicians. The Agreements allowed for the City to extend the term if mutually agreeable. The City and Contractors wish to extend each of the Agreements by execution of the Amendments. The extension of the Agreement is in accordance with the contract language in the original agreement.

Options:

1. Approve the resolutions authorizing extension of the Agreements with Danus Utilities, Inc. and Utility Technicians, Inc.; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

There is no fiscal impact at this time by approving the resolutions extending the agreements. There will

be a fiscal impact as services are ordered under the Agreement. When services are ordered the appropriate approval will be obtained at that time depending on the cost of the order for work and purchasing approval thresholds. The majority of work ordered under these Agreements is for projects already budgeted by the Wastewater Division.

Submission Date and Time: 10/20/2021 3:21:07 PM

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE
AMENDMENT ONE WITH DANUS UTILITIES, INC. EXTENDING THE
TERM OF AN EXISTING FIXED UNIT PRICE CONSTRUCTION SERVICES
AGREEMENT; 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 Amendment One with **DANUS UTILITIES, INC.** whose address is 2320 Beardall Avenue, Sanford, FL 32771.

THAT all future expenditures for commodities (goods & services) ordered under this Agreement are approved provided the City Commission has appropriated funds in the applicable fiscal year. Should the department fail to budget funds for orders under this agreement or purchases exceed the available funds budgeted in the fiscal year, City Commission approval for any orders may be required in accordance with the approval threshold amounts.

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 on the 25th day of October 2021.

Mayor

ATTEST:

City Clerk

**FIRST AMENDMENT OF A FIXED UNIT PRICE
AGREEMENT FOR CONSTRUCTION SERVICES**

THIS AGREEMENT is made as of the 25th day of October 2021, between **THE CITY OF LEESBURG, FLORIDA** 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 **DANUS UTILITIES, INC.** whose address is 2320 Beardall Avenue, Sanford, FL 32771 (hereinafter referred to as the “CONTRACTOR”).

WITNESSETH:

THAT, on October 26, 2021, the CITY and CONTRACTOR entered into a fixed unit price agreement for construction services whereby the CONTRACTOR agreed to provide Lift Station Rehabilitation Services to the CITY (hereinafter referred to as the “Agreement”).

WHEREAS, the parties wish to extend the term of the Agreement and have entered into this Amendment for that purpose.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties to this Agreement and from other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated by reference herein and made a part hereof.
2. **Amendment.** The parties agree to amend the agreement as follows:
 - a. The term of the Agreement is extended through September 30, 2022.
3. **Modification.** Except as specifically modified by this Amendment, all terms and conditions of the prior agreement shall continue in full force and effect as originally executed. Nothing herein shall be deemed or construed to amend or modify any other contract or undertaking between the CITY and CONTRACTOR other than as defined above.
4. **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.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Agreement for professional services.

DANUS UTILITIES, INC.

By: _____

Printed: _____

Its: _____
(Title)

CITY OF LEESBURG, FLORIDA

John Christian, Mayor

ATTEST:

J. Andi Purvis, City Clerk

Approved as to form:

Fred A. Morrison, City Attorney

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE
AMENDMENT ONE WITH UTILITY TECHNICIANS, INC. EXTENDING THE
TERM OF AN EXISTING FIXED UNIT PRICE CONSTRUCTION SERVICES
AGREEMENT; 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 Amendment One with **UTILITY TECHNICIANS, INC.** whose address is 630 Goodbar Avenue, Umatilla, Florida 32784.

THAT all future expenditures for commodities (goods & services) ordered under this Agreement are approved provided the City Commission has appropriated funds in the applicable fiscal year. Should the department fail to budget funds for orders under this agreement or purchases exceed the available funds budgeted in the fiscal year, City Commission approval for any orders may be required in accordance with the approval threshold amounts.

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 on the 25th day of October 2021.

Mayor

ATTEST:

City Clerk

**FIRST AMENDMENT OF A FIXED UNIT PRICE
AGREEMENT FOR CONSTRUCTION SERVICES**

THIS AGREEMENT is made as of the 25th day of October 2021, between **THE CITY OF LEESBURG, FLORIDA** 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 **UTILITY TECHNICIANS, INC.** whose address is 630 Goodbar Avenue, Umatilla, Florida 32784 (hereinafter referred to as the “CONTRACTOR”).

WITNESSETH:

THAT, on October 26, 2021, the CITY and CONTRACTOR entered into a fixed unit price agreement for construction services whereby the CONTRACTOR agreed to provide Lift Station Rehabilitation Services to the CITY (hereinafter referred to as the “Agreement”).

WHEREAS, the parties wish to extend the term of the Agreement and have entered into this Amendment for that purpose.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties to this Agreement and from other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated by reference herein and made a part hereof.
2. **Amendment.** The parties agree to amend the agreement as follows:
 - a. The term of the Agreement is extended through September 30, 2022.
3. **Modification.** Except as specifically modified by this Amendment, all terms and conditions of the prior agreement shall continue in full force and effect as originally executed. Nothing herein shall be deemed or construed to amend or modify any other contract or undertaking between the CITY and CONTRACTOR other than as defined above.
4. **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.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Agreement for professional services.

UTILITY TECHNICIANS, INC.

By: _____

Printed: _____

Its: _____
(Title)

CITY OF LEESBURG, FLORIDA

John Christian, Mayor

ATTEST:

J. Andi Purvis, City Clerk

Approved as to form:

Fred A. Morrison, City Attorney

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.C.1.

Meeting Date: October 25, 2021

From: Jack Rogers, (Gas Director)

Subject: Resolution of the City Commission of the City of Leesburg, Florida, authorizing and directing the Mayor and City Clerk to execute a Directive to Florida Gas Utility to purchase firm gas supply at discount pricing from Black Belt Energy; and providing an effective date.

Staff Recommendation:

Staff recommends approval of a Directive to Florida Gas Utility for the purchase of firm gas supply.

Analysis:

On September 27, 2021, the City Commission approved a contract with the City of Lakeland to purchase natural gas from the City of Leesburg. This Directive instructs Florida Gas Utility to secure firm gas supply from Black Belt Energy at discount pricing for resale to the City of Lakeland. Should the City of Lakeland no longer need the volumes requested, the City of Leesburg will no longer be bound to the Contract and Directive.

Procurement Analysis:

NA

Options:

1. Approve the Directive to Florida Gas Utility; or
2. Such action as the Commission may deem appropriate.

Fiscal Impact:

Revenue derived from the sale contract with the City of Lakeland will be approximately \$45,000 annually.

Submission Date and Time: 10/20/2021 3:24:34 PM

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR AND CITY
CLERK TO EXECUTE A DIRECTIVE TO FLORIDA GAS UTILITY TO
PURCHASE FIRM GAS SUPPLY AT DISCOUNT PRICING FROM BLACK
BELT ENERGY; 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 directive to Florida Gas Utility to purchase firm gas supply at discount pricing from Black Belt Energy.

THIS RESOLUTION shall take effect upon its passage and adoption according to law.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held on the 25th day of October, 2021.

Mayor

ATTEST:

City Clerk

Place on City Letterhead

October 7, 2021

Directive Confirmation and Addendum

To: Thomas A. Geoffroy, General Manager & CEO
Florida Gas Utility

From: City of Leesburg (referred to in this Directive as “Participant”)

Subject: Firm Gas Supply Authorization Under All Requirements Gas Services Agreement - Black Belt Energy Transaction 2021

This directive and authorization (“Directive”) is given pursuant to the Gas Services Agreement between Florida Gas Utility (“FGU”) and Participant, dated as of October 1, 2000 (the “Agreement”) and will constitute an Addendum to the Agreement. The gas to be delivered under this Directive shall, except as otherwise provided herein, be supplied in accordance with Section 3 of the Agreement.

FGU has shared with Participant information concerning an opportunity to participate in a gas pre-pay transaction initiated by Black Belt Energy (“BBE”). Under the proposal, BBE has offered to FGU initial discounted pricing of \$0.30/MMBtu off Inside FERC First of Month Index for the applicable geographic zone, for an approximate 30-year commitment to purchase firm quantities of gas, subject to a number of adjustments and variables, including future bond re-pricings after approximately the first five years, and thereafter at approximate five- to seven-year intervals over the term of the bonds (the “Variable Discount”). If the Variable Discount achieved during any re-pricing period is below \$0.17/MMBtu (the “Minimum Discount”), then the Participant has the option, but not the obligation, to exercise its right to terminate its participation for any re-pricing period(s) where the Variable Discount is less than the Minimum Discount. BBE also has the right to terminate the gas purchase agreement with FGU under certain circumstances. The detailed terms and conditions of the BBE offer are contained in gas purchase documentation that FGU has previously delivered to Participant (the “BBE Transaction Documentation”). FGU is willing to enter into the BBE Transaction Documentation on behalf of for Participant, upon Participant’s execution of this Directive, and resell gas that it obtains from BBE (“Designated Gas Supply”) as part of its obligations under the Agreement.

FGU and Participant further contemplate that Participant will sell the Designated Gas Supply to another member of FGU, the City of Lakeland (“Lakeland”) under a Gas Sales Contract (“Contract”). FGU shall remarket any gas not taken by Lakeland as stated in the Contract. Participant shall have no obligation, monetary or otherwise, related to any remarketing by FGU should Lakeland not take gas under the Contract.

This Directive will not become effective until 1) Participant obtains all necessary authorizations from its governing body by October 7, 2021; and 2) FGU executes and enters into the BBE Transaction Documentation.

Participant hereby requests and authorizes FGU to secure firm gas supply on behalf of Participant in the following quantities, under the terms and conditions of the BBE Transaction Documentation and the Agreement (the “Transaction”):

Term: For a term of approximately 30 years starting on or about April 1, 2022, subject to BBE’s termination rights under the BBE Transaction Documentation, and Participant’s right to terminate this Directive and be relieved of its obligation to purchase this Designated Gas Supply if: 1) Lakeland has provided notice of its intent to not renew the Contract; or 2) Participant’s right to suspend this Directive and be temporarily relieved of its obligation to purchase this Designated Gas Supply for any re-pricing period where the Minimum Discount is not achieved.

Quantity: Not to exceed 4,200 MMBtus per day, firm, for all months of the year (the “Daily Contract Quantity”);

Participant will be obligated 1) to purchase and receive from FGU each Gas Day on a Firm basis the designated quantity throughout the term, notwithstanding fluctuations in Participant’s gas supply requirements as otherwise permitted under Section 3 of the Agreement; and 2) to sell the gas supplies furnished pursuant to this Directive to Lakeland on a Firm basis under the Contract.

If FGU fails to deliver, then FGU shall assume Participant’s obligations under Section 6.1 of the Contract, subject to Force Majeure.

Price: Variable based on Inside FERC First of Month Index for the applicable geographic zone minus the Variable Discount, which initially shall be \$0.30/MMBtu, portions of which shall be applied on a monthly basis with the remainder applied on an annual basis. As described above the Variable Discount is subject to adjustment.

Under the terms of the Contract, for the initial discounted pricing period FGU shall sell the Daily Contract Quantity to Participant with a discount of \$0.20/MMBtu on a monthly basis and \$0.04/MMBtu on an annual basis. Participant shall pass on to Lakeland the \$0.20/MMBtu monthly and \$0.04/MMBtu annual discount. The remaining \$0.06/MMBtu discount will be split evenly between Participant and FGU.

For subsequent pricing periods, FGU shall sell the Daily Contract Quantity to Participant with a monthly discount equal to 80% of the monthly portion of the Variable Discount realized by FGU and an annual discount equal to 80% of the

annual portion of the Variable Discount realized by FGU. Participant shall pass on to Lakeland the same monthly and annual discounts with the remaining 20% of the discount to be split evenly between Participant and FGU.

Location: Receipt point(s) at SNG Z0 Pool or as otherwise determined by FGU's General Manager in accordance with the BBE Transaction Documentation.

Payment: Participant agrees to pay all amounts due with respect to the gas to be delivered under this Directive, in accordance with the terms of the BBE Transaction Documentation and the Agreement, provided, however, if Lakeland fails to pay timely under the Contract, then Participant is not obligated to make any payment on behalf of Lakeland to FGU unless Lakeland cures its nonpayment. FGU agrees to invoice Lakeland under the Contract and collect payment from Lakeland.

Participant may be required to execute additional documentation in connection with the implementation of the Transaction (such as certificates as to base load percentages and use) and periodically thereafter in accordance with the BBE Transaction Documentation and will be subject to certain limitations on the use of gas purchased under this Directive, all as set forth in the BBE Transaction Documentation.

Participant agrees that any costs that Lakeland pays it under the Contract will be flowed through to FGU, including but not limited to those inherent in Net Remarketing Proceeds under the BBE Transaction Documentation.

This Directive is given as an Addendum to the Agreement for the purchase of a specific supply of gas and shall constitute a contractual obligation of FGU and the Participant. In the event of a conflict between the terms of the BBE Transaction Documentation, as implemented by this Directive, and the terms of the Agreement, the terms of this Directive and the BBE Transaction Documentation shall control.

Authorized Signature

Print Name

Date

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.C.2.

Meeting Date: October 25, 2021

From: Robert Thilmony, (Gas Director)

Subject: Resolution of the City Commission of the City of Leesburg, Florida authorizing and directing the Mayor and City Clerk to execute a natural gas service agreement between the City of Leesburg, Florida and Abbington Oaks, Inc.; and providing an effective date.

Staff Recommendation:

Staff recommends approval of a gas service agreement with Abbington Oaks, Inc.

Analysis:

Abbington Oaks, Inc. is developing a subdivision known as Tara Oaks Phase 1D Mid East off Highway 468. Section 22-7 of the Code of Ordinance requires the owner to utilize natural gas in 80% of the 109 planned units. The estimated cost of the Infrastructure to be fully funded by the Developer is \$121,826.10.

Procurement Analysis:

NA

Options:

1. Approve Gas Service Agreement with Abbington Oaks, Inc; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

Developer will place construction funds totaling \$121,826.10 in an escrow account sufficient to fully fund the project. A budget adjustment will be processed to add these funds to the current budget.

Account No. 042-0000-223-3100

WF No. WF 1343861

Submission Date and Time: 10/20/2021 3:26:20 PM

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING AND DIRECTING THE MAYOR AND CITY
CLERK TO EXECUTE A NATURAL GAS SERVICE AGREEMENT BETWEEN
THE CITY OF LEESBURG, FLORIDA AND ABBINGTON OAKS, INC.; 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 Gas Service Agreement between the City of Leesburg and Abbington Oaks, Inc., for the purpose of setting forth the terms under which the City will supply natural gas utility service to the development known as Tara Oaks Phase 1D Mid East.

THAT this resolution shall take effect upon its passage and adoption according to law.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida at a regular meeting on the 25th day of October, 2021.

Mayor

ATTEST:

City Clerk

GAS SERVICE AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2021 by and between the City of Leesburg, Florida, a municipal corporation organized under the laws of the State of Florida, located at 501 W. Meadow Street, Leesburg, Florida, 34748, (hereinafter referred to as “City”), and Abbington Oaks, Inc. located at 7717 NW 20th Lane Gainesville, FL 32605 (hereinafter jointly referred to as “Owner”), sometimes collectively referred to as “Party” or “Parties”.

WITNESSETH:

WHEREAS, Owner is developing a subdivision located in Leesburg, Florida, known as Tara Oaks, Phase 1D Mid East (hereafter referred to as the “Development”), in accordance with the master plan for the Development on file with the City; and

WHEREAS, Section 22-7 of the Code of Ordinances of the City of Leesburg, Florida, requires that Owner utilize natural gas within the Development; and

WHEREAS, the City has agreed to provide natural gas service to the Development under the terms and conditions set forth below.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, City and Owner do agree as follows:

1. The City shall, subject to the provisions of this Agreement, supply natural gas service which shall include main, service and meter installations, to the Development. Owner shall be responsible for installing and connecting all natural gas appliances to the outlet of City gas meters. A map of the Development is attached as Exhibit “A” to this Agreement and by reference is made a part hereof. City shall provide such natural gas service from the supply line, including the gas meter.

2. Owner shall ensure that not less than eighty percent (80%) of the planned one hundred nine (109) units within the Development are equipped with:

A. A natural gas water heater; and

B. A natural gas furnace or Hydro-heat.

3. The Parties understand that the City is relying upon the assurances from Owner as the primary consideration for the execution of this Agreement.

4. The Owner is obligated to pay the full cost of the infrastructure required to serve the Development and the cost of the services, meters, appurtenances and installation, which will be performed by the City. The Owner's estimated costs of the infrastructure to be funded by Owner as set forth below, is one hundred twenty one thousand eight hundred twenty six dollars and ten cents. (\$121,826.10). Prior to construction, Owner shall place in escrow with the City, funds equal to that estimate to be used to pay for the construction as it proceeds. Notwithstanding inclusion of this estimate herein, Owner shall be obligated to pay the full cost of the infrastructure required to serve the Development.

5. The City will contract for, or at its option, have done by in house personnel, the actual installation of the infrastructure. The City will follow all legal requirements for bidding and award of the contract. If at any time the City reasonably anticipates that the cost of construction will exceed the original estimate, it shall notify Owner in writing as soon as practicable. In turn, Owner shall within 15 days of such notice, place into the escrow account an amount sufficient to cover the increased costs of the construction. If Owner fails to place the additional funds into the escrow account, the City at its option may halt construction of the infrastructure until Owner deposits the additional funds, together with any other costs incurred as a result of the cessation of construction, into the escrow account.

6. Owner agrees to pay any and all costs that City incurs in the collection of any unpaid reimbursement fees from Owner, including reasonable attorney's fees and court costs and any attorney fees and costs for appellate proceedings, efforts to collect any judgment entered in favor of the City, and in any proceedings in receivership, bankruptcy or insolvency.

7. The City shall both own and maintain the natural gas system, up to and including the natural gas meter, within the Development. The natural gas system from the outlet of the gas meter to the appliance utilizing the natural gas shall be maintained by the Owner or homeowner.

8. The Owner shall grant to the City all easements needed to install the natural gas pipelines within the Development, including minimum five foot (5') side lot easements, and shall dedicate those easements to the perpetual use of the City and its successors in interest for the purpose of laying, maintaining, repairing and replacing the natural gas pipelines. In addition, the Owner shall provide a location and easement, agreed to by the City for the purpose of installation of any necessary regulator stations and all associated equipment.

9. The Owner shall locate natural gas service meters on the side of each building in a manner to allow for two buildings to be serviced by one service line wherever possible. The City may require that these services be located on the same side of the building as the electric or water service.

10. The City shall bear responsibility for installing all gas piping and other gas infrastructure, up to and including the meters, necessary to supply the natural gas service reflected in this Agreement. Owner and City will share trench space, which will be dug by the Owner's water and or electric utility contractor at no charge to the City. Each unit within the development will be individually metered.

11. The City shall provide, when requested, individual residential unit hookups to the natural gas system within the Development. The City shall ensure that such service is provided at the same rates and on the same terms as those provided to other natural gas customers of the City within a comparable service area. The Parties understand that any and all hookup fees, meter charges and impact fees shall be paid by the residential customers at the time service is hooked up to the home.

12. The Parties agree that 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. The parties agree that in the event of any litigation arising under or construing this Agreement, venue shall lie only in Lake County, Florida.

13. The Parties understand and agree that this Agreement sets forth the entire understanding between the parties and supersedes and takes precedence over any and all prior negotiations, representations and agreements, oral or written, all of which are deemed to have merged into this Agreement and to have been extinguished thereby, except to the extent they are specifically set forth herein. Each party warrants, for the benefit and reliance of the other, that it has not entered into this Agreement in reliance on or on the basis of any promise, undertaking, representation or agreement of the other party, except as specifically set forth within the four corners of this instrument, and the parties mutually waive and disclaim any and all rights, remedies and causes of action which may otherwise exist, based wholly or partly on any such promise, undertaking, representation or agreement of the other party, except as specifically set forth within the four corners of this instrument.

14. This Agreement may be assigned to any successor of the Owner, but only with prior, written consent from the City. However, this Agreement may not be partially assigned, or assigned separately from title to all remaining lots not yet transferred to third parties intending to use the lot for personal residential purposes.

15. The Parties understand and agree that this Agreement may not be amended orally, by implication, by course of conduct, or in any manner other than by way of a written instrument approved by the Leesburg City Commission and duly executed by both parties hereto.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date herein above written.

CITY OF LEESBURG

BY: _____
Mayor

ATTEST:

City Clerk

Approved as to form and content:

City Attorney

Abbington Oaks, INC.

BY: _____
Sayed Moukhtara, President

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.C.3.

Meeting Date: October 25, 2021

From: Robert Thilmony, (Gas Director)

Subject: Resolution of the City Commission of the City of Leesburg, Florida authorizing and directing the Mayor and City Clerk to execute a natural gas service agreement between the City of Leesburg, Florida and Tara Village, Inc. for the purpose of setting forth the terms and conditions under which the City of Leesburg, Florida will supply natural gas service to the development referred to as Tara Oaks Subdivision; and providing an effective date.

Staff Recommendation:

Staff recommends approval of the gas service agreement with Tara Village, Inc.

Analysis:

Tara Village, Inc. is developing a subdivision located on Tara Oaks Boulevard in Leesburg, Florida, off CR 468. Section 22-7 of the Code of Ordinance requires the owner to utilize natural gas for 80% of all planned units. A 4" mainline extension is required to provide service to the subdivision. The estimated cost of the 4" mainline infrastructure, which will be completely funded by the developer, is \$31,736.49.

Procurement Analysis:

N/A

Options:

1. Approve the 4" mainline extension agreement with Tara Village, Inc.; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

The Developer will place construction funds totaling \$31,736.49 in an escrow account sufficient to fully fund the project. A budget adjustment will be processed to add these funds to the current budget.

Account No. 042-0000-223-3100

WF No. WF1383784

Submission Date and Time: 10/20/2021 3:28:06 PM

RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE A NATURAL GAS SERVICE AGREEMENT BETWEEN THE CITY OF LEESBURG, FLORIDA AND TARA VILLAGE, INC. FOR THE PURPOSE OF SETTING FORTH THE TERMS AND CONDITIONS UNDER WHICH THE CITY OF LEESBURG, FLORIDA WILL SUPPLY NATURAL GAS SERVICE TO THE DEVELOPMENT REFERRED TO AS TARA OAKS SUBDIVISION; 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 Gas Service Agreement between the City of Leesburg and Tara Village, Inc., for the purpose of setting forth the terms under which the city will supply natural gas utility service to the development known as Tara Oaks Northeast, Abbingdon Oaks, and other phases of Tara Oaks.

THIS RESOLUTION shall take effect upon its passage and adoption according to law.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida at a regular meeting held on the 25th day of October, 2021.

Mayor

ATTEST:

City Clerk

GAS SERVICE AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2021 by and between the City of Leesburg, Florida, a municipal corporation organized under the laws of the State of Florida, located at 501 W. Meadow Street, Leesburg, Florida, 34748, (hereinafter referred to as “City”), and Tara Village, INC. 7717 NW 20th Lane Gainesville, FL. 32605 (hereinafter jointly referred to as “Owner”), sometimes collectively referred to as “Party” or “Parties”.

WITNESSETH:

WHEREAS, Owner is developing an entrance (Boulevard) located in Leesburg, Florida, known as Tara Oaks Phase 1 D (hereafter referred to as the “Development”), in accordance with the master plan for the Development on file with the City;

WHEREAS, Section 22-7 of the Code of Ordinances of the City of Leesburg, Florida, requires that Owner utilize natural gas within the Development; and

WHEREAS, the City has agreed to provide natural gas service to the Development under the terms and conditions set forth below.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, City and Owner do agree as follows:

1. The City shall, subject to the provisions of this Agreement, supply natural gas service which shall include main, service and meter installations, to the Development. Owner shall be responsible for installing and connecting all natural gas appliances to the outlet of City gas meters. City shall provide such natural gas service from the supply line, including the gas meter.

2. The City shall, subject to the provisions of this Agreement, supply a Natural Gas four inch main down the boulevard for Phase 1 D and will continue in same Tara Village north central section once plans are submitted.

3. The Parties understand that the City is relying upon the assurances from Owner as the primary consideration for the execution of this Agreement.

4. The Owner is obligated to pay the full cost of the infrastructure required to serve the Development and the cost of the services, meters, appurtenances and installation, which will be performed by the City. The Owner's estimated costs of the infrastructure to be funded by Owner as set forth below, is thirty one thousand seven hundred thirty six dollars and forty nine cents. (\$31,736.49). Prior to construction, Owner shall place in escrow with the City, funds equal to that estimate to be used to pay for the construction as it proceeds. Notwithstanding inclusion of this estimate herein, Owner shall be obligated to pay the full cost of the infrastructure required to serve the Development.

5. The City will contract for, or at its option, have done by in house personnel, the actual installation of the infrastructure. The City will follow all legal requirements for bidding and award of the contract. If at any time the City reasonably anticipates that the cost of construction will exceed the original estimate, it shall notify Owner in writing as soon as practicable. In turn, Owner shall within 15 days of such notice, place into the escrow account an amount sufficient to cover the increased costs of the construction. If Owner fails to place the additional funds into the escrow account, the City at its option may halt construction of the infrastructure until Owner deposits the additional funds, together with any other costs incurred as a result of the cessation of construction, into the escrow account.

6. Owner agrees to pay any and all costs that City incurs in the collection of any unpaid reimbursement fees from Owner, including reasonable attorney's fees and court costs and any attorney fees and costs for appellate proceedings, efforts to collect any judgment entered in favor of the City, and in any proceedings in receivership, bankruptcy or insolvency.

7. The City shall both own and maintain the natural gas system, up to and including the natural gas meter, within the Development. The natural gas system from the outlet of the gas meter to the appliance utilizing the natural gas shall be maintained by the Owner or homeowner.

8. The Owner shall grant to the City all easements needed to install the natural gas pipelines within the Development, including minimum five foot (5') side lot easements, and shall dedicate those easements to the perpetual use of the City and its successors in interest for the purpose of laying, maintaining, repairing and replacing the natural gas pipelines. In addition, the Owner shall provide a location and easement, agreed to by the City for the purpose of installation of any necessary regulator stations and all associated equipment.

9. The Owner shall locate natural gas service meters on the side of each building in a manner to allow for two buildings to be serviced by one service line wherever possible. The City may require that these services be located on the same side of the building as the electric or water service.

10. The City shall bear responsibility for installing all gas piping and other gas infrastructure, up to and including the meters, necessary to supply the natural gas service reflected in this Agreement. Owner and City will share trench space, which will be dug by the Owner's water and or electric utility contractor at no charge to the City. Each unit within the development will be individually metered.

11. The City shall provide, when requested, individual residential unit hookups to the natural gas system within the Development. The City shall ensure that such service is provided at the same rates and on the same terms as those provided to other natural gas customers of the City within a comparable service area. The Parties understand that any and all hookup fees, meter charges and impact fees shall be paid by the residential customers at the time service is hooked up to the home.

12. The Parties agree that 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. The parties agree that in the event of any litigation arising under or construing this Agreement, venue shall lie only in Lake County, Florida.

13. The Parties understand and agree that this Agreement sets forth the entire understanding between the parties and supersedes and takes precedence over any and all prior negotiations, representations and agreements, oral or written, all of which are deemed to have merged into this Agreement and to have

been extinguished thereby, except to the extent they are specifically set forth herein. Each party warrants, for the benefit and reliance of the other, that it has not entered into this Agreement in reliance on or on the basis of any promise, undertaking, representation or agreement of the other party, except as specifically set forth within the four corners of this instrument, and the parties mutually waive and disclaim any and all rights, remedies and causes of action which may otherwise exist, based wholly or partly on any such promise, undertaking, representation or agreement of the other party, except as specifically set forth within the four corners of this instrument.

14. This Agreement may be assigned to any successor of the Owner, but only with prior, written consent from the City. However, this Agreement may not be partially assigned, or assigned separately from title to all remaining lots not yet transferred to third parties intending to use the lot for personal residential purposes.

15. The Parties understand and agree that this Agreement may not be amended orally, by implication, by course of conduct, or in any manner other than by way of a written instrument approved by the Leesburg City Commission and duly executed by both parties hereto.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date herein above written.

THE CITY OF LEESBURG, FLORIDA

BY: _____
JOHN CHRISTIAN, Mayor

ATTEST: _____
ANDI PURVIS, City Clerk

APPROVED AS TO FORM AND CONTENT:

CITY ATTORNEY

Tara Village, INC.

BY: _____
Silvia H. Moukhtara, President

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.C.4.

Meeting Date: October 25, 2021

From: 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 declaration of public use and benefit statement for the transfer of FDOT parcels 25-19-24-0001-000-02000 and 25-19-24-0001-000-01900, E. Dixie Avenue and U.S. Highway 441 stormwater retention ponds, to the City of Leesburg via the FDOT Surplus Property Process; and providing an effective date.

Staff Recommendation:

Staff recommends approval of the resolution to provide a declaration of public use and benefit statement for the transfer of FDOT parcels 25-19-24-0001-000-02000 and 25-19-24-0001-000-01900, E. Dixie Avenue and U.S. Highway 441 stormwater retention ponds.

Analysis:

The East Dixie Avenue and U.S. Highway 441 stormwater ponds were constructed by FDOT in order to collect and store stormwater runoff from the surrounding roadways and impervious areas. As part of the construction, FDOT installed an unsightly chain link fence to enclose the ponds. FDOT maintains these parcels to minimum standards, often leaving them in a condition with overgrown vegetation, tall grass and litter entrapped along the fence line.

To improve aesthetics along this corridor, staff approached FDOT regarding removal of the fence and requested increased maintenance of the parcels. FDOT will not remove the fence or increase maintenance of the parcels; however, they will transfer ownership of the parcels via the FDOT Surplus Property Process with the caveat that future use be declared as public use and benefit. Transfer of ownership will allow the City to remove the chainlink fence and replace it with a more aesthetically pleasing decorative fence and allow City staff to maintain the parcels at a higher level. FDOT will retain responsibility for maintaining the pond capacity capability and the associated stormwater infrastructure.

To initiate the transfer process, FDOT requires a declaration statement in the form of a resolution that states that the intended future use of the parcel will benefit the public. Upon receiving the declaration, FDOT's title department will generate a quit claim deed that will be submitted for approval at a future Commission meeting. Pending Commission approval of the quit claim deed, closing will be established and the quit claim deed will be recorded.

Procurement Analysis:

N/A

Options:

1. Adopt the resolution to provide a declaration and public use statement for the two parcels; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

The City will be responsible for paying the deed recording fee, estimated at \$55.00. In addition, the City will be responsible for the grounds maintenance of the parcels, estimated at \$3,200 annually. Funds are available in the current Stormwater budget and will be programmed for future budget years.

Submission Date and Time: 10/20/2021 3:31:48 PM

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A
DECLARATION OF PUBLIC USE AND BENEFIT STATEMENT FOR THE
TRANSFER OF FDOT PARCELS 25-19-24-0001-000-02000 AND 25-19-24-0001-
000-01900, E. DIXIE AVENUE AND U.S. HIGHWAY 441 STORMWATER
RETENTION PONDS, TO THE CITY OF LEESBURG VIA THE FDOT
SURPLUS PROPERTY PROCESS; 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 the State of Florida, Department of Transportation District Five, whose address is 719 South Woodland Boulevard, Deland, Florida 32720-6834 for the execution and delivery to the City of Leesburg, a quitclaim deed, in favor of the City of Leesburg for parcels 25-19-24-0001-000-02000 and 25-19-24-0001-000-01900, without consideration, to be used solely for public purposes, pursuant to the provisions of Section 337.25, Florida Statutes, conveying all rights, title and interest that said State of Florida, Department of Transportation has in and to said lands; and

THAT the conveyance of real property by the State of Florida, Department of Transportation will be used solely for public purposes; and

THAT an executed copy of this Resolution be forwarded to the State of Florida, Department of Transportation at 719 South Woodland Boulevard, Deland, Florida 32720; and

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 on the 25th day of October, 2021.

Mayor

ATTEST:

City Clerk



Legend

- Addressing
 - Streets
- Buildings
 - <all other values>
 - Existing
 - Proposed
- Proposed Lots
- Lakes
- Address
 - Roads < 20000
- Hydrological Features
- Parcels
- County_Boundary
- World Street Map

1: 1,000



Notes

This map was automatically generated using Geocortex Essentials.

0.0 0 0.02 0.0 Miles

NAD_1983_2011_StatePlane_Florida_East_FIPS_0901_Ft_US
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City of Leesburg Lake Front City

Agenda Memorandum

Item No: 6.A.1.

Meeting Date: October 25, 2021

From: Dan Miller, (Planning and Zoning Manager)

Subject: An Ordinance of the City of Leesburg, Florida, annexing certain real property consisting of approximately 148.67 +/- acres; being generally located east of U.S. Highway 27 and on the north side of Dewey Robbins Road, lying in Sections 31 and 32, Township 20 South, Range 25 East, Lake County, Florida. Providing that said property so annexed shall be liable for its proportionate share of the existing and future indebtedness of said city; providing that such annexed property shall be subject to all laws and ordinances of said city as if all such territory had been a part of the City of Leesburg at the time of passage and approval of said laws and ordinances; providing that such annexed territory shall be placed in City Commission District 3; and providing an effective date. (Hodges Reserve AX)

Staff Recommendation:

The Planning and Zoning staff recommends **disapproval** of the proposed ordinance for annexation of the Hodges Reserve.

Analysis:

The applicant has submitted a request for annexation of approximately 148.67 acres of land generally located east of U.S. Highway 27 and on the north side of Dewey Robbins Road, as shown on the attached General Location Map. At this time, the property is agricultural. The current zoning is Lake County A (Agriculture); the proposed zoning is City PUD (Planned Unit Development). The reason for this request is to attain water and sewer service. The proposal of the property is for a single-family residential subdivision.

The property is surrounded by Lake County A (Agriculture) on the north, south, east, and west sides. At this time, there are no similar development or zoning proposals in the immediate area.

Also, on this City Commission agenda, is a Large-Scale Comprehensive Plan Amendment, which along with the Planned Unit Development Application, were recommended for **disapproval** from both staff and the Planning Commission.

Procurement Analysis:

N/A

Options:

1. Approve the requested annexation. This would give the City jurisdiction over the use and future development of the subject site and provide for the application of City standards to this property; or
2. Disapprove the proposed annexation and allow the property to remain in the County; or
3. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

A positive fiscal impact will result from the annexation and development of this property due to increased tax revenue added to the General Fund. Future development of the property will increase this anticipated impact.

Submission Date and Time:

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, ANNEXING CERTAIN REAL PROPERTY CONSISTING OF APPROXIMATELY 148.67 +/- ACRES; BEING GENERALLY LOCATED EAST OF U.S. HIGHWAY 27 AND ON THE NORTH SIDE OF DEWEY ROBBINS ROAD, LYING IN SECTIONS 31 AND 32, TOWNSHIP 20 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA. PROVIDING THAT SAID PROPERTY SO ANNEXED SHALL BE LIABLE FOR ITS PROPORTIONATE SHARE OF THE EXISTING AND FUTURE INDEBTEDNESS OF SAID CITY; PROVIDING THAT SUCH ANNEXED PROPERTY SHALL BE SUBJECT TO ALL LAWS AND ORDINANCES OF SAID CITY AS IF ALL SUCH TERRITORY HAD BEEN A PART OF THE CITY OF LEESBURG AT THE TIME OF PASSAGE AND APPROVAL OF SAID LAWS AND ORDINANCES; PROVIDING THAT SUCH ANNEXED TERRITORY SHALL BE PLACED IN CITY COMMISSION DISTRICT 3; AND PROVIDING AN EFFECTIVE DATE. (HODGES RESERVE AX)

WHEREAS, the City Commission has received written objections, recommendations, and comments from the City of Leesburg Planning Commission, acting as the Local Planning Agenda, regarding amendment of the Comprehensive Plan of the City of Leesburg, and has made recommendations to the City Commission for amendment of the Plan; and

WHEREAS, the City Commission of the City of Leesburg has held public hearings on the proposed amendment to the plan, in light of written comments, proposals and objections from the general public;

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF LEESBURG, FLORIDA, that;

Section 1.

Based upon the petition of Hodges Reserve, (Andrew McCown, AICP, GAI Consultants, Inc) for the property hereinafter described, shall be annexed into the city limits of the City of Leesburg, Florida, 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 hereinafter described property is hereby annexed and made a part of the city limits of the City of Leesburg, Florida. The subject property lying and situated in Lake County, Florida, is more particularly described as:

Legal Description
(See Exhibit A)

Section 2.

All of the property, real and personal, within said annexed territory, described in Section 1 above, as provided by this ordinance, and the inhabitants thereof, shall be subject to the government, jurisdiction, powers, franchises, duties, and privileges of the City of Leesburg, Florida, and the said annexed property shall be liable, proportionately, for all of the present outstanding and existing, as well as future, indebtedness of the City of Leesburg, Florida; that all of the ordinances of the City of Leesburg, and all the laws heretofore passed by the Legislature of the State of Florida relating to and which now or

hereafter constitute its Charter, shall apply to and have the same force and effect on such annexed territory as if all such annexed territory had been a part of the City of Leesburg, Florida, at the time of the passage and approval of said laws and ordinances. The property annexed hereby is assigned to City Commission District 3;

Section 3.

All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed;

Section 4.

This ordinance shall become effective immediately upon approval at second reading.

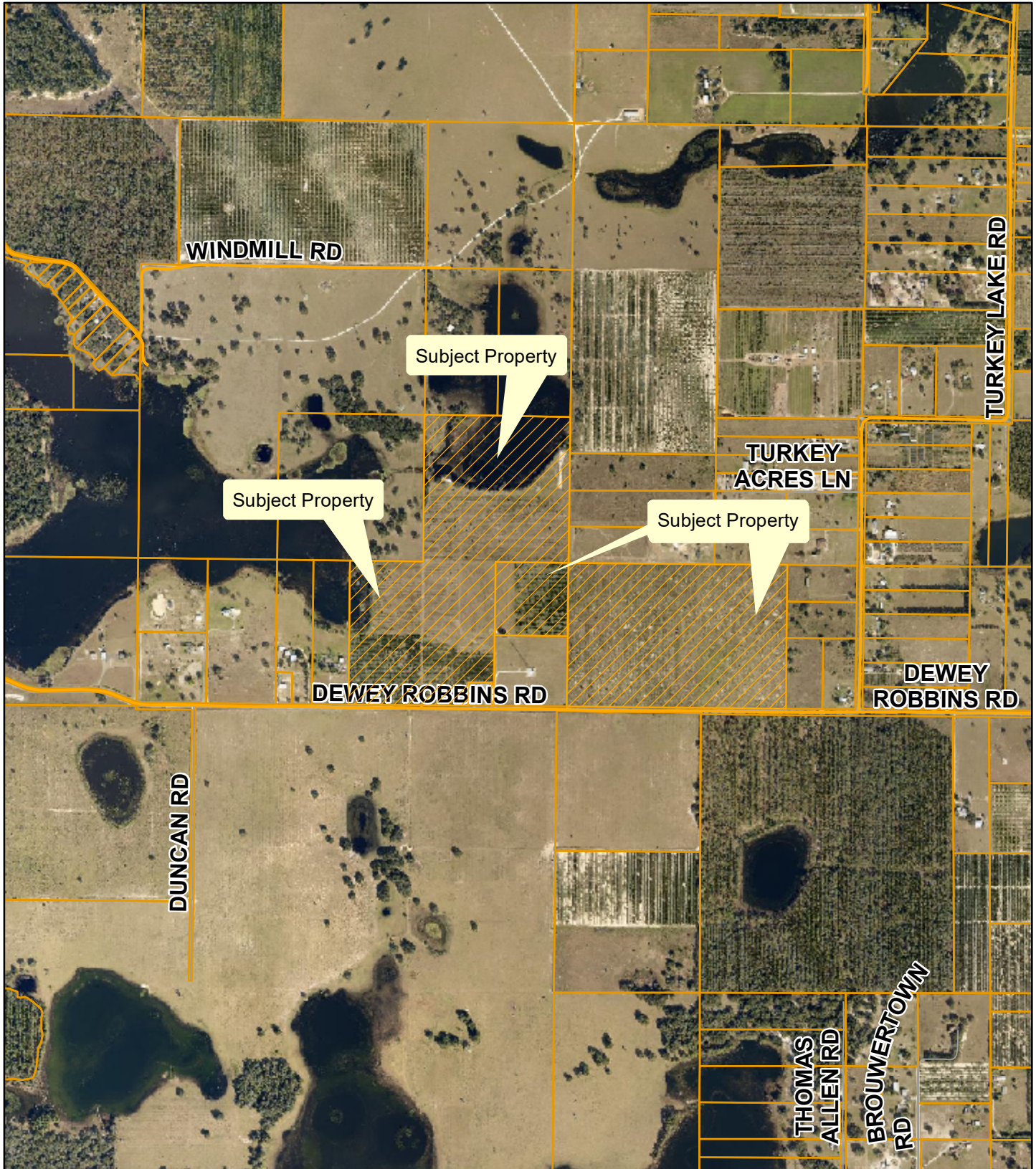
PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held on the 25th day of October 2021.

Mayor

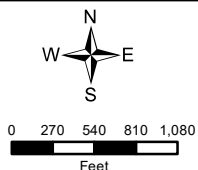
ATTEST:

City Clerk

Aerial

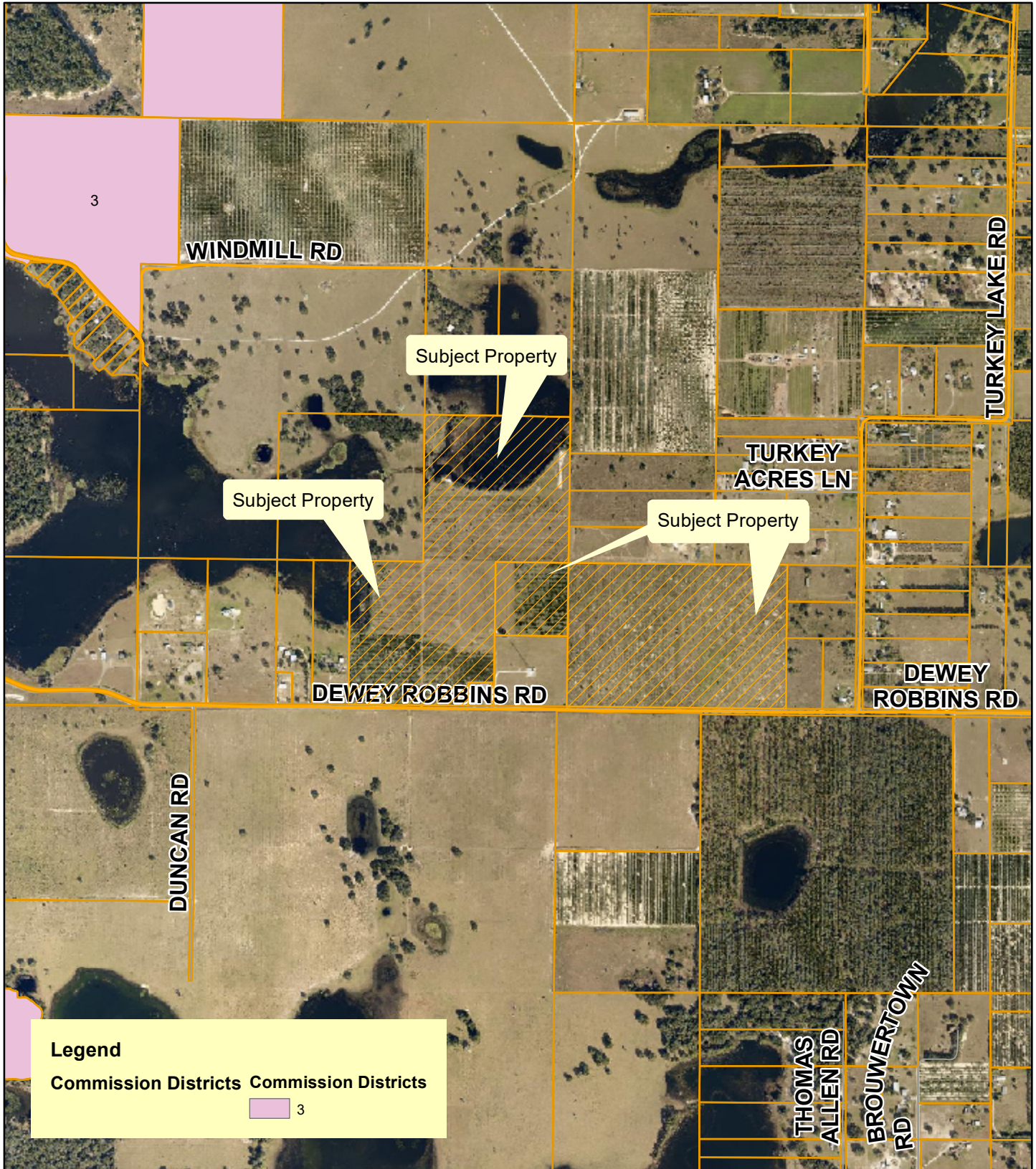


**Planning
& Zoning
Division**

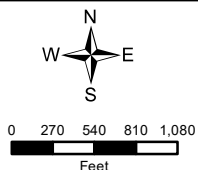


ANNX-21-52, LSCP-21-53, PUD-21-54 - Hodges Reserve
AK#s: 1209463, 1030285, 1404410
Section 31, Township 20 South, Range 25 East and
Section 32, Township 20 South, Range 25 East
March 24, 2021

Commission Districts



**Planning
& Zoning
Division**



ANNX-21-52, LSCP-21-53, PUD-21-54 - Hodges Reserve
 AK#s: 1209463, 1030285, 1404410
 Section 31, Township 20 South, Range 25 East and
 Section 32, Township 20 South, Range 25 East
 March 24, 2021

**CITY OF LEESBURG PLANNING & ZONING DIVISION
STAFF SUMMARY**

DATE: April 22, 2021
OWNER: Ray Kemp Trustee et al and J & R Groves
PETITIONER: Ben Snyder, Hanover Land Company
PROJECT: Hodges Reserve
REQUEST: Large Scale Comprehensive Plan Amendment to Estate Residential; Zoning to PUD (Planned Unit Development)
CASE NO.: LSCP 21-53; PUD-21-54

GENERAL LOCATION: The property is generally located east of US Highway 27 and on the north side of Dewey Robbins Road.

FUTURE LAND USE DESIGNATION: Lake County Rural

SURROUNDING FUTURE LAND USE DESIGNATION:

North – Lake County Rural
South – Lake County Rural Transition
East – Lake County Rural
West – Lake County Rural

PROPOSED FUTURE LAND USE DESIGNATION: Estate Residential

EXISTING ZONING DESIGNATION: Lake County A (Agriculture)

SURROUNDING ZONING DESIGNATIONS:

North – Lake County A (Agriculture)
South – Lake County A (Agriculture)
East – Lake County A (Agriculture)
West – Lake County A (Agriculture)

PROPOSED ZONING DESIGNATION: PUD (Planned Unit Development)

EXISTING LAND USE: Agriculture

SURROUNDING LAND USE:

North – Pasture
South – Timber; Pasture; Vacant Residential
East – Vacant Residential & Residential
West – Residential; Pasture

PROPOSED LAND USE: Residential subdivision

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 6.A.2.

Meeting Date: October 25, 2021

From: Dan Miller, (Planning and Zoning Manager)

Subject: An Ordinance amending the Future Land Use Map of the Comprehensive Plan of the City of Leesburg, Florida, changing the Future Land Use Map Designation of certain property containing 148.67 +/- acres from Lake County Rural to City of Leesburg Estate Residential, for a property generally located east of U.S. Highway 27 and on the north side of Dewey Robbins Road, as legally described in Sections 31 and 32, Township 20 South, Range 25 East, Lake County, Florida; and providing an effective date. (Hodges Reserve LGCP)

Staff Recommendation:

The Planning and Zoning Staff and the Planning Commission recommend **disapproval** of the proposed large-scale comp plan amendment of the City's Future Land Use Map on 148.67 +/- acres from Lake County Rural to City of Leesburg Estate Residential.

Analysis:

The project site is approximately 148.67 acres. The property is generally located east of U.S. Highway 27 and on the north side of Dewey Robbins Road. Currently, the property is in agricultural uses. The proposed use is for a single-family residential subdivision. The surrounding Future Land Use Map designations of Lake County Rural and Lake County Rural Transition are not - at this time, considered compatible with the proposed future land use designation of City Estate Residential. The staff's recommendation goes into further detail regarding the recommendation for **disapproval**, which includes timing of the proposal, distance from city utility services, lot sizes and overall compatibility with the area.

This property lies within the ISBA (Interlocal Service Boundary Area) agreement. This agreement, which was approved by City Commission on November 24, 2014, allows property within the ISBA area but outside the current city limits to be annexed and obtain City of Leesburg utility services.

The Planning Commission held a public hearing on the application on April 22, 2021 and recommended **disapproval by a vote of 7-0.**

Procurement Analysis:

N/A

Options:

1. Approve the requested large-scale comprehensive plan amendment from Lake County Rural to City of Leesburg Estate Residential; or
2. Deny this request as recommended; or
3. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

There is no direct fiscal impact to the City for this action. Future development of the property will increase this anticipated impact from collection of impact fees, ad valorem taxes, and utility charges.

Submission Date and Time:

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE CITY OF LEESBURG, FLORIDA, CHANGING THE FUTURE LAND USE MAP DESIGNATION OF CERTAIN PROPERTY CONTAINING 148.67 +/- ACRES FROM LAKE COUNTY RURAL TO CITY OF LEESBURG ESTATE RESIDENTIAL, FOR A PROPERTY GENERALLY LOCATED EAST OF U.S. HIGHWAY 27 AND ON THE NORTH SIDE OF DEWEY ROBBINS ROAD, AS LEGALLY DESCRIBED IN SECTIONS 31 AND 32, TOWNSHIP 20 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. (HODGES RESERVE LGCP)

WHEREAS, the City Commission has received written objections, recommendations, and comments from the City of Leesburg Planning Commission, acting as the Local Planning Agenda, regarding amendment of the Comprehensive Plan of the City of Leesburg, and has made recommendations to the City Commission for amendment of the Plan; and

WHEREAS, the City Commission of the City of Leesburg has held public hearings on the proposed amendment to the plan, in light of written comments, proposals and objections from the general public;

NOW, THEREFORE,

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

Section 1.

The Growth Management Plan of the City of Leesburg, adopted by the City of Leesburg on December 10, 2012, pursuant to the Community Planning Act of 2011, Chapter 163, Part II, Florida Statutes, after public hearings by the City of Leesburg Planning Commission, is hereby amended in the following manner;

The Future Land Use Map is amended by changing the designation of approximately 148.67 acres of land generally located east of U.S. Highway 27 and on the north side of Dewey Robbins Road from Lake County Rural to City of Leesburg Estate Residential, as shown on the revised map of said area, lying in Sections 31 and 32, Township 20 South, Range 25 East, Lake County Florida;

Section 2.

All ordinances or parts of ordinances in conflict the any of the provisions of this ordinance are hereby repealed;

Section 3.

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

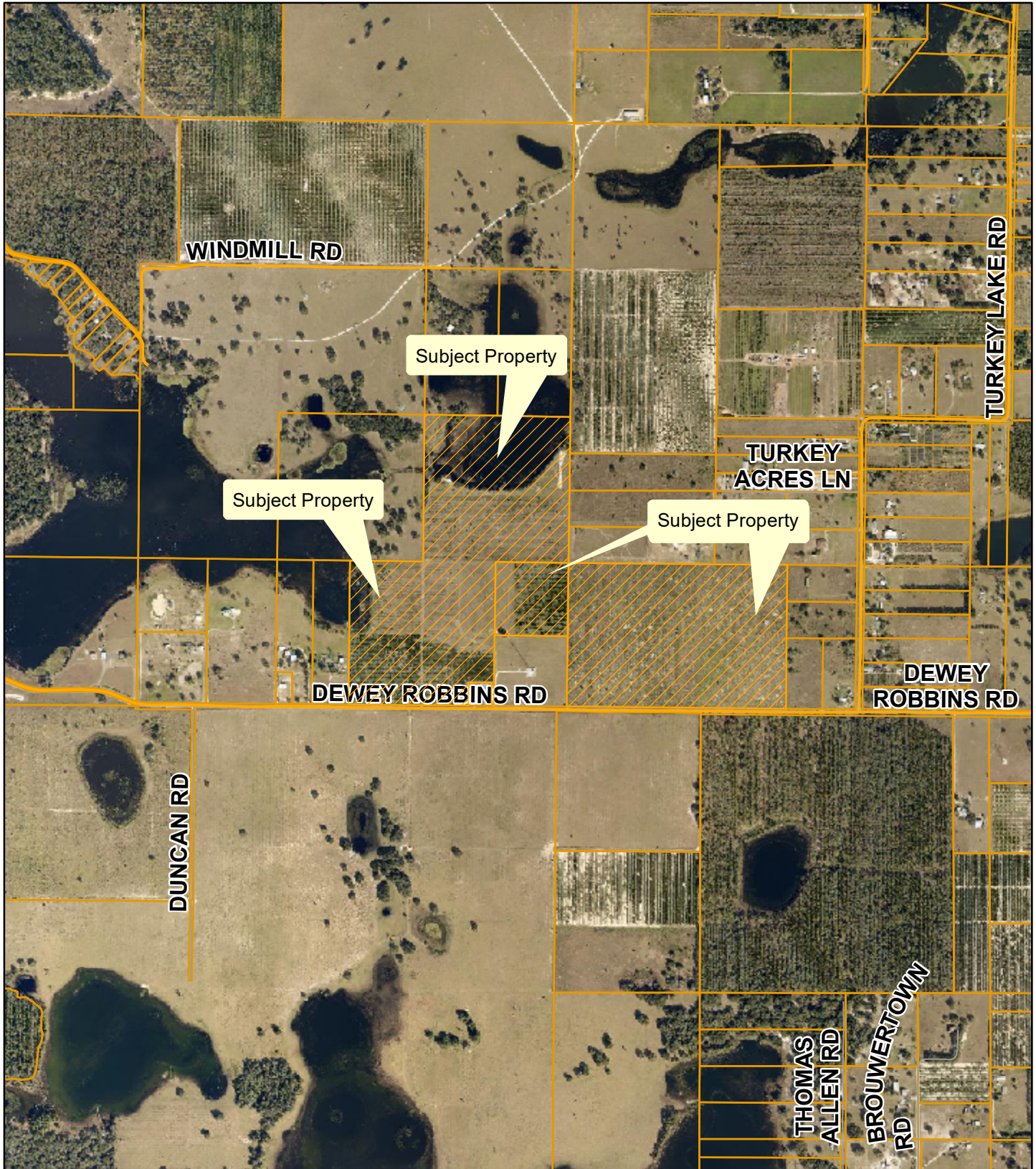
PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held on the 25th day of October, 2021.

Mayor

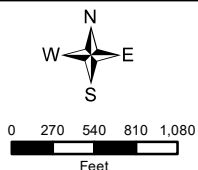
ATTEST:

City Clerk

Aerial

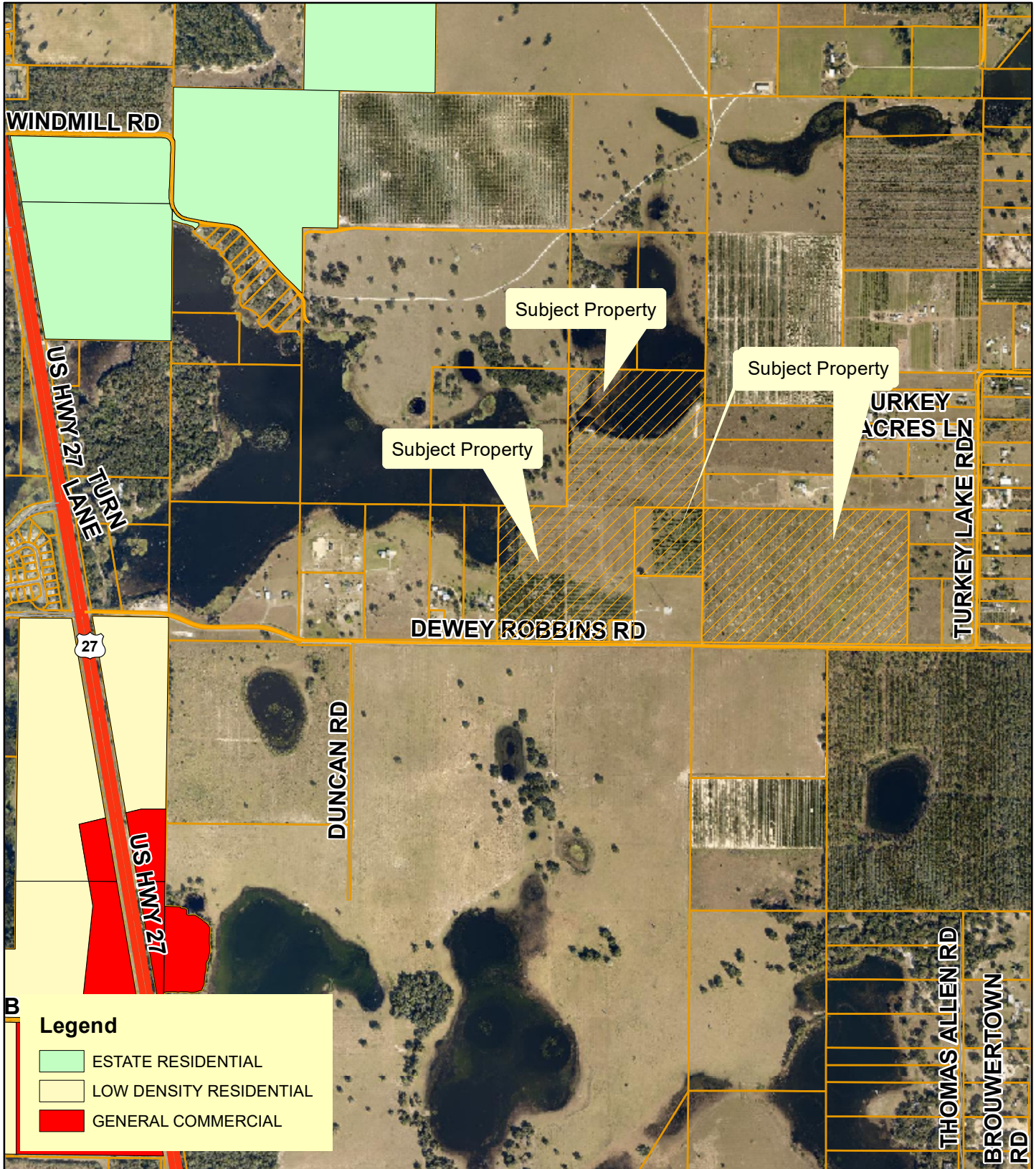


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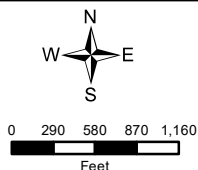


ANNX-21-52, LSCP-21-53, PUD-21-54 - Hodges Reserve
AK#s: 1209463, 1030285, 1404410
Section 31, Township 20 South, Range 25 East and
Section 32, Township 20 South, Range 25 East
March 24, 2021

Future Land Use

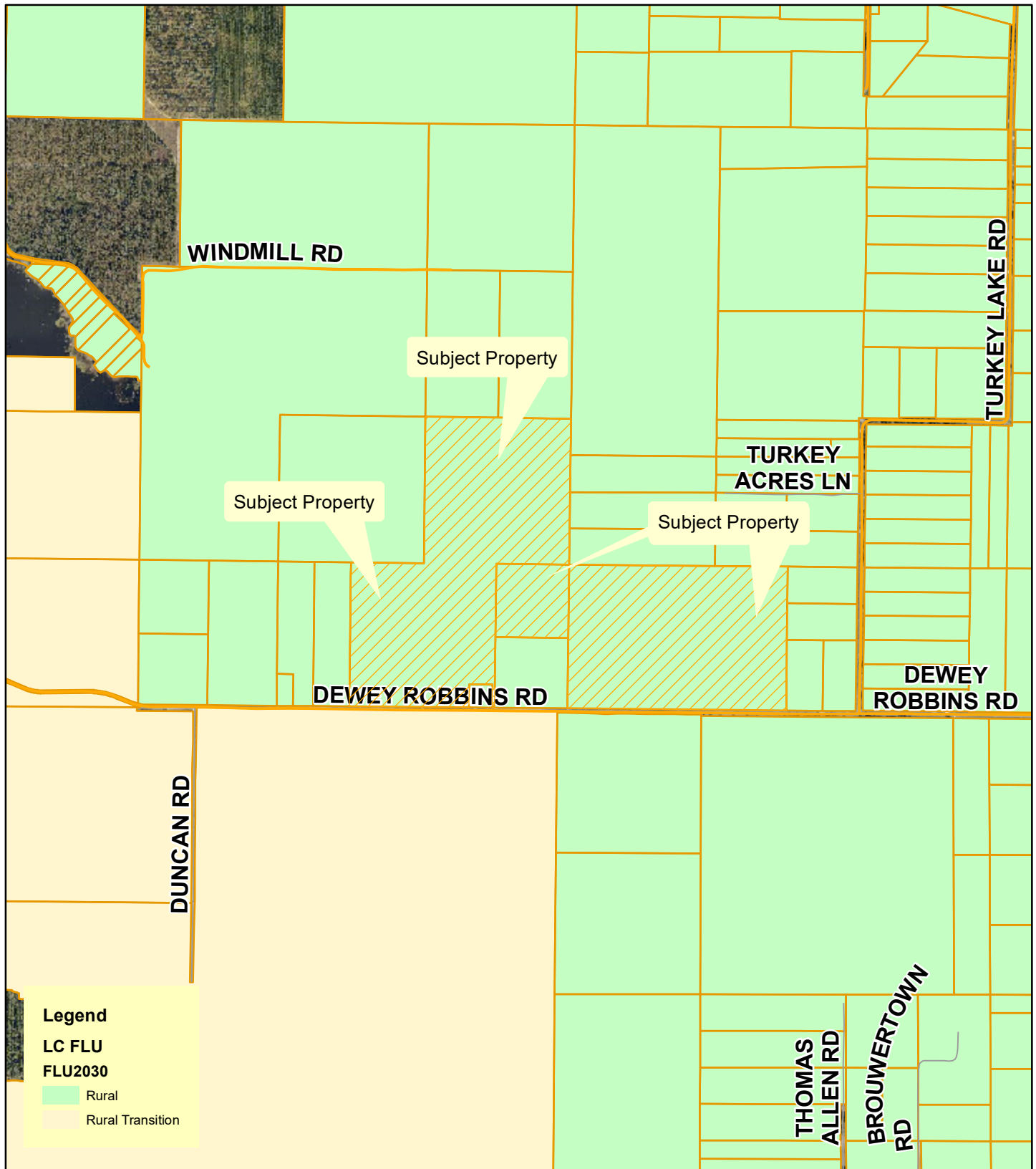


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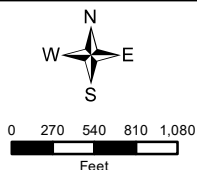


ANNX-21-52, LSCP-21-53, PUD-21-54 - Hodges Reserve
 AK#s: 1209463, 1030285, 1404410
 Section 31, Township 20 South, Range 25 East and
 Section 32, Township 20 South, Range 25 East
 March 24, 2021

Lake County Future Land Use



**Planning
& Zoning
Division**



ANNX-21-52, LSCP-21-53, PUD-21-54 - Hodges Reserve
 AK#s: 1209463, 1030285, 1404410
 Section 31, Township 20 South, Range 25 East and
 Section 32, Township 20 South, Range 25 East
 March 24, 2021

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 6.A.3.

Meeting Date: October 25, 2021

From: Dan Miller, (Planning and Zoning Manager)

Subject: An Ordinance of the City of Leesburg, Florida, changing the zoning on approximately 148.67 +/- acres from Lake County A (Agriculture) to City PUD (Planned Unit Development) to allow for a single-family residential subdivision for a property generally located east of U.S. Highway 27 and on the north side of Dewey Robbins Road, as legally described in Sections 31 and 32, Township 20 South, Range 25 East, Lake County, Florida; and providing an effective date. (Hodges Reserve)

Staff Recommendation:

Planning and Zoning Staff and Planning Commission recommend **disapproval** of the request to rezone the subject property Lake County A (Agriculture) to City PUD (Planned Unit Development) to allow for a single-family residential subdivision.

Analysis:

The project site is approximately 148.67 +/- acres, and is generally located east of U.S. Highway 27 and on the north side of Dewey Robbins Road as shown on the attached maps. At this time, the property is agriculture. The proposal will allow for a single-family residential subdivision. The existing land uses surrounding the property are pasture, timber, vacant residential, and agriculture.

The staff's recommendation goes into further detail regarding the recommendation for **disapproval**, which include timing of the proposal, distance from city utility services, lot sizes and overall compatibility with the area.

The Planning Commission held a public hearing on the application on April 22, 2021 and recommended **disapproval by a vote of 7-0.**

Procurement Analysis:

N/A

Options:

1. Approve the proposed rezoning to PUD (Planned Unit Development); or
2. Deny the proposal as recommended; or
3. Other such action as the Commission may deem appropriate.

Fiscal Impact:

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

Submission Date and Time:

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, CHANGING THE ZONING ON APPROXIMATELY 148.67 +/- ACRES FROM LAKE COUNTY A (AGRICULTURE) TO CITY PUD (PLANNED UNIT DEVELOPMENT) TO ALLOW FOR A SINGLE-FAMILY RESIDENTIAL SUBDIVISION FOR A PROPERTY GENERALLY LOCATED EAST OF U.S. HIGHWAY 27 AND ON THE NORTH SIDE OF DEWEY ROBBINS ROAD, AS LEGALLY DESCRIBED IN SECTIONS 31 AND 32, TOWNSHIP 20 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. (HODGES RESERVE)

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

Section 1.

Based upon the petition of Ben Snyder, Hanover Land Company, (Andrew McCown, GAI Consultants, 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 rezoned from Lake County A (Agriculture) to City PUD (Planned Unit 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 25th day of October, 2021.

THE CITY OF LEESBURG, FLORIDA

Mayor

ATTEST:

City Clerk

**HODGES RESERVE
PUD (PLANNED UNIT DEVELOPMENT)
PLANNED DEVELOPMENT CONDITIONS
April 22, 2021**

These Planned Unit Development Conditions for a PUD (Planned Unit Development) zoning district are granted by the City of Leesburg Planning Commission, Lake County, Florida to **Ray Kemp Trustee and J&R Groves, et. al.**, (Ben Snyder, Petitioner), "Permittee" for the purposes described herein, and subject to the terms and conditions as set forth in this document, 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" is desirous of obtaining a Planned Unit Development (PUD) zoning district to allow future construction of a proposed mixed-use residential development consisting of a maximum of 449 single family residential units on approximately 148.68 acres, generally located in the 6000 block of Dewey Robbins Road, 0.75 miles east of US Hwy 27, on a site within the City of Leesburg in accordance with their PUD application and supplemental information.

PURPOSE

The purpose of this document is to provide appropriate zoning standards for a high-quality built environment through the application of flexible and diversified land development requirements, which shall be implemented in conjunction with a master site development plan and the City of Leesburg Code of Ordinances, therefore allowing for more efficient and optimal use of the subject property, and to increase the overall economic opportunity and employment base of Leesburg, Florida.

CONDITIONS

The following conditions shall apply to the development proposed herein. If any instance where the conditions of this document may conflict with the City of Leesburg Code of Ordinances, this document shall prevail as the determining requirement.

1. **PERMISSION** is hereby granted to **Ray Kemp Trustee and J&R Groves, et.al**, (Ben Snyder, Petitioner), 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 below.
2. **LEGAL DESCRIPTION**
See attached **Exhibit B, Legal Description**.
3. **LAND USE**
The above-described property, containing approximately 148.68 acres, shall be used for platted single-family residential development, pursuant to City of Leesburg development codes and standards.

- A. Permitted Uses
 - 1) Detached single family residential units
 - 2) Accessory structures for residential uses
 - 3) Sales office in a single-family unit
 - 4) Accessory retail within a recreation center or clubhouse, intended for the primary use of residents, such as a snack bar
 - 5) Temporary modular sales center office (during construction and sales of new units) not to exceed one year, and construction office not to exceed two years from the approval of the final plat of the final phase for the subdivision. Model homes may be used as sales centers during the duration of the project.
- B. Prohibited Uses
 - 1) Townhouses
 - 2) Condominium units
 - 3) Multi-family units (Apartments)
 - 4) Commercial uses (as a primary use)
 - 5) All other uses not specifically permitted within these conditions under Permitted Uses above shall be prohibited.

4. DEVELOPMENT STANDARDS

- A. The project shall contain a maximum of 449 single family residential units, at a gross density not to exceed 3.01 units per acre on the approximately 148.68 acre site, as shown on **Exhibit C, Master Development Plan**.
- B. Lot sizes shall be varied, to include ~~40 and~~ 50- and 60-foot widths. Table 1 allows for a mix of lot sizes, shows required minimums and maximums permitted of each lot size. The mix of lot sizes may change as long as it remains consistent with the requirements for minimum width and depth and location requirements in paragraph C below.

Table 1

Lot Size*	40 <u>50</u> feet	50 <u>60</u> feet
Minimum Required	0	192
Maximum Permitted	257	449

***lots larger than these minimum requirements are permitted without amendment to this PUD**

- C. Along each street, homes with the same architectural design shall not be immediately adjacent (side by side) or directly across from a lot with the same design. Facades may be varied to meet this requirement. The maximum impervious surface for the project shall be 70%. Community and private swimming pools shall not count toward the impervious surface calculation.
- D. The minimum lot development standards shall be:

- 1) For 40 50 foot lots:
 - a. ~~40 50~~ foot lots shall not be located directly adjacent to the 25 foot property buffer, ~~except for the six (6) 40 foot lots shown on the plan to be adjacent to the perimeter buffer.~~
 - b. Minimum house size: ~~1,300-1600~~ square feet.
 - c. Each additional bedroom added to the above minimum house size shall be a minimum of 120 square feet.
 - d. Minimum lot size shall be ~~4,000~~ 5,000 square feet.
 - e. Minimum width ~~40~~ 50 feet
 - f. Minimum depth 100 feet
 - g. Minimum building setbacks:
 - Front – 20 feet;
 - Rear – 18 feet;
 - Side – 5 feet;
 - Corner Side – 15 feet; and
 - Porch – 14 feet (porch must be a minimum width of 6 feet).
- 2) For 50 60 foot lots:
 - a. ~~60 foot lots shall be required on the exterior of the subdivision.~~
 - b. Minimum house size: ~~1,500~~ 1,800 square feet.
 - c. Each additional bedroom to the above the minimum house size shall be a minimum of 120 square feet.
 - d. Minimum lot size shall be ~~5000~~ 6000 square feet.
 - e. Minimum width ~~50-60~~ feet
 - f. Minimum depth 100 feet
 - g. Minimum building setbacks:
 - Front – 20 feet;
 - Rear – 18 feet;
 - Side – 5 feet;
 - Corner Side – 15 feet.
 - Porch – 14 feet (porch must be a minimum width of 6 feet).
- 3) For all structures:
 - a. Each residential structure shall have a minimum two car garage.
 - b. Minimum distance between structures shall be 10 feet; measured from building wall to building wall, and the roof overhang shall not exceed forty (40) percent of the distance between the building wall and the property line.
 - c. Maximum building height: two (2) stories or 35 feet.
 - d. 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.
 - e. Attached screened enclosures (no solid roof) must maintain a minimum setback of five (5) feet from the side and rear property line. Attached swimming pool screened enclosure shall also maintain a minimum setback of five (5) feet from the side or rear property lines.

- f. Solid roof structures attached to the residence must meet the required rear setback as noted under “Minimum building setbacks.”
- g. 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.

5. DESIGN/ARCHITECTURAL STANDARDS

- A. All buildings shall utilize at least three of the following design features to provide visual relief along all elevations of the single-family units. Designs may vary throughout the development.
 - 1) Dormers
 - 2) Gables
 - 3) Recessed or raised entries
 - 4) Covered porch entries
 - 5) Cupolas
 - 6) Pillars or decorative posts
 - 7) Bay window (minimum 12 inch projections)
 - 8) Eaves (minimum 6-inch projections)
 - 9) Front windows with arched glass tops and minimum 4-inch trim.
 - 10) Garage vehicle doors shall incorporate the following elements: raised decorative panels, decorative glass panels or panes, decorative hinges, etc.
 - 11) Front doors shall incorporate the following decorative elements: raised decorative panels, decorative glass panels or panes, decorative handles, etc.
 - 12) Stone accents
 - 13) Shutters
 - 14) Board and batten siding
 - 15) Hardy board siding
 - 16) Raised banding
 - 17) Craftsman style garage doors
- B. 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:
 - 1) 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.
 - 2) 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.).
 - 3) All textured stucco, provided there are unique design features such as recessed garages, tile or metal roofs, arched windows, porches, 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.

- C. Other similar design variations meeting the intent of this section may be approved by the Community Development Director or designee.
- D. The architectural styles and facades shown in **Exhibit D, Building Elevations** herein are considered to meet the requirements of this section.

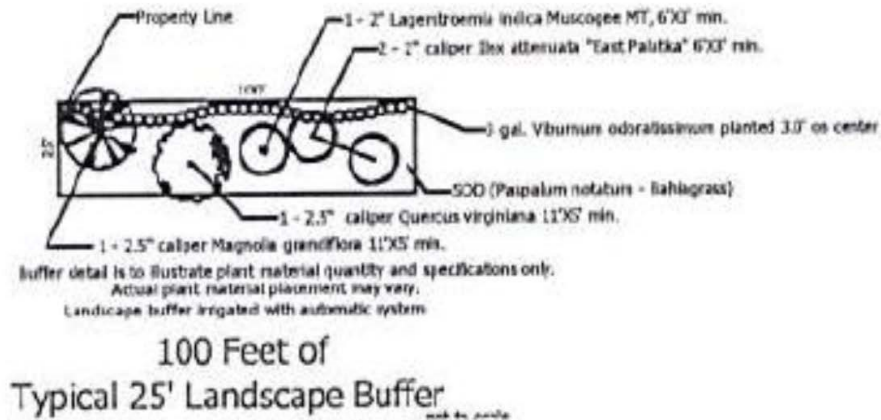
6. LANDSCAPING & BUFFER REQUIREMENTS

- ~~A. A minimum twenty-five (25) foot buffer tract with plantings as shown in Figure A below, shall be provided along the entire boundary of the property. unless otherwise provided for within these standards. Buffers shall be separate from platted lots and shall not be part of individually platted lots, but shall common areas to be maintained by an entity such as a Property Owners, or Homeowners Association.~~
- ~~B. In areas of the project not directly adjacent to existing single-family homes on the adjacent parcel, the final width of the required buffer may be reduced to fifteen (15) feet during the site plan review process.~~
- C. Along Dewey Robbins Road, the 25-foot buffer may be reduced if right of way is needed for the roadway. In no case shall the buffer along Dewey Robbins Road be reduced to less than ten (10) feet.
- D. Land uses allowed within the upland buffers are limited to hiking trails, walkways, passive recreation activities and stormwater facilities as permitted by St. Johns River Water Management District.
- E. All landscaping and buffering shall be in accordance with regulations contained within the City of Leesburg Code of Ordinances, Section 25-329, 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



F. 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.

- G. The surveying of trees on the property shall be conducted as follows:
- 1) All specimen, heritage and historic trees shall be surveyed. Staff will review the tree survey and such trees shall be saved where possible during the site plan review process. This may include amending the site plan to save specimen, heritage and historic trees.
 - 2) Site areas that are to preserve existing trees do not need to be included in the survey unless the trees are to be used in preservation/replacement requirements.
 - 3) The tree survey shall be completed by a licensed surveyor.

7. SITE ACCESS AND SIGNAGE

- A. The main vehicular access to the project site shall be split between two entrances on Dewey Robbins Road. Access locations depicted on the Master Development Plan are conceptual and subject to Lake County approval. Actual location and design of the roads shall be determined at the site plan review process and shall include consideration of, and connection to, sidewalks, recreation paths, etc. All other access shall be reviewed for necessity and requirements through Lake County and the City of Leesburg development and permitting processes. Any additional access points shall be subject site plan application review process.
- 1) Offsite road improvements on existing roads adjacent to the property may be required based on finalized access locations. Such improvements may include, but are not limited to, left and right turn lanes, right-of-way dedication, and pavement rehabilitation. Any proposed offsite road improvements must be approved by Lake County Public Works.

- 2) Prior to completion of the subdivision design plans, the developer shall work with the Lake County Department of Public Works to ensure all appropriate required roadway and access improvements for the development are made part of the plans submitted to the City of Leesburg.
 - 3) The Master Development Plan, and the access points proposed thereon, are considered conceptual until the appropriate engineering and site plan reviews, along with any required upgrades are completed for the project.
- B. All access points 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. The developer shall be responsible for on and offsite improvements required as a result of any access points. The developer shall be responsible for all on and offsite improvements required as a result of any access points.
 - C. Each required access point shall provide a decorative entry feature to include a concrete, brick or stucco wall at least five (5) feet in height, on each side of the entryway. This may be used for signage per City of Leesburg Code of Ordinances, as amended.
 - D. Alternative designs for the ground enclosure support and bases of a monument sign may be approved by the Community Development Director or designee, where the architectural style would be in keeping with the intent of these sign regulations.

8. TRANSPORTATION IMPROVEMENTS

- A. Any transportation improvements or rights-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. The plan review process shall include consideration of sidewalks, recreation paths etc.
- B. A traffic/transportation study shall be submitted⁵⁴ for review and determination of any necessary access improvements, including any off-site improvements required by Lake County, the Lake-Sumter MPO or the City of Leesburg. Said improvements will be the responsibility of the Permittee.
- C. The Permittee shall provide necessary traffic improvements 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. 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.
- G. Sidewalks shall be provided on both sides of the boulevard entrance road and shall provide cross connections to all recreation and residential areas. Internal road rights-of-ways shall be of sufficient width to contain one sidewalk. All sidewalks shall be constructed in accordance with City of Leesburg Codes.

9. UTILITIES

Prior to receiving final development approval, the Permittee shall submit a stormwater management plan and utility plan acceptable to the City of Leesburg. Water, wastewater and natural gas services will be provided by the City of Leesburg. Prior to any clearing, grubbing, or disturbance of natural vegetation in any phase of the development, the Permittee shall provide:

- A. A detailed site plan that indicates all the provisions for electric, water, sewer, and/or natural gas in accordance with the City of Leesburg Land Development Codes.
- B. Developer shall bear all responsibility, financial and otherwise, for the construction and installation of all utility infrastructure and other improvements related to the use and development of the property, consistent with the typical pioneering agreement approved on new home projects in the city., including such off-site improvements required by the City and all other appropriate government agencies. All such requirements shall be constructed to the applicable specifications imposed by the ordinances and regulations of the City in effect at the time of construction.
- C. Developer shall be responsible for the installation of a natural gas water heater and natural gas furnace in eighty percent (80%) of all homes in the development.
- D. 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 water and wastewater lines and other necessary infrastructure such as lift stations to the development shall be the responsibility of the applicant.

10. STORMWATER/DRAINAGE MANAGEMENT

All drainage shall be designed and constructed in a manner to meet all State of Florida and City of Leesburg codes, including the requirement that all stormwater runoff is contained within the boundaries of the properties, and does not create a detriment to surrounding properties. Prior to receiving final development approval, 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:

- A. A detailed site plan that demonstrates no direct discharge of stormwater runoff generated by the development into any wetlands or onto adjacent properties.
- B. A stormwater management system designed and implemented to meet all applicable St. Johns River Water Management District and City of Leesburg requirements.
- C. 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 homeowner's association is an acceptable maintenance entity.
- D. The existing 100-year flood plain shown shall be shown on all plans and lots.
- E. 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.
- F. 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.
- G. 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.

11. WETLANDS, FLOOD ZONES & WILDLIFE

- 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 site plan application process.

- B. To the extent practicable, wetlands shall be placed in a conservation easement, which shall run in favor of, and be enforceable by, the St. Johns River Water Management District or another legal entity such as a homeowner's association. The conservation easement shall require that the wetlands be maintained in their natural and unaltered state. Wetlands shall not be included as a part of any platted lot, other than a lot platted as a common area, which shall be dedicated to the St. Johns River Water Management District or another legal entity such as a homeowner's association for ownership and maintenance.
- C. Buildings or structures shall be a minimum of 50 feet from any wetland jurisdiction boundary.
- D. Wetlands shall have an average upland buffer of 25 feet, with a minimum of 15 feet or the upland buffer established by 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.
- E. Land uses allowed within the upland buffers for wetlands are limited to stormwater facilities as permitted by St. Johns River Water Management District.
- F. 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.
- G. 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.
- H. A map indicating the location of the 100-year flood plain.
- I. 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.
- J. FEMA flood zones exist on the property. Through the site plan review process, the developer shall coordinate with the City of Leesburg, Lake County and all impacted government agencies regarding elevation determinations, compensatory storage and overall design of the subdivision within and near flood hazard boundary areas, to ensure compliance with all regulations.

12. IRRIGATION & WATER USAGE

- A. All landscaped areas shall be irrigated and designed to meet Section 25-337, Waterwise and Florida Friendly Landscaping, City of Leesburg Code of Ordinances.
- B. The use of St. Augustine grass, or other varieties of grass which require significant amounts of water are prohibited. The use of Bahia, Bermuda, Zoysia or other grasses which are more drought tolerant are permitted.

13. RECREATIONAL REQUIREMENTS

- A. Recreational development provided on the site may include active and passive uses, as well as enclosed or unenclosed recreational space, devoted to the joint use of the residents. Such recreational space shall consist of not less than 200 square feet of space per dwelling unit or 2.26 total acres, whichever is greater.
- B. Recreational requirements shall include at least one primary active recreation area, to include a swimming pool and cabana with onsite parking. Other recreation areas may include such uses as a children's playground with equipment, dog park area or gazebo. The primary recreational facility shall be constructed in conjunction with and completed no later than the completion of the first 150 residential units.
- C. Credit for recreational space shall be given for areas dedicated to recreational space, to include items such as a clubhouse with recreation room, swimming pool, outdoor cooking facilities such as grills, youth playgrounds, play courts, dog parks or other similar uses which will meet the intent of this document. Other similar uses which will meet the intent of this document may be supplied by the developer.
- D. Active recreational activity space shall be calculated at a rate of 1.25 times for activities such as, but not limited to:
 - 1) Trails, playgrounds, basketball, tennis, handball courts, etc.
 - 2) Community swimming pool, including the deck area surrounding such pools.
 - 3) Indoor recreation rooms provided such rooms are permanently maintained for the use of residents for recreational purposes.
 - 4) Other active recreational activities may be used for credit, subject to approval by the City of Leesburg.

14. MAINTENANCE

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

15. DEVELOPMENT PHASING & IMPLEMENTATION

- A. The proposed project may be constructed in phases in accordance with the Planned Unit Development Conditions and Conceptual Plan. 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, City of Leesburg Code of Ordinances.

- B. As part of the overall development process, if the project is constructed in phases, then plat of the lots for each approved phase shall contain only portions of the development approved under the Site Plan Review Process, i.e. each phase platted shall match each phase submitted for site plan review.
- ~~C. Implementation of the project shall substantially commence within twelve (12) months of the site plan and construction plan approvals 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 may 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.~~
- ~~D. Satisfaction of the implementation requirements above shall be attained at such point as the developer has performed any of the following:
 - 1) Completed and received approval from the City of Leesburg for the site plan review process for one (1) phase of the development, to include permits from regional and State of Florida agencies as required by law, and;
 - 2) Applied for and received a building permit and diligently pursued completion of a new roadway, or other infrastructure as shown on the approved site plan.~~

16. MISCELLANEOUS CONDITIONS

- A.
- B. 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.
- 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.

17. LEVELS OF SERVICE

A. Levels of Service

- 1) As submitted, the development resulting from the proposed zoning change may 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, or other infrastructure needed, 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
 - a. There are no previous commitments of any existing or planned excess capacity for this property.
- 3) Ability to Provide Services
 - a. At this time, the City intends to provide water, wastewater and reclaimed water services within its service area for the foreseeable future.
 - b. Future development within the City of Leesburg utility service areas may impact the provision of utility services.

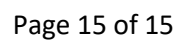
EXHIBIT B

LEGAL DESCRIPTION

DESCRIPTION: A parcel of land lying in Sections 31 and 32, Township 20 South, Range 25 East, Lake County, Florida, and being more particularly described as follows:

COMMENCE at the Southeast corner of the Southwest 1/4 of said Section 32, run thence along the South line of the Southwest 1/4 of said Section 32, N 89°30'17" W, a distance of 664.70 feet; thence N 00°38'43" E, a distance of 25.00 feet to a point on the North Right of Way line of Dewey Robbins Road and the **POINT OF BEGINNING**; thence along said North Right of Way line, N 89°30'17" W, a distance of 1991.34 feet; thence N 00°45'28" E, a distance of 638.43 feet; thence N 89°27'21" W, a distance of 662.31 feet; thence S 00°44'21" W, a distance of 639.00 feet to a point on the aforesaid North Right of Way line of Dewey Robbins Road; thence along said North Right of Way line, N 89°30'16" W, a distance of 22.52 feet; thence N 00°29'44" E, a distance of 210.00 feet; thence N 89°30'16" W, a distance of 210.00 feet; thence S 00°29'44" W, a distance of 210.00 feet to a point on the aforesaid North Right of Way line of Dewey Robbins Road; thence along said North Right of Way line, N 89°30'16" W, a distance of 1091.91 feet to a point on the West boundary of the East 1/2 of the Southwest 1/4 of the Southeast 1/4 of said Section 31; thence along said West boundary, N 00°42'30" E, a distance of 1305.48 feet to a point on the North boundary of the East 1/2 of the Southwest 1/4 of the Southeast 1/4 of said Section 31; thence along said North boundary S 89°23'11" E, a distance of 662.59 feet to the Southwest corner of the Northeast 1/4 of the Southeast 1/4 of said Section 31; thence along the West boundary of said Northeast 1/4 of the Southeast 1/4, N 00°43'14" E, a distance of 1329.32 feet to the Northwest corner of said Northeast 1/4 of the Southeast 1/4; thence along the North boundary of said Northeast 1/4 of the Southeast 1/4, S 89°18'05" E, a distance of 1325.91 feet to the Northeast corner of said Northeast 1/4 of the Southeast 1/4; thence along the East boundary of said Northeast 1/4 of the Southeast 1/4, S 00°45'28" W, a distance of 1326.87 feet to the Southeast corner of said Northeast 1/4 of the Southeast 1/4; thence along the North boundary of the South 1/2 of the Southwest 1/4 of said Section 32, S 89°33'32" E, a distance of 1988.79 feet to the Northeast corner of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 32; thence along the East boundary of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 32, S 00°38'43" W, a distance of 1303.74 feet to the **POINT OF BEGINNING**.

Containing 148.675 acres, more or less.





CITY OF LEESBURG PLANNING & ZONING DIVISION RECOMMENDATIONS

OWNER: Ray Kemp Trustee, et.al
PETITIONER: Hanover Land Company
PROJECT: Hodges Reserve
REQUEST: Rezoning to PUD (Planned Unit Development)
CASE NO.: PUD 21-54
MEETING DATE: April 22, 2021

REQUEST

The applicant has submitted a request to rezone the subject property from Lake County A (Agriculture) to PUD (Planned Unit Development) to allow the future development of 449 single family units on 40 and 50-foot-wide lots on a 149 +/- acre parcel, generally located on the north side of Dewey Robbins Road and east of U.S.27.

THE PLANNING & ZONING DIVISION RECOMMENDS:

DISAPPROVAL of this request
for the following reason(s):

1. **At this time, the proposal should be considered premature.** Staff would argue that this is a timing issue. There is no similar development or zoning proposal in the immediate area. Land to the south of this area, which is at a major intersection, (U.S. 27 and the Florida Turnpike), down to and including the South Lake Medical Pavilion, has been zoned for commercial, medical, office and residential uses. The creation of an anchor or activity node for the southern end of Leesburg at U.S.27 and the Turnpike would then more appropriately support the timing and development of a project of this nature. In addition, it is anticipated that sizable properties to the north of the subject property will at some point in the future be purchased, zoned and developed for residential and commercial uses, which would also reduce the concern for appropriate timing of development at this location. Future Land Use Element, Policy 1.8.3 *Annexation* states "The city shall pursue a policy of annexation which will provide for the most efficient use of public facilities and services, eliminate areas of jurisdictional problems, and provide for sound growth and development of the city and surrounding area."
2. **The proposed size of lots is incompatible with the character of the surrounding area.** Lot sizes in the general area range from 3 acres to over 40 acres, which is significantly larger than the

proposal. Both the City of Leesburg Planning Commission, and the Leesburg City Commission, have both expressed a desire to see larger lots in future development proposals. The City of Leesburg has approved, over the past five years, no less than 500 lots of 40 feet in width or less. Staff is therefore concerned that continuing to approve lots this size will limit housing options available within the City. The City's Comprehensive Plan, Policy 1.6.1 *Inconsistencies*, of the Future Land Use Element states that "Proposed land use amendments which are inconsistent with the character of the community or inconsistent with adjacent future land uses shall not be approved by the City."

3. **The proposed zoning is not compatible with adjacent land uses in Lake County.** Future Land Use Element, Objective 1.8 *Adjacent jurisdictions* states "The City shall promote compatibility of adjacent land uses with Lake County and the neighboring Cities." Development at this time, along with the proposed size of the lots at this location is not compatible with adjacent land uses in Lake County.

SUMMARY

1. At this time, the proposal should be considered premature
2. The proposed size of lots is incompatible with the character of the surrounding area.
3. The proposed rezoning is considered inconsistent with adjacent uses in Lake County.

Staff does wish to recognize, that at some point in the future, such a proposal could be considered as compatible for this area. This would occur when properties to the north and east of U.S. 27, are annexed and rezoned, and properties to the south (Turnpike area) submit plans for viable development. It is likely that in the future, development of large areas north of this site, which lie east U.S. 27 may be considered for zoning into residential and commercial areas, could trigger such compatibility.

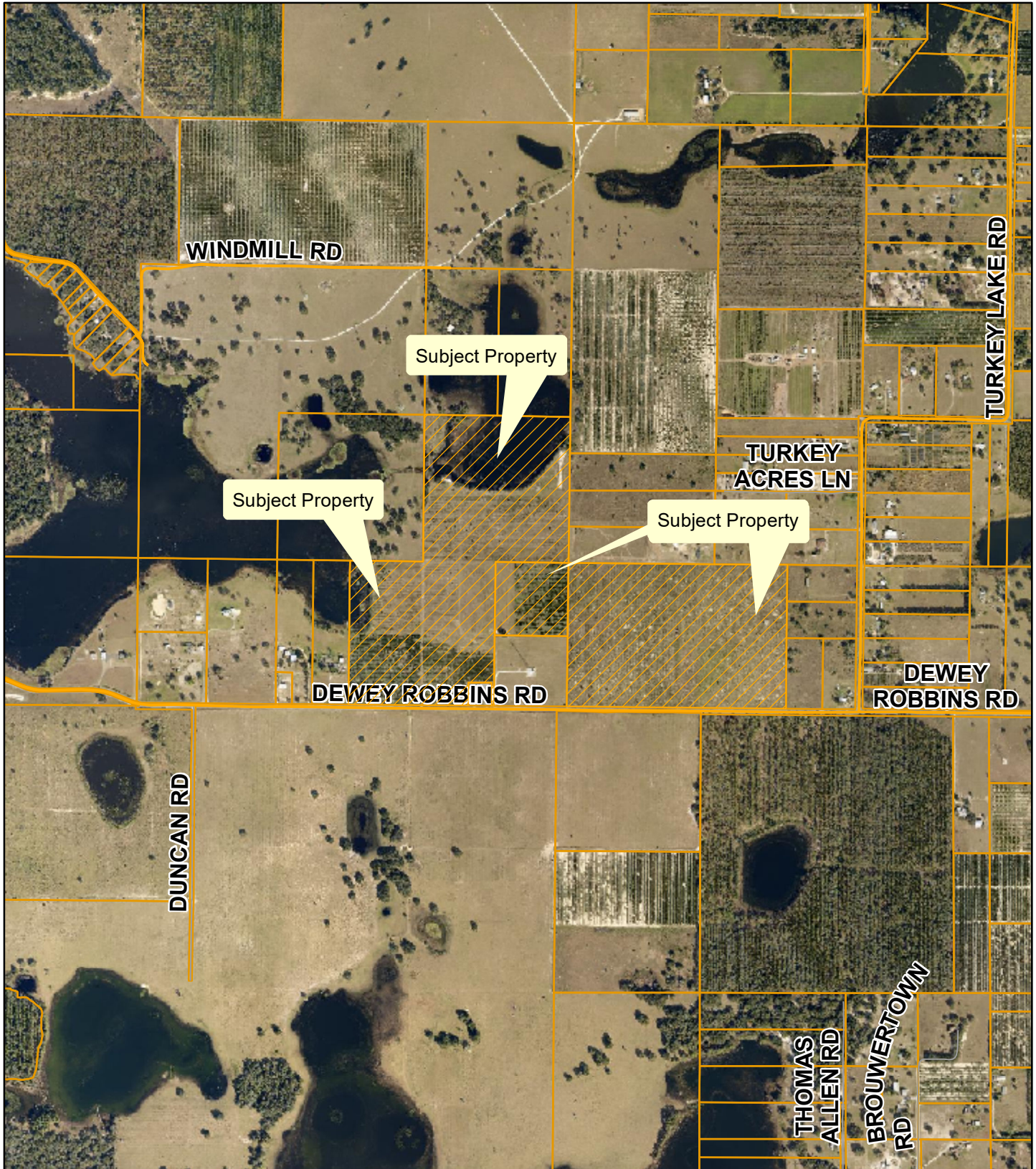
Action Requested:

1. **Vote to recommend DISAPPROVAL of the proposed rezoning from Lake County A (Agriculture) to PUD (Planned Unit Development).**

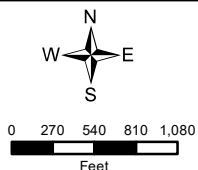
OPTIONS NOTE:

1. Should the Planning Commission choose to recommend APPROVAL of the requested zoning, staff requests that the conditions contained in "Exhibit A – HODGES RESERVE PUD CONDITIONS dated April 22, 2019 be used.

Aerial



**Planning
& Zoning
Division**



ANNX-21-52, LSCP-21-53, PUD-21-54 - Hodges Reserve
AK#s: 1209463, 1030285, 1404410
Section 31, Township 20 South, Range 25 East and
Section 32, Township 20 South, Range 25 East
March 24, 2021

**CITY OF LEESBURG PLANNING & ZONING DIVISION
STAFF SUMMARY**

DATE: April 22, 2021
OWNER: Ray Kemp Trustee et al and J & R Groves
PETITIONER: Ben Snyder, Hanover Land Company
PROJECT: Hodges Reserve
REQUEST: Large Scale Comprehensive Plan Amendment to Estate Residential; Zoning to PUD (Planned Unit Development)
CASE NO.: LSCP 21-53; PUD-21-54

GENERAL LOCATION: The property is generally located east of US Highway 27 and on the north side of Dewey Robbins Road.

FUTURE LAND USE DESIGNATION: Lake County Rural

SURROUNDING FUTURE LAND USE DESIGNATION:

North – Lake County Rural
South – Lake County Rural Transition
East – Lake County Rural
West – Lake County Rural

PROPOSED FUTURE LAND USE DESIGNATION: Estate Residential

EXISTING ZONING DESIGNATION: Lake County A (Agriculture)

SURROUNDING ZONING DESIGNATIONS:

North – Lake County A (Agriculture)
South – Lake County A (Agriculture)
East – Lake County A (Agriculture)
West – Lake County A (Agriculture)

PROPOSED ZONING DESIGNATION: PUD (Planned Unit Development)

EXISTING LAND USE: Agriculture

SURROUNDING LAND USE:

North – Pasture
South – Timber; Pasture; Vacant Residential
East – Vacant Residential & Residential
West – Residential; Pasture

PROPOSED LAND USE: Residential subdivision

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

DATE: March 29, 2021
OWNER: Ray Kemp Trustee et al and J & R Grove
PETITIONER: Ben Snyder, Hanover Land Company
PROJECT: Hodge Reserve
REQUEST: Large Scale Comprehensive Plan Amendment to Estate Residential and zoning to PUD (Planned Unit Development)
CASE NO.: LSCP 21-53; PUD-21-54

THE FOLLOWING COMMENTS RECEIVED FROM EACH DEPARTMENT:

POLICE

No comments received as of 4/16/21

FIRE

No comments from Leesburg Fire Department. Amanda Stevenson 4/5/21

ELECTRIC

This is outside Leesburg Electric's territory. Steve Davis 3/31/21

GAS

No comments received as of 4/16/21

GIS

GIS has no comments. Tammy Magamoll 3/31/21

BUILDING

No comments received as of 4/16/21

PUBLIC WORKS

Public Works has no issues with this proposal. Clifford Kelsey 4/12/21

ADDRESSING

No comments received as of 4/16/21

ECONOMIC DEVELOPMENT

No comments received as of 4/16/21

LAKE COUNTY PUBLIC WORKS

Lake County Public works has the attached comments for the Hodge Reserve PUD. Thanks, Seth Lynch 4/6/21

LAKE COUNTY SCHOOLS

I have attached the Adequate Public Facilities Determination for the Hodge Reserve residential project. Please advise the applicant that School Concurrency review is required. Proportionate share mitigation may be required at that time. Let me know if you have any questions. Thanks, Helen LaValley 4/6/21

PUBLIC RESPONSES

Approval

no approvals

Disapproval

9 disapprovals 9 with comments

No comment

Notice of Appearance filed:

PUBLIC COMMENTS (APPROVAL WITH REQUESTS)

PUBLIC COMMENTS (DISAPPROVAL)

Daisy Gomez – See attached letter.

Jacqueline Mizak – Please see attached list.

Wendy Sikes – There would be too much traffic for a small road such as Dewey Robbins. No traffic lights. There is a water way running through that property which leads to a problem with the natural flow. There are endangered birds out here that rely on larger properties & water to live. There's not enough of anything to sustain a neighborhood.

Ben Sikes – Your addicted to Urban Sprawl. Get Help!

Chandon Sikes – This community will be disturbing natural wildlife and waterways. There's too many people on such a small road and no adequate infrastructure. Very poor lifestyle for all.

Kassidi Sikes – There is no potential creating the necessary infrastructure to successfully support a community of this size long-term. It is an ill-advised financial mistake.

Chastin Sikes – I feel that the impact the proposed community will have on both traffic on Dewey Robbins and the water shed locally will be negative, if not devastating. It seems irresponsible to have any entrance on Dewey Robbin, and not Hwy 27. Every other community of equal size around does not get accessed from such a small county road. The current community relies on well water, unlike urban communities. The number of pesticides from the proposal housing concerns me.

Kisha Hutchcroft – The invasion of urban developments into rural Howey-In-The-Hills, a historical citrus town is destroying the integrity, history, appeal, & charm of Howey. The new proposed population quantity exceeds what the roads capacity can handle. The natural water supply & wetlands are in danger. Approval of this development will destroy Howey as we know it.

Christian Lon Hutchcroft – My family has spent thousands of dollars and years of our lives building a home in Howey. The damage of this urban sprawl is real. The roads, environment, water, wetland, and infrastructure simply can not handle this. Please learn that!! Find another source for money and leave our lives alone.

Daisy D Gomez & Efrain Sarabia

24237 Turkey Lake Rd

Howey In The Hills, FL 34737

daisy.sarabia@yahoo.com

(352)-874-8120

We the undersigned owners of the property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development code which would zone the property to any reclassification other than agricultural for the following reasons:

- Unnecessary increase in traffic, needs for traffic lights, road signs, etc. all costing the county and/or city more money
- Increase in property taxes with concern for home value diminution
- Additional damages will occur in the form of noise, odor, and visual disturbances on the peace and privacy we currently have
- Generalized increase in crime rates with concern for safety. For example, Leesburg's violent crime is 42.6 and Leesburg's property crime is 71.4 in 2019 vs. Howey in the Hills' significantly lower violent crime at 9 and property crime at 17.9 in 2019.
- Environmentally, it would be an intrusion to the surrounding wildlife, create unnecessary pollution, and decrease the ability to conserve water and electricity
- Conservation of the soil and land that could potentially be preserved and developed for farming/agricultural necessities

Petition for Rezoning Disapproval:

Case # LSCP 21-53; PUD-21-54

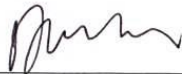
We the undersigned neighbors of the property affected by the request of rezoning change described in the referenced file do hereby protest against any change of the land development code which would zone the property to any classification other than agricultural. As do the following undersigned.

Name	Signature	Address	Phone Number
Dianna McCoy		24100 Turkey Lk Rd.	2556376
Ross Russo		24100 Turkey Lk Rd.	3968100
Marla Raber		24329 Turkey Lk Rd	406-2271
Sharon W. Judge		24244 Turkey Lk Rd	362-2762
Robbie P. Judge		24244 Turkey Lk Rd	360-9982
Orlinda Sarabia		22329 Cessina Ln Highway In The Hills FL	352-217-2189
Efren Sarabia		22329 Cessina Ln Highway In The Hills FL	352-2278200
Tom Biekmann		24253 Turkey Lake Rd.	407-9255393
Joel Wiederknecht		23745 Boudi Kaka Lane	407-352-5848
Victoria Dryer		8545 Orange Blossom Rd	407-791-5500
Michael Maas		8545 Orange Blossom Rd	321-580161
Cristina Maas		8545 Orange Blossom Rd	813-6947700
Patricia Dryer		8545 Orange Blossom Rd	321-443-9069
MITCHELL J. SACHS		8338 ORANGE BLOSSOM RD.	352-449-8002
Jesse M Rogers		8300 Orange Blossom Rd	352-883-9502
Carynne Overstore		23949 Reading Rd	407-592-9760
Colin O'SHAUGHNESSY		23949 Reading Rd. Honey	407-404-2835
Roxana Navarro		23211 S. Dewey Robbins Rd	352-396-4694
Joyce Graham		6545 Dewey Robbins Rd	353-365-1706
Randy Graham		6545 Dewey Robbins Rd	352-801-2927
Jesse Graham		6545 Dewey Robbins Rd	352-504-2672
Jeremy Miller		6533 Dewey Robbins Rd	352-348-1877
Michelle Cronin-Miller		6533 Dewey Robbins Rd	352-348-5704
Michael Cronin		6531 Dewey Robbins Rd	352-248-0291
Kim Cronin		6531 Dewey Robbins Rd	352-988-8906
Mark Flint		22405 Cessina Ln Highway In The Hill	407-468-8155
Brandi Lopez		24020 Turkey Lake Rd	352-702-2174
Glenn Batchelor		24240 Turkey Lake Rd	352-267-3135
Andrew J. Batchelor		24240 Turkey Lake Rd	352-267-6933

Reasons for disapproval are as followed (but not limited to):

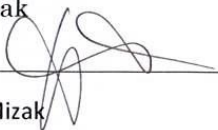
- Destruction of natural ecosystem causing:
 - displacement of wildlife
 - Will creating dangerous environment on our property for our children to play
 - venomous eastern diamondback rattlesnakes
 - wild coyotes
 - Will create increased pest issues because of decreased natural pest control especially in regards to rats and gulf coast ticks (as ALREADY seen with the destruction and burning of the previous citrus groves pushing out our local coyote population in April of 2019)
- Increased crime rate:
 - Our property will no longer be safe for our children to play outside safely without the threat of kidnapping because of increased human population density NEXT DOOR with the development of subdivisions
 - Our property and belongings will be threatened for theft and stealing because of increased human population density NEXT DOOR with the development of subdivisions
- Pollution to our natural water table affecting the quality of our well water due to increased use of pesticides and herbicides that are inevitable with development of subdivisions
- Increased vehicle traffic to Dewey Robbins and Turkey Lake Rd
 - Will likely result in the need for road widening and traffic lights which means more construction and devastation to property and wildlife

Sincerely,



4/12/21

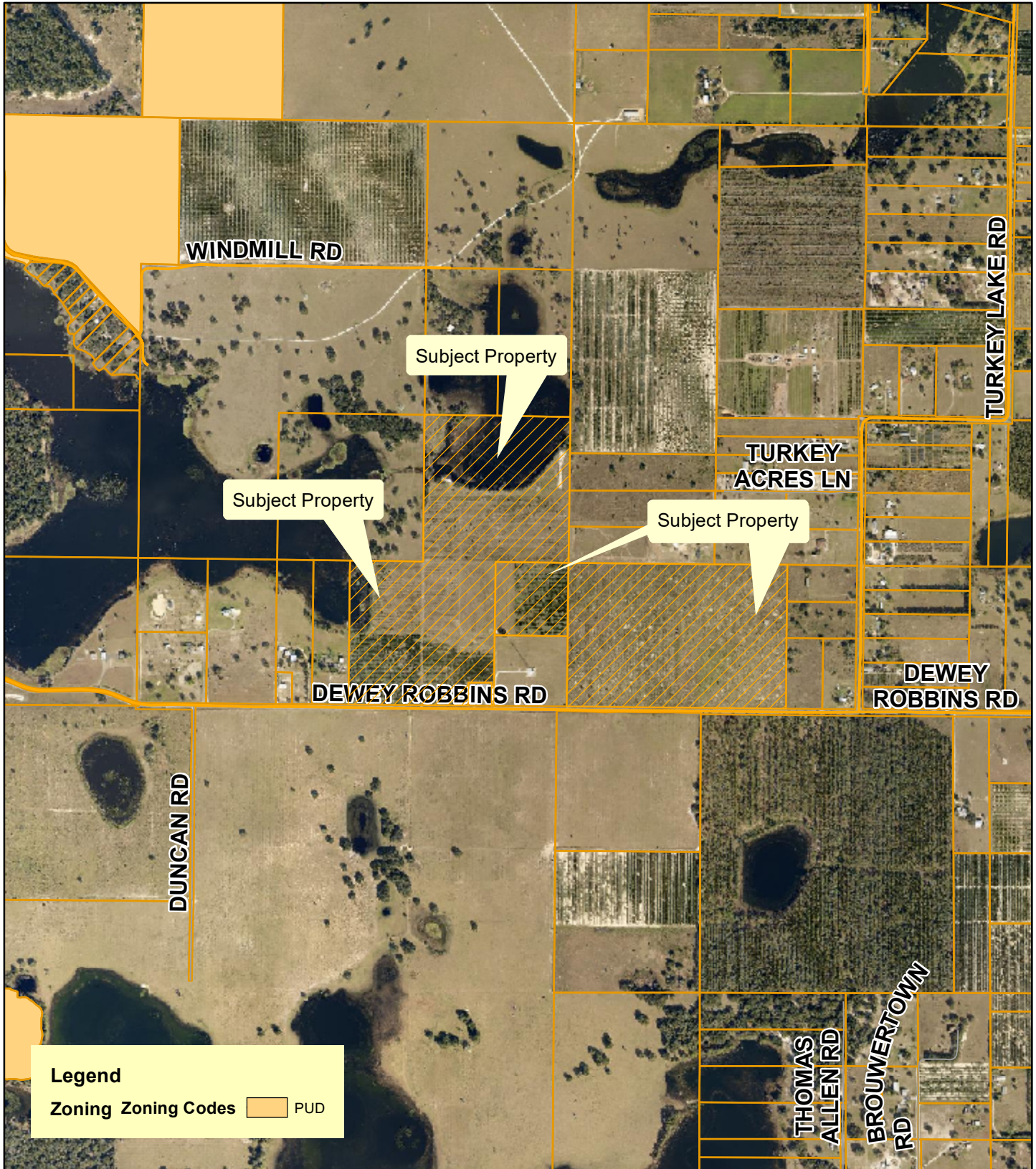
Daniel Mizak



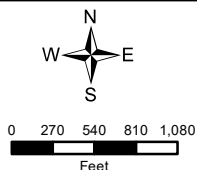
4/12/21

Jacqueline Mizak

Zoning

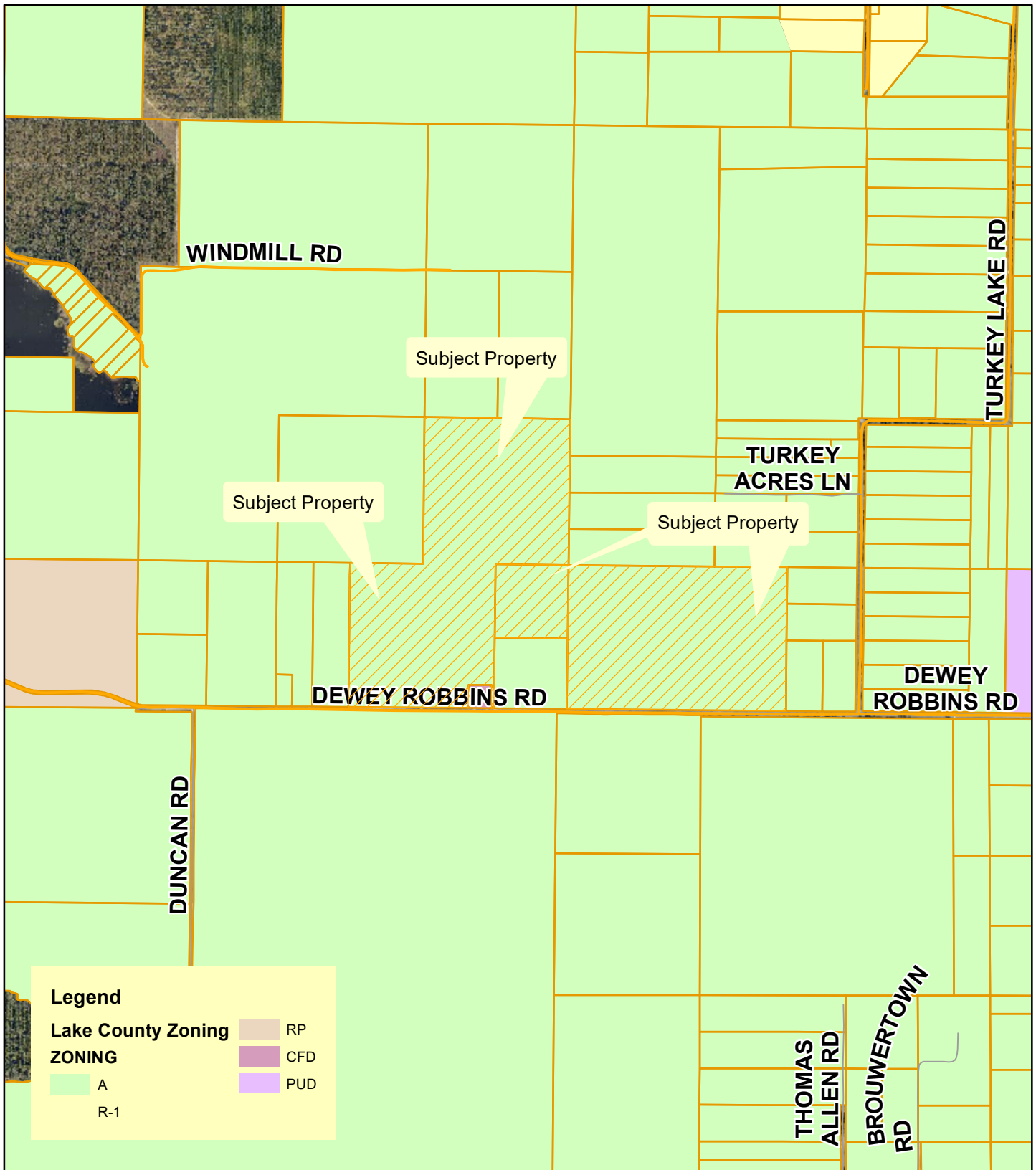


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Division**

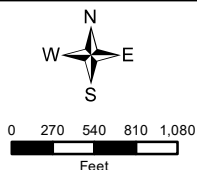


ANNX-21-52, LSCP-21-53, PUD-21-54 - Hodges Reserve
 AK#s: 1209463, 1030285, 1404410
 Section 31, Township 20 South, Range 25 East and
 Section 32, Township 20 South, Range 25 East
 March 24, 2021

Lake County Zoning

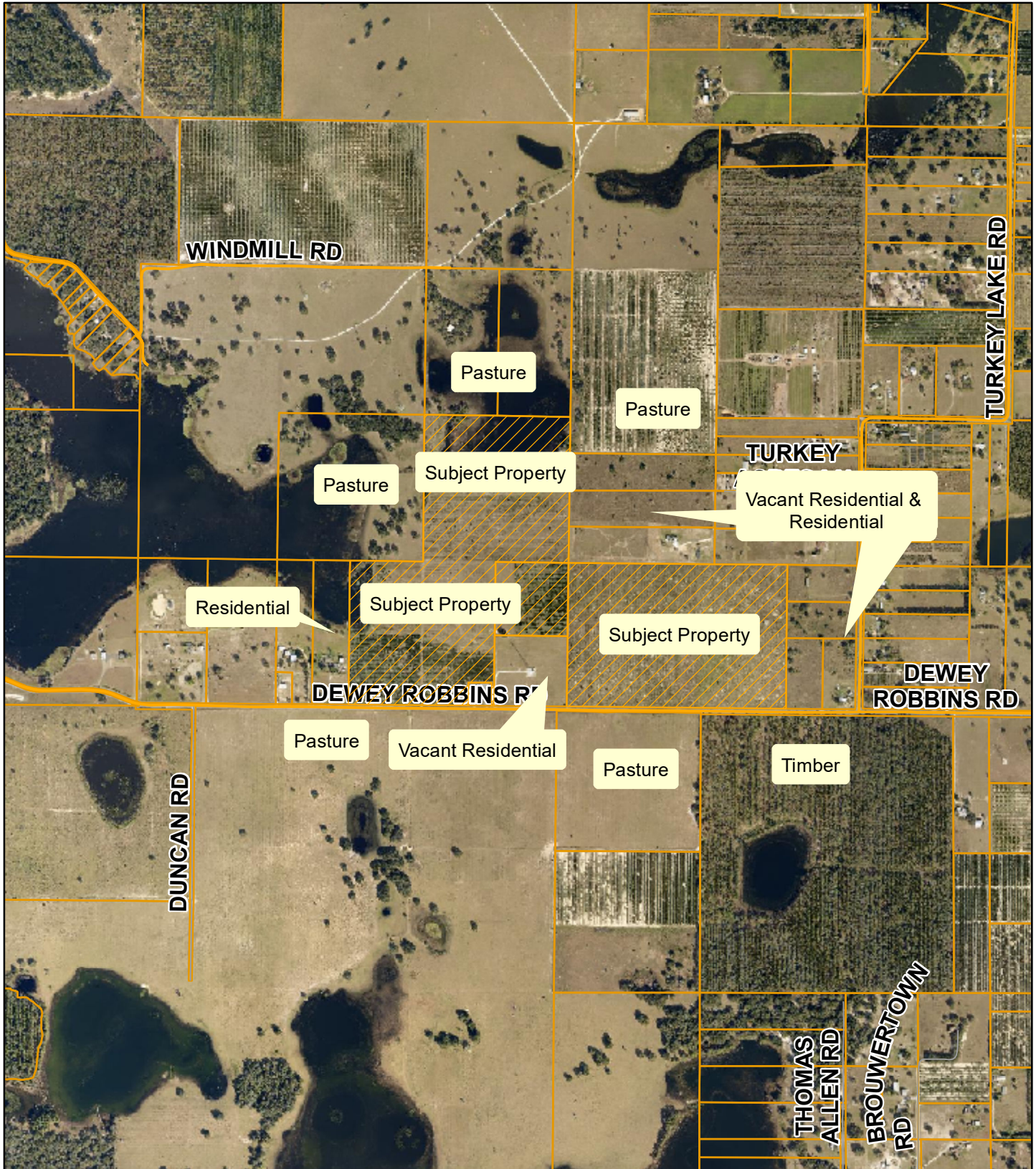


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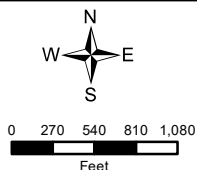


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Surrounding Land Uses

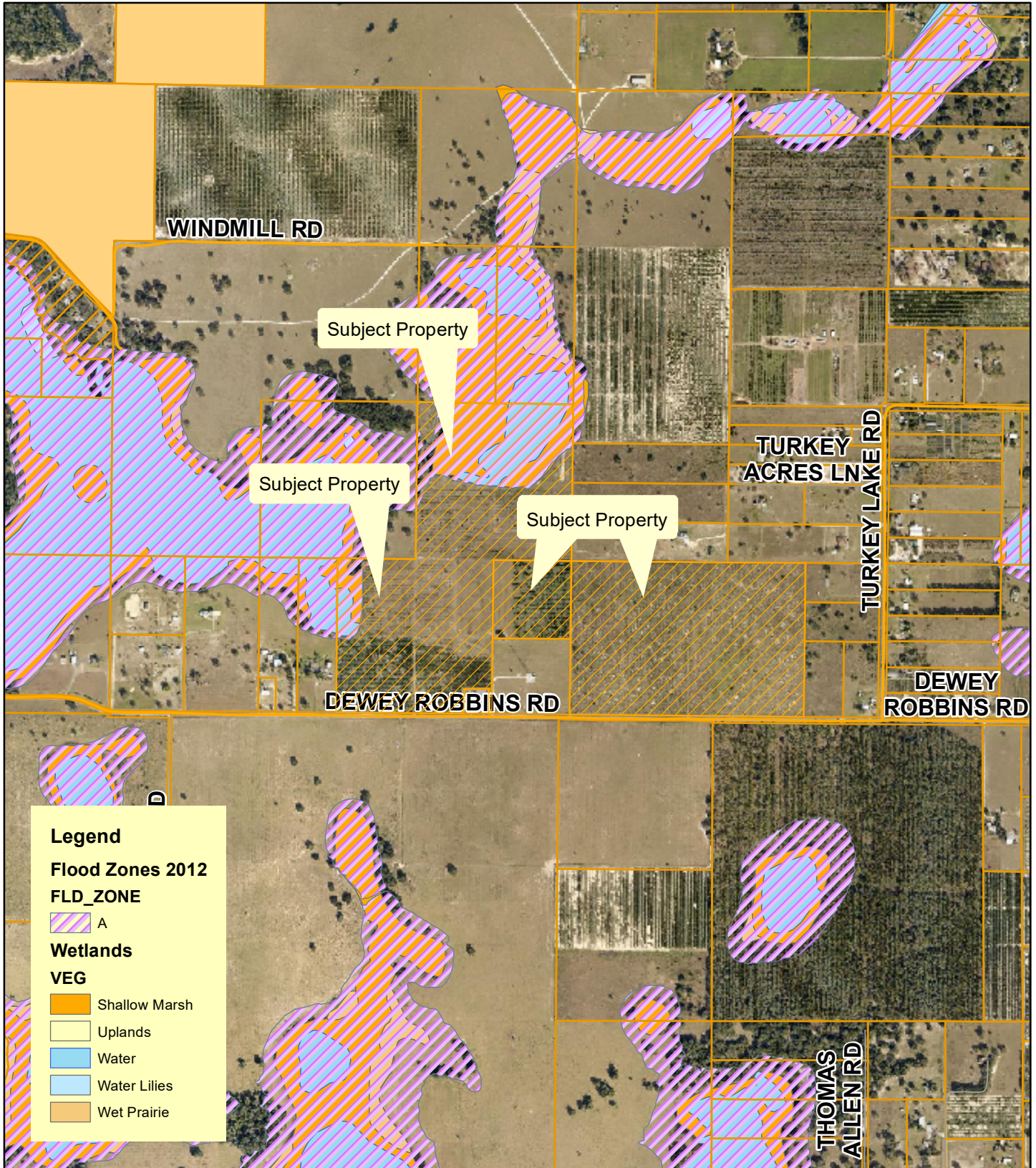


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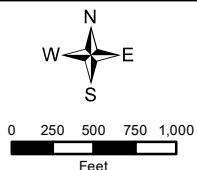


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Wetlands and Flood Zone



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