



**MEETING AGENDA
SESSION OF THE CITY COMMISSION
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
TUESDAY, NOVEMBER 1, 2022 AT 6:00 PM**

1. MEETING CALLED TO ORDER

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

3. PROCLAMATIONS AND SPECIAL PRESENTATIONS

3.A Swearing In for nine new Police Officers

3.B Proclamation- Ashley Ann Cariño

3.C Employee of the Month for November - Wilmarie Hernandez Pagan

4. PUBLIC HEARINGS - FIRST AND SECOND READINGS

4.A Public Hearing - Second and Final Reading - General Employees' Retirement Plan Amendment: Amending Section 30-84, 30-88, 30-110, 30-111 - Proposed Ordinance #22-19

AN ORDINANCE OF THE CITY OF KISSIMMEE AMENDING CHAPTER 30, PERSONNEL, ARTICLE III, EMPLOYEE RETIREMENT, DIVISION 2, GENERAL EMPLOYEES' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF KISSIMMEE; AMENDING SECTION 30-84, DEFINITIONS; AMENDING SECTION 30-88, CONTRIBUTIONS; AMENDING SECTION 30-110, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 30-111, REEMPLOYMENT AFTER RETIREMENT; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

4.B Public Hearing - First Reading - Land Development Code Glitch Ordinance: LUPA-22-0005 - Proposed Ordinance #22-017

AN ORDINANCE AMENDING THE CODE OF THE CITY OF KISSIMMEE, FLORIDA CODE OF ORDINANCES TITLES; UPDATING LANGUAGE THROUGHOUT THE LAND DEVELOPMENT CODE, CHAPTER 14; MOVING A STATEMENT IN CODE OF ORDINANCES SECTION 42-48 TO SECTION 14-4-6.A.9 IN THE LAND DEVELOPMENT CODE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

4.C Public Hearing - First Reading - Car Washes in the Form-Based Code: ZMA-22-0003 - Proposed Ordinance #22-018

AN ORDINANCE AMENDING THE CITY OF KISSIMMEE, FLORIDA CODE OF ORDINANCES PART III, CHAPTER 14-5-8; ADDING SECTION 14-5-8.G. TO ESTABLISH DEVELOPMENT STANDARDS FOR CAR WASHES WITHIN THE FORM-BASED CODE AREA; AMENDING 14-5-6 SITE STANDARDS, TABLE 5-1 PERMITTED USES TO ADD CAR WASH AS A PERMITTED USE IN THE T5-U

TRANSECT ZONE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH
AND PROVIDING AN EFFECTIVE DATE

5. PUBLIC HEARINGS

6. HEAR AUDIENCE

Anything requiring a vote will be heard at a later time.

7. CONSENT AGENDA

The consent agenda is a technique designed to expedite the handling of routine miscellaneous business of the City Commission. The City Commission in one motion may adopt the entire Consent Agenda. The motion for adoption is non-debatable and must receive unanimous approval. By request of any individual member, an item may be removed from the Consent Agenda for discussion.

- 7.A Approval of Aid to Provide Organizations Agreement for Advertising Funding from Experience Kissimmee for the Kissimmee Gateway Airport
- 7.B Authorization To Accept 2022-23 Victims Of Crime Act (VOCA) Grant Funding
- 7.C Acceptance of Grant Award from the State of Florida for the Public Safety Training Center Support Annex
- 7.D Interlocal Agreement for the FY 2022-23 Osceola Legislative Effort
- 7.E Acceptance of 2022 BJA Edward Byrne Memorial Justice Assistance Grant Program – Local Solicitation Program from the U.S. Department Of Justice
- 7.F Projects to be Carried Forward to FY 2022-2023
- 7.G Authorization to Purchase the City Vehicle Requirements included in the FY2022-23 Budget
- 7.H Construction Manager at Risk Agreement with Arnco Construction Inc. for the Lancaster Ranch Park Phase 1 Project
- 7.I Request additional funds to purchase a replacement vehicle for AP30 from Airport Reserves
- 7.J Approval of a Permanent Right-of-Way Easement between Vine Street Plaza Investors, LLC and the City of Kissimmee.
- 7.K Government Experience Cloud Web Content Management Software
- 7.L Developer's Agreement between the City of Kissimmee, Birdsong Housing Partners, and Park Place Behavioral Health Care for the Dillingham Apartments.
- 7.M Letter of Support for Project Recommendations for the Office of Criminal Justice Grant Allocation for Osceola County Agencies

8. DISCUSSION ITEMS

9. HEAR CITY OFFICIALS

- 9.A CITY MANAGER
- 9.B CITY ATTORNEY
- 9.C CITY COMMISSION

10. ADJOURNMENT

In accordance with Florida Statutes 286.105: Any person wishing to appeal any decision made by the City Commission with respect to any matter considered at such meeting or hearing will need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is made.

In accordance with Florida State 286.26, persons needing assistance to participate in any of these proceedings should contact the Office of the City Clerk, 101 Church Street, Kissimmee, Florida, (407) 518-2309.

ITEM 3.A

Swearing In for nine new Police Officers

Request

Swearing in and administering an oath to nine new police officers.

Explanation

Nine new police officers have been hired as employees by the City of Kissimmee Police Department. Having the officers sworn in at City Commission Meetings serves as a formal introduction to the Mayor, City Commission, the citizens, and the community. The procedure of swearing in new officers instills formality and professionalism at the start of their careers with the City of Kissimmee.

The new police officers to be sworn in are:

Vanessa Carey
Micheal Elder
Millyan Lagares
Brian Villegas
Alexcis Morales
Paul Wood
Gabriel Guadalupe
Richard Ess
Kristyann Madrigal

Department: Police
Presenter: Jeffrey Odell

Attachment(s):

1. (S) Police Officer Swearing In Oaths of Office 11012022
2. (S) Police Officer Swearing In Oath Kristyann Madrigal 11012022



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Vanessa Carey, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Vanessa Carey
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Vanessa Carey, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Vanessa Carey
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Micheal Elder, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Micheal Elder
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Micheal Elder, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Micheal Elder
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Millyan Lagares, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Millyan Lagares
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Millyan Lagares, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Millyan Lagares
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Brian Villegas, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Brian Villegas
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Brian Villegas, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Brian Villegas
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Alexcis Morales, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Alexcis Morales
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Alexcis Morales, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Alexcis Morales
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Paul Wood, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Paul Wood
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Paul Wood, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Paul Wood
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Gabriel Guadalupe, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Gabriel Guadalupe
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Gabriel Guadalupe, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Gabriel Guadalupe
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Richard Ess, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Richard Ess
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Richard Ess, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Richard Ess
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT

8 N. STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.518.1234



November 01, 2022

I, Kristyann Madrigal, having been appointed to the rank of Police Officer, do hereby solemnly swear, and affirm, that I will support, defend and obey the Constitution of the United States of America; the Constitution of the State of Florida; the Laws and Ordinances of the City of Kissimmee; the Rules and Regulations of the Kissimmee Police Department to the best of my ability. So help me God.

(Seal)

Kristyann Madrigal
Police Officer

ATTEST:

WITNESS:

City Clerk

Jeffrey M. O'Dell
Chief of Police

ITEM 3.B**Proclamation- Ashley Ann Cariño****Request**

The request is for the Commission to present a Proclamation to Ashley Ann Cariño.

Explanation

N/A

Department: City Manager

Presenter: Mike Steigerwald

Attachment(s):

1. Proclamation- Ashley Ann Cariño

Proclamation



ASHLEY ANN CARIÑO

WHEREAS, born in Fajardo, Puerto Rico in 1994 to parents Jose Cariño and Olga Barreto, Ashely moved to Kissimmee with her family when she was six years old; and

WHEREAS, Cariño attended the Professional and Technical High School in Kissimmee where she received certification to work as a psychosocial rehabilitator, after overcoming ADHD in her childhood, she was inspired to work with children with cognitive diversity; and

WHEREAS, Ashley has focused on helping children and adolescents with mental health diagnoses and hopes to inspire those around her to be themselves and believe in who they are and what they can accomplish ; and

WHEREAS, after high school, Ashley studied at the University of Central Florida, majoring in Aerospace Engineering; and

WHEREAS, Ashley began her pageantry journey when she competed in Miss USA 2021, and as a delegate in Miss Florida USA 2021 she became the first woman from Kissimmee to be crowned the new queen ; and

WHEREAS, on August 12, 2022 at the Luis A. Ferré Performing Arts Center, San Juan, Puerto Rico, Ashley Ann Cariño was crowned Miss Universe Puerto Rico 2022, she is now preparing to compete in Miss Universe 2023; and

NOW, THEREFORE, we, the City Commission for the City of Kissimmee do hereby present this proclamation to "**Ashley Ann Cariño**" for her accomplishments and dedicated service to the community.

IN WITNESS, THEREOF, this is signed this 27th day of September, 2022.

CITY MANAGER

MAYOR-COMMISSIONER

ITEM 3.C

Employee of the Month for November - Wilmarie Hernandez Pagan

Request

That the City Commission join the City Manager in recognizing Wilmarie Hernandez Pagan, Parks & Recreation, as November's Employee of the Month

Explanation

The City is pleased to announce that the Employee of the Month for November is Wilmarie Hernandez Pagan, Utility Worker for Parks and Recreation. Wilmarie started as a part-time employee in September of 2019 and was promoted to full-time in July of 2021.

The City trails are part of the Parks & Recreation Department's jurisdiction, and Wilmarie is on the Trail Maintenance crew. She is very skillful on all the maintenance equipment, and even assists fellow employees in its operation. Wilmarie is a 'go-getter' who independently does her daily tasks, and the random tasks that occur, without complaint. You can see the pride she takes in her work as she engages with citizens who use the trail system – giving directions, explaining features and amenities, and cautioning about wildlife that may be present.

Wilmarie's positive attitude motivates her fellow employees – they are pleased to have her on the team because of her good nature, ethics, professionalism, and willingness to always learn and do more.

Wilmarie is a great ambassador for the City. For this, and her other contributions, we would like to recognize her.

Department: Human Resources & Risk Management
Presenter: Mike Steigerwald

Attachment(s):

None

ITEM 4.A

Public Hearing - Second and Final Reading - General Employees' Retirement Plan

Amendment: Amending Section 30-84, 30-88, 30-110, 30-111 - Proposed Ordinance #22-19

AN ORDINANCE OF THE CITY OF KISSIMMEE AMENDING CHAPTER 30, PERSONNEL, ARTICLE III, EMPLOYEE RETIREMENT, DIVISION 2, GENERAL EMPLOYEES' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF KISSIMMEE; AMENDING SECTION 30-84, DEFINITIONS; AMENDING SECTION 30-88, CONTRIBUTIONS; AMENDING SECTION 30-110, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 30-111, REEMPLOYMENT AFTER RETIREMENT; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

Request

Approval of the second and final reading of the Proposed Ordinance for the General Employees' Retirement Plan.

Explanation

This is a request to amend the following sections within the General Employees' Retirement Plan:

Section 30-84 is being amended to clarify the definition of salary. This change is provided by the Internal Revenue Code.

Section 30-88 is being amended for Toho members of the plan to no longer make member contributions to the plan upon completion of 30 years of credited service.

Section 30-110 is being amended to change the eligibility to enter the Drop at age 55 with the completion of 30 years of credited service. The early retirement reduction factor will still apply, and the Drop members will continue to make member contributions for their selected tier until they reach the age of 60 or end their Drop participation.

Section 30-111 amends and clarifies the reemployment language.

The attached impact statement from the Actuary indicates the \$37,900 annual cost to the plan for these changes, which has been included with the adopted FY 2023 budget. The General Employees Pension Board voted unanimously to recommend these changes to the plan at their August 25, 2022 meeting.

Recommendation

Staff recommends approval of the second and final reading of Proposed Ordinance 22-19.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Human Resources & Risk Management

Presenter: Mike Steigerwald

Attachment(s):

City of Kissimmee

1. (S) Proposed Ordinance 22-19
2. Proposed Ordinance 22-19 - Advertising Affidavit
3. Actuarial Impact Statement Proposed Ordinance 22-19

PROPOSED ORDINANCE NO. 22-19
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KISSIMMEE AMENDING CHAPTER 30, PERSONNEL, ARTICLE III, EMPLOYEE RETIREMENT, DIVISION 2, GENERAL EMPLOYEES' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF KISSIMMEE; AMENDING SECTION 30-84, DEFINITIONS; AMENDING SECTION 30-88, CONTRIBUTIONS; AMENDING SECTION 30-110, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 30-111, REEMPLOYMENT AFTER RETIREMENT; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA:

SECTION 1: That Chapter 30, Personnel, Article III, Employee Retirement, Division 2, General Employees' Retirement Plan, of the Code of Ordinances of the City of Kissimmee, is hereby amended to by amending Section 30-84, Definitions, to amend the definition of *Salary*, subsection (3), to read as follows:

* * * * *

- (3) Compensation in excess of the limitations set forth in Internal Revenue Code § 401(a)(17) as of the first day of the plan year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions for any plan year beginning on or after January 1, 2002, may not exceed \$200,000.00, as adjusted for cost of living increases in accordance with Internal Revenue Code § 401(a)(17)(B). The term "compensation" means compensation during the fiscal year, and the fiscal year is considered the determination period. The cost of living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than 12 months for all members, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12, as provided for in Treas. Reg. Section 1.401(a)(17)-1(b)(3)(iii)(B). If the compensation for any prior determination period is taken into account in determining a member's contributions or benefits for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. The limitation on compensation for an eligible employee shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. The term "eligible employee" means an individual who was a member before the first plan year beginning after December 31, 1995.

* * * * *

SECTION 2: That Chapter 30, Personnel, Article III, Employee Retirement, Division 2, General Employees' Retirement Plan, of the Code of Ordinances of the City of Kissimmee, is hereby amended to by amending Section 30-88, Contributions, subsection (a)(1), *Amount*, to read as follows:

* * * * *

(a)(1) *Amount.* Each member of the system shall be required to make regular contributions to the fund as follows:

- a. Tier 1 members shall be required to contribute 3.69 percent of salary;
- b. Effective October 1, 2016, Tier 2 members shall be required to contribute 6.99 percent of salary. The contribution rate for Tier 2 members shall not be increased above 7.5 percent, except to fund additional benefits. The contribution rate for Tier 2 members shall be reevaluated every three years and adjusted by resolution of the board of trustees, if the current contribution rates are less than or greater than the required funding for the increased benefit being received by Tier 2 members subject to the maximum rates set forth above. A copy of each resolution of the board shall be provided to the city.
- c. Members of the system who are employed by TOHO shall not be required to make member contributions to the fund after the completion of thirty (30) years of credited service.
- d. Members of the system who are employed by the City who have completed thirty (30) years of credited service and are at least age fifty-five (55), and enter the DROP pursuant to Sec. 30-110(b)(1), shall continue to make member contributions for either Tier 1 or Tier 2 until they reach age sixty (60) or end DROP participation and terminate employment.

Member contributions withheld by the city or authority on behalf of the member shall be deposited with the board immediately after each pay period. The contributions made by each member to the fund shall be designated as employer contributions pursuant to Internal Revenue Code § 414(h). Such designation is contingent upon the contributions being excluded from the member's gross income for federal income tax purposes. For all other purposes of the system, such contributions shall be considered to be member contributions. A member's new contribution rate (based upon selected Tier) to the plan shall commence, the first pay period following employment, at the Tier 1 contribution rate, and upon timely election to be a Tier 2 member, the higher contribution rate shall commence the first pay period following the election.

* * * * *

SECTION 3: That Chapter 30, Personnel, Article III, Employee Retirement, Division 2, General Employees' Retirement Plan, of the Code of Ordinances of the City of Kissimmee, is hereby amended to by amending Section 30-110, Deferred Retirement Option Plan, subsections (b)(1), *Eligibility to participate*, and subsection (b)(2), *Period of participation*, to read as follows:

* * * * *

- (b) (1) *Eligibility to participate.* In lieu of terminating his employment as a general employee, any member who is eligible for normal retirement under the system may elect to defer receipt of such service retirement pension and to participate in the DROP. Notwithstanding the previous sentence, a member who is a City employee may elect to enter the DROP upon the attainment of age fifty-five (55) and the completion of thirty (30) years of credited service, with the early retirement reduction factor applied, as provided for in Sec. 30-89 (d)(2).

* * * * *

- (b) (3) *Period of participation.* A member who elects to participate in the DROP under subsection (b)(2) of this section, shall participate in the DROP for a period not to exceed 60 months beginning at the time his election to participate in the DROP first becomes effective. In no event, however, may a member participate in the DROP beyond the date which is five years from the date on which the member first becomes eligible for normal retirement. ~~In addition, any member who became eligible for normal retirement as a result of the reduction of the normal retirement age from age 62 to age 60, shall be permitted to participate in the DROP for a period not to exceed 60 months from October 19, 2004.~~ An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the city or authority not later than the date provided for in the previous sentence. A member may participate only once. An election to participate in the DROP shall not constitute a change in the participant's right to continued employment.

* * * * *

SECTION 4: That Chapter 30, Personnel, Article III, Employee Retirement, Division 2, General Employees' Retirement Plan, of the Code of Ordinances of the City of Kissimmee, is hereby amended to by amending Section 30-111, Reemployment after retirement, to read as follows:

Sec. 30-111. - Reemployment after retirement.

- (a) *Compensation by other employer does not affect benefits.* Any retiree who is retired under this system may be reemployed by any public or private employer, and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this system. Notwithstanding the previous sentence, reemployment by the city or authority shall be subject to the limitations set forth in this section.
- (b) *After normal retirement.* Any retiree who is retired under normal retirement pursuant to this system and who is reemployed by the city or authority in any capacity, shall upon being reemployed, continue receipt of retirement benefits during any such employment period if he is at least age 59.5, otherwise the system shall discontinue receipt of benefits until he reaches age 59.5. A retiree who returns to work under the provisions of this section and, by virtue of that reemployment, is eligible to participate in this system, shall not accumulate additional credited service for subsequent periods of employment described in this section, shall not be required to make contributions to the system, nor shall he or she be eligible for any other benefit other than the retiree's normal retirement benefit. Regardless of any other provision of this system, any retired and reemployed retiree continuing to receive retirement benefits shall not be an active member of the system.
- (c) *Reemployment after normal retirement.* Any retiree who is retired under normal retirement pursuant to this system and who is reemployed by the city or authority after that retirement and, by virtue of that reemployment is ineligible to participate in this system, shall, during the period of such reemployment, continue to receive retirement benefits previously earned if he is at least age 59.5, otherwise the system shall discontinue receipt of benefits until he reaches age 59.5.
- (d) *After early or disability retirement.* Any retiree who is retired under early or disability retirement pursuant to this system and who subsequently becomes an employee of the city or authority in any capacity, shall discontinue receipt of benefits from the system until the earlier of termination of employment or such time as the

reemployed retiree reaches age 59.5. A retiree who returns to work under the provisions of this section shall not be eligible for membership in the system, and, therefore, shall not accumulate additional credited service for subsequent periods of employment described in this section, shall not be required to make contributions to the system, nor shall he or she be eligible for any other benefit other than the retiree's early retirement benefit when he or she again becomes eligible as provided herein. Retirement pursuant to an early retirement incentive program shall be deemed early retirement for purposes of this section if the member was permitted to retire prior to the customary retirement date provided for in the system at the time of retirement.

- (e) *Reemployment of terminated vested persons.* Reemployed terminated vested persons shall not be subject to the provisions of this section until such time as they begin to actually receive benefits. Upon receipt of benefits, terminated vested persons shall be treated as normal or early retirees for purposes of applying the provisions of this section and their status as an early or normal retiree shall be determined by the date they elect to begin to receive their benefit.
- (f) *DROP participants.* Retirees who are or were in the deferred retirement option plan shall, following termination of employment after DROP participation, have the options provided for in this section for reemployment.

SECTION 5: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 6: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 7: That this Ordinance shall become effective upon adoption.

Commissioner _____ moved the passage and adoption of the above and foregoing Ordinance. Motion was seconded by Commissioner _____ and upon roll call on the motion of the vote was as follows:

AYES:

NAYS:

Said motion having been duly carried, thereupon, Mayor Olga Gonzalez declared said Ordinance duly passed and adopted the ____ day of _____, 20____.

Olga Gonzalez, Mayor

ATTEST:

City Clerk

Osceola News-Gazette
22 W Monument Ave, Ste 5
(407) 846-7600

I, Pamela Bikowicz, of lawful age, being duly sworn upon oath, deposes and says that I am the Bookkeeper of Osceola News-Gazette, a publication that is a "legal newspaper" as that phrase is defined for the city of Kissimmee, for the County of Osceola, in the state of Florida, that this affidavit is Page 1 of 1 with the full text of the sworn-to notice set forth on the pages that follow, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

PUBLICATION DATES:
6 Oct 2022

Notice ID: h8diXQJkejM4IfCfts3R
Notice Name: CH PROPOSED ORDINANCE 22-19

PUBLICATION FEE: \$77.96

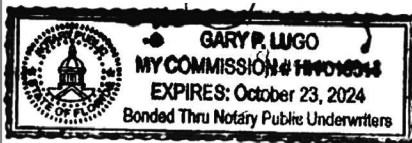

Bookkeeper

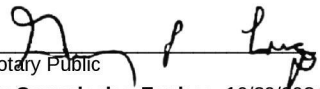
VERIFICATION

STATE OF FLORIDA
COUNTY OF OSCEOLA

Signed or attested before me on this

September 27, 2022




Notary Public
My Commission Expires: 10/23/2024

**NOTICE OF PUBLIC HEARING
AND SECOND READING**

The City Commission of the City of Kissimmee, Florida will meet on **Tuesday, October 18, 2022, at 6:00 p.m.** in the City Commission Chambers, Municipal Administration Building, 101 Church Street, Kissimmee, Florida, to hear the **FIRST READING** and will meet on **Tuesday, November 1, 2022, at 6:00 p.m.** to hear the **SECOND AND FINAL READING** and consider the passage of the proposed ordinance as set forth below. The proposed Ordinance may be inspected in the Office of the City Clerk at the Municipal Administration Building, 101 Church Street, Kissimmee, Florida. All interested parties may appear and be heard on the above dates.

PROPOSED ORDINANCE # 22-19
AN ORDINANCE OF THE CITY OF KISSIMMEE AMENDING CHAPTER 30, PERSONNEL, ARTICLE III, EMPLOYEE RETIREMENT, DIVISION 2, GENERAL EMPLOYEES' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF KISSIMMEE; AMENDING SECTION 30-84, DEFINITIONS; AMENDING SECTION 30-88, CONTRIBUTIONS; AMENDING SECTION 30-110, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 30-111, REEMPLOYMENT AFTER RETIREMENT; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

CITY COMMISSION
KISSIMMEE, FLORIDA

IN ACCORDANCE WITH FLORIDA STATUTE 286.0105: ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THE CITY COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSES 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 MADE.

IN ACCORDANCE WITH FLORIDA STATUTE 286.26, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDING SHOULD CONTACT THE OFFICE OF THE CITY CLERK 407-518-2308 AT 101 CHURCH STREET, KISSIMMEE, FL 34741, PRIOR TO THE MEETING (FS 286.26)

October 6, 2022



October 10, 2022

Ms. Linda Gomez
Pension Coordinator
City of Kissimmee
101 North Church Street
Kissimmee, Florida 34741

**Re: City of Kissimmee General Employees' Retirement Plan
Actuarial Impact Statement**

Dear Linda:

As requested, we have prepared the enclosed Actuarial Impact Statement showing the first-year financial impact of the proposed ordinance which would amend the City of Kissimmee General Employees' Retirement Plan (Plan) as follows:

- Toho members of the Plan will no longer be required to make member contributions to the Plan upon the completion of 30 years of credited service.
- City employee members of the Plan will be eligible to enter the DROP at age 55 with the completion of 30 years of credited service. The early retirement reduction factor will still apply to the member's benefit. Members who enter the DROP under this eligibility will continue to make member contributions for either tier until they reach age 60 or end DROP participation and terminate employment.

Please note that the impact of the proposed Plan changes is being shown on the October 1, 2021 valuation results for illustrative purposes only. If the proposed ordinance is adopted, the upcoming actuarial valuation as of October 1, 2022 would determine the actuarially determined contribution for the fiscal year ending September 30, 2024 reflecting the plan amendment.

The Statement must be filed with the Division of Retirement before the final public hearing on the ordinance. Please have a member of the Board of Trustees sign the Statement. Then send the Statement along with a copy of the proposed ordinance to Tallahassee.

Summary of Findings

The impact of the above changes on the required employer contribution and funded ratio in the first year is summarized in the table below for City of Kissimmee and Toho employees.

City of Kissimmee Employees	Valuation	Proposed Ordinance	Difference
Actuarial Determined Employer Contribution (ADEC)			
Dollar Amount	\$ 3,930,258	\$ 3,968,158	\$ 37,900
% of Covered Payroll	20.74%	20.94%	0.20%
Funded Ratio	87.1%	86.7%	(0.4)%

Toho Water Authority	Valuation	Proposed Ordinance	Difference
Actuarial Determined Employer Contribution (ADEC)			
Dollar Amount	\$ 1,496,304	\$ 1,538,418	\$ 42,114
% of Covered Payroll	27.09%	27.85%	0.76%
Funded Ratio	90.6%	90.6%	0.0%

Additional Changes Included in the Proposed Ordinance

The proposed ordinance also amends the Plan as follows:

- Amend Section 30-84, Definitions, to clarify the determination period for maximum annual compensation for members who leave the City with less than 12 months of service completed during a fiscal year. This change is provided for in the Internal Revenue Code and its associated Treasury Regulations.
- Amend Section 30-110, Deferred Retirement Option Plan, to remove language that is no longer applicable.
- Amend Section 30-111, Reemployment After Retirement, to clarify that reemployment applies to reemployment with either the City or the Toho Water Authority.

In our opinion, these additional changes will not have an actuarial impact on the current cost of the Retirement Plan for advance funding purposes.

Assumptions and Methods Used

The actuarial assumptions and methods used for this impact statement are the same as those used for the October 1, 2021 Actuarial Valuation Report, with the exception of the early retirement rates for City of Kissimmee employees. For City of Kissimmee employees, the assumed early retirement rates used in the valuation were doubled for members who are at least age 55 with 30 or more years of service (from



10%/12.5% to 20%/25%). The rates were increased to reflect an anticipated increase in members retiring early due to the availability of entering the DROP. If the proposed ordinance is adopted, we recommend that the retirement rates be monitored and revised periodically to reflect emerging experience.

Additional Disclosures

Please refer to the last two pages of this report for a discussion of risks associated with measuring the accrued liability and actuarially determined contribution.

This report was prepared at the request of the Board of Trustees and is intended for use by the Board and those designated or approved by the Board. This report may be provided to parties other than the Plan only in its entirety and only with the permission of the Board.

The purpose of this report is to describe the financial effect of the proposed plan changes. This report should not be relied on for any purpose other than the purpose described above.

The calculations in this report are based upon information furnished by the Plan Administrator for the October 1, 2021 Actuarial Valuation concerning Plan benefits, financial transactions, plan provisions and active members, terminated members, retirees and beneficiaries. We reviewed this information for internal and year-to-year consistency, but did not audit the data. We are not responsible for the accuracy or completeness of the information provided by the Plan Administrator.

The calculations are based upon assumptions regarding future events, which may or may not materialize. They are also based on the assumptions, methods, and plan provisions outlined in this report. Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period or additional cost or contribution requirements based on the plan's funded status); and changes in plan provisions or applicable law. If you have reason to believe that the assumptions that were used are unreasonable, that the plan provisions are incorrectly described, that important plan provisions relevant to this proposal are not described, or that conditions have changed since the calculations were made, you should contact the author of the report prior to relying on information in the report.

This report was prepared using our proprietary valuation model and related software which in our professional judgement has the capability to provide results that are consistent with the purposes of the valuation and has no material limitations or known weaknesses. We performed tests to ensure that the model reasonably represents that which is intended to be modeled.

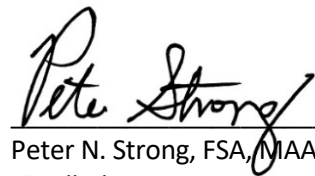


Peter N. Strong and Trisha Amrose are members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein. The undersigned actuaries are independent of the plan sponsor.

This report has been prepared by actuaries who have substantial experience valuing public employee retirement systems. To the best of our knowledge the information contained in this report is accurate and fairly presents the actuarial position of the Plan as of the valuation date. All calculations have been made in conformity with generally accepted actuarial principles and practices, and with the Actuarial Standards of Practice issued by the Actuarial Standards Board and with applicable statutes.

We welcome your questions and comments.

Respectfully submitted,
Gabriel, Roeder, Smith & Company



Peter N. Strong, FSA, MAAA, FCA
Enrolled Actuary No. 20-6975



Trisha Amrose, MAAA, FCA
Enrolled Actuary No. 20-8010

Enclosures

This communication shall not be construed to provide tax advice, legal advice or investment advice.



CITY OF KISSIMMEE GENERAL EMPLOYEES' RETIREMENT PLAN

Impact Statement – October 10, 2022

Description of Amendments

The proposed Ordinance would amend the Plan as follows:

- Amend Section 30-84, Definitions, to clarify the determination period for maximum annual compensation for members who leave the City with less than 12 months of service completed during a fiscal year. This change is provided for in the Internal Revenue Code and its associated Treasury Regulations.
- Amend Section 30-88, Contributions, to provide that (i), Toho members of the Plan will no longer be required to make member contributions to the Plan upon the completion of 30 years of credited service, and (ii), City employee members of the Plan who enter the DROP at age 55 with the completion of 30 years of credited service, shall continue to make member contributions for either tier until they reach age 60 or end DROP participation and terminate employment.
- Amend Section 30-110, Deferred Retirement Option Plan, to provide that City employee members may enter the DROP upon the attainment of age 55 with the completion of 30 years of credited service. The early retirement reduction factor will still apply to the member's benefit. This section is also being amended to remove language that is no longer applicable.
- Amend Section 30-111, Reemployment After Retirement, to clarify that reemployment applies to reemployment with either the City or the Toho Water Authority.

Funding Implications of Amendment

An actuarial cost estimate is attached.

Certification of Administrator

I believe the amendment to be in compliance with Part VII, Chapter 112, Florida Statutes and Section 14, Article X of the Constitution of the State of Florida.

For the Board of Trustees
as Plan Administrator



SUPPLEMENTAL ACTUARIAL VALUATION REPORT

Plan

City of Kissimmee General Employees Retirement Plan

Valuation Date

October 1, 2021

Date of Report

October 10, 2022

Report Requested by

Board of Trustees

Prepared by

Gabriel, Roeder, Smith & Company

Group Valued

All active and inactive members of the Plan as of October 1, 2021.

Benefit Provisions Being Considered for Change

- Toho members of the Plan will no longer be required to make member contributions to the Plan upon the completion of 30 years of credited service.
- City employee members of the Plan will be eligible to enter the DROP at age 55 with the completion of 30 years of credited service. The early retirement reduction factor will still apply to the member's benefit. Members who enter the DROP under this eligibility will continue to make member contributions for either tier until they reach age 60 or end DROP participation and terminate employment.

Participants Affected

Current and future active members of the Plan on or after the effective date of the ordinance.

Actuarial Assumptions and Methods

Same as October 1, 2021 Actuarial Valuation Report, with the exception of the retirement rates for City of Kissimmee employees. For City of Kissimmee employees, the assumed early retirement rates used in the valuation were doubled for members who are at least age 55 with 30 or more years of service (from 10%/12.5% to 20%/25%). The rates were increased to reflect an anticipated increase in members retiring early due to the availability of entering the DROP. If the proposed ordinance is adopted, we recommend that the retirement rates be monitored and revised periodically to reflect emerging experience.

Some of the key assumptions/methods are:

Investment Return	6.80%
Salary Increase	3.40% to 6.50% per year depending on service for City Employees and 3.70% to 5.75% per year depending on service for Toho Employees



Cost Method	City of Kissimmee – Individual Entry-Age Normal Toho Water Authority – Aggregate
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Amortization Period for Change in Actuarial Accrued Liability Associated with Proposed Changes

City of Kissimmee – 20 Years Toho Water Authority – N/A
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Summary of Data Used in Report

See attached page; same as the data used for the October 1, 2021 Actuarial Valuation Report.

Actuarial Impact of Proposal(s)

See attached page(s)

Other Cost Considerations

None

Special Risks Involved with the Proposal That the Plan Has Not Been Exposed to Previously

None



ACTUARIALLY DETERMINED EMPLOYER CONTRIBUTION (ADEC) BOTH GROUPS COMBINED			
A. Valuation Date	October 1, 2021 <i>Valuation</i>	October 1, 2021 <i>Proposed Ordinance</i>	<i>Difference</i>
B. ARC to Be Paid During Fiscal Year Ending	9/30/2023	9/30/2023	
C. Assumed Date of Employer Contrib.	12/31/2022	12/31/2022	
D. Annual Payment to Amortize Unfunded Actuarial Liability	\$ 1,761,092	\$ 1,794,777	\$ 33,685
E. Employer Normal Cost	3,436,429	3,480,962	44,533
F. ADEC if Paid on the Valuation Date: D+E	5,197,521	5,275,739	78,218
G. ADEC Adjusted for Frequency of Payments	5,283,711	5,363,226	79,515
H. Covered Payroll	23,788,736	23,788,736	0
I. ADEC as % of Covered Payroll	22.21 %	22.55 %	0.34 %
J. Assumed Rate of Increase in Covered Payroll to Contribution Year	3.75%/0.00 %	3.75%/0.00 %	0.00 %
K. Covered Payroll for Contribution Year	24,473,681	24,473,681	0
L. ADEC for Contribution Year	5,426,562	5,506,576	80,014
M. ADEC as % of Covered Payroll in Contribution Year	22.17 %	22.50 %	0.33 %



ACTUARIALLY DETERMINED EMPLOYER CONTRIBUTION (ADEC)			
CITY EMPLOYEES			
A. Valuation Date	October 1, 2021 <i>Valuation</i>	October 1, 2021 <i>Proposed Ordinance</i>	<i>Difference</i>
B. ARC to Be Paid During Fiscal Year Ending	9/30/2023	9/30/2023	
C. Assumed Date of Employer Contrib.	12/31/2022	12/31/2022	
D. Annual Payment to Amortize Unfunded Actuarial Liability	\$ 1,761,092	\$ 1,794,777	\$ 33,685
E. Employer Normal Cost	1,964,533	1,967,639	3,106
F. ADEC if Paid on the Valuation Date: D+E	3,725,625	3,762,416	36,791
G. ADEC Adjusted for Frequency of Payments	3,787,407	3,824,808	37,401
H. Covered Payroll	18,265,189	18,265,189	0
I. ADEC as % of Covered Payroll	20.74 %	20.94 %	0.20 %
J. Assumed Rate of Increase in Covered Payroll to Contribution Year	3.75 %	3.75 %	0.00 %
K. Covered Payroll for Contribution Year	18,950,134	18,950,134	0
L. ADEC for Contribution Year: I x K	3,930,258	3,968,158	37,900
M. ADEC as % of Covered Payroll in Contribution Year: L ÷ K	20.74 %	20.94 %	0.20 %



ACTUARIALLY DETERMINED EMPLOYER CONTRIBUTION (ADEC) TOHO EMPLOYEES			
A. Valuation Date	October 1, 2021 <i>Valuation</i>	October 1, 2021 <i>Proposed Ordinance</i>	<i>Difference</i>
B. ARC to Be Paid During Fiscal Year Ending	9/30/2023	9/30/2023	
C. Assumed Date of Employer Contrib.	12/31/2022	12/31/2022	
D. Annual Payment to Amortize Unfunded Actuarial Liability	\$ 0	\$ 0	\$ 0
E. Employer Normal Cost	1,471,896	1,513,323	41,427
F. ADEC if Paid on the Valuation Date: D+E	1,471,896	1,513,323	41,427
G. ADEC Adjusted for Frequency of Payments	1,496,304	1,538,418	42,114
H. Covered Payroll	5,523,547	5,523,547	0
I. ADEC as % of Covered Payroll	27.09 %	27.85 %	0.76 %
J. Assumed Rate of Increase in Covered Payroll to Contribution Year	0.00 %	0.00 %	0.00 %
K. Covered Payroll for Contribution Year	5,523,547	5,523,547	0
L. ADEC for Contribution Year: I x K	1,496,304	1,538,418	42,114
M. ADEC as % of Covered Payroll in Contribution Year: L ÷ K	27.09 %	27.85 %	0.76 %

ACTUARIAL VALUE OF BENEFITS AND ASSETS BOTH GROUPS COMBINED			
A. Valuation Date	October 1, 2021 <i>Valuation</i>	October 1, 2021 <i>Proposed Ordinance</i>	<i>Difference</i>
B. Actuarial Present Value of All Projected Benefits for			
1. Active Members			
a. Service Retirement Benefits	\$ 85,742,021	\$ 86,109,513	\$ 367,492
b. Vesting Benefits	6,579,575	6,579,533	(42)
c. Disability Benefits	2,081,596	2,050,134	(31,462)
d. Preretirement Death Benefits	1,871,220	1,837,493	(33,727)
e. Return of Member Contributions	198,730	198,730	-
f. Total	96,473,142	96,775,403	302,261
2. Inactive Members			
a. Service Retirees & Beneficiaries	82,089,537	82,089,537	-
b. Disability Retirees	1,343,319	1,343,319	-
c. Terminated Vested Members	7,163,856	7,163,856	-
d. Total	90,596,712	90,596,712	-
3. Total for All Members	187,069,854	187,372,115	302,261
C. Actuarial Accrued (Past Service) Liability (Entry Age Normal)	161,488,675	161,875,751	387,076
D. Actuarial Value of Accumulated Plan Benefits per FASB No. 35	N/A	N/A	N/A
E. Plan Assets			
1. Market Value	157,111,991	157,111,991	-
2. Actuarial Value	142,612,397	142,612,397	-
F. Unfunded Actuarial Accrued Liability (Entry Age Normal): C - E2	18,876,278	19,263,354	387,076
G. Actuarial Present Value of Projected Covered Payroll	180,888,345	179,223,049	(1,665,296)
H. Actuarial Present Value of Projected Member Contributions	7,065,863	6,883,657	(182,206)
I. Accumulated Contributions of Active Members	7,276,025	7,276,025	-
J. Funded Ratio: E2/C	88.3 %	88.1 %	(0.2) %



ACTUARIAL VALUE OF BENEFITS AND ASSETS CITY EMPLOYEES			
A. Valuation Date	October 1, 2021 <i>Valuation</i>	October 1, 2021 <i>Proposed Ordinance</i>	<i>Difference</i>
B. Actuarial Present Value of All Projected Benefits for			
1. Active Members			
a. Service Retirement Benefits	\$ 56,590,330	\$ 56,957,822	\$ 367,492
b. Vesting Benefits	5,351,466	5,351,466	-
c. Disability Benefits	1,174,272	1,142,810	(31,462)
d. Preretirement Death Benefits	1,287,286	1,253,559	(33,727)
e. Return of Member Contributions	198,730	198,730	-
f. Total	64,602,084	64,904,387	302,303
2. Inactive Members			
a. Service Retirees & Beneficiaries	53,511,654	53,511,654	-
b. Disability Retirees	469,515	469,515	-
c. Terminated Vested Members	5,080,680	5,080,680	-
d. Total	59,061,849	59,061,849	-
3. Total for All Members	123,663,933	123,966,236	302,303
C. Actuarial Accrued (Past Service) Liability (Entry Age Normal)	103,663,785	104,050,903	387,118
D. Actuarial Value of Accumulated Plan Benefits per FASB No. 35	N/A	N/A	N/A
E. Plan Assets			
1. Market Value	99,377,131	99,377,131	-
2. Actuarial Value	90,251,679	90,251,679	-
F. Unfunded Actuarial Accrued Liability (Entry Age Normal): C - E2	13,412,106	13,799,224	387,118
G. Actuarial Present Value of Projected Covered Payroll	144,659,410	142,994,114	(1,665,296)
H. Actuarial Present Value of Projected Member Contributions	5,498,075	5,587,841	89,766
I. Accumulated Contributions of Active Members	4,495,427	4,495,427	-
J. Funded Ratio: E2/C	87.1 %	86.7 %	(0.4) %



ACTUARIAL VALUE OF BENEFITS AND ASSETS TOHO EMPLOYEES			
A. Valuation Date	October 1, 2021 <i>Valuation</i>	October 1, 2021 <i>Proposed Ordinance</i>	<i>Difference</i>
B. Actuarial Present Value of All Projected Benefits for			
1. Active Members			
a. Service Retirement Benefits	\$ 29,151,691	\$ 29,151,691	\$ -
b. Vesting Benefits	1,228,109	1,228,067	(42)
c. Disability Benefits	907,324	907,324	-
d. Preretirement Death Benefits	583,934	583,934	-
e. Return of Member Contributions	-	-	-
f. Total	<u>31,871,058</u>	<u>31,871,016</u>	<u>(42)</u>
2. Inactive Members			
a. Service Retirees & Beneficiaries	28,577,883	28,577,883	-
b. Disability Retirees	873,804	873,804	-
c. Terminated Vested Members	<u>2,083,176</u>	<u>2,083,176</u>	<u>-</u>
d. Total	<u>31,534,863</u>	<u>31,534,863</u>	<u>-</u>
3. Total for All Members	63,405,921	63,405,879	(42)
C. Actuarial Accrued (Past Service) Liability (Entry Age Normal)	57,824,890	57,824,848	(42)
D. Actuarial Value of Accumulated Plan Benefits per FASB No. 35	N/A	N/A	N/A
E. Plan Assets			
1. Market Value	57,734,860	57,734,860	-
2. Actuarial Value	52,360,718	52,360,718	-
F. Unfunded Actuarial Accrued Liability (Entry Age Normal): C - E2	5,464,172	5,464,130	(42)
G. Actuarial Present Value of Projected Covered Payroll	36,228,935	36,228,935	-
H. Actuarial Present Value of Projected Member Contributions	1,567,788	1,295,816	(271,971)
I. Accumulated Contributions of Active Members	2,780,598	2,780,598	-
J. Funded Ratio: E2/C	90.6 %	90.6 %	0.0 %



CALCULATION OF EMPLOYER NORMAL COST (ENTRY AGE NORMAL) CITY EMPLOYEES			
A. Valuation Date	October 1, 2021 <i>Valuation</i>	October 1, 2021 <i>Proposed Ordinance</i>	<i>Difference</i>
B. Normal Cost for			
1. Service Retirement Benefits	\$ 2,032,987	\$ 2,042,351	\$ 9,364
2. Vesting Benefits	378,331	379,261	930
3. Disability Benefits	78,053	77,495	(558)
4. Preretirement Death Benefits	59,675	59,234	(441)
5. Return of Member Contributions	<u>70,338</u>	<u>70,449</u>	<u>111</u>
6. Total for Future Benefits	2,619,384	2,628,790	9,406
7. Assumed Amount for Administrative Expenses	<u>45,589</u>	<u>45,589</u>	<u>-</u>
8. Total Normal Cost	2,664,973	2,674,379	9,406
As % of Covered Payroll	14.59 %	14.64 %	0.05 %
C. Expected Member Contribution	700,440	706,740	6,300
D. Net Employer Normal Cost: B8-C	1,964,533	1,967,639	3,106
As % of Covered Payroll	10.76 %	10.77 %	0.01 %

CALCULATION OF EMPLOYER NORMAL COST (AGGREGATE) TOHO EMPLOYEES			
A. Valuation Date	October 1, 2021 <i>Valuation</i>	October 1, 2021 <i>Proposed Ordinance</i>	<i>Difference</i>
B. Actuarial Present Value of Projected Benefits	\$ 63,405,921	\$ 63,405,879	\$ (42)
C. Actuarial Value of Assets	52,360,718	52,360,718	0
D. Actuarial Present Value of Projected Member Contributions	1,567,788	1,295,816	(271,971)
E. Actuarial Present Value of Projected Employer Normal Costs: B-C-D	9,477,415	9,749,345	271,929
F. Actuarial Present Value of Projected Covered Payroll	36,228,935	36,228,935	0
G. Employer Normal Cost Rate: E/F	26.16 %	26.91 %	0.75 %
H. Covered Annual Payroll	5,523,547	5,523,547	0
I. Employer Normal Cost: G x H	1,444,960	1,486,387	41,427
J. Assumed Amount of Administrative Expenses	26,936	26,936	0
K. Total Employer Normal Cost: I+J	1,471,896	1,513,323	41,427
L. Employer Normal Cost as % of Covered Payroll	26.65 %	27.40 %	0.75 %

PARTICIPANT DATA			
BOTH GROUPS COMBINED			
	October 1, 2021 <i>Valuation</i>	October 1, 2021 <i>Proposed Ordinance</i>	<i>Difference</i>
ACTIVE MEMBERS			
Number	424	424	0
Covered Annual Payroll	\$ 23,788,736	\$ 23,788,736	\$ 0
Average Annual Payroll	\$ 56,106	\$ 56,106	\$ 0
Average Age	45.0	45.0	0.0
Average Past Service	10.2	10.2	0.0
Average Age at Hire	34.8	34.8	0.0
RETIREES, BENEFICIARIES & DROP			
Number	350	350	0
Annual Benefits	\$ 7,625,986	\$ 7,625,986	\$ 0
Average Annual Benefit	\$ 21,789	\$ 21,789	\$ 0
Average Age	68.0	68.0	0.0
DISABILITY RETIREES			
Number	6	6	0
Annual Benefits	\$ 139,605	\$ 139,605	\$ 0
Average Annual Benefit	\$ 23,268	\$ 23,268	\$ 0
Average Age	60.6	60.6	0.0
TERMINATED VESTED MEMBERS			
Number	112	112	0
Annual Benefits	\$ 1,215,904	\$ 1,215,904	\$ 0
Average Annual Benefit	\$ 10,856	\$ 10,856	\$ 0
Average Age	50.8	50.8	0.0

PARTICIPANT DATA			
CITY EMPLOYEES			
	October 1, 2021 <i>Valuation</i>	October 1, 2021 <i>Proposed Ordinance</i>	<i>Difference</i>
ACTIVE MEMBERS			
Number	349	349	0
Covered Annual Payroll	\$ 18,265,189	\$ 18,265,189	\$ 0
Average Annual Payroll	\$ 52,336	\$ 52,336	\$ 0
Average Age	43.7	43.7	0.0
Average Past Service	8.4	8.4	0.0
Average Age at Hire	35.3	35.3	0.0
RETIREES, BENEFICIARIES & DROP			
Number	253	253	0
Annual Benefits	\$ 4,990,870	\$ 4,990,870	\$ 0
Average Annual Benefit	\$ 19,727	\$ 19,727	\$ 0
Average Age	68.3	68.3	0.0
DISABILITY RETIREES			
Number	3	3	0
Annual Benefits	\$ 46,122	\$ 46,122	\$ 0
Average Annual Benefit	\$ 15,374	\$ 15,374	\$ 0
Average Age	61.5	61.5	0.0
TERMINATED VESTED MEMBERS			
Number	81	81	0
Annual Benefits	\$ 793,864	\$ 793,864	\$ 0
Average Annual Benefit	\$ 9,801	\$ 9,801	\$ 0
Average Age	51.7	51.7	0.0

PARTICIPANT DATA			
TOHO EMPLOYEES			
	October 1, 2021 <i>Valuation</i>	October 1, 2021 <i>Proposed Ordinance</i>	<i>Difference</i>
ACTIVE MEMBERS			
Number	75	75	0
Covered Annual Payroll	\$ 5,523,547	\$ 5,523,547	\$ 0
Average Annual Payroll	\$ 73,647	\$ 73,647	\$ 0
Average Age	50.6	50.6	0.0
Average Past Service	18.7	18.7	0.0
Average Age at Hire	31.9	31.9	0.0
RETIREES, BENEFICIARIES & DROP			
Number	97	97	0
Annual Benefits	\$ 2,635,116	\$ 2,635,116	\$ 0
Average Annual Benefit	\$ 27,166	\$ 27,166	\$ 0
Average Age	67.2	67.2	0.0
DISABILITY RETIREES			
Number	3	3	0
Annual Benefits	\$ 93,483	\$ 93,483	\$ 0
Average Annual Benefit	\$ 31,161	\$ 31,161	\$ 0
Average Age	59.7	59.7	0.0
TERMINATED VESTED MEMBERS			
Number	31	31	0
Annual Benefits	\$ 422,040	\$ 422,040	\$ 0
Average Annual Benefit	\$ 13,614	\$ 13,614	\$ 0
Average Age	48.6	48.6	0.0

Risks Associated with Measuring the Accrued Liability and Actuarially Determined Contribution

The determination of the accrued liability and the actuarially determined contribution requires the use of assumptions regarding future economic and demographic experience. Risk measures are intended to aid in the understanding of the effects of future experience differing from the assumptions used in the course of the actuarial valuation. Risk measures may also help with illustrating the potential volatility in the accrued liability and the actuarially determined contribution that result from the differences between actual experience and the actuarial assumptions.

Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: Plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions due to changing conditions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period, or additional cost or contribution requirements based on the Plan's funded status); and changes in Plan provisions or applicable law. The scope of an actuarial valuation does not include an analysis of the potential range of such future measurements.

Examples of risk that may reasonably be anticipated to significantly affect the Plan's future financial condition include:

1. Investment risk – actual investment returns may differ from the either assumed or forecasted returns;
2. Contribution risk – actual contributions may differ from expected future contributions. For example, actual contributions may not be made in accordance with the Plan's funding policy or material changes may occur in the anticipated number of covered employees, covered payroll, or other relevant contribution base;
3. Salary and Payroll risk – actual salaries and total payroll may differ from expected, resulting in actual future accrued liability and contributions differing from expected;
4. Longevity risk – members may live longer or shorter than expected and receive pensions for a period of time other than assumed;
5. Other demographic risks – members may terminate, retire or become disabled at times or with benefits other than assumed resulting in actual future accrued liability and contributions differing from expected.

The effects of certain trends in experience can generally be anticipated. For example if the investment return is less (or more) than the assumed rate, the cost of the Plan can be expected to increase (or decrease). Likewise if longevity is improving (or worsening), increases (or decreases) in cost can be anticipated.

The computed contribution amounts may be considered as a minimum contribution that complies with the pension Board's funding policy and the State statutes. The timely receipt of the actuarially determined contributions is critical to support the financial health of the Plan. Users of this report should be aware that contributions made at the actuarially determined rate do not necessarily guarantee benefit security.



Risk Assessment

Risk assessment was outside the scope of this report. Risk assessment may include scenario tests, sensitivity tests, stochastic modeling, stress tests, and a comparison of the present value of accrued benefits at low-risk discount rates with the actuarial accrued liability. We are prepared to perform such assessment to aid the Board in the decision making process.

ITEM 4.B

Public Hearing - First Reading - Land Development Code Glitch Ordinance: LUPA-22-0005 - Proposed Ordinance #22-017

AN ORDINANCE AMENDING THE CODE OF THE CITY OF KISSIMMEE, FLORIDA CODE OF ORDINANCES TITLES; UPDATING LANGUAGE THROUGHOUT THE LAND DEVELOPMENT CODE, CHAPTER 14; MOVING A STATEMENT IN CODE OF ORDINANCES SECTION 42-48 TO SECTION 14-4-6.A.9 IN THE LAND DEVELOPMENT CODE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

Request

Requesting approval an ordinance to make minor language and formatting amendments to the Land Development Code.

Explanation

A major update to the Land Development Code was approved by the City Commission in August 2020, including the addition of the new Form-Based Code chapter. As this update included language changes and updates throughout the Land Development Code, it was understood that staff would likely need to make minor updates to the language to ensure clarity and applicability. This request is the resulting "Glitch Ordinance" and includes minor edits to almost all chapters of the Land Development Code (excluding chapters one and eight). All edits are included in the underline/strikethrough included in the backup. All chapters impacted have minor formatting and language amendments but below is a brief breakdown of the major changes:

Chapter 14-2: Terms Defined

Added a definition for Affordable Housing per recommendation from the Affordable Housing Advisory Committee.

Removed the requirement for five vendors in the definition of a Special Event. This is no longer necessary in the definition.

Chapter 14-3: Development Review Boards and Procedures

Edited Table 3-1, requiring DRC review of LDC text amendments.

Chapter 14-4: Zoning

Edited the title of section 14-4-6 so its standards apply to all zoning districts, not just standard zoning districts.

Relocated language that no residential lot shall have more than 40% of the front and side yards covered. This was previously in another section of the Code of Ordinances.

Added language requiring buildings to front a right-of-way or civic space.

Increase the amount of affordable housing from ten to 20% for density bonuses. This change was made after a recommendation from the Affordable Housing Advisory Committee.

Chapter 14-5: Form-Based Code

Adding churches as a permitted use (if they existed prior to August 2020) in the T5-M.

Added the other portion of the Street Hierarchy Map in Figure 5-25.

Added language in the Stormwater Management section per recommendations from Public Works and Engineering.

Added figures to the Code.

Chapter 14-6: Standards for Accessory, Temporary, and other uses.
Clarify language in the Accessory Dwelling Unit section.
Add standards for recreational vehicles.

Chapter 14-7: Access, Circulation, and Parking

Added standards for drive aisles.

Edit the standards for parallel parking spaces in 14-7-24 to match the general standards.

Update 14-7-31 to have vehicular access points based on street and not parcel.

Chapter 14-9: Environment

Updated language throughout per recommendations from Public Works and Engineering.

Chapter 14-10: Subdivision and Site Design; Public Improvements

Updated language throughout per recommendations from Public Works and Engineering.

Added the breakdown of active and passive recreation, which was erroneously left out of the Code.

Recommendation

The Development Review Committee recommended approval on September 6, 2022.

The Planning Advisory Board (PAB) recommended approval on October 5, 2022.

REQUESTED CITY COMMISSION ACTION:

Adopt

Department: Development Services

Presenter: Ashley Cornelison

Attachment(s):

1. Proposed Ordinance 22-017
2. Advertisement

PROPOSED ORDINANCE #22-017

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF THE CITY OF KISSIMMEE, FLORIDA CODE OF ORDINANCES TITLES; UPDATING LANGUAGE THROUGHOUT THE LAND DEVELOPMENT CODE, CHAPTER 14; MOVING A STATEMENT IN CODE OF ORDINANCES SECTION 42-48 TO SECTION 14-4-6.A.9 IN THE LAND DEVELOPMENT CODE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA THAT CHAPTER 14 AND SECTION 42-48 IS AMENDED TO READ AS FOLLOWS:

SECTION 1. Chapter 14 and Section 42-48 of the City of Kissimmee Code of Ordinances is hereby amended as shown in the attached "Exhibit A."

SECTION 2. All ordinances in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect immediately upon its passage.

BE IT ORDAINED, by the City Commission of the City of Kissimmee, this _____ day of _____, 20____.

Mayor-Commissioner

ATTEST:

City Clerk

Approved as to form and legality:

City Attorney

“Exhibit A”

CHAPTER 14-2: TERMS DEFINED

Certain terms or words in this chapter shall be defined as follows unless the text of the article or section in which used clearly indicates otherwise. Terms not defined in this chapter of Code shall be interpreted according to the definition found in a common dictionary based on the context used.

A-Frame Sign. See "Pedestrian Oriented Sign."

Abandoned, inoperative or discarded motor vehicle. A motor vehicle which is in a state of disuse, neglect, or abandonment, a motor vehicle without a license plate, a motor vehicle with a license plate that is not registered to that motor vehicle, a motor vehicle that does not have a registration sticker affixed to the license plate, or a motor vehicle that has a registration sticker affixed to the license plate which has been expired for a period of at least 90 days. Evidence of disuse, neglect or abandonment may include, but is not limited to, factors such as: vehicle being wrecked and inoperative; inoperative as evidenced by vegetation underneath as high as the vehicle body or frame; refuse or debris collected underneath or the vehicle being used solely for storage purposes; if it is partially dismantled, having no engine, transmission, or other major and visible parts; having major and visible parts which are dismantled, incapable of functioning as a motor vehicle in its present state; has only nominal salvage value; or being in any physical state rendering it inoperative. If the primary apparent evidence of disuse, neglect, or abandonment is vegetation growing under the vehicle, then the enforcement officer shall use his or her training and experience to determine whether, under the totality of the circumstances, the vehicle is in a state of evident disuse, neglect or abandonment. A vehicle will be considered abandoned or derelict if it is in an evident state of extended disuse or neglect.

Abandoned property. Wrecked or derelict property having no value other than nominal salvage value, if any, and which has been left abandoned and unprotected from the elements and shall include inoperative or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture, other similar articles and shopping carts no matter what type of condition which have been discarded, placed upon any public property or vacant lot, left unattended, or which has no name or address fixed thereon.

Abandoned sign. (Sign subchapter definition.) A sign is considered abandoned if a business advertised on that sign is no longer licensed, no longer has a certificate of occupancy, or is no longer doing business on that location.

Accessory dwelling unit (ADU). A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area and full bathroom facilities, which is an attached or detached extension to an existing or proposed single family structure.

Accessory storage area. The portion of the gross floor area of any buildings, other than the principal building, which is used for storage.

Accessory use or accessory structures. A use or structure customarily and clearly incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure.

Addition. Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls in new construction.

Affordable Housing. Developments in which at least 20% of the units are set aside and meet the definition of affordable housing as defined in Chapter 420 of the Florida Statutes.

Agricultural uses. The use of land for farms, truck gardens, citrus groves, and/or farm animals.

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CHAPTER 14-2: TERMS DEFINED

Airport-dependent uses. Uses that require access to runways, hangars, and other parts of an airport. Examples include flight schools, aircraft fuel sales, aircraft or aviation equipment sales or rental, aircraft repair and servicing.

Airport-related uses. Uses typically located near airports, such as air museums, research and development facilities, aeronautical training, manufacturing and distribution. Commercial parking lots are not included in this category.

Alley. A public or private right-of-way that is primarily designed to serve as secondary access to the rear or side of those properties whose principal frontage is on some other street.

Alteration (of trees). The mutilation, such as girdling and heavy pruning or herbiciding that could kill the tree.

Alter, altered, or alteration. Any act that changes one or more of the exterior architectural features of a structure and any change to an interior feature of a structure which impacts the exterior of a structure, including the physical integrity of the structure as a whole. This includes, but is not limited to, the changing, eliminating or adding of roofing, siding materials, doors, door frames, windows, window frames, shutters, fences, railings, porches, balconies, signs, or other ornamentation. It includes the changing of exterior paint color if paint color is included in the design standards adopted by ordinance for the particular HPO district or historic landmark.

Alteration of a watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Animated sign. A sign which utilizes motion of any part by any means, or displays flashing, oscillating, sequential or intermittent lights other than time or temperature.

Appraised value. The just value (fair market value) of property as determined by the Osceola County Property Appraiser's Office.

Approach surface. A surface associated with a heliport which is trapezoidal in shape, which is located at a boundary of the primary surface, and which serves as an approach or departure path. The width of the base of the approach surface is equal to the width of the primary surface, and extends outward and upward for a horizontal distance of 4,000 feet, where its width is 500 feet. The slope of the approach is eight (horizontal) to one (vertical), starting at an initial elevation equal to that of the primary surface.

Attic. The interior part of a building contained within a pitched roof structure.

Arbor. A light, open structure having a lattice framework, usually supporting intertwined vines or flowers; a shaded, leafy recess, often formed by tree branches (see Figure 2-1).

Figure 2-1. Arbor



Arcade/gallery. An arcade is a series of arches, columns or piers often used to support an overhead covering to create a partially enclosed, protected walkway (see Figure 2-2).

**Figure 2-2.
Arcade/Gallery**



Architectural review committee (ARC). The ARC is a subcommittee of the development review committee, which reviews permits and other proposed improvements for adherence to certain established design criteria that are more subjective in nature. This committee consists of the DRC representatives from the building division, planning division and the historic preservation planner.

Area, gross floor. The sum of the gross horizontal area of all floors of a building measured from the exterior façade or from the centerline of a wall separating two buildings.

Area, ground floor. The portion of the gross floor area located on the floor with an elevation closest to the elevation of the finished grade of the portion of the lot in the vicinity of the building.

Area, living. A space within the exterior walls of a dwelling which is completely enclosed by masonry, wood or glass and is habitable year round. Garages and screened porches are excluded.

ASCE 24. A standard titled "Flood Resistant Design and Construction" that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Aviation specialist. A person with the technical expertise required to analyze and recommend appropriate solutions to noise pollution problems, navigable air space hazards, and combustible and explosive materials

hazards. The person must be competent in such areas as air traffic control procedures, flight procedures, and aircraft noise procedures and regulations.

Awning (canopy). A sheltering roof-like structure made of canvas or similar material and supported entirely from the exterior wall of a building and is often retractable (see Figure 2-3).

Figure 2-3. Awning



Awning signage. A sign, logo, or lettering placed on an awning.

Backlit sign. Signs consisting of opaque individually cut letters mounted directly on a structure (push-through letters) and illuminated from behind to create a silhouette of the sign.

Balcony. An open habitable portion of an upper floor extending beyond a building's exterior wall that is not supported from below by vertical columns or piers but is instead supported by either a cantilever or brackets. Balconies typically have one or more sides permanently open to the exterior except for a railing or parapet.

Band. Any horizontal flat member or molding or group of moldings projecting slightly from a wall plane, and usually marking a division in the wall.

Banner sign. A temporary sign having the characters, letters or illustrations applied to cloth, paper or fabric of any kind with only such material for backing.

Base flood. A flood having a one percent chance of being equaled or exceeded in any given year. (Also defined in Florida Building Code, B, Section 1612.2.) The base flood is commonly referred to as the 100-year flood or the one percent annual chance flood.

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the flood insurance rate map (FIRM). (Also defined in Florida Building Code, B, Section 1612.2.)

Basement. That portion of a building which is partly or completely below grade.

Bathroom. A room containing plumbing fixtures including a bathtub or shower.

Bed and breakfast facility. A lodging establishment in which no more than eight guest rooms are provided on a site to customers with breakfast available to such customers on the premises at no extra costs. In addition, such guest rooms have no provision for cooking in the guest rooms, the owner/operator lives on-site, and the length of stay ranges from one night to 29 nights. This term shall not be construed to mean a dwelling, community residential home, institutional care facility, shelter/halfway house, rooming house, or motel/hotel.

Bedroom. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

Bench sign. (Sign subchapter definition.) Any sign painted on or attached to a bench or to a shelter for persons awaiting public transportation.

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Billboard. See "Outdoor advertising sign."

Billboard. Any sign advertising a business establishment, activity, product, or service (including entertainment), which is sold, produced, manufactured, available or furnished at a place other than on the property on which the sign is located.

Block. The aggregate of private lots, passages, and alleys, circumscribed by streets or public spaces.

Bona fide agricultural use. Land on which the city has determined that the use of the land for agricultural purposes is bona fide taking the following factors into consideration: the length of time the land has been so utilized, whether the use has been continuous, the purchase price paid, and whether an indicated effort has been made to use land in accordance with accepted agricultural practices.

Broadcast antenna. A structure, other than a personal wireless antenna or a standard antenna, which is used or designed to be used to convert radio-frequency currents from a transmitter into radio waves which then travel through space, or one which converts part of a passing radio wave into a radio-frequency current for further processing by a receiver.

Broadcast equipment cabinet. An accessory building or other enclosed accessory structure which is used or designed to be used in conjunction with broadcast antennas. This term does not include switching offices.

Broadcast tower. A self-supporting structure, other than a building, which extends over 50 feet above the ground and upon which one or more broadcast antennas are attached or designed to be attached. This term includes such structures which are located on buildings.

Build-to line. A line parallel to the block face, along which a building shall be built. The intent of a build-to line is to pull the building façade close to the street and street side sidewalk.

Building. Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, equipment or materials. Building is a kind of structure.

Building frontage. Building frontage is the interface between the public or private street and the building interior. Examples of building frontage include a shopfront, porch, forecourt, arcade, and gallery.

Building height. See "Height."

Building official. That member of the city administrative staff so designated by the city manager and certified by the State of Florida.

Building, principal. The main building on a lot, which contains the principal use or uses and is usually located toward the frontage of the lot.

Building sign. A sign attached to a building. The term includes wall, projecting, awning, canopy and window signs.

Building, principal. A building in which is conducted the main or principal use of the lot on which said building is situated.

Bunting. Any kind of pennant, streamer or other similar fabric decoration.

Bus rapid transit. A premium form of bus service that operates similarly to light rail in terms of service frequency and quality. Typically includes dedicated right-of-way or other preemptive operational service to allow priority movement within vehicular rights-of-way.

Cabinet sign. An internally illuminated sign in which a removable sign face (usually with translucent sign graphics) is enclosed on all edges by a metal cabinet which contains the electrical and structural components of the sign.

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Caliper. The diameter of a tree trunk as measured six inches up from grade level.

Canopy. See "Awning."

Canopy tree. A species of tree which normally grows to a mature height of 40 feet or more.

Carport. A permanent open car shelter.

Cemetery. Land used or intended to be used for the burial of human or animal remains, including crematories, mausoleums, and mortuaries, if operated in connection with and within the boundaries of such cemetery.

Certificate of occupancy. Document certifying that premises comply with provisions of zoning and/or building ordinances. Such document, as issued by local governmental agency, is required before premises can be occupied and title transferred.

Changeable copy sign (manual). Signs displaying messages, which can be manually changed by use of removable letters and numerals.

Channel sign. An internally illuminated sign in which letters consisting of individually lit cabinets are arranged on a raceway or other support to compose the overall sign.

Child care facility. Includes any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. See F.S. § 402.302(2) for the full definition.

City. City of Kissimmee.

Civic building. A building designed specifically for a civic use (institutional, non-profit, government, religious or other non-commercial, civic oriented use).

Civic open space. A natural or landscaped outdoor area provided for the purpose of active or passive public recreation. May include publicly accessible outdoor amenities such as a playground, seating area, picnic area, multi-use path and temporary or permanent small outdoor performance space or religious facility.

Civic use. A use that is open to the public at least some of the time and provides a focal point for community interaction and fosters citizen participation in civic activities, including churches, temples, synagogues, mosques, and other religious facilities; lodges; college or university facilities; exhibition halls; grade schools; library; meeting halls; museum or similar facilities; performance theaters; post office; fire house; public administration offices; trade or specialty school facilities; or similar uses.

Club, non-profit. Shall include those associations and organizations of a fraternal, civic, educational, recreational or social character, which are not operated or maintained for profit (i.e., shall not include bars, nightclubs or other uses operated primarily as a business).

Co-location. The placement of more than one service provider's communications antennas on a single communications tower.

Cold air balloon sign. (Sign subchapter definition.) Any sign of uric type material, inflated by cold air to a point of semi-rigidity for the purpose of floating above the ground.

Colonnade. A number of columns arranged in order, supporting an entablature and usually one side of a roof.

Commercial building. Building occupied by office, retail and/or other commercial uses.

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Commercial vehicle. Any vehicle designed or operated primarily for the transportation of persons or property in the furtherance of any commercial, industrial or business enterprise and includes any truck, van, panel-type vehicle, taxi, bus, wrecker, utility type vehicle, dump truck, or any other vehicle operated for compensation.

Commercial vehicle, heavy. A heavy commercial vehicle is any motor vehicle which:

- A. Has a gross vehicle weight rating, as defined by F.S. § 322.01, of 26,001 pounds or more;
- B. Is more than 35 feet long; or
- C. Has more than two axles.

In addition, the following shall be considered heavy commercial vehicles: any truck tractor as defined by F.S. § 316.003, any semitrailer as defined by F.S. § 316.003 which is more than 25 feet long.

Commission. Kissimmee City Commission.

Communication antenna. A personal wireless antenna or a broadcast antenna.

Communication equipment. A type of communications structure defined in this section as a communication antenna or a communications equipment cabinet.

Communication equipment cabinet. A personal wireless equipment cabinet or a broadcast equipment cabinet.

Communication facility. A type of communication structure such as a communication tower, broadcast equipment, or a personal wireless facility.

Communication tower. A personal wireless tower or a broadcast tower.

Communication tower, camouflaged. A communication tower which has been designed to unobtrusively blend into the existing surroundings and be designed so as not to have the appearance of a communication tower. Camouflaged towers on buildings must be disguised to appear as an accessory structure that is normally associated with the principal use occupying the property. Other camouflaged towers must be disguised to blend in with other facilities on the property or existing vegetation. An example of a camouflaged communication tower would be a tower that is constructed in the form and shape of a tree in order to appear to be part of a forested area, or a tower constructed to appear to be or to actually be a component of a bell or clock tower on sites with compatible buildings, or to be or appear to be a component of a church steeple on sites with churches.

Community center. A facility used for recreational, social, educational and cultural activities, usually owned and operated by a public or non-profit group or agency.

Community residential home. A dwelling unit licensed by the agency for health care administration, which provides a living environment for seven to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional and social needs of residents. Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single family unit and a noncommercial, residential use. See F.S. ch. 419.

Comprehensive plan. The comprehensive development plan as adopted by Ordinance Number 1064 and as amended by Ordinance Number 1760 and other ordinances (also known as the Kissimmee Comprehensive Plan).

Conditional use. A use that would not be appropriate generally or without restriction throughout the particular zoning district, but which, if controlled as to number, area, location, and/or relation to the surrounding area, would not adversely impact the public health, safety, and the general welfare.

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Condominium. A building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis, and subject to the provisions of F.S. ch. 718.

Consignment store. A retail service establishment which is engaged in the sale of consignment merchandise. Consignment is considered to be the act or process of entrusting goods to another to sell for the owner. The term does not include pawn shop.

Construct. The act of adding an addition to an existing structure or the erection of a new principal or accessory structure.

Contract construction office establishments. Establishments providing administrative space for businesses primarily engaged in construction on sites separated from the place of business such as general contractors and contractors involved in road construction, the construction of utilities, plumbing, heating and air conditioning, electrical work, masonry work, painting, carpentry, roofing, or flooring, which do not have onsite storage of construction equipment, fleet vehicles, or materials. For the purpose of this Code, the use is deemed to be an "office." The term, however, does not include temporary labor service establishments.

Contractor sign. A sign designating the name of the contractors undertaking remodeling improvements, whether commercial or residential.

Construction equipment. Self-propelled, truck- and trailer-mounted equipment and machinery used for the erection, repair, alteration, demolition, renovation and removal of any building, or structure, or excavation, filing, grading, dredging, farming or similar activities. Such items include derricks, cranes, hoists, dozers, tractors, drilling rigs, backhoes, paving equipment, farm equipment, rollers, lift trucks, tanks, generators, compressors, loaders and similar items.

Convenience sign. A sign displayed for convenience of the public, including signs which identify restrooms, location of public telephones, public entrances, freight entrances, hotel room identification, trash cans or the like.

Convenience store. A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract and depends upon a huge volume of stop-and-go traffic.

Copy area. The square foot area enclosed by the perimeter of the sign structure, not including the base, other support structures or other architectural features of the sign that do not convey any advertising. In the case of a two-sided sign, only one side is included in this calculation. When a sign is composed of individual letters, symbols or logos only, the copy area is the area enclosed by a perimeter line (forming a geometric shape as outlined by § 14-11-3.A) enclosing all letters, symbols and logos.

Cornice. Projecting horizontal decorative molding along the top of a wall or building.

Corporate flag. A flag identifying a business or organization by use of the name or logo only of the business or organization where the flag is displayed.

Cul-de-sac. A local street with only one outlet and having an appropriate terminus for the safe and convenient reversal of traffic movement.

Debrushing. Includes the removal of vegetative cover other than trees regulated pursuant to chapter 14-8, part II.

Dedicated entrance. An entrance to an establishment from the exterior of a building that is intended solely for ingress and egress from that establishment. This does not include common entrances that lead to multiple establishments.

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Density. The number of dwelling units per gross acreage of site area under common ownership. (See Gross acreage definition and section 14-4-6 for density calculations.)

Department. Kissimmee Development Services Department.

Design flood. The flood associated with the greater of the following two areas: (Also defined in Florida Building Code, B, Section 1612.2.)

- A. Area with a floodplain subject to a one percent or greater chance of flooding in any year; or
- B. Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two feet. (Also defined in Florida Building Code, B, Section 1612.2.)

Designated official. The city manager of Kissimmee or designated staff official by the city manager.

Designated species. Species that are listed as threatened, endangered, species of special concern, C1 or C2 as described and referenced in the most recent Florida Game and Fresh Water Fish Commission's publication entitled "Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida" and species listed in Tables V-2 and V-3 of the Conservation Element of the "Comprehensive Plan Inventory and Analysis."

Detached. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

Developer. Any person, firm, association, partnership, corporation, government or other legal or natural entity engaged in any development activity, including, but not limited to, any owner, lessee, agent, employee, contractor or subcontractor.

Development or development activity. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, construction, installation, demolition, or removal of a structure, impervious surface or drainage facility, clearing, scraping, or otherwise removing the vegetation of a site, mining, dredging, filling, grading, paving, excavating, drilling operations or permanent storage of materials.

Development agreement. A legally binding document detailing the obligations of the property owner or authorized agent and the city specifying the standards and conditions that will govern the development of the property.

Development order. Any order granting, denying, or granting with conditions an application for a development permit.

Development permit. Any action of the city that has the effect of permitting the development of land, including building permit, subdivision approval, rezoning, conditional use or variance.

Diameter at breast height (DBH). The diameter of a tree measured 54 inches above grade. In the case of multiple trunks, the largest trunk shall be measured.

Directional sign. Any sign that directs the public to a location off-site whether: (1) For customer parking; or (2) A non-profit use such as a church or hospital.

Director. The director of the Kissimmee Development Services Department, or designee.

Directory sign. An index consisting of the names of tenants of an office building, shopping center or other multi-tenant business complex.

District, mixed-use. The following districts and transect zones are mixed-use districts: T4-O, T5, T6, RB-2, RPB and MUPUD.

District, non-residential. The following districts and transect zones are non-residential districts: B-1, B-2, B-3, HC, B-5, BP, IB, AO, AI, CF, UT, OS, and SD-H.

District, residential. The following districts and transect zones are residential districts: RE, RA-1, RA-2, RA-3, RA-4, RB-1, RC-1, RC-2, MH-1, MH-2, MHP, RPUD, and T4-R, and SRPUD.

Dormer. A structure projecting above a sloping roof, usually housing a vertical window. It is not part of the roof structure but is framed separately, and often provides daylight and ventilation for a room located in a garret or loft space (see Figure 2-4).

Figure 2-4. Dormer



Drip line. An imaginary vertical line that extends downward from the outermost portion of the tree crown to the ground.

Drive-through facility. An accessory facility to a principal use of a restaurant, bank, drug store, laundry and dry cleaning establishment, or other similar establishment, which allows customers to receive services, obtain goods or be entertained while remaining in their motor vehicles. The term includes drive-through facilities located within the principal building and also those located in a separate building from the principal use.

Duplex. A single building containing only two residential dwellings, whether the dwellings are located on the same lot or two separate lots (fee simple).

Dwelling, single family. A building containing only one residential dwelling.

Dwelling unit. A residential unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Early land preparation permit. A permit that allows the following activities when done in conjunction with a development that is undergoing subdivision, site plan or building permit review, but has not received final approval:

- A. Tree removal;

- B. Debrushing;
- C. Grading;
- D. Excavating; and
- E. Filling.

Easement. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of this property.

Economic return. (Historic preservation definition, see §§ 14-3-35 and 14-3-36.) A profit or capital appreciation from use, sale, or ownership of a structure that accrues from investment or labor.

Educational service establishments. Businesses primarily engaged in education, including: vocational and trade schools, business and stenographic schools, art and music schools, dancing schools, and correspondence schools.

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Entrance, primary. The main point of access for pedestrians into a building.

Equipment sales, rental, and leasing, heavy. Establishments primarily engaged in sale, renting, and/or leasing of farming, landscaping or construction equipment, portable toilets, lawn care and similar equipment.

Equipment sales, rental, and leasing, light. Establishments primarily engaged in sale, renting, and/or leasing computers, electronics, appliances, medical equipment, party supplies, pianos, plants, vending machines, and similar types of equipment.

Escrow. A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond.

Establishment. The location of a business, whether in a single tenant building, or one tenant in a multi-tenant center.

Existing building and existing structure. Any buildings and structures for which the "start of construction" commenced July 2, 1981. (Also defined in Florida Building Code, B, Section 1612.2.)

Expression line. A horizontal line, expressed by a material change or by a continuous projection not less than two inches nor more than one foot deep.

Exterior property. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

Façade. The face of a building from the ground to the roof line.

Façade, front/primary. The façade of a building that faces the street. In the case of a corner lot, it is the façade along the higher priority street on the street hierarchy.

Façade transparency. The amount of transparent window glass or other openings in the façade of a building, relative to the overall surface area of the façade.

Family. Two or more persons related by blood, marriage, legal adoption, or legal guardianship, living together as one housekeeping unit using one kitchen; or six or fewer unrelated persons living as one housekeeping unit using one kitchen; or a combination of the persons described above which are living together as one housekeeping unit using one kitchen.

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Family day care home. A residence, licensed by the department of children and families, in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. See F.S. § 402.302(8). For the purpose of this Code, family day care homes are classified as home occupation.

Farm animals. Horses, cattle, swine, poultry, sheep, and goats.

Feather banner. A temporary feather-shaped sign consisting of a fabric material attached to a freestanding support pole.

Fee simple. A private property land right, sometimes also referred to as a "fee simple absolute," whereby a property owner unconditionally owns a specified piece of land.

Fenestration. Transparent or semi-transparent door or window openings.

Financial institutions. Establishments primarily engaged in offering financial services, such as banks; savings and loan associations; credit unions, security and commodity brokers, dealers, and exchanges; and holding and investment companies.

Finished exterior grade. The top surface of lawns, walks and drives, or other improved surface after completion of construction or grading operations.

Flag lot. A lot with access provided to the bulk of the lot by means of a narrow corridor.

Flood damage resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. (Also defined in Florida Building Code, B, Section 1612.2.)

Flood hazard area. The greater of the following two areas: (Also defined in Florida Building Code, B, Section 1612.2.)

- A. The area within a floodplain subject to a one percent or greater chance of flooding in any year.
- B. The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Floodlight. An artificial light source designed to give direct and/or reflective illumination over a large area. Vehicular parking lighting sources, wall packs, and security/surveillance lights shall be considered as floodlights.

Floodplain, 100-year. Areas inundated during a 100-year, or other specified flood event or identified by the National Flood Insurance Program as an A Zone or V Zone on flood insurance rate maps or flood hazard boundary maps.

Floodplain administrator. The office or position designated and charged with the administration and enforcement of this act (may be referred to as the floodplain manager).

Floodplain development permit. An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this act.

Floodway. The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. (Also defined in Florida Building Code, B, Section 1612.2.)

Floodway encroachment analysis. An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Floor area ratio (FAR). The ratio of the total floor area of building(s) to the size of the land for that location, or the limit imposed on such a ratio.

Forecourt. A type of building frontage that has a portion of the façade recessed from the street to create a courtyard.

Frontage buildout. The minimum percentage of the lot width which must be occupied by building façade within the required front or street side setback. For example, a property which is 100 feet wide with a frontage buildout percentage of 60 percent would require that at least 60 feet of façade length be maintained within the required setback (between the minimum and maximum setback).

Frontage, primary. The side of a lot facing a street. In the case of a corner lot, it is the frontage along the higher priority street on the street hierarchy.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

Funeral home. A personal service establishment used for the preparation of the deceased for burial, for the display of the deceased, and for holding ceremonies before burial or cremation.

Future occupant sign. A temporary sign intended to advertise a business that has not yet opened or occupied the location where the sign has been placed. This sign is intended to provide public notice of future businesses until they can obtain a permit for a permanent sign.

Gable. A vertical surface on a building usually adjoining a pitched roof, commonly at an end, whose shape depends on the type of roof and parapet, although most often it is triangular; often extends from the level of the cornice up to the ridge of the roof. If the gable is on the façade, rather than the end, the building is said to be "front-gabled."

Gallery. See Arcade.

Garage sale. A sale of used household belongings by the owner of the belongings which is held on the lot where the owner lives. This term includes yard sale.

Gasoline service stations. Businesses primarily engaged in the retail dispensing of automotive fuels and oil and where grease, batteries, tires, and other automobile accessories may be dispensed at retail principally for automobiles, and where various automotive and convenience store services may be provided, except major mechanical and body work, straightening of frames or body parts, steam cleaning, painting, welding, storage of automobiles not in operating condition, and operation of a commercial off-street parking lot.

Girdling. The removal or destruction of bark radially around the trunk of a tree or shrub.

Gross acreage. The total acreage of the site excluding surface waters (as defined in F.A.C. 62-340.200(19)), wetlands (as defined in this Code), 100-year floodplains (as defined in this Code), and other environmentally fragile lands.

Ground cover. A low growing dense growth of plants other than grass that entirely covers the ground, such as pachysandra.

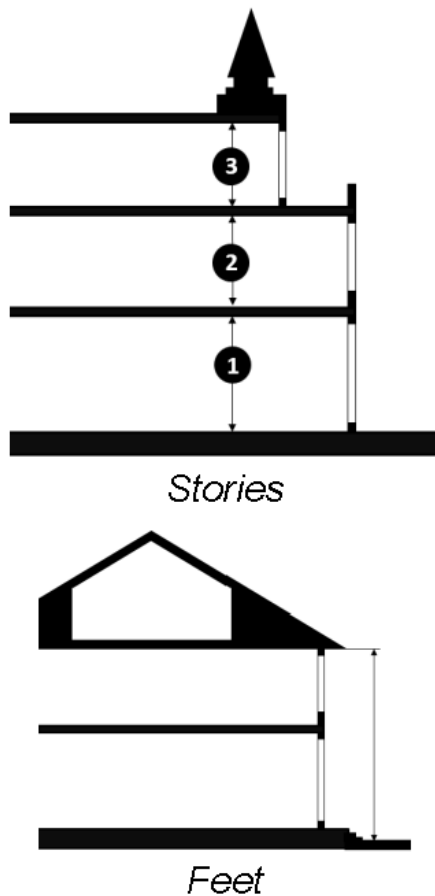
Ground sign. Any freestanding solid monument structure containing a sign face which is supported solely by its own ground-mounted base (or poles) not exceeding two feet in height and which is not attached or affixed in any way to a building or other structure.

Hanging sign. A sign that is placed under a marquee, awning or arcade, perpendicular to the building façade, and not intended to be seen by motorists.

Hatracking. The severe cutting back, topping, mutilation, girdling, herbiciding and heavy pruning of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove more than approximately one-third of the normal canopy and disfigure the tree.

Height. When measured in floors/stories, the vertical extent of a building, not including a raised basement, uninhabitable attic, or parking below the ground. When measured in feet, building height is the vertical distance of a structure measured from the finished floor elevation (FFE) to the eave of a sloped roof, or the base of the parapet in the case of flat roofs (see Figure 2-5).

Figure 2-5. Height



Helicopter. A rotorcraft that, for its horizontal motion, depends on its engine driven rotors. Tiltwing rotorcraft are not considered to be helicopters.

Heliport. An area of land, water, or a structural surface which is designed, used or intended to be used for the landing and take-off of helicopters, and any appurtenant areas which are designed to be used for helicopter support facilities such as maintenance, refueling, and parking.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure. Any structure that is:

- A. Listed individually in the local register or in the National Register of Historic Places (a listing maintained by the United States Department of Interior); or
- B. Located within a local or National Register Historic District (a listing maintained by the United States Department of Interior); or
- C. Included in the official City of Kissimmee Survey of Historic Resources inventory (July 2004), available for review in the department; or
- D. Considered eligible for local designation according to the criteria listed in chapter 14-3.

Holiday-related merchandise. That merchandise which is directly related to or in connection with specific holidays as addressed in this chapter. Such merchandise includes Christmas trees, pumpkins, Halloween items and state-certified pyrotechnical items. These items shall not include paintings, stuffed animals, furniture or clothing.

Home improvement center. A retail sales establishment which is primarily engaged in the sale of construction materials (including a substantial amount of lumber), hardware, and other home improvement items.

Home occupation. A business conducted within a residential unit, by the occupant of the dwelling, when the activity is subordinate to the residential use.

Hotel or motel. A building or group of buildings in which sleeping accommodations are offered to the public and intended for rental to transients with a daily charge, and a length of stay of up to 29 nights. This term does not include bed and breakfast facilities.

Human signage. A sign that is held or worn, including costumes, by a person for the purpose of advertising, providing information about or promoting a business, commodity, service, product or other commercial activity.

Identification sign. A sign that is permitted to be installed only on a building or around the perimeter of a residential development or neighborhood to identify the name only, of the building, development or neighborhood.

Identification sign, building. A sign that is permitted to be installed only on a building of three stories in height or greater to identify the name only of the building development.

Identification sign, multiple lot non-residential development. A sign that is permitted to be installed on a perimeter wall or a freestanding monument sign at the entrance of a multiple lot non-residential development, such as an industrial or business park used for the purpose of identifying the development name and location.

Identification sign, residential. A sign that is permitted to be installed only around the perimeter of a residential development or neighborhood to identify the name only, of the building development or neighborhood.

Illuminated sign, external. Any sign illuminated by shielded electric lights which are not part of the sign.

Illuminated sign, internal. Any sign having characters, letters, designs, logos or outlines illuminated by electric lights located within the sign or luminous tubes designed for that purpose.

Impervious surfaces. Any surface which has been altered, covered, or controlled resulting in the virtual elimination of the infiltration and percolation of water to the underlying soils. The term includes most conventionally surfaced streets, roofs, sidewalks, parking areas, drives, paved pool decks or patios, and similar facilities.

Impervious surface area. Percentage of a given lot that may be built upon (including all structures and other impervious surfaces). It is calculated by dividing the square footage of all impervious surfaces on the site by the square footage of the site, exclusive of any submerged land or public road right-of-way.

Incidental and integral signs. Signs which are non-commercial in nature and integral and incidental to equipment, or machinery and cover not more than 20 percent of the exterior surface of such equipment, facilities or machinery. Also applies to memorial signs or tablets or names of buildings and date of erection. Such signs must be cut into masonry surface or constructed of bronze or other noncombustible materials when mounted on the face of a building.

Infill. The development of vacant or partially developed parcels surrounded by, or in close proximity to, areas that are substantially or fully developed.

Institutional care facility. Adult congregate living facilities, nursing homes, community residential homes with more than 14 residents, convalescent homes and similar facilities.

Instructional sign.

- A. A noncommercial sign permanently erected by the city, county or state, or any agency thereof, to denote the name of any thoroughfare, the route to any city, a public educational institution, a public building, park, recreational facility or hospital; to direct and regulate traffic; to denote any transportation route for the safety of the public.
- B. A noncommercial sign located on and relating to an activity on the premises upon which the sign is located, providing information to pedestrian and vehicular traffic, e.g. "entrance," "exit," "caution" and "no trespassing."
- C. A sign within a development, or at the entrance(s) thereto, showing the name(s) and directions to the location(s) of the subdivisions comprising the development, a sales office, and the like.

Irrigation. A permanent artificial method of applying water to plants.

Itinerant food vendor. A natural person or business entity that sells immediately consumable food products and non-alcoholic beverage items from a non-permanent cart, trailer or vehicle (an "itinerant food vending conveyance") at a fixed location on private property.

Kennel. An establishment used for the breeding or overnight boarding of pets, such as dogs and cats. This is not intended to include veterinary clinics or hospitals that provide occasional necessary overnight accommodations for animals undergoing medical procedures, or pet day-care facilities.

Laboratory, medical or dental. A facility used for the testing and analysis of medical or dental samples and materials.

Land clearing. See "Early land preparation permit" and "Site improvement permit."

Large indoor tourist attraction. An indoor business establishment located on a principal arterial roadway as designated by the comprehensive plan. Such an establishment must be located on a minimum of a ten-acre parcel of land and primary business activity must be performed in a structure of no less than 60,000 square feet in size. The primary business activity must be of an entertainment nature, which may include the serving of meals and other food items.

Letter of map change (LOMC). An official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:

- A. *Letter of map amendment (LOMA).* An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- B. *Letter of map revision (LOMR).* A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- C. *Letter of map revision based on fill (LOMR-F).* A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- D. *Conditional letter of map revision (CLOMR).* A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck. As defined in 40 CFR 86.082-2, any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- A. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or
- B. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- C. Available with special features enabling off-street or off-highway operation and use.

Live-work unit. A type of building designed to accommodate a residential use with an accessory office, business service or personal service component. Live-work units differ from home occupations in that the home occupation may be carried in any home and limits the interaction with customers, while the live-work unit is specifically designed for that purpose and allows customer interaction on the site.

Logo. A graphical symbol created for an individual company or product. It is designed to communicate quickly, and to be a distinctive and easily recognizable symbol.

Lot, corner. A lot where the interior angle of two sides adjacent to the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this chapter if the arc is of less radius than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees. See Figure 2-7.

Lot depth. The distance between the midpoint of the front lot line and the midpoint of the rear lot line.

Lot, interior. Any lot fronting on only one street or road or at the intersection of two streets if said intersection forms an interior angle greater than 135 degrees. See Figure 2-7.

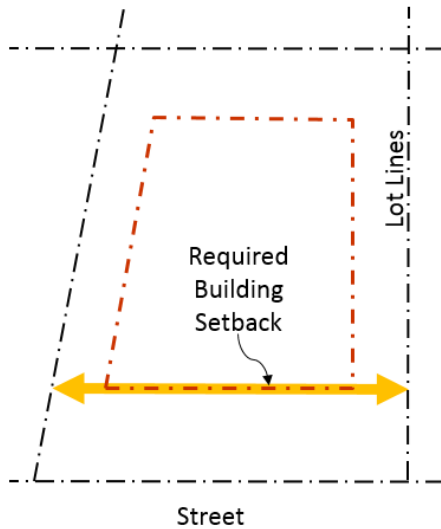
Lot, island. Any lot completely surrounded by streets.

Lot line. A property line separating a lot from property outside the lot.

Lot, through. Any lot having frontage on two more or less parallel streets as distinguished from a corner lot and having two opposite and more or less parallel interior lot lines. See Figure 2-7.

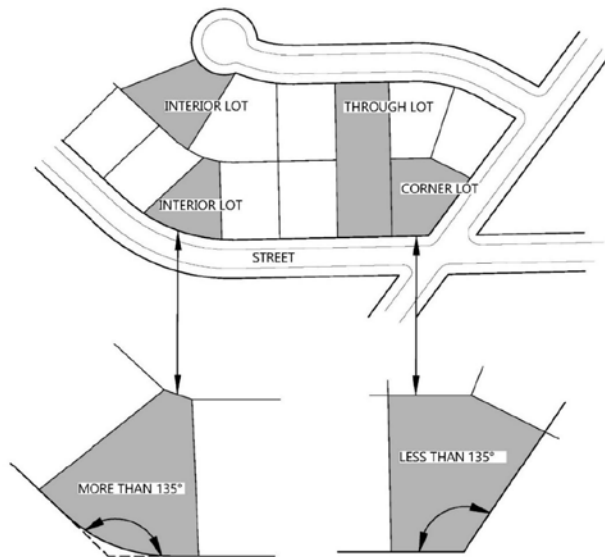
Lot width. The horizontal distance between the side lot lines, measured at the required front yard setback line (see Figure 2-6).

Figure 2-6. Lot Width



Lot. A designated parcel, tract, or area of land established as permitted by law.

**Figure 2-7. Corner Lots,
Interior Lots,
Through Lots**



Lowest floor. The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. (Also defined in Florida Building Code, B, Section 1612.2.)

Manufactured home. A mobile home fabricated on or after June 15, 1976, in an offsite manufacturing facility for installation or assembly at the building site, with each section bearing a seal certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standard Act. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." (Also defined in F.A.C. 15C-1.0101.) The term may include park trailers, travel trailers, and similar structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision. For the purpose of administering floodplain management regulations, this term shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufactured home park or subdivision, existing. For the purpose of administering floodplain management regulations, this term shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before July 2, 1981.

Manufactured home park or subdivision, expansion. For the purpose of administering floodplain management regulations, this term shall mean the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Manufactured home park or subdivision, new. For floodplain management regulations, a new manufactured home park or subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the

installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after July 2, 1981.

Manufacturing, light. Manufacturing establishments involved in making:

- Small electrical or electronic apparatus;
- Coils, tubes and semiconductors;
- Communication, navigation, guidance and control equipment;
- Data processing equipment (including computer software);
- Glass edging and silvering equipment;
- Graphics and art equipment;
- Metering equipment;
- Radio and television equipment;
- Photographic equipment;
- Radar, infrared and ultraviolet equipment;
- Optical devices and equipment; or
- Filling and labeling machinery.

Manufacturing, medium. Manufacturing, assembling, storage and/or packaging of the following:

- Precision instruments;
- Jewelry and precious metal products, silverware;
- Clothing, leather products and other textiles, not involving dyeing or tanning of materials or coating with pyroclastic plastic or similar materials;
- Signs and advertising displays;
- Ceramic products, glass and glass products, using electrically fired kilns;
- Food and dairy products;
- Furniture;
- Cabinetry, metal, upholstery, and woodworking;
- Building materials;
- Pharmaceutical products, cosmetics, perfumes, candles and toiletries, except soap containing animal byproducts;
- Automobiles, golf carts, lawn equipment, and farm equipment;
- Non-chemical cleaning products; or
- Stationery.

Manufacturing, heavy. Establishment used for the mechanical or chemical transformation of materials or substances, including the bulk storage of raw materials, and which process may emit noise, vibration, dust, odor or pollutants. Activities include animal product processing facility, manufacturing, assembly and fabrication of large

scale or specialized industrial operations, firework/sparklers, processing and compounding of semi-finished products from raw material in bulk form to be used in an industrial operation.

Market. A meeting place of people for the purpose of trade or sale by means of private purchase.

Market value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this act, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, actual cash value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the property appraiser.

Marquee. A permanent structure projecting from and supported by the building and extending beyond the building wall providing shade or shelter from the elements (see Figure 2-8).

Figure 2-8. Marquee



Marquee sign. A sign suspended from, attached to, supported from or forming a part of a marquee.

Massing. Massing describes the physical shape and form of a building or group of buildings. Building massing variables include building height, building frontage, lot coverage and lot width.

Message center sign. A sign on which the message can be changed electronically or mechanically, including time and temperature and tri-vision signs.

Mitigation. Action or actions taken to offset the adverse effects of development on off-site functions and the case of designated species to offset the adverse effects of development on on-site and off-site functions. Mitigation shall be evaluated on a case-by-case basis with respect to the replacement of lost functional value.

Mixed-use development. A development which includes a mixture of commercial, office, and/or residential uses. For a development to qualify as a "mixed-use" development, the secondary use may not be reserved for use only by the principal user (for example, a residents-only gym or an employee cafeteria) and must include the following, unless different percentages are specified elsewhere in this Code:

- A. If the development includes residential uses, they shall comprise a minimum of 20 percent of the total development square footage;

- B. Commercial uses shall comprise a minimum of 30 percent of the total development square footage or 3,500 square feet, whichever is less;
- C. Office uses shall comprise a minimum of 30 percent of the total development square footage.

Mobile home. A structure, transportable in one or more sections, which is eight body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term does not include travel trailers or manufactured housing.

Mobile home and recreational vehicle sale, rental and leasing establishment. Premises where the principal use is the sale, rental or leasing of any mobile home or recreational vehicle. A mobile home and recreational vehicle sale, rental and leasing establishment shall not be deemed to include the storage, except for sales display, of any mobile homes or recreational vehicles or the sale, rental or leasing of any commercial or domestic vehicles.

Mobile medical unit. A temporary vehicular medical use used solely for purposes of temporarily collecting donated blood, blood cells, plasma, platelets, and the like, as well as those providing MRI, CAT scan, nuclear medicine, or other similar imaging, diagnostic, or testing procedures.

Mobile trailer sign. An electronic message board attached to a portable trailer typically used in a temporary fashion to inform the public of necessary events, detours, construction activity, or other items that may affect pedestrian and vehicular traffic flow.

Model sign. (Sign subchapter definition.) A sign which designates a particular dwelling unit which is exhibited to depict other units of a similar design that are for sale.

Monument sign. (Sign subchapter definition.) Any freestanding solid monument structure containing a sign face which is supported solely by its own ground-mounted base (or poles not exceeding two feet in height) and which is not attached or affixed to a building or other structure.

Motor vehicle. Any device or conveyance for transporting persons or property over the public streets, including, but not limited to, any automobile, motorcycle, motor truck, trailer, van, semi-trailer, tractor-trailer combination, commercial vehicle or trailer, recreational vehicle or trailer, and boat or boat trailer.

Motor vehicle sale, rental or leasing establishment. Premises where the principal use is the sale, rental or leasing of any commercial or domestic vehicle. The term shall not be deemed to include the storage, except for sales display, of trucks, machinery or equipment of more than 1½ tons in weight or buses, or the sales, rental or leasing of manufactured homes, mobile homes or recreational vehicles.

Motor vehicle repair establishment. Includes light and heavy repair establishments, as follows:

- A. Light repair, which may include any of the following:
 - 1. Sale and service of spark plugs, tires and batteries.
 - 2. Replacement of fan belts, brake fluids, light bulbs, fuses, floor mats, tires, windshield wipers and blades, and mirrors.
 - 3. Fluid replacement.
 - 4. Greasing and lubrication.
 - 5. Emergency repair of wiring.
 - 6. Minor adjustment not involving removal of the head of crankcase and grinding valves.
 - 7. Battery recharging.

8. Safety inspections.

- B. Heavy repair. Activities of greater intensity than those listed in A. Heavy repair shall also include the repair of heavy commercial vehicles, boats and boat motors.

Multi-family residential. A group of four or more dwellings occupying a single building on a site. The term includes both renter and occupant owned units, but does not include duplex, triplex or townhouse dwellings.

Multi-tenant center. A multi-tenant center which occupies a minimum of 25,000 square feet of building space or a hotel/motel that has a minimum of 200 guest rooms, at least one accessory use open to the public, and at least 150 feet of frontage on a single street.

Multi-tenant center, major. A multi-tenant center which occupies a minimum of 120,000 square feet of building space and has a least 400 feet of frontage on a single street.

Muntin. A secondary framing member to hold panes within a window, window wall, or glazed door.

New construction. For the purposes of administration of floodplain management regulations and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after July 2, 1981, and includes any subsequent improvements to such structures.

Noise specialist. A person with the technical expertise required to conduct research, studies, and investigations in order to analyze and recommend appropriate solutions to noise pollution problems in accordance with Federal Aviation Administration and Florida Department of Transportation regulations.

Nonconforming lot. Any lot which does not comply with one or more of the requirements pertaining to lot area, lot width, or lot depth in the zoning district in which the lot is located. Notwithstanding any other provision of this chapter, this term shall also include any parcel or tract which was created prior to the adoption of this section which would be deemed illegal and which does not comply with one or more of the requirements pertaining to lot area, lot width, or lot depth in the zoning district in which the lot is located. Any lot which has received a lot size variance or modification in accordance with chapter 14-3, part VII (Modification of Standards and Variances) shall not be considered a nonconforming lot as a result of any reduction from the normal lot size standards which is due to such waiver.

Nonconforming site improvements. Any lawfully established site improvements which do not comply with one or more of the requirements of this chapter pertaining to parking, loading, access, landscaping, screening, and other similar site design features except signs which are covered in chapter 14-11.

Nonconforming structure. Any lawfully established structure which does not comply with one or more of the requirements of this chapter pertaining to minimum structure setback, maximum lot coverage by buildings, maximum height for structures, maximum impervious surface, and other similar maximum or minimum structure limitations.

Nonconforming use. Any lawfully established use which is not allowed as a permitted or conditional use in the zoning district in which the use is located.

Occult science establishment. An establishment where fortune tellers, tarot card readers, palm readers, psychics, and the like offer their services.

Occupancy. The purpose for which a building or portion thereof is utilized or occupied.

Occupant. Any individual living or sleeping in a building or having possession of a space within a building.

Office. Establishments primarily engaged in providing any of the following: medical and other health-related services; administrative services; legal services; engineering and architectural services; accounting, auditing, and bookkeeping services; lawn care/landscaping and construction administration services; or similar activities. An

office establishment does not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair, or storage of materials, goods, equipment or products; or the sale or delivery of any materials, goods, equipment or products physically located on the premises.

Off-site directional sign. Any sign that directs the public to a location off-site whether:

- A. For customer parking; or
- B. A non-profit use such as a church or hospital.

Off-site sign. Any sign that advertises or directs the public to a location other than where the sign is located.

On-site directional sign. Any on-site sign that directs the public to the location of a building or parking area.

Open air. The space where air is unconfined or out-of-doors.

Open air market. Flea markets, bazaars, produce markets, roadside stands, curb market, or any open air sales shall have the same meaning of open air market as defined herein.

Open space. Any area of land or water at least 1,000 square feet in size which is essentially unimproved, and which has recreation, conservation, scenic, or preservation value. Retention/detention ponds are considered open space.

Open-sided porch. A roofed structure attached to a building, open on two or more sides, with railings or walls on the sides not exceeding 40 inches in height from the porch floor. The area between the roof and the railings or walls may not be covered with screening or netting or enclosed with windows or other materials.

Outdoor advertising sign. Any sign advertising a business (excluding a non-profit entity) establishment, activity, product, or service (including entertainment), which is sold, produced, manufactured, available or furnished at a place other than on the property on which the sign is located.

Outdoor dining. An unenclosed, open air area that contains tables, chairs and other similar facilities which is accessory to a licensed and operating restaurant, bakery, café, candy, confectionary and ice cream stores where food and beverage are served and consumed for pay. Outdoor dining shall not include the preparation of food or beverages, cooking, storage or placement of equipment of any kind, except the temporary placement of implements associated with the service of food. Does not include open air, open air market, outdoor display, outdoor storage, mobile food vending vehicles or any use of property that does not provide a permanent structure for restrooms and kitchen facilities.

Outdoor display. The placement of merchandise, commodities, equipment, materials or articles outside of a building for the purposes of attracting customers and displaying examples of items that are for retail sale within a building. Display shall constitute the placement of one sample of an item for sale within the building in accordance with the allowable uses of the zoning district.

Outdoor storage. The accumulation of merchandise, commodities, equipment, materials, containers, semi-trailers, inoperable vehicles, or articles outside of a building either used as stock in trade or related to the use of the site. This term does not include outdoor display.

Owner. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Parasite sign. Any sign, for which no permit has been issued, which is attached to another sign.

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Park trailer. A transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. (Defined in F.S. § 320.01.)

Parked vehicle sign. A sign placed on, painted on or affixed to a vehicle or trailer which is parked on a public right-of-way, public property or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property. However, this is not intended to include a sign placed on or affixed to a vehicle or trailer, such as lettering on motor vehicles, where the sign is incidental to the primary use of the vehicle or trailer and occupies less than 25 percent of any side or the rear of the vehicle. In addition, this term is not intended to include vehicles involved in the delivery or loading of materials at the site which are only at the site for short periods of time.

Vehicles parked onsite for longer periods of time must be parked to the side or rear of the building, must be located outside the first row of parking spaces adjacent to the street, and must meet setbacks from adjacent rights-of-way.

Parking area. An area or plot of land for the storage or parking of vehicles as designated upon an approved site plan for the property.

Pawn shop. An establishment that advances funds to a person for personal property on condition that the pledged property is left in the possession of the pawnbroker until redeemed by the pledger within an established period of time. If not redeemed within that time, the pawnbroker may then sell the property.

Pedestrian oriented sign. A portable sign not permanently secured or attached to the ground, building or other structure allowed for restaurants, retail and personal service establishments within the CRAO district and major multi-tenant center establishments to attract pedestrian traffic. A pedestrian oriented sign may be used to advertise changing specials such as food items, menus or other promotions; and shall only be used to advertise products or services available or for sale at the site where the sign is located.

Permanent employment services. Establishments which provide employees for long-term employment, which is in turn defined as continued service with an employer for a minimum of 90 days. This use shall be deemed "office." The term "permanent employment services" does not include temporary labor service establishments.

Permanent stationary flagstaff. A flagstaff which is securely fastened to the surface or ground on which it rests, and which cannot be easily dislodged.

Personal wireless antenna. A structure used or designed to be used by a personal wireless service which converts radio-frequency currents from a transmitter into radio waves which then travel through space, or one which converts part of a passing radio wave into a radio-frequency current for further processing by a receiver. Such antennas include, but are not limited to, dish antennas, whip antennas, and panel antennas (a single panel is an antenna) which are used by personal wireless services.

Personal wireless equipment. A type of communications structure defined in this section as a personal wireless antenna or a personal wireless equipment cabinet.

Personal wireless equipment cabinet. An accessory building or other enclosed accessory structure which is used or designed to be used to house telecommunication equipment which is used in conjunction with personal wireless antennas. This term does not include switching offices used or designed to be used by personal wireless services.

Personal wireless facility. A type of communication structure defined in this section as a personal wireless tower or a building with a type of structure defined in this section as personal wireless equipment.

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Personal wireless service. A communication service establishment which is referred to as a commercial mobile service, unlicensed wireless service, or common carrier exchange access service by section 704(a)(7)(c)(1) of the Telecommunications Act of 1996.

Personal wireless tower. A self-supporting structure other than a building, which extends over 50 feet above the ground and upon which one or more personal wireless antennas are attached or designed to be attached. This term includes such structures which are located on buildings.

Pet day-care facility. A personal service facility where domesticated animals are supervised and cared for during the day.

Prune. To cut away, remove, cut off or cut back parts of the tree or plant. Also see "Hattracking" definition.

Pole sign. Any sign erected upon a pole, poles or a pylon, and which is wholly independent of any building and/or other structure for support.

Political sign. A temporary sign identifying and urging voter support for a particular election issue, political party, or candidate for public office in connection with any national, state, local election.

Porch. A roofed space attached to the outside of an outer wall of a building, open on one or more sides, which may have railings, screen or glass enclosure. A porch may have more than one story.

Portable sign. Any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; skid-mounted signs; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; and signs attached to or painted on vehicles parked to clearly provide advertising close to the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business, the sign area does not exceed the three-inch minimum (required by § 28-5 of the Code) and there is no reasonable alternative storage space.

Portable storage container. A box-like container transported by truck to a desired location. Such container is moved from the bed of a truck to the ground and back using a hydraulic metal framework or similar device.

Post sign. A sign that is not attached to a building but is supported by braces, post, or by any other means than by attachment to a building support. A post sign is a freestanding sign comprised of a vertical post to which a perpendicular arm is attached and from which a sign hangs.

Premises. A lot, plot or parcel of land, easement or public way, including any structures thereon.

Primary surface. A horizontal plane associated with a heliport at the elevation established for the heliport which coincides in site and shape to the designated takeoff and landing area of the heliport.

Project sign. A sign announcing a construction project either under construction or an intended use of the premises in the immediate future including the names of contractors, architects, engineers, the developer, lender, and the like.

Projecting sign. A sign attached to a building wall or other structure and extending perpendicular to its face a minimum of 15 inches.

Public improvement. Any drainage facility, roadway, sidewalk, bikeway, tree, water line, sewer line, or other facility for which the city may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which the city responsibility is established.

Public property. Lands and improvements owned by the federal government, the state, the county or municipalities, lying within the city and includes buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way and other similar property.

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Public use. A structure or use intended or used for a public purpose by a city, county, state, federal or any other public agency. The term includes land, buildings, or structures used to provide protective, administrative, social, or recreational services directly to the general public, including police or fire stations, post offices and any other public facility providing the above services, but shall not be deemed to include public land or buildings devoted solely to the storage and maintenance of equipment and materials and shall not include utility and cultural facilities.

Public water system. A system that provides piped water to the public for human consumption, if it has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year and has a permitted groundwater withdrawal capacity of 100,000 gallons per day or greater. Such terms include:

- A. Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and
- B. Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

Real estate sign. A sign erected on-site by the owner or his or her agent, indicating property which is for rent, lease or sale, open for inspection, shown by appointment only or similar announcement.

Rear loaded spaces. That façade of the building where the driveway is located, which abuts the required rear yard as stipulated in this zoning code.

Recreation facilities, indoor. Enclosed public or private facilities containing amusement, entertainment, and/or recreational activities, such as theaters, bowling alleys, pool halls, dance halls, exercise studios, martial arts schools, and indoor sports facilities, such as tennis courts, handball courts, and swimming pools. The term shall not include indoor shooting ranges.

Recreation, active/outdoor. A public or private recreation area designed for vigorous activities conducted outdoors, such as, but not limited to, amusement parks, sports and athletic facilities (e.g., tennis, basketball, racquetball), miniature golf, go-cart tracks, water slides, and similar activities. The term shall not include golf courses or outdoor shooting ranges.

Recreation, passive. A public or private recreation area designed for and suitable for light activity and relaxation, including, but not limited to, sitting areas, walking trails, picnic pavilions, bicycle trails, playgrounds, botanical gardens, bird sanctuaries, nature trails and similar activities.

Recreational equipment. Includes, but is not limited to, recreational vehicles, boats, personal water craft, boat trailers, travel trailers, pickup campers or coaches (when over eight feet tall), tent trailers or pop-out campers, houseboats, self-propelled van type campers (when over eight feet tall), motor homes, and similar vehicles or items.

Recreational vehicle. A vehicle, including a park trailer, which is: (see F.S. § 320.01)

- A. Built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recycling collection center. A facility used for the collection and processing of recyclable materials, such as aluminum cans, paper, and the like, and which is conducted solely within an enclosed permanent structure. The facilities shall be manned at all times during hours of operation.

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Recycling collection container. An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items would be allowed. This facility would generally be located in a parking lot serving a shopping center, a church, a school or other similar uses.

Regulating plan. A map or set of maps that shows the physical locations and boundaries of regulatory items such as transect zones, future streets, and civic spaces subject to regulation by this Code.

Relocate, relocated, or relocation. (Historic preservation definition.) Any change in location of a structure on its site or to another site whether inside or outside an HPO district.

Repair service establishments, light. Businesses primarily engaged in repairing items such as electronics, appliances, furniture, medical equipment, musical instruments, vending machines, and similar types of equipment.

Repair service establishments, heavy. Businesses primarily engaged in repairing items such as farming, landscaping or construction equipment, and similar equipment.

Research and development establishments. Facilities associated with indoor research in the areas of biochemistry, chemistry, electricity, photography, medicine, metallurgy, pharmaceuticals, or radiation, producing no noise, smoke, glare, vibration, or odor detectable outside the building.

Restore, restored, or restoration. The act or process of recovering the form and details of a structure and its setting as it appeared at a particular period of time by means of removal or later work and/or by the replacement of missing earlier work.

Retail frontage. Frontage designated on the downtown form-based code special requirements plan that requires or recommends the provision of a shopfront, encouraging the ground level to be available for retail use.

Retail sales establishments. Businesses which are primarily engaged in selling merchandise to customers for personal or household use, such as grocery stores, bakeries, department stores, clothing stores, fabric shops, luggage stores, gift shops, jewelry stores, florist shops, camera shops, music stores, toy stores, book stores, newsstands, stationary stores, drugstores, antique stores, sporting goods stores, furniture stores, appliance stores, hardware stores, auto part stores, and bicycle shops. This term does not include junk yards or pawn shops but includes consignment stores and secondhand merchandise establishments.

Right-of-way. The strip of land dedicated for pedestrian and vehicular movement, which may also accommodate public utilities. The term right-of-way includes public and private rights-of-way.

Right-of-way utilization permit. A permit authorized by the public works and engineering department for work and improvements conducted within a public right-of-way.

Roof sign. A sign erected over, across or on the roof of any building, which is dependent on the roof, parapet or upper walls of a building for support.

Rooming house. A lodging establishment where individual rooms are offered for occupancy to the public for periods of 30 days or more, with no provision for cooking in individual rooms but where meals may be regularly prepared and served for compensation, provided the food is placed upon the table family-style without service or ordering individual portions from a menu. This term shall not be construed to mean a dwelling, bed and breakfast facility, community residential home, institutional care residential facility, shelter/halfway house, or motel/hotel.

Sandwich board sign. A portable sign not permanently secured or attached to the ground, usually in a two-sided A-frame design. Sidewalk sign.

School. Any educational institution which provides elementary, middle or high school education. When not specified, the term includes both public and private schools.

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School, private. A non-public educational institution which meets state requirements for primary, secondary or higher education and which receives little or no funding from government sources.

School, public. Any non-profit educational institution which provides elementary, middle or high school education as regulated by the Osceola County School Board, state or federal governing agency. This may also include alternative or charter schools.

1. Elementary: an educational institution establishment where children receive the first stage of compulsory education known as elementary or primary education - pre-kindergarten through fifth grade.
2. K-8: an educational institution establishment with a continuous grade span that begins with kindergarten or pre-kindergarten and ends after the eighth grade in which the upper grade spans implement middle-level best practices - pre-kindergarten through eighth grade.
3. Middle: an educational institution establishment which covers a period of education that straddles elementary education (elementary school) and secondary education (high school) serving as a bridge between the two - sixth grade through eighth grade.
4. High: an educational institution establishment which provides secondary education - ninth grade through 12th grade.
5. Alternative: an educational institution establishment with a curriculum and methods that is non-traditional. These schools have a special curriculum offering a more flexible program of study than a traditional school.
6. Charter: publicly funded schools that have been freed from some of the rules, regulations and statutes that apply to other public schools in exchange for some type of accountability for producing certain results, which are set forth in each school's charter.

Screened enclosures. A structure almost entirely encased with screen or screen-type material, the roof portion likewise.

Screened porch. A structure which is part of a dwelling and which is almost entirely encased with screen or screen-type material, the roof portion a conventional-type weatherized roof.

Secondhand merchandise establishment. Retail sales establishments primarily engaged in selling secondhand merchandise. The term does not include auction facilities, or pawn shops.

Self-service storage facility. Any real property designed and used for the purpose of renting or leasing individual storage stalls or lockers to tenants who are to have access to such stalls or lockers for the purpose of storing and removing personal property and where at least 50 percent of the stalls or lockers have a gross floor area of 500 square feet or less. These stalls or lockers shall be used for goods which are not in use and which are not associated with any office, retail, or other business use located on the lot. These stalls or lockers shall not be used to store radioactive materials, explosives, or flammable or hazardous chemicals. No such stall or locker shall be used for residential purposes or for conducting retail trade, wholesale trade, production, assembling, repair, treatment, packaging, or office activities.

Service establishments, business. Establishments primarily engaged in rendering services to other business establishments, other than professional, educational, repair, leasing, building, landscape maintenance, temporary labor, or contract construction services. Business service establishments shall include, but not be limited to, advertising agencies, interior cleaning services, computer and data processing services, detective agencies and security services, news syndicates, personnel services (excluding temporary labor), photofinishing laboratories, photography, art and graphics services, and printing services, with no use or storage of noxious chemicals apparent off-site (printing services using noxious chemicals are classified as service [establishments], intensive).

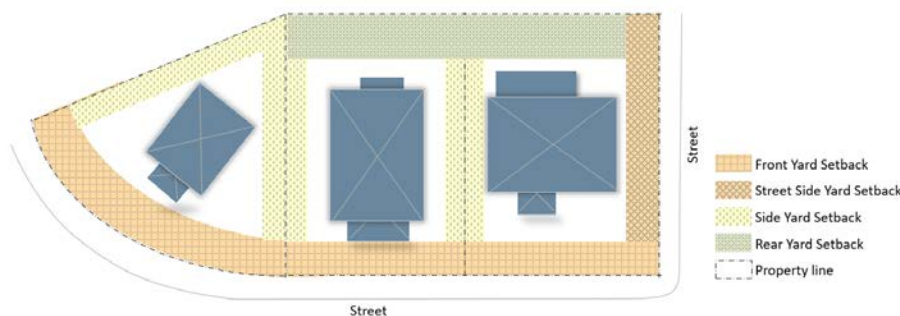
Service establishments, communication. Establishments primarily engaged in communication activities, including newspaper and printing services, television and radio studios, and telephone offices.

Service establishments, intensive. Establishments primarily engaged in providing any of the following services: industrial cleaning (e.g., carpet cleaning plants), pest control, printing and publishing plants using noxious chemicals, landscaping or general contractor establishments which include onsite storage of equipment or materials, or similar services. If the use does not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair, or storage of materials, goods, equipment or products; or the sale or delivery of any materials, goods, equipment or products physically located on the premises, the use may be classified as an office (see Office definition).

Service establishments, personal. Establishments primarily engaged in providing services involving the care of a person's apparel, pets, small appliances or other similar areas (other than health care), and including laundering and dry cleaning services (except those primarily serving other businesses), beauty and barber shops, garment alterations, health spas, dance studios, funeral homes, pet day care, travel agencies, and similar establishments.

Setback, required. The closest (minimum setback) or farthest (maximum setback) distance that a building, parking area or sign can be located from the adjacent property line, other structures, or environmental features (see Figure 2-9). See definition of "Yard."

Figure 2-9. Required Setbacks



Shelter/halfway house. A facility licensed by the Florida Department of Health and Rehabilitation Services that may provide one or more of a range of services, including room and board (short-term or long-term) and counseling services for:

- A. Battered women and children.
- B. Recovering patients from mental health, alcoholism, correctional or drug treatment facilities.
- C. The homeless.
- D. Those in need of emergency housing.

Shopping carts. Basket mounted on wheels or a similar device which is generally used in a retail or wholesale establishment by a customer or an employee of said establishment for the purpose of transporting goods of any kind.

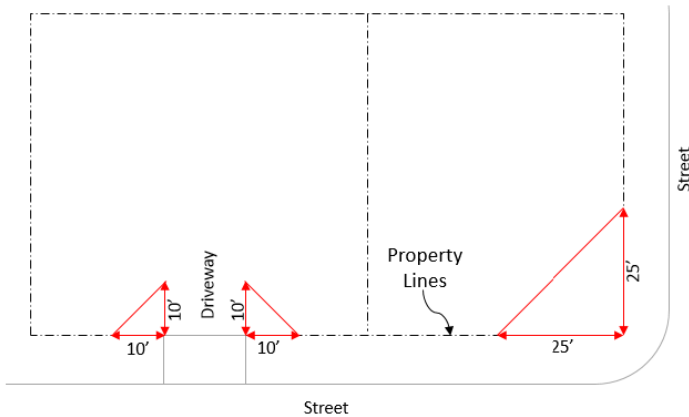
Shopfront. A building frontage typical of retail uses, with substantial glazing primarily intended for display windows.

Short-term rental. A residential dwelling intended for rental for a period of less than 30 days.

Shrub. A living, woody self-supporting non-deciduous plant smaller than a tree with multiple shoots or trunks from or near the base.

Sight triangle. Clear zones located at access drives and street intersections that must remain clear of vertical obstructions for visibility and more particularly described as follows (see Figure 2-10):

Figure 2-10. Short Triangle



- A. *Access drive and street.* The areas of property on both sides of an access drive formed by the intersection of each side of the accessway and the public right-of-way line with two sides of each triangle being ten feet in length from the point of intersection and the third side being a line connecting the ends of the two other sides.
- B. *Two streets.* The area of property located at a corner formed by the intersection of two or more public rights-of-way with two sides of the triangular area being 25 feet in length along the abutting public right-of-way lines, measured from their point of intersection, and the third side being a line connecting the ends of the other two sides.

Sign. Any structure and all parts composing the same, together with the frame, background or support therefor, which is used for advertising purposes or any statuary, sculpture molding, casting or other objects used for advertising purposes, or any flags, bunting or material used for advertising purposes, or for the purpose of attracting the attention of the public; also used for conveying non-business information. Murals and other true works of art are not considered signs. Symbolic buildings are not considered signs.

Sign area. See "Copy area."

Sign height. The height of the sign measured from the finished ground elevation to the top of the sign. If the area around the sign is bermed, then the height of the sign is determined from the crown of the fronting street.

Sign, wayfinding. An off-premises sign that is part of a city-sponsored and coordinated program for the purposes of facilitating vehicular tourist transit to local tourist destinations as designated and recognized by the city's wayfinding sign system plan.

Single family dwelling. Detached, single unit residential buildings.

Site improvement permit. A permit that allows the following activities when done in conjunction with a development that has received subdivision, site plan or building permit approval:

- A. Tree removal;
- B. Debrushing;
- C. Grading;
- D. Excavating;
- E. Filling; and
- F. The installation of utilities.

Snipe sign. A sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, walls, trash receptacles or fences, or to other objects, and the advertising matter appearing thereof is not applicable to the present of the premises upon which such sign is located. Legal notices required by law are exempted. A snipe sign is also considered any freestanding temporary or portable sign placed in any public right-of-way.

Soil compaction. A change in soil physical properties which includes an increase in soil weight per unit volume, and a decrease in soil pore space. Soil compaction is caused by repeated vibrations, frequent traffic and weight. As related to tree roots, compacted soil can cause physical root damage, a decrease in soil oxygen levels with an increase in toxic gasses, and can be impervious to new root development.

Spatial enclosure. Spatial enclosure is the physical relationship of building height to roadway width.

Special event. Events such as circuses, fairs, carnivals, festivals, celebrations or gatherings, trade or product shows ~~with a minimum of five vendors~~, concerts, contests and similar events which are intended or likely to attract large crowds and which are unlike the customary or usual activities generally associated with the site upon which the event is to be located.

Special flood hazard area. An area in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, AI-A30, AE, A99, AH, V1-V30, VE or V. (Also defined in Florida Building Code, B, Section 1612.2.)

Special requirements plan. A map that designates civic buildings and existing civic spaces as well as site specific standards within the form-based code area.

Standard antenna. A structure accessory to the principal use of the property, used to convert part of a passing radio wave into a radio-frequency current for further processing by a receiver. However, this term does not include personal wireless service antennas as defined by this section or any antenna structures used by FCC licensed telecommunication companies to transmit information to their residential or business customers. The term does include structures referred to as devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, and direct broadcast satellite services by section 207 of the Telecommunications Act of 1996. The term also includes amateur radio operator antennas.

Start of construction.

- A. For the purpose of administering floodplain management regulations, this term shall mean the date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, [or] the construction of columns.
- B. For the purpose of administering floodplain management regulations, this term shall mean permanent construction not including land preparation (such as clearing, grading, or filling), the installation of

streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (Also defined in Florida Building Code, B, Section 1612.2.)

Stoop. A small platform and/or entrance stairway at a house door, commonly covered by a secondary roof or awning. The stoop shall project from the primary front building plane. Catwalks or breezeways are not considered stoops.

Storage, self-service (mini-warehouses). Any building, or group of buildings, in a controlled access compound that contains varying sizes of individual, compartmentalized and controlled access stalls or lockers for the storage of goods belonging to the individual lessees of the stalls and accessible to the lessees through individual doors.

Story. That portion of a building that is habitable and extends from the surface of any finished floor and the finished ceiling above it. Uninhabitable attics, raised basements, and underground parking are not considered stories for the purpose of determining building height.

Street. A paved road intended for use by motor vehicles, bicycles, and pedestrians that includes a paved surface, gutters, and curbs.

Street wall (garden wall). A freestanding wall built within the front or street side setback, often for the purpose of masking a parking lot from the thoroughfare.

Structure. A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructure.

Subdivision. The division of land into two or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land for the purpose, whether immediate or future, of transfer of ownership, or the establishment of a new street. The term subdivision shall also include any resubdivision.

Subdivision, major. Any subdivision which is not a minor subdivision.

Subdivision, minor. A subdivision in which three lots or less are created and no subdivision improvements are to be constructed.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Also defined in Florida Building Code, B, Section 1612.2.)

Substantial improvement. Any combination of repairs, reconstruction, alteration or improvements to a building, in which the cumulative cost equals or exceeds 50 percent of the market value of the building. The market value of the building should be:

- A. The appraised value of the building prior to the start of the initial repair or improvement; or
- B. In the case of damage, the value of the building prior to the damage occurring.

This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary or safety code specifications which have been identified by the code enforcement official and which are solely necessary to assure safe living

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conditions. The term also does not include any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Swimming pools. A manufactured device made for swimming whether above ground or below ground and containing 5,000 gallons or more of water with a circulating device; also spa, hot tub or other device used for lounging.

Swinging sign. (Sign subchapter definition.) Any sign that swings freely from or on supports regardless of the guy wires used in connection therewith.

Symbolic building. A building which has a significant portion of its exterior designed in a manner which would appear to advertise a product or service because of the resemblance of the shape of the building feature to the shape of the product or to the image of the service activity.

Temporary employment services. Establishments which provide temporary employees to work with businesses which may require temporary professional, secretarial, clerical, or other personnel for work assignments. This term does not include temporary labor service establishments. This use shall be deemed "office."

Temporary labor service establishments. Establishments which provide temporary employees to perform manual work with businesses and such employees usually depart for their work assignment from the labor service establishment office and/or usually receive their assignment at the labor service establishment office on a day the work is to be performed.

Temporary sign. (Sign subchapter definition.) Any sign to be displayed for a limited period as specified in § 14-11-9 must be deemed a temporary sign.

Tenant. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Terminated vista. A building, structure, or portion of a building or structure, specifically designed to visually attract a viewer's attention at the end of a visual axis, i.e. to terminate a view. A terminated vista may include towers, corner towers, symmetrical façades centered on a visual axis, an architecturally embellished entry, or similar distinctive architectural devices.

Time and temperature sign. (Sign subchapter definition.) A display containing illuminated numerals flashing alternately to show the time, temperature and/or public service message.

Time-share dwelling. A dwelling used as a time-share unit which is intended for occupancy for a period of less than 30 days. The term "time-share unit" is defined in F.S. § 721.05.

Topping. The trimming of a tree to prevent the natural upwardly growth of a tree, significantly altering its natural shape. Also see "Hatracking" definition.

Tower. A stand-alone structure that is significantly taller than it is wide, or a portion of a building that is significantly taller than it is wide and typically has more detail than the surrounding building(s). When a tower is a portion of a building, the tower eave or cornice is taller than the remainder of the building eave or cornice height and one or more of the tower façades is located forward of the remaining building façade.

Townhouse. A group of three or more dwelling units erected in a row, with each dwelling being separated from the adjoining dwellings by an approved masonry partition or walls, and with each dwelling unit being located on a separate lot abutting a public or private street.

Tract. A lot, piece or parcel of land owned by common ownership or dedicated to the city for public use.

Trailers. Includes, but is not limited to, utility trailers, animal trailers, car haulers, barbecue-smoker trailers, and other such items designed to be pulled on public roadways by motor vehicles, but excluding those vehicles and other items defined as recreational equipment.

Transect (transect zone). A planning and zoning tool that organizes zones in a continuum from rural to urban, referred to as T1, T2, T3, T4, T5, and T6 where T1 is the most rural and T6 is the most urban. Each transect zone has common characteristics that facilitate form-based regulation.

Transit-way. A dedicated transit lane within the roadway right-of-way. Typically distinguishable from vehicular lanes of traffic through distinct pavement coloring, pavement markings or other design features. Transit-way design driven by transit type.

Transition surface. A surface associated with a heliport which extends outward and upward from the primary and approach surfaces. A transition surface extends for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces. The slope of a transition surface is two (horizontal) to one (vertical).

Tree. A living, woody self-supporting plant normally having a minimum height of 15 feet at maturity and a minimum main stem of 4½ inches DBH (diameter at breast height) at maturity.

Tree, canopy. See "Canopy tree."

Tree survey. An aerial map, drawing or survey prepared to the same scale as the related development plan or preliminary plat, which provides the location, dropline, DBH, common name and which are to be removed and preserved for all trees that are four inches in DBH and above. Areas identified as wetlands by appropriate governmental agencies shall be exempt from this provision. However, the location and limits of such wetlands shall be designated on the survey.

Tree, understory. See "Understory tree."

Trellis. An open grating or latticework, of either metal or wood, for the support of vines.

Trim. To reduce, shorten or diminish gradually a tree, plant or parts of a plant without altering the existing shape. See also "Hattracking" and "Topping" definitions.

Triplex. A building used for residential purposes which, whether occupied or vacant, contains three dwellings.

Tri-vision sign. Signs which contain triangular tubes which rotate at fixed intervals to display different advertising messages.

Under-canopy sign. A sign hung underneath a pedestrian shelter canopy.

Understory tree. A species of tree which normally grows to a mature height of 15 to 39 feet.

Unoccupied. A structure that is not occupied or that is occupied by unauthorized persons. In the case of multi-tenant structures, unoccupied means when any one unit/tenant is unoccupied or occupied by unauthorized persons.

Use. The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

Utility facility, major. A site or facility housing any of the following uses:

- A. Electric substations or distribution centers including transformer stations.
- B. Natural gas, oil or other petroleum product metering, regulating, compressor, control or distribution stations, and local office space incidental thereto and necessary for the operation of such station, but shall not include any storage facilities.

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- C. Major sewage pumping facilities.
- D. Telecommunication facilities, including, but not limited to, exchanges, dial centers, or repeater stations. Telecommunication towers and antennas are not included in the definition of "utility facility."
- E. Major potable water storage, control, or pumping facilities.
- F. Service or supply yards for any of the above uses.
- G. Wastewater treatment plants.

Vacant. Lands or buildings that are not actively used for any purpose.

Variance. A grant of relief from the requirements of the zoning ordinance.

Variance, floodplain. A grant of relief from the requirements of chapter 14-9, or the flood resistant construction requirements of the Florida Building Code which would permit construction in a manner not otherwise permitted by the aforementioned regulatory instruments.

Vehicular use area. Those on-site areas devoted to the circulation, loading, storage or parking of motor vehicles.

Wall sign.

- A. A sign which is affixed to and flat against an exterior wall, fascia, cantilever, marquee, mansard, door or window of any building which is parallel thereto and supported by said wall, fascia, cantilever, marquee, awning, mansard or building. No sign shall project higher than the top of the wall, fascia, mansard or building.
- B. A sign which is affixed to and flat against an exterior façade of a building and may consist of individually mounted letters and characters.

Watercourse. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

Water dependent use. A use which can only be carried out on, in, or adjacent to water and the location or access is needed for:

- A. Waterborne transportation (such as moorage, fueling, and servicing of boats);
- B. Recreation (active recreation such as swimming, boating, or fishing; passive recreation such as viewing or walking); or
- C. Marine research or education (such as viewing, sampling, recording information, conducting experiments, teaching).

Water related use. A use which:

- A. Provides goods and/or services that are directly associated with water dependent uses (supplying materials to, or using products of, or offering commercial or personal services to water dependent uses); or
- B. If it were not located near the water, would experience a public loss of quality in the goods and services offered (evaluation of public loss of quality will include consideration of economic, social, and environmental consequences of the use).

Wayfinding sign, onsite. A directional sign utilized in multi-tenant centers intended to direct onsite traffic to specific tenants within the development.

Wayfinding sign, public. An off-premises sign that is part of a city-sponsored and coordinated program for the purposes of facilitating vehicular tourist transit to local tourist destinations as designated and recognized by the city's wayfinding sign system plan.

Warehouse. Any premises where the principal use is the storage of merchandise, products, or materials in bulk, for a fee or charge, or for distribution to other establishments operated by the same business enterprise or establishment. A warehouse may include accessory wholesale sales, but shall not be deemed to include retail sales establishments, motor freight terminals, or the bulk storage of flammable, explosive, toxic, or noxious materials as a principal use. A use that utilizes more than half of the square footage of the principal building for storage shall be deemed a warehouse.

Well. Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is to conduct groundwater from a source bed to the surface, by pumping or natural flow, when groundwater from such excavation is used or is to be used by a public water system.

Wetlands. Wetlands as defined in F.A.C. 62-340.200(19).

Wholesale trade establishments. Businesses which generally have substantial quantities of merchandise on the premises and which are primarily engaged in selling merchandise to other wholesalers, retailers, manufacturers, other businesses, governments, or institutions. This term does not include junk yards.

Window sign.

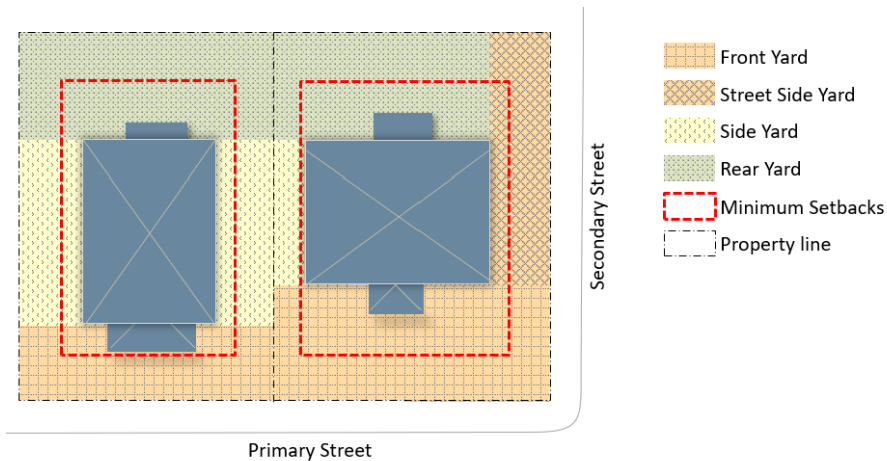
- A. A sign attached inside a store front window or door indicating the name of the business and/or main or accessory services or products or both.
- B. A sign which includes lettering adhered to the pane of glass or signs attached inside a store front window or door indicating the name of the business and/or service.

Window sign, permanent. A sign attached inside a store front window or door indicating the name of the business and/or main or accessory services or products or both. For measurement purposes, a window must be indicated by the frame surrounding said window, not by individual panes or mullions.

Window sign, temporary. A sign attached inside a store front window or door indicating items of a temporary nature such as promotions or events. For measurement purposes, a window must be indicated by the frame surrounding said window, not by individual panes, joints or mullions.

Yard. The area between a property line (front, side, street side or rear) and the building façade facing that line. The front and rear yards extend for the full width of the lot, while the side and street side yards extend from the interior edge of the front yard to the interior edge of the rear yard (see Figure 2-11).

Figure 2-11. Yards



- A. *Front yard.* A front yard is the yard which lies between the front property line and the building, and extends to the side property lines.
- B. *Street side yard.* A street side yard is the yard on a corner lot which lies between the property line along the secondary street and the building, and extending from the front yard to the rear property line.
- C. *Rear yard.* A rear yard is the yard which lies between the rear property line and the building, and extends to the side property lines or, in the case of a corner lot, to the street side yard.
- D. *Side yard.* A side yard is the yard which lies between the side property line and the building and which is bounded by the front and rear yards.

Yard setback zones. The areas created by the minimum front, rear and side yard depths measured perpendicular to the front, rear and side lot lines. Yard setback zones are illustrated in Figure 2-12.

Figure 2-12. Yards/Setback Zones



Zero lot line. The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

(Code 1995, §§ 14-2-93, 14-2-116, 14-2-163, 14-2-240; Ord. No. 2038, 12-20-1994; Ord. No. 2064, 5-9-1995; Ord. No. 2065, 5-9-1995; Ord. No. 2071, 6-6-1995; Ord. No. 2119, 8-13-1996; Ord. No. 2122, 8-20-1996; Ord. No. 2139, 11-26-1996; Ord. No. 2146, 12-17-1996; Ord. No. 2147, 12-17-1996; Ord. No. 2157, 2-4-1997; Ord. No. 2158, 2-4-1997; Ord. No. 2173, 7-15-1997; Ord. No. 2210, 3-3-1998; Ord. No. 2264, 3-16-1999; Ord. No. 2312, 12-7-1999; Ord. No. 2331, 3-7-2000; Ord. No. 2342, 5-16-2000; Ord. No. 2371, 10-24-2000; Ord. 2467, 4-15-2003; Ord. No. 2519, 8-10-2004; Ord. No. 2545, 2-8-2005; Ord. No. 2563, 8-9-2005; Ord. No. 2589, 3-21-2006; Ord. No. 2609, 9-19-2006; Ord. No. 2678, 5-13-2008; Ord. No. 2690, 6-10-2008; Ord. No. 2708, 2-17-2009; Ord. No. 2721, 6-16-2009; Ord. No. 2732, 11-3-2009; Ord. No. 2740, 12-22-2009; Ord. No. 2743, 12-22-2009; Ord. No. 2744, 12-22-2009; Ord. No. 2750, 4-13-2010; Ord. No. 2772, 8-17-2010; Ord. No. 2773, 8-17-2010; Ord. No. 2794, 3-1-2011; Ord. No. 2805, 7-19-2011; Ord. No. 2824, 4-3-2012; Ord. No. 2831, 8-21-2012; Ord. No. 2858, 5-21-2013; Ord. No. 3034, § 1(ch. 14-2), 8-4-2020)

CHAPTER 14-3: DEVELOPMENT REVIEW BOARDS AND PROCEDURES

PART I. DEVELOPMENT REVIEW BOARDS

14-3-1. Planning advisory board.

The planning advisory board, established by chapter 2, article III, division 3 of the city Code, has the following powers and duties in the development review process:

- A. To act as the local planning agency as specified in F.S. § 163.3174, and exercise those powers including review and recommendation to the city commission relative to the comprehensive plan and amendments thereto.
- B. Review all proposed land development regulations, or amendments thereto, and all proposed zoning map amendments and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or elements or portions thereof.
- C. To review, hold public hearings and take action on conditional use applications.
- D. To perform any other duties and responsibilities assigned to it by the city commission or by law.

(Code 1995, § 14-2-220; Ord. No. 2038, 12-20-1994; Ord. No. 2468, 5-6-2003; Ord. No. 2578, 12-6-2005; Ord. No. 2662, 9-18-2007; Ord. No. 3034, § 1(14-3-1), 8-4-2020)

14-3-2. Board of adjustment.

The board of adjustment, established by chapter 2, article III, division 2 of the city Code, has the following powers and duties in the development review process:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the director in the enforcement of the Land Development Code.
- B. To approve requests for variances in accordance with section 14-3-51. Under no circumstances shall the board grant a variance to permit a use not permitted in the zoning district.

(Code 1995, § 14-2-221; Ord. No. 3034, § 1(14-3-2), 8-4-2020)

14-3-3. Development review committee (DRC).

- A. *DRC established.* There is hereby established a development review committee (DRC). The structure, membership, and duties of the DRC may be modified by the director. The following city departments and outside agencies shall be represented on the DRC. Should any of the members have a conflict of interest on a particular application reviewed by the committee, the member shall abstain from commenting on the application.
 - 1. Development services.
 - 2. Public works and engineering.
 - 3. Toho water authority (TWA).

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4. Parks and recreation.
 5. Fire.
 6. Police.
 7. Airport.
 8. The school district of Osceola County, Florida.
 9. Kissimmee Utility Authority (KUA).
 10. Osceola County 911 addressing.
 11. Osceola County Planning and Zoning.
 12. South Florida Water Management District.
- B. *Power and duties.* The DRC, in addition to such other powers, duties, and authority as may be set forth elsewhere in this Code, shall have the following powers and duties:
1. Review the following applications and prepare comments addressing the application of all relevant codes and plans:
 - a. Amendments to the comprehensive plan and future land use map;
 - b. Land Development Code amendments;
 - c. Amendments to the official zoning map;
 - d. Site plans;
 - e. Subdivisions;
 - f. Conditional uses;
 - g. Development agreements (in conjunction with PUD approvals);
 - h. Developments of regional impact;
 - i. Modification of standards;
 - j. Variances; and
 - k. Other applications referred to the DRC by the director.
 2. To determine the impact of proposed developments upon the city's public facilities and services.
 3. To provide comments regarding consistency of proposed applications with the city's adopted Land Development Code.
 4. To perform any other duties that may be lawfully assigned to it.

(Code 1995, § 14-2-174(B); Ord. No. 2038, 12-20-1994; Ord. No. 2509, 3-16-2004; Ord. No. 2578, 12-6-2005; Ord. No. 2692, 6-24-2008; Ord. No. 2831, 8-21-2012; Ord. No. 2908, § 1, 10-6-2015; Ord. No. 3034, § 1(14-3-3), 8-4-2020)

14-3-4. Architectural review committee (ARC).

The ARC is a subcommittee of the development review committee, which reviews permits and other proposed improvements for adherence to certain established design standards contained in other chapters of this Code. This committee must consist of the DRC representatives from the building division, planning division and the historic preservation planner.

(Code 1995, § 14-2-174(B); Ord. No. 2038, 12-20-1994; Ord. No. 2509, 3-16-2004; Ord. No. 2578, 12-6-2005; Ord. No. 2692, 6-24-2008; Ord. No. 2831, 8-21-2012; Ord. No. 2908, § 1, 10-6-2015; Ord. No. 3034, § 1(14-3-4), 8-4-2020)

14-3-5. Code enforcement special magistrate.

The code enforcement special magistrate is established in chapter 16, article II of the city Code. As specified therein, the special magistrate is responsible for reviewing uncorrected violations resulting from enforcement of this title.

(Code 1995, § 14-2-222; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-3-5), 8-4-2020)

14-3-6. Historic preservation board.

This board is established in chapter 2, article III, division 8 of the city Code. As specified therein, this board is responsible for assisting with the protection, enhancement, and perpetuation of properties of historical merit and the areas in which they are located. This includes various powers and duties specified in Part V (Historic District and Landmark Designation) of this Code [chapter] which are associated with the implementation of Historic Preservation Overlay (HPO) ~~District~~ districts and historic landmark regulations.

(Code 1995, § 14-2-223; Ord. No. 2331, 3-7-2000; Ord. No. 3034, § 1(14-3-6), 8-4-2020)

14-3-7. Reserved.

14-3-8. Reserved.

14-3-9. Reserved.

PART II. DEVELOPMENT ORDERS AND PERMITS

14-3-10. Development order.

The purpose of requiring a development order is to ensure the availability of adequate services, determine compliance with specific development standards, and calculate impact/mobility fee assessments, when applicable, prior to the issuance of a building permit. The development order shall specify the terms and conditions regulating development.

- A. *Activities requiring a development order.* It shall be unlawful to change the use of an existing structure, modify an approved site plan, commence the clearing of land, excavations for, or the construction of any building or other structure, including accessory structures, or to store building materials or erect temporary field offices, or to commence the moving, alteration, or repair of any structure, including accessory structures, until a development order authorizing such activity has been issued.
- B. *Exceptions.* In addition to the construction of single family homes and duplex dwellings on individual lots, the following construction activities do not require a development order:
 - 1. Swimming pools;
 - 2. Decks;

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3. Patios;
 4. Fences;
 5. Sheds (under 250 sq. ft.);
 6. Sign installation;
 7. Tree removal;
 8. Exterior above-ground renovations which do not add square footage to the building;
 9. Residential driveways;
 10. Interior renovations which do not add dwelling units or change the occupancy of the building;
and
 11. Additions to single family and duplex homes that meet code.
- C. *Required approvals.* No final development order shall be issued unless the following have been issued/approved:
1. Concurrency certificate.
 2. Site plan (in most cases).
 3. Construction drawings (in most cases).
 4. Early land preparation permit and site improvement permit.

(Code 1995, § 14-2-209; Ord. No. 3034, § 1(14-3-10), 8-4-2020)

14-3-11. Certificate of occupancy.

- A. *When required.* No land shall be used or occupied (except for agricultural purposes); no building hereafter erected, structurally altered (involving in excess of 50 percent of the gross floor area), erected, moved or extended shall be used; and no land or building shall be changed in use until a certificate of occupancy shall have been issued by the building official stating that the proposed use of the building or land conforms to the requirements of this Code.
- B. *Applications.* Application for such certificates shall be made at the same time as the application for a building permit, and the information required shall be included on the form for application for the building permit.
- C. *Timing.* The certificate of occupancy shall be issued within three days after the erection or structural alteration of such building or part of building has been completed in conformity with the provisions of this title, and upon written request to the building official.
- D. *Nonconforming use.* No such use shall be maintained, renewed, changed or extended until a certificate of occupancy shall have been issued by the building official, stating specifically the matters wherein the nonconforming use differs from the provisions of this title.
- E. *Grading.* In the case of single family, duplex and triplex residential lots, no certificate of occupancy shall be issued until final lot grading has been completed in accordance with the approved site improvement plan and, where applicable, an approved subdivision grading plan. All other lots shall be graded in accordance with the approved site improvement plan.
- F. *Temporary certificate of occupancy.* May be issued by the building official for a period not exceeding six months during the completion of alterations or during the partial occupancy of a building pending its completion. Such temporary certificate shall not be issued except under such conditions and safeguards as will adequately ensure the safety of the occupants.

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- G. *Subdivision regulation violations.* Any parcel or tract created after the adoption of this ordinance which was not established in accordance with applicable subdivision regulations shall not be issued a certificate of occupancy.

(Code 1995, § 14-2-209; Ord. No. 3034, § 1(14-3-11), 8-4-2020)

14-3-12. Other permits.

In addition to a building permit meeting the requirements of the Florida Building Code, the city requires the following permit applications be submitted to the department, where applicable:

1. Early land preparation permit: See section 14-9-4.
2. Floodplain development permit: See section 14-9-1.
3. Concurrency certificate: See Part VIII of this chapter (Concurrency Management).

(Code 1995, § 14-2-209; Ord. No. 3034, § 1(14-3-12), 8-4-2020)

14-3-13. Reserved.

14-3-14. Reserved.

PART III. DEVELOPMENT REVIEW PROCEDURES OF GENERAL APPLICABILITY

14-3-15. Administration and enforcement.

- A. The director shall administer and enforce this chapter except where otherwise specified. These duties shall include receiving certain applications, inspecting premises, and issuing building permits and certificates of occupancy.
- B. If the director determines that provisions of this chapter are being violated, there shall be notification in writing to the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The director may order discontinuance of the use of land or buildings; removal of buildings, additions or other structures; discontinuance of any work being done; or shall take any other action necessary to ensure compliance with this chapter.

(Code 1995, § 14-2-212(A); Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-3-15), 8-4-2020)

14-3-16. Level of review required.

Table 3-1 lists most of the development permits required by this chapter together with the review and approval authority. Some references are provided to other sections for details.

Table 3-1: Development Order Review Authorities.

APPLICATION TYPE	See Section	Approval Type	Pre-Application Meeting ²	DRC	Board of Adjustment	Planning Advisory Board	Historic Preservation Board	City Commission
Comprehensive plan/LDC/zoning map amendments:								
Comprehensive plan/future land use map amendments (area-wide)	14-3-26	L	Yes	Yes	No	Yes	No	Yes
Comprehensive plan/future land use map amendments (site-specific)	14-3-26	L	Yes	Yes	No	Yes	No	Yes
Comprehensive plan/text amendment	14-3-26	L	Yes	Yes	No	Yes	No	Yes
LDC text amendments	14-3-27	L	Yes	No Yes	No	Yes	No	Yes
Zoning map amendment (area-wide)	14-3-27	L ¹	Yes	Yes	No	Yes	No	Yes
Zoning map amendment (site specific, PUD/conceptual plan)	14-3-27 14-3-28	Q	Yes	Yes	No	Yes	No	Yes
Site plans:								
Site plan	14-3-31	A	Yes	Yes	No	No	No	No
Construction drawings	14-3-32	A	No	Yes	No	No	No	No
Subdivisions:								
Preliminary plat	14-3-41	A	Yes	Yes	No	No	No	No
Final plat	14-3-42	Q	No	Yes	No	No	No	Yes
Vacation of streets and easements	14-3-47	L	Yes	Yes	No	No	No	Yes
Other activities:								
Certificate of appropriateness (major)	14-3-37	Q	Yes	No ⁴	No	No	Yes	No
Certificate of appropriateness (minor)	14-3-37	A	Yes	No	No	No	No	No
Conditional use	14-3-29	Q	Yes	Yes	No	Yes	No	No
Development agreement	14-3-30	L ³	Yes	Yes	No	Yes	No	Yes
DRI development order	14-3-30	Q	Yes	Yes	No	Yes	No	Yes
Historic district designation	14-3-35	L ¹	Yes	No	No	Yes	Yes	Yes
Historic landmark designation	14-3-36	Q	Yes	No	No	Yes	Yes	Yes
Modification of standards (<10 percent)	14-3-50	A	No	No	No	No	No	No

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(Supp. No. 1)

Modification of standards (10 to 30 percent)	14-3-50	A	No	Yes	No	No	No	No
Variance ⁵	14-3-51	Q	Yes	Yes	Yes	No	No	No
Variance (subdivisions)	14-3-52	Q	Yes	Yes	No	No	No	Yes

Legend: A = Administrative; L = Legislative; Q = Quasi-judicial; E = Encouraged, not required; HPB = Historic preservation board; Bold = Indicates final approving authority.

¹ Deemed to be legislative if they are city initiated and include a large number of properties which would be similarly affected by the proposed change. Otherwise, the application is deemed quasi-judicial.

² Yes = Encouraged.

³ Development agreements will generally be treated as legislative except when required to be treated as quasi-judicial pursuant to applicable law.

⁴ DRC review required if the COA involves new construction.

⁵ See section 14-9-1 for floodplain variances.

(Ord. No. 3034, § 1(14-3-16), 8-4-2020)

14-3-17. Pre-application meeting.

Whenever a pre-application meeting is recommended or required per Table 3-1, the applicant may request such meeting with staff prior to filing an application. The pre-application meeting is an informal meeting to discuss the development review process requirements. If a pre-application meeting is held, the applicant is required to share preliminary plans and data to show existing conditions of the site and its vicinity and the proposed layout. Comments made by staff at a pre-application meeting are made solely for preliminary informational purposes and shall not be construed as an approval or denial or agreement to approve or deny any development order. Failure of staff to identify any required permits, procedures or standards at a pre-application conference shall not relieve the applicant of any such requirements nor constitute waiver of the requirement by the decision-making body.

(Ord. No. 3034, § 1(14-3-17), 8-4-2020)

14-3-18. Review of historic structures outside Historic Preservation Overlay (HPO) Districts.

When reviewing a site plan, subdivision, conditional use, demolition, or building permit application for a site containing a historic structure (as defined in chapter 14-2) outside of an HPO district and not located on a site with designated historic landmarks, the city shall assess the historical significance of the structure. Approval may be conditioned on the use of historic preservation measures. These measures may include actions which minimize the destruction of historically significant structures of sites; avoid the introduction of visible, audible, or atmospheric elements that are out of character with the property or significantly alter its setting; and limit activities which could result in the deterioration of historically significant features.

(Code 1995, § 14-2-46(D)(4); Ord. No. 2331, 3-7-2000; Ord. No. 2545, 2-8-2005; Ord. No. 2649, 6-12-2007; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-3-18), 8-4-2020)

14-3-19. Application submittal and review.

A. Fees.

1. *Development review fee schedule.* A separate document containing the city's development application fees shall be approved by the city commission.
2. *Impact/mobility fees.* The following impact/mobility fees will be required prior to the issuance of a building permit:
 - a. Recreation impact fees (see chapter 28, article III, division 2 of the Code of Ordinances);
 - b. Mobility fees (see chapter 9, article IX);
 - c. Educational system impact fees per the educational facilities interlocal agreement.
3. *Developer financing of public facilities.* As specified in section 14-3-57, under certain circumstances where the public facility level of service would be exceeded, the applicant may ~~have to~~ be directly responsible for public facility improvements. Similarly, all development must be connected to central sewer and ~~central~~ water; ~~this which~~ may necessitate developer financing of trunk line extensions. If the applicant is required to construct improvements to meet concurrency that would otherwise be covered by a required impact fee for that facility, the impact fee will be adjusted accordingly. This does not apply to site improvements.

B. Application forms and requirements.

1. The department shall maintain application forms and submittal requirements for all development applications referenced in this chapter.

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2. Applicants for projects requiring more than one type of review (e.g., conditional use and site plan) may submit concurrent applications if determined appropriate by the director.
- C. *Completeness review of application.* When an application for development approval is submitted, the director shall make a determination as to whether the application is complete.
- D. *DRC review.*
1. After an application is determined to be complete, the director shall forward copies of the application to the DRC. Applications that do not require DRC review per Table 3-1 shall be reviewed by the director for compliance with the Land Development Code, comprehensive plan, city construction standards and specifications, and any other regulatory requirements.
 2. The DRC shall review the application and determine compliance with the requirements of the Land Development Code, comprehensive plan, city construction standards and specifications, if applicable, and any other applicable regulatory requirements. After reviewing the application, the DRC shall issue a report listing the requirements that need to be addressed. The DRC reserves the right to require additional reviews based on the level of plan changes requested.
 3. Upon receipt of a determination from the DRC on legislative or quasi-judicial applications, or a request from the applicant to proceed notwithstanding insufficiencies, the director shall prepare a report and recommendation to the appropriate decision-making or recommending body and schedule a hearing.

(Code 1995, § 14-2-213; Ord. No. 2038, 12-20-1994; Ord. No. 2182, 9-23-1997; Ord. No. 3034, § 1(14-3-19), 8-4-2020)

14-3-20. Public hearings.

The approving/reviewing authority shall conduct the public hearing in accordance with the hearing requirements noted in this section and the city standard operating procedures for public hearings. At the hearing, the authority shall approve, approve with conditions, continue, or deny the application.

- A. *Notice of public hearings.* All meetings of the city commission, the planning advisory board, board of adjustment, and historic preservation board shall be noticed and advertised in accordance the Florida Statutes, the city advertising standard operating procedures, and the rules of order of the city commission.
- B. *Approval subject to conditions.* When approving a development order or development permit application, the approving body may attach such conditions to the approval as deemed necessary to assure compliance with this Code. Such conditions may address matters including, but not limited to: limitations on size, bulk and location; duration of construction period; requirements for landscaping, signage, outdoor lighting and the provision of adequate ingress and egress; duration of the approval; design and appearance; hours of operation; and the mitigation of traffic and environmental impacts. Such conditions may be imposed for a specified period of time, after which time the condition shall expire and the obligations of the applicant pertaining to such condition shall be automatically terminated.

(Ord. No. 3034, § 1(14-3-20), 8-4-2020)

14-3-21. Appeals.

- A. *Appeal of administrative decisions.*

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1. *In general.* The board of adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the director, city engineer or any other administrative officer of the city in the administration of the Land Development Code except where otherwise specified. Decisions shall be rendered in writing after due legal notice and public hearing with the essential reasons for board actions stated therein. Note: Violations of the Land Development Code that are not promptly corrected go to the code enforcement special magistrate rather than the board of adjustment.
 2. *Appeal procedures.*
 - a. Appeals shall be filed with the department within 30 calendar days of the administrative decision. A fee shall be charged in accordance with the development review fee schedule.
 - b. Following the submittal of an appeal, the city manager (or designee thereof) shall have 15 calendar days from the date of submittal to review the appeal, affirm or modify the decision being appealed, and send a notice to the applicant indicating the results of the review.
 - c. The applicant shall have 30 calendar days from the date the notice is sent to respond in writing to the city manager's (or designee thereof) review and to request that the original appeal or a modified appeal be acted upon by the board.
 - d. If the applicant requests in writing that the original appeal or a modified appeal be acted upon by the board, the board shall hold a public hearing after notification as indicated in section 14-3-20.A. In exercising administrative review of appeals, the board of adjustment may reverse or affirm, wholly or partly, or may modify the appealed decision and may make such decision and to that end shall have all the powers of the staff person from whom the appeal is taken.
 - e. Upon exhaustion of administrative remedies, the applicant may (and is limited to) seek certiorari review in the circuit court under the Florida Rules of Appellate Procedure.
- 5-3. *Stay of proceedings.* An appeal stays proceedings unless the director or any other administrative officer of the city can demonstrate to the board of adjustment or a court that a stay would cause imminent peril to life and property.
- 6-4. *Relation to other Code chapters.* No appeal may be granted pursuant to the requirements of this chapter for a provision of another title of the Code of Ordinances or an interlocal agreement (including those provisions which are cross referenced or summarized in this chapter), unless authorized by the title of the Code or the interlocal agreement in which the provision originated.
- B. *Appeal of DRC decisions.* Development review committee decisions may be appealed to the city commission.
- C. *Appeal of boards' decisions.*
 1. Appeals of the board of adjustment decision shall be to the circuit court of the Ninth Judicial Circuit and shall be filed with the city clerk within ten calendar days of the board's decision.
 2. Historic preservation board and planning advisory board decisions may be appealed in writing to the city commission by the applicant or the city manager within ten calendar days. The city commission shall base their decision on the review criteria stated in this Code for the type of application and state reasons for its decision.
 3. Appeals of the city commission's decision shall be to a court of competent jurisdiction in a manner provided by the laws of the State of Florida. The appeal shall be filed within 30 days of the commission's decision.

(Code 1995, § 14-2-212; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-3-21), 8-4-2020)

14-3-22. Reserved.

14-3-23. Reserved.

14-3-24. Reserved.

PART IV. APPLICATIONS AND PROCEDURES

14-3-25. Annexations.

- A. *New annexations.* See F.S. ch. 171 for general annexation procedures.
- B. *Governing regulations.* In accordance with F.S. §§ 171.062 and 163.3202, all territory annexed to the city which is not assigned a future land use map future land use designation by the city will be subject to the Osceola County zoning and subdivision regulations which were in full force and effect immediately prior to the annexation until a future land use designation is assigned by the city. However, as a condition of annexation, property not assigned a future land use designation by the city may be subject to city zoning and subdivision regulations as provided by the annexation agreement.
- C. *Future land use map designation conversion policy.* At the time of annexation, one of two optional future land use map designation approaches will be specified by the city commission as outlined in the future land use element of the comprehensive plan. Either:
 - 1. The Osceola County future land use designation for the property will be automatically converted to an appropriate city future land use designation per the conversion table in the comprehensive plan; or
 - 2. The property will be given a city future land use designation in accordance with the future land use map amendment process as defined by F.S. ch. 163, and section 14-3-26.

(Code 1995, § 14-2-12; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-3-25), 8-4-2020)

14-3-26. Comprehensive plan text and map amendments.

- A. *Governing regulations.* Amendments to the Kissimmee Comprehensive Plan shall be made in accordance with F.S. ch. 163, and the following.
- B. *Submittals.* In the case of a future land use map amendment, the applicant shall be responsible for submitting the following materials:
 - 1. A map of the property in relation to surrounding streets.
 - 2. A map showing the current future land use designation of the property and the surrounding properties.
 - 3. The size of the property in acres.
 - 4. An analysis of the demand on public facilities.
 - 5. Findings regarding compatibility with the comprehensive plan.
 - 6. Reasons or findings as to why the amendment should be adopted.
 - 7. An ownership statement and legal description of the property.
- C. *Review procedures.*

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1. *Development review committee.* The DRC shall review the application and make a recommendation to the planning advisory board.
 2. *Planning advisory board.* As the local planning agency, the board shall hold a public hearing (after a legal notice in accordance with F.S. ch. 163) and make a recommendation to the city commission.
 3. *City commission.* The city commission shall hold one or more public hearings and submit amendment materials to the Florida Department of Economic Opportunity in accordance with F.S. ch. 163.
- D. *Comprehensive plan amendment review criteria.*
1. *Future land use map amendments.* The following criteria, in addition to those provided in F.S. ch. 163, shall be used in reviewing proposed amendments to the future land use map of the Kissimmee Comprehensive Plan:
 - a. The proposed amendment shall promote and protect the public health, safety and general welfare.
 - b. The proposed amendment shall be needed due to one or more of the following reasons:
 - i. A change in conditions affecting the parcel.
 - ii. A deficiency in the amount of land available for uses allowed by the designation.
 - iii. The special suitability of the property for the proposed designation.
 - iv. An increase in land use compatibility which would result from the change.
 - v. An increase in the ability to satisfy public facility needs for the property or nearby areas which would occur because of the change.
 - vi. A decrease in public safety hazards which would result from the change.
 - vii. The benefit to environmentally sensitive areas.
 - c. The proposed amendment shall maintain or increase the potential for land use compatibility. Particular attention shall be given to the uses allowed by the designation, the existing uses of the property and nearby property, and existing and potential natural and man-made buffers.
 - d. The proposed amendment shall be consistent with the goals, objectives and policies of the city's comprehensive plan.
 2. *Comprehensive plan text amendments.* The following criteria shall be considered when reviewing text amendments:
 - a. The proposed amendment shall promote and protect the public health, safety and general welfare.
 - b. The proposed amendment shall be consistent with the other goals, objectives and policies of the city's comprehensive plan.
 - c. The proposed amendment shall maintain or increase the potential for land use compatibility.
 - d. If the text amendment relates to a specific parcel, the criteria for future land use map amendments shall apply.
- E. *Repeat application.* Once a future land use map change has been denied by the city commission, an application cannot be submitted for one year from the date of denial for the same future land use category. Upon good cause of proof that circumstances have changed, the city commission, in its discretion, may waive this provision. This subsection does not apply to an application withdrawn prior to or during a public hearing

on a proposed amendment. However, there may be no more than one withdrawal and resubmittal of an application for the same designation during the same calendar year.

- F. *Additional mixed-use (MU) future land use designation requirements.* In order to qualify for the MU future land use designation, a development must have a minimum site area of 25 acres and must have a planned unit development (PUD) zoning designation. If the site does not have PUD zoning, the applicant has one year from the effective date of the land use map amendment to rezone the property to PUD. If the site is not rezoned within one year of the effective date of the ordinance adopting the MU future land use designation, the city shall initiate amendments to the comprehensive plan to remove the MU future land use designation for the property. One six-month extension of this deadline may be granted by the city commission.

(Code 1995, § 14-2-201; Ord. No. 2038, 12-20-1994; Ord. No. 2138, 11-26-1996; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-3-26), 8-4-2020)

14-3-27. Zoning map and Land Development Code (LDC) amendments.

- A. *Governing regulations.* Zoning map and Land Development Code amendments shall be processed in accordance with F.S. § 166.041, and this section.
- B. *Review procedures.* Land Development Code and zoning map amendments may be initiated by a property owner or the city. The following procedures shall apply to all applications for amendment:
1. *Development review committee (DRC).* The DRC shall review the application and make a recommendation to the planning advisory board.
 2. *Planning advisory board (PAB).* The board shall hold a public hearing on the amendment and make a recommendation concerning its adoption to the city commission. As the local planning agency, the board shall also be responsible for making a recommendation in accordance with F.S. § 163.3194, regarding the relationship of the proposed amendment to the comprehensive plan. All public hearings on Land Development Code and zoning map amendments shall have a notice published in accordance with section 14-3-20.
 3. *City commission.* The city commission shall hold at least one public hearing on any Land Development Code or zoning map amendment; see F.S. § 166.041.
- C. *LDC text amendment criteria.* The following criteria shall also be used by the planning advisory board and city commission when reviewing any applications for amendments to the text of the LDC:
1. The proposed amendment is generally consistent with the comprehensive plan;
 2. The proposed amendment is generally consistent with the purpose and intent of the Land Development Code;
 3. The proposed amendment will not create use compatibility conflicts;
 4. The proposed amendment promotes the public health, safety and welfare.
- D. *Zoning map amendment review criteria.* The following criteria shall also be used by the planning advisory board and city commission when reviewing any applications for amendments to the zoning map:
1. The proposed amendment shall promote and protect the public health, safety and general welfare, and be consistent with the city's future land use map.
 2. The proposed amendment shall be needed due to one or more of the following reasons:
 - a. A change in conditions affecting the parcel.
 - b. A deficiency in the amount of land available for uses allowed by the designation.

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- c. The special suitability of the property for the proposed designation.
 - d. An increase in land use compatibility which would result from the change.
 - e. An increase in the ability to satisfy public facility needs for the property or nearby areas which would occur because of the change.
 - f. A decrease in public safety hazards which would result from the change.
 - g. The benefit to environmentally sensitive areas.
- 3. The proposed amendment shall maintain or increase the potential for land use compatibility. Particular attention shall be given to the uses allowed by the designation, the existing uses of the property and nearby property, and existing and potential natural and man-made buffers.
 - 4. The proposed amendment shall be consistent with the goals, objectives and policies of the city's comprehensive plan.
- E. *Repeat applications.* Once a map change has been denied by the city commission, an application cannot be submitted for one year for the same district designation. Upon good cause of proof that circumstances have changed, the city commission, in its discretion, may waive this provision. This section does not apply to an application withdrawn prior to or during a public hearing on a proposed amendment. However, there may be no more than one withdrawal and resubmittal of an application for the same designation during the same calendar year.
- F. *Submittal for zoning map amendments.* The applicant shall submit the items specified on the application form including the following:
- 1. A map of the property in relation to surrounding streets.
 - 2. A map showing the current future land use and zoning district designations for the property and the surrounding properties.
 - 3. The size of the property in acres.
 - 4. Findings regarding compatibility with the comprehensive plan.
 - 5. Reasons or findings as to why the amendment should be adopted.
 - 6. An ownership statement and legal description of the property.

(Code 1995, § 14-2-202; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-3-27), 8-4-2020)

14-3-28. Zoning map amendment to planned unit development.

An application to rezone to PUD is reviewed like any other zoning map amendment except that it requires the review and approval of a conceptual plan concurrent with the zoning map amendment as outlined below.

- A. *Conceptual plan required.* Conceptual plan review is required in conjunction with zoning map amendment applications to planned unit development (PUD). The conceptual plan shall provide enough detail to enable all reviewers to understand how the proposed development will function in a unified environment. Changes to an approved conceptual development plan are also subject to the requirements of this section.
- B. *Submittal requirements.* Conceptual plans are intended to show the location and nature of a project at a detail that would allow analysis of the arrangement of land uses and improvements on the site in relation to each other, existing conditions, and surrounding property. Conceptual plans include a graphic and a narrative component. The following materials are required with the application:

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1. *PUD development narrative.* The following information shall be provided and, where appropriate, supported by graphic exhibits:
 - a. Name, address and phone number of the owner, developer and agent.
 - b. Evidence of ownership or control of the site. By submitting the application, the applicant agrees to the following:
 - i. To proceed with the purpose of development according to the provisions of the city regulations, the conditions attached to the zoning map amendment request to PUD and the approved conceptual plan;
 - ii. To provide agreements, contracts, covenants, deed restrictions, or sureties acceptable to the city for completion of the development according to the plans approved at the time of zoning map amendment to PUD and for continuing operation and maintenance of such areas, functions and facilities which are not proposed to be operated or maintained at public expense or through a property owner's association;
 - iii. To bind their successors in title to any commitments made under the above. All agreements and evidence of united control shall be examined by the city staff, and no zoning map amendment to PUD shall be adopted without a certification by the city attorney that such agreements and evidence on unified control meet the requirements of these regulations; and
 - iv. The common open space shall be administered by the city or through an association or non-profit corporation. Said organization shall conform to the applicable laws of the State of Florida.
 - c. A statement describing the objectives and characteristics of the development and indicating intent regarding the future selling or leasing of portions of the development.
 - d. A table of the proposed land uses showing, acreage by land use, the number of units and density for each residential area and the project as a whole and the gross floor area of proposed non-residential uses.
 - e. A detailed list of proposed site development standards and an indication of the parts of the site where each standard is intended to apply. Standards presented should include, but not necessarily be limited to, standards for maximum building height, minimum lot width, minimum yard size, minimum residential lot area, residential densities, impervious surface area, and the gross floor area of non-residential uses.
 - f. A statement explaining the desired phasing, including the approximate timing, and the rationale for the phasing approach.
 - g. Proof of concurrency (see part VIII of this chapter (Concurrency Management)).
 - h. A detailed list or illustrated diagrams of proposed architectural design standards and an indication of the parts of the site where each standard is intended to apply. Standards presented should include, but not necessarily be limited to, standards for all buildings, signage, walls, fences, accessory structures, streetscapes, and site design elements.
 2. *Existing features.* One or more maps and surveys showing the following for the entire tract:
 - a. The location of the development site in relation to existing streets.
 - b. A boundary survey and legal description prepared by a surveyor registered in the state.
 - c. Approximate topography defining the character of the land.

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- d. The comprehensive plan future land use designations, zoning classifications, and existing land uses for the development site and all properties within 100 feet of property lines and adjacent rights-of-way.
 - e. Hydric soils, as identified by the "Soil Survey of Osceola County Area, Florida," shall be presented. A more detailed soil survey as approved by the city may be used or, where applicable, a statement that no hydric soils exist.
 - f. The location of all existing structures, rights-of-way, easements and other natural and man-made features on site and within 100 feet of the property lines and adjacent rights-of-way.
 - 3. *Proposed features.* One or more maps at the same scale as the existing features maps, shall include the following:
 - a. A schematic representation of proposed land uses (including common open space), conceptual building locations, parking lots, and driveway entrances and exits.
 - b. A delineation of proposed roads with the functional classification of streets and an indication of required off-site street improvements.
 - c. A schematic depiction of existing and proposed surface water management elements, including wetlands and major detention facilities.
 - d. The general location and size of any community facility included within the development.
 - e. Any proposed phasing of the project.
 - 4. *Schedule of amenity/compatibility features.* A schedule indicating any proposed amenity or compatibility features which may include natural open or landscaped areas; walls, berming, and screening; waterway and flood protection measures.
 - 5. *Miscellaneous information.* Any other information needed to satisfy the review criteria listed in subsection C below.
- C. *Review criteria.* When reviewing the application for a zoning map amendment to PUD and associated conceptual plan, or an amendment to an approved PUD, the approving authority shall make a finding that the following criteria has been met:
- 1. *Unified development.* All lots within the development shall be linked with driveways and a pedestrian network and will have other unifying features, such as a unified signage plan, landscape plan, architectural features, and the like (all of which are designed to promote a unified, park-like environment).
 - 2. *Compatibility.* The location and arrangement of uses and buildings, roads, driveways, parking areas, pedestrian ways, and other features shall be compatible with surrounding land uses.
 - 3. *Impact on historical and archaeological resources.* Development of the proposed use shall not have a substantial adverse effect on a known archaeological, historical or archaeological resource located on or off the parcel proposed for development.
 - 4. *Traffic.* The proposed development shall be planned such that the traffic generated can be easily accommodated without causing excessive volumes of traffic, particularly on residential streets.
 - 5. *Landscaping.* All parts of the site not used for buildings, roads, driveways, parking, and other structures shall be suitably landscaped with vegetative materials.
- D. *Conditions of approval.* The proposed development shall meet the use, lot size, impervious surface area, structure height and other district requirements, which are listed in chapter 14-4, as well as the general standards of this Code. However, where necessary to ensure compatibility of buildings and

uses with each other and with off-site properties, the planning advisory board (PAB) may recommend and the city commission may eliminate uses which would otherwise be allowed. In addition, the PAB may recommend and the city commission may increase regulations, requirements, and standards, including, but not limited to: impervious surface area, yard size, structure height, landscaping, screening, signage, and lighting. Also, the PAB may recommend and the city commission may require planned developments which are adjacent to other planned developments governed by a separate plan to coordinate the design and placement of buildings, roads, driveways, parking, pedestrian ways, fences/walls, and landscaping.

- E. *Effect of conceptual plan approval.* The approved conceptual plan shall form the basis for the more detailed subdivision plat and/or site plan applications which follow. Therefore, subsequent approvals must conform to the conceptual plan.
- F. *Effective period of conceptual plan approval.* Conceptual plans (both graphic layout and standards components) shall be effective for a period of 12 months, unless indicated otherwise in the approval of the PUD zoning map amendment and conceptual plan. An application for subdivision plat or site plan review for the entire project or the first phase of the project shall be submitted on or before the last day of the 12th month following the date of approval, or said approval shall expire. The last phase of a PUD shall be stated in writing as being completed no later than the last day of the 60th month following PUD zoning approval.

The expiration dates noted above may be extended by the director for a maximum of 12 months beyond the original expiration date. The applicant must request such extensions in writing. When reviewing requests for extension, the director shall consider the following criteria:

- 1. The proposal remains consistent with applicable provisions of the adopted comprehensive plan, including a consideration of any change to the future land use map designation for adjacent properties since the original approval of the conceptual plan.
 - 2. The proposal remains consistent with applicable provisions of the adopted Land Development Code, including a consideration of any change to the zoning map designation for adjacent properties since the original approval of the conceptual plan.
 - 3. The proposal remains compatible with existing development on adjacent properties, including a consideration of any new development on adjacent properties since the original approval of the conceptual plan.
- G. *Conceptual plan amendments.* Changes to approved conceptual plans may be approved under one of the alternatives outlined below. Any request for a change shall be accompanied by a written request stating the reasons.
 - 1. *Minor changes.* The director or designee may approve minor changes and deviations from the approved conceptual plan which are in compliance with the provisions and intent of this ordinance, and which do not depart from the principal concept of the approved conceptual plan. Examples of minor changes include changing the location or configuration of a building or parking lot when the full character and intent of the approved conceptual plan is not violated. All other requested changes and deviations shall be deemed major and shall be referred to the city commission.
 - 2. *Major changes.* After review and recommendation by the DRC and planning advisory board, the city commission may determine that requested changes and deviations from an approved conceptual plan constitute a substantial alteration to the character of the development and thus require that the requested changes be subject to the same procedures as required for new applications. Examples include a change in overall intensity or a substantial shift in the traffic circulation system.

(Code 1995, § 14-2-50(E); Ord. No. 2038, 12-20-1994; Ord. No. 2138, 11-26-1996; Ord. No. 2144, 12-17-1996; Ord. No. 2146, 12-17-1996; Ord. No. 2158, 2-4-1997; Ord. No. 2242, 9-1-1998; Ord. No. 2400, 12-11-2001; Ord. No. 2509, 3-16-2004; Ord. No. 2578, 12-6-2005; Ord. No. 2692, 6-24-2008; Ord. No. 2742, 12-22-2009; Ord. No. 2831, 8-21-2012; Ord. No. 2908, 10-6-2015; Ord. No. 3034, § 1(14-3-28), 8-4-2020)

14-3-29. Conditional uses.

- A. *Purpose.* The purpose of this section is to establish the procedures for the review of those uses which may be essential or desirable for the orderly development of the city and for the public convenience or welfare, but which, because of their particular characteristics or area requirements, should be given individual consideration relative to adjacent property. Conditional uses are specified by district in section 14-4-5. Conditional use approvals are issued for the property and not for a particular individual or entity.
- B. *When required.*
1. *New uses.* No new use listed as a conditional use in the applicable zoning district shall be allowed unless the requirements of this section have been fulfilled.
 2. *Existing uses.*
 - a. Lawfully established uses which existed immediately prior to their present classification as a conditional use in the applicable zoning district shall not have to comply with the requirements of this section unless there is a change which necessitates such compliance due to the provisions in subsection 3 below. No such lawfully established use shall be deemed a nonconforming use in this district, but shall without further action be considered a conforming use.
 - b. Lawfully established uses which received conditional use approval in accordance with conditional use regulations which are different than those currently in this section shall not have to comply with the requirements of subsections C through G below unless there is a change which necessitates such compliance due to the provisions in subsection 3 below. No such lawfully established use shall be deemed a nonconforming use in this district, but shall without further action be considered a conforming use.
 3. *Changes to uses.* Conditional uses established in accordance with subsections 1 and 2 above must receive additional conditional use approval when any one of the following conditions is met:
 - a. It is required by the original conditions of approval.
 - b. The gross floor area of the buildings originally approved is increased by 50 percent due to previous or proposed expansions or more than 1,500 square feet, whichever is greater.
 - c. The parking area is increased by six or more parking spaces.
 - d. The use is a communication tower, which is being rebuilt or increased in height.
 - e. The square footage of any outdoor area devoted to the conditional use is increased above the original approval - excluding areas devoted solely to outdoor business activities which do not require conditional use approval.
- C. *Submittal requirements for conditional use applications.*
1. *Site plan.* The applicant shall submit a site plan showing all the items listed in section 14-3-31.C (Site Plan Submittal Requirements).
 2. *Site plan waiver.* The director may waive the requirement for site plan submittal if:
 - a. Construction on the subject site is limited to the interior of an existing building; and

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- b. The existing parking, loading, lighting and other site characteristics are not impacted by the conditional use; and
 - c. No special buffers are required.
 - 3. *Alternative submittal.* If a site plan waiver is granted, the following shall be submitted with the application:
 - a. A sketch plan depicting the location of buildings on the site, the location of the proposed conditional use, any existing uses to remain; the internal traffic circulation system, ingress and egress from major roadways, parking areas, and the existing and proposed landscaping of the project;
 - b. Elevation drawings or photographs of the existing buildings and building heights, when requested by the department;
 - c. A description of the conditional use to be located on-site;
 - d. Hours of operation;
 - e. Other items requested by the city which are necessary to demonstrate compliance with the review criteria; and
 - f. A set of findings or reasons why the conditional use should be approved.
 - D. *Review procedures.*
 - 1. The development review committee shall review the application and submit a recommendation to the planning advisory board (PAB).
 - 2. Staff shall present the application at a public hearing before the planning advisory board. The board shall vote to approve, approve with conditions, or deny the application. The board may also continue the hearing in order to obtain additional information. Reasons for approval or denial shall be stated, based upon the review criteria.
 - 3. The planning advisory board's decision shall become final after ten calendar days unless either appealed or the application has been submitted by a PAB member, city commissioner or a city employee. In these cases, the application shall be transmitted to the city commission for final action.

The city commission shall use the review criteria and state reasons for their decision. Notification shall be provided as stated in section 14-3-20 (Public Hearings).
 - E. *Repeat application.* Once a conditional use has been denied, an application cannot be submitted for one calendar year from the denial date for the same use. Upon good cause of proof that circumstances have changed, the planning advisory board, in its discretion, may waive this provision. This section does not apply to an application withdrawn prior to or during a public hearing. However, there may be no more than one withdrawal and resubmittal of an application for the same use during the same calendar year.
 - F. *Review criteria.* The criteria to be reviewed when considering an application for a conditional use are as follows:
 - 1. *Adequate space.* The site has an adequate amount of space for the yards, buffers, buildings, drives, parking, loading and unloading areas, utilities, and other facilities associated with the conditional use.
 - 2. *Suitable layout.* The placement of buildings, transportation facilities, utilities, landscaping, and other site features shall be appropriate for the conditional use and other on-site activities.
 - 3. *Compatibility with surrounding area.* The conditional use shall not unreasonably impact the character of the surrounding area (particularly residential areas) due to the types of activities, intensity of

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- development, placement of facilities, or other factors. Particular attention shall be given to safety, aesthetics, noise, lightning, odors, vibration, and related impacts.
4. *Impact on historical and archaeological resources.* Development of the proposed use shall not have a substantial adverse effect on a known historical or archaeological resource located on or off the parcel proposed for development.
 5. *Public facility impacts.* The conditional use shall not place an excessive burden on public transportation, utility, drainage, solid waste, and recreation facilities. The project shall meet the concurrency level of service standards for these facilities as specified in Part VIII of this chapter (Concurrency Management). Special consideration shall be given to the impact of the volume and type of vehicular traffic associated with the conditional use on any residentially oriented streets in the area.
 6. *Comprehensive plan/Land Development Code consistency.* The proposed conditional use shall be consistent with the goals, objectives and policies of the city's comprehensive plan and with other applicable requirements of this title.
- G. *Conditions of approval.* When the city approves a conditional use, it may impose such conditions of approval in conformity with the intent and provisions of this title as it deems necessary in order to protect the public health, safety, and welfare. Such conditions may involve requirements which exceed the minimum site design standards for the district. Conditions may include, but are not limited to, conditions which:
1. Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, and odors.
 2. Establish special yards, other open spaces and additional lot area requirements.
 3. Limit the height, size, and location of buildings and other structures.
 4. Designate the size, number, location, and nature of vehicular and pedestrian access points (including the sharing of access with other lots).
 5. Increase the amount of public right-of-way, roadway width, and improvements required within the street right-of-way.
 6. Designate the size, location, screening, drainage, surfacing, and other characteristics of a parking or loading area (including the sharing of parking areas with other lots).
 7. Limit or otherwise designate the number, size, location, height, and lighting of signs.
 8. Require the use of shielding and other site planning techniques to limit the spillover of light into adjacent properties.
 9. Require berming, screening, landscaping, and other buffering to protect nearby property and designate standards for installation or maintenance of the facility.
 10. Designate the size, height, location, and materials for a fence or wall.
 11. Require development techniques which protect existing trees, vegetation, water resources, and other significant natural resources.
 12. Take into account the size, style, history, and appearance of a structure.
 13. Specify other conditions to permit development in conformity with the intent and purpose of this title and the city's comprehensive plan, including limits on the effective period of the conditional use.
- H. *Effective period of conditional use approval.* A conditional use, as provided herein, shall be effective for a period of 12 months from the date of final approval unless a building permit or business tax receipt (BTR) for the project is issued on or before the last day of the 12th month following the date of approval. If no building permit or BTR has been issued within this time frame, the conditional use shall expire. Approval shall remain

effective while an active building permit is in effect for the project. Upon application to the city manager (or designee thereof) prior to the expiration date, the effective period may be extended for up to an additional three months for good cause. An additional extension of up to nine months may be granted by the city commission for good cause. The effective period of a conditional use may also be limited in accordance with subsection G (Conditions of Approval) and section 14-6-38 (Communication Towers [and Facilities]).

- I. *Violation of approval.* Any failure to adhere to the terms and conditions of the approval shall be considered violations of this title and shall be subject to the penalties prescribed by this title.

(Code 1995, § 14-2-206; Ord. No. 2038, 12-20-1994; Ord. No. 2122, 8-20-1996; Ord. No. 2139, 11-26-1996; Ord. No. 2157, 2-4-1997; Ord. No. 2158, 2-4-1997; Ord. No. 2210, 3-3-1998; Ord. No. 2237, 6-23-1998; Ord. No. 2264, 3-16-1999; Ord. No. 2678, 5-13-2008; Ord. No. 2690, 6-10-2008; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-3-29), 8-4-2020)

14-3-30. Development agreements.

- A. *Purpose.* To secure the future performance of any conditions imposed by the city or representations made by the developer, an executed development agreement in a form acceptable to the city shall be required. The development agreement, as defined in chapter 14-2, shall include project responsibilities, restrictions, transportation or transit obligations, and other commitments identified through the process. The applicant shall submit the proposed development agreement and, after city review and approval, shall execute and record the agreement in the public records of Osceola County. The city shall receive the recorded development agreement prior to the issuance of a building permit. The applicant shall be required to pay all costs involved in the recording of such agreement.
- B. *Development of regional impact (DRI).* Large scale projects meeting the thresholds of F.S. § 380.06 shall be subject to the application and review procedures conforming to F.A.C. 73C-40.
- C. *Large scale projects.* Developers involved in large scale projects that are below the DRI thresholds but necessitating major public facility expenditures and phasing may wish to take advantage of the Florida Local Government Development Agreement Act which is contained in F.S. §§ 163.3220 to 163.3243. The notification, public hearing and agreement requirements are specified therein.

(Code 1995, § 14-2-210; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-3-30), 8-4-2020)

14-3-31. Site plan review.

- A. *Purpose.* Site plan review is intended to ensure that a proposed development complies with the city's Land Development Code and comprehensive plan, and to assure adequate site design and relationships to adjacent development and public facilities.
- B. *When required.*
1. *New development.* Site plan review is required for all new development, except for individual single family, duplex or triplex dwellings and public elementary, middle and high schools (schools only require minor construction plan review)
 2. *Changes to existing development.* Site plan review is also required for the following activities. Proposed changes that do not meet the criteria listed are permitted to proceed with an application for construction drawings review.
 - a. Conversions of single family, duplex or triplex to townhouses, multiple family, non-residential uses, or mixed-use; or from townhouse or multiple family housing to non-residential uses or mixed-use.

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- b. Modifications to non-residential, mixed-use, townhouse, or multiple family housing developments meeting any the following thresholds:
 - [i.] Increase square footage by more than 1,500 square feet; or
 - [ii.] Increase parking spaces by six or more; or
 - [iii.] Significantly change the traffic circulation system or significantly alter the use of the property in the judgment of the director.
 - C. *Site plan submittal requirements.* Site plans are intended to demonstrate compliance of a proposed development with the specific use, dimensional, and other regulations of this Code and the terms of any prior approval of the project. Site plans shall show the specific arrangement of buildings and other improvements on a site in relation to each other, existing site conditions, and surrounding properties, together with specific information on the nature and intensity of land use.
 - 1. *Application.* The applicant shall submit a site plan application and associated fee together with a site plan and evidence of ownership.
 - 2. *Materials.* The following materials shall be submitted to demonstrate compliance with the site plan review criteria listed in subsection E, below. Site plans shall be prepared by the appropriate combination of qualified professionals, which means a registered architect, landscape architect, and civil engineer licensed by the State of Florida. The required survey shall be prepared by a registered surveyor.
 - a. *Location map.* A map showing the location of the proposed development in relation to surrounding streets.
 - b. *Traffic.* A traffic impact study shall be submitted if the proposed development is estimated to generate 100 or more peak-hour trips. The study shall be prepared by a qualified transportation planner or professional engineer.
 - c. *Land use.* The proposed uses to be accommodated within the project plus the comprehensive plan future land use map designations and zoning categories for the subject and adjacent properties.
 - d. *Density and/or intensity.* Project acreage, density by dwelling unit type; types of non-residential uses and their gross floor areas; number of employees when called for elsewhere in this title.
 - e. *Conceptual landscape plan.* Plan showing type and location of natural vegetation to be preserved and to be removed, the location of proposed landscape and buffer areas, and the proposed landscaping and buffering concept (including the approximate location of proposed walls, berms, hedges, and trees) in conformance with chapter 14-8. The conceptual landscape plan shall be drawn using the same scale as the site plan.
 - f. *Dedications, rights-of-way and easements (if any).* Show on-site and adjacent dedications, rights-of-way and easements.
 - g. *Phasing.* Including density/intensities and impacts on public facilities, by phase.
 - h. *Survey.* A boundary and topographic survey with contour intervals of one foot with contour lines extending 25 feet in any direction beyond the property line. The survey should also include a legal description of all project acreage. Any portion of this requirement may be waived, in writing, by the department.
 - i. *Structures.* Location, layout and color elevations of existing and proposed structures (including structures on adjacent lots if located within 25 feet of the property line) with dimensions

(including building height), proposed uses and whether or not fire prevention sprinkler systems are proposed.

- j. *Circulation and parking.* Existing and proposed streets, pedestrian ways, bike paths, parking areas and driveways, including any connections to any such off-site facilities within 25 feet; location and dimensions of access points; location and number of parking and loading spaces, including sufficient land use data to assess spaces needed; existing and proposed turn lanes shall be shown.
 - k. *Walls.* Location of existing and proposed walls, fences and entrance features (if any), and indication of their height and type (brick, wood, and the like).
 - l. *Utilities.* Existing and conceptual utility layout, including water, sewer, gas and street lighting; connections to off-site facilities within 25 feet.
 - m. *Signs.* Location and dimensions of all ground signs.
 - n. *Open space.* Location and percentages of open space and impervious areas within the development and the purpose of each, including any proposed recreation area.
 - o. *Slopes.* Any unusual grading which affects the relationship of the buildings shall be shown on a preliminary grading plan; the final grading plan should be submitted with the site construction drawings application.
 - p. *Drainage.* Direction of flow and method of disposition of surface drainage (including retention/detention areas), including location of any existing stormwater facilities within 25 feet of the property.
 - q. *Fire protection.* Existing and conceptual location of fire hydrants, fire lanes and fire engine accessibility provisions.
 - r. *Solid waste.* Garbage storage provisions, including screening type and height.
 - s. *Soils.* Soil conditions and muck depths (where applicable) based upon the soil survey of Osceola County; the department may request more detailed soil surveys if deemed necessary.
 - t. *Flooding.* 100-year floodplain and floodway boundaries, if any.
 - u. *Wetlands and other environmentally sensitive lands.* Location of any wetlands, wellfield protection areas and other environmentally sensitive areas as specified in chapter 14-9, including the soil and vegetation basis for such a determination.
 - v. *Performance standards commitment.* A legally binding commitment indicating that performance standards in chapter 14-6, part IV shall be satisfied.
- D. *Site plan review procedures.* The development review committee (DRC) shall review the site plan for compliance with the review criteria listed in subsection E, below. See section 14-3-21 for appeal procedures.
- E. *Site plan review criteria.* The following criteria shall be used in reviewing all site plans:
- 1. Whether the plan meets the requirements of the Land Development Code;
 - 2. Whether the proposed development is consistent with the city construction standards and specifications;
 - 3. Whether the proposed development is consistent with the Toho Water Authority (TWA) standards and specifications manual;
 - 4. Whether the proposed development is consistent with the comprehensive plan;
 - 5. Whether the proposed development is consistent with prior applicable approvals; and

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6. Whether the proposed development meets the level of service standards adopted in the comprehensive plan.
- F. *Conditions of approval.* When the DRC approves a site plan, it may impose conditions of approval in conformity with the intent and provisions of this section as it deems necessary in order to protect the public health, safety, and welfare. Such conditions may involve requirements which exceed the minimum design standards which would normally apply. Conditions may include, but are not limited to, conditions which:
1. Establish special yards and other open spaces.
 2. Limit the height, size and location of buildings and other structures.
 3. Designate the size, number, location and nature of vehicular and pedestrian access points (including the sharing of access with other lots).
 4. Designate the size, number, location, screening, drainage, surfacing and other characteristics of a parking or loading area (including the sharing of parking areas with other lots).
 5. Limit or otherwise designate the number, size, location, height, type and lighting of signs.
 6. Require the use of shielding and other site planning techniques to limit the spillover of light into adjacent residential properties.
 7. Require berming, screening, landscaping and other buffering to protect nearby property and designate standards for installation or maintenance of the facility.
 8. Designate the size, height, location and materials for a fence or wall.
 9. Require development techniques which protect existing trees, vegetation, water resources and other significant natural resources.
 10. Specify exterior building characteristics, including the building orientation, architectural style, materials, colors and other design features.
 11. Specify other conditions to permit development in conformity with the intent and purpose of this title and the city's comprehensive plan.
- G. *Effect of site plan approval.* A building permit application must be filed within 12 months of final site plan approval, otherwise the approval shall lapse. The director may extend this period for up to 12 months based upon suitable hardship with further appeal to the city commission.

(Code 1995, §§ 14-2-190, 14-2-191, 14-2-194; Ord. No. 2038, 12-20-1994; Ord. No. 2146, 12-17-1996; Ord. No. 2692, 6-24-2008; Ord. No. 2776, 9-7-2010; Ord. No. 2908, 10-6-2015; Ord. No. 3034, § 1(14-3-31), 8-4-2020)

14-3-32. Construction drawings review.

Construction drawings (FKA, site development plan) review is intended to provide detailed technical information on all site improvements prior to actual construction to ensure that development will be in conformance with city codes and any conditions of the approved development.

- A. *Submittal requirements.* Applicants for construction drawing approval shall submit the following materials in addition to the requirements for site plans listed in section 14-3-31.C. Drawings shall be drawn to scale using the same scale as the site plan and, except for the landscape and irrigation plans, shall be prepared by a civil engineer licensed by the State of Florida. The landscape and irrigation plans shall be prepared by a registered landscape architect licensed in the State of Florida.
1. Driveway and parking location and design information, including driveway cross sections and signalization, signing and striping information.

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2. Water, sewage and drainage facility location and design information, including line sizes, fire hydrants, drainage calculations, and drainage (detention/retention) pond and swale cross sections.
 3. Lighting plan, including outdoor lighting facilities and lighting levels with a distinction provided between above ground and underground lighting facilities.
 4. An early land preparation plan in accordance with section 14-9-4.
 5. A landscape plan in conformance with chapter 14-8 containing the following information:
 - a. Location of all existing trees to be preserved;
 - b. The dimensions of the landscape elements of the proposed development including the location of plant material, surface material, landscape features and furnishings;
 - c. Identification of the species, size and location of plant materials. A plant list shall be included on the drawing and shall include the scientific name, the common name, the installed size and height, topsoil depth for ground cover, mulching material and depth for shrub areas, and the like. A surface materials list shall be included on the drawing and contain the materials used such as asphalt, concrete, stone, mulch, and the like, with a description of each. All planter walls and other landscape furnishings shall be described through drawing and specifications to illustrate their construction or method of attachment. All existing trees 1½ inches in diameter (DBH) to be removed or retained shall be so noted.
 6. An irrigation plan showing compliance with the requirements of section 14-8-24.
 7. Land preparation plan.
 8. A floor plan, building elevation drawings, and information on the type of building construction.
- B. *Construction drawings review procedures.* The various city departments shall review the construction drawings for compliance with the review criteria listed in subsection C below.
- C. *Construction drawings review criteria.* The following documents shall be used in reviewing site construction drawings:
1. The City of Kissimmee's Land Development Code.
 2. The City of Kissimmee's Construction Standards and Specifications.
 3. The Toho Water Authority (TWA) standards and specifications manual.
 4. The National Fire Code.
 5. The Florida Building Code.

(Code 1995, § 14-2-192; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-3-32), 8-4-2020)

(Ord. 2038, passed 12-20-94; Am. Ord. 2146, passed 12-17-96; Am. Ord. 2858, passed 5-21-13)

14-3-33. Conservation impact report.

- A. *General.* Any development permit application for a parcel within the Conservation Overlay (CO) District shall be accompanied by a conservation impact report. Typically, this will occur at the site plan, preliminary plat, or Planned Unit Development (PUD) or Business Park (BP) District conceptual plan stage. If the application is for a portion of a larger parcel for which approval of a conservation impact report has already been granted

and remains in effect, conformance to that approved report shall be demonstrated. The report shall include the following:

1. *Floodway/100 year floodplain mapping.* Map delineation of portions of the parcel in the floodway and portions which are part of areas of special flood hazard as identified by the Federal Emergency Management Agency.
 2. *Wetlands conservation impact report.* A wetlands conservation impact report shall be provided when wetlands as defined in chapter 14-2, including isolated wetlands, are on the parcel.
 3. *Land clearing conservation impact report.* A land clearing conservation impact report shall be provided showing native vegetative communities as classified in the "Florida Land Cover Classification System" (FLCCS). No such report shall be required for development needing an early land preparation permit, unless the report is required by section 14-9-4.
 4. *Summary.* An overall summary of the environmental values of the property, and protection and mitigation approaches discussed in the documents required by this subsection.
- B. *Wetlands conservation impact report.* The wetlands conservation impact report shall be prepared by a qualified professional environmental specialist and a qualified professional engineer, and shall include the following:
1. Map delineation of the following:
 - a. Wetlands boundaries as determined by the department of environmental protection (DEP), if applicable, South Florida Water Management District (SFWMD), and the U.S. Army Corps of Engineers (ACOE).
 - b. Types of wetlands in accordance with the "Florida Land Cover Classification System" (FLCCS).
 - c. Hydric soils as indicated by the hydric soils list in the "Soil Survey of Osceola County Area, Florida."
 - d. Designated species/habitat: Any identified designated species as defined in chapter 14-2 or any identified habitat listed as threatened or endangered by the Florida Natural Areas Inventory.
 2. Written information and analysis regarding the following:
 - a. Wetland size, hydrology, plant and animal use or diversity, adjacent landscape diversity, uniqueness, and past alteration or impacts to the wetland or its adjacent area.
 - b. The proposed use of wetlands on the parcel and proposed buffer zones.
 - c. Demonstration of the preservation of any habitat or designated species significant to the conservation of flora and fauna identified in subsection a above. A preservation plan shall be provided which documents the presence of designated species, the land needs of the species or habitat that may be met on the development site, and shall recommend appropriate habitat management plans in accordance with the approaches established by the U.S. Fish and Wildlife Service (FWS) or Florida Game and Fresh Water Fish Commission (FGFWFC) and any other measures deemed necessary to protect the subject wildlife or vegetation.
 - d. A preservation plan that assures protection from physical or hydrological alteration of the natural functions of the wetlands, including alterations resulting from stormwater management techniques, in conformance with DEP, SFWMD, and ACOE requirements.
 - e. A mitigation plan, if no protection is offered for wetlands, wildlife habitat, or designated species significant to the conservation of flora and fauna identified in subsection a above.

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- C. *Land clearing conservation impact report.* The land clearing conservation impact report shall be prepared by a qualified professional and shall include the following:
1. Map delineation of the following:
 - a. Soils as indicated by the "Soil Survey of Osceola County Area, Florida" or a more detailed soil survey approved by the city.
 - b. Types of native vegetative communities in accordance with the "Florida Land Cover Classification System" (FLCCS).
 - c. Any identified designated species as defined in chapter 14-2 or any identified habitat listed as threatened or endangered by the Florida Natural Areas Inventory.
 2. Written information and analysis regarding the following:
 - a. Plant and animal diversity, adjacent landscape diversity, habitat uniqueness, and past alteration or impacts to the habitat or its adjacent area.
 - b. Demonstration of the preservation of any habitat or designated species significant to the conservation of flora and fauna identified in subsection 1.c above. A preservation plan shall be provided documenting the presence of designated species, the land needs of the species or habitat that may be met on the development site, and shall recommend appropriate habitat management plans in accordance with the approaches established by the U.S. Fish and Wildlife Service (FWS) or FGFWFC and any other measures deemed necessary to protect the subject wildlife or vegetation.
 - c. A mitigation plan, if no protection is offered wildlife habitat, or habitat of species significant to the conservation of flora and fauna identified in subsection 1.c above.
- D. *Review standards.*
1. The conservation impact report shall be reviewed to demonstrate compliance with the following standards:
 - a. *General.* The proposed development shall be consistent with the intent of the district to protect the integrity of environmentally sensitive areas including wetlands, surface waters, floodplains, and special wildlife and plant habitats. Information required in subsection A.1 and A.4 above shall be provided.
 - b. *Class III waters.* Proposed development adjacent to Lake Tohopekaliga, Shingle Creek, Mill Slough, the city ditch, and their tributaries shall be approved only if:
 - i. There is no dredging of waterbodies unless approved, where applicable, by DEP and ACOE.
 - ii. The modification of grassbeds is limited to circumstances when:
 - (a) A determination of overriding public interest has been demonstrated by the applicant.
 - (b) Project runoff, including nitrogen, phosphorous, and other nutrients, is controlled to prevent an increase in water turbidity, decrease in fish or aquatic wildlife propagation, or other degradation of water quality.
 - (c) Any damage to grassbeds during project construction is mitigated by techniques which reestablish conditions favorable to natural regeneration of the grassbeds.

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- iii. A three-foot littoral zone is preserved or provided along all such waterbodies. Where such vegetated edges do not now exist, they shall be established with native indigenous species of vegetation.
 - iv. No principal building shall be located within 150 feet of the centerline of Shingle Creek or Mill Slough. Greater setbacks may be required by the city engineer in order to protect floodplains and other environmentally sensitive areas.
 - v. Coordination with FGFWFC is demonstrated relative to any development with drainage directly into Lake Tohopekaliga.
2. Wetlands conservation impact report standards. The wetlands conservation impact report shall be reviewed to demonstrate compliance with the following standards:
- a. *General.* Contiguous and isolated wetlands shall comply with the requirements of Appendix 7 of the SFWMD's "Basic of Review for Surface Water Management Permit Applications Within the South Florida Water Management District." Information required in subsection B above shall be provided.
 - b. *Uses.* Wetlands shall be limited to natural open space uses, passive recreation areas, natural stormwater retention/detention, and accessways with environmentally sensitive design.
 - c. *Physical and hydrological protection.* Wetlands shall be protected from physical or hydrological alteration of their natural functions in conformance with DEP, SFWMD, and ACOE requirements or shall be mitigated in conformance with the requirements of these agencies.
 - d. *Habitat protection.* Habitat or species significant to the conservation of flora and fauna identified in subsection B.1.d above shall be preserved or mitigated. Areas used for habitat preservation or mitigation shall, where feasible and appropriate, be adjacent to existing viable habitat of a similar type and to a significant wetland system. Any lands set aside for habitat needs shall be of such quantity and quality as to provide viable habitat.
3. Land clearing conservation impact report standards. The land clearing conservation impact report shall be reviewed to demonstrate compliance with the following standards:
- a. *General.* Information required in subsection C above shall be provided.
 - b. *Habitat protection.* Habitat or species significant to the conservation of flora and fauna identified in subsection C.1.c above shall be preserved or mitigated. Areas used for habitat preservation or mitigation shall, where feasible and appropriate, be adjacent to existing viable habitat of a similar type and to a significant wildlife corridor. Any lands set aside for habitat needs shall be of such quantity and quality as to provide viable habitat.

E. *Implementation.*

- 1. *Acceptance of conservation impact reports.* During the development review process, the city may approve a conservation impact report as submitted, approve the conservation impact report with conditions or modifications needed to implement the provisions of this section, or reject the report due to noncompliance with the requirements of this section.
- 2. *Legal agreements.* One or more legal agreements, in a form acceptable to the city attorney, may be required by the city to help ensure that conservation protection techniques associated with an approved conservation impact report are implemented as approved by the city.
- 3. *Permits.* No development permits shall be issued for development within this district unless:
 - a. *Report approval.* A conservation impact report for the property has been approved by the city as submitted or approved with conditions or modifications.

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- b. *Legal agreements.* Any required legal agreements associated with the conservation impact report have been submitted, approved by the city, and executed.
 - c. *Other agency permits.* All applicable DEP, SFWMD, and ACOE permits have been received.
 - d. *Consistent plans.* The development plans for which permit approval is being requested are consistent with:
 - i. The conservation impact report as approved with any conditions or modifications.
 - ii. Any required legal agreements associated with the conservation impact report.
 - iii. Applicable DEP, SFWMD, and ACOE permits.
 - iv. Other requirements of this title.
- F. *Review and inspection fees.* The city may charge the applicant a reasonable fee for the cost of reviewing the adequacy of the wetlands conservation impact report, the land clearing conservation impact report, and associated development plans and for on-site inspection of approved techniques for implementing conservation requirements. The amount of any such fee shall be established by a resolution adopted by the city commission.

(Code 1995, § 14-2-43; Ord. No. 3034, § 1(14-3-33), 8-4-2020)

14-3-34. Reserved.

PART V. HISTORIC DISTRICT AND LANDMARK DESIGNATION

14-3-35. Designation of historic districts.

- A. *Request for consideration.*
- 1. *Owner-initiated requests.* A property owner or owners shall appear before the historic preservation board (HPB) and request consideration for the board to recommend staff to assist the property owner(s) in establishing a historic overlay district. The board shall recommend staff to offer technical assistance to the owner(s) in gathering the appropriate materials for a zoning map amendment request, or the board may deny the request.
 - 2. *HPB-initiated requests.* The board shall have the authority to recommend staff to pursue historic designation of buildings, structures, traditional cultural properties, landscape features, archaeological sites and other improvements or physical features as individual sites or districts in accordance with the criteria shown herein.
- B. *Petition and related submittals.* Before the initiation of a zoning map amendment to establish a Historic Preservation Overlay (HPO) District, the following materials shall be submitted to the department:
- 1. A petition which requests that the city adopt the HPO district and which contains the signatures of property owners, or their authorized representatives, of not less than 25 percent of the properties within the proposed district;
 - 2. A map clearly showing the proposed district boundaries;
 - 3. A legal description of the proposed district;

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4. A list of the names and addresses of property owners in the proposed district and the parcel identification numbers used by the Osceola County Property Appraiser to identify these properties for taxing purposes.
- C. *Task force.* The petitioners shall establish a task force comprised of property owners or their authorized representative, representing not less than 15 percent of the properties within the proposed district. The task force shall elect a chairperson who will conduct the meetings and present the request to the historic preservation board (HPB). The task force shall compile the following documents and present these to the HPB for approval of the historic preservation overlay district:
1. A list of the names and addresses of the historic district task force members and the parcel identification numbers used by the Osceola County Property Appraiser to identify the properties in the proposed district which they own or represent with regard to establishment of the district;
 2. A list of all buildings over 500 square feet in size located within the proposed district, an indication of which of these buildings are believed to be at least 50 years old, and the parcel identification numbers used by the Osceola County Property Appraiser to identify the properties on which the buildings are located;
 3. A brief document discussing the historical characteristics of the proposed district; why the requested district boundaries were proposed; and how these boundaries relate to criteria for designating historic districts; and other information relevant to the proposal;
 4. Slides, photographs, and/or drawings showing the primary building styles which exist in the proposed district;
 5. Proposed standards to be used to help govern the review of certificates of appropriateness as discussed in subsection G below; and
 6. Any additional information required in section 14-3-27.D for zoning map amendments.
- D. *Historic district designation requirements.* The proposed historic district shall be subject to all of the procedures for other zoning map requests. In addition, the department shall prepare a historic preservation district report, which will recommend approval, denial, or modification of the proposed Historic Preservation Overlay (HPO) District, and will state the reasons for the recommendation. This report shall include the following:
1. An overview of the historical characteristics of the proposed district;
 2. A discussion regarding compliance with the criteria for district designation; and
 3. Proposed HPO district design standards.
- E. *Historic district designation public hearings.*
1. *Historic preservation board (HPB) public hearing.* The HPB shall review the request made by the task force prior to the official review by the planning advisory board (PAB) and the city commission. Notice for the hearing shall be conducted in the same manner required for other zoning map requests. The HPB shall verify the proposed district boundaries, determine compliance with designation criteria, make a recommendation concerning adoption of the district, and make recommendations concerning the proposed Historic Preservation Overlay (HPO) District design standards.
 2. *Planning advisory board (PAB) official review.* The PAB shall review the request and recommendation made by the HPB and provide a recommendation to the city commission.
 - a. Public notice shall have been given in a newspaper of general circulation at least 14 days prior to the hearing.

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- b. Written notice of the public hearing shall have been sent to the property owners of record of the sites within the proposed district, or their agents, at least 30 days in advance of the hearing.
 - 3. *City commission public hearing.* After the official review of the request by the PAB, the department shall submit a report with recommendations for the consideration of the city commission. Notices of public hearings shall be sent to the property owners of record of the sites within the proposed district, or their agents, at least 30 days in advance of each public hearing.
- F. *Historic district designation criteria.* In addition to complying with the zoning map amendment criteria in section 14-3-27.D, the proposed district shall only be designated as a historic district when appropriate documentation demonstrates that at the time of historic preservation board (HPB) review:
- 1. The majority of the buildings in the proposed district are at least 50 years old; and
 - 2. The proposed district shall possess an integrity of location, design, setting, materials, workmanship, feeling, and/or association in terms of significance to American history, architecture, archaeology, engineering, or culture; and
 - 3. The proposed district satisfies at least one of the following criteria:
 - a. Is characterized by structures associated with one or more events that have made a significant contribution to the broad patterns of history;
 - b. Is characterized by structures associated with the lives of one or more significant persons of the past;
 - c. Is characterized by structures which embody the distinctive characteristics of a type, period, or method of construction; represent the work of a master; possess high artistic values; or that represent a significant and distinguishable entity whose components may lack individual distinction; or
 - d. Is characterized by sites which have yielded or may be likely to yield information important to history or prehistory.
- G. *Historic district design standards.* The ordinance establishing the Historic Preservation Overlay (HPO) District shall provide design standards to help govern the review of certificates of appropriateness, as discussed in section 14-3-37. These standards shall reflect the historical characteristics of the district which are intended to be protected, enhanced and perpetuated. These standards may regulate the scale and massing of structures, their positioning and orientation, styles, shapes, openings, materials, signage, decorative features, related site improvements, and other features determined to be important to the character of the district. These standards may vary according to relevant factors such as the structure's age, size, and location. Standards for alterations shall achieve the purpose of the United States Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. Wherever the HPO district design standards conflict with the form-based code (FBC) standards (see chapter 14-5), the HPO district design standards shall prevail.
- H. *Expanding an existing HPO district.* The boundaries of an existing Historic Preservation Overlay (HPO) District may be amended to include additional properties contiguous with the existing boundaries, if the owner of the subject properties files a formal request in writing to the historic preservation board (HPB) for inclusion in the adjacent existing district. The request shall proceed through the historic district designation process, as outlined in subsections E through G above, with exception of the creation of design standards, as all new properties incorporated into an existing district shall be subject to the design standards of that district. Staff shall provide a report showing compliance or non-compliance with the historic district designation criteria. If approved the new properties within the district shall be subject to all requirements currently established in that district.

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- I. *Required maintenance and repair.* Neither the owner nor the person in charge of a structure within a Historic Preservation Overlay (HPO) District shall permit such structure to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or any architectural feature which contributes to the structural integrity so as to produce or tend to produce a detrimental effect upon the character of the district as a whole or the life and character or structural viability of the structure in question, including, but not limited to:

1. *Exterior walls/vertical supports.* The deterioration of exterior walls or other vertical supports;
2. *Roofs/horizontal members.* The deterioration of roofs or other horizontal members;
3. *Exterior chimneys.* The deterioration of exterior chimneys;
4. *Exterior finish materials.* The deterioration or crumbling of exterior finish materials such as stucco, shingles, paint, or mortar;
5. *Water-proofing.* The ineffective water-proofing of the property, including broken windows or doors;
6. *Hazardous/unsafe conditions.* The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions; and
7. *Architectural features.* The deterioration of any architectural feature which contributes to the architectural or historic significance and/or integrity of the structure.

(Code 1995, § 14-2-46; Ord. No. 2331, 3-7-2000; Ord. No. 2545, 2-8-2005; Ord. No. 2649, 6-12-2007; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-3-35), 8-4-2020)

14-3-36. Designation of historic landmarks.

Historic landmarks may be designated by the city in order to help ensure the protection, enhancement, and perpetuation of individual properties, inside or outside of the Historic Preservation Overlay (HPO) District, which have historical merit.

- A. *Submittal requirements.* Historic landmarks may be nominated by the owner of the proposed landmark or by a four-fifths or greater vote of the city commission. When landmark status is proposed by the property owner, the following information shall be submitted to the department:
1. A map clearly showing the boundaries of the property on which the proposed landmark is located.
 2. A legal description of the property on which the proposed landmark is located.
 3. A brief document discussing the historical characteristics of the proposed landmark; why the structure was proposed for landmark status; how the structure relates to criteria for designating landmarks; and other information relevant to the proposal.
 4. Slides, photographs, and/or drawings showing the proposed landmark.
- B. *Landmark designation procedures.*
1. *Development services department.* The department shall prepare a historic landmark report which will recommend approval, denial, or modification of the proposed landmark property and will state the reasons for the recommendation. This report shall include an overview of the historical characteristics of the proposed landmark; a discussion regarding compliance with the criteria for landmark designation; and proposed landmark design standards.
 2. *Historic preservation board (HPB).* The nomination will then be reviewed by the HPB after an advertised public hearing (see section 14-3-20.A). The HPB shall verify the proposed landmark

boundaries, determine compliance with designation criteria, make a recommendation concerning adoption of the landmark, and make recommendations concerning the proposed landmark design standards.

3. *Planning advisory board (PAB).* Following the HPB review and after an advertised public hearing, the PAB shall make a recommendation concerning adoption of the landmark and the proposed landmark design standards. Within 30 days of the official review of the request by the PAB, the department shall submit a report with recommendations for the consideration of the city commission.
 4. *City commission.* The city commission, following an advertised public hearing, will take action on the nomination. Approval of a nomination will be done by ordinance.
- C. *Landmark designation criteria.* Structures shall only be designated as historic landmarks when appropriate documentation demonstrates that at the time of historic preservation board (HPB) review:
1. The structure is at least 50 years old; and
 2. The proposed structure possesses an integrity of location, design, setting, materials, workmanship, feeling, and/or association in terms of significance to American history, architecture, archaeology, engineering or culture; and
 3. The proposed structure or site where the structure is located satisfies at least one of the following criteria:
 - a. It is associated with one or more events that have made a significant contribution to the broad pattern of history;
 - b. It is associated with the lives of one or more significant persons of the past;
 - c. It embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
 - d. It has yielded or may be likely to yield information important to history or prehistory.
- D. *Landmark design standards.* The ordinance designating the historic landmark shall provide design standards to help govern the review of certificates of appropriateness discussed in section 14-3-37. These standards shall reflect the historical characteristics of the landmark which are intended to be protected, enhanced and perpetuated. These standards may regulate the scale and massing of structures, their positioning and orientation, styles, shapes, openings, materials, signage, related site improvements, and other features determined to be important to the character of the landmark site. Standards for alterations shall achieve the purpose of the United States Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
- E. *Archaeological sites.* As a part of a request for site plan, subdivision, conditional use, certificate of appropriateness, demolition, or building permit approval for a project on a lot which available information indicates may have archaeological significance, the city shall assess the archaeological significance. Approval may be conditioned on the use of special archaeological excavation measures. These measures may include actions which minimize the destruction of archaeologically significant sites; avoid the introduction of visible, audible, or atmospheric elements that are out of character with the property or significantly alter its setting; and limit activities which could result in the deterioration of archaeologically significant features.

(Code 1995, § 14-2-71; Ord. No. 2331, 3-7-2000; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-3-36), 8-4-2020)

14-3-37. Certificate of appropriateness.

- A. *When required.* Within a Historic Preservation Overlay (HPO) District, no new or existing structure, other than utilities but including accessory structures, shall be constructed, altered, demolished, restored, or relocated until a certificate of appropriateness has been approved in accordance with this section.
- B. *Activities exempt from certificate of appropriateness.*
 - 1. This section shall not be construed to regulate the construction, alteration, demolition, restoration, or relocation of interior portions of a structure as long as these actions would not impact the exterior of the structure, including the physical integrity of the structure as a whole.
 - 2. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior feature in a Historic Preservation Overlay (HPO) District which does not involve a change in design material or the outer appearance of the structure.
 - 3. Nothing in this section shall be construed to prevent the construction, alteration, demolition, restoration, or relocation of any feature which the building official certifies as required for public safety because of an unsafe or dangerous condition.
- C. *Issuance of permits.* A certificate of appropriateness must be issued in accordance with this section prior to the issuance of any building permit or any other permit required for the construction, alteration, demolition, restoration, or relocation of a structure other than utilities. The city shall require a certificate of appropriateness application to be filed and approved prior to approving a site plan, construction drawings, conditional use, modification of standards or variance associated with any construction, alteration, demolition, restoration, or relocation which requires a certificate of appropriateness.
- D. *Certificate of appropriateness review process.*
 - 1. *Application.* Any person desiring to construct, alter, demolish, restore, or relocate a structure which requires a certificate of appropriateness must submit to the department a fully completed official application form requesting the certificate.
 - 2. *Type of review.*
 - a. *Minor review.* Minor review shall be required for work that is deemed to have a minor impact on the exterior appearance of the structure and/or district, such as the construction, alteration, demolition, restoration, or relocation of the following:
 - i. Fences and gates;
 - ii. Awnings;
 - iii. Foundation skirting;
 - iv. Garage doors;
 - v. Accessory structures which are smaller than 100 square feet in size and are located in the rear yard; and
 - vi. Paving activities which are not subject to site plan review (see section 14-3-31) but are subject to district design standards; [and]
 - vii. The replacement of the following with same or like materials: steps, siding, roofs, doors, windows, driveways, and walkways.
 - b. *Major review.* Major review shall be required for work that is not deemed minor per subsection a above.

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3. *Review procedures.*
- a. *Pre-application meeting.* The applicant is encouraged to meet with the historic preservation planner to discuss the type of review and submittal requirements.
 - b. *Administrative review.* The historic preservation planner shall review the minor or major review application.
 - i. For minor reviews, the historic preservation planner shall approve, approve with conditions, or deny the application within 15 days from the date a complete application has been filed. Reasons for denials shall be stated, based upon the review criteria. If the historic preservation planner denies the application, the applicant may apply, in writing, within ten calendar days of the denial, for a major review.
 - ii. For major reviews, the department shall prepare a written recommendation which addresses the major review criteria and which recommends approval, denial, or approval with conditions. This report will be submitted to the historic preservation board (HPB).
 - c. *Historic preservation board review.* After a staff presentation and public hearing, the board shall act on the application. The board's public hearing will be held within 45 days from the date a complete application has been filed, and can be continued for up to 60 days by the HPB in order to obtain additional information. These time periods may be increased only if agreed to by the applicant. The board shall vote to approve, approve with conditions, or deny the application. Reasons shall be stated, based upon the review criteria. The board's decision shall become final after ten calendar days unless applicant files an appeal in accordance with section 14-3-21.
4. *Review criteria.* The proposed structural construction, alteration, demolition, restoration, or relocation shall be reviewed to determine if it is compatible with the design standards for the particular landmark and/or Historic Preservation Overlay (HPO) District. Construction, alteration, demolition, restoration, or relocation of historic landmarks in the form-based code area shall be consistent with the standards of chapter 14-5. All reviews, recommendations, and decisions regarding the application shall specifically address and list all facts and considerations which support or refute whether the proposed structural construction, alteration, demolition, restoration, or relocation is compatible with the design standards of the particular HPO district or designated landmark.
- E. *Effect of approval.* If the application is approved, the certificate of appropriateness shall be issued. If the application is approved with conditions, the certificate of appropriateness shall be issued with the conditions noted and the applicant must meet all such conditions.
- F. *Time period for completion of work.* The requested work must be completed within 12 months of issuance of a certificate of appropriateness, otherwise the certificate shall expire. If the requested work is associated with a site plan reviewed through the development review process, the 12 months shall begin from the date of construction drawings approval. The historic preservation board may extend a time period for up to three months, not to exceed 15 months total, based upon suitable hardship. An additional time extension of up to nine months, not to exceed 24 months total, may be granted by the city commission if the extension is based upon a suitable hardship.
- G. *Changes in approved certificate of appropriateness.* Any change in the approved work after issuance of a certificate of appropriateness shall be reviewed by the department. If the department finds that the proposed change does not materially affect the character of the structure in the context of the design standards of the particular historic landmark or Historic Preservation Overlay (HPO) District, the department may issue a supplementary certificate of appropriateness authorizing the change. If the department denies the change, the applicant may apply for a new certificate of appropriateness.
- H. *Demolition and/or relocation of historic structures.*

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1. *Certificate of appropriateness required.* A certificate of appropriateness shall be required for the demolition or relocation of structures in the following instances:
 - a. Structures in an existing Historic Preservation Overlay (HPO) District.
 - b. Structures that are at least 50 years old and located in a proposed HPO district, unless the petition for district designation was submitted more than two years prior.
 - c. Historic structures within a National Register District, individually listed on the National Register, or designated a National Landmark.
 - d. Historic structures within a local historic district or individually listed on the local register.
 - e. Structures outside of HPO districts and not designated historic landmarks but meeting the criteria for designation listed in section 14-3-36.C.
 2. *Required review.* Requests for demolitions shall go through major review to obtain a certificate of appropriateness.
 3. *Waiting period.* If a certificate of appropriateness is approved, such certificate must include the condition that the applicant must wait for a total period of 180 days from the time the certificate is issued, before the applicant may perform such demolition or relocation in accordance with this section. The wait period shall be 60 days for historic structures outside an HPO district and not designated historic landmarks.

During the waiting period, the historic preservation board (HPB) may work with the owner or person in charge of the relevant structure(s) and with any other parties to find a means of preserving the structure(s). During this period, the HPB may enter into negotiations with the owner for the acquisition by gift, purchase, exchange, or otherwise of the property or any interest therein. Nothing in this section shall be construed to authorize the HPB to obligate the city in the acquisition of property.
 4. *Extension of waiting period.* The waiting period may be extended for up to an additional 180 days should the city commission determine, upon recommendation of the HPB, that:
 - a. There is a program or project underway which could result in public or private acquisition of the property involving the preservation and/or restoration of such property; and
 - b. There is a reasonable basis for believing that the program or project may be successful
 5. *Reduction/waiver of waiting period.* The HPB (or commission upon appeal) is authorized to reduce or waive the waiting period if:
 - a. The applicant agrees to perform the proposed demolition or relocation in accordance with such conditions as the HPB or city commission may require.
 - b. The wait period would incur extreme hardship on the owner, not including loss of profit.
 - c. The building official determines that the structure is an imminent hazard to public safety and that repairs would be impractical.
 6. *General demolition criteria.* In reviewing an application for the demolition of a structure, the following shall be considered:
 - a. The historical significance of the structure, giving consideration to the relationship with the overall ensemble of structures in the HPO district and the importance of the structure to the integrity of the HPO district;
 - b. The number of remaining examples of structures of similar significance in the HPO district;

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- c. The difficulty or impossibility of reproducing such a structure because of its design, texture, materials, details, size, scale, and/or uniqueness of location;
 - d. The plans for future utilization of the site and the effect those plans would have on the historical character of the HPO district;
 - e. The reasonable measures that can be taken to save the structure from further deterioration, collapse, arson, vandalism or neglect, including, but not limited to, relocation;
 - f. Any measures that have been taken to prevent the structure from deteriorating, such as performance of normal maintenance and repairs, provision of normal tenant improvements, and willful or negligent deterioration;
 - g. The determination by the director that the structure is an imminent hazard to public safety and that repairs would be impractical; and
 - h. The economic hardship which would be imposed on the owner if the application for certificate of appropriateness is denied.
7. *Determination of structural stability and safety.* If the building official makes a determination as to a structure's stability and safeness, that determination may only be challenged by structural calculations furnished by a civil engineer licensed by the State of Florida. Structural calculations shall be provided at the property owner's cost. These calculations may be reviewed by the building official to consider their validity to modify the prior determination made.
8. *Economic hardship.* As discussed in subsection H.6.h above, economic hardship shall be considered if requested by the applicant in writing at the time the application for demolition is submitted to the department. The applicant must demonstrate that the property cannot realize a reasonable and beneficial use of or economic return from the property, unless the structure is a non-income producing residential structure or is an accessory structure. Decisions on economic hardship shall be based on the following information and the applicant shall provide the materials necessary to make these decisions:
- a. Whether the applicant knew or should have known of the HPO district designation at the time of acquisition and whether the designation occurred after the acquisition.
 - b. The economic return from the property. With respect to economic return, the following may be considered:
 - i. Real estate taxes for the previous four years and the assessed value of land and improvements thereon according to the two most recent valuations;
 - ii. The amount paid for the property and the date of the purchase of the property or other means of acquisition of titles, such as a gift or inheritance, and the party from whom the property was purchased or otherwise acquired;
 - iii. The fair market value of the property immediately prior to the HPO district designation and the fair market value of the property at the time of the application for certificate of appropriateness is filed;
 - iv. The remaining balance on any mortgages or other financing secured by the property and the annual debt service, if any, for the previous two years;
 - v. All appraisals obtained within the previous two years by the property owner/applicant in connection with the purchase, financing, or ownership of the property;
 - vi. Any state or federal income tax returns on or relating to the property for the past two years;

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- vii. The form of ownership of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other;
 - viii. Annual gross income for the property for the previous two years;
 - ix. Itemized operating and maintenance expenses for the previous two years (including proof that adequate and competent management procedures were followed);
 - x. Depreciation deduction and annual cash flow, if any, for the previous two years before and after debt service, if any, during the same period;
 - xi. Proof that efforts have been made by the owner to obtain a reasonable return on his or her investment based on previous service; and
 - xii. Any other information considered necessary to make a determination as to whether the property does yield or may yield a reasonable return to the owners.
- c. The marketability or saleability of the property considered in relation to any listing of the property for sale or rent, price asked, and offers received, if any, within the previous two years, including testimony and relevant documents regarding:
 - i. Any real estate broker or firm engaged to sell or lease the property;
 - ii. Reasonableness of the price or rent sought by the applicant; and
 - iii. Any advertisements placed for the sale or rent of the property.
 - d. The feasibility of adaptive or alternative uses for the property that can earn a reasonable economic return for the property as considered in relation to the following:
 - i. A report from a civil engineer or architect licensed by the State of Florida with experience in rehabilitation, as to the structural soundness of any structures on the property and their suitability for rehabilitation;
 - ii. An estimate of the cost of construction, alteration, demolition, restoration, or relocation, and an estimate of any additional cost that would be incurred to comply with the recommendation and decision concerning the appropriateness of proposed alterations;
 - iii. The estimated market value of the property in the current condition, after completion of the demolition, after completion of the proposed construction, and after renovation of the existing property for continued use;
 - iv. The testimony of an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or use of existing structures on the property;
 - v. Proof of the financial ability to complete the replacement project; and
 - vi. The current fair market value of the property, as determined by at least two independent appraisers certified by the state.
 - e. Any other information relevant to demonstrate economic hardship or the lack of such hardship.
- 9. *Building permit.* Prior to receiving a demolition permit for proposed demolition which received a certificate of appropriateness following a major review, the applicant shall be required to obtain a building permit for new development based on the requirements of this section.
 - 10. *Extreme conditions.* In the event of damage to any structure within an HPO district due to natural or man-made disaster, the property owner shall physically secure the structure from incurring further damage (i.e., covering open roofs with tarps) within ten calendar days of the disaster. A certificate of

appropriateness for the repairs to such damage shall be applied for within three months of the disaster. The time period for completion of repairs shall follow that outlined in subsection F above. If no certificate of appropriateness is required, all repairs shall be performed within six months of the disaster, with further extensions authorized by the historic preservation board.

11. *Code enforcement.* For repairs required by code enforcement for violation of section 14-3-35.I above, the following shall apply:
- a. For repairs requiring a major or minor certificate of appropriateness, a certificate of appropriateness shall be applied for within 30 days of notice of violation issuance. A building permit shall be applied for within 30 days of certificate issuance. Should the building permit expire, the certificate shall also expire. If no building permit is required, repair work shall be completed within six months of certificate issuance or the certificate shall expire, unless a different time limit is outlined in the issued notice of violation.
 - b. For repairs not requiring a certificate of appropriateness (i.e., painting), such repair work shall be completed within the time frame stated in the code enforcement notice of violation issued.
 - c. If the above requirements are not met or the issued certificate expires, code enforcement action shall proceed.

(Code 1995, § 14-2-46; Ord. No. 2331, 3-7-2000; Ord. No. 2545, 2-8-2005; Ord. No. 2649, 6-12-2007; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-3-37), 8-4-2020)

14-3-38. Reserved.

14-3-39. Reserved.

PART VI. SUBDIVISION REVIEW PROCEDURES

14-3-40. Required review type.

Subdivisions are hereby classified and reviewed as follows:

- A. Major subdivisions, as defined in chapter 14-2, require preliminary plat, final plat, and, where applicable, site plan and construction drawings approval.
- B. Minor subdivisions, as defined in chapter 14-2, only require final plat approval.

(Code 1995, § 14-2-131; Ord. No. 3034, § 1(14-3-40), 8-4-2020)

14-3-41. Preliminary plat.

A. Submittal requirements.

1. *Application.* Applications shall be submitted to the department on forms provided for that purpose and in the quantity specified thereon. The application shall be accompanied by the fee specified in the development review fee schedule and the materials listed below.
2. *Materials.* Preliminary plats and accompanying materials shall be prepared by the appropriate combination of qualified professionals, which means an architect or landscape architect licensed by the State of Florida, a civil engineer licensed by the State of Florida, and/or a registered surveyor, and shall

show the following information (on the plat or supporting document where so specified) for the plat area and, where indicated below, for the other areas specified:

- a. *Proposed name.* The proposed name shall not duplicate the name of any plat previously recorded within Osceola County.
- b. *Project ownership.*
 - i. Name, address, telephone number, and email address of the legal property owner(s), or agent, and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference.
 - ii. Existing covenants on the property, if any. (Supporting document.)
- c. *Adjacent ownership.* Names of adjoining property owners from the latest assessment rolls, including property owners adjacent to public rights-of-way adjacent to the subdivision.
- d. *Adjacent subdivision.* Location and name of abutting subdivisions.
- e. *Professional firms.* Name, address, telephone number, and email address of the professional person(s) responsible for subdivision design, for the design of public improvements, surveys and any environmental reports. In each case the professional shall have sufficient credentials to satisfy the department. (Supporting document.)
- f. *Title block.* Graphic scale, north arrow and date.
- g. *Description.* Legal description of the property.
- h. *Encumbrances.* Location of existing and proposed property lines and the location of existing easements, rights-of-way and watercourses on or adjacent to the subdivision.
- i. *Topography.* A map, at the same scale as the map showing the lot layout, showing the existing topography at one-foot intervals for the subdivision and all property within 100 feet of the subdivision.
- j. *Circulation.* Location, width, names, and functional classification of all existing or platted streets or other public ways within or immediately adjacent to the subdivision plus all proposed streets. The location and width of all existing and proposed sidewalks and pedestrian-bicycle paths within or immediately adjacent to the subdivision shall also be shown.
- k. *Existing utilities.* Location, sizes, elevations and slopes of existing sewers, water mains, culverts and other underground structures within the subdivision and immediately adjacent thereto, utility poles on or immediately adjacent to the site and utility rights-of-way.
- l. *Proposed utilities.* Proposals for connection with existing cable TV, electric and telephone systems, public water and sewage systems. Appropriate covenants, easements and other restrictions shall be shown.
- m. *Storm water management plan.* Preliminary provisions for collecting and discharging surface water drainage.
- n. *Soils.* Soil types as indicated by the most recent soil survey of Osceola County Area, Florida, including an identification of hydric soils pursuant to the survey. A more detailed soil survey as approved by the city may be used.
- o. *Water table depth.* An indication of the average depth to the wet season high water table, indicating the data source.
- p. *Vegetation.*

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- i. A tree survey showing all existing trees that are four inches or greater diameter at breast height (DBH).
 - ii. Note on the tree survey which of those trees are to be removed.
 - iii. Provide a table on the tree survey noting how many existing trees, by species, are to remain and to be removed. The table shall also include the DBH of trees.
 - iv. Show the type and general location of existing vegetative cover, as classified by the "Florida Land Cover Classification System" (FLCCS), to be removed.
- q. *Environmentally sensitive lands.*
- i. The location of any portions of the subdivision in the floodway and any portions which are part of areas of special flood hazard as identified by the Federal Emergency Management Agency (FEMA) in its most recent flood hazard boundary map.
 - ii. Reports required to comply with section 14-9-4 (Early Land Preparation and Site Improvement Permits). The city may charge the applicant a reasonable fee for the cost of reviewing these reports and for on-site inspections to determine compliance with the reports as approved subject to conditions and modifications.
- c[r]. *Conceptual landscape plan.* This plan shall show the type and location of natural vegetation to be preserved, the location of proposed landscape areas, and the proposed landscaping concept (including the location of proposed walls, berms, hedges, and trees) in conformance with chapter 14-8.
- d[s]. *Lots.* Location, dimensions and areas of all proposed or existing lots.
- e[t]. *Setbacks.* All setback lines based upon the applicable zoning district.
- f[u]. *Recreational and public uses.* The approximate location, dimensions and area of all parcels of land proposed to be set aside for public use or private recreational or park use. Land to be dedicated to the city shall be so indicated. See section 14-10-11 and chapter 28, article III, division 2 for recreation impact fee policy in relation to land dedication.
- g[v]. *Common areas.* Proposed ownership and maintenance of any such areas. (Supporting document.)
- h[w]. *Other holdings.* Whenever the preliminary plat covers only a part of an applicant's contiguous holdings, the applicant shall submit the proposed street system of the subject plat together with an indication of the probable future street, utility and stormwater system of the remaining portion of the tract.
- i[x]. *Phasing.* If the plat is to be developed in phases, such phasing shall be shown.
- j[y]. *Vicinity map.* Showing streets and other general development of the surrounding area.
- k[z]. *Survey.* Sufficient data acceptable to the city engineer to determine readily the location, bearing and length of all lines, and to reproduce such lines upon the ground; the location of all proposed monuments in accordance with F.S. ch. 177.
- l[aa]. *Land use.* Indication of the proposed use of any lot other than a single family detached lot, e.g. commercial, industrial, institutional, duplex, triplex, or multiple family housing development. In addition, the existing land uses for properties adjacent to the subdivision should be indicated.
- m[bb]. *Block and lot numbers.* Blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the additions. All lots in each block shall

be consecutively numbered. Tracts shall be lettered in alphabetical order. If blocks are numbered or lettered, tracts shall be lettered in alphabetical order within each block.

B. *Review process.*

1. *Pre-application meeting.* Before preparing the preliminary plat for a subdivision, the applicant should discuss with the city staff the procedures and requirements of this Code.
2. *Development review committee (DRC).* The DRC shall review the preliminary plat.

C. *Effect of preliminary plat approval.* Approval of the preliminary plat shall constitute authorization to prepare and submit a final plat. Subsequent to preliminary plat approval, the developer may apply for an early land preparation permit in accordance with section 14-9-4, and upon receipt of such permit, may commence grading to the elevations required by the approved final plat and subdivision construction drawings.

D. *Effective period of preliminary plat approval.* A preliminary plat shall be effective for a period of 12 months, at the end of which time final plat approval on the subdivision must have been obtained from the city commission, although the plat need not yet be signed and filed with the Osceola County Clerk of the Circuit Court. Any plat not receiving final approval within the period of time set forth herein shall be null and void, and the developer shall be required to resubmit a new plat for preliminary approval, subject to any new Land Development Code regulations. Prior to the expiration date, and based upon suitable hardship, the director may extend the effective period for up to an additional nine months.

E. *Phasing.* An applicant can choose to submit a preliminary plat for the first phase of a multiphase subdivision or use the standard preliminary plat procedures set above.

F. *Amendment.* A preliminary plat shall be amended by the same procedure outlined above.

(Code 1995, §§ 14-2-131, 14-2-132; Ord. No. 3034, § 1(14-3-41), 8-4-2020)

14-3-42. Final plat.

A. *Final plat submittal requirements.* The applicant shall submit the following materials:

1. The final subdivision plat (major or minor), prepared by a land surveyor licensed by the State of Florida, shall be presented on reproducible Mylar at the same scale and consistent with the preliminary plat (including any conditions of approval). The final subdivision plat must be accompanied by the appropriate fee specified in the development review fee schedule and must include the following in addition to items required by F.S. ch. 177:
 - a. Notation of any covenants and self-imposed restrictions, and locations of any building setback lines proposed to be established in this manner, if required by the city in accordance with these regulations.
 - b. Lots numbered as approved by the staff.
2. Public improvement guarantees (see section 14-3-43 for requirements).
3. Property tax payments/assessments. The final plat shall be accompanied by information verifying that all property taxes and assessments have been paid to date.
4. Construction drawings (where applicable).
5. All formal irrevocable offers of dedication to the public of all public streets, local government uses, utilities, parks and easements in a form approved by the city attorney.
6. Performance bond signed by a local agent, if required, in a form satisfactory to the city attorney and in an amount established by the city commission. The bond shall include a provision that the principal of

the bond shall comply with all the terms of the resolution of final subdivision plat approval as determined by the city commission and shall include, but not be limited to, the performance of all required subdivision and off-site improvements, and that all improvements and land included in the irrevocable offer of dedication shall be dedicated to the city free and clear of all liens and encumbrances on the premises.

B. *Final plat review procedures.*

1. *Staff review.* The development review committee (DRC) shall review the application and make a recommendation to the city commission.
2. *City commission.* Upon receipt of the recommendation from the DRC, the city commission shall review the application in accordance with the provisions of this Code.

C. *Final plat review standards.* No plat shall be approved unless the applicant demonstrates:

1. That the plat complies with the requirements of the state statutes, this Code and any previously approved development orders. Subdivisions that have received preliminary plat approval shall be exempt from any subsequent amendments to this chapter regarding platting; provided, that final plat approval is obtained within the period specified in section 14-3-41.D;
2. That all required improvements have been completed and installed and a certificate of completion issued therefor, or where the city commission may permit, the developer has posted adequate performance security in accordance with section 14-3-43.A (Improvements and Guarantees), and has received approval of construction drawings, in accordance with section 14-3-32; and
3. That all required fees or charges have been paid, dedications accepted, and any required escrow arrangements have been established.

D. *Signing the plat.*

1. When a bond or other improvement guarantees are required, the mayor and city manager shall endorse approval on the plat after the bond or other improvement guarantees have been approved.
2. Improvement installation. When installation of improvements is required, the mayor and city manager shall endorse approval on the plat only after all conditions of the approval have been satisfied and all improvements satisfactorily completed. There shall be written evidence that such improvements have been installed in a manner satisfactory to the city as shown by a certificate signed by the developer's engineer and approved by the city engineer, and from the city attorney that the necessary dedication of public lands and public improvements has been accomplished.

E. *Recording the plat.*

1. The mayor will sign the reproducible Mylar original of the subdivision plat. The plat will be returned to the applicant's engineer.
2. It shall be the responsibility of the applicant to file the plat with the Osceola County Clerk of the Circuit Court within seven days of the date of signature.
3. After recording, the applicant shall return three copies of the recorded plat to the city.
4. There shall be compliance with all requirements of F.S. ch. 177.

F. *Sectionalizing or phasing.* Prior to granting final approval of a subdivision plat, the city commission may permit the plat to be divided into two or more sections and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plat. The city commission may require that the performance bond or other improvement guarantees be in such amount as commensurate with the section or sections of the plat to be filed and may defer the remaining required performance guarantee principal amount until the remaining sections of the plat are offered for filing. In the

event of approval of sectionalizing, the entire approved subdivision plat and construction drawings including all sections shall be filed within 90 days after date of final approval with the city engineer's office and such sections as have been authorized by the city commission shall be filed with the Osceola County Clerk of the Circuit Court. Such sections must contain at least ten percent of the total number of lots contained in the approved plat. The approval of all remaining sections not filed with the Osceola County Clerk of the Circuit Court shall automatically expire unless such sections have been approved for filing by the city commission, all fees paid, all instruments and offers of dedications submitted and performance guarantees approved and actually filed with the Osceola County Clerk of the Circuit Court within three years of the date of final subdivision approval of the subdivision plat. Note: In addition to these requirements, the applicant must meet the requirements of part VIII of this chapter (Concurrency Management) relative to preservation of the concurrency public facilities capacity reservation agreement.

- G. *Consumer protection.* No building permit or certificate of occupancy shall be granted or issued if a developer or the authorized agent have violated any federal, state or local law pertaining to consumer protection of real estate land sales, promotion or practices, or any applicable conflicts-of-interest legislation with respect to the lot or parcel of land that is the subject of the permit or certificate until so ordered by a court of competent jurisdiction.
- H. *Construction drawings.* Construction drawings shall be prepared for all required improvements by the appropriate combination of qualified professionals, which means a registered architect, landscape architect and civil engineer licensed by the State of Florida. The following shall be shown:
1. *Streets.* Profiles showing existing and proposed elevations along centerlines of all roads. Where a proposed road intersects an existing road or roads, the elevation along the centerline of the existing road or roads within 100 feet of the intersection shall be shown. Radii of all curves, lengths of tangents, and central angles on all streets shall be shown. Plans and profiles showing the locations and typical cross section of street pavements, including curbs and gutters, sidewalks, drainage easements, servitudes, rights-of-way, manholes, and catch basins.
 2. *Other subdivision improvements.* The locations of street trees, pavement markings, traffic control signs, and street signs; the location and design of bikeways, pedestrian paths, agricultural buffers, and railroad buffers; the street lighting and electrical plan; the location and design of existing and proposed sanitary sewers, stormwater drains, swales, stormwater management ponds, and fire hydrants showing connections to any existing or proposed utility system; and exact location and design of all water, gas or other underground utilities or structures.
 3. *Early land preparation plan.* An early land preparation plan in accordance with section 14-9-4.
 4. *Landscape plan.* A landscape plan showing conformance with chapter 14-8, and containing the following information:
 - a. Location of all existing trees to be preserved;
 - b. The dimensions of the landscape elements of the proposed development including the location of plant material, surface material, landscape features and furnishings;
 - c. Drawings shall be drawn to scale using the same scale as the preliminary plat;
 - d. Identification of the species, size and location of plant materials. A plant list shall be included on the drawing and shall include the scientific name, the common name, the installed size and height, topsoil depth for ground cover, mulching material and depth for shrub areas, etc. A surface materials list shall be included on the drawing and contain the materials used such as asphalt, concrete, stone, mulch, and the like, with a description of each. All planter walls and other landscape furnishings shall be described through drawing and specifications to illustrate their construction or method of attachment. All existing trees 1½ inches in diameter at breast height (DBH) to be removed or retained shall be so noted.

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5. *Irrigation plan.* An irrigation plan showing compliance with chapter 14-8.
 6. *Land preparation plan.* Specifications and references required by the city construction standards and specifications relative to the site grading plan for the entire subdivision.
 7. *Design professionals.* Title, name, address, telephone number, email address and signature of the registered professionals responsible for the above.

(Code 1995, §§ 14-2-131, 14-2-132; Ord. No. 3034, § 1(14-3-42), 8-4-2020)

14-3-43. Subdivision site improvements.

A. Improvements and guarantees.

1. *Completion of improvements.* Before the plat is signed by the mayor, all applicants shall be required to complete, in accordance with the city commission's decision and to the satisfaction of the city engineer, all the street, sewer and other improvements, including lot improvements on the individual lots of the subdivision as required in this title, specified in the final subdivision plat, and as approved by the city commission, and to dedicate the public improvements to the city free and clear of all liens and encumbrances on the property and public improvements thus dedicated.
2. *Guarantees.* In lieu of requiring the completion of all improvements prior to final plat approval, the city may, at its discretion, enter into a contract with the subdivider whereby the subdivider shall guarantee to complete all improvements required by this title, or otherwise specified by the city commission, in a manner satisfactory to the commission. The form and substance of this contract shall be approved by the city attorney prior to acceptance by the city commission. To secure this contract, the subdivider shall provide, subject to the approval of the city commission, one of the following guarantees:
 - a. *Security bond.* The subdivider shall obtain a security bond from a surety bonding company authorized to do business in the state. The bond shall be payable to the city and shall be in an amount sufficient to cover the entire cost, as estimated by the subdivider and approved by the city engineer, of installing all contracted improvements. The duration of the bond shall be until such time as the improvements are accepted by the city in accordance with B below.
 - b. *Cash.* The subdivider shall deposit cash, or other instrument readily convertible into cash at face value, either with the city or in escrow with a bank. The use of any instrument other than cash and, in the case of an escrow account, the bank with which the funds are to be deposited shall be subject to the approval of the city commission. The amount of the deposit shall be at least equal to the cost, as estimated by the subdivider and approved by the city engineer, of installing all required improvements. In the case of an escrow account, the subdivider shall file with the city commission an agreement in a form approved by the city between the financial bank and himself guaranteeing the following:
 - i. That the funds of the escrow account shall be held in trust until released by the city commission and may not be used or pledged by the subdivider as security in any other matter during that period;
 - ii. And that in the case of a failure on the part of the subdivider to complete the improvements, then the bank shall immediately make the funds in the account available to the city for use in the completion of those improvements.
 - c. *Property.* The subdivider may offer as a guarantee land or other property, including corporate stocks or other bonds. The value of any such property shall be at least equal to the cost, as estimated by the subdivider and approved by the city engineer, of the installation of all contracted improvements. The county assessor shall establish the value of any property so used

and, in so doing, shall take into account the likelihood of a decline in the value of the property during the guarantee period. The city commission shall retain the right to reject the use of any property when the value of such property is sufficiently unstable, when it believes that the property will be unusually difficult to sell, or for other reasons such as will inhibit the city commission from exchanging the property for a sufficient amount of money to complete the required improvements. When property is offered as an improvement guarantee, the subdivider shall:

- i. Execute an agreement with the trustee, when it is not the city, instructing the trustee to release the property to the city in the case of default. The agreement shall also state that the property may be released only upon consent of the city commission. The agreement shall be placed on file with the city manager and recorded among the public records of Osceola County, Florida.
 - ii. File with the city commission an affidavit affirming that the property to be used as a guarantee is free and clear of any encumbrances or liens at the time it is to be put in trust.
 - iii. Execute and file with the city commission and record among the public records of Osceola County, Florida, an agreement stating that the property to be placed in trust as an improvement guarantee will not be used for any other purpose, or pledged as a security in any other matter, until it is released by the city commission.
- d. *Letter of credit.* The subdivider shall provide, from a bank or other reputable institution or individual subject to the approval of the city commission, a letter of credit. This letter shall be deposited with the city manager and shall certify the following:
 - i. That the creditor does guarantee funds in an amount equal to the cost, as estimated by the subdivider and approved by the city engineer, of completing all required improvements.
 - ii. That, in the case of failure on the part of the subdivider to complete the specified improvements within the required time period, the creditor shall pay to the city immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.
 - iii. That this letter of credit may not be withdrawn or reduced in amount until released by the city commission.
- 3. *Time limits.* Prior to the granting of final plat approval, the subdivider and the city commission shall agree upon a deadline for the completion of all required improvements, such deadline may not exceed two years from the date of final plat approval. The city manager (or designee thereof) shall have the power to extend the deadline for three additional months where the subdivider can present substantial reason for doing so, with the right to appeal this decision to the city commission. The city commission shall have the power to extend that deadline for nine additional months where the subdivider can present substantial reason for doing so. This time limit does not supersede the concurrency time limits of section 14-3-58.B.
- 4. *Failure to complete improvements.* If any portion of the required improvements shall fail to be accepted for dedication per subsection B below within the allocated time period, either for reason of incompleteness or for reason of substandard construction, then the city commission shall take one of the following actions:
 - a. Where improvements have been guaranteed under subsection A.2.a of this section, preliminary plat approval shall be revoked.
 - b. Where improvements have been guaranteed under subsection A.2.a, b, c or d of this section, the city commission shall declare whatever security has been pledged as a guarantee to be forfeited.

Where the city is not already in possession of said guarantee, it shall immediately take the actions necessary to obtain it. Upon receipt of these securities, the city commission shall use them, or receipts from their sale if that be necessary to finance the completion of contracted improvements or the rebuilding of such improvements to the proper specifications. Unused portions of these securities shall be returned to the subdivider, bonding company or crediting institution, as is appropriate.

B. *Inspection and certification.*

1. *Inspection.* The city engineer shall regularly inspect for defects in the construction of required improvements. Upon completion of these improvements, the city engineer shall file with the city commission a statement either certifying that the improvements have been completed in the specific manner or listing the defects in those improvements.
 - a. Upon completion of the improvements, the subdivider shall file with the city a statement stipulating the following:
 - i. That all required improvements are complete;
 - ii. That these improvements are in compliance with the minimum standards specified by the city for their construction;
 - iii. That the subdivider knows of no defects from any cause in those improvements; and
 - iv. That the improvements are free and clear of any encumbrance or lien.
 - b. The applicant shall also submit the following:
 - i. Two sets of as-built drawings showing field dimensions to all improvements installed in the subdivision and certified correct by a Florida-registered engineer.
 - ii. A letter from a Florida-registered engineer stating that all required improvements have been installed in accordance with city specifications and the lines and grades indicated on the as built drawings.
 - iii. A letter from a Florida-registered surveyor stating that all permanent reference monuments (PRMs) and permanent control points (PCMs) [(PCPs)] have been set in accordance with Florida law.
2. *Certification.* If the city engineer has certified that the contracted improvements are complete and free from defect, then upon receipt of the other statements and agreements detailed above, the city shall accept the dedication of those improvements which are public improvements. The city may, at its discretion, accept the dedication of any portion of the required public improvements, provided that all statements and agreements specified above have been received for that portion of the improvements.

C. *Reduction of guarantees.*

1. *Authorized.* In those cases where improvement guarantees have been made under subsection A.2 above, the amount of the guarantees may be reduced upon acceptance, in compliance with subsection B above, of the dedication of a portion of the required public improvements or in the case of private improvements, upon the certification by the city engineer in subsection B.2 above. The amount of the reduction shall not exceed the percentage that the public improvements just accepted for dedication or the private improvements just certified as complete make up of all originally required improvements. In no case, however, shall the guarantee be reduced less than 15 percent of the original amount.

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2. *Release of guarantee.* Upon acceptance of the dedication of the final portion of public improvements and the certification of any private improvements, the city shall authorize the release of the remaining portion of the improvement guarantee.

D. *Maintenance of improvements.*

1. The developer shall be required to maintain all public improvements until final acceptance of the improvements by the city. If there are any certificates of occupancy on a street dedicated to the city, the city may on 12 hours' notice effect emergency repairs and charge same to applicant.
2. The developer shall be required to file with the city, at the city's discretion, either cash, a maintenance bond or a letter of credit from a bank or other financial institution approved by the city manager, and in a form satisfactory to the city attorney, prior to dedication, in an amount considered adequate by the city commission, but not less than ten percent of construction costs, in order to assure the satisfactory condition of the required public improvements for a period of one year after the date of their acceptance by the city commission and dedication of same to the city.

E. *Issuance of building permits and certificates of occupancy.*

1. *Performance bond.* Where a performance bond has been required for a subdivision, building permits may be issued for up to 90 percent of the lots in the subdivision or phase of the subdivision; however, no certificate of occupancy for any building in the subdivision shall be issued prior to the city engineer certifying completion of the improvements in accordance with this section, dedication of public improvements to the city and formal acceptance by the city commission of public improvements, as required in the city commission's final approval of the subdivision plat.
2. *Adequate access.* The extent of street improvement shall be adequate for vehicular access by the prospective occupant and by police and fire equipment prior to the issuance of any building permit. Such vehicular access shall have a surface and subgrade determined by the city engineer as being capable of supporting the imposed loads of firefighting apparatus.
3. *Temporary water supply.* During construction, when combustibles are brought to a lot in such quantities as deemed hazardous by the fire department, a temporary water supply system acceptable to the fire department shall be provided and maintained.
4. *Ten percent holdback.* No building permit shall be issued for the final ten percent of lots in a subdivision, or if ten percent is less than two lots, for the final two lots of a subdivision, until all improvements required by the city commission for the plat have been certified by the city engineer as being fully completed in accordance with this section and all public improvements have been dedicated to the city.
5. *Model homes.* For the purpose of allowing the early construction of model homes in a subdivision where completion of improvements is required in lieu of a bond, the director in ~~his/her~~their discretion, may permit a portion of a subdivision involving up to ten percent but no more than five lots ~~per~~ developer; provided, however, that no certificate of occupancy shall be issued until final plat approval.

- F. *Sale of lots.* No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the commission, in accordance with the provisions of these regulations, and filed with the Osceola County Clerk of the Circuit Court.

(Code 1995, § 14-2-205; Ord. No. 2038, 12-20-1994; Ord. No. 2674, 3-11-2008; Ord. No. 3034, § 1(14-3-43), 8-4-2020)

14-3-44. Resubdivision.

- A. *Procedures for resubdivision.* For any change of an approved or recorded subdivision plat, if such change affects any street layout shown on such map or area dedicated for public use, such parcel shall be approved by the city commission by the same procedure and regulations as for a subdivision.
- B. *Procedure for subdivision where future resubdivision is indicated.* Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into small building sites, the city commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

(Code 1995, § 14-2-204; Ord. No. 3034, § 1(14-3-44), 8-4-2020)

14-3-45. Vacation of plats.

- A. Any plat or part thereof may be vacated by the owner of the premises, at any time before the sale of any lot therein, or the opening of any streets by following procedures outlined in F.S. § 177.101, and filing a written instrument to which a copy of the plat is attached, declaring the same to be vacated.
- B. Such an instrument shall be approved by the city commission in the same manner as plats. The city commission may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements or streets.
- C. Such an instrument shall be executed or approved, and recorded or filed, in like manner as plats; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets and public grounds, and all dedications laid out or described in such plat.
- D. When lots have been sold, the plat may be vacated in the manner herein provided by all the owners of lots in such plat joining in the execution of such writing.

(Code 1995, § 14-2-204; Ord. No. 3034, § 1(14-3-45), 8-4-2020)

14-3-46. Sale or exchange of portions of lots.

- A. *Purpose.* The sale or exchange of portions of lots to or between adjoining property owners is not considered a subdivision provided that the sale/exchange:
 - 1. Does not create additional lots;
 - 2. Does not create a flag lot;
 - 3. Does not cause a lot, structure, or site improvement to become nonconforming;
 - 4. Does not increase the extent of any pre-existing lot, structure, or site improvement nonconformity;
 - 5. Does not result in contiguous portions of a lot having different comprehensive plan future land use map designations;
 - 6. Does not result in contiguous portions of a lot having different zoning district categories;
 - 7. Does not increase or decrease the size of each impacted lot by more than ten percent or by more than 1,000 square feet;

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8. Does not change the location of an immediately preceding lot line location by a distance of more than ten percent of the immediately preceding lot width or by a distance of more than ten feet; and
 9. Does not result in a lot line location being changed twice in a ten-year period, unless the immediately preceding change was reflected on a valid subdivision plat recorded in the office of the Osceola County Clerk of the Circuit Court.
- B. *Review.* In order to determine if a sale or exchange requires subdivision plat approval, all sales or exchanges of portions of lots to or between adjoining property owners (which do not receive subdivision plat approval after the adoption of this ordinance) must be certified by the director as not requiring subdivision plat approval. No such certification shall occur until after the sale or exchange has been reviewed by the director and the city engineer.
- C. *Submittal requirements.* Information submitted for review shall include:
1. *Project ownership.*
 - a. Name, address, telephone number, and email address of legal owners, or agents, of the lots, and copies of all instruments conveying title to each impacted lot which have been recorded during the last ten years.
 - b. Existing covenants on the property, if any.
 - c. A title opinion of an attorney at law licensed in Florida or a certification by an abstractor or a title company showing the record title to the property being sold or exchanged. The title opinion or certification shall also show all easements of record and show all mortgages not satisfied or released of record nor otherwise terminated by law.
 2. *Description.* The existing and proposed legal description for each impacted lot.
 3. *Survey.* A survey prepared by a land surveyor licensed by the State of Florida which shows the following for the impacted lots: existing and proposed lot lines, all structures, all recorded easements, and all setback lines.
 4. *Surveyor data.* Data from a surveyor licensed by the State of Florida which shows the amount and percentage of change in the square footage of each impacted lot which would result from the transfer and the maximum distance change in lot line locations which would result from the transfer. In addition, the surveyor shall indicate the maximum percentage change in lot widths for the lots involved in the transfer.
 5. *Mortgagee consent.* Documentation suitable to the city showing the consent of any current mortgagees identified in C.1.c above to the sale or exchange.

(Code 1995, § 14-2-131; Ord. No. 3034, § 1(14-3-46), 8-4-2020)

14-3-47. Vacation and abandonment of rights-of-way and easements.

- A. *Purposes and methods.* The purposes of this section are to establish a uniform procedure to apply for the vacation and abandonment of city streets, alleys, special purpose easement and other nonfee interests of the city; to designate the departments of the city which shall be responsible for the processing of such applications; and to provide the methods and procedures for processing the applications. Application for vacating or abandoning ROW or easements may not be accepted if a similar application has been considered at any time within six months of the date the application is submitted.
- B. *Application form.*

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1. All requests for vacation and abandonment of city streets, alleys, special purpose easements and other nonfee interests which the city may have in real property shall be made in writing upon an application form which shall be furnished by the city and which shall require the following information:
 - a. The name and address of the applicant.
 - b. A general description of the street, alley, special purpose easement or other nonfee interest of the city which the applicant seeks to have abandoned and the location of same. Where possible, a legal description by metes and bounds shall be provided, which description shall be accompanied by a plat, map or drawing which also shows the general area involved and the location of the specific property interest to be abandoned.
 - c. The reason for the request to abandon.
 - d. The names and addresses of the owners and occupants of real property bounding and abutting the street, alley, special purpose easement or other nonfee interest of the city which the applicant seeks to have abandoned.
 - e. Such other relevant information as the city may require.
 2. The application shall be signed by the party or parties requesting same who shall verify same under oath that the information contained therein is true and correct.
- C. *Application fee.* If the application for abandonment pursuant to this section is submitted by a citizen, owner or lessee of adjoining or affected property, the application shall be accompanied by the applicable fee as prescribed by the development review fee schedule.
- D. *Review procedures for vacation of rights-of-way and easements.* The following procedures shall apply to all applications for vacating right-of-way or easements:
1. *Development review committee (DRC).* Upon receipt of a complete application and fee pursuant to this section, the DRC shall review the application for compliance with the requirements of this title. The director will notify the public utility companies that may be involved or concerned with the abandonment, giving them ten days to provide comments to the city. The DRC shall forward a recommendation to the planning advisory board.
 2. *Planning advisory board (PAB).* The PAB shall hold an advertised public hearing and report its recommendations or status on the application for abandonment to the city commission and shall specifically include in its report the recommendations of the DRC. See section 14-3-20 for advertisement and posting requirements.
 3. *City commission.* The city commission shall consider the aforesaid reports and recommendations on applications for vacation and abandonment of rights-of-way and/or easements, and shall, after an advertised public hearing and due consideration, either accept, modify or deny the recommendation in accordance with the best interests of the public. If by the acceptance, modification, or denial of the recommendation, a change in the land use of the comprehensive plan (district map) is required, or if the aforesaid action of the city commission necessitates a change in the existing property interests or rights, an ordinance setting forth the change shall be introduced as soon as possible.
- E. *Criteria for approving vacation of rights-of-way and easements.* The DRC, PAB and city commission shall consider the following when reviewing a request for vacating a public right-of-way or easement:
1. The right and interest in the right-of-way and/or easement subject to the application for abandonment from the standpoint of the benefit of the community as a whole;
 2. The effect of the right-of-way vacation on vehicular and pedestrian connectivity in the area; if existing streets are vacated alternative vehicular connections shall be provided;

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3. The length of the resulting blocks in the case of right-of-way vacation/abandonment;
 4. The need to rearrange streets and rights-of-way in order to secure a more regular and harmonious system for traffic circulation.
 5. The city shall ensure that street connectivity within the Multimodal Transportation District (MMTD) is not lost over time by prohibiting street vacations for public or private development uses unless a new street connection is provided elsewhere that will result in no net loss of connectivity.
- F. *Valuation/compensation.* All approved vacations and abandonments of city streets, alleys, special purpose easements and other nonfee interests whereby the property to be vacated or abandoned was acquired by gift, negotiation, sale and purchase or condemnation are conditioned upon compensation to the public interest for such vacation or abandonment of the fair market value of the subject property.

The director shall determine an approximate valuation, if necessary, of any street or right-of-way to be abandoned and the extent to which the public interest and general welfare of the community might be compensated by obtaining any alternate right-of-way or any monetary contribution for additional rights-of-way, or by any combination thereof, in exchange for the abandonment. Any monetary contribution which forms a part of the compensation to the public interest for such abandonment shall be expressly designated as such and any sums which shall be received by the city pursuant to these provisions shall be deposited in the city's local option gas tax revenue account. Any monetary contribution received from an abandonment of right-of-way in a designated community redevelopment area (CRA) shall be segregated from other funds within the right-of-way acquisition fund and shall be expended exclusively within the CRA.

(Code 1976, §§ 25-31—25-41; Code 1995, §§ 14-2-50—14-2-60; Ord. No. 3034, § 1(14-3-47), 8-4-2020)

14-3-48. Reserved.

14-3-49. Reserved.

PART VII. MODIFICATION OF STANDARDS AND VARIANCES

14-3-50. Modification of standards and lot size waivers.

- A. *Modification of standards.* It is recognized that because of the individual unique characteristics or circumstances of any given development, flexibility in the application of development requirements may be warranted in certain situations. Modifications from the standards provided in this Code may be requested by an applicant as part of the development review process. If an applicant requests multiple modifications, each modification shall be evaluated independently.
1. *Application.* All requests for modifications shall be submitted in writing with the application for development review on forms provided by the city. The request shall be approved or denied during development plan review and, if granted, shall be noted on the construction drawings, whichever is applicable.
 2. *Director modifications.* The director shall have the authority to grant limited modifications of up to ten percent of any dimensional requirements applicable to the site where it is determined that the proposed development meets the intent of the Code, the requested modification is the minimum necessary to allow reasonable development of the site and the requested modification is not injurious to the public health, safety and welfare.

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3. *Development review committee (DRC) modifications.* Modifications of more than ten percent but no more than 30 percent of a dimensional requirement, modifications of ten percent or less previously denied or referred to the DRC by the director, and modifications to non-dimensional design requirements shall be reviewed and approved by the DRC in accordance with the review criteria listed below. Changes of more than 30 percent of a dimensional requirement shall be processed as board of adjustment variances per section 14-3-51.
 4. *Prohibited modifications.* No modification shall be granted under this section for any of the following:
 - a. Use of land.
 - b. Development density.
 - c. Approved planned unit developments.
 - d. A reduction in sidewalk width that would result in a sidewalk with less than five feet clear space.
 - e. A reduction of a setback to less than five feet adjacent to a single family residential district.
 5. *Review criteria.* A modification of standards may be granted by the approving authority if it finds that strict application of the requirements of this Code is not warranted and that granting a modification will fulfill the intent of the Land Development Code (LDC). The approving authority shall apply all the following criteria, when applicable, to determine if the applicant has justified a request for a modification:
 - a. The request is within the parameters listed in 2 and 3 above.
 - b. The request is consistent with the comprehensive plan and generally consistent with the purpose of the LDC.
 - c. The proposed modification will not have a material negative impact on adjacent uses, or the applicant proposes to mitigate the negative impact to be created by the modification.
 - d. Compliance with the requirement is technically impractical or undesirable based on site conditions, or approval of the modification will result in superior design.
 - e. The applicant may provide other information in addition to that required by the city to justify a request for a modification and demonstrate that granting the proposed modification will fulfill the intent of the LDC and the Comprehensive Plan.
 6. *Additional requirements.*
 - a. The burden of presenting evidence sufficient to satisfy the applicable criteria set forth in this section, as well as the burden of persuasion on those issues, remains with the applicant seeking the modification.
 - b. The applicant may propose conditions to ensure that the use of the property to which the modification applies will be reasonably compatible with the surrounding properties, including visual screening.
 - c. As an exception to chapter 14-1, part III (Nonconformity), modifications may be granted even if nonconforming structures will be enlarged or altered as a result of the modification.
 - d. A granted modification and any conditions attached to it shall be entered on the face of or attached to the development order or permit and development plan.
 - e. A proposed change to an approved modification shall be added to the approved modification and considered in the aggregate. The total modification (approved modification plus proposed change) shall determine the approving authority per subsections 2 and 3, above.

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- B. *Lot size waivers.* When a final plat for a minor subdivision is submitted, waivers may be requested to the zoning district lot area, width, and depth requirements in accordance with the following. The applicant shall demonstrate that the lot can meet the required parking, access, buffering, and stormwater criteria in this title if waiver is granted.
1. *Lot size waivers.* Lot size waivers shall stay within the following parameters. Additionally, in no case shall a lot have less than 30 feet of frontage at the property line.
 - a. *Lots fronting on arterial streets.*
 - i. The minimum lot area may be reduced to 30,000 square feet in the HC district.
 - ii. The minimum lot width may be reduced to 125 feet in the HC district.
 - iii. Access to the property requesting the area or width reduction shall be obtained by an existing or proposed cross access from an adjacent lot.
 - b. *Lots fronting on collector streets.*
 - i. The minimum lot area may be reduced to 15,000 square feet in the B-2, B-3, HC, B-5, IB, CF, HF, and UT districts.
 - ii. The minimum lot width may be reduced to 100 feet in the B-2, B-3, HC, B-5, and IB districts.
 - iii. The minimum lot depth may be reduced to 100 feet in the B-2, B-3, and HC districts.
 - c. *Other lots.*
 - i. The minimum lot area may be reduced to 12,000 square feet in the B-2, B-3, HC, B-5, IB, CF, HF, and UT districts.
 - ii. The minimum lot width may be reduced to 80 feet in the B-2, B-3, HC, B-5, IB, CF, HF, and UT districts.
 - iii. The minimum lot depth may be reduced to 80 feet in the B-2, B-3, HC, B-5, and IB districts.
 2. *Submittals.* When the final plat is submitted it must be accompanied by a lot size waiver report which provides:
 - a. *Rationale for lot size waivers.* This report shall present the waivers being requested and explain how the waiver criteria would be satisfied.
 - b. *Access and parking plan.* This report shall include an access and parking plan which demonstrates that the requirements of chapter 14-7 can be satisfied. It must also demonstrate that adequate parking, in accordance with chapter 14-7, can be provided for a typical one story 2,000 square foot establishment allowed by the relevant zoning district.
 - c. *Easements and recordable documents.* Any recordable documents which are needed to ensure that the access and parking plan can be implemented must be submitted with the report. For example, cross access easements or parking easements might be necessary.
 3. *Lot size waiver review procedures.*
 - a. *Development review committee (DRC).* The DRC shall review the application and make a recommendation to the city commission.
 - b. *City commission.* The city commission shall hold an advertised public hearing and approve, approve with conditions, or deny the request. If the request is denied, reasons shall be stated based upon the review criteria.

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4. *Waiver criteria.* The criteria to be applied in granting requests for lot size waivers listed in subsection 3 above are as follows:
 - a. *General.* All waiver requests shall be evaluated in a manner which gives consideration to the need for the request and the characteristics of the subject property and the surrounding area.
 - b. *Nearby lots.* The waivers granted shall not reduce the size of the lot below the size of typical nearby lots.
 - c. *Access and parking.* The waivers shall not be granted unless it is demonstrated that the lots can comply with the access requirements of chapter 14-7. It must also be demonstrated that the waivers will not prevent the lot from complying with the parking requirements for a typical 2,000 square foot one-story establishment, as required in chapter 14-7, allowed by the relevant zoning district in accordance. Any recordable documents which are needed to ensure that these access and parking requirements can be met must be provided and must be recorded when the plat is recorded.
 - d. *Adequate space.* The waivers shall only be granted if the lots still have adequate space to:
 - i. Satisfy the front, side, and rear yard requirements of the relevant zoning district; and
 - ii. Comply with the landscaping and buffer requirements of chapter 14-8.
 - e. *General compatibility.* The waivers granted shall not unreasonably impact the character of the surrounding area (particularly residential areas) due to the placement of access and parking facilities or other factors.
 - f. *Appropriate public facility impacts.* The granting of the waivers shall not result in an excessive burden on public facilities.
 - g. *Comprehensive plan.* The waivers granted shall be consistent with the goals, objectives, and policies of the city's comprehensive plan.
 5. *Conditions of approval.* When the city approves a lot size waiver request, it may impose conditions of approval in conformity with the intent and provisions of this section as it deems necessary in order to protect the public health, safety, and welfare. Such conditions may involve requirements which exceed the minimum design standards which would normally apply. Conditions may include, but are not limited to, conditions which:
 - a. *Access.* Designate the size, number, location, and nature of vehicular access points (including the sharing of access with other lots).
 - b. *Parking.* Designate the size, location, and other characteristics of parking areas (including the sharing of parking areas with other lots).
 - c. *Buffers.* Require berming, screening, landscaping, and other buffering to protect nearby property.
 - d. *Building characteristics.* Designate the orientation and location of potential buildings.
 - e. *General.* Specify other conditions to permit development of the city in conformity with the intent and purpose of this Land Development Code and the city's comprehensive plan.

(Code 1995, § 14-2-133; Ord. No. 3034, § 1(14-3-50), 8-4-2020)

14-3-51. Board of adjustment variances.

- A. *Purpose.* The board of adjustment (BOA) shall have the power to determine variances from the terms of this title as will not be contrary to the public interest where, owing to conditions unique to the site, enforcement

of the provisions of this Code would result in unnecessary hardship. No variances shall be granted by the board of adjustment, however, to the requirements of section 14-4-7.D (Historic Preservation Overlay District), 14-3-36 (Designation of Historic Landmarks) or chapter 14-10 (Subdivisions, Site Design and Public Required Improvements).

- B. *Application procedures.* An application shall be submitted on forms provided by the department; the form shall specify the required information and maps. The important requirements are:
1. A statement of the reasons the variance request should be approved by the board in accordance with the review criteria.
 2. A map which shows the variance request and the unique building or site characteristics.
- C. *Fee.* An application fee shall be charged in accordance with the development review fee schedule.
- D. *Board of adjustment review procedure.*
1. *Public hearing.* The application shall be placed on the agenda of the board of adjustment. The board shall vote to approve, approve with conditions or deny the application. A public hearing can be continued in order to obtain additional information. A reason for the board's action, based on the review criteria in subsection E below, shall be stated. Appropriate conditions may be attached to the variance. The public hearing shall be noticed as required in section 14-3-20.
 2. *Repeat application.* Once a variance has been denied, an application cannot be submitted for one year for the same request. Upon good cause or proof that circumstances have changed, the board of adjustment, in its discretion, may waive this provision. This subsection does not apply to an application withdrawn prior to or during a public hearing.
 3. *Reconsidering a variance.* The board may, at the request by the applicant, reconsider a variance previously granted which has not been acted in reliance upon by the applicant provided the request for rehearing is not for a variance greater than that granted previously.
- E. *Review criteria.* The board of adjustment shall approve a variance only after the applicant has demonstrated justification for the granting of a variance in conformance with all of the following criteria:
1. *Reasonable use of land.* Conditions and circumstances exist affecting the land, structure or site improvements involved which prevent the reasonable use of said land or structure, or reasonable placement of site improvements.
 2. *Special conditions and circumstances.* The conditions and circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to the conditions and circumstances affecting other properties in the zoning district.
 3. *Deprivation of rights.* The provisions contained in this title would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this title and would cause unnecessary and undue hardship for the applicant. It is of no importance whatever that the denial of the variance might deny to the property owner some opportunity to use the property in a more profitable manner or to sell it at a greater profit than is possible under the terms of this title.
 4. *No special privilege conferred.* Approval of the variance requested will not confer on the applicant any special privilege that is denied by this title to other property in the same zoning district.
 5. *No self-created hardship.* The conditions and circumstances do not result from the actions of the applicant and are not due to the mere disregard for or ignorance of the provisions of the title.
 6. *Minimum possible variance.* The variance is the minimum variance that will make possible the reasonable use of the land or structure, or reasonable placement of the site improvements.

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7. *No use variance.* The variance shall not allow the establishment or expansion of a use of property prohibited in the district involved.
 8. *No detriment to public welfare.* The variance will not be injurious to the area involved or otherwise detrimental to the public welfare. No nonconforming use of neighboring lands or structures in the same district and no use of lands or structures in other districts shall be considered grounds for the authorization of a variance. In addition, no zoning violations involving the property or nearby properties shall constitute grounds for variance approval.
 9. *Consistent with intent and purpose.* The variance shall be in harmony with the general intent and purpose of this Land Development Code and the city's comprehensive plan.
- F. *Expiration of BOA variance approval.* Approved variances shall be effective for a period of 12 months from the approval date, during which time final plat approval or building permits may be issued consistent with the variance approval. After 12 months, in the absence of an active final plat or permit application, the variance approval shall expire. Upon application to the city manager prior to the expiration date, the effective period may be extended an additional three months for good cause, with the right to appeal this decision to the board of adjustment. An additional extension of up to nine months may be granted by the board of adjustment for good cause.
- G. *Relation to other Code titles [chapters].* No variance may be approved pursuant to the requirements of this title for a provision of another title [chapter] of the Code of Ordinances or an interlocal agreement (including those provisions which are cross referenced or summarized in this title), unless authorized by the title [chapter] of the Code of Ordinances or the interlocal agreement in which the provision originated.
- (Code 1995, § 14-2-207; Ord. No. 2038, 12-20-1994; Ord. No. 2331, 3-7-2000; Ord. No. 2858, 5-21-2013; Ord. No. 3034, § 1(14-3-51), 8-4-2020)

14-3-52. Subdivision variances.

- A. *Purpose.* The city commission shall have the power to determine variances from the terms of chapter 14-10 (Subdivisions, Site Design and Required Improvements) as will not be contrary to the public interest where, owing to conditions unique to the site, enforcement of the provisions of this title would result in unnecessary hardship.
- B. *Application procedures.* An application shall be submitted on forms provided by the department; the form shall specify the required information and maps. The important requirements are:
1. A statement of the reasons the variance request should be approved by the city commission in accordance with the review criteria.
 2. A map showing the variance request and the unique building or site characteristics.
 3. Fee. An application fee shall be submitted in accordance with the development review fee schedule.
- C. *City commission review procedure.*
1. *Public hearing.* The city commission shall vote to approve, approve with conditions or deny the application. A public hearing can be continued in order to obtain additional information. A reason for the city commission's action, based on the review criteria in subsection D below, shall be stated. Appropriate conditions may be attached to the variance. See section 14-3-20 for meeting notice requirements.
 2. *Repeat application.* Once a variance has been denied, an application cannot be submitted for one year for the same request. Upon good cause of proof that circumstances have changed, the city

commission, in its discretion, may waive this provision. This subsection does not apply to an application withdrawn prior to or during a public hearing.

- D. *Review criteria.* Where the commission finds that extraordinary hardships or practical difficulties may result from strict compliance with the regulations of chapter 14-10 and/or the purposes of that chapter may be served to a greater extent by an alternative proposal, it may approve variances to the standards of that chapter so that substantial justice may be done and the public interest secured; provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and further provided, the city commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:
1. *Lack of detrimental impacts.* The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property, wherever located.
 2. *Unique circumstances.* The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.
 3. *Hardship to the owner.* Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.
 4. *Compliance with comprehensive plan and other chapters of this LDC.* The variances will not in any manner vary the provisions of other chapters of this Land Development Code or the comprehensive plan.
- E. *Expiration of subdivision variances.* Approved subdivision variances shall be effective for a period of 12 months from the approval date, during which time final plat approval or permits may be issued consistent with said variance approval. After 12 months, in the absence of an active final plat or permit application, the variance shall expire. Upon application to the city manager prior to the expiration date, the effective period may be extended an additional three months for good cause, with the right to appeal this decision to the city commission. An additional extension of up to nine months may be granted by the city commission for good cause.
- F. *Relation to other code titles [chapters].* No variance may be approved pursuant to the requirements of this section for a provision of another title [chapter] of the Code of Ordinances or an interlocal agreement (including those provisions which are cross referenced or summarized in this title), unless authorized by the title [chapter] or the interlocal agreement in which the provision originated.

(Code 1995, § 14-2-208; Ord. No. 3034, § 1(14-3-52), 8-4-2020)

14-3-53. Reserved.

14-3-54. Reserved.

PART VIII. CONCURRENCY MANAGEMENT

14-3-55. The purpose of concurrency.

No development permit application involving a specific plan for development (with densities or intensities) shall be approved unless a certificate of concurrency has been issued demonstrating that there will be sufficient available public facility design capacity to sustain the levels of service (LOS) as established in the comprehensive plan.

14-3-56. Concurrency level of service standards.

The following levels of service shall apply:

A. *Streets.*

1. All arterial and collector streets (as so classified in the comprehensive plan) shall have an average peak hour level of service (LOS) standards not lower than "D."
2. The following streets, which are designated "constrained" or "backlogged," shall maintain an LOS whereby peak hour traffic volumes do not exceed the 1991 level by more than 20 percent of the average travel speed is not reduced by more than one mile per hour.

[i.] Constrained:

[(a)] Vine Street from Hoagland Blvd. to Michigan Avenue.

[ii.] Backlogged:

[(a)] Vine Street from Michigan Avenue to east city limits.

[(b)] Main Street from north city limits to Vine Street.

- B. *Sanitary sewers.* The sewage treatment system average daily flow treatment capacity for the service area within which a new project is located shall not exceed 98 percent of the capacity permitted by the state as a result of the addition of the flows generated by the new project.

C. *Potable water.*

1. The central water supply system average daily water production capacity, for the service area within which a new project is located, shall not exceed 98 percent of the capacity permitted by the state as a result of the addition of the flows generated by the new project.
2. Potable water pressure of at least 40 pounds per square inch shall be maintained at property lines, excluding fire demand. At times of fire demand potable water pressure will be provided at no less than 20 pounds per square inch at property lines.

- D. *Solid waste.* The city solid waste collection amount shall not exceed 5.1 pounds per person per calendar day.

E. *Recreation.* The public park system within the city shall meet the following LOS:

1. Active recreation area: 2.0 acres per 1,000 population.
2. Urban open space: 2.0 acres per 1,000 population.
3. Total recreation area: 5.0 acres per 1,000 population.

F. *Drainage.* The LOS shall be met if conformance with the following standards is achieved:

1. *Off-site discharge.* Limit the allowable stormwater peak discharge detained from a site to be developed or altered, to the pre-development or pre-alteration peak discharge for the ten-year frequency 72-hour duration storm. Retention/detention ponds, for all sites greater than ten acres of total area, shall have a minimum of one foot freeboard. Sites less than or equal to ten acres shall meet freeboard requirements of the city engineer.

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2. *Runoff velocities.* Limit velocities in any new system to a maximum of three feet/second or less for the ten-year storm.
 3. *Roadways.* Design roadway drainage systems for the ten-year storm event, utilizing the Florida Department of Transportation (FDOT) intensity duration frequency (IDF) curves map.
 4. *Pavement.* Design pavement drainage for ten-year design frequency storms.
 5. *Detention/retention.* Design wet detention for the first inch of runoff or the total runoff of 2½ inches times the percent of imperviousness, whichever is greater. Reductions in the above volumes of 25 percent and 50 percent for dry detention and retention respectively can be applied when conditions permit. Industrial zoned projects shall provide at least one-half inch dry detention or retention pretreatment as part of the required retention/detention.
 6. *Flood storage.* There shall be no net reduction in the flood storage capacity within a special flood hazard area.

(Code 1995, § 14-2-176; Ord. No. 2038, 12-20-1994; Ord. No. 2732, 11-3-2009; Ord. No. 2824, 4-3-2012; Ord. No. 2858, 5-21-2013; Ord. No. 3034, § 1(14-3-56), 8-4-2020)

14-3-57. Concurrency review process.

A. Development subject to adequacy determination.

1. New development.

- a. *Concurrency test and certificate.* Level-of-service standard compliance will be officially calculated in conformance with subsection b below and a certificate of concurrency issued at the time of approval of a site plan, or planned unit development (PUD) conceptual plan, preliminary plat, final plat, or enforceable development agreement which is associated with a specific plan for development, or a final single family minor subdivision plat, final duplex minor subdivision plat, or final triplex minor subdivision plat or if none of the above or the exemptions below apply, building permit. See also subsection 3 below for exemptions to the above.
- b. *Certificate of concurrency contingencies.* Certificates of concurrency issued at the time of approval of a site plan or a preliminary single family, duplex, or triplex major subdivision plat shall be subject to:
 - i. The submission of consistent construction drawings;
 - ii. The allocation of suitable capacity in accordance with subsection d below; and
 - iii. All other appropriate conditions. Certificates of concurrency issued at the time of approval of PUD conceptual plans shall be subject to:
 - (a) The submission of consistent site plans and/or subdivision plats;
 - (b) The submission of consistent development plans;
 - (c) The allocation of suitable capacity in accordance with subsection d below; and
 - (d) All other appropriate conditions. Other certificates of concurrency may also be subject to appropriate contingencies.
- c. *Additional concurrency review.* Level-of-service standard compliance will also be officially calculated prior to the issuance of a building permit associated with an approved site plan in order to determine compliance with certificate of concurrency conditions of approval.

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- d. *Facility capacity allocation.* Facility capacity allocation shall occur in accordance with section 14-3-58.B. Except when indicated to the contrary by that section, capacity shall be allocated by the payment of impact fees.
 - e. *Optional concurrency review.* However, either the city or the applicant may request an optional or preliminary concurrency review at an earlier development permit stage, including zoning map amendments, other types of subdivisions, special exceptions, conditional uses or variances. Such a review may also be requested for future land use map (comprehensive plan) amendments or annexations. A certificate of concurrency issued at this preliminary phase is conditioned upon:
 - i. Submission of a consistent site plan or subdivision plat;
 - ii. Submission of consistent development plans;
 - iii. The allocation of suitable capacity in accordance with subsection d above; and
 - iv. Other appropriate conditions.
2. *Addition or change of use.* A concurrency review shall be required in the case of any building addition or basic change of building or site use, unless such addition or use change would have a de minimis impact. Unless a more permissive standard is approved by Florida Statute, a de minimis impact is one that would not affect more than 0.1 percent of the maximum volume at the adopted level of service standard of the affected transportation facility as determined by the city and that is caused by an increase in density or intensity that is less than or equal to twice the density or intensity of the existing land use or, in the case of vacant land, is a density of less than one dwelling unit per quarter acre or a floor area ratio of 0.1 for non-residential uses. Only any incremental increase in facility capacity usage over the existing usage will be assessed for concurrency.
3. *Exempt projects.*
- a. *Developments of regional impact (DRI).* Development which is authorized by a DRI development order approved prior to adoption of this section.
 - b. *Vested projects.* The criteria for determining whether or not a previously approved project is exempt from this Land Development Code is if a previously approved site plan, conditional use, or planned unit development was valid immediately before the effective date of this Code and a building permit based upon that site plan, conditional use, or PUD is obtained within the period for which the site plan, conditional use, or PUD was approved. In the case of a preliminary single family, duplex, or triplex subdivision plat, the subdivision is exempt if the preliminary plat was valid immediately before the effective date of this title and a final plat is obtained within the period for which the preliminary plat was approved. If a site plan, conditional use, PUD, or preliminary plat is not required, then concurrency must be met at the time of building permit application if such application is submitted after the effective date of this section, unless otherwise exempt. If a building permit expires, however, any previously approved development which has not been substantially completed shall no longer be vested. See subsection 4 below for vesting appeal process.
 - c. *Houses.* Any single family, duplex or triplex dwelling (which is not part of a multiple family housing development) on a lot.
 - d. *De minimis impact uses.* Unless a more permissive standard is approved by Florida Statute, a de minimis impact use is one that would not affect more than 0.1 percent of the maximum volume at the adopted level of service standard of the affected transportation facility as determined by the city and that is caused by an increase in density or intensity that is less than or equal to twice the density or intensity of the existing land use or, in the case of vacant land, is a density of less than one dwelling per quarter acre or a floor area ratio of 0.1 for non-residential uses.

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4. *Appeal process.* Any applicant that is aggrieved by a decision of an administrative officer of the city relative to vesting based upon expenditures made in reliance upon code provisions prior to adoption of Ordinance No. 2824 (or any other concurrency decision made by the director or any other administrative officer of the city) may appeal to the city manager, and if still aggrieved, to the board of adjustment. Any vesting appeal review shall be based upon relevant statutes (such as F.S. § 163.3167(10)), and common law on the subject.
- B. *Measurement of level-of-service (LOS) capacities.*
1. *Water and sewage.* Measurement of water and sewer system capacities shall be based on the current design capacity of the treatment plant and related facilities. Water pressure will be tested at the site by the Tohopekaliga Water Authority.
 2. *Roadways.*
 - a. All traffic calculations shall be for the peak hour of the closest arterial or collector road impacted by the development. Highway capacities shall be those shown in the latest city traffic tables with any necessary adjustment based upon either the latest Florida Department of Transportation (FDOT) quality/level of service handbook or the city's traffic model. The measurement of capacity may also be determined by engineering studies or other data provided that analysis techniques are technically sound and acceptable to the city.
 - b. Traffic generation shall be based upon a table of rates available from the city or the latest Institute of Transportation Engineers (ITE) Manual Trip generation rates may also be determined by engineering studies or other data provided that analysis techniques are technically sound and acceptable to the city.
 - c. The impact shall be pressed to be limited to those collector or arterial streets serving the local streets which give access to the lot, or to any collector or arterial street abutting the lot. However, if it is the judgment of the city that the project may generate peak hour trips that would impact any additional nearby collector or arterial by an amount in excess of ten percent of the roadways LOS "D" capacity, a traffic analysis and trip assignment will be required using professional traffic engineering techniques acceptable to the city.
 - d. The applicant shall provide the square footage for city traffic calculations. In some cases, the applicant will have to supplement the square footage data (e.g., number of hospital beds).
 3. *Solid waste.* A table available from the city may be used to calculate solid waste generation rates. Other generation rates are subject to approval by the city. City solid waste base collection data will be used.
 4. *Drainage.* Conformance with the drainage LOS shall be demonstrated by plans and reports sealed by a civil engineer licensed in the State of Florida in a form acceptable to the city.
 5. *Recreation.* Applies to residential uses only, including short-term rentals and time-share dwellings and excluding hotels and motels. Measurement shall be based on the city's most recent public park land and facility inventory and the latest city population estimate contained in the concurrency system user's manual, with any necessary interpretation provided by the director.
- C. *Determination of concurrency.* For purposes of these regulations, the capacity availability shall be determined by the following approach:
- Adding together:
1. The total design capacity of existing facilities operating at the required level of service; and

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2. The total design capacity of new facilities that will become available concurrent with the impact of the development. The capacity of new facilities may be counted only if one or more of the following is shown:
- a. For water, sewage, solid waste and drainage:
 - i. The necessary facilities and services are in place at the time of approval of a site plan, PUD conceptual plan, preliminary single family major subdivision plat, preliminary duplex major subdivision plat, preliminary triplex major subdivision plat, final single family minor subdivision plat, final duplex minor subdivision plat, final triplex minor subdivision plat, enforceable development agreement which is associated with a specific plan for development, or building permit (if a site plan, PUD conceptual plan, or single family, duplex, or triplex subdivision is not required or there is no enforceable development agreement associated with a specific plan for development); or
 - ii. Such approval is issued subject to the condition that the necessary facilities and services will be in place when the impacts of development occur; or
 - iii. Construction of the new facilities is under way at the time of approval of a site plan, PUD conceptual plan, preliminary plat, final plat, or building permit (if a site plan, PUD conceptual plan, or single family, duplex, or triplex subdivision is not required or there is no enforceable development agreement which is associated with a specific plan for development); or
 - iv. The new facilities are guaranteed by an enforceable development agreement to be available at a specific time which complies with one or more of the above three standards. An enforceable development agreement may include, but is not limited to, development agreements pursuant to F.S. § 163.3220, or an agreement or development order pursuant to F.S. ch. 380.
 - b. For recreation:
 - i. See subsection C.2.a above;
 - ii. The new facilities/land are the subject of a binding executed contract for the construction/acquisition of facilities/land to be completed/acquired within three years of the time of approval of a site plan, PUD conceptual plan, preliminary plat, final plat, enforceable development agreement which is associated with a specific plan for development, or building permit (if a site plan, PUD conceptual plan, or single family, duplex, or triplex subdivision is not required or there is no enforceable development agreement which is associated with a specific plan for development); or
 - iii. The new facilities are guaranteed in an enforceable development agreement which requires the completion of the actual construction of any necessary facilities and the acquisition of any necessary land within three years of the time of approval of a site plan, PUD conceptual plan, preliminary plat, final plat, enforceable development agreement which is associated with a specific plan for development, or building permit (if a site plan, PUD conceptual plan, or single family, duplex, or triplex subdivision is not required or there is no enforceable development agreement associated with a specific plan for development).
 - c. For traffic:

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- i. The new facilities have been included in a five-year schedule of capital improvements included in the comprehensive plan and construction is scheduled for the third year or earlier; or
 - ii. See subsection C.2.a of this section; [or]
 - iii. Subtracting from that number the sum of:
 - (a) The design demand for the service created by existing development; and
 - (b) The new design demand for the service (by phase or otherwise) that will be created concurrent with the impacts of the proposed development by the anticipated completion of other presently approved developments.
 - D. *Information provided by applicant.* In order to be approvable, applications for concurrency approval shall provide sufficient and verifiable information of the kind specified in the application form. Information supplied by the applicant may include a written evaluation of the impact of the anticipated development on the levels of service established by this title, including level of service calculations. The city will evaluate the applicant's information. In addition, the applicant shall provide written assurances that any improvements to be provided by the applicant which would maintain or improve the level of service shall be in place in a manner consistent with the provisions of this section.
 - E. *Impact/mobility fees.* If the applicant is required to construct improvements to meet concurrency that would otherwise be covered by a required impact/mobility fee for that facility, the impact/mobility fee will be adjusted accordingly. See section 14-3-19.A.

(Code 1995, § 14-2-177; Ord. No. 2038, 12-20-1994; Ord. No. 2144, 12-17-1996; Ord. No. 2732, 11-3-2009; Ord. No. 2824, 4-3-2012; Ord. No. 3034, § 1(14-3-57), 8-4-2020)

14-3-58. Concurrency monitoring and allocation system.

- A. *Responsibility.* The director shall be responsible for coordinating the monitoring of development activity to ensure that concurrency reviews consider significant impacts of existing and committed development. Such monitoring shall include, but is not limited to:
 - 1. *Actual facility usage.* Periodic updating of data on actual facility usage;
 - 2. *Addition of anticipated development impacts.* Periodic addition of the anticipated impacts of unoccupied developments with allocated capacity to a log of project impacts;
 - 3. *Reduction of no longer anticipated impacts.* Periodic deletion from that log of any reduction of the anticipated impacts of developments resulting from any decreases in allocated capacity; and
 - 4. *Reduction of anticipated impacts reflected in actual facility usage.* Periodic deletion of the anticipated impacts of approved and occupied projects from that log after such impacts are accounted for by periodically updated data on actual facility usage.

The director may require the use of such methodology as deemed professionally appropriate given concurrency management practices in Florida and the budget available in the city for monitoring purposes. If appropriate in the judgment of the director, residential and non-residential projects which have no more impact than 20 single family detached residential dwellings need not be logged. This provision is not meant to specifically require that such projects not be logged, nor to specifically require that the director log all other projects.

- B. *Concurrency rights allocation and effective period.*
 - 1. *Certificate of concurrency.* Compliance will be finally calculated and a certificate of concurrency issued at time of approval of a site plan, planned unit development (PUD) conceptual plan, preliminary single

family major subdivision plat, preliminary duplex major subdivision plat, preliminary triplex, major subdivision plat, final single family minor subdivision plat, final duplex minor subdivision plat, final triplex minor subdivision plat, enforceable development agreement which is associated with a specific plan for development, or building permit (if a site plan, PUD conceptual plan, or single family, duplex, or triplex subdivision is not required or there is no enforceable development agreement associated with a specific plan for development). Certificates of concurrency will include contingencies as provided for in section 14-3-57. If the applicant is required to make facility improvements to meet concurrency, this commitment shall be in a written form acceptable to the city attorney.

2. *Capacity allocation.*

- a. Facility capacity allocation for concurrency purposes for single family, duplex, and triplex subdivisions shall occur when the final plat is approved or sooner if the requirements of subsection b below are satisfied.
- b. Facility capacity allocations for other developments shall occur as follows (see chapter 28, article III, division 2 for recreation impact fees, and chapter 9, article IX for mobility fees), except when indicated to the contrary by this Code:
 - i. Capacity shall be allocated by the payment of impact/mobility fees.
 - ii. The required impact/mobility fees may be paid at the time of receiving the certificate of concurrency (the fees must be paid within 45 days of certificate issuance to allocate capacity).
 - iii. If the applicant does not pay the required impact/mobility fees within 45 days of the certificate of concurrency issuance, a concurrency review update will be conducted to verify that adequate capacity is still available prior to any allocation of capacity.

3. *Allocation period.* A building permit application must be submitted within 12 months of site plan approval and a final plat must be approved within 12 months of the approval of a preliminary plat, or final plat, to preserve the concurrency or capacity allocation for the project or phase unless a shorter time period is allowed by chapter 28, article III, division 2 for recreation capacity, and section 9-570 for transportation capacity. An extension of up to three months may be issued by the city manager (or designee thereof) based upon suitable hardship with the right to appeal this decision to the city commission. An additional extension of up to nine months may be granted by the city commission. Such an extension must be based upon suitable hardship. In the case of a PUD, the allocation shall be valid so long as the PUD approval is valid, as specified in section 14-3-28.F, unless a shorter time is allowed by chapter 28, article III, division 2 or 9-570.

4. *Phasing.* The provisions of subsections B.1 through 3 above may be applied on a phased basis if appropriate for the scale of the project.

5. *Development agreement.* Development agreements, as described in F.S. §§ 163.3220 through 163.3243, shall have a valid concurrency period not to exceed ten years or as extended by mutual consent of the city commission and the developer.

6. *Building permit development order.* Any building permit approval shall be accompanied by a development order issued by the director which specifies all of the applicable conditions regulating the development. This development order shall be valid as long as the building permit is valid. However, no building permit shall be extended for a total of more than 12 months unless a new development order is issued. This new development order shall necessitate a new concurrency review, certificate of concurrency and a verification that capacity is allocated for an adequate period of time. If a site plan approval was required in order to obtain the original development order, a new site plan must also be submitted and approved in accordance with section 14-3-31 in order to obtain the new development order.

(Code 1995, § 14-2-178; Ord. No. 2038, 12-20-1994; Ord. No. 2732, 11-3-2009; Ord. No. 2824, 4-3-2012; Ord. No. 3034, § 1(14-3-58), 8-4-2020)

CHAPTER 14-4: ZONING

14-4-1. Applicability of other subchapters.

In addition to the standards specified in each district, development shall also be subject to all other sections of this Code.

(Ord. No. 3034, § 1(14-4-1), 8-4-2020)

14-4-2. Official zoning map.

The official zoning map of the city is hereby incorporated as part of this chapter; the official copy of this map is maintained in the city clerk's office.

(Code 1995, § 14-2-10; Ord. No. 3034, § 1(14-4-2), 8-4-2020)

14-4-3. Boundary of districts.

- A. *Centerlines.* Where the boundary line of a district runs along a street, railroad or canal, the center line of said street, railroad or canal shall be the boundary line.
- B. *Other boundaries.* Most other boundaries follow property lines. Where such distances are unclear and no dimension is shown on the map, the map scale shall be used.
- C. *Interpretation.* The director shall be responsible for providing an official interpretation of district boundaries. Such interpretations may be appealed to the board of adjustment in accordance with section 14-3-21.

(Code 1995, § 14-2-11; Ord. No. 3034, § 1(14-4-3), 8-4-2020)

14-4-4. Standard zoning districts—Intent.

The following standard zoning districts are hereby established for the purpose of regulating the location and development of residential and non-residential uses in the City of Kissimmee:

- A. *Agriculture and Conservation District (AC).*
 - 1. The Agriculture and Conservation (AC) District is primarily intended to allow the use of appropriate areas for agricultural production, the preservation of open spaces, and the conservation and management of soil, water, air, game and other natural resources and amenities. Areas zoned AC are also intended to provide for the development of large lot single family estate development which is compatible with adjacent agricultural activities, when appropriate.
 - 2. This district is intended primarily for suitable areas which have been assigned a Single Family Low Density Residential (SF-LDR) future land used designation by the comprehensive plan. However, it is also appropriate for agricultural areas which have been annexed into the city, but are given the Multiple Family Medium Density Residential (MF-MDR), Multiple Family High Density Residential (MF-HDR), Commercial General (CG), Industrial Business (IN), Institutional (INST), or ~~Open Space (OS)~~ Recreation (REC), or Conservation (CONS), future land use designations by the comprehensive plan.

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3. When an annexed area is given a future land use designation other than Single Family Low Density Residential (SF-LDR), the AC district should be considered a holding zone which will permit appropriate rural development until such time as new urban development is appropriate. When new urban development is appropriate for such areas, the property subject to the proposed development may be rezoned to be consistent with its future land use designation and the new development shall be consistent with the new zoning.
- B. *Residential Estate District (RE)*. The Residential Estate (RE) District is primarily intended for single family detached residential development where the requirements are designed to encourage quality neighborhoods in a relatively spacious urban setting. Objectives of the district include the protection of existing stable low density single family neighborhoods, the preservation of open space, and the encouragement of densities which are compatible with existing and anticipated future developments, natural features, and existing and projected public services and facilities. This district is intended for use in suitable areas which have been assigned a Single Family Low Density Residential (SF-LDR) future land use designation by the comprehensive plan.
- C. *Single Family Residential Districts (RA-1, RA-2, RA-3, and RA-4)*. The single family residential zoning districts are primarily intended to meet the single family housing needs of the community. All four districts may be used to implement the Single Family Low Density Residential (SF-LDR) future land use designation. The RA-3 and RA-4 may also be used to implement the Single Family Medium Density Residential (SF-MDR) future land use designation and are particularly suitable for redevelopment areas having small platted lots and sites serving as a transition between two or more areas accommodating potentially incompatible uses. Objectives of the district include the protection of existing stable single family neighborhoods, the preservation of open space, and the encouragement of densities which are compatible with existing and anticipated future developments, natural features, and existing and projected public services and facilities.
- D. *Medium Density Residential Districts (RB-1 and RB-2)*. The RB-1 and RB-2 zoning districts are primarily intended to meet housing needs for single family medium density development, duplexes, and, where appropriate, triplexes. Both districts are also intended to accommodate compatible non-residential uses, existing multiple family structures, and existing rooming houses. The RB-1 district is particularly suitable for redevelopment areas having small platted lots; areas with natural constraints which make higher densities inappropriate; and sites serving as a transition between areas or districts with differing intensities of development. The RB-2 district is primarily designed for locations on the fringe of existing residential areas serving as a transition area between residential neighborhoods and higher intensity development. The RB-1 and RB-2 districts implement the Single Family Medium Density Residential and the Office-Residential future land use designations in the comprehensive plan.
- E. *Multiple Family Medium Density Residential Districts (RC-1 and RC-2)*. This district is primarily intended to accommodate multiple family developments. The RC-1 district is envisioned for locations where medium density housing already exists and other places appropriate for such development. Frequently the locations serve as a transition between residential neighborhoods and non-residential development. This district is intended for use in areas which have been assigned a Multiple Family Medium Density Residential (MF-MDR) or a Multiple Family High Density Residential (MF-HDR) future land use designation by the comprehensive plan. The RC-2 district is envisioned for areas that are adjacent to development with compatible intensity levels, arterial or collector roads, and have the requisite utilities. These areas should generally be highly accessible to commercial services. The RC-2 district is intended for use in areas which have been assigned a Multiple Family High Density Residential (MF-HDR) future land use designation. Future development proposals within these districts should provide for a smooth transition in residential density, preserve stability of established residential neighborhoods, and include sufficient open space, parking, and landscaping to reinforce objectives for quality living areas.

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- F. *Mobile Home District (MH)*. The Mobile Home (MH) District is primarily intended to meet low density single family housing needs in locations appropriate for mobile homes on lots under individual ownership. Objectives of the district include the protection of existing stable low density single family neighborhoods, the preservation of open space, and the encouragement of densities which are compatible with existing and anticipated future developments, natural features, and existing and projected public services and facilities. Areas zoned MH adjoining MHP zoning, or Osceola County zoning of RMH, RMH-1, or RMH-1A, shall have a size of at least five acres. This district is intended for use in suitable areas which have been assigned a Mobile Home Medium Density Residential (MH-MDR) future land use designation by the comprehensive plan.
- G. *Mobile Home Park District (MHP)*. The Mobile Home Park (MHP) District is intended to provide an area for mobile homes in parks, occupied as single family dwellings, with the intent of creating an environment of residential character and permitting only those uses and activities that are compatible with the residential environment. This district is intended for suitable areas which have been assigned a Mobile Home Medium Density Residential (MH-MDR) future land use designation by the comprehensive plan. (See also section 14-6-41.)
- H. *Residential Professional Business District (RPB)*. The Residential Professional Business (RPB) District is primarily intended to accommodate professional offices and residential uses in locations on the fringe of existing residential areas which have good accessibility to major thoroughfares. Frequently the locations serve as a transition area between residential neighborhoods and higher intensity development. Accordingly, non-residential sites in the district should be designed to be compatible with nearby residences through appropriate landscaping, buffers, levels of site coverage, and access provisions. This district is intended for use in areas which have been assigned an Office-Residential (OR) future land use designation by the comprehensive plan.
- I. *Neighborhood Commercial District (B-2)*. The Neighborhood Commercial (B-2) District is intended to permit selected business uses in locations convenient to residential areas, where the character of the business uses are such that they predominantly serve commercial needs of the surrounding neighborhood. Uses allowed are primarily those which provide convenience goods or frequently used services, urge business operations and extensions of strip commercial areas are not desired. Areas zoned B-2 shall have a minimum size of five acres and shall be located on arterial or collector streets. The district is intended for use in suitable areas which have been assigned a Commercial General (CG) future land use designation by the comprehensive plan.
- J. *General Commercial District (B-3)*. The General Commercial (B-3) District is intended to provide for a broad range of business activities including a variety of retail sales, office, and service establishments, and uses requiring a high degree of accessibility for vehicular traffic. However, it is not suitable for warehousing, manufacturing, and most other industrial activities. Areas zoned B-3 should generally be located on or close to arterial or collector streets. The district is intended for use in suitable areas which have been assigned a Commercial General (CG) future land use designation by the comprehensive plan.
- K. *Highway Commercial District (HC)*. The Highway Commercial (HC) District is intended to primarily provide for a variety of retail, office, and tourist oriented uses mainly along the major transportation corridors in the city. Due to the highway nature of the zone, lot size and yard requirements exceed those of the B-3 district. The district is intended for use in suitable areas which have been assigned a Commercial General (CG) future land use designation by the comprehensive plan.
- L. *Office Commercial District (B-5)*. The Office Commercial (B-5) District is intended primarily for uses involving businesses and institutional uses which do not involve the direct sale or display of goods, the production of goods, or the storage or shipment of bulk or large volume materials. Convenience commercial facilities, restaurants, and certain other uses are allowed when appropriate conditions and safeguards are fulfilled. Uses in this district should have access to arterial or collector streets. This district is sometimes suitable for use as a buffer separating other commercial zones from residential districts.

The district is intended for use in suitable areas which have been assigned an Office Residential (OR) or Commercial General (CG) future land use designation by the comprehensive plan.

- M. *Business Park District (BP)*. The Business Park (BP) District is intended to provide a protective zone for park-like development of industrial and related uses which have limited objectionable external effects and provide a high quality setting. Manufacturing, warehousing, research, wholesale trade, and office uses are among the allowable uses. Development in this district is particularly characterized by unified planning, controlled ingress and egress to major streets, extensive setbacks, and screening and landscaping necessary to create a quality site design. This district is intended for use in suitable areas which have been assigned an Industrial Business (IN) future land use designation by the comprehensive plan.
- N. *Industrial Business District (IB)*. The Industrial Business (IB) District is intended for properties suitable for industrial development, but where proximity to residential or commercial zones makes it desirable to limit the manner and extent of industrial operations. It is intended to permit the normal operation of a variety of industrial and related uses under such conditions of operation as will protect nearby development. Various commercial uses which are compatible with typical industrial uses shall also be allowed according to the provisions of this section. It is intended for use in suitable areas which have been assigned an Industrial Business (IN) future land use designation by the comprehensive plan.
- O. *Airport Operations District (AO)*. The Airport Operations (AO) District is intended to provide for appropriate land uses within that portion of the Kissimmee Municipal Airport tract that is used for aircraft operations and the direct support of such operations. This district is intended for use in areas which have been assigned an Airport Industrial (AI) land use designation by the comprehensive plan. All uses in the AO district shall conform to the Kissimmee Airport Master Plan and chapter 8 of the Code.
- P. *Airport Industrial District (AI)*. The Airport Industrial (AI) District is intended to accommodate activities predominantly connected with typical industrial uses, as well as supporting non-industrial uses in the vicinity of the Kissimmee Municipal Airport. It is intended to permit the normal operation of a variety of industrial and related uses under such conditions of operation as will protect nearby development. This district is intended for use in areas which have been assigned an Airport Industrial (AI) or Industrial Business (IN) land use designation by the comprehensive plan. All uses shall conform to the Kissimmee Airport Master Plan and chapter 8 of the Code.
- Q. *Community Facilities District (CF)*. The Community Facilities (CF) District is intended to accommodate many of the city's public and semi-public community facilities. Development in this district is expected to have sufficient acreage, open space, buffering, and access controls to minimize potential adverse impacts on adjacent land uses. This district is intended for use in areas which have been assigned an Institutional (INST) future land use designation by the comprehensive plan.
- R. *Hospital Facilities District (HF)*. The Hospital Facilities (HF) District is intended to accommodate hospitals and compatible facilities. Development in this district is expected to have sufficient acreage, open space, buffering, and access controls to minimize potential adverse impacts on adjacent land uses. This district is intended for use in areas which have been assigned an Institutional (INST) future land use designation by the comprehensive plan.
- S. *Utilities District (UT)*. The Utilities (UT) District is intended to accommodate large scale utility operations. Development in this district is expected to have sufficient acreage, open space, buffering, and access controls to help minimize potential adverse impacts on adjacent land uses. This district is intended for use in areas which have been assigned a Utility (UT) future land use designation by the comprehensive plan.
- T. *Open Space District (OS)*. The Open Space (OS) District is primarily intended to help protect environmentally sensitive natural systems, preserve major open spaces, and provide for recreational needs of the city. Due to the variety of areas involved, permitted uses are restricted to those with low-

intensity characteristics. More intense recreational and other activities are allowable, where appropriate, as conditional uses. The provisions of this district shall not be interpreted to prohibit or regulate the following activities, unless the prohibition or regulation is specifically stated as a condition of approval of a site plan, subdivision, conditional use, or temporary use:

1. Filling.
2. Dredging.
3. Dredged material disposal.
4. Bankline/stream alteration.
5. Construction and repair of shoreline stabilization structures, mosquito control structures, and dikes.
6. Installing navigational structures.
7. Construction of public streets.

This district is intended for use in areas which have been assigned an ~~an~~ Recreation (REC) or Conservation (CONS) Open Space (OS) future land use designation by the comprehensive plan. Site design requirements and standards will be established at that time, including requirements concerning buffers, landscaping, signage, and outdoor storage.

(Code 1995, §§ 14-2-16—14-2-42; Ord. No. 3034, § 1(14-4-4), 8-4-2020)

14-4-5. Schedule of uses for standard zoning districts.

Except as noted otherwise in this Code, regulations governing the use of land within the standard zoning districts shall be as shown in Table 4-1 for residential districts and Table 4-2 for non-residential districts. Uses of land or structures not expressly listed as permitted (P) or conditional (C) uses shall be prohibited. Uses subject to additional standards are noted with a section number on the second column. Mixed-use developments may only include uses that are specifically allowed in the applicable zoning district. If any use in a proposed mixed-use development requires conditional use approval, the entire mixed-use development must be reviewed under the conditional use process.

Whenever there is any uncertainty as to the classification of a use, the director shall determine the classification, if any, within which the use falls, based on its characteristics and similarity to other uses in the district. If a use has characteristics similar to more than one classification, the use shall be construed as the classification having the most similar characteristics. In the event that a particular use is determined not to be within an allowed defined use, then the particular use shall be prohibited.

Table 4-1: Schedule of uses for residential standard districts

USES	See Section	AC	RE	RA-1	RA-2	RA-3	RA-4	RB-1	RB-2	RC-1	RC-2	MH	MHP
AGRICULTURAL & RURAL USES													
Agricultural uses ⁽¹⁾		P	C ⁽²⁾										
Kennels and aviaries		C											
Hunting camps and fishing camps		C											
RESIDENTIAL USES													
Accessory dwelling unit	14-6-2	P/C	P	P	P	P	P	P	P				

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Community residential homes	14-6-39									P	P		
Dwellings:													
Duplexes	14-6-43							P	P	P	P		
Mobile homes (individual)												P	
Mobile home parks	14-6-41												P
Multi-family dwellings								P	P	P	P		
Single family detached dwellings		P ⁽³⁾	P	P	P	P	P	P	P				
Townhouses	14-6-43							P	P	P	P		
Triplexes								P	P	P	P		
Family day care homes	14-6-4	P	P	P	P	P	P	P	P	P	P	P	P
Rooming houses								P ⁽⁴⁾	P ⁽⁴⁾	C	C		
SUPPORT USES ⁽⁵⁾ ⁽⁶⁾													
Cemeteries		C	C										
Child care facilities	14-6-37	C	C	C	C	C	C	C	C	C	C	C	C
Churches		C	C	C	C	C	C	C	C	C	C	C	
Civic, social clubs		C	C	C	C	C	C	C	C	C	C	C	
Communication service establishments										C	C		
Communication towers and facilities	14-6-38									C	C		
Community centers		C	C	C	C	C	C	C	C	C	C	C	
Fire stations		C	C	C	C	C	C	C	C	C	C	C	C
Hospitals													
Libraries		C	C	C	C	C	C	C	C	C	C	C	
Office establishments									C				
Recreation, passive		C	C	C	C	C	C	P	P	P	P	P	
Recreational vehicle parks	14-6-41												P
Schools, elementary		P		P	P	P	P	P	P	P	P	P	P
Schools, middle		P		P	P	P	P	P	P	P	P	P	P
Schools, high		C	C	C	C	C	C	C	C	C	C	C	
Short-term rentals if the housing type is allowed	14-6-44						C	C	C	C	C		
Time-share dwellings if the housing type is allowed	14-6-44						C	C	C	C	C		
Utility facilities, minor	14-6-46	P	P	P	P	P	P	P	P	P	P	P	P

P=Permitted; C=Conditional Use; Blank Cell = Prohibited.

Footnotes:

(1) No farm animal shall be allowed within 25 feet of a residentially-zoned property.

(2) Only allowed on parcels of two acres or more in size.

(3) Located in areas assigned a Single Family Low Density Residential future land use designation by the comprehensive plan.

(4) Existing prior to January 30, 1991.

(5) Non-residential uses in residential zoning districts shall have frontage on, or direct access to, a collector or arterial road.

Table 4-2: Schedule of Uses for Non-Residential Standard Districts

USES	See Section	RPB ⁽¹²⁾	B-2	B-3	B-5	HC	BP	IB	AO	AI	CF	HF	UT	OS
AGRICULTURAL USES														
Agricultural uses														C
AIRPORT USES														
Airport-dependent uses									P	C				
Airport-related uses									P	C				
COMMERCIAL/RETAIL USES														
Drive through facilities with an allowed use	14-6-40	C	P/C ⁽²⁾	P/C ⁽²⁾	P/C ⁽²⁾	P/C ⁽²⁾	P/C ⁽²⁾	P/C ⁽²⁾	P/C ⁽²⁾	P/C ⁽²⁾	C	C		
Nurseries and greenhouses								P ⁽³⁾		C				
Restaurants	14-6-9		P	P	P	P	P	C	C	C				
Retail sales establishments			P	P		P	P ⁽⁴⁾	C						
Retail: Pawn shop	5-7					C ⁽⁵⁾								
INDUSTRIAL USES														
Manufacturing, light	14-6-15						P ⁽⁶⁾	P ⁽⁶⁾		P ⁽⁶⁾				
Manufacturing, medium	14-6-15						P ⁽⁶⁾	P ⁽⁶⁾		P ⁽⁶⁾				
Manufacturing, heavy							C ⁽⁶⁾	C ⁽⁶⁾		C ⁽⁶⁾				
Wholesale trade establishments							P	P		P				
INSTITUTIONAL USES														
Cemeteries											C			
Churches		C	C	P	C	P					P			
Civic, social clubs		C	P		P ⁽¹⁾									
Colleges and universities											P			

Community centers		C	C		C ⁽¹⁾						P			
Educational service establishments				P	C	P		C		C				
Hospitals				C	C	C					C	P		
Institutional care facilities				C	C ⁽¹⁾	C					C	P		
Libraries and museums			P	P	P	P					P			
Public uses											P			<u>P</u>
Schools, elementary and middle		C		C	C	C					<u>P</u>	C		
Schools, high		C		C	C	C					<u>P</u>	C		
LODGING														
Bed and breakfast establishments	See 14-6-35													
Hotels and motels				P		P	P		C	C				
MISCELLANEOUS USES														
Adult entertainment establishments	Ch. 5-2									P				
Heliports	14-6-6			C		C	C	C	P	C	C			
Heliports, medical and law enforcement	14-6-6			P		P	P	P	P	P	P	P		
Microbreweries	Ch. 5-3			P	P	P	C	C	C	C				
Outdoor advertising signs	Ch. 14-11			C		C		C						
Shelters/halfway houses											C	C		
Water dependent uses not allowed as a permitted use														C
Water dependent uses in Lake Tohopekalgia														P

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RECREATION USES														
Recreation areas, passive		P	P		P		P	P			P			P
Recreation facilities, indoor				P		P		C		C ⁽¹⁰⁾	P			
Recreation, active/outdoor				C		C					P			
Recreation: Golf courses									€	€	C			
Recreation: Shooting ranges, indoor						C		C		€				
Recreation: Shooting ranges, outdoor						C		C		€				
RESIDENTIAL USES														
Accessory dwelling units	14-6-2	P												
Community residential homes	14-6-39			C										
Duplex dwellings	14-6-43	P												
Mobile homes	14-6-41													
Multiple family residential	14-6-43	P	€ ⁽⁷⁾	P ⁽⁷⁾	P ⁽⁷⁾	P ⁽⁷⁾								
Single family dwellings (detached)	14-6-43	P												
Townhome	14-6-43	P												
Triplex	14-6-43	P												
SERVICE USES														
Car wash establishments			C	C										
Child care facilities	14-6-37	C	P/C ⁽¹³⁾	P/C ⁽¹³⁾	P/C ^(1,13)	P/C ⁽¹³⁾	P/C ⁽¹³⁾				C	P		
Communication service establishments	14-6-38			P	P	P	P	P		P				

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Equipment sales and leasing, heavy						C		C						
Equipment sales and leasing, light				P	C ⁽¹⁾	P	P	P	P	C				
Financial institutions			P	P	P	P				C				
Gasoline service stations			C	C		C	C	C		C				
Gasoline stations for fleet vehicles only								P						
Kennels				C				C		C				
Mobile home & RV sale, rental, leasing								C		C				
Motion picture production studio	Ch. 5-4						C	C						
Motor vehicle repair, heavy ⁽⁶⁾								C		<u>C</u>				
Motor vehicle repair, light				C ⁽⁶⁾		C ⁽⁶⁾		p ⁽⁶⁾						
Sales, rental and leasing (heavy commercial vehicles)	14-6-10							C		C				
Sales, rental and leasing (mopeds, scooters, and/or neighborhood electric vehicles)	14-6-10			P		P								
Sales, rental and leasing (all other vehicles)	14-6-10			C		C		C	C ⁽¹¹⁾	C				
Occult science establishment	Ch. 5-6			C		C								
Office establishments		P	P	P	P	P	P	<u>P</u>	C ⁽⁸⁾	p ⁽⁸⁾				

Parking garages, principal use	14-7-28			C		C	C			C				
Parking lots (surface), principal use	14-7-23			C		C	C			C				
Repair service establishments, heavy				C ⁽⁶⁾		C ⁽⁶⁾		C ⁽⁶⁾						
Repair service establishments, light				P ⁽⁶⁾		P ⁽⁶⁾		P ⁽⁶⁾		P ⁽⁶⁾				
Research & development establishments				C		C	P			P				
Service establishments, business			P	P	P	P	P	P		P				
Service establishments, personal			P	P	C ⁽¹⁾	P	P							
Service establishments, intensive							C	P		P				
Storage facilities, self-service	14-6-47		P ⁽⁹⁾	P ⁽⁹⁾	P ⁽⁹⁾	P		P		P ⁽⁹⁾				
Storage yards	14-6-12							P		P				
Temporary labor service establishments	14-6-45			C		C	C	P		C				
Veterinary clinics			P	P	P	P	P	P		P				
Warehouse							P	P		P				
UTILITY USES														
Communication towers and facilities	14-6-38			C		C	C	C	C	C	C	C	C	
Recycling collection centers	14-6-42							C		C				
Utility facilities, major				C			C	C		C			C	
Utility facilities, minor	14-6-46	P	P	P	P	P	P	P	P	P	P	P	P	

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TRANSPORTATION USES													
Bus depots				C		P	C	C					
Rail stations and taxi stations with no onsite vehicle storage and/or repair				P		P							
Rail stations				C		C							
Taxi stations				C		P	C	C					

P=Permitted; C=Conditional Use; Blank Cell=Prohibited.

Footnotes:

- (1) The gross floor area shall not exceed 4,000 square feet.
- (2) Conditional use required if located within 300 feet of an RA or RB residentially zoned lot.
- (3) Allowed only on lots located more than 300 feet from residential zoning district boundaries.
- (4) Shall not occupy more than five percent of the gross floor area of all buildings on any lot or group of contiguous lots in common ownership or control; shall be within a building or enclosure such that there are no external signs or evidence of such uses; and shall have no external access to the uses.
- (5) Pawn shop buildings shall not contain less than 5,000 or more than 10,000 square feet of gross floor area.
- (6) All repair and manufacturing activities conducted within 300 feet of a residential district shall be in completely enclosed buildings. Processes located at a greater distance may be located outdoors if approved as a conditional use and shall be enclosed by a solid wall or fence at least six feet high.
- (7) Allowed only as part of a mixed-use development. Residential density shall not exceed the highest density permitted by adjacent residential districts.
- (8) Directly related to or dependent upon the use of the airport or other airport activities.
- (9) Only allowed within a mixed-use development and not directly fronting an arterial roadway.
- (10) Only allowed outside the Airport Noise Overlay District.
- (11) Vehicle rental establishments only.
- (12) No outdoor business activities shall be allowed in the RA, RB, RC, or MH district except when authorized as a temporary use. This provision does not apply to business signs, standard antennas, or outdoor storage if allowed by other sections of this Code.
- (13) Conditional use required if located within 300 feet from a residential zoning district.

(Code 1995, §§ 14-2-16—14-2-42; Ord. No. 3034, § 1(14-4-5), 8-4-2020)

14-4-6. ~~Dimensional r~~Regulations for ~~standard zoning~~ zoning districts.

A. General rules.

1. *Yard identification on multiple frontage lots.* The yards for multiple frontage lots (including corner lots, through lots and lots with frontage on more than two streets) shall be determined based on the definitions listed in chapter 14-2. For lots/sites that have multiple frontages, the director shall make a determination based on the following criteria:
 - a. In the case of corner, through or island lots, the front yard shall be the continuation of the front yard of the adjacent lots or, if there are no adjacent lots, the lots across the street.
 - b. If there is no consistency of yards on the adjacent lots or across the street, the front yard shall be determined based on the function or hierarchy of the abutting streets, the lot depth requirements of the zone, and access requirements of this Code.

-
- c. The other sides of the lot which also face a street shall be designated "street side" yards.
 - d. In the case of non-rectangular lots, the front lot lines shall be determined by the director subject to the standards set forth for rectangular lots.
 - 2. *One building per lot.* Not more than one single family, duplex or triplex structure shall be located on a lot except in an RC-1, RC-2, MHP, RPUD, SRPUD or MUPUD district.
 - 3. *Setback encroachments.* Every part of the required setback zone shall be open and unobstructed from the ground to the sky, except as hereinafter provided or as otherwise permitted in this ordinance:
 - a. Roof projections may project up to three feet into a required setback.
 - b. Balconies and movable awnings may extend up to three feet into any required setback area, but may not have any supports within the setback zone.
 - c. Air conditioning units, pool pumps and similar mechanical units may project up to five feet into a required rear or side yard setback if at least two feet of the required yard setback is unobstructed by such mechanical units.
 - d. Stoops, colonnades, and open-sided porches may encroach up to ten feet into the front setback, but in no case shall such elements be set back less than five feet from the front property line.
 - e. Fences and walls provided they meet the standards of section 14-6-5.
 - 4. *Building height.* Building height shall be measured in floors/stories, unless noted otherwise in certain zoning districts.
 - a. Unless specifically stated in other sections of this Code, the ground floor of commercial buildings shall measure no less than 12 feet and no more than 25 feet from finished floor to finished ceiling. Upper floors in non-residential or mixed-use buildings shall measure no less than nine feet and no more than 14 feet. A floor exceeding the maximum height shall be counted as two stories. Mezzanines extending beyond 33 percent of the floor area shall be counted as an additional story. Parking garages shall be exempt from these requirements.
 - b. Parapet walls and cornices shall not extend more than four feet above the roof.
 - c. Rooftop architectural features, such as church spires, belfries, cupolas, domes, chimneys and similar elements not used for human occupancy, shall not exceed 20 percent of the total height of the building or 20 feet above the top floor of the building, whichever is less.
 - d. Rooftop equipment such as water towers, HVAC units, elevator machine rooms, ventilators, skylights, and similar elements shall be erected only to such height as necessary to accomplish the purpose they are to serve. In no case shall they exceed ten feet above the top floor of a building.
 - e. Notwithstanding the above, all structures shall meet the applicable standards of the airport hazard district, as specified in chapter 8 of the Code, and the regulations of the Federal Aviation Administration.
 - 5. *Density and intensity.*
 - a. Allowable density and intensity (floor area ratio - FAR) shall be calculated by multiplying the gross area of the site times the density or intensity allowed in the district.
 - b. For horizontal and vertical mixed-use, the density shall be calculated based on the *combined* residential and non-residential acreage of the site. The allowable intensity, however, shall be calculated as follows:

- i. For horizontal mixed-use, the non-residential portion of the site is multiplied times the allowable FAR. Interior parking, loading, or heights of less than six feet are not included in the FAR calculation.
 - ii. For vertical mixed-use, the combined square footage of residential and non-residential portions of the site are multiplied by the permitted FAR. The resulting square footage number represents the maximum square footage of combined residential and non-residential use permitted on the site. Interior parking, loading, or heights of less than six feet are not included in the FAR calculation.
6. *Open space.* All residential developments shall meet the requirements of section 14-10-10 (Open Space).
7. *Recreational facilities.* All residential developments with more than 20 lots shall meet the requirements of section 14-10-11 (Parks and Recreation Facilities).
8. *Living area.* Buildings intended for dwelling use shall have the following minimum living area size per unit:
 - a. Single family dwellings: 1,200 square feet.
 - b. Townhouse and multi-family:
 - i. 500 square feet for one-bedroom;
 - ii. 750 square feet for two-bedrooms; and
 - iii. 1,000 square feet for three-bedrooms.
 - c. Mobile home, duplex, or triplex: 750 square feet.
 - d. Any dwelling with more than three bedrooms shall have an additional 100 square feet for each additional bedroom.
 - e. Hotel rooms or similar rooms intended for transient or temporary occupancy (without cooking facilities): 120 square feet per room, not including bath, shower, closets and other usual accessory spaces.
9. No residentially zoned lot shall have more than 40 percent of the front and side yards covered with pavers, concrete, turf blocks, gravel, asphalt, brick pavers or other type pavement.
10. Unless mentioned in the zoning district standards, the following standards shall apply to all zoning districts, including Planned Unit Developments. Where not in conflict with the standards of the Form-Based Code, these standards shall also apply to transect zones.

B. *Schedule of dimensional regulations for standard districts.*

Except as noted otherwise in this Code, regulations governing the dimensional requirements for the standard districts shall be as shown in Tables 4-3 through 4-5. More specific standards for certain uses are listed in chapter 14-6.

The standards adopted for specific uses (chapter 14-6), overlay districts (section 14-4-7), planned unit development (section 14-4-8) and the form-based code area (chapter 14-5) shall take precedence over the standards in this section.

Table 4-3: Site Standards - Residential Districts

	AC	RE	RA-1	RA-2	RA-3	RA-4	RB-1	RB-2	RC-1	RC-2	MH
Lot size (min):											

Lot area (sq. ft.) SF/MH	5 ac	20,000	12,000	9,000	7,000	6,000	6,000	6,000	-	-	6,000
DP/TP	-	-	-	-	-	-	4,000/unit	4,000/unit	4,000/unit	4,000/unit	-
Other uses	5 ac	20,000	20,000	20,000	20,000	20,000	20,000	10,000 ⁽¹⁾	10,000 ⁽¹⁾	10,000 ⁽¹⁾	6,000
Lot width (ft.) ⁽²⁾ SF/MH	200	100	80	70	60	50 ⁽³⁾	50	50	-	-	50
DP/TP	-	-	-	-	-	-	70	70	50	50	-
TH	-	-	-	-	-	-	20	20	20	20	-
MF	-	-	-	-	-	-	70	75	70	70	-
Other uses	200	100	80	75	75	75	70	75	70	70	50
Lot depth (ft.)	200	150	120	110	100	100	100	100	100	100	120
Impervious surface area (max.)	50%	50%	50%	50%	50%	50%	50%	50%	75%	75%	50%
Gross floor area, non-residential uses (max.)(sq. ft.) ⁽³⁾	NA	NA	5,000	5,000	5,000	15,000	15,000	15,000	NA	NA	NA
Setbacks (ft.): ⁽⁴⁾⁽⁵⁾⁽⁶⁾											
Front Min	35	35	25	25	20	20	10	10	10	10	25
Max							20	20	20	20	
Side (min.) Resid.	25	15	9	8	7	5	5	5	10	10	5
Non-resid.	25	15	10	10	10	10	10	10	10	10	5
Street side (min.) Resid	NA	25	25	20	18	15	15	15	10	10	15
Non-resid.	25	25	25	20	18	15	15	15	10	10	15
Rear (min.)	35	35	25	25	25	25	20	20	20	20	25
Alley (min.)	4 ft., or 18 ft. if parking is expected to be provided in the driveway										
Building separation ⁽⁷⁾ (ft.)	-	-	-	-	-	-	-	-	15	15	-

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Recreation & open space ⁽⁸⁾											
Open Space (%)	25	25	25	25	25	25	25	25	25	25	25
Active recreation	MF: 3% min. and 6% max. of buildable area or 150 sq. ft. per unit, whichever is greater										
Passive recreation	15% of buildable area										
Structure height (stories) ⁽⁴⁾ ⁽⁹⁾	2	2	2/3 ⁽¹⁰⁾	2/3 ⁽¹⁰⁾	2/3 ⁽¹⁰⁾	2/3 ⁽¹⁰⁾	3	3	4	NA	1/3 ⁽¹⁰⁾

SF=Single Family; MH=Mobile Home; DP=Duplex; TP=Triplex; TH=Townhouse.

Notes: Overlay District regulations that address bulk and dimensional requirements supersede the requirements of this table. See chapter 14-5 (Form-Based Code) for regulations applicable to properties that have a T-zone designation.

Footnotes:

- (1) Churches, public and private schools, educational service establishments, libraries, day care centers, community centers, non-profit clubs, and fire stations within these districts require a minimum lot size of 20,000 square feet, unless a larger area is needed to accommodate the use.
- (2) Single family home developments proposing lots with less than 70 feet in width shall meet the standards for TND (see section 14-10-18).
- (3) The maximum building size noted may be exceeded if approved through the conditional use review. Schools are exempt from this requirement.
- (4) See section 14-4-6.C for special setback requirements for developments adjacent to, or across the street from, residential zoning districts.
- (5) Garages in districts where the minimum front or street side setback is less than 20 feet, shall allow a minimum setback of 20 feet to accommodate the length of a vehicle in the driveway.
- (6) The minimum front and street side building setback for multi-family and non-residential uses located on any street classified as an arterial or collector in the comprehensive plan shall be 35 feet except in the form-based code area, where setbacks are regulated by chapter 14-5.
- (7) Minimum separation between residential buildings on the same lot, unless a higher standard is required by the National Fire Protection Association (NFPA) 1141 (as adopted by section 24-19 of the Code), or by the Florida Building Code.
- (8) These percentages apply to the entire development site, not to individual lots.
- (9) See chapter 8 (aviation) for height restrictions.
- (10) The second figure represents the number of stories that may be authorized through conditional use review.

Table 4-4: Site Standards - Residential Mobile Home Park District

	Tract	Mobile Home Lots	Accessory Building Lots	Other Lots
Lot Size (min):				
Lot area	5 acres (MHP tract)	4,000 sq. ft.		
Lot width (feet)	NA	50 ft.		
Lot depth (feet)	NA	NA		
Setbacks:				
Perimeter setbacks		10, except as follows: 25 ft. from arterial or collector 15 ft. from single family district or public ROW	15 ft., except as follows: 25 ft. from public ROW 25 ft. from single family district	—

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		adjacent to single family district		
Front (feet)		10		
Side (feet)	10, except as follows: 15 if adjacent to SF residential district	7.5, except as follows: 10 next to common open space		
Street side (feet)	25 arterial & collector 15 other roads	7.5		
Rear (feet)	10	10		
Residential building separation (on same lot) (feet)	20		20	
Parking space setback	10		10 from ROW	
Impervious surface area (max.)	—	—	—	—
Structure height (feet)	—	15		25

Note: See section 14-6-41 for additional provisions applicable to mobile home and recreational vehicle parks

Table 4-5: Site Standards - Non-Residential Districts

	RPB	B-2	B-3	HC	B-5	BP	IB	AO	AI	CF	HF	UT	OS
Tract size (min)						5 ac ⁽¹⁾							
Lot size (min):													
Lot area (sq. ft.)													
SF	6,000												
DP/triplex	4,000 / unit												
All other uses	10,000 ⁽⁹⁾	30,000	30,000	40,000	20,000	80,000	20,000	30,000	40,000	20,000	20,000	20,000	
Lot width (ft)	75	150	150	200	150	200	150	100	150	100 ⁽²⁾	100	100	
SF	50												
DP/TP	70												
Lot depth (ft.)	100	150	150	150	100	300	100	200	200				
Setbacks (min. ft.) ⁽³⁾⁽⁴⁾ :													
Front	25	25	25	35	25	40	25	25	25	25	25	25	25

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Side		10	10	15	10	25	10 ⁽⁵⁾	10	10 ^[5]	10	10	10	25
SF/DP	5												
Street side	25	20	20	25	20	25				25	25	25	25
SF/DP	18												
Rear	25	25	10	15	10	40	15/25 ⁽¹⁾ 5 ⁽⁶⁾	15/25 ⁽⁶⁾	25 ⁽⁵⁾	10	10	10	25
Parking space setback (min. ft.)	7 feet minimum or the width of the landscape strip required in Chapter 14-8, Part III, whichever is greater												15/25 ⁽⁷⁾
Impervious surface (max)	75%	80%	80%	80%	80%	80%	85%	80%	85%	75%	80%	80%	30%
Structure height (max. ft.) ⁽³⁾⁽⁸⁾	35	35	NA	NA	45	NA	NA	NA		80	NA	60	35
Ground floor area (min)		25%											

SF=Single Family; DP=Duplex; TP=Triplex; TH=Townhouse

Notes: Overlay District regulations that address bulk and dimensional requirements supersede the requirements of this table. See chapter 14-5 (Form-Based Code) for regulations applicable to properties that have a T-zone designation.

Footnotes:

- (1) Minimum may be waived by the city commission upon the recommendation of the planning advisory board.
- (2) Except parks for which no minimum is required.
- (3) See section 14-4-6.C for special setback requirements for developments adjacent to or across the street from residential zoning districts.
- (4) The minimum front and street side building setback for multi-family and non-residential uses on any street classified as an arterial or collector in the comprehensive plan shall be 35 feet except in the form-based code area, where setbacks are regulated by chapter 14-5.
- (5) No building setback is required next to a railroad siding.
- (6) 15 feet adjacent to property assigned an Industrial(IN), Airport Expansion (AE), or Utilities (UT) future land use designation by the comprehensive plan; 25 where adjacent to property assigned any other future land use designation.
- (7) 15 feet minimum. No parking area shall be located within 25 feet of any residentially zoned property.
- (8) See chapter 8 (Aviation) for height restrictions.
- (9) Churches, public and private schools, educational service establishments, libraries, day care centers, community centers, non-profit clubs, and fire stations within this district require a minimum lot size of 20,000 square feet, unless a larger area is needed to accommodate the use.

- C. **Building height and setbacks adjacent to residential zoning.** Multi-family developments with more than four units and non-residential developments abutting a single family residential zoning district, including RE, RA-1, RA-2, RA-3, RA-4, RB-1, RB-2, and MH, or a lot approved for single family detached dwellings in RPUD, SRPUD, and MUPUD, shall provide:

1. The landscaping, buffer and screening required in chapter 14-8, part III; and

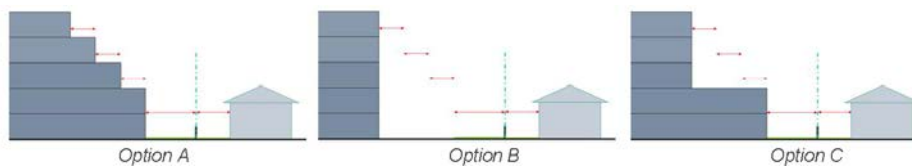
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2. A setback of one foot from the abutting residential site for every foot of building height. Developers may elect to apply the setback as follows:
 - a. Option A: Apply the setback to each of the floors above the second story (step back approach, see Figure 4-1); or
 - b. Option B: Apply the setback to the entire façade; or
 - c. Option C: Setback all the stories above the second floor.

The additional setback/step-back requirement may render some sites ineligible for the maximum permitted height. The first 50 feet of the rooftop closest to the single family zoned lot shall not be occupied by active uses that may produce noise and affect the adjacent residential units (open air restaurant, bar, etc.).

Figure 4-1: Setbacks abutting single family residential zoning



D. Site and building design.

1. **Building materials.** The use of corrugated metal finishes or similar materials on the exterior of a building shall be prohibited, except on lots zoned IB or AI if they are located more than 300 feet from any residential zoning district and not abutting an arterial or collector roadway.
2. **Massing.** Where a proposed building is larger than the buildings adjacent to the site, the building shall be designed with façades, rooflines, and architectural features, such as entry porticos, window openings, awnings, canopies, or other elements subject to city approval, to provide visual relief and ensure consistency with the mass, scale and character of surrounding buildings.
3. All buildings must front a right-of-way (excluding an alley or lane) or civic space. Building sides fronting a right-of-way or civic space shall comply with the architectural standards contained herein.
4. A building's primary entrance shall be located on the façade facing the public right-of-way or civic space. Primary entrance is the principal pedestrian access to a building, even if customers or residents may more frequently use a secondary entrance associated with a garage, parking area, driveway or other vehicle use area. The entrance shall have architectural detailing that sets it apart from other entrances and allows it to be recognized as the building's primary access point.
35. **Loading/unloading bay & non-residential garage doors.** No loading/unloading bay, non-residential garage door, or similar opening intended for vehicular access or movement of large materials shall be visible from public rights-of-way or adjacent residential uses or districts.
46. **Mechanical equipment screening.** All mechanical equipment located outdoors, such as heating, ventilation, air conditioning, refrigeration systems, or similar devices, shall be fully screened from view from adjacent rights-of-way.
57. **Shopping cart, on-site retention.**

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- a. All business establishments utilizing shopping carts or similar devices, and having more than 20 shopping carts on-site shall install and maintain a system to retain all shopping carts within the real property boundaries of the business location.
 - b. Location, type of device and other pertinent information regarding shopping cart retention deemed necessary by the director must be shown on the approved site plan for the business or lot the business is located on.
 - c. Permitted methods of retention shall include any one of the following methods:
 - i. A physical barrier, such as bollards, restricting shopping carts to the front sidewalk or portion of the business.
 - ii. Shopping carts equipped with a protruding arm or similar device prohibiting the cart from being removed from the interior of the business.
 - iii. A system, which may be mechanical in nature, requiring a deposit to use a shopping cart; deposit should be of a reasonable amount that would not deter the use of the cart, but would encourage the return of the cart.
 - iv. Shopping carts equipped with a wheel locking mechanism that is used in conjunction with an electronic barrier along the perimeter of the area shopping carts are allowed. The wheel locking mechanism will activate when the shopping cart crosses the electronic barrier.
 - v. The business shall provide signage in a conspicuous location notifying shopping cart users of a retention system in place and how said system operates.
 - d. Home improvement centers, as defined in chapter 14-2, are exempt from this section, until such time that the city collects 20 or more shopping carts belonging to an individual home improvement center, during any calendar month, from public- or privately-owned lands and/or rights-of-way other than that of the establishment's location. The loss of this exemption is permanent and may not be reinstated.
 - e. Any business establishment failing to install or properly maintain an approved on-site shopping cart retention system is in violation of this section. Any person, firm, or corporation violating the provisions of this division [section] shall, upon conviction, be subject to the penalties provided in section 1-22 of the Code of Ordinances. Each separate day of violation constitutes a separate offense.

68. *Symbolic buildings.* Symbolic buildings shall only be allowed in the B-3 and HC districts through conditional use approval, and shall meet the following standards:

- a. The symbolic building shall be located within 300 feet of one or more lots with tourist-oriented facilities such as: motels, hotels, or private outdoor amusement, entertainment, and recreation establishments.
- b. The symbolic building shall be located at least 300 feet from residentially zoned lots.
- c. The lot must have frontage on an arterial or collector road as designated by the comprehensive plan.

(Code 1995, §§ 14-2-16—14-2-42, 14-2-74.7; Ord. No. 3034, § 1(14-4-6), 8-4-2020)

14-4-7. Overlay districts.

- A. *Bed & Breakfast Overlay District (BBO).* The Bed & Breakfast Overlay District is hereby established to provide locations for the establishment of such uses. Bed & breakfast facilities shall comply with the requirements of section 14-6-36 and all other requirements of this Code.
- B. *Conservation Overlay District (CO).* This district is intended to protect the integrity of environmentally sensitive areas including wetlands, surface waters, floodplains, and special wildlife and plant habitats. This is to be achieved by requiring the preparation and implementation of an acceptable conservation impact report in conjunction with any development proposal submitted for a use permitted in the underlying zoning district. This report will include an analysis of the property and techniques appropriate for protecting any important environmental characteristics of the property. This zone is intended for use in areas which have been assigned a Conservation (CONS) future land use designation by the comprehensive plan. See section 14-3-33 for conservation impact report requirements.
- C. *Short-Term Rental Overlay District (STRO).*
 - 1. This district is intended to identify areas where short-term rental developments and time-share dwelling developments may potentially be located.
 - 2. Short-term rental developments and time-share dwelling developments are only allowed in the Short-Term Rental Overlay (STRO) District if listed as a permitted or conditional use in Table 4-1 and section 15-4-8 planned unit development districts. No short-term rentals or time-share units shall be allowed unless they comply with the requirements of section 14-6-44 (Short-Term Rentals and Time-Share Units). It is not the intent of this district to deny the continued use of short-term rentals where previously approved. Legally existing short-term rentals and time-share dwellings are subject to the provisions of section 14-1-12 (Nonconforming Uses).
 - 3. Short-term rentals and time-share dwellings within the STRO district must utilize a housing type (single family, duplex, and the like) authorized by the underlying district.
 - 4. Short-term rentals and time-share dwellings must satisfy the standards of the underlying district and other standards of this chapter which apply to the particular housing type involved or underlying zoning district. In addition, all short-term rentals and time-share dwellings requiring conditional use approval must comply with the provisions of sections 14-3-29.F (Conditional Uses - Review Criteria), 14-6-44 (Short-Term Rentals), and 14-6-44 (Time-Share Dwellings).
- D. *Historic Preservation Overlay District (HPO).*
 - 1. *Intent.* The Historic Preservation Overlay (HPO) District is intended to help ensure the protection, enhancement, and perpetuation of properties of historical merit and the areas in which they are located. The district is recognized as serving the public interests of the city and is more specifically intended to do the following:
 - a. Protect, enhance, and perpetuate buildings, structures, improvements, landscape features, and archaeological resources of sites and areas which represent distinctive elements of the city's cultural, social, economic, political, scientific, religious, prehistoric, and architectural history.
 - b. Foster civic pride in the accomplishments of the past by safeguarding the city's heritage as reflected in such sites and areas.
 - c. Stabilize and improve property values of residential, non-residential, and mixed-use areas of the city through the protection, enhancement, and perpetuation of these sites and areas.
 - d. Protect and enhance the city's attraction to visitors and the support and stimulus to the city's economy provided by the attraction to these historic sites and areas.

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- e. Enrich the educational and cultural dimensions of the city's population by promoting the use of such historic sites and areas for the education, pleasure, and general welfare of the public.
 - f. Maintain and enhance the special characteristics of the city's historic neighborhoods by helping to protect the historic character and social fabric of the areas and by furthering the compatibility of uses within them.
 - g. Operate in conjunction with any zoning district.
2. *New district designation.* Section 14-3-35 contains the requirements and processing steps for the designation of new HPO districts.

(Code 1995, §§ 14-2-43, 14-2-44, 14-2-46, 14-2-47; Ord. No. 2038, 12-20-1994; Ord. No. 2146, 12-17-1996; Ord. No. 2358, 9-5-2000; Ord. No. 2511, 4-13-2004; Ord. No. 2858, 5-21-2013; Ord. No. 3034, § 1(14-4-7), 8-4-2020)

14-4-8. Planned unit developments (PUD).

A. General.

1. *Purpose of PUDs.* PUD districts are recognized as serving the public interest and are encouraged for the following reasons:
 - a. *Land use and housing diversity.* To allow diversification of uses (where mixed-use is allowed), housing types and open spaces when not in conflict with abutting properties.
 - b. *Efficiency.* To reduce facility improvement and maintenance costs through a more efficient use of land and a smaller network of utilities and streets than is possible through application of conventional site design controls.
 - c. *Open spaces.* To conserve the natural amenities of the land by encouraging the preservation of scenic and functional open space.
 - d. *Site planning.* To provide maximum opportunity for innovative site planning concepts to create pleasing living environments.
2. *General provisions.*
 - a. Density and intensity calculations shall comply with section 14-4-6.A.5.
 - b. The relevant review criteria in section 14-3-31 (Site Plan Review) shall be used in reviewing a planned unit development (PUD) application.
 - c. The ordinance adopting the rezoning for a specific PUD district shall specify the allowable number of units permitted therein.
 - d. New planned unit developments are not allowed within the form-based code area (see chapter 14-5).
 - e. To ensure that development will occur according to the limitations of housing types, site design, density, building coverage, improvement standards, and construction phasing it must be authorized through a conceptual plan.
 - f. See section 14-3-28.B.1.b for ownership and control requirements.
 - g. Mixed-use and commercial planned developments shall distribute pedestrian/bicycle-oriented amenities, such as bike racks, evenly throughout the residential and non-residential portions of the development.

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3. *Density bonus.* Any density bonus tentatively approved at the time of rezoning shall be conditioned upon full conformance at the time of site plan or subdivision plat. A five percent density bonus may be approved for each of up to five criteria listed below, which the city determines is satisfied. No density bonus shall be provided unless the design used to achieve the criteria below exceeds the minimum standards of this chapter which would otherwise apply to the project.
- a. *Design standards.* A comprehensive set of standards are established which address the design of all buildings, signage, fences/walls, accessory structures, streetscapes, landscapes and site design elements. Design elements to be addressed shall include: architectural styles, details and materials; the configuration, massing, scale, spacing, façade design and orientation of buildings; setback patterns; the style, materials and placement of walls/fences and landscaping; streetscape design addressing pavement materials, lighting, street trees, pedestrian and bike facilities, signage, transit shelters, benches, trash receptacles and other hardscape features; screening design and placement of above-ground utility and solid waste facilities; and styles, materials, lighting and placement criteria for signage. This bonus shall require use of upgraded construction materials and design standards for all elements of the development.
 - b. *Amount of open space.* The minimum amount of required common open space is increased by at least ten percent.
 - c. *Size of open space areas.* At least 50 percent of the required open space is located in one or more areas at least one acre in size which have a minimum width and depth of at least 150 feet.
 - d. *Number of trees retained.* The portion of the development considered buildable land must preserve an average of at least 15 trees per acre. Preserved trees must have a minimum DBH of 12 inches.
 - e. *Number of trees planted.* The developer proposes to plant an average of at least 15 trees per acre within the portions of the development considered buildable land. Trees shall have a minimum DBH of four inches, shall be located within common areas, and shall be in excess of minimum landscaping requirements.
 - f. *Street/driveways.* All entranceways to the development have a landscaped entranceway with at least 1,250 square feet of landscaped area and all major internal streets and driveways shall have trees (with an average spacing of 35 feet or less).
 - g. *Pedestrian/bicycle path system.* All residential areas are connected by means of an appropriate pedestrian and/or bicycle path system which complies with the standards in section 14-7-5 and which is located primarily outside of street rights-of-way and generally a substantial distance from major internal streets and driveways. Pathways shall adhere to the following:
 - ~~h-[i]-i.~~ i. Shall be a minimum of ten feet in width;
 - ~~i-[ii]-ii.~~ ii. Must form a continuous internal loop through the development;
 - ~~j-[iii]-iii.~~ iii. Shall connect to existing and/or proposed off-site pedestrian/bicycle systems where possible.
 - k [h]. *Affordable housing.* At least ~~ten-twenty (20%)~~ percent of the dwelling units are substantially subsidized by governmental subsidies in a manner which provides long-term benefits to very low, low and/or moderate-income households. Use of this bonus shall require a letter of confirmation from the City of Kissimmee Housing and Community Development Coordinator or designee.
 - l [i]. *Diversified housing market.* At least 75 percent of the dwelling units contain 2,000 square feet or more of heated/cooled space to provide expanded options for higher income households.

- m [j]. *Traditional neighborhood design.* The development complies with the traditional neighborhood design standards in section 14-10-13.
- n [k]. *Public school site dedication.* The developer dedicates land to the Osceola County School Board for use as a public school. This criterion alone may achieve a bonus equivalent to 20 percent of the total allowable density for the project. In order to qualify for this bonus:
- o [i]. The site to be dedicated must be accepted by the Osceola County School Board as being consistent with their plans and need for schools in the area;
 - p [ii]. The dedication of land shall be made prior to or concurrent with final plat approval for the proposed development.
- q [l]. *Public facility dedication.* The dedication of land for use by a government entity for a fire station, police substation, community center, athletic facility or similar public facility when requested by the local government entity.
- r [m]. *Green building practices.* The use of "green" building practices in accordance with the policies of the U.S. Green Building Council (USGBC) and leadership in energy and environmental design (LEED) certification program. To qualify, the project must have a minimum of 25 percent of the points required to become LEED certified, based on the LEED certification checklist issued by the USGBC. Methods for utilizing these principles shall be clearly outlined in the PUD documents and must be verified in all building and site construction documents.
- s [n]. *Infill development.* The development meets the definition of "infill," as identified in chapter 14-2 and is within existing city limits or would reduce an existing enclave. This section shall not be construed to promote the demolition of existing structures deemed historic within the city, as defined by chapter 14-2.
- t [o]. *Historic preservation.* The development includes the rehabilitation, restoration, and/or adaptive reuse of an existing historic structure, as defined by chapter 14-2. The use of this bonus shall require historic preservation board review and approval of any improvements to existing historic structures utilized within the project.

B. Residential Planned Unit Development District (RPUD).

1. *Intent.* The purpose of this district is to permit land under unified control to be planned and developed for permanent residential occupancy with a greater amount of site design flexibility by removing some of the restrictions of conventional zoning.
2. *Future land use categories.* This district is intended for use in suitable areas which have been assigned any of the following future land use designations by the comprehensive plan: Single Family Low Density Residential (SF-LDR), Single Family Medium Density Residential (SF-MDR), Multiple Family Medium Density Residential (MF-MDR), Multiple Family High Density Residential (MF-HDR), Open Space (OS), and Institutional (INST).
3. *Permitted uses.* The primary permitted uses shall be those uses authorized by the category designated on the future land use map of the comprehensive plan. Within this framework, the following subordinate uses may be authorized if they utilize less than 50 percent of the gross area of the development:

Table 4-6: Permitted subordinate uses in RPUD

Permitted Uses	FUTURE LAND USE CATEGORIES			
	Single Family Low Density	Single Family Medium Density	Multiple Family	Mixed-Use
Single family	P	P	P	(1)
Duplexes	P	P	P	(1)

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Triplexes	P	P	P	(1)
Multiple family	P	P	P	(1)
Townhouses	P	P	P	(1)
Community residential homes	P	P	P	(1)
Rooming houses	P	P	P	(1)
Short-term rentals in compliance with section 14-6-44	P	P	P	P
Time-share dwellings	N	N	N	N
Sewage treatment plants, water plants, and similar facilities needed to serve the RPUD District	P	P	P	(1)
Communication facilities (other than communication towers)			P	(1)

⁽¹⁾ Per Future Land Use category

Permitted (P); Not Permitted (N)

4. *Site design standards.*

a. *Residential planned unit development (RPUD) density.*

- i. The maximum density within a mixed-use future land use designation shall not exceed 75 percent of the maximum density permitted by the future land use designation of the site. No density bonuses may be approved. However, the development shall be required to meet a minimum of four of the criteria identified in subsection 14-4-8.A.3. If the site has a residential or non-residential future land use designation, however, a density bonus may be approved in accordance with section 14-4-8.A.3.
- ii. Densities may be restricted to less than six units per acre in areas assigned a multiple family future land use designation if during the conceptual plan review process the city determines such densities are needed in order to protect environmentally sensitive lands or to achieve greater consistency with surrounding uses of land.
- iii. The density shall be calculated based on gross acreage as defined in chapter 14-2.
- iv. Densities in RPUDs shall be compatible with the densities of existing and anticipated future development surrounding the RPUD, according to the policies of the future land use element of the comprehensive plan. .

b. *Lot area, yards, building separation, and setbacks.*

- i. Single family detached dwellings shall be located on lots with an area of at least 9,000 square feet and a lot width of at least 70 feet. Single family lots with an area of less than 9,000 square feet and a lot width of less than 70 feet may be permitted provided the development complies with the traditional neighborhood design standards listed in section 14-10-13. However, greater area and lot widths may also be required after considering the relevant characteristics of the use, the rest of the planned unit development (PUD), and the surrounding area - including those characteristics relating to compatibility, physical feature constraints, and infrastructure constraints. Lot depth and yard requirements for single family dwellings shall be determined on a similar basis. Area, width, depth, and yard requirements

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for townhouse lots and other lots shall also be determined on an individual development basis, after considering the relevant characteristics of the use, the rest of the PUD, and the surrounding area.

- ii. There shall be at least 15 feet between multiple family structures with four or more dwellings, and for each story over one, an additional five feet of separation is required. Where residential structures have differing heights, the distance shall be based upon the tallest structure. Accessory structures shall be located no closer than five feet to residential structures. Additional separation may be required to provide adequate light, air, privacy, and protection from fire hazards. However, the separation requirements may be partially waived by the city commission after review by the planning advisory board. Such a waiver shall only be permitted if the city commission determines that a reduction in the standards is justified after considering the impact on light, air, privacy, and protection from fire hazards. The separation requirements may also be waived if the project is developed in accordance with the traditional neighborhood standards listed in section 14-10-13.
- iii. No building shall be located closer than 25 feet to any street or street right-of-way unless suitable provisions have been made for public safety, parking/access, landscaping/buffering, and the placement of utilities, or when the development fully complies with the traditional neighborhood design standards listed in section 14-10-13.
- c. *Frontage.* Each dwelling unit and other permitted uses shall have access to a public or private right-of-way and all lots shall front on a public or private right-of-way. All streets shall comply with the standards in chapter 14-7, except that private streets do not need to satisfy the minimum right-of-way width specified in that chapter. The city shall be allowed access on private streets, driveways, easements and common open space to ensure the police and fire protection of the area, to meet emergency needs, to conduct city services, and to generally ensure the health and safety of the residents of the development.
- d. *Height of structures.* Unless specified in the development standards, no structure shall exceed a height of 35 feet.
- e. *Underground utilities.* All utilities including telephone, television cable, and electrical systems shall be installed underground in easements suitable for maintenance and extension. Primary facilities providing service to the site may be exempted from this requirement. Large transformers shall be placed on the ground and contained within pad mounts, enclosures or vaults.
- f. *Internal circulation.* An internal pedestrian and bike path circulation system shall be provided in accordance with section 14-7-5.
- g. *Other site design standards.* All RPUD development shall also meet the applicable provisions of the following sections:
 - i. Minimum living area: Section 14-4-6.A.
 - ii. Short-term rentals: Section 14-6-44.
 - iii. Parking and access: Chapter 14-7.
 - iv. Landscaping: Chapter 14-8.
 - v. Floodplain: Section 14-9-1.
 - vi. Signs: Chapter 14-11.
 - vii. Communication facilities: The requirements of sections 14-3-29.F (Conditional Uses - Review Criteria) and 14-6-38 (Communication Towers and Facilities) shall be met.

- viii. Open space: Section 14-10-10.
 - ix. Parks and recreation: Section 14-10-11.
 - h. *Professional services required.* Any plans submitted as a part of a rezoning application for an RPUD development shall be prepared by qualified professionals registered or licensed by the State of Florida. This can include an architect, landscape architect, surveyor, civil engineer, or land planner.
 - 5. *Variances.* Variances to Code requirements that cannot be waived through the PUD process must be approved by the board of adjustment in accordance with chapter 14-3.
- C. *Short-Term Rental Planned Unit Development District (SRPUD).*
1. *Intent.* The purpose of the Short-Term Rental Planned Unit Development (SRPUD) District is to permit land under unified control to be planned and developed for short-term rental and/or time-share dwelling (as defined in chapter 14-2) residential structures with a greater amount of site design flexibility by removing some of the restrictions of conventional zoning. However, specific district locations must be compatible with surrounding areas and, unless created prior to the short-term rental overlay (STRO) regulations, must have also received a STRO district classification.
 - a. *Conceptual plan.* To ensure that development will occur according to the limitations of housing types, uses, site design, density, building coverage, improvement standards, and construction phasing authorized through a conceptual plan.
 2. *Future land use categories.* This district is intended for use in suitable areas which have been assigned any of the following future land use designations by the comprehensive plan: Mixed-Use (MU), Single Family Low Density Residential (SF-LDR), Single Family Medium Density Residential (SF-MDR), Multiple Family Medium Density Residential (MF-MDR), Multiple Family High Density Residential (MF-HDR), Open Space (OS), and Institutional (INST).
 3. *Permitted uses.* The primary permitted uses shall be those uses authorized by the category designated on the future land use map of the comprehensive plan. Short-term rentals and time-share dwellings may be allowed. Within this framework, the following subordinate uses may be authorized if they utilize less than 50 percent of the gross area of the development:

Table 4-7: Permitted subordinate uses in SRPUD

Permitted Uses	FUTURE LAND USE CATEGORIES			
	Single Family Low Density	Single Family Medium Density	Multiple Family	Mixed-Use
Single family	N	N	P	(1)
Duplexes	P	N	N	(1)
Triplexes	P	N	N	(1)
Multiple family	P	P	N	(1)
Townhouses	P	P	N	(1)
Community residential homes	P	P	N	(1)
Rooming houses	P	P	N	(1)
Short-term rentals in compliance with section 14-6-44	N	N	N	P
Time-share dwellings	N	N	N	N
Sewage treatment plants, water plants, and similar facilities needed to serve the RPUD district	P	P	P	(1)

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Communication facilities (other than communication towers)			P	(1)
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⁽¹⁾ Per Future Land Use category

Permitted (P); Not Permitted (N)

4. *Site design standards.* The site design standards of the RPUD district (see subsection 14-4-8.B.4) shall apply in addition to the following:
 - a. *Roadway access.* All short-term rental developments and time-share dwelling developments shall have direct access to a collector or arterial road.
 - b. *Buffer.* All short-term rental developments and time-share dwelling developments shall be separated on each side from areas which have not been approved for short-term rental or time-share dwelling use by a 15-foot or wider common area buffer with dense vegetation or a wall at least six feet high. A waiver to the size of the buffer may be granted by the development review committee when the short-term rental or time-share dwelling development is adjacent to a non-residential district.
 - c. *Location within mixed developments.* All short-term rental or time-share dwelling developments which have one or more sections approved for short-term rentals or time-share dwellings and one or more sections not approved for short-term rentals or time-share dwellings shall locate the sections approved for short-term rentals and time-share dwellings in the front of the development or shall provide separate driveway access to such sections.
 - d. *Conversions.* All short-term rental and time-share dwelling developments involving a conversion of existing dwellings to short-term rental or time-share dwelling residential units shall not be approved unless at least 80 percent, or the more restrictive standard in any specific property regulations controlling the property (example: association documents), of the owners in the development demonstrate acceptance of the conversion in a manner suitable to the city attorney.
 - e. *Sales contracts.* All sales contracts involving the sale of lots or dwelling units in short-term rental or time-share dwelling developments shall indicate in red bold type that residential lots in the development may be used for short-term rental or time-share dwelling residential units.
 - f. *Licenses.* Applicable city, county, and state licenses shall be obtained for all short-term rentals, short-term rental developments, time-share dwellings, and time-share dwelling developments.
 - g. *Other conditions.* All short-term rental and time-share dwelling developments shall comply with any other conditions deemed necessary and just.
 5. *Procedures and requirements for rezoning to SRPUD.* See section 14-3-28.
 6. *Site plan and plat reviews.* See chapter 14-3.
 7. *Conformance to conceptual plan.* See section 14-3-28.A.
 8. *Effective period of SRPUD approval.* See section 14-3-28.F.
 9. *Variances.* Variances to the Code requirements that cannot be waived through the PUD process must be approved by the board of adjustment in accordance with section 14-3-51.
- D. *Mixed-Use Planned Unit Development District (MUPUD).*

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1. *Intent.* The purpose of this district is to permit land under unified control to be planned and developed for a compatible mix of residential and commercial purposes or commercial-light industrial uses with a greater amount of site design flexibility by removing some of the restrictions of conventional zoning.
 2. *Future land use categories.* This district is intended for use in suitable areas which have been assigned any of the comprehensive plan future land use designations other than the Mobile Home Medium Density Residential (MH-MDR) designation. The uses, density and intensity allowed in this district shall be consistent with the future land use designation.
 3. *Permitted uses.* The primary permitted uses shall be those uses authorized by the category designated on the future land use map of the comprehensive plan, including short-term rentals and time-share dwellings in areas with land use designations allowing residential uses if in compliance with section 14-6-44. Within that framework, the following subordinate uses are authorized in a mixed-use pattern:
 - a. *Mixed residential - Non-residential development (except in areas with a MU future land use designation).*
 - i. *Residential as subordinate use.* Any use allowed in the RC-2 Multiple Family High Density Residential District (RC-2), including short-term rentals and time-share dwellings if in compliance with section 14-6-44.
 - ii. *Non-residential as subordinate use in Single Family Low Density Residential (SF-LDR) designated areas.* Any use allowed in the B-2 or OS districts, other than communication towers and other communication facilities as defined in chapter 14-2.
 - iii. *Non-residential as subordinate use in other residential designated areas.* Any uses, other than communication towers as defined in chapter 14-2, which are allowed in the B-2, B-5, CF, UT, or OS districts. However, no communication towers and no other communication facilities shall be allowed in areas which have been assigned a Single Family Medium Density Residential (SF-MDR) future land use designation by the comprehensive plan.
 - b. *Non-residential development (except in areas with a Mixed-Use (MU) future land use designation).* The subordinate uses, except adult entertainment establishments, may be any use allowed in the B-2, B-3, HC, B-5, AI, BP, IB, CF, UT, or OS districts.
 - c. *Areas with a Mixed-Use (MU) future land use designation.* The subordinate uses may be any use authorized by the comprehensive plan future land use element policy which established the MU land use designation for the property. Each of the above uses shall only be allowed in locations which the city commission determines them to be appropriate giving consideration to the characteristics of the particular project being proposed, their compatibility with nearby uses, the physical feature constraints of the site and nearby property, and the infrastructure constraints.
 4. *Site design standards.*
 - a. *Mixed-Use Planned Unit Development District (MUPUD) residential density.*
 - i. The maximum density within a mixed-use future land use designation shall not exceed 75 percent of the maximum density permitted by the future land use designation of the site. ~~No density bonuses may be approved; however,~~ Density bonuses may be approved; however, the development shall be required to meet a minimum of ~~four~~ five of the criteria identified in subsection 14-4-8.A.3. If the site has a residential or non-residential future land use designation, however, a density bonus may be approved in accordance with subsection 14-4-8.A.3.
 - ii. Densities may be restricted to less than six units per acre in areas assigned a Multiple Family future land use designation if during the conceptual plan review process the city determines such densities are needed in order to protect environmentally sensitive lands or to achieve greater consistency with surrounding uses of land.

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- iii. The density shall be calculated by gross acreage as defined in chapter 14-2.
 - b. *Lot area, yards, building separation, and setbacks.* Area, width, depth, yard, building separation, and setback requirements for lots shall be determined on an individual development basis, after considering the relevant characteristics of the use, the rest of the planned unit development, and the surrounding area - including those characteristics relating to compatibility, physical feature constraints, and infrastructure constraints. However, areas assigned a residential land use designation on the future land use map of the comprehensive plan and areas assigned a mixed-use designation with a primary use of residential shall comply with the more restrictive requirements in section 14-4-8.B.4.b.
 - c. *Frontage.* Each principal structure shall have access to a public or city approved private street and all lots shall front on a public or city approved private street. All streets shall comply with the standards in chapter 14-7, except that private streets do not need to satisfy the minimum standards for right-of-way width specified in that chapter. The city shall be allowed access on private streets, driveways, easements and common open space to ensure the police and fire protection of the area, to meet emergency needs, to conduct city services, and to generally ensure the health and safety of the occupants of the development.
 - d. *Height of structures.* The city commission, upon recommendation of the planning advisory board, shall determine the appropriate height limitations on an individual development basis after considering the character of the surrounding area, the character of the proposed development, and the development goals as stated in the Kissimmee Comprehensive Plan. However, areas assigned a residential land use designation on the future land use map of the comprehensive plan and areas assigned a mixed-use designation with a primary use of residential shall comply with the more restrictive requirements in section 14-4-8.B.4.b.
 - e. *Underground utilities.* All utilities including telephone, television cable, and electrical systems shall be installed underground in easements suitable for maintenance and extension. Primary facilities providing service to the site may be exempted from this requirement. Large transformers shall be placed on the ground and contained within pad mounts, enclosures or vaults.
 - f. *Pervious area.*
 - i. *Future land use designation is residential.* The maximum amount of impervious surface on the non-residential portion of such a site shall not exceed 80 percent of the non-residential acreage.
 - ii. *Future land use designation is non-residential.* The maximum amount of impervious surface shall be no greater than 80 percent.
 - iii. *Future land use designation is mixed-use.* The maximum amount of impervious surface shall be as specified in the comprehensive plan future land use element policy which established the MU land use designation for the property.
 - g. *Open space and recreation facilities.*
 - i. Common open space provided shall at least equal to the amount of pervious area required above or ten percent of the gross area of the development, whichever is less, when the future land use designation assigned by the comprehensive plan is a non-residential designation or when the future land use designation is mixed-use and the primary use is non-residential.
 - ii. When the designation is residential or mixed-use and the primary use is residential, the development shall meet the requirements of sections 14-10-10 (Open Space) and 14-10-11 (Parks and Recreation Facilities).

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- h. *Internal circulation.* An internal pedestrian and bike path circulation system in accordance with section 14-7-5 shall be provided within the development separate from vehicular circulation systems and at a distance sufficient to ensure safety. The city may waive all or a portion of this requirement upon a demonstration that the paths are infeasible or undesirable in the proposed development.
 - i. *Other site design standards.* All PUD development shall also meet the applicable provisions of the following sections or articles.
 - i. Minimum living area: Section 14-4-6.A.
 - ii. Short-term rentals: Section 14-6-44.
 - iii. Time-share dwellings: Section 14-6-44.
 - iv. Parking and access: Chapter 14-7.
 - v. Landscaping: Chapter 14-8.
 - vi. Floodplain: Section 14-9-1.
 - vii. Signs: Chapter 14-11.
 - viii. Heliport: The requirements of section 14-6-6 shall be met and any maintenance facilities shall be accessory.
 - ix. Communication towers and other communication facilities: The requirements of sections 14-3-29.F (Conditional Uses - Review Criteria) and 14-6-38 (Communication Towers and Facilities) shall be met.
 - x. General regulations for specific uses: Chapter 14-6.
 - j. *Professional services required.* Any plans submitted as a part of a rezoning application for an MUPUD development shall be prepared by qualified professionals which means an architect, landscape architect, or surveyor licensed by the State of Florida, a civil engineer registered by the State of Florida, or a land planner.
- 5. *Procedures and requirements for rezoning to MUPUD.* See section 14-3-28 except that any phasing plan involving a residential component shall ensure that the proportion of the residential units constructed shall always equal or exceed the proportion of non-residential building square footage constructed if the area with the residential component has been assigned a residential land use classification on the future land use map of the comprehensive plan.
 - 6. *Site plan and plat reviews.* See chapter 14-3.
 - 7. *Conformance to conceptual plan.* See section 14-3-28.
 - 8. *Effective period of MUPUD approval.* See section 14-3-28.
 - 9. *Previously approved PUD.* The Kissimmee Industrial Park shall be developed in accordance with the provisions of Ordinance 400, its original PIP zoning. Any other tract designated PUD-I, PUDC, PUD-R, or PUD-S prior to the enactment of the MUPUD district shall be subject to the terms and conditions of the ordinance authorizing that PUD and all other documents approved by the city pertaining to that PUD, including, but not limited to, city approved plans and agreements. However, this section shall apply where such documents are silent with regard to a particular issue or when a PUD amendment is proposed [to] alter the enactment of the MUPUD district, so long as the application of this section does not result in the abrogation of any vested rights attributable to such PUD.
 - 10. *Appeals process.* Any applicant that is aggrieved by a decision of an administrative officer of the city relative to vesting hated upon Code provisions prior to adoption of this ordinance may appeal to the city

manager, and if still aggrieved, to the board of adjustment. Any vesting appeal review shall be based upon the relevant statutes (such as F.S. ch. 163 or 380) and common law on the subject.

11. *Variances.* Variances to Code requirements that cannot be waived through the PUD process must be approved by the board of adjustment in accordance with section 14-3-51.

(Code 1995, §§ 14-2-50—14-2-52; Ord. No. 2038, 12-20-1994; Ord. No. 2138, 11-26-1996; Ord. No. 2144, 12-17-1996; Ord. No. 2146, 12-17-1996; Ord. No. 2158, 2-4-1997; Ord. No. 2241, 8-18-1998; Ord. No. 2242, 9-1-1998; Ord. No. 2400, 12-11-2001; Ord. No. 2510, 3-16-2004; Ord. No. 2572, 9-20-2005; Ord. No. 2692, 6-24-2008; Ord. No. 2742, 12-22-2009; Ord. No. 2908, 10-6-2015; Ord. No. 3034, § 1(14-4-8), 8-4-2020)

CHAPTER 14-5: ~~DOWNTOWN AND VINE STREET~~ FORM-BASED CODE

14-5-1. Purpose.

The purpose of the form-based regulations is to:

- A. Promote transit-oriented design;
- B. Encourage infill development;
- C. Facilitate the aggregation of lots;
- D. Encourage and promote redevelopment on underdeveloped sites;
- E. Foster a relationship between new development and existing and proposed transit stop locations and their proximity to the SunRail Facilities in Kissimmee and Osceola County.
- F. Implement the downtown community redevelopment area (CRA) and Vine Street CRA master development plans.

(Code 1995, § 14-2-54; Ord. No. 3034, § 1(14-5-1), 8-4-2020)

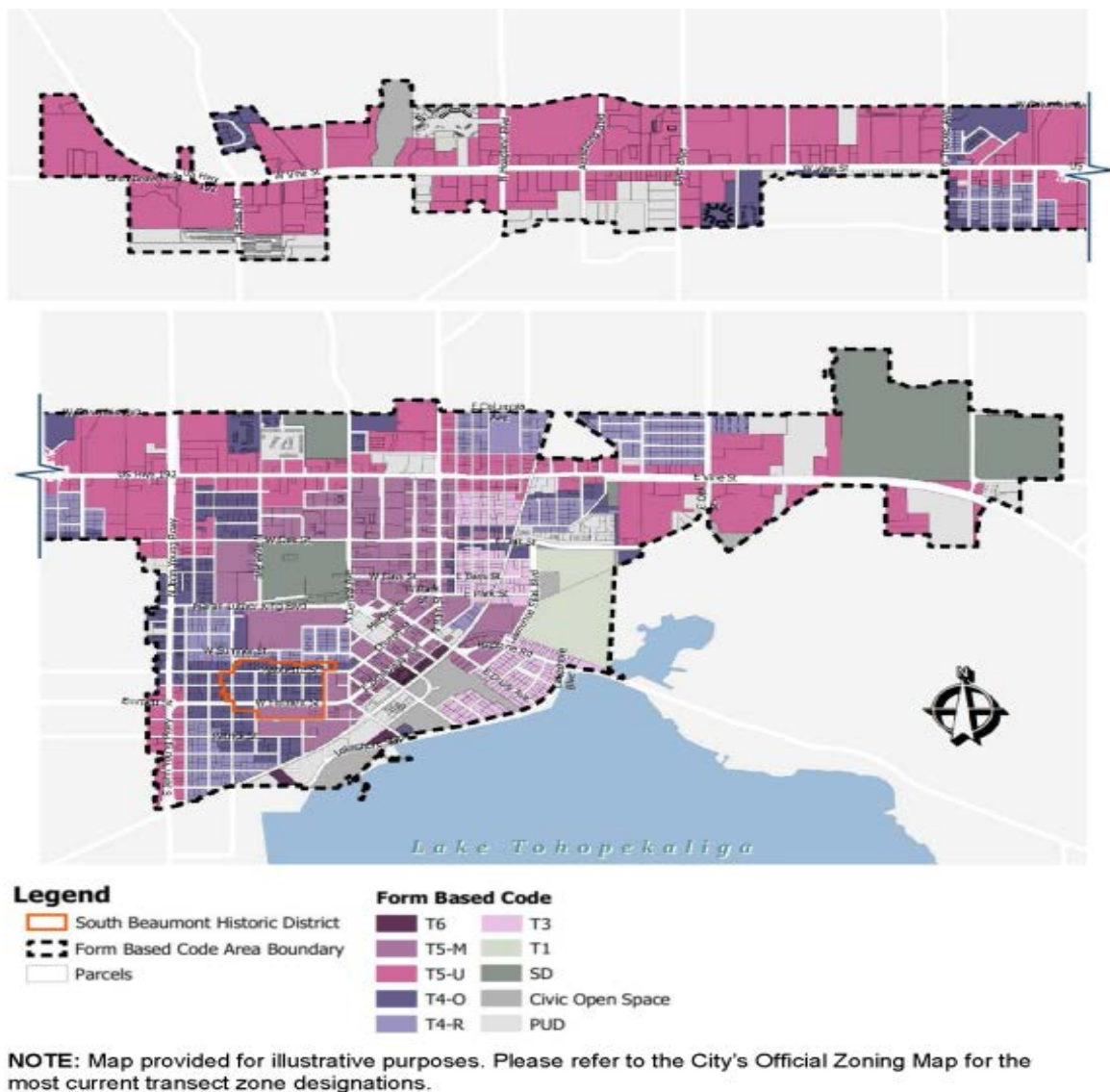
14-5-2. Regulating plan.

Great cities feature a variety of building types and street scenes that differ from center to edge. The center of a city is usually developed in a more intense, mixed-use manner with formal public gathering spaces; the edge areas are usually less intense, less formal and more private in nature. This delicate gradient from center to edge provides a variety of destinations and places to live and work.

The form-based code uses the regulating plan (incorporated into the city's zoning map and shown in Figure 5-1) to designate transect zones (T-zones) and one special district, each with varying urban characteristics, calibrated to fit with the envisioned future context. The following sections show the intent of each T-zone. The regulating plan also depicts areas currently used for public parks (civic/open space) and sites currently approved for planned unit development.

- A. Areas shown as OS (open space) in the transect plan are subject to the use and dimensional standards of the open space zoning district (see chapter 14-4) and section 14-5-10.
- B. New planned unit development zoning districts shall not be allowed within the form-based code area. Owners of existing PUDs may voluntarily rezone their properties to a transect zone.

Figure 5-1: Regulating Plan



(Ord. No. 3034, § 1(14-5-2), 8-4-2020)

14-5-3. Special requirements plan.

The regulating plan (Figure 5-1) works hand in hand with the special requirements plan (see Figure 5-2). These two documents depict areas subject to the following requirements:

- Required frontage (depicted in the special requirements plan).* A ground floor retail, restaurant or personal service establishment shopfront with marquee, awning, canopy, gallery, or arcade is required along the lot frontages shown on the map (Broadway and nearby streets). See requirements for shopfronts in section 14-5-7.D.1 (Shopfront). No other uses shall be allowed on the ground floor along this frontage.



Shopfront

- B. *Required awning, canopy, marquee, gallery or arcade (depicted in the special requirements plan)* A marquee, awning, canopy, gallery or arcade is required along this lot frontage. See requirements for these elements in section 14-5-7.D (Building Frontage Design).



Awnings, canopies and marquees

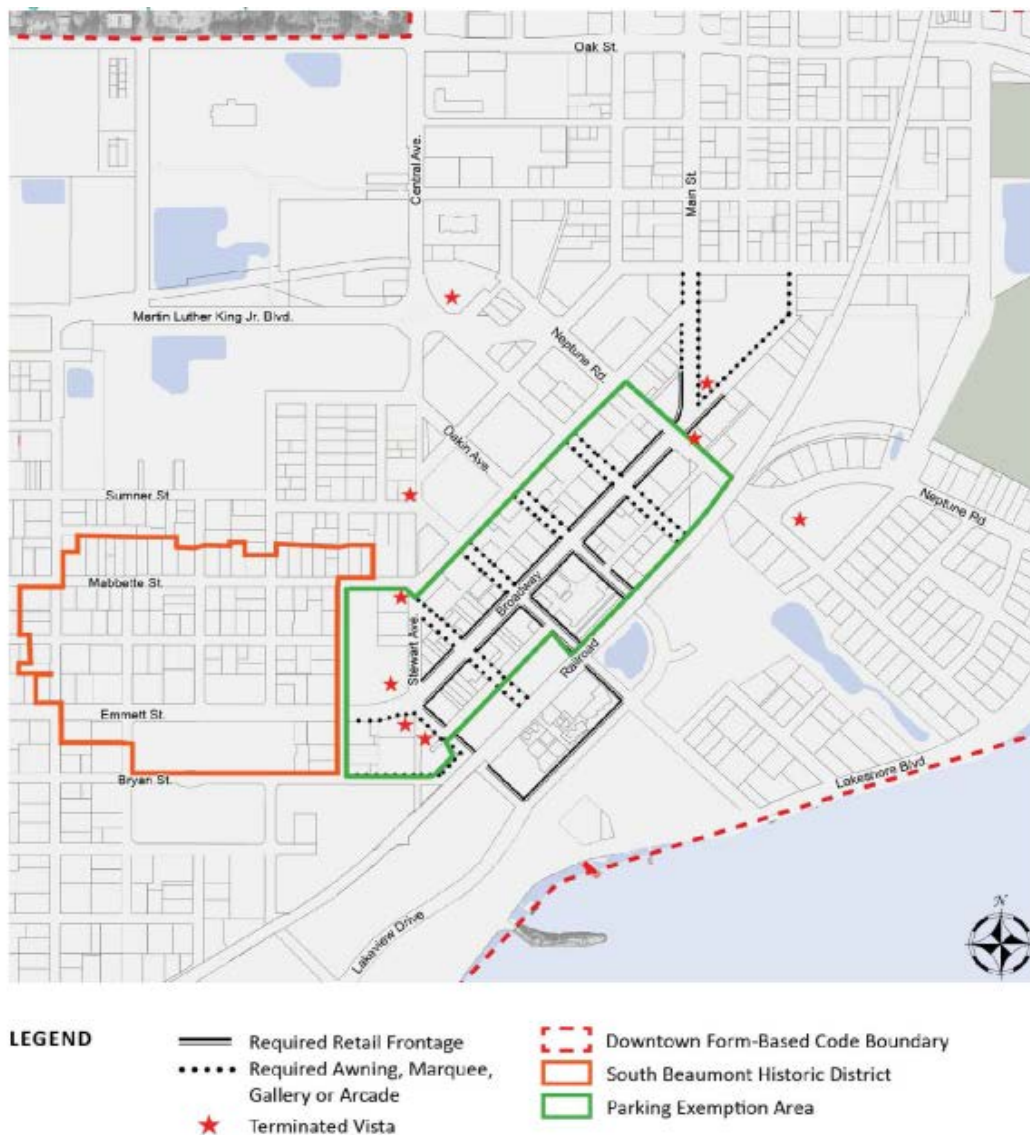
- C. *Historic district (depicted in both).* The provisions of this chapter shall apply to properties within the South Beaumont Historic Overlay District unless they are in conflict with the overlay district design standards. In such cases, the overlay standards shall apply.



Historic Property

- D. *Parking exemption area (depicted in the special requirements plan).* Off-street parking space requirements (minimum number of spaces) shall not apply to this area.
- E. *Terminated vista (depicted in the special requirements plan).* Buildings on sites marked as a terminated vista on the special requirements plan may include towers, corner towers, symmetrical façades centered on a visual axis, an architecturally embellished entry, or similar distinctive architectural devices. See cupola/tower requirements in section 14-5-7.B.1.a.

Figure 5-2: Special Requirements Plan



(Ord. No. 3034, § 1(14-5-3), 8-4-2020)

14-5-4. Transect zones established.

This section establishes the transect zones.

- A. *T1, Natural.* This zone consists of property that is primarily open space, native habitat and wetlands. Development within this area is limited to preserve the natural character. Limited boardwalk and other trails as well as trailheads may be provided in order to access the area for recreational purposes. See Figure 5-3.

Figure 5-3: Image of the T1 Natural Zone



- B. *T3, Edge.* This zone encompasses the predominately residential older neighborhoods with detached single family homes on the edge of downtown. The zone intends to maintain the stability of these neighborhoods and to retain key features of walkability with shallow setbacks and front porches within conversation distance of the sidewalk. See Figures 5-4 and 5-5.

Figure 5-4: Example of Development in T3



Figure 5-5: Examples of Appropriate Building Types Within the T3 Zone



A cottage with front porch and a shallow setback. Plantings along the sidewalk maintain the spatial definition of the street



A modest single family home with front porch



A single-family house with a picket fence and plantings marking the front lot boundary



A single family detached house with a porch within conversation distance of the sidewalk



A picket fence marks the front property boundary



A two-story single family detached home with front porch

-
- C. *T4-R, Neighborhood Restricted.* Located within a short walk of the commercial area, this zone encompasses Kissimmee's historic and older residential neighborhoods. The zone exemplifies a mix of residential types in a pedestrian-oriented urban form. See Figure 5-6 and 5-7.

Figure 5-6: Example of Development in T4-R



Figure 5-7: Examples of Appropriate Building Types Within the T4-R Zone



Closely spaced detached single family homes. A shallow front setback and strong cornice line create a more urbane streetscape



Differing lot widths support a mix of housing types and sizes along the same street, providing a diversity of housing price points



Townhouses with two-story balconies. A modest front setback allows for additional landscaping



Single family homes on small lots are part of the housing mix in this zone



A small apartment building, designed to look like a large house, is a good neighbor to single family homes



Townhouses forming a well-defined street edge and adding to the housing mix in this Transect Zone

-
- D. *T4-O, Neighborhood Open.* Located within a short walk of the main street, this zone encompasses Kissimmee's historic and older neighborhoods where some residential uses have and will continue to transition to commercial. This designation also applies to areas between commercial corridors and the lower intensity residential areas behind those corridors. The zone consists of a mix of uses in a pedestrian-oriented urban form. Buildings may be attached or detached with front façades located close to the sidewalk. See Figures 5-8 and 5-9.

Figure 5-8: Example of Development in T4-O



Figure 5-9: Examples of Appropriate Building Types Within the T4-O Zone



A single-family house repurposed to a commercial use



Front Facades and porches close to the street



A repurposed residential front yard



Live/Work units with commercial uses on the ground floor and residential above



A converted residential home with rear parking



Storefronts with shallow front setbacks allow for additional landscaping and create a transition from the urban core to residential neighborhoods

-
- E. *T5-U, Mixed-Use Urban Corridor.* This zone is primarily located along Vine Street. The purpose of this zone is to promote transit-oriented design, encourage infill development with a mix of uses, facilitate aggregation of lots, encourage redevelopment of underdeveloped sites, foster a relationship between new development and transit stop locations, and implement the Vine Street Community Redevelopment Area (CRA) master plan. See Figures 5-10 and 5-11.

Figure 5-10: Example of Development in the T5-U Zone



Figure 5-11: Examples of Appropriate Building Types Within the T5-U Zone



F. *T5-M, Mixed-Use Center.*

This zone encompasses the center of downtown Kissimmee. Priority is placed on optimizing the built environment for increased walkability and creating a vibrant atmosphere that embraces the historic character of Kissimmee's main street. See Figures 5-12 and 5-13.

To maximize vibrancy and walkability, this zone permits greater development intensity and a mix of uses, with buildings close to the sidewalk, plentiful shade for pedestrians, and parking lots screened from public view.

Figure 5-12: Example of Development in T5-M



Figure 5-13: Examples of Appropriate Building Types Within the T5-M Zone



Mixed-use buildings with simple basic massing, well-designed shopfronts, and architecturally rich details



A single-story commercial building with a generous ceiling height



Taller ground to ceiling heights on the first floor provide flexibility for commercial use and a comfortable adjacent space for pedestrians



A shopfront building with pedestrian protection from sun and rain provided by a two-story gallery.



Large shopfront windows provide interesting views for pedestrians, allow retail shops to display their wares, and let in natural light



Mixed-use building with well-defined street edge. Horizontal articulation breaks the building into several distinct sections.

G. *T6, Waterfront.*

This zone is primarily located along Lakefront Park. Priority is placed here on optimizing the physical characteristics of the built environment to maximize the benefits afforded by the park.

To maximize vibrancy and walkability within and near the park, this zone permits the greatest intensity and mix of uses with buildings close to the sidewalk, plentiful shade for pedestrians, and parking lots screened from view. Building heights are permitted to be tallest here, to create landmark defining features and to create a sense of enclosure for the park. See Figures 5-14 and 5-15.

Figure 5-14: Example of Development in T6



Figure 5-15: Examples of Appropriate Building Types Within T6



Office building with ground floor retail.



Rendering of the Mosaic at Lake Toho development in Kissimmee



Taller floor-to-ceiling heights on the ground floor are more supportive of commercial uses



Horizontal and vertical facade articulation divides the large, single building mass into more human-scaled modules



Larger building sizes allow for full-sized grocery stores to be located in the ground floor retail space of mixed-use buildings



Aerial of mixed-use development. Buildings lining the street. Parking in the rear.

H. *SD, Special District.*

Due to the unique use and large scale nature of campus-type facilities such as schools and hospitals, more design flexibility is allowed within the SD zone than in other districts. The goal of the SD zone standards is to accommodate these large-scale uses while contributing to the urban setting of downtown Kissimmee. See Figures 5-16 and 5-17.

Where possible, based on the nature of the facility, buildings will define the edges of streets and public spaces to create pedestrian and bike-friendly spaces. However, greater flexibility and variety in urban form is given to accommodate the diverse needs of the users. Taller buildings are permitted in these zones to maintain a proper proportional relationship with larger-scale public open spaces and thoroughfares and to accommodate the needs of the uses. Designs must ensure that connections to the pedestrian system are safe.

Figure 5-16: Examples of a Hospital Development in SD



Figure 5-17: Examples of Appropriate Building Types Within the SD Zone



Larger setbacks are permitted in this Transect Zone although the Primary Entrance is still required on the Front Façade



The building is brought to the street while still accommodating vehicular drop-off access at the front door



A portion of this building reaches the sidewalk while another portion is set behind a plaza



A modest setback and transparent facade enables this building to have some engagement with the street



A public school designed to contribute to the urban form.



This school building fits its urban context by defining the street edge and providing an engaging pedestrian experience.

(Ord. No. 3034, § 1(14-5-4), 8-4-2020)

14-5-5. Block standards.

The regulation of block size is a fundamental component of a code to achieve good urban form and transportation connectivity. Shorter blocks improve the pedestrian experience as well as foster a street network grid that supports the efficient distribution of automobile traffic. The urban core of the city generally displays a gridded network, which shall be maintained and improved. If existing streets are vacated to allow the aggregation of smaller blocks into mega-blocks, alternative vehicular connections shall be provided. Furthermore, proposed developments shall be required to increase connectivity in the area by meeting the maximum block size provisions listed in Table 5-2 and the following. If the connections are deemed not feasible by the city manager, the requirement may be waived.

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- A. Culs-de-sac and dead-end streets are not allowed, unless physical conditions provide no practical alternative.
 - B. Proposed development sites that do not encompass an entire block but are within a block that exceeds the maximum block perimeter allowed, shall incorporate vehicular passages connecting streets, or connecting a street to adjacent sites (for future connection if not feasible at the time) to ensure a 660-foot maximum block length is not exceeded (see Figures 5-18 and 5-19). The vehicular passage may be a public street or private drive but shall be open for public passage to another street/drive, or to the adjacent site, which will be required to continue that street/drive. The purpose of this requirement is to improve vehicular and pedestrian connectivity within blocks that are longer than the standard noted above.
 - C. Pedestrian passages to rear parking areas or streets, or to adjacent sites (for future connection) shall be provided every 300 feet, where applicable (see Figure 5-19). Where there is not a functional connection, a public plaza with a minimum width and depth of 20 feet shall be created to break down the continuity of the block. The width of a pedestrian passage shall be no less than 20 feet.

Figure 5-18: Improving ~~Connectivity~~Connectivity with Site Driveways

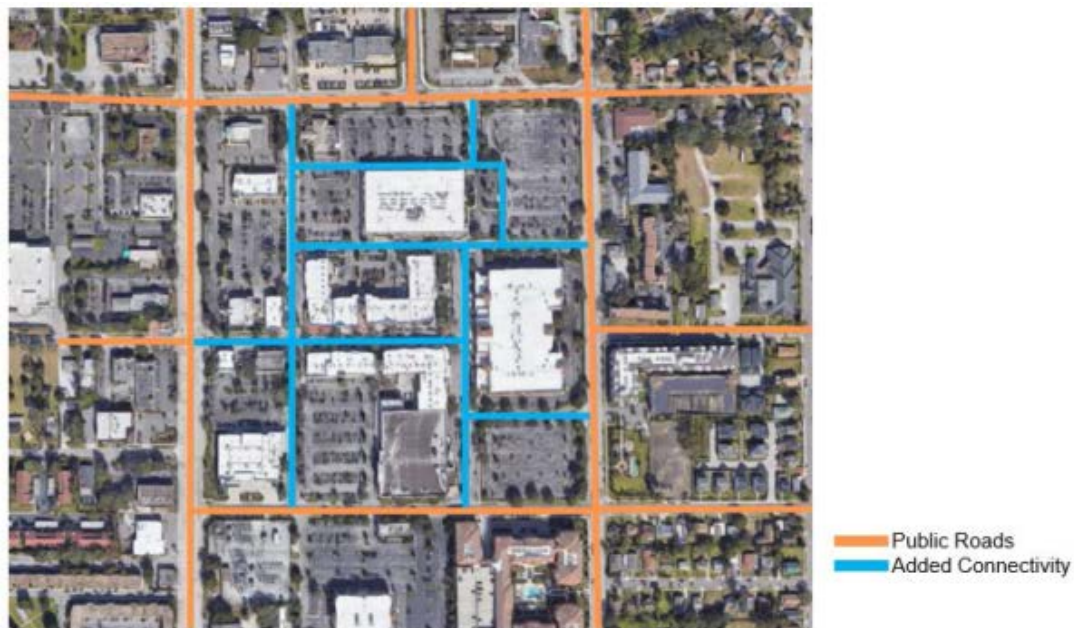


Figure 5-19: Examples of Vehicular and Pedestrian Passages



(Ord. No. 3034, § 1(14-5-5), 8-4-2020)

14-5-6. Site Standards.

A. Permitted uses.

Table 5-1 lists the various types of uses allowed in the form-based code area and identifies whether a use is permitted (P), conditional (C), or not permitted (N) within the noted transect zone. Uses not listed in Table 5-1 are prohibited. Refer to section 14-5-3, Special Requirements Plan, for use restrictions in certain areas.

Mixed-use developments are allowed in all zones, provided that the individual uses are all allowed in the zone. If one of the uses requires conditional use, the entire development shall undergo conditional use review.

All developments, regardless of the use classification, shall comply with the standards of this chapter and all other applicable chapters of the Land Development Code.

Table 5-1: Permitted Uses

	See Section	T1	T3	T4-R	T4-O	T5-M	T5-U	T6	SD
COMMERCIAL/RETAIL USES									
Drive through facilities with an allowed use	14-6-40 14-5-8.B	N	N	N	N	N	C	C	N
Micro-brewery	Ch. 5-3	N	N	N	N	P	P	P	N
Pawn shop	5-7	N	N	N	N	N	C	N	N
Restaurants	14-6-9	N	N	N	C	P	P	P	C
Retail sales establishments		N	N	N	C	P	P	P	C
CIVIC/INSTITUTIONAL USES									
Churches		N	N	N	N	N -P ⁽¹⁾	P	N	N
Civic, social clubs		N	N	N	N	N	C	N	N
Colleges and universities		N	N	N	N	C	C	C	P
Community centers		N	N	N	N	C	C	C	N
Educational service establishments		N	N	N	N	C	C	C	C

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Hospitals		N	N	N	N	N	N	N	P
Institutional care facilities		N	N	N	N	C	C	C	C
Libraries and museums		N	N	N	N	P	P	P	P
Public uses		N	N	N	N	P	P	P	P
Schools, elementary and middle*		N	N	N	N	C	C	C	P
Schools, high*		N	N	N	N	N	N	N	P
LODGING									
Bed and breakfast establishments	14-6-36	N	N	N	C	C	N	N	N
Hotels and motels		N	N	N	N	C	P	P	N
MISCELLANEOUS USES									
Heliports, medical and law enforcement	14-6-6	N	N	N	N	N	N	N	C
RECREATION USES									
Recreation areas, passive		P	P	P	P	P	P	P	P
Recreation, indoor (private)		N	N	N	C	P	P	P	P
Recreation, active/outdoor (private)		N	N	N	N	N	C	N	N
RESIDENTIAL USES									
Accessory dwelling units	14-6-2	N	P	P	P	N	N	N	N
Community residential homes	14-6-39	N	N	P	P	N	N	N	N
Duplex dwellings	14-6-43	N	P	P	P	N	N	N	N
Multiple family residential	14-6-43	N	N	C	C	P	P	P	P
Single family dwellings (detached)	14-6-43	N	P	P	P	N	N	N	N
Townhome	14-6-43	N	N	C	C	P	P	P	P
Triplex	14-6-43	N	N	C	C	P	P	P	N
SERVICE USES									
Child care facilities	14-6-37	N	N	N	C	C	C	N	N
Equipment sales and leasing, light		N	N	N	N	N	P	N	N
Financial institutions		N	N	N	N	P	P	P	N
Gasoline service stations	14-5-8.A	N	N	N	N	N	C	N	N
Motor vehicle repair, light	14-5-8.C	N	N	N	N	N	C	N	N
Occult science establishment	Ch. 5-6	N	N	N	N	N	C	N	N
Office establishments		N	N	N	C	P	P	P	N
Parking garages, principal use		N	N	N	N	C	C	C	N
Rental, sale and leasing of mopeds, scooters, and/or neighborhood electric vehicles	14-5-8.C	N	N	N	N	N	C	N	N
Repair service establishments, light		N	N	N	N	C	P	C	N
Research & development establishments		N	N	N	N	P	P	P	C
Sales, rental and leasing (vehicles other than heavy commercial vehicles)	14-6-10 14-5-8.C	N	N	N	N	N	C	N	N

Service establishment, business		N	N	N	C	P	P	P	N
Service establishment, personal		N	N	N	C	P	P	P	N
Storage facilities, self-service	14-5-8.G	N	N	N	N	N	C	N	N
Veterinary clinics		N	N	N	N	P	P	N	N
UTILITY USES									
Communication towers and facilities	14-6-38	N	N	N	N	N	C	N	N
Utility Facilities, Minor	14-6-46	N	N	N	C	C	C	C	C
TRANSPORTATION USES									
Bus depots		N	N	N	N	N	C	N	N
Rail, bus and taxi stations with no onsite vehicle storage and/or repair		N	N	N	N	C	C	C	N
Rail stations		N	N	N	N	N	N	P	N

**Public and private schools shall not be permitted within the Vine Street CRA unless there are 2,000 residential dwelling units that have received a certificate of occupancy to support a student population creating the demand for new facilities. This provision shall be evaluated with each review of the CRA districts as required by the comprehensive plan.*

(1) Only if existing prior to the August 31, 2020.

- B. *Accessory and temporary uses and structures.* Accessory and temporary uses and structures shall meet the requirements of chapter 14-6, part I (Accessory Uses and Structures) and part II (Temporary Uses), unless otherwise specifically addressed in this chapter. Accessory structures visible from the right-of-way shall meet the site and building design standards of this chapter.
- C. *Site dimensional standards.*

The general intent of the transect zones is to ensure that the scale of the built form, formality of public spaces, and intensity of uses will vary throughout the community, and shall reduce in scale, formality and intensity further away from the core of the city.

Each transect zone has a different set of characteristics that correspond with building placement, building form, and frontage standards, all of which influence the level of walkability and vibrancy in a particular place. The standards for each transect zone are shown in Table 5-2 and explained in detail in the following sections. Figure 5-20 depicts the setback and height measurements.

Figure 5-20: Building Setbacks and Building/Floor Height

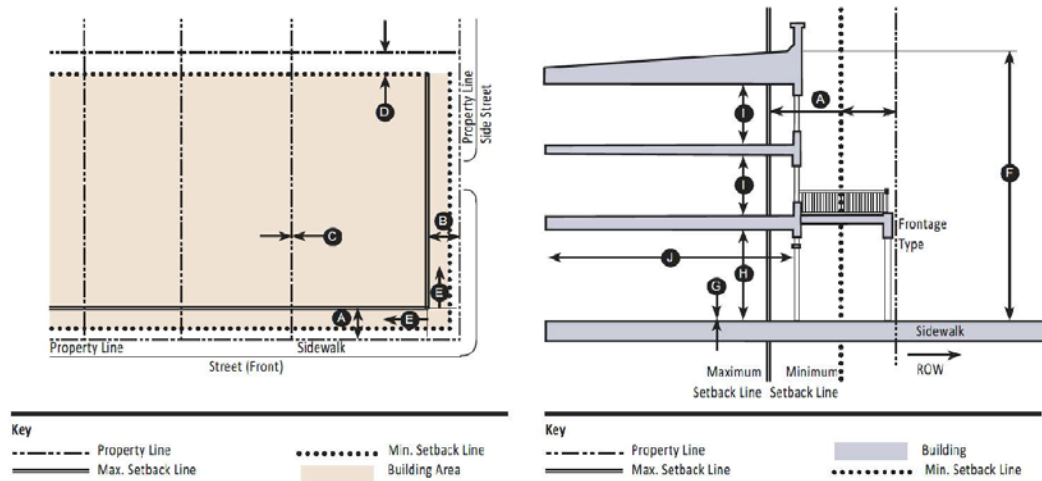


Table 5-2: Transect Zone Dimensional Standards

	T1	T3	T4-R	T4-O	T5-M	T5-U	T6	SD
For additional standards, see section 14-6-6.								
Building Placement								
Front and street side setbacks	20' min.	12' min.	5' min. to 20' max.	5' min. to 20' max.	5' min. to 15' max. ²	10' min. to 20' max. ¹ +10' above 4 th floor	5' min. to 15' max. ¹	10' min. to 40' max.
Side setback	30' min.	8' min.	0' min. (attached) 5' min. (detached)	0' min. (attached) 5' min. (detached)	0' min.	5' min.	0' min. to 24' max.	10' min.
Rear setback (lot or alley)	30' min.	10' min.	5' min.	5' min.	5' min.	5' min.	5' min.	10' min.
Frontage buildout (primary street) (see Fig. 5-25)	n/a	40% min.	60% min.	60% min.	70% min.	60% min.	80% min.	40% min.
Frontage buildout (all other streets)	n/a	30% min.	30% min.	30% min.	30% min.	30% min.	30% min.	30% min.
Lot and Block Standards								

Maximum block perimeter	n/a	2,400 linear ft.	2,000 linear ft.	2,000 linear ft.	2,400 linear ft.	2,000 linear ft.	3,000 linear ft.	4,000 linear ft.
Lot width	n/a	48' min.	18' min., 200' max.	18' min., 200' max.	18' min., 180' max.	18' min., no max.	18' min., no max.	n/a
Lot depth	n/a	80' min.	60' min., 200' max.	60' min., 200' max.	no min., 180' max.	no min., no max.	no min., no max.	n/a
Impervious surface area (%)	n/a	60% max.	70% max.	70% max.	no max.	80% max.	90% max.	70% max.
Building Height								
Minimum building height	n/a	14'	16'	16'	22'	22'	22'	16'
Maximum building height	1 story	3 stories	3 stories	3 stories ³	5 stories ⁴	5 stories (+3 bonus)	8 stories	10 stories
Ground floor elevation ⁵ (above sidewalk or finished grade)	n/a	24" min.	6" max. (non-resid.) 24" min. (resid.)	6" max. (non-resid.) 24" min. (resid.)	6" max. (non-resid.) 24" min. (resid.)	6" max. (non-resid.) 24" min. (resid.)	6" max. (non-resid.) 24" min. (resid.)	6" max. (non-resid.) 24" min. (resid.)
Ground floor ceiling height ⁶	n/a	9' min	9' min.	12' min.	12' min.	12' min.	12' min.	12' min.
Upper floor(s) ceiling height ⁶	n/a	9' min	9' min	9' min	9' min.	9' min.	9' min	9' min
Allowed Encroachments								
Allowed frontage types	n/a	Porch, stoop	Forecourt, porch, stoop	Shopfront, forecourt, stoop, gallery/arcade	Shopfront, forecourt, stoop, gallery/arcade	Shopfront, forecourt, stoop, gallery/arcade	Shopfront, forecourt, stoop, gallery/arcade	n/a

Notes: See section 14-5-8 for supplemental standards for gas stations, drive-through facilities, auto-related uses, large footprint buildings, civic buildings, and self-storage facilities.

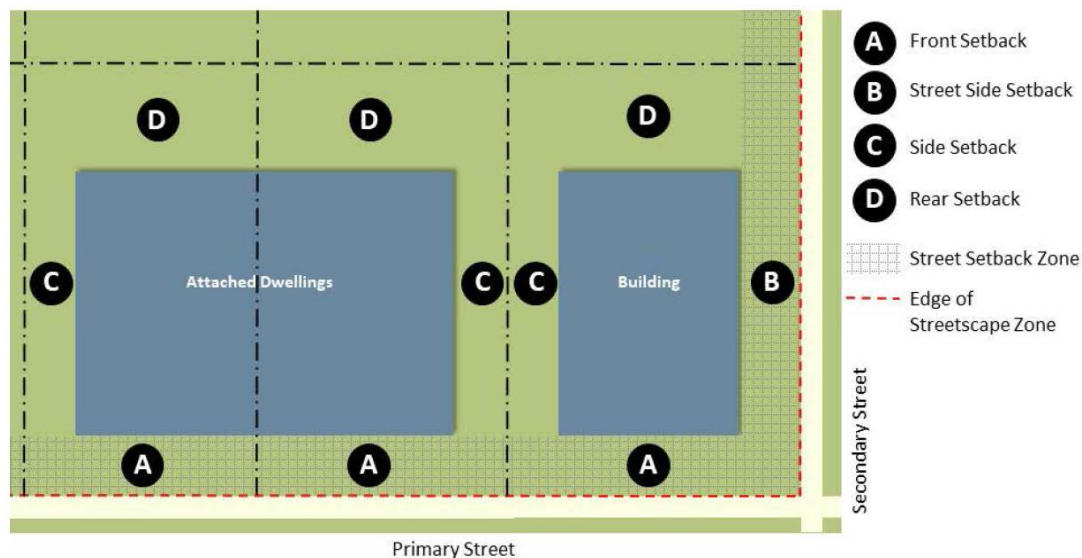
1. Street façades must be built to the min. setback for the first 30' on a corner.
2. 0' minimum along Broadway
3. 4 stories allowed along Emmett Street and Bryan Street for civic uses.
4. 3 stories maximum for buildings fronting on Broadway.
5. See LDC chapter 14-9-1 for properties in a special flood area.
6. Measured from finished floor to finished ceiling.

D. Building setbacks.

The placement of a building on a site is critical to creating a coherent public realm. Urban development forms seek to support and foster pedestrian trips. Therefore, buildings need to be constructed in closer proximity to streets and sidewalks but not so close that the public realm is diminished. Table 5-2 contains the required setbacks by transect zone and Figure 5-21 shows the location of each of the required building setbacks. See section 14-5-7.C and Table 5-2 for building frontage buildout requirements, which are closely tied to the side setback requirements.

The front and street side setbacks shall be measured from the property line if there is sufficient area within the right-of-way to accommodate a streetscape zone as specified in subsection E below. Otherwise, the building setbacks shall be measured from the edge of the streetscape zone.

Figure: Building Setbacks



E. Streetscape zone.

The space between the back of the curb and the back of the sidewalk is known as the streetscape zone and is intended to accommodate a public sidewalk and the furnishing zone (see Figure 5-22). Due to the lack of right-of-way to accommodate adequate streetscape zones along all streets, some development applicants will be required to dedicate an easement to the city to accommodate such zone. The reconstruction of the streetscape zone shall be the responsibility of the development applicant. If the requirements cannot be met due to existing conditions or site constraints, the director has the ability to adjust or waive the requirement to construct the improvements required by this subsection.

The design of the streetscape zone shall be as follows:

1. Sites located along Vine Street, Hoagland Boulevard, Martin Luther King, Jr. Boulevard, Dyer Boulevard, Thacker Avenue, John Young Parkway, Main Street, Broadway, Neptune Road, Michigan Avenue, and Emmett Street shall provide a 20-foot-wide minimum streetscape zone, where there shall be a 12-foot sidewalk and an eight-foot furnishing zone. If on-street parking is provided, it may be interspersed with the furnishing zone.
2. Sites located along all other streets shall provide a 14-foot-wide streetscape zone, consisting of a six-foot-wide sidewalk and an eight-foot-wide furnishing zone.

3. The design of the streetscape zone shall be coordinated with city staff. Provisions shall be made to connect existing and new sidewalks that have different alignments (see Figure 5-23).

Figure 5-22: Sidewalk Zone and Setback Zone

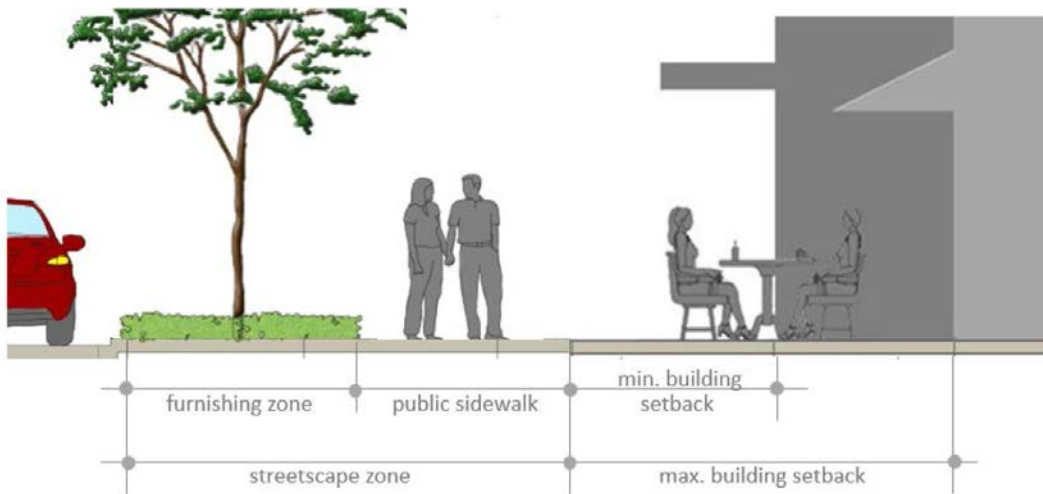
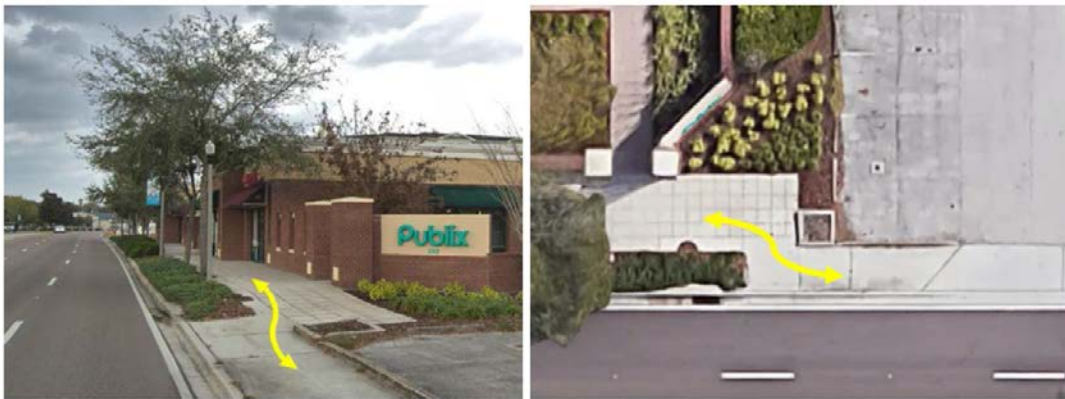


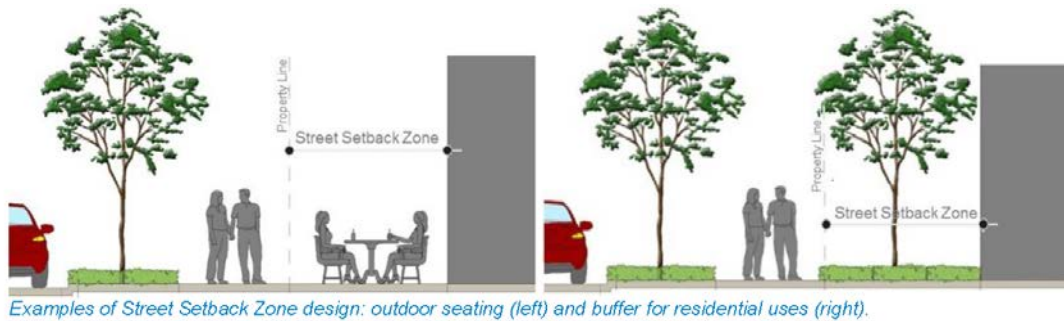
Figure 5-23: Connecting Existing and New Sidewalks



- F. *Front and street side building setback zone design.* The intent of the front and street side building setbacks (the area between the back of the sidewalk and the building) is to provide a transition, both physical and visual, from the street to the building. The zone created by the setback should vary in design depending on the level of privacy desired along the building façade. Commercial buildings usually have a setback zone designed to attract customers into the building, while residential, hotel and office buildings often have a setback zone designed to provide privacy to the ground floor spaces, as shown on Figure 5-24. Accessibility (ADA) laws shall be observed.
1. Elements such as balconies, bay windows, awnings, canopies and similar elements may encroach into the front setback but shall not extend into the public right-of-way except along Broadway where these elements are allowed to encroach into the public right-of-way. The property owner is required to enter into a right-of-way agreement establishing the property owner's responsibility for repairing any

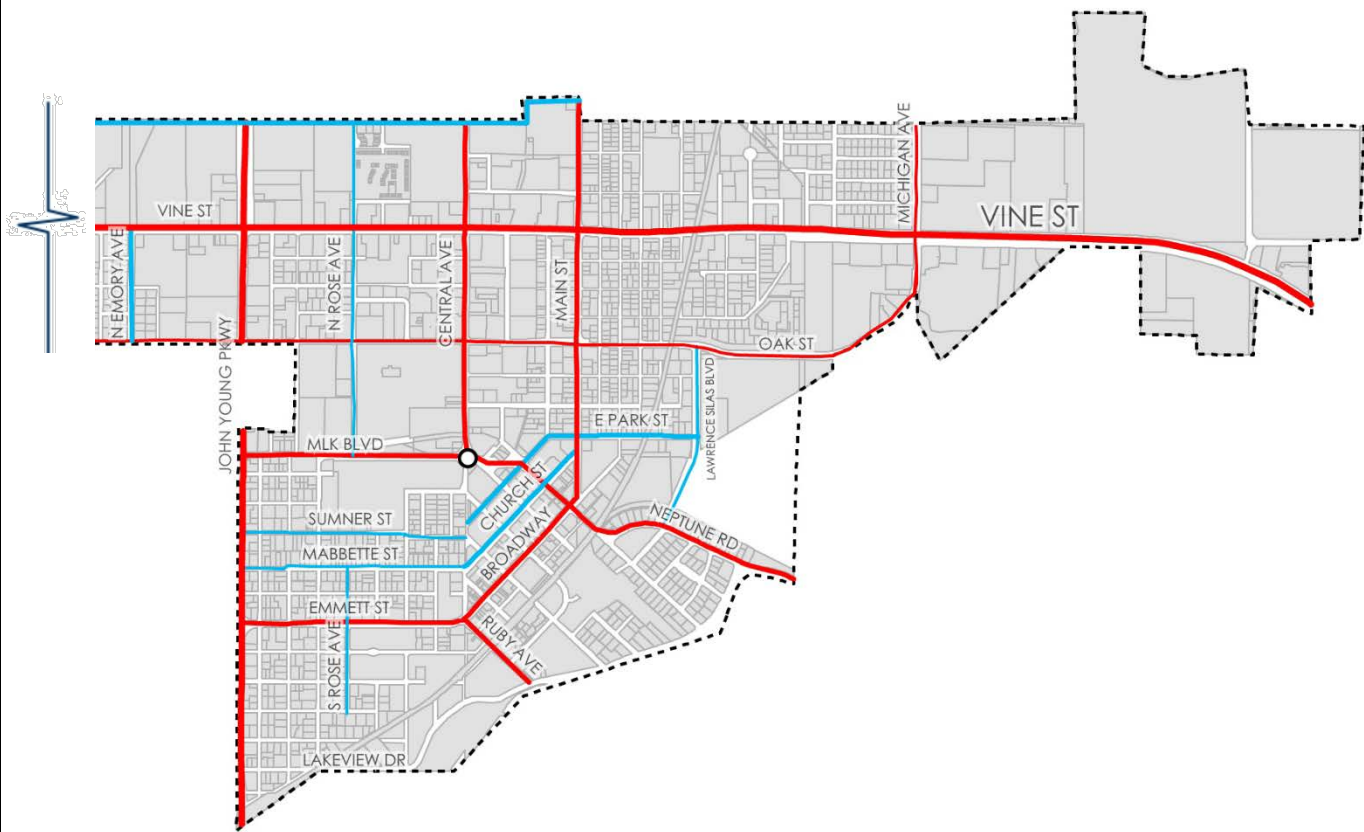
damage that may result from public maintenance or improvements. Appurtenances along a public right-of-way shall have a minimum underside clearance of eight feet.

Figure 5-24: Examples of Street Setback Zone Activity



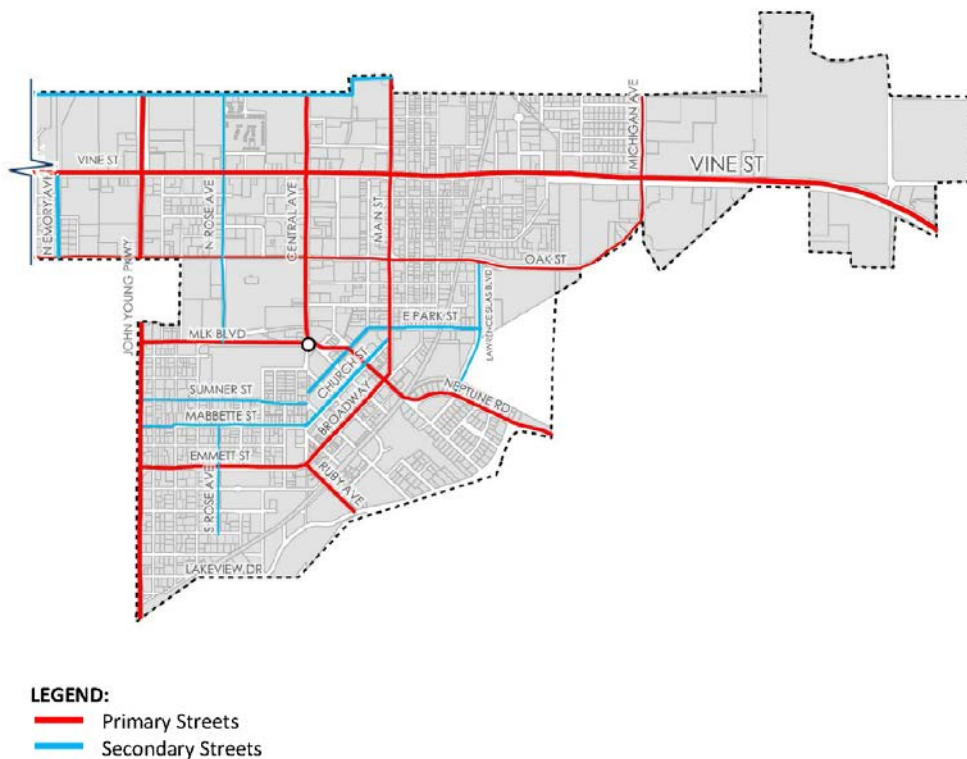
2. Street setback zones in front of uses that benefit from pedestrian interaction along the front façade shall include urban landscaping such as containers and/or planter boxes that complement the building mass and architecture.
3. Street setback zones in front of uses that do not require pedestrian interaction along the façade (e.g., offices, hotels, multi-family) may be landscaped with a combination of intermediate (understory) trees, palms, shrubs, vines and/or ground covers.
4. Street furniture such as benches, trash receptacles, and/or bicycle racks may be installed within the street setback zone.
5. Outdoor dining is permitted within street setback zones as long as restaurants are a permitted use in the transect zone (See section 14-6-9, Outdoor Dining).
6. Retail uses in T5 and T6 may use the street setback zone for outdoor display of merchandise, as defined in chapter 14-2, subject to the restrictions of section 14-6-11, Outdoor Display of Merchandise.
7. Outdoor dining and display of merchandise may be located within a public sidewalk if the business is located along Broadway where the buildings are placed at the right-of-way line. No display shall block a building entrance or obstruct the sidewalk in such a manner that there is less than a five-foot-wide pedestrian path.
8. Elements within the street setback zone (landscaping and architectural features) shall comply with the sight triangle requirements.

Figure 5-25: Street Hierarchy



LEGEND:

- Primary Streets
- Secondary Streets



(Code 1995, §§ 14-2-16—14-2-42; Ord. No. 3034, § 1(14-5-6), 8-4-2020)

14-5-7. Building standards.

This section establishes standards for building design. The standards apply to all transect zones.

A. *Building massing.*

1. Buildings shall be articulated as shown in Table 5-3. The purpose of this requirement is to break down large volumes into smaller volumes grouped together. In no event shall buildings exceed a height to width ratio of 1:3 or the length noted in the table, whichever is less, without providing a substantial volume break, which may consist of a projection or recess, a tower or bay, and/or an architecturally prominent entrance (see Figures 5-26 and 5-27). Vertical and horizontal projections and recesses shall have a minimum depth as noted in Table 5-3.

Table 5-3: Building Massing

	T2 & T3	T4 (O & R)	T5 (U & M)	T6	SD
Building length	75' max.	NA	NA	NA	NA
Articulation spacing	Every 30'	Every 50'	Every 75'	Every 75'	Every 75'
Projection/recess depth	2' min.	3' min.	3' min.	3' min.	3' min.

2. Roofs or assemblies of roofs shall also be articulated to reduce building mass. Roof heights shall vary using the parameters listed in subsection 1, above.
3. Buildings on corner lots and buildings that terminate vistas shall incorporate distinctive architectural treatments to emphasize their prominent location.

Figure 5-26: Massing

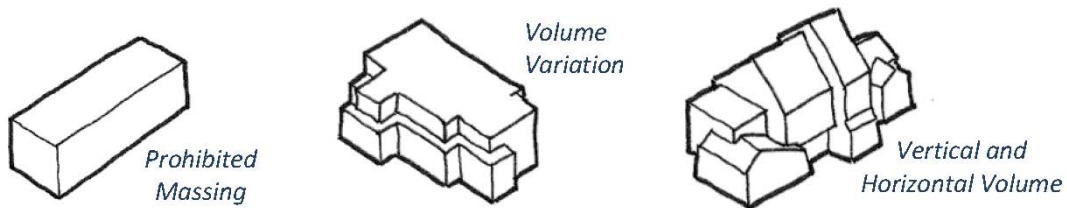
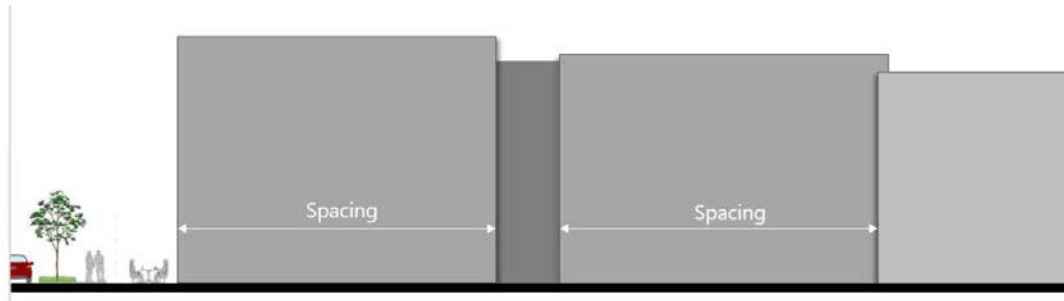


Figure 5-27: Examples of Building and Roof Articulation



- B. *Building and floor height.* Table 5-2 establishes the minimum and maximum building and floor heights for each transect zone. The following standards shall also apply:
1. Towers and cupolas are designed to extend above the roofline and are generally intended to be visual landmarks. They are commonly used to terminate vistas. See Figures 5-28 and 5-31.
 - a. In those locations where a terminated vista is indicated on the special requirements plan, towers/cupolas shall be provided as follows:
 - i. Towers/cupolas with a footprint smaller than 30 feet by 30 feet may extend up to 30 feet above the designated height limit.
 - ii. Towers/cupolas with a footprint smaller than 20 feet by 20 feet may extend up to 40 feet above the designated height limit.
 - b. Towers/cupolas are also permitted in all other locations. However, in locations not indicated as a terminated vista on the special requirements plan, towers/cupolas shall not exceed 30 feet by 30 feet in footprint and shall not exceed 20 feet above the height limit.

Figure 5-28. Small Footprint Tower (top) and Cupola (bottom)



2. Any building over four stories in height shall step back a minimum of ten feet after the fourth story or provide articulation in the façade to differentiate the base four stories of the building from the top (Figure 5-29).

Figure 5-29. Height Step Back



3. In the T4 and T5 zones, an additional building setback of one foot over the minimum required building setback for each foot of building height above two stories shall apply to buildings adjacent to a single family residentially-zoned or T3 property. Developers may elect to apply the setback to:
 - a. Each floor above the second story (step back approach, see Figure 5-30 - Option A); or
 - b. To the entire façade (Option B); or
 - c. A combination of the two (Option C).

Figure 5-30. Setback Options Abutting Sing-Family Residential Zoning

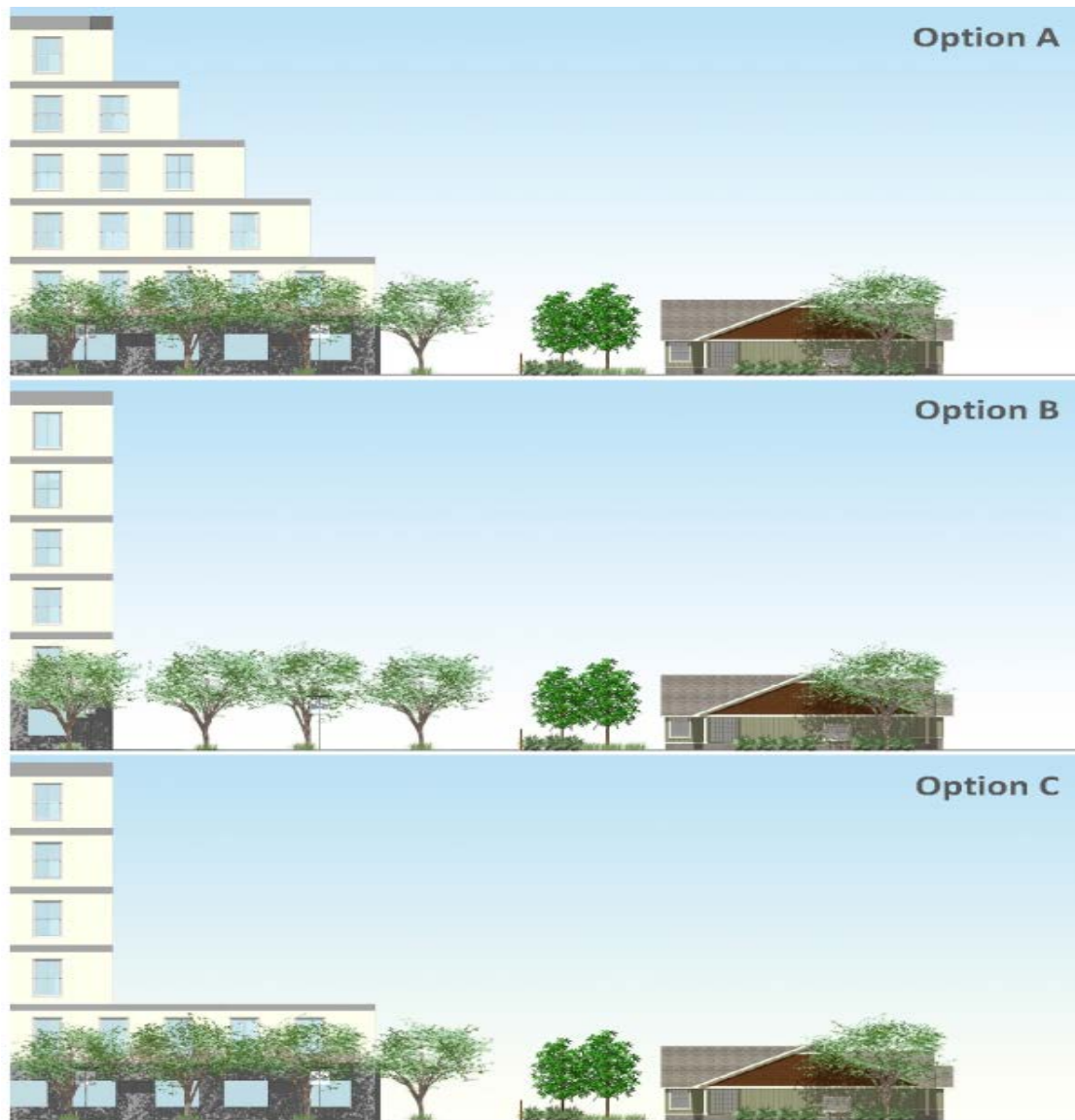


Figure 5-31. Examples of Small Footprint Towers/Cupolas

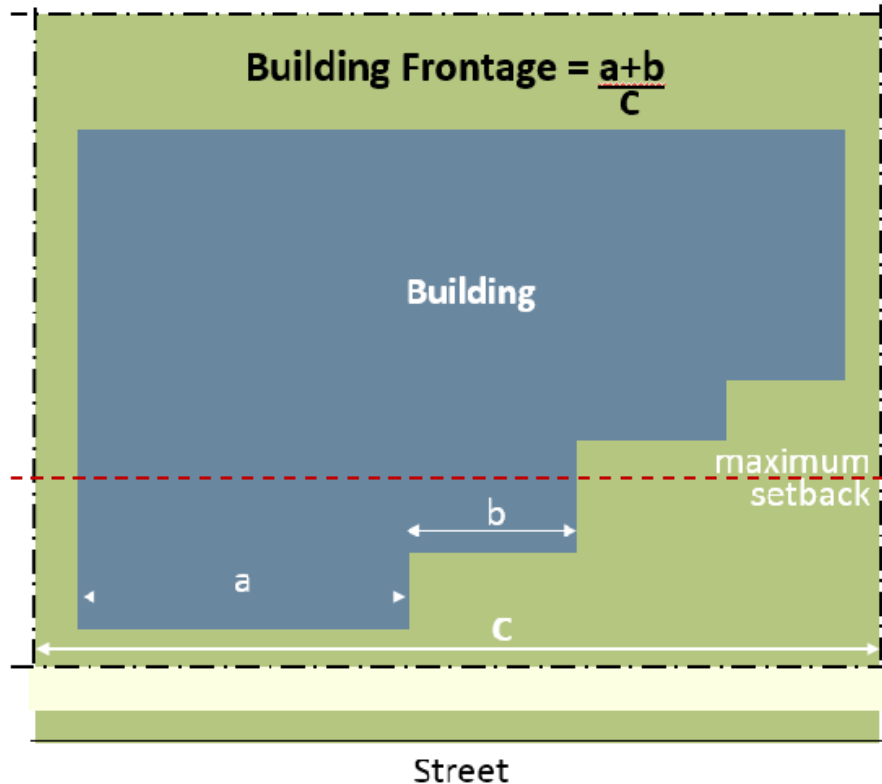


The additional setback/step-back requirement may render some sites ineligible for the maximum permitted height. The first 50 feet of the rooftop closest to the single family zoned lot shall not be occupied by active uses that may produce noise and affect the adjacent residential units (open air restaurant, bar, etc.).

4. Stories shall not exceed 14 feet in height from finished floor to finished ceiling, except for a ground floor non-residential function, which shall not exceed 25 feet. A single story exceeding 14 feet, or 25 feet for ground floor non-residential, shall be counted as two stories. Mezzanines extending beyond 33 percent of the floor area shall be counted as an additional story.
- C. *Building frontage buildout.* The purpose of the following building frontage buildout requirements is to ensure façade continuity and activity along the street, in addition to avoiding large expanses of blocks that are not framed by buildings. The building frontage buildout standards are stated in Table 5-2 as a

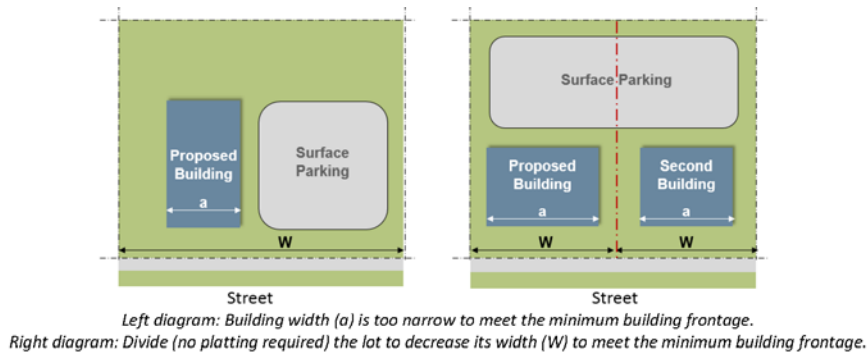
proportion of the building width (within the required building setback and including porches) relative to the width of the development site. Portions of the building façade outside the required building setbacks do not count as building frontage (see Figure 5-32).

Figure 5-32. Building Frontage



1. For parcels with two street frontages (e.g., corner lots), Table 5-2 specifies the requirements for each street frontage, primary vs. all other streets (see Figure 5-25). If both street frontages have the same priority, the requirement shall apply along both streets. Lots with more than two frontages shall meet the standards along two streets, giving priority to the primary frontages. Any frontages that do not meet the standard shall have a street wall for the length of the frontage (excluding access points).
2. In the event the proposed building width is too narrow to meet the minimum building frontage buildout requirement, the applicant shall have the option to separate the development into smaller sites that meet the dimension requirements, as shown on Figure 5-33. No platting will be required, but the concept plan shall show the new lots as available for future development and may not include any improvements other than an optional street wall delineating the site.

Figure 5-33. Exceptions to the Building Frontage

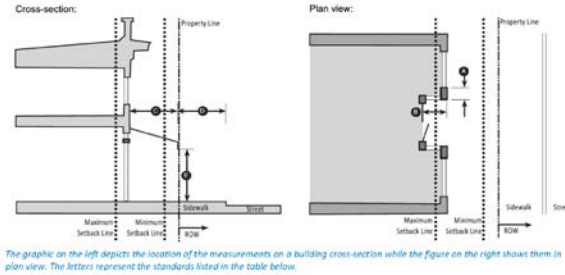


3. In the case where the required building frontage cannot be met due to the need to provide vehicular access from the street, a gateway, arch, or similar feature shall be provided to preserve the block continuity and may be counted toward meeting the building frontage requirement, as shown on Figure 5-34.

Figure 5-34. Gateway Feature



4. Single family, duplex, townhomes, live-work units, libraries, places of religious assembly, public utility buildings, and schools (elementary, middle and high) are not subject to the minimum frontage requirements.
 5. Drive-through facilities proposed as part of a development subject to the requirements of this section must be designed to comply with the building frontage requirements.
 6. No maximum lot width is prescribed for development within some of the transect zones. However, the width of a lot shall not be justification for not meeting the building frontage requirements.
- D. *Building frontage design.* Building frontages, where used, shall conform to the standards contained in this section and the American with Disabilities Act (ADA). The illustrations and photographs provided are for illustrative purposes and need not be interpreted literally with regard to architectural styles. Adjustments to the dimensions may be approved by staff to incorporate these building frontages into existing developments.
1. *Shopfront.* Shopfronts are required along Broadway and nearby streets (see Figure 5-2) and optional along other streets as shown in Table 5-2.
 - a. *General standards for shopfronts.*



(i) Description		
The front façade of the building is located between the minimum and maximum setback lines, inclusive, and shall include a canopy or awning element along most of the frontage. Appurtenances may not encroach into the public right-of-way, except along Broadway where frontage elements may encroach into the public right-of-way barring any additional restrictions by the public entity that has control over the public right-of-way.		

(ii) Size		
Distance between glass panels	2' max. (horizontal)	Ⓐ
Door recess	5' max.	Ⓑ

(iii) Canopy or awning		
Depth	6' min.	Ⓒ
Width, cumulative	70% min. of proposed façade width within setback	
Setback from curb	2' min.	Ⓓ
Height, clear	8' min.	Ⓔ

(iv) Miscellaneous		
Doors may be recessed if the façade is at the minimum setback line.		
Open ended awnings are encouraged.		
Domed, bubble, and hoop style awnings are prohibited.		

Figure 5-35. Shopfronts



A shopfront with a recessed doorway



A shopfront with a chamfered corner entry

b. *Additional standards for shopfront design.*

- i. The top of all shopfront window sills shall be between one and three feet above the adjacent sidewalk.
- ii. Shopfront windows shall extend up from the sill at least eight feet above the adjacent sidewalk.
- iii. Shopfronts shall have an expression line above, between the first and second story.
- iv. Shopfront windows may not be made opaque by window treatments (except operable sunscreen devices within the interior space). Zero percent transparent glass, such as reflective and frosted glass, is prohibited on shopfronts.
- v. Doors or entrances for public access shall be provided at intervals no greater than 50 feet, unless otherwise approved by the city. The intent is to maximize street activity, to provide pedestrians with frequent opportunities to enter buildings, and to minimize any expanses of inactive wall.
- vi. Shopfront doors shall contain at least 60 percent transparent glass. Solid doors are prohibited.
- vii. The minimum depth of the retail space behind each shopfront on the primary façade shall be 35 feet. This ensures that the area behind shopfronts is sufficient enough to be an actively used retail space.

Figure 5-36. Anatomy of a Shopfront

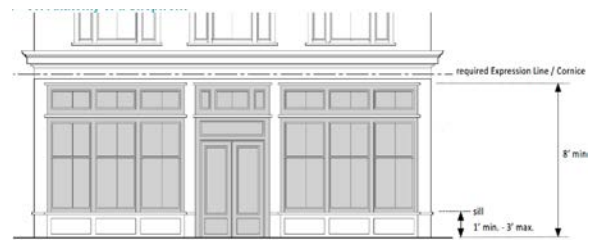
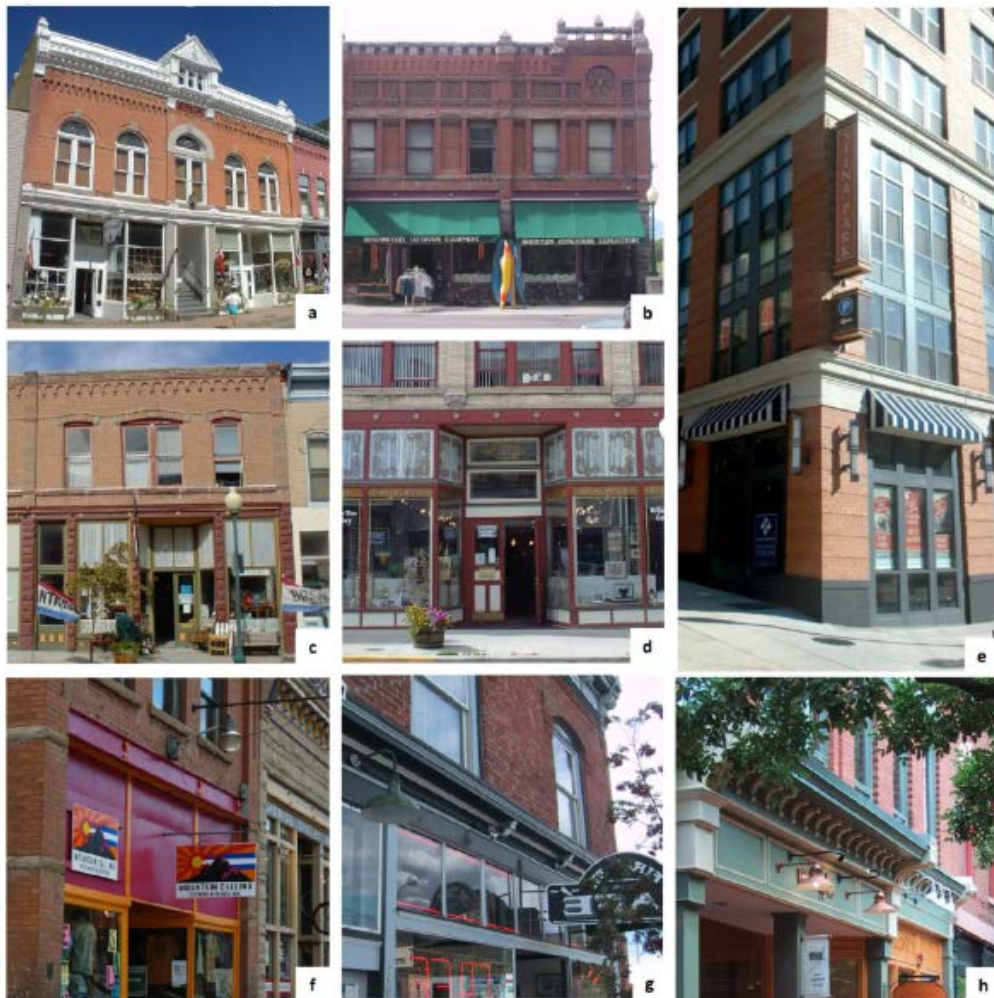
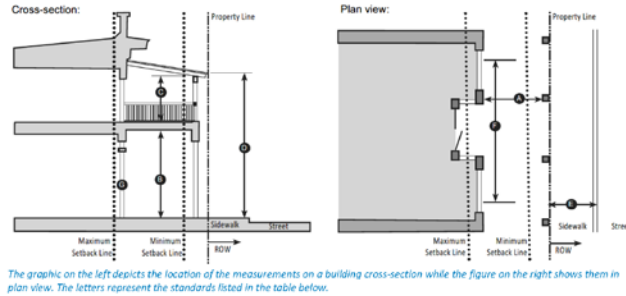


Figure 5-37. Examples Shopfronts



*a-e Examples of façades with appropriate transparency
f-h. Examples of expression lines*

2. Gallery/arcade.



(a) Description

The front façade of the building is located between the minimum and maximum setback lines, inclusive, and the gallery/arcade element overlaps a walkway, eliminating the need for an awning, canopy, or marquee. The gallery/arcade may not encroach into the public right-of-way, except along Broadway where the gallery/arcade may encroach into the public right-of-way barring any additional restrictions by the public entity that has control over the public right-of-way. This frontage type is intended for buildings with ground-floor commercial or retail uses and may be one or two stories in height.

(b) Size

Depth, clear	8' min.	Ⓐ
Ground floor height, clear	10' min.	Ⓑ
Upper floor height, clear	9' min.	Ⓒ
Height	2 stories max.	Ⓓ
Setback from curb*	2' min.	Ⓔ
Width	75% of façade width min.	Ⓕ

* Along Broadway only. Minimum distance may be greater based on restrictions by the public entity that has control over the public right-of-way.

Figure 5-38: Galleries/Arcades

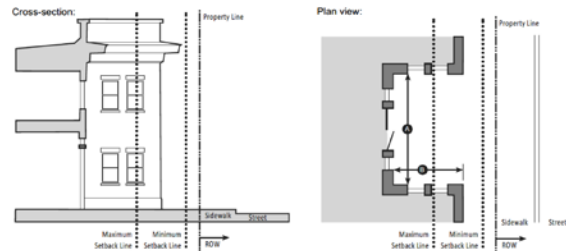


A two story wood framed gallery



A gallery with slender metal columns (left) and masonry (right)

3. Forecourt.



The graphic on the left depicts the location of the measurements on a building cross-section while the figure on the right shows them in plan view. The letters represent the standards listed in the table below.

a. Description

The primary portion of the building's front façade is between the minimum and maximum setback lines, inclusive, while a small percentage is set back, creating a courtyard space. This space can be used as an apartment or office entry court, garden space, or for outdoor seating or dining.

b. Size		
Width, clear	12' min., 50% of front façade or 50' (whichever is less) max.	Ⓐ
Depth, clear	12' min., 40' max.	Ⓑ

c. Miscellaneous

Forecourts are especially useful along larger, more auto-dominant thoroughfares in order to provide well-shaped, intimately sized public outdoor spaces.

Figure 5-39: Forecourts



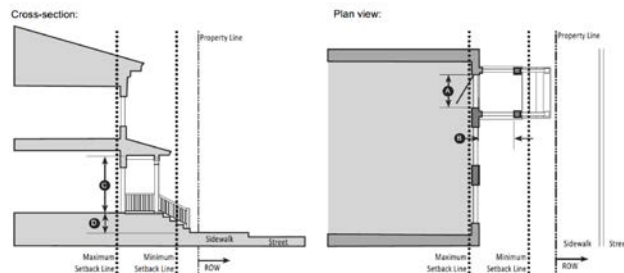
Elevated Forecourt



A forecourt functioning as an entry court

4. Stoop.

4. Stoop



The graphic on the left depicts the location of the measurements on a building cross-section while the figure on the right shows them in plan view. The letters represent the standards listed in the table below.

(a) Description

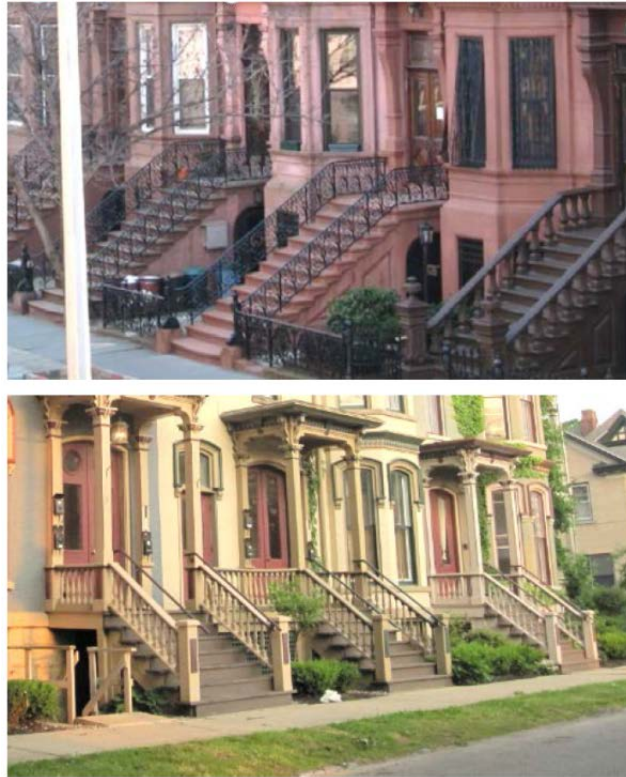
The front façade of the building is between the minimum and maximum setback lines, inclusive, and the elevated stoop projects forward. Stoops are typically used in conjunction with residential and lodging uses, but may also be used in conjunction with office uses. The stoop is used to access a first floor that is elevated above the sidewalk to ensure privacy within the building. Stairs from the stoop may descend forward or to the side. Stoops may extend forward of the minimum setback line, but shall not extend into the public right-of-way.

(b) Size		
Width, clear	5' min., 8' max.	Ⓐ
Depth, clear	5' min., 8' max.	Ⓑ
Height, clear	8' min.	Ⓒ
Height	1 Story max.	
Finish level above sidewalk	24" min.	Ⓓ

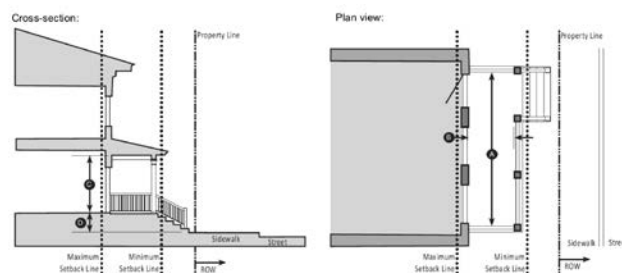
(c) Miscellaneous

Stairs may be perpendicular or parallel to the building façade.

Figure 5-40: Stoops



5. Porch.



The graphic on the left depicts the location of the measurements on a building cross-section while the figure on the right shows them in plan view. The letters represent the standards listed in the table below.

a. Description

The front façade of the building is between the minimum and maximum setback lines, inclusive, and the porch projects forward. The porch is used to access a first floor that is elevated above the sidewalk to ensure privacy within the building. A porch is large enough to function as an outdoor living space. Stairs from the porch may descend forward or to the side. Porches and stairs from the porch may extend forward of the minimum setback line but shall not extend into the public right-of-way.

b. Size		
Length, clear	10' min.	Ⓐ
Depth, clear	8' min.	Ⓑ
Height, clear	8' min.	Ⓒ
Height	2 stories max.	
Finish level above sidewalk	24" min.	Ⓓ

Figure 5-41: Porches



A 2-story porch on a single-family home



A wraparound porch located close to the sidewalk

E. Façade articulation.

1. façades facing a street or public space shall not exceed 20 horizontal feet and ten vertical feet without including at least one of the elements listed below:
 - a. Storefront awnings, marquees, galleries/arcades, forecourts, stoops, or porches.
 - b. Overhangs of no less than three feet in depth.
 - c. Raised cornice/parapets over a door.
 - d. Expression line between floors.

- e. An offset, column, reveal, void, projecting rib, band, cornice, or similar element with a minimum depth of six inches.
 - f. Peaked roof forms.
 - g. Clock or bell towers.
 - h. Balconies.
 - i. Windows or doors.
 - j. Any other treatment that meets the intent of this section and is approved during the review of the development plan.
2. Columns and posts shall not be spaced further apart than they are tall.
 3. A solid band of colors or group of strips, without a change in plane or material, shall not be used for architectural detail (Figure 5-42).

Figure 5-42: Color Bands

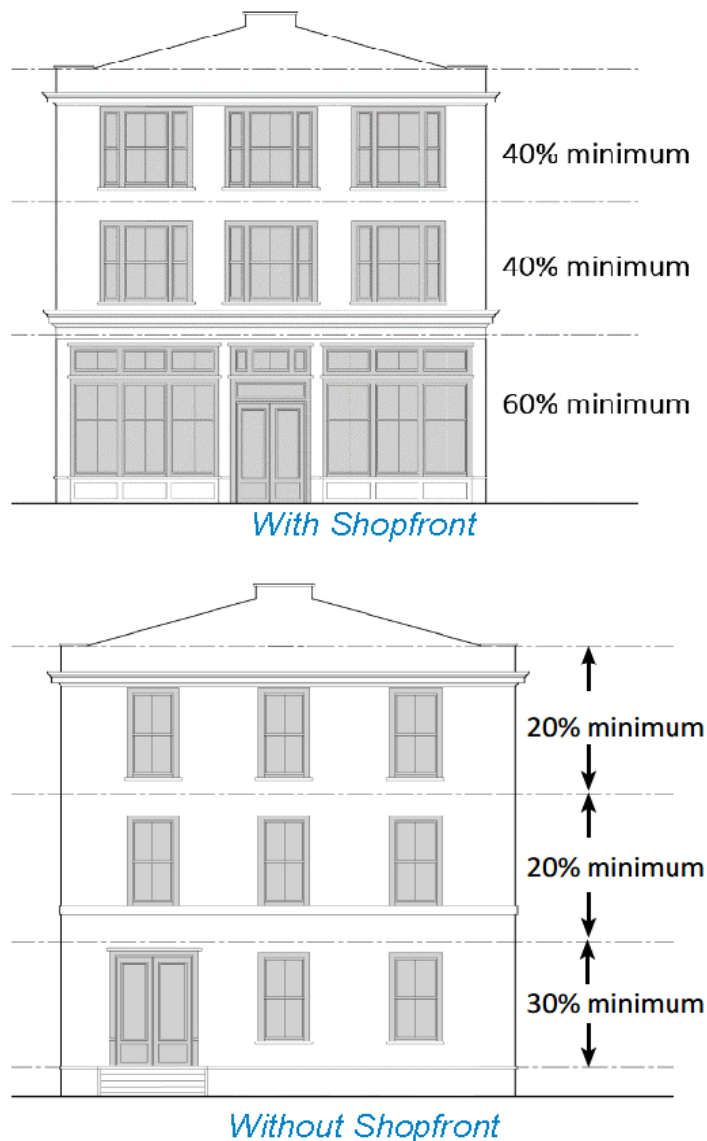


F. Doors and windows.

1. The primary entrance of every building must directly face a street or a forecourt (see section 14-5-7.D.3). Additional building entrances are permitted. Corner lots shall orient the primary entrance to the primary street or may provide a corner entrance. If they have frontage on more than one primary street, the director shall determine which street the main entrance must face.
2. Public entry and exit doors which swing outward shall be recessed into the façade a minimum of three feet where the sidewalk abuts the building.
3. Door and window openings shall include a structural lintel above to express the conveyance of building weight.
4. Windows and doors shall be vertically proportioned or subdivided to appear vertical.
5. In order to provide clear views of merchandise in stores and enhance the pedestrian shopping experience, the first-floor windows of all buildings with frontage on a primary street, as defined in this chapter, shall remain unblocked for at least 60 percent of the surface of the window (this does not include any signs that may be permitted by chapter 14-11).
6. Interior shelves or furniture shall not fully or partially block windows used to meet the transparency and fenestration requirements.

-
7. Windows and doors shall utilize clear glass with no less than 90 percent visible light transmission (VLT, percentage of light that passes through the window) for retail establishments, and 50 percent for office and residential uses. Glass block is not considered transparent and shall not count toward the minimum fenestration requirement.
 8. All building façades fronting on a street or public space shall meet the minimum fenestration requirements outlined herein. Fenestration refers to the arrangement of windows and doors along a façade. The percentage of fenestration per story shall be calculated within the area between finished floor and finished ceiling and shall be a total percentage of doors and windows along that portion of the façade.
 - a. *Buildings with shopfront (Figure 5-43).*
 - i. Minimum building façade fenestration for ground story: 60 percent and shall allow a view of at least five feet of interior space.
 - ii. Minimum building façade fenestration for upper stories: 40 percent.
 - b. *Buildings without shopfront (Figure 5-43).*
 - i. Minimum building façade fenestration for ground story: 30 percent.
 - ii. Minimum building façade fenestration for upper stories: 20 percent.

Figure 5-43: Façade Fenestration



- G. **Building materials.** Façade materials visible from the street shall be selected on compatibility with the building style and neighborhood character.
1. **Permitted façade materials.** Stucco, brick, "hardie-plank" siding, wood lap board siding, and stone.
 2. **Prohibited façade materials.** Cedar shakes, wood shingles, or shakes; metal/steel walls; corrugated or reflective metal panels (not intended to prohibit metal roofs or architectural accents); unfinished block, textured plywood, mirrored glass, plastic siding, tile (except as an architectural accent), chain link fencing, and polyurethane and polystyrene foam products (except as an architectural accent).
 3. **Material changes.**

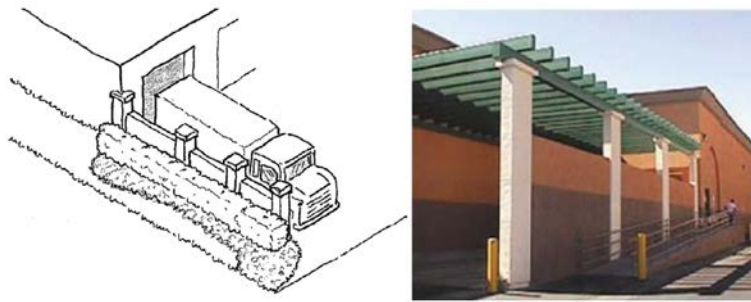
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- a. When materials are combined on a building façade horizontally, heavier materials shall occur below lighter materials.
 - b. Changes from one material or color to another along the horizontal direction shall occur at "inside corner" transitions (Figure 5-44).

Figure 5-44: Material or Color Changes



- c. Changes in material or color along the vertical direction shall occur at a hard-edge "bump-out" transition which gives materials a surface to terminate against.
- H. *Foundation screening.* Foundations lifted several inches above ground level are typical in Florida. These spaces between the ground and the base of the building shall be screened with durable materials including painted lattice or brick, wood paneling, stucco or stone. Additionally, shrubs shall be planted along this foundation line to soften the architectural edge.
- I. *Service areas & mechanical equipment.*
 - 1. Service areas, including waste disposal containers, mechanical equipment, loading docks/spaces, satellite dishes, air conditioning equipment and similar, shall be located in the rear or to the side of buildings and screened from view from adjacent public rights-of-way and pedestrian walkways (not including rear alleys). Where possible, they shall be incorporated into the primary building design (Figure 5-45).
 - 2. Service areas shall not be located within 50 feet of single family residentially zoned lots.
 - 3. Loading docks, overhead doors, and other service features shall not be located across from T-5 or T-6 primary façades or across from civic spaces.
 - 4. See section 14-10-8 for dumpster standards.

Figure 5-45: Service Area Screening



5. If mechanical equipment is located at-grade, and is visible from an adjacent street or sidewalk, it shall be inset into the building façade and screened with doors, or screened by a fence or street wall (see Figure 5-46). For the purposes of these standards, mechanical equipment shall include any heating, ventilation, and air conditioning (HVAC) or electrical machinery but also includes air compressors, hoods, mechanical pumps, exterior water heaters, water softeners, utility and telephone company transformers, meters or boxes, garbage cans, storage tanks, generators, geothermal wells, and similar elements. Electric vehicle (EV) chargers are not deemed mechanical equipment.

Figure 5-46: Mechanical Equipment Screening



6. Rooftop mechanical equipment shall be integrated into the overall mass of a building by screening it behind parapets or by recessing equipment into hips, gables, parapets, or similar features (see Figure 5-47).

Figure 5-47: Rooftop Units Screening



7. Rooftop equipment shall be set back from the edge of the roof by a distance at least equal to the height of the screening in order to minimize visibility from surrounding streets.
8. Shopping cart storage shall be located inside the building or shall be screened by a four-foot wall consistent with the building architecture and materials.
9. Shopping cart corrals in the parking lot shall meet the requirements of section 14-4-6.D.5.
10. Electrical transformers and other utility equipment shall be screened from public view on all sides.

(Ord. No. 3034, § 1(14-5-7), 8-4-2020)

14-5-8. Supplemental site and building standards.

- A. *Gasoline service stations.* Service stations are auto-oriented uses and may be permitted as shown in Table 5-2. However, all gas stations shall meet the standards of this document and the following provisions:
 1. A ground-floor shopfront (convenience store or service building) shall be located in the front of the site (see Figures 5-48 and 5-49) meeting the required setback of the transect zone. All pumps, parking and service bays shall be located to the side (interior only) or rear of the main building.

Figure 5-48: Gas Station With Ground-Floor Shopfront that Defines the Frontage of the Lot

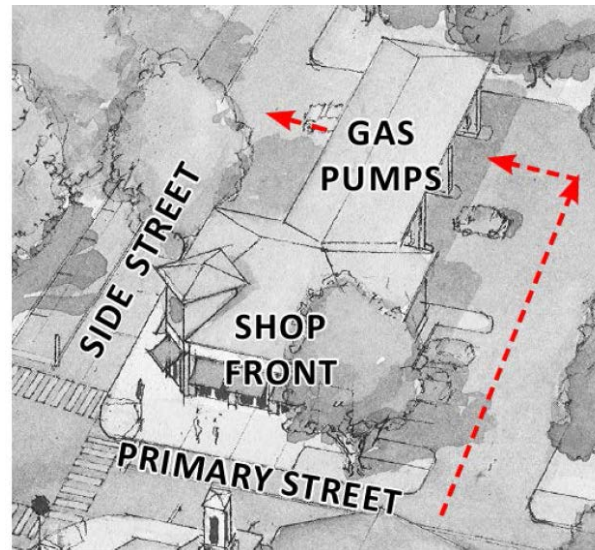


Figure 5-49: Service Station Examples



2. A street wall meeting the standards of section 14-5-11.F shall be provided to screen vehicular use areas. Landscaping (up to three feet in height) shall be provided in front of the wall to soften the treatment.
 3. Accessory car wash structures shall not exceed 20 feet in height, unless they have a hip or gable roof.
 4. Accessory car wash openings, service and storage areas, and refuse enclosures shall be oriented away from public view.
 5. Gas station canopy clearance shall not exceed 18 feet.
 6. Lighted bands or tubes or applied bands of color (other than permitted as signage) are prohibited.
 7. Site lighting shall minimize direct and reflected glare and excess brightness. Therefore, only cut-off fixtures shall be allowed.
- B. *Drive-through facilities.* Drive-through facilities are auto-oriented and therefore may only be allowed within the form-based code area if they meet the standards of this chapter. Drive-through lanes may be allowed if the use is listed in Table 5-1 and subject to the following standards:

-
1. Drive-through lanes and windows shall be located along the side or rear of buildings, away from street frontages (see Figures 5-50 and 5-51). If the use is located within a building that has a parking garage, the drive through windows/bays shall be located within the garage (see Figure 5-52).

Figure 5-50: Appropriately-Sited Drive-Throughs



Figure 5-51: Exterior Through Facilities



Figure 5-52: Interior Drive-Through Facilities





2. Drive-through sites in the downtown community redevelopment area (CRA) shall not be directly accessed from a primary street, as identified in Figure 5-25.
 3. Drive-through facilities on a separate site than the principal use shall not be allowed.
 4. Stacking lanes shall meet the requirements of section 14-6-40 (Drive-Through Facility).
- C. *Automobile sale, lease or service.* All principal and accessory structures used for automobile sale, lease, or service shall meet the setback and frontage requirements of this chapter, and shall be located and constructed in accordance with the following requirements:
1. Vehicle repair facilities are not permitted as accessory to any permitted use, unless vehicle repair is allowed as a permitted use in the transect zone.
 2. Bay openings shall be located to the side or rear of the building (see Figure 5-53) and oriented away from adjacent single family residential districts.
 3. There shall be no storage or display of vehicles outdoors. Any display of automobiles must be in the interior of the building (see Figure 5-54).

Figure 5-53: Auto Service Facility



Figure 5-54: Auto Sales Facilities



- D. *Large footprint buildings.* Large footprint buildings are those with footprints greater than 30,000 sq. ft. Examples may include a grocery store, large-format retailer, or theater. Lots may exceed the dimensions set in the transect zone standards provided such buildings comply with the following provisions:
1. façades facing civic spaces shall provide active uses (as part of the building or a separate liner building) with doors and windows facing the public space.
 2. To encourage use by pedestrians and decrease the need for solely auto-oriented patronage, large-footprint buildings must reinforce the urban character of the neighborhood and shall therefore continue a connected system of walkable blocks/street frontages (including sidewalks and street trees) through the site as part of the design of parking and drive aisles.
- E. *Civic buildings.*
1. *General.* Civic buildings may include, but are not limited to, municipal buildings, religious facilities, libraries, schools, recreation facilities, and places of assembly. They shall meet the following provisions:
 - a. The design and construction of civic buildings shall be of the highest quality to reflect the importance of these buildings within the community and with their function as landmarks in mind.
 - b. The scale of civic buildings should typically be larger than surrounding buildings in order to be more prominent and visible across greater distances.
 - c. Floor-to-floor heights and architectural details shall be proportionately larger than those of private buildings that exist or are anticipated within adjacent blocks.
 - d. Prominent roof forms and additive elements such as cupolas can visually extend the height of the building and shall be permitted by variance (see chapter 3: modification of standards). These features shall not exceed 30 feet by 30 feet in footprint and shall not exceed 20 feet above the height limit.
 2. *Building placement.* Civic buildings shall be sited in locations of particular geometric importance, such as anchoring a major public space or terminating a street vista. Flexibility in building placement allows civic buildings to be distinguished from surrounding residential and commercial buildings and to be a prominent landmark in the community.

Figure 5-55: Placement of Civic Buildings

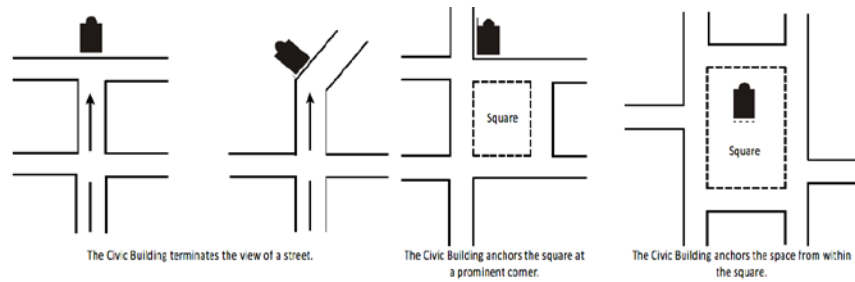
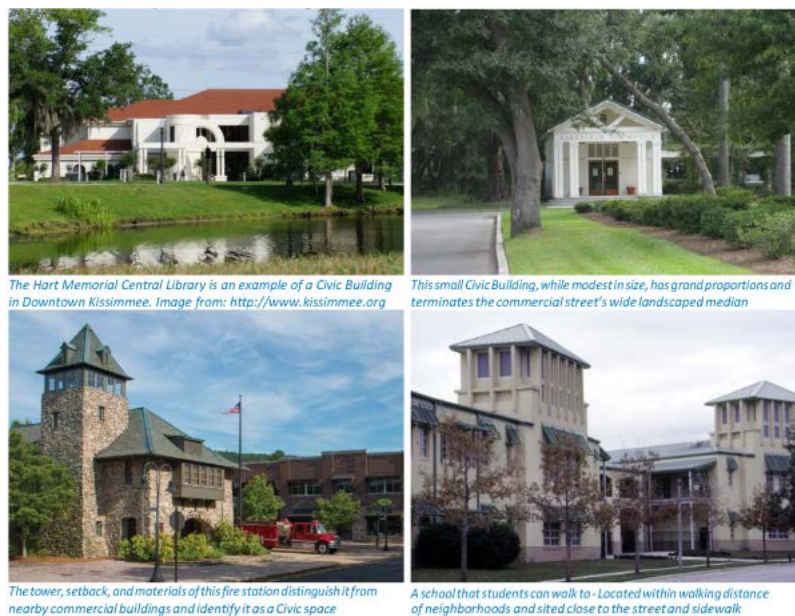


Figure 5-56: Examples of Civic Buildings



F. **Self-storage facilities.** Self-storage facilities are allowed as noted in Table 5-1. However, they shall be designed to meet the intent of the form-based code to create a pedestrian-friendly urban environment. Self-storage facilities shall be designed and constructed in accordance with the following requirements (Figure 5-57):

1. Self-storage facilities are only allowed as part of a mixed-use development, as defined in chapter 14-2, and must include retail, restaurants or office uses on the ground floor.
2. Access to the individual storage units shall not be visible from the street and may only be provided from interior spaces.
3. There shall be no outdoor storage allowed.
4. Loading docks shall be located inside the building.
5. Privacy fences or walls are not allowed around the property unless they are required by this Code.

Figure 5-57: Urban Self-Storage Facilities



~~(Ord. No. 3034, § 1(14-5-8), 8-4-2020)~~

(Ord. No. 3034, § 1(14-5-8), 8-4-2020)

14-5-9. Access, circulation and parking requirements.

The intent of the parking standards is to encourage a balance between pedestrian-oriented development and necessary vehicle storage. The goal is to construct neither more nor less parking than is needed.

- A. *Access and circulation.* Access shall be provided in accordance with chapter 14-7 and the following provisions:
1. It is the intent of the city to minimize the number of curb cuts and driveways along primary streets (depicted in Figure 5-25). Therefore, new access driveways shall not be allowed along primary streets. Sites shall be accessed from rear alleys where they exist (see Figure 5-58) and/or from secondary streets if the lot is located on a corner or has double frontage (see Figure 5-58). If no rear alley or secondary street exists, access shall be provided across neighboring properties utilizing cross-access easements (see Figure 5-59). Cross-access easements must be recorded prior to construction plan approval. The director may approve access from a primary street if none of the allowed access options listed are feasible (see Figure 5-58). If the property has frontage on two or more primary streets, the director shall make a determination on which street may have the driveway.
 2. The maximum width of vehicular driveways in the form-based code shall meet the standards of chapter 14-7, except that width may be reduced to 20 feet for two-way traffic and ten feet for one-way traffic if approved by the fire department and sanitation division on a case-by-case basis. No reductions may be approved for access driveways along primary streets within the Vine Street CRA, or if the agency with jurisdiction over the roadway does not allow it.
 3. When connecting to adjacent properties through cross-access easements is not feasible, the proposed development shall still design the site to allow for future connections.
 4. When vehicular access to the site must be directly from a primary street, the access driveways shall be designed in a way that pedestrians crossing on the sidewalk are safe. This may be achieved by using a different color or material for the sidewalk.

Figure 5-58: Vehicular Site Access

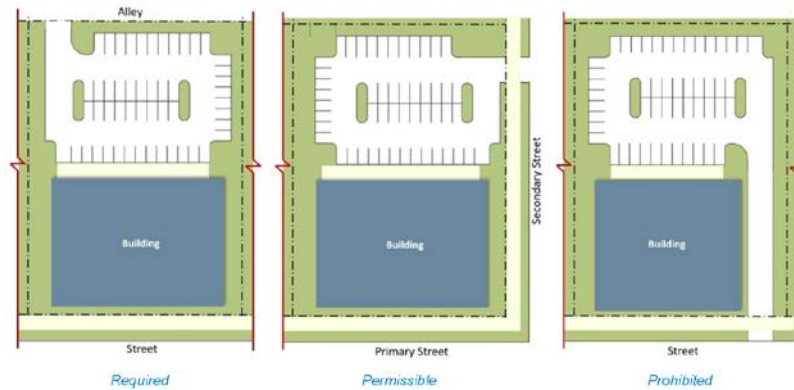
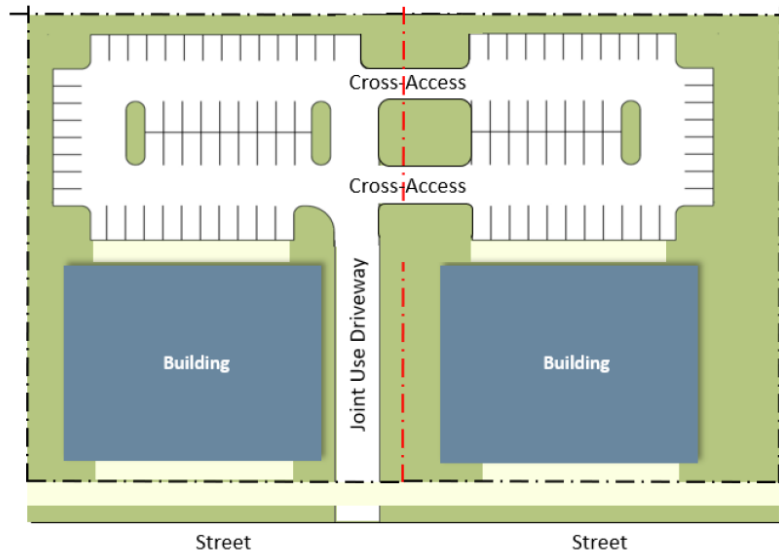


Figure 5-59: Joint Use Driveways/Cross-Access



5. Vehicular access to non-residential or mixed-use developments from/through single family residential neighborhoods shall not be allowed.
6. Circular drives are prohibited ([Figure 5-60](#)) except for civic buildings and sites in the SD transect zone.

[Figure 5-60: Example of a Circular Drive:](#)



7. Direct pedestrian access from the public sidewalk to the building shall be required for all development.
8. Pedestrian connections between parking areas and the main building entrance shall also be provided. This may be achieved through pedestrian passageways (see Figure 5-60) or sidewalks around the building. The pedestrian walkways shall be a minimum of five feet wide.
9. Safe pedestrian connections shall be provided not only along the perimeter of the blocks but also throughout the interior of development sites.
10. Pedestrian walkways within the development shall be differentiated from driving surfaces through a change in materials and/or grade elevation.
11. Developments of 50,000 gross square feet or more may be required to provide access for on-site public transit.

Figure 5-60: Pedestrian Linkages

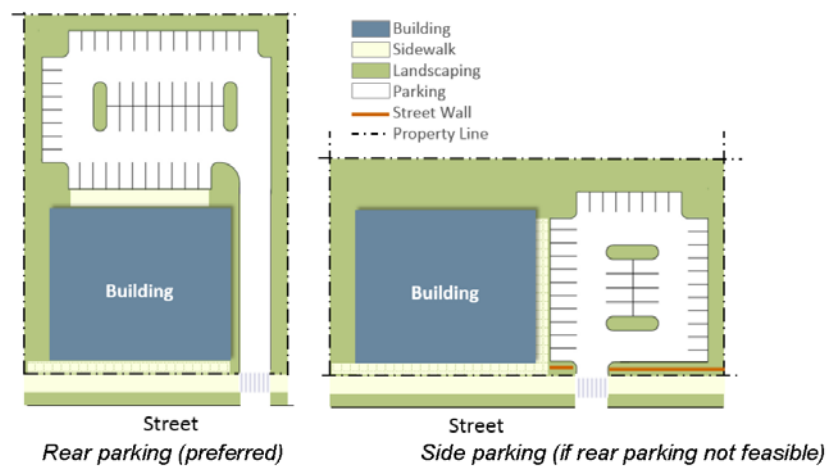


B. *Parking requirements.*

1. Parking shall be provided for each use in accordance with the minimum requirements outlined by use in chapter 14-7, except that:
 - a. Developments within the parking exemption area depicted in the special requirements plan (see Figure 5-2) is exempt from the provision of off-street parking spaces.

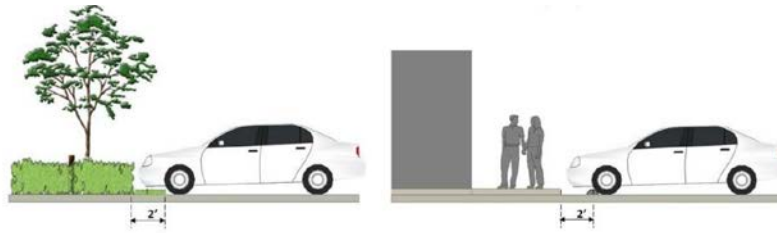
- b. Parking stalls can be reduced to 8.5' in width for up to 25 percent of the required parking spaces (not including ADA spaces) and shall be designated as "compact" at the head of the parking stall (closest to the drive aisle) using thermoplastic reflective paint that can be seen at night.
 2. Parking shall be located on the same lot as the use it serves. However, on-street parking may also be counted towards the parking space requirement if the full length of the space is located directly adjacent to the site. On-street parking shall remain open to the public and cannot be reserved or dedicated for private use. Satellite parking may also be allowed if located within one-quarter mile of the building's primary entrance. See section 14-7-26 for other requirements applicable to satellite parking.
 3. Parking shall be located behind the primary building or, if rear parking is not feasible, to the side of the building. The location of parking to the side of the building, however, does not exempt the development from meeting the building frontage requirements of section 14-5-7.C (Building Frontage Buildout). Parking lots located on the side shall be masked from the street by a street wall (see section 14-5-11.F).

Figure 5-6162: Parking Location



4. Surface parking areas adjacent to a street shall have at least the same setback as the building façade facing the same street. See section 14-5-11.F for street wall/fence requirements.
5. Surface parking areas abutting other sites shall be set back the distance necessary to allow for the required perimeter landscaping required in section 14-5-11.C.
6. Street-facing garages for single family, duplex, triplex or townhouse units shall be set back at least five feet from the building's front façade.
7. Parking spaces adjacent to an internal sidewalk or walkway shall not reduce the width of the sidewalk or walkway below five feet. Wheel stops placed two feet from the sidewalk may be used or the sidewalk must be widened by two feet (see Figure 5-62).

Figure 5-6263: Parking Overhang



8. Shared and reduced parking is permitted and encouraged in all transect zones for more efficient parking solutions. The amount of parking required is calculated by adding the total number of spaces required by each separate function in the parking requirement chart and dividing by the appropriate factor from the sharing factor matrix (Figure 5-63). However, the required number of handicap spaces cannot be reduced. (For example, the residential function requires ten spaces while the office portion requires 12 spaces. Independently they would require 22 spaces, but when divided by the sharing factor of 1.4, they would require only 16 spaces). When more than two uses share parking, the lowest number shall be used.

Figure 5-6364: Sharing Factor

SHARING FACTOR				
Function	with			Function
RESIDENTIAL				RESIDENTIAL
LODGING				LODGING
OFFICE				OFFICE
RETAIL				RETAIL
	RESIDENTIAL	LODGING	OFFICE	RETAIL
	1.0	1.1	1.1	1.4
	1.4	1.1	1.1	1.2
	1.2	1.7	1.7	1.3
	1.3	1.2	1.2	1.0
	1.2	1.0	1.0	1.0

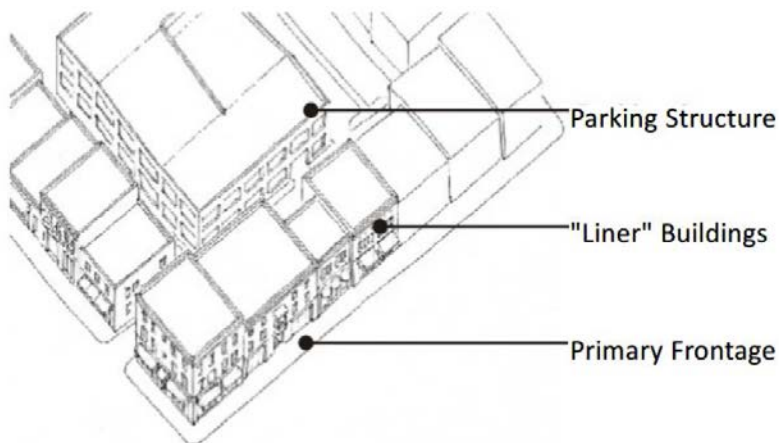
9. Bicycle parking shall be provided in all transect zones per chapter 14-7.
 10. All uses within the downtown CRA shall use decorative pavers and/or stamped/decorative concrete instead of asphalt or concrete for the extent of the entire parking lot, including drive aisles. For campus style developments, projects greater than or equal to 50,000 gross square feet, or greater than or equal to 15 dwelling units, this requirement may be waived by the director for surfaces other than vehicular access points which must use decorative pavers and/or stamped/decorative concrete. The use of decorative pavers and/or stamped/decorative concrete is encouraged in all other areas of the form-based code.
- C. *Parking garages.*
1. Parking garages shall be set back as noted in the transect zone dimensional standards (Table 5-2).
 2. The first floor of parking garages that front on a street shall be used for active uses (e.g., commercial, office, residential). The commercial uses may be located within a liner building, or as an integral part of the parking garage building (see Figure 5-64). Additionally, liner buildings may be attached or detached from parking garage (see Figures 5-65).

3. Parking garages and liner buildings shall meet the building design standards of section 14-5-7.
4. Direct access for parking garages shall not be provided from Broadway, Emmett Street or Main Street.

Figure 5-6465: Parking Garages and Liner Buildings



Figure 5-6566: Liner Building Placement



D. Parking lot and pedestrian area lighting.

1. The maximum height of any parking lot lighting pole shall be 15 feet. Light fixture cutoffs shall block no less than 85 percent of light projecting upward.
2. The design, color, shape, style, and materials of the fixtures shall match or complement the style and materials of the buildings served.
3. Parking lot light fixtures shall be designed so that light is directed onto the parking area and away from neighboring residential lots (e.g., house side shields). For residential conversions in the downtown community redevelopment area (CRA), no additional lighting shall be added that would change the character of the area.

-
4. Lighting for parking garages shall be shielded to the outside of the structure; top level lighting shall be placed at the interior of the floor, not to the edge of the structure.

(Ord. No. 3034, § 1(14-5-9), 8-4-2020)

14-5-10. Civic open space requirements.

Parks, playgrounds, squares, plazas and green space on public or private property, but open to the public, may be located in a transect zone (per Table 5-2) or be rezoned to open space. Such uses shall meet the standards of chapter 14-4 and the following provisions.

- A. *General.* Civic open spaces may contain features such as manicured green spaces, naturalistic green spaces, hardscaped plazas, pavilions, and playgrounds.
- B. *Types of civic open space.* The appropriate arrangements for civic open spaces are described below and are permissible type within the designated transect zones as indicated in Table 5-4.
 1. *Park.* A natural preserve available for unstructured recreation. A park does not need to be fronted to buildings. Its landscape shall consist of paths and trails, meadows, waterbodies, woodland, recreational fields, and open shelters, all naturalistically disposed. Parks may be lineal, following the trajectories of natural corridors.
 2. *Green.* Available for unstructured recreation. A green may be spatially defined by landscaping rather than buildings fronting it along the edges. Its landscape shall consist of lawn and trees, naturalistically disposed.
 3. *Square.* Available for unstructured recreation and public gatherings. A square is spatially defined by building frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be densely shaded and provide seating. Trees and shrubs shall be of sufficient quantity and located so as to define a specific geometry of open space and shall promote security by allowing visibility through all areas.
 4. *Plaza.* Available for public gatherings and outdoor markets. A plaza shall be spatially defined by building frontages. Its landscape shall consist primarily of pavement. Plazas should use pervious pavers, where feasible. Trees are optional.
 5. *Playground.* Designed and equipped for the recreation of children. A playground shall be fenced and may include an open shelter. Playgrounds may be interspersed within residential areas and may be placed within a block. Playgrounds may be included within parks, greens and squares.

Figure 5-667: Examples of Civic Spaces

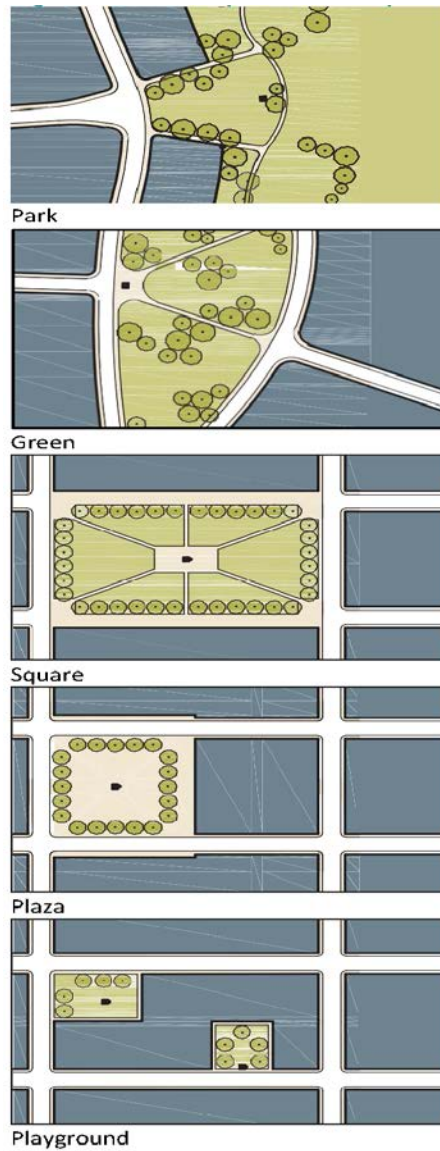


Table 5-4: Civic Open Spaces

Type	Typical Size	T1	T3	T4-R	T5-M	T6	SD
Park	min. 2 acres	X	X				
Green	0.25 to 2 acres		X	X	X	X	
Square	1,000 sf to 2 acres			X	X	X	X
Plaza	1,000 sf to 2 acres				X	X	X
Playground	1,000 sf to 1 acre	X	X	X	X	X	X

-
- C. *Guidelines.* Heightened attention shall be paid to the quality of landscape design and function according to the following principles:
1. The landscape design shall support and express environmental, cultural, and historical attributes unique to Kissimmee. It shall integrate with surrounding development to encourage the public experience of the civic space.
 2. The landscape design shall promote connection with nature, social interaction, and mental restoration.
 3. Views of natural features and historic structures shall be preserved or maximized.
 4. The landscape design shall promote connection to surrounding neighborhood resources, amenities and services, and provide for optimum accessibility, safety and way-finding.
 5. Stormwater management improvements shall be integrated with the final landscape design as aesthetically and visually pleasing design elements.
 6. Whenever appropriate, landscape design shall promote sustainability awareness and education through interpretive signs, demonstrations and other forms of interpretation.

Figure 5-6768: Examples of Civic Open Spaces



(Ord. No. 3034, § 1(14-5-10), 8-4-2020)

14-5-11. Landscape, buffers and screening standards.

Landscaping, buffering and screening shall be provided in accordance with the following:

- A. *Landscaping between the building and the street.* Contrary to the rest of the city, the buildings in the form-based code area are intended to be actively engaged with the street. Therefore, any provisions in chapter 14-8 requiring landscaping or buffering between the building and the street are not applicable to sites in the form-based code area, unless specifically required in this chapter.

Figure 5-6869: Planters Adjacent to Buildings



Figure 5-70: Parking Lot Lighting and Trees



Coordinated location of trees and lighting

Trees block lighting

B. *Landscape materials.*

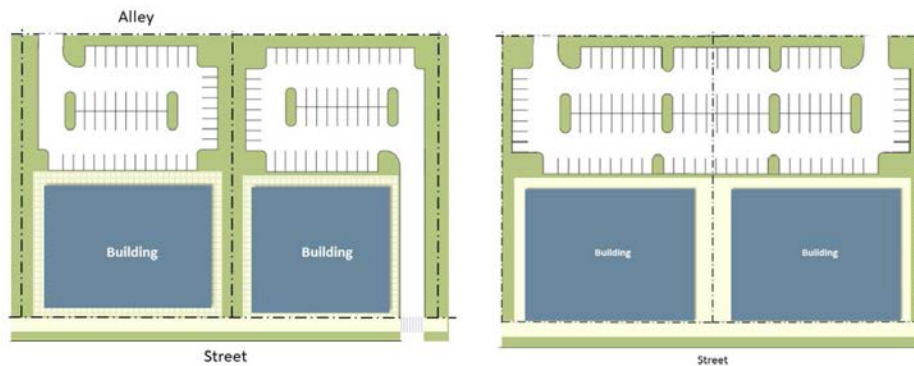
1. At the time of planting, trees within rights-of-way and public parking areas shall meet the standards of section 14-8-23.
2. Tree and site lighting locations shall not be in conflict. They shall be spaced in a manner that the canopy of the trees does not block the light intended to illuminate the site.

C. *Parking lot landscaping.* Developments in the form-based code area shall be subject to the vehicular use landscaping requirements of section 14-8-18 and the following:

1. Parking lot layout, landscaping, buffering, and screening shall minimize direct views of parked vehicles from streets and sidewalks; prevent spill-over light, glare, noise, and exhaust fumes from infringing on adjacent properties; and provide the required tree canopy shade.

2. Any landscaping adjacent to the front of a parking space that does not have a wheel stop shall include a two-foot-wide strip of gravel, grass or mulch so that the front of the parked vehicle can overhang without interfering with taller plantings and irrigation systems (see Figure 5-62).
3. A minimum five-foot landscape strip shall be provided between vehicular use areas and side and rear property lines, unless there is a surface parking lot on the adjacent site and the two lots are combined into a single, shared parking lot (joint use and cross-access easements will be required). See Figure 5-69.

Figure 5-7169: Adjacent Surface Parking Lots



4. The use of grass shall be minimized and shall not be planted in strips less than five feet wide. Lawn seed mixes shall be drought resistant. To achieve a high level of drought tolerance, lawn mixes may include, but shall not be limited to, a predominance of fine fescues.
 5. Design of landscape shall maximize use of green infrastructure stormwater best management practices such as pervious paving, bioretention systems, rain gardens, bioswales, and stormwater planters to slow and treat stormwater runoff while providing multiple additional community benefits.
 6. For residential conversions in the downtown community redevelopment area (CRA), the overall landscaping requirements for surface parking lots shall be reduced to five percent of the vehicular use area. When feasible, these five percent requirements can also be met by increasing the landscaping buffers above and beyond the minimum standards.
- D. *Street trees.* Street trees shall be provided as required in chapter 14-8 and the following provisions:
1. Planting strips shall be used strategically to allow for adequate space to plant street trees. Planting pits and tree grates are typically used in mixed-use, urban areas with medium to high pedestrian traffic, and shall be at least four' wide by 3.5' deep. Tree grates may be integrated within planting pits to protect root balls and prevent soil compaction. Grates shall be expandable for tree growth. In order for grates to be safe for pedestrians to walk on, they must have no more than one-quarter" space between slots.
 2. Coordination will be required to integrate the placement of street trees, signage, and lighting to ensure that each element complements the other.
 3. Vertical clearance shall comply with 14-8-23.A.8.

-
4. In areas where landscaping cannot be located in the public right-of-way, it shall be located within the street setback zone. This landscaping shall take the form of canopy trees followed by understory trees and then low-level shrubs.
 5. When street trees are planned for thoroughfares with frequent transit service, the trees shall be placed to be compatible with passenger loading areas and allow maintenance so branches do not interfere with transit vehicle movements.
 6. Tree species with tap roots shall be selected to prevent sidewalk and pavement breakage.
- E. *Buffers.*
1. No buffers (or fences) are required between uses in the T4-O, T5-U, T5-M or T6 zones, unless specifically required as part of a conditional use approval.
 2. Proposed developments in the T5-U, T5-M or T6 zones adjacent to single family residential uses in the T3, T4-O and T4-R zones shall provide a seven-foot landscape buffer and a six-foot high solid fence along the shared property line. The buffer shall contain one understory tree for each 25 linear feet of the buffer and one shrub with a minimum height of 24 inches, spaced a minimum of 30 inches on center. The director may waive the buffer and/or fence requirement if the sites are designed to integrate the uses, or they share a parking area, or have a cross-access easement between the two sites.
 3. Proposed developments in the T5-U, T5-M or T6 transect zones abutting single family residential zoning districts outside the form-based code area shall provide buffers, landscaping and screening as required in section 14-8-16.C.
- F. *Street walls/fences.* A freestanding street wall/fence meeting the requirements of this section and intended to mask parking areas from the street and to strengthen the spatial definition of the public realm, is the only type of wall or fence permitted within the required front and street side yard setbacks. Street walls shall meet the sight visibility triangle regulations (see LDC Section 14-7-2).
1. Street walls/fences shall have a minimum height of 2.5 feet and a maximum height of five feet (measured from the elevation of the public sidewalk) in all transect zones. The portion of the street wall/fence above 2.5 feet shall be transparent (e.g., wrought iron or similar). Transparent fences shall have columns (one foot by one foot minimum) spaced every 24 feet (see Figure 5-70).

Figure 5-~~70~~72: Street Wall Examples



2. Street walls shall have openings no larger than necessary to allow automobile and pedestrian access.
3. Street walls shall be placed in line with the building façade facing the same street

4. Street walls shall not be permitted in the right-of-way.
5. Street walls shall be constructed of wrought iron, brick, masonry, stone, powder-coated aluminum or other decorative materials that complement the finish on the primary building. Chain link, wood and PVC street walls/fences shall be prohibited.
6. The area in front of a street wall shall include a landscaped strip with a minimum width of five feet (with ground cover, hedges, or shrubs). The landscape strip may be waived by the director if the area in front of the wall is needed to expand the public sidewalk (see Figure 5-71).
7. The area between the street wall and on-site parking shall also include a three-foot-wide landscape strip.
8. Understory trees shall be planted in front or behind the street wall at a rate of one tree per 25 feet of wall length. If planted behind the street wall, the landscape area shall be at least five feet wide to accommodate such trees. The trees may be waived by the director if they conflict with the required or existing street trees.

Figure 5-71: Street Wall Landscaping Examples



(Ord. No. 3034, § 1(14-5-11), 8-4-2020)

14-5-12. Stormwater management.

- A. *General standards.* In order to reduce water quality impacts at receiving waters and enhance community character in support of compact development, the standards of this section intend to:
 1. Manage rainfall as close to where it falls as possible, approximating the natural pre-development hydrology (water quality and water quantity) using natural, decentralized stormwater management practices.
 2. Celebrate stormwater as an integral part of the built environment.
 3. Establish watershed sensitive planning and design criteria at the neighborhood scale of development to support shared flood control solutions.
 4. Encourage incorporation of low impact development (LID) best management practices at the block, street, and site level, appropriate to land use context and site conditions.
- B. *Design criteria.* Development in the form-based code area shall meet the requirements of section 14-10-3, except that:

1. Pervious paving shall be permitted and is encouraged to reduce stormwater runoff volume. Pervious paving approaches may be technically infeasible where underlying soils are contaminated or other site constraints exist.
2. Green roofs shall be permitted for all building types.
3. Irrigation systems are encouraged to first make use of all available surface stormwater runoff or other retained or detained stormwater as a water supply. Re-used water is also a preferred source.
4. Bioretention systems, bioswales, tree filters, and other vegetated stormwater BMPs are encouraged for treatment of stormwater runoff from streets, parking lots, plazas, and other impervious surfaces. In areas where infiltration is not technically feasible due to site contamination concerns These vegetated BMPs can include impermeable liners with underdrains to provide water quality treatment. where infiltration is not technically feasible due to site contamination concerns.
5. For new construction, retention must be placed in the rear or side yard, not facing the public right-of-way, unless it is integrated into the design and featured as a site amenity. The following are examples of stormwater facilities designed as amenities.



- ~~6. In the downtown community redevelopment Area (CRA), the retention may be at any depth.~~
- ~~76.~~ Vehicular use areas in the downtown CRA area with less than 2,000 square feet of durable all-weather surface, as defined in this Code, may be relieved of the city requirements for providing stormwater detention/retention, but shall still be required to meet SFWMD water quality standards.
- ~~78.~~ The maintenance berm around privately owned and maintained wet ponds may be reduced to a minimum width of ten feet.
- ~~89.~~ Special detention areas such as parking lots, rooftops ("blue roofs"), parks, plazas, and fields are areas primarily designated for other uses but that may be used for temporary infiltration and/or peak rate mitigation during storm events if the requirements herein are satisfied (Figure 5-72). Special detention areas shall be designed sensitive to land use context and public use requirements and the following conditions:

Figure 5-~~72~~74: Alternative Stormwater Detention Facilities



- a. Temporary ponding storage areas must be located so that ponding will not significantly disrupt typical traffic (pedestrian/bicycle/vehicle) flow, and areas shall be adequately sloped towards outlets to ensure complete drainage after storm events.
- b. Special detention areas shall be clearly identified as such and their primary use shall be restricted during storms.
- c. Emergency overflows shall be incorporated and designed to prevent excessive depths from occurring during extreme storm events or if the primary flow control structure/structures are clogged. ~~In most cases, ponding depth shall not exceed 12 inches.~~
- d. Rooftop storage must consider structural support, HVAC requirements, waterproofing, emergency overflows, and all other building design considerations.
- e. Landscaping materials used for high-intensity public uses (community parks, athletic fields, greens, etc.) shall be located in areas of well-draining soils to guarantee public use is not compromised by excessively wet ground between rain events.

(Ord. No. 3034, § 1(14-5-12), 8-4-2020)

14-5-13. Development bonuses.

The bonus program is established to encourage the location of higher density/intensity development at places where they will not have a negative impact on low density residential neighborhoods, and to encourage the provision of amenities that would benefit the community as a whole. Development sites may receive more than one bonus. However, the density/intensity and building height shall not exceed the maximum noted in the corresponding future land use category and Table 5-2, respectively.

- A. *Improvements eligible for bonuses.* Development projects within the form-based code area that meet the standards of this Code may be eligible to achieve the additional building height noted in Table 5-2 for sites in T5-U or to obtain a reduction in the number of required parking spaces, as follows:
 1. *Mixed-use.* Developments that include a vertical mix of residential and commercial or office are entitled to the maximum building height allowed with the bonus. The residential portion shall include at least five residential units to qualify for the bonus.
 2. *Affordable housing.* Developments with at least ~~25~~20 percent of its residential units certified as "affordable housing" by the city are entitled to the maximum height allowed with the bonus.

Such units will be subject to an agreement with the city to ensure the units remain affordable for a period of time of no less than ~~30~~15 years.

3. *Public open space & amenities.* Developments that include a public open space (urban plaza or park) are entitled to one additional floor above the permitted base height for every 3,000 square feet of continuous public open space, not to exceed the maximum height allowed with a bonus. The urban plaza or park shall not be enclosed, shall be easily accessible by the public, include amenities (landscaping, hardscaping, and furnishing), and be privately-owned and -maintained, but open to the public. The public open space shall not be located within required buffers.

Figure 5-~~73~~75: Examples of Public Open Spaces



4. *Parking spaces.* A reduction of parking requirements by up to 50 percent may be approved if the applicant proposes a public space area occupying a minimum of 50 percent of the parking area waived. However, there shall be no reduction in the number of required ~~accessible~~accessible parking spaces. The public open space shall not be located within required buffers.
 5. *Parking garages.* If located below or above the residential, commercial or office space, the development is entitled to one additional floor for each floor of parking garage, not to exceed the maximum allowed with the bonus. The parking garage shall not occupy the ground floor frontage along any primary street (as depicted on Figure 5-25). This frontage will require an active use.
- B. *Building height next to residential.* Developments utilizing the bonus system are subject to the development compatibility standards of section 14-5-7.B.3.
 - C. *Review and approval.* Requests for bonuses do not require a separate application. They shall be noted on the site plan and shall be reviewed concurrently with the site plan to ensure all other requirements of the Code, including the requirements of this chapter, are met. Applicants requesting approval of bonuses are still eligible to apply for variances and modification of standards, but under separate application (see chapter 14-3, part VII, Modification of Standards and Variances).

(Ord. No. 3034, § 1(14-5-13), 8-4-2020)

14-5-14. Flexibility.

- A. *Project of significance to the city.* A project of significance to the city shall be defined as any development or redevelopment project with special site characteristics of such a size, especially very small or very large, determined by the city manager to be of such economic or social importance to the city that it warrants greater flexibility in the interpretation of this chapter. A developer's agreement will outline specific design considerations, and schedule and phasing plans consistent with the overall design intent of the form-based code area. This section only applies to standard within the Form-Based Code (Chapter 14-5).

(Code 1995, § 14-2-54; Ord. No. 3034, § 1(14-5-14), 8-4-2020)

CHAPTER 14-6: STANDARDS FOR ACCESSORY, TEMPORARY AND OTHER USES

PART I. ACCESSORY USES AND STRUCTURES

14-6-1. General requirements for accessory uses and structures.

The following regulations shall apply to all accessory uses and structures, except as provided in the standards in the following sections or the Downtown Form-Based Code:

- A. Accessory uses and structures shall be subordinate (less than 50 percent of the principal structure or use) in size (square footage) and shall be smaller in height to the principal building.
- B. Accessory structures shall be located no closer than six feet from the rear property line (or the site boundary line for mobile homes on mobile home sites in a MHP district), except that accessory structures of 12 feet or more in height shall meet the principal building setback of the zoning district where it is located.
- C. Accessory structures shall meet the side and street side yard setback requirements of the zoning district.
- D. Accessory structures shall not be located in front of the façade of the principal building.
- E. Accessory structures (other than screen enclosures attached to the building) shall be separated from the principal building by five feet or more.
- F. Accessory structures shall not be located within a utility easement.
- G. Screened and open porches (not including screened pool enclosures) attached to the building shall meet all principal building setback requirements.
- H. Except as otherwise provided in this Code, no accessory use or structure shall be approved, established, or constructed, before the principal use or structure is approved, established or constructed.
- I. Accessory uses may be located within the principal building.

(Ord. No. 3034, § 1(14-6-1), 8-4-2020)

14-6-2. Accessory dwelling units (ADU).

This policy is intended to promote and encourage the creation of legal accessory dwelling units (ADU) in a manner that helps meet the city's housing needs by increasing the range of choices for housing accommodations, encouraging a greater diversity of the population with particular attention to young adults and senior citizens, and encouraging a more economic and energy-efficient use of the city's housing supply while maintaining and enhancing the appearance and character of Kissimmee's single family neighborhoods. Accessory dwelling units as defined in chapter 14-2 shall meet the following standards:

- A. *Lot and yard standards.*
 - 1. One ADU (attached or detached) may be developed per lot, provided the lot complies with the minimum lot size for the respective zoning district and the ADU meets all site standards of the

applicable zoning district. ~~A detached ADU requires a lot with 1½ times the minimum required lot size.~~

~~2. An ADU attached to the main residential unit is only allowed if the lot meets the minimum lot size and dimensions of the zoning district. A detached ADU requires a lot with 1½ times the minimum required lot size.~~

- B. *Parking standards.* An ADU shall require off-street parking as outlined in section 14-7-22 in addition to the parking required for the primary structure.
- C. *Occupancy standards.* The principal structure shall be owner-occupied and shall maintain a valid homestead exemption.
- D. *Buildings.*
 - 1. An ADU shall have a minimum living area of 500 square feet and a maximum living area of 800 square feet or 40 percent of the gross floor area of the principal structure/dwelling at time of application, whichever is less.
 - 2. All ADUs shall be compatible with the existing and surrounding structure(s) in both materials and design. All structures shall be permanently founded in accordance with applicable building codes.
 - 3. An ADU shall not have its main entrance in the front façade of the principal structure unless it is a shared entryway. This entryway shall contain only one main door on the front façade of the primary structure. An exterior stairway to an ADU, if proposed, shall not be constructed on the front or street side of the principal dwelling unit.
 - 4. Illegally created accessory dwelling units shall be subject to compliance with this section or abated.
- E. *ADUs in Agriculture and Conservation Districts (AC).*
 - 1. *Existing.* Accessory dwelling units that existed on agriculture sites before being annexed into the city shall be deemed "permitted" and not subject to the nonconforming use provisions of this Code.
 - 2. *New.* New accessory dwelling units in the AC zoning district may only be allowed if they are incidental to a single family dwelling, have a Single Family Low Density Residential (SF-LDR) future land use designation, and are reviewed through the conditional use approval process.

(Code 1995, § 14-2-206; Ord. No. 2038, 12-20-1994; Ord. No. 2122, 8-20-1996; Ord. No. 2139, 11-26-1996; Ord. No. 2157, 2-4-1997; Ord. No. 2158, 2-4-1997; Ord. No. 2210, 3-3-1998; Ord. No. 2237, 6-23-1998; Ord. No. 2264, 3-16-1999; Ord. No. 2678, 5-13-2008; Ord. No. 2690, 6-10-2008; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-6-2), 8-4-2020)

14-6-3. Antennas.

- A. *Standards for all districts.*
 - 1. Standard antennas and communication antennas as defined in chapter 14-2 shall be maintained in compliance with all applicable construction permits and codes.
 - 2. The installation of antennas shall meet all Federal Communications Commission (FCC) and manufacturer specifications, rules and requirements.
 - 3. The antennas shall be of a non-reflective surface material and, to the maximum extent possible, their color and location shall blend with the surrounding area and structures.

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4. The antennas shall contain no advertising or signage of any type, other than governmentally required signage.
 5. Prior to installation, the applicant shall submit detailed drawings of the proposed antenna installation and of the installation of any associated equipment to the city. The drawings shall be certified by the manufacturer or a professional engineer licensed by the State of Florida.
 6. Standard antennas shall be permitted to the side or rear of the principal structure. However, a standard antenna may be located on a principal structure if:
 - a. The antenna has a diameter of one meter (39.37 inches) or less;
 - b. The antenna is panel or dish-shaped and cannot be seen from a public street or is camouflaged; or
 - c. A waiver is granted by the city manager where there are special conditions involved.
 7. Communication antennas which are mounted on structures other than communication towers and other communication facilities as defined in chapter 14-2 shall only be allowed as an accessory attachment to the structure and shall be designed to blend in with the functional design of the structure. Some examples of structures where antennas may be mounted include utility poles, architectural features (e.g., church steeple) and similar structures. Such supporting structures must comply with the following requirements:
 - a. The distance from the base of the structure on which the communication antennas are mounted to residentially zoned lots must be equal to or greater than the height of the structure, including any antennas on the structure. In addition, the structures and any associated communications equipment shall not be located in front of any principal building on the lot and shall not be located in any required yard area. A minimum setback of ten feet to property lines is required for any associated guy lines.
 - b. The structures on which the communication antennas are mounted and any associated communications equipment shall be screened from view from public rights-of-way and residentially zoned lots to the extent that such screening is practical and consistent with the principal use of the structures.
 - c. The structures on which the communication antennas are mounted shall not be artificially lighted except to the extent required by the principal use of the structure, to assure human safety, or as required by the Federal Aviation Administration (FAA).
 - d. No structure on which communication antennas are mounted and no associated communications equipment shall be designed or operated in a manner which interferes with public safety communications. Frequency coordination is required to ensure noninterference with public safety systems and operations. Compliance with this requirement must be demonstrated by the applicant using written information prepared by a communications expert or by submitting suitable FCC information which verifies compliance.
 - e. Each structure on which communication antennas are mounted shall be posted with signage warning the general public to stay away from the antennas.
 8. Communication antennas mounted on communication towers and other communication facilities as defined in chapter 14-2 shall be placed and designed in accordance with this section, in a manner consistent with valid development plans, construction plans, and conditional use approval conditions.
 9. Standard antennas and communication antennas on buildings shall, to the maximum extent practical, be screened from view from a public right-of-way.

B. *Additional standards for residential districts.*

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1. A standard antenna shall be considered an accessory structure to the principal structure on the lot.
 2. A standard antenna shall not be used for any commercial purposes; it shall only provide service to dwellings on the parcel.
 3. Standard antenna installations shall be limited to one per residential building.
 4. The maximum size of a standard antenna shall be 12 inches in diameter.
 5. The maximum height of a standard antenna shall be 15 feet (measured when the antenna is at its maximum forward position) unless mounted on the roof of a dwelling. A panel or dish shaped antenna shall not be mounted on the roof of a dwelling unless it has a diameter of one meter (39.37 inches) or less, cannot be seen from a public street, or is camouflaged.
 6. In meeting the accessory structure setback requirements of section 14-6-1, the setback shall be measured from the edge of the standard antenna when the antenna is in the closest horizontal position possible in relation to the lot line.
 7. Communication antennas as defined in chapter 14-2 which are mounted on structures other than buildings are not allowed in any residential district (for example, no communication towers and no communication antennas on poles are allowed in residential districts).
- C. *Exemptions.* Standard antennas and communication antennas shall be exempt from these regulations to the minimum extent necessary to comply with the laws of the United States.

(Code 1995, § 14-2-68; Ord. No. 2038, 12-20-1994; Ord. No. 2158, 2-4-1997; Ord. No. 3034, § 1(14-6-3), 8-4-2020)

14-6-4. Family day care homes.

Family day care homes shall meet the following standards:

- A. Signage is limited to a single, one square foot non-illuminated placard that is attached to the residence, near the main entrance of the residence. Entrances, openings, doors and windows to a garage, patio or screen room are not allowed to be marked or have signage. The placard may not project from the structure and must be made out of materials similar to the structure in which it is attached. No other permanent signage is allowed.
- B. There shall be no alterations in the residential character or appearance of the premises.
- C. The use shall not cause or add to on-street parking congestion or cause a substantial increase in traffic through the residential area where it is located. Locations with an approved family day care shall not have vehicles parked on unpaved surface.
- D. No outdoor storage of materials, goods, supplies or equipment shall be permitted.
- E. Must meet the provisions for standard home occupations (see section 14-6-7).

(Code 1995, § 14-2-62; Ord. No. 2038, 12-20-1994; Ord. No. 2119, 8-13-1996; Ord. No. 2158, 2-4-1997; Ord. No. 2173, 7-15-1997; Ord. No. 2445, 10-1-2002; Ord. No. 2522, 8-10-2004; Ord. No. 2692, 6-24-2008; Ord. No. 2726, 8-4-2009; Ord. No. 2741, 12-22-2009; Ord. No. 3034, § 1(14-6-4), 8-4-2020)

14-6-5. Fences and walls.

- A. *Permit.* A building permit is required to erect any fence or wall within the city limits.
- B. *Side and rear yard fences and walls.*

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1. Such fences may be located in the required yard but the finished side of the fence shall face away from the property on which it is located.
 2. Maximum height of six feet except that the director may approve a fence or wall up to ten feet in height if either dictated by unique topographic conditions or required to screen an outdoor storage area of unique characteristics.
- C. *Front yard fences and walls.*
1. Maximum height of three feet unless it is a retaining wall or a decorative open fence (no more than 15 percent opaque) up to six feet in height;
 2. The director may approve a solid fence or wall up to six feet in height if dictated by unique topographic conditions, required to screen an outdoor storage area of unique characteristics, or required for buffering purposes as a condition of a development permit.
 3. For all properties within the form-based code area, the provisions of chapter 14-5 shall apply.
- D. *Fence and wall materials.*
1. Allowable fence materials include aluminum, treated wood, vinyl, ornamental iron, chain link (see restrictions below), concrete, brick or stone.
 2. Chain link fences in the front yard are prohibited, unless provided in conjunction with a public school.
 3. Where permitted, chain link fences shall be coated in green or black vinyl.
 4. The use of slats within chain link or similar fencing for screening is not allowed.
 5. Barbed wire and electric fences are allowed for agricultural uses in the AC district, but not in the front or street side yards. They are prohibited in all other zoning districts
- E. *Traffic visibility at intersections.* Fences shall not be allowed within the sight visibility triangle (see section 14-7-2).

(Code 1995, § 14-2-63; Ord. No. 2038, 12-20-1994; Ord. No. 2139, 11-26-1996; Ord. No. 2692, 6-24-2008; Ord. No. 2776, 9-7-2010; Ord. No. 3034, § 1(14-6-5), 8-4-2020)

14-6-6. Heliports.

All heliports, whether a principal or accessory use, shall meet the following standards:

- A. Heliports may be approved in zoning districts where they are allowed as a conditional use if the requirements of this section and other applicable requirements are satisfied.
- B. Helicopter takeoffs and landings must occur at the Kissimmee Municipal Airport or at heliports approved by the city, except when necessary for public safety emergencies, necessary for law enforcement purposes, or approved by the city manager in conjunction with a special event such as an athletic contest, holiday celebration, parade or similar activity.
- C. A heliport protection zone shall be established for each heliport during the heliport approval process. This heliport protection zone shall be delineated by the primary, approach, and transition surfaces of the heliport as defined in chapter 14-2. The height of any structure within a heliport protection zone shall not extend above the height of the primary, transition, and approach surfaces defined for the heliport. A structure which exceeds height limitations imposed by this subsection may be permitted if the Federal Aviation Administration (FAA) and the Florida Department of Transportation (FDOT) have stated in writing that the structure will not constitute an undue hazard to aviation and provided that said structure is marked in accordance with the requirements of the FAA and FDOT.

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- D. The following documents shall be submitted to the city with the conditional use application:
1. A statement of need, indicating the purpose of the heliport, the benefits (whether direct or indirect) to be derived by the public as a result of the heliport, and the availability and function of other heliports within five miles of the site.
 2. A description of the facility outlining the types of helicopters expected to use the facility, the estimated number of takeoffs and landings per month, the proposed hours of operation, and the proposed support facilities (such as hangars and fuel facilities).
 3. A study prepared by an aviation specialist which evaluates potential navigation hazards, combustible and explosive materials hazards, and hazards to nearby land uses associated with the proposed heliport and which presents techniques to adequately avoid these hazards.
 4. A study prepared by a noise specialist showing the location of noise sensitive areas within a radius of one mile of the proposed heliport site (such as residences schools, or businesses whose operation would be impacted by vibration), indicating the noise impacts of the proposed heliport, and presenting any noise abatement techniques needed to protect nearby land uses. The noise study shall be prepared in a manner consistent with Federal Aviation Administration (FAA) noise assessment guidelines for heliports.
 5. Evidence that any required landing area documents have been filed with the FAA and the Florida Department of Transportation (FDOT), and that both agencies consider the proposed heliport safe for the conduct of the aviation activities proposed for the site.
 6. A sketch plan and supporting documents containing the following:
 - a. Any information required for FDOT licensing.
 - b. The location of all security and noise attenuation materials and structures.
 - c. The location and type of firefighting equipment and materials.
 - d. The location and type of fuel storage facilities (if applicable).
 - e. The location of the helicopter takeoff and landing areas.
 - f. The lateral clearance zones and emergency landing areas.
- E. Heliports may be approved as a conditional use subject to meeting the following criteria and other applicable requirements:
1. The heliport is reasonably safe; giving consideration to potential navigation hazards, combustible or explosive materials hazards, and hazards to nearby land uses associated with the proposed heliport and the techniques being used to avoid these hazards. Attention shall be given to the proximity of emergency services.
 2. The heliport is compatible with nearby land uses; giving special consideration to noise and aesthetic impacts, and the techniques being used to minimize these impacts.
 3. In order to help achieve adequate safety and compatibility, heliports shall comply with the minimum separation requirements listed below. Greater separation distances may be required due to the characteristics of the heliport and surrounding areas when needed in order to help achieve safety or compatibility. Lesser separation distances may be allowed for medical and law enforcement heliports when a justifiable public need is demonstrated.
 - a. Heliport primary surface areas shall be located at least 200 feet from any property line. All property under an approach surface area which is within 400 feet of a primary surface area must be a part of the heliport property.

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- b. Heliport primary surface areas shall be located at least 500 feet from any of the following zoning districts: AC, RE, RA-1, RA-2, RA-3, RA-4, RB-1, RB-2, MH, RC-1, RC-2, or MHP. All property zoned AC, RE, RA-1, RA-2, RA-3, RA-4, RB-1, RB-2, MH, RC-1, RC-2, or MHP located under an approach surface area which is within 750 feet of a primary surface area must be part of the heliport property.

- F. In addition to conditions that may be attached as part of the conditional use approval, legal agreements may be required to help ensure that various safety techniques, compatibility techniques, and operational activities associated with the heliport are implemented as approved by the city.

(Code 1995, §§ 14-2-70, 14-2-206; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-6-6), 8-4-2020)

14-6-7. Home occupations.

- A. *Standard home occupations.* Standard home occupations are those occupations customarily practiced in the home and which have no client presence on the residential site, except that a teacher or tutor may have a maximum of two students present at any one time, and a family day care home may have the number of children specified in F.S. § 402.302(8). Such standard home occupations shall be accessory to the principal use of the premises as a residence. Home hobbies where services or products are not sold are not considered home occupations. Standard home occupations shall meet the following standards:
 - 1. The standard home occupation shall be conducted entirely within the residential or accessory structure and operated only by a resident of the premises. The individual shall not engage any employees or volunteer workers to assist in the standard home occupation other than family members residing on the premises.
 - 2. No standard home occupation, including storage for the standard home occupation, shall occupy more than ten percent of the gross floor area of the ground floor of a residence. The ground floor area measurement is exclusive of any open porch, attached garage or similar space not intended to be occupied as living quarters.
 - 3. No signs shall be permitted to advertise the standard home occupation located on the premises.
 - 4. No chemical, mechanical or electrical equipment that is not normally a part of domestic or household equipment shall be used primarily for commercial purposes. No equipment shall be utilized that creates a nuisance due to odor, vibration, noise, electrical interferences or fluctuations in line voltage beyond the property line of the lot upon which the standard home occupation is conducted.
 - 5. A standard home occupation shall not involve the retailing or wholesaling of stock, supplies or products to any individual on the premises. Delivery of retail products to the consumer off the premises, such as by mail order, is permitted.
 - 6. All sales of products and the performance of all service or work that requires the presence of a customer for any length of time shall not be permitted on the premises.
 - 7. There shall be no alterations in the residential character or appearance of the premises in connection with such a standard home occupation.
 - 8. Commercial vehicles associated with the standard home occupation or any resident must comply with chapter 42, article III of the Code of Ordinances.
 - 9. No traffic or parking demands shall be generated by the standard home occupation in greater volume, frequency or type than would normally be expected in a residential district, ten vehicle trips per day. Family day care homes may generate an additional 20 vehicle trips per day. Any need for parking generated by a standard home occupation shall be provided for as off-street parking.

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10. Deliveries related to the standard home occupation shall not occur more frequently than twice per day, not including any deliveries made by the United States Postal Service.
 11. The address or location of a standard home occupation shall not be given in any advertisement, including, but not limited to, commercial telephone directories, newspapers, magazines, signs, flyers, radio, television or other media.
 12. No outdoor storage of materials or equipment used in the standard home occupation shall be permitted. No storage or display of material, goods, supplies, or equipment related to the operation of a standard home occupation shall be visible from the outside of the residence.
 13. Any business tax receipt (BTR) application for a business meeting the above standards shall be designated a home occupational license. Such a BTR shall be revocable upon any violation of the standards. The applicant shall sign a letter of intent, provided by the department, stating compliance with these standards.
 14. The city fire department and the building division reserve the right to inspect a family day care home upon application for a new or renewal of a home occupation license.
- B. *Extended home occupations.* Extended home occupations are those service-based occupations that can be practiced in the home and which have a limited client presence at the residential site in the appropriate zoning districts listed below. Such extended occupations are accessory to the principal use of the premises as a residence. Extended home occupations require a conditional use permit in accordance with section 14-3-29 of this chapter [title] and must meet the design and performance standards listed below. Home hobbies where services or products are not sold are not considered home occupations. Extended home occupations shall meet the following standards:
1. Extended home occupations are only permitted in the RB-2 (Medium Density Residential-Office) and the RPB (Residential Professional Business) zoning districts.
 2. Extended home occupations are only allowed on residential sites with direct frontage onto arterial and collector roadways as designated by the Kissimmee Comprehensive Plan.
 3. Extended home occupations are prohibited in the form-based code area and any city designated historic preservation district.
 4. No extended home occupation, including storage for the extended home occupation, shall occupy more space than ten percent of the gross floor area of the ground floor of a residence. The gross ground floor area measurement is exclusive of any open porch, attached garage, or similar space not intended to be occupied as living quarters.
 5. Signage is limited to a single, one square foot non-illuminated placard that is attached to the residence, near the main entrance of the residence. Entrances, openings, doors and windows to a garage, patios or screen rooms are not allowed to be marked or have signage. The placard may not project from the structure and must be made out of materials similar to the structure in which it is attached. No other permanent signage is allowed.
 6. No chemical, mechanical or electrical equipment that is not normally a part of domestic or household equipment shall be used primarily for commercial purposes. No equipment shall be utilized that creates a nuisance due to odor, vibration, noise, electrical interferences or fluctuations in line voltage beyond the property line of the lot upon which the standard home occupation is conducted.
 7. An extended home occupation shall be completely service oriented; no retailing or wholesaling of stock, supplies or products to any individual on premises is permitted. Delivery of retail products to the consumer off the premises, such as by mail order, is permitted.

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8. There shall be no alterations in the residential character or appearance of the premises in connection with such an extended home occupation.
 9. Commercial vehicles associated with the extended home occupation or any resident must comply with chapter 42, article III.
 10. Extended home occupations shall not cause or add to on-street parking congestion or cause a substantial increase in traffic through the residential area where it is located. Locations with an approved extended home occupation shall not have vehicles parked on unpaved surface.
 11. Deliveries related to the extended home occupation shall not occur more frequently than twice per day, not including any deliveries made by the United States Postal Service.
 12. No outdoor storage of materials or equipment used in the extended home occupation shall be permitted. No storage or display of material, goods, supplies, or equipment related to the operation of an extended home occupation shall be visible from the outside of the residence.
 13. Any business tax receipt (BTR) application for a business meeting the above standards shall be designated a home occupational license. Such a receipt shall be revocable upon any violation of the standards. The applicant shall sign a letter of intent, provided by the department, stating compliance with these standards.
- C. *Prohibited home occupations.* The following uses are not allowed as either standard or extended home occupations in any residential district:
1. Restaurants;
 2. Kennels and veterinary clinics;
 3. Funeral homes;
 4. Dance or exercise studios;
 5. Repair shops except the repairs of small household appliances, clothing and similar personal items;
 6. Beauty and barber shops, except when customer visits are by appointment only and limited to no more than a single customer at any given time;
 7. Cabinet or furniture manufacturing, assembly or repair, including refinishing and upholstery; and
 8. Vehicle repair of any kind, including bodywork, detailing, washing and work done to the interior of the vehicle.

(Code 1995, § 14-2-62; Ord. No. 3034, § 1(14-6-7), 8-4-2020)

14-6-8. Itinerant food vendors.

Itinerant food vendors are authorized in the B-3, HC, IB zoning districts and shall be in accordance with the following standards:

- A. *Operating requirements.* The following standards shall be met for itinerant food vendors operating within the city limits:
 1. There shall be only one vendor booth or conveyance per parcel, location or development. Itinerant food vendors shall be limited to those parcels containing a retail store with a minimum gross floor area of 50,000 square feet. This minimum area shall apply to a single retailer and shall not be construed to apply to a multi-tenant center with the same square footage.

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2. Any itinerant food vendor shall obtain a city business tax receipt (BTR) prior to operating, which shall be renewed annually.
 3. The county/state health department must license any vending booths and itinerant food vending operations preparing and selling food items. All applicable codes of the health department shall be met.
 4. A trash container must be available on the vending booth or itinerant food vending conveyance.
 5. Lighting may be used to continuously illuminate the vending booth or itinerant food vending conveyance canopy and provide task lighting for night operation, provided it conforms with the city's lighting regulations.
 6. Change of ownership, booth/conveyance or location will require that the owner apply for a new vending booth or itinerant food vendor permit.
 7. All required licenses must be conspicuously displayed on the vending booth or itinerant food vending conveyance.
 8. Vending booths and itinerant food vending conveyances must be provided with at least one approved portable fire extinguisher having a minimum rating of 2A10BC and a Class K fire extinguisher.
 9. All liquefied petroleum gas containers must be installed on the outside of the vending booth or itinerant food vending conveyance, protected from physical damage and, if enclosed, vented at the lowest point of the enclosure. All liquefied petroleum gas containers must be properly secured and comply with all applicable standards.
 10. One sign will be allowed at a maximum size of six square feet, to be mounted on the vending booth or itinerant food vending conveyance. No other signs, pictures or advertisements of any kind, such as stickers, flags, balloons, inflatables or lights, shall be allowed.
 11. The vendor shall keep the sidewalks, parking areas and other spaces adjacent to their vending sites or locations clean and free of paper, peelings and refuse of any kind generated from their vending operation.
 12. Sales shall be oriented to pedestrians. No vendor shall sell or attempt to sell any product or engage in any commercial transaction with the occupant of any motor vehicle.
 13. Vendors shall not conduct business in a way that will restrict or interfere with the entrance or exit of a business, create a nuisance, create a hazard to pedestrians, life or property, or obstruct vehicular circulation, pedestrian circulation, or access to emergency exits.
 14. No alcoholic beverages may be sold.
 15. All food shall be prepared on-site from the itinerant food vending conveyance.
 16. Outdoor vending shall be limited to the hours between 7:00 a.m. and 10:00 p.m. daily and shall take place only at the approved location. The itinerant food vending conveyance shall not be set up prior to 6:00 a.m. and must be removed by 11:00 p.m. of that same day.
 17. Outdoor seating shall not be permitted.
 18. A vending booth or conveyance shall not exceed a size of ten feet in width and 20 feet in length. If the vending conveyance is a trailer, the trailer shall be unhitched from the motorized vehicle and stabilized prior to operating the vending conveyance and it is the trailer alone that will be considered the vending conveyance for purposes of the size limitation. Tent structures shall not be permitted.

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19. The vending conveyance shall not be operated in a manner that destroys existing sodded areas, results in erosion or breaks down the pervious or impervious surface of the site. In the event of erosion or destruction of the site surface, the owner of the site shall be required to restore the site to its original condition.
- B. *Location of outdoor vendors.* No outdoor vendor shall be permitted to operate in any of the following areas:
1. Within 25 feet of any loading zone or bus stop.
 2. Within 15 feet of a building entrance or exit.
 3. Against windows of a business.
 4. Within 25 feet of any fire hydrant, fire escape or fire control device.
 5. Within 25 feet of any parking space or access ramp designated for persons with disabilities.
 6. Within the required building setbacks of the zoning district.
 7. Within required parking spaces or landscape areas.
 8. On a vacant lot or property.

(Code 1995, § 14-2-65; Ord. No. 3034, § 1(14-6-8), 8-4-2020)

14-6-9. Outdoor dining.

Outdoor dining, as defined in chapter 14-2, may be established in conjunction with a legally established and licensed restaurant, provided the following regulations can be met:

- A. Canopies, awnings, roofs or other similar structures used in conjunction with the outdoor dining area shall comply with the applicable setbacks of the zoning district in which the property is located.
- B. A safety barrier shall be provided along the outer perimeter of the outdoor dining area. The barrier shall consist of plants, screens, or fencing and shall be at least 30 inches high, measured from the ground. If alcohol is served, a solid continuous barrier shall be provided around the entire perimeter of the outdoor dining area. Barriers for outdoor dining areas in the form-based code area (see chapter 14-5) may consist of a railing, planters or similar elements, but do not need to be a solid barrier.



Examples of outdoor dining safety barriers

Outdoor Dining Safety Barriers

- C. The design of the outdoor area and the barrier shall be architecturally consistent and compatible with the principal structure as to exterior building finishes, colors, design and style or theme.

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- D. Outdoor areas shall be considered part of the gross floor area of the establishment for calculation of parking, stormwater drainage, impact and mobility fees, and other development regulations.
 - E. A minimum setback of 15 feet from any arterial or collector right-of-way and seven feet from any other public right(s)-of-way shall be provided. This requirement shall not apply to the form-based code area (see chapter 14-5).
 - F. The outdoor dining area shall be established in the front, side or at the rear of the business and immediately adjacent to the business with which the outdoor dining area is associated. The area shall not be located in a side or rear yard that abuts any residential property. The area including any table, chair, bench, umbrella, or planter shall not block any pedestrian access, on-site traffic circulation, loading area, landscape area, stormwater drainage area or required parking.
 - G. The outdoor dining area shall be set back a minimum of five feet from any fire hydrants and shall not be located within the sight visibility triangle in accordance with section 14-7-2.
 - H. No heating or cooking of food shall be permitted in the outdoor dining area.
 - I. Alcoholic beverages may be consumed within the outdoor dining area provided the primary restaurant operation, including the outdoor dining area, is licensed by the State of Florida Department of Business and Professional Regulation and the City of Kissimmee to serve alcoholic beverages.
 - J. Live entertainment shall be prohibited outdoors unless non-amplified.
 - K. The outdoor dining area shall comply with the Americans with Disabilities Act (ADA) and applicable state regulations.
 - L. The applicant shall submit a scaled site plan showing:
 - 1. The location and size of the proposed outdoor dining area, including the location and placement of tables, seats, benches, planters, awnings, umbrellas and the business' entrance and windows;
 - 2. The location and size of the associated establishment and building;
 - 3. The location and number of parking spaces;
 - 4. Distances from the property line and from any fire hydrant, landscaping and any other public improvement in the right-of-way; and
 - 5. Any other improvements to be located within the dining or adjacent area(s).
 - M. Outdoor dining on rooftops are only allowed if the site is not adjacent to a property zoned for residential use or for mixed-use that may include a residential component.
 - N. The review process for adding outdoor dining areas to existing restaurants shall be determined based upon the extent of the proposed modifications to the existing site improvements. Stormwater management shall be required for new impervious outdoor dining areas.

(Code 1995, § 14-2-65; Ord. No. 3034, § 1(14-6-9), 8-4-2020)

14-6-10. Outdoor display and storage of vehicles.

- A. *Boat and travel trailer parking in residential areas.* Parking and outside storage areas for boats, travel trailers, and similar equipment shall be screened from view from other dwellings, and shall be screened from adjacent properties using one or a combination of landscaping, berm and/or decorative solid fencing, a minimum of six feet in height. Storage of equipment within public and private rights-of-way shall be prohibited.

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- B. *Vehicular display and storage of automotive uses.* Areas used for the display of vehicles and trailers offered for sale or lease at a vehicular sales or leasing establishment, licensed by the State of Florida and the City of Kissimmee, shall meet the following requirements:
1. Display areas are not considered "parking lots"; therefore, the parking standards of chapter 14-7 do not apply, except as noted below.
 2. The vehicles/trailers shall be parked on a durable, all-weather surface as defined in section 14-7-23.E.
 3. Vehicle display areas are exempt from the parking lot landscaping requirements of chapter 14-8.
 4. The vehicle display area must be in a location approved on a site plan which does not interfere with driveways, fire lanes, landscaping or parking spaces required to meet the minimum standards for the site.
 5. Storage and display area for vehicular sales and leasing cannot be used to satisfy the required parking for any business establishment as required in chapter 14-7.
 6. Inoperable motor vehicles shall not be stored at such facilities for a period in excess of 24 hours unless the vehicle is enclosed within a building or located on a durable, all-weather surface surrounded by a solid wall or fence at least six feet high.
 7. Any operable or inoperable vehicle parked, stored, or being repaired at an automobile repair facility must have a valid motor vehicle tag and registration.
 8. No automobile repair facilities, gasoline service station or vehicular sales or leasing establishment permitted in any district shall allow any parked vehicles to intrude upon a sidewalk or other public right-of-way.
- C. *Parking, storage and display of heavy commercial vehicles and construction equipment.* No parking, storage or display of heavy commercial vehicles or construction equipment over 6,000 pounds shall be permitted, except in the IB, AI, AO, and BP zoning districts and portions of MUPUD zoning districts designated Industrial Business (IN) by the comprehensive plan. This prohibition does not include heavy commercial vehicles parked during active loading and unloading, but for no longer than 48 hours, within areas designated as loading spaces on an approved site plan. All heavy commercial vehicles shall be located on a durable, all-weather surface, as specified in section 14-7-23.E, and construction equipment may be located on a stabilized base. For the purposes of this section, a stabilized base shall be a compacted surface consisting of a material which does not generate dust.
- D. *Fleet vehicle parking.* Fleet vehicles must be owned or leased by the business establishment where they are parked and shall be clearly marked with the business' name and/or logo. Fleet vehicles are motorized vehicles and trailers, excluding construction equipment, that are used solely for the purpose of conducting activity associated with the business establishment at the location where the vehicles are parked. In the IB, BP, AO, AI, CF, UT and portions of MUPUD districts designated Industrial Business (IN) by the comprehensive plan, fleet vehicle parking areas shall meet the following standards:
1. The fleet vehicle parking area must meet the parking lot design standards established in section 14-7-23.B, E, H and K, the remainder of that section does not apply to fleet vehicle parking areas.
 2. Fleet vehicle parking areas shall meet the vehicle area landscaping requirements contained in chapter 14-8.
 3. The parking area shall be completely screened so as not to be visible from any adjacent rights-of-way or lot by decorative fencing, wall, landscaping, or other suitable buffers with a height of at least six feet unless otherwise specified in the district or site plan approval. See section 14-6-5 for fence and wall standards. Gates accessing screened parking areas must also be screened.

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4. Employees' personal vehicles, customer vehicles and other non-fleet vehicles must be parked in an approved parking lot meeting the standard set forth in chapter 14-7.
 5. Fleet vehicle parking spaces and areas cannot be used to satisfy the required parking for any business establishment as required in chapter 14-7.
 6. Fleet vehicle parking must be approved in accordance with section 14-3-31 (Site Plan Review) to ensure development standards are met.
- E. *Temporary storage of trailers and containers.* Notwithstanding the provisions of subsection C above, the temporary placement of semi-trailers and/or shipping containers used for the storage of merchandise for a maximum of 90 days between September 15 and January 15 may be allowed with development review committee (DRC) approval in the B-3 or HC districts. Approval for such use shall be effective annually, unless revised or revoked at a later date. Semi-trailer and container storage shall be subject to the outdoor storage provisions of the zoning district, shall be located a minimum of 20 feet from all building openings on a durable all-weather surface, and shall not be located in any driveways, fire lanes, handicapped parking spaces, pedestrian ways or parking spaces required to meet the minimum standards for the site. Such storage shall be limited to lots containing a minimum of 25,000 square feet of building area. No more than four trailers shall be permitted on lots containing between 25,000 to 119,999 square feet of building area, and no more than eight trailers shall be permitted for lots containing 120,000 square feet or more of building area.

(Code 1995, § 14-2-65; Ord. No. 2038, 12-20-1994; Ord. No. 2158, 2-4-1997; Ord. No. 2264, 3-16-1999; Ord. No. 2357, 9-5-2000; Ord. No. 2379, 2-13-2001; Ord. No. 2431, 2-14-2002; Ord. No. 2457, 12-17-2002; Ord. No. 2508, 3-16-2004; Ord. No. 2589, 3-21-2006; Ord. No. 2692, 6-24-2008; Ord. No. 2721, 6-16-2009; Ord. No. 2740, 12-22-2009; Ord. No. 2741, 12-22-2009; Ord. No. 2804, 7-19-2011; Ord. No. 3034, § 1(14-6-10), 8-4-2020)

14-6-11. Outdoor display of merchandise.

Merchandise may be displayed outside of a building in the T-5, T-6, B-3 and HC zoning districts subject to the following requirements:

- A. The display shall be located within five feet of a portion of a building used by the seller, shall only be allowed along one side a building, and shall not cover an area in excess of 40 percent of the total lineal footage of the side of the building where the display is located. No items or display over six feet in height may be allowed outdoors.
- B. The display shall not encroach within any driveway, parking or loading spaces, fire lanes or landscaped areas. No display shall be located in a public right-of-way unless permitted by the form based code (see section 14-5-6.F).
- C. No display shall block a building entrance or obstruct a pedestrian path in such a manner that there is less than a five-foot-wide path to all building entrances.
- D. Items shall be displayed in such a manner that the items for sale may be partially or completely viewed by the potential purchaser without opening a container of any type. Only a single unit of each type item may be displayed. The display of multiple units of any one item, except for potted plants, is prohibited. The stacking of items in bulk such as landscape, masonry, fencing or building materials shall not be permitted, except for potted plants.
- E. Merchandise shall only be displayed during the business hours of the seller.
- F. No additional signage is allowed in conjunction with the outdoor display of merchandise.

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- G. All equipment used to display the items for sale must be mobile and must be stored indoors or off-site when the merchandise is not being displayed.
 - H. Outdoor display must also meet any additional requirements of the zoning district in which establishment is located.

(Code 1995, § 14-2-65; Ord. No. 2038, 12-20-1994; Ord. No. 2158, 2-4-1997; Ord. No. 2264, 3-16-1999; Ord. No. 2357, 9-5-2000; Ord. No. 2379, 2-13-2001; Ord. No. 2431, 2-14-2002; Ord. No. 2457, 12-17-2002; Ord. No. 2508, 3-16-2004; Ord. No. 2589, 3-21-2006; Ord. No. 2692, 6-24-2008; Ord. No. 2721, 6-16-2009; Ord. No. 2740, 12-22-2009; Ord. No. 2741, 12-22-2009; Ord. No. 2804, 7-19-2011; Ord. No. 3034, § 1(14-6-11), 8-4-2020)

14-6-12. Outdoor storage.

The permanent outdoor storage of merchandise, supplies, or equipment in conjunction with a principal use shall be subject to the following requirements: The outdoor display of merchandise discussed in section 14-6-11, above, shall not be considered outdoor storage.

- A. The outdoor storage area shall not be located in front of the principal building, unless the lot is in an IB, AI, or AO district and the storage area is not visible from residential districts or any road designated as an arterial or collector.
- B. The storage area shall not be located in any required setback.
- C. Outdoor storage areas shall not exceed ten percent of the total lot area except in the IB, AI and AO districts, and except for nurseries and greenhouses located in a B-3 or HC district.
- D. No storage shall be allowed with[in] 25 feet of a residential district.
- E. Outdoor storage (other than related to aeronautical uses) shall be completely screened so as not to be visible from any adjacent rights-of-way or lot by decorative opaque fencing, wall, landscaping, or other suitable buffer with a height of at least six feet unless otherwise specified in the district or site plan approval. See section 14-6-5 for fence and wall standards. Gates shall also be opaque.

(Code 1995, § 14-2-65; Ord. No. 2038, 12-20-1994; Ord. No. 2158, 2-4-1997; Ord. No. 2264, 3-16-1999; Ord. No. 2357, 9-5-2000; Ord. No. 2379, 2-13-2001; Ord. No. 2431, 2-14-2002; Ord. No. 2457, 12-17-2002; Ord. No. 2508, 3-16-2004; Ord. No. 2589, 3-21-2006; Ord. No. 2692, 6-24-2008; Ord. No. 2721, 6-16-2009; Ord. No. 2740, 12-22-2009; Ord. No. 2741, 12-22-2009; Ord. No. 2804, 7-19-2011; Ord. No. 3034, § 1(14-6-12), 8-4-2020)

14-6-13. Outdoor vending equipment and machines.

- A. *Accessory to residential uses.* Vending machines and ice machines shall only be permitted in multi-family or mixed-use developments with ten units or more and located within RC-1, RC-2, MUPUD, or SRPUD zoning districts and only if in compliance with the following standards:
 - 1. Such items shall only be located at the clubhouse or recreational facility within the development and shall be located under a roof adequate to protect them against the elements;
 - 2. Such items shall not be visible from the public right-of-way. They may be screened by a wooden or vinyl fence; brick, stone or concrete wall compatible with the main structures; or shrubbery. One identification sign no larger than three inches by 12 inches shall be permitted on screening material.
- B. *Accessory to non-residential uses.* Vending machines, self-service kiosks, ice machines, propane tank storage bins and similar type machines are customary accessory uses for many commercial and retail businesses. Proliferation of these machines in outdoor areas creates an unfavorable atmosphere and image for the city, and conflicts with the general prohibition on outside uses. Vending machines, ice machines, propane tank

storage bins and similar type machines and bins may only be placed outside a building if they are under a roof or awning adequate to protect against the elements and in compliance with the following standards:

1. Shall not be installed or maintained within any part of a public right-of-way;
2. Shall be located no less than five feet from building doorways, entranceways, and emergency exits and shall comply with the Florida Accessibility Code;
3. Shall be placed flush with the building wall. A five-foot clear access for pedestrians shall be maintained at all times;
4. Shall be placed on a concrete pad or existing concrete surface;
5. Shall not be located within a required setback, open space, view corridor, landscaped area, or within a parking space or travel aisle within a parking lot and shall not be located in such a manner to impair a motor vehicle operator's view of motor vehicles, bicycles, or pedestrians upon entering, or exiting a right-of-way;
6. Shall be limited to the following number of machines and bins:
 - a. Businesses that have a minimum of two public entrances separated by more than 20 feet shall be limited to a maximum of three vending machines and two ice machines and/or propane tank storage bins, and one self-service kiosk. No more than three items may be located at one business entrance;
 - b. All other development sites shall be limited to no more than two such items outside of any building;
7. No machine or bin shall be taller than six feet in height;
8. If a machine or bin is located in front of a business window, no such item may obstruct more than one-third of the glass area of the window;
9. No additional signage, apart from that incorporated into the machine or container itself, shall be visible from the right-of-way;
10. Shall only be allowed within the downtown form-based code area if such items are not visible from the public right-of-way.

(Code 1995, § 14-2-65; Ord. No. 2038, 12-20-1994; Ord. No. 2119, 8-13-1996; Ord. No. 2158, 2-4-1997; Ord. No. 2173, 7-15-1997; Ord. No. 2445, 10-1-2002; Ord. No. 2522, 8-10-2004; Ord. No. 2692, 6-24-2008; Ord. No. 2726, 8-4-2009; Ord. No. 2741, 12-22-2009; Ord. No. 3034, § 1(14-6-13), 8-4-2020)

14-6-14. Recreational vehicles and trailers.

A. *Occupied recreational vehicles and trailers.*

1. Recreational vehicles used for living, sleeping, or housekeeping purposes may only be parked in a duly licensed mobile home park or campground.
2. Recreational vehicles may not be used for living, sleeping or housekeeping purposes while a mobile home is located on the site.

B. *Unoccupied recreational vehicles and trailers.*

1. Unoccupied recreational vehicles and trailers may be parked in multiple family housing developments and mobile home parks when located in parking areas designated for such use in the approved site plan.

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2. Recreational vehicles and trailers may be parked on a lot used for a single family, duplex, triplex, or townhouse dwelling subject to the following standards:
 - a. The vehicle may be parked in the front, side, or rear yard. However, no more than one of these items shall be parked between the front or side of such dwellings and any adjacent right-of-way.
 - b. In no case shall a single family, duplex, triplex, or townhouse lot have more than a total of three recreational vehicles and/or trailers outdoors. Notwithstanding this, no more than one motor home and/or travel trailer as described in F.S. § 320.01(1)(b) shall be allowed. No trailers used for business activities shall be allowed on any of these lots, unless parked in a garage.
 - c. If there are more than one recreational vehicle or trailer on the site, all but one of these items shall be shielded from view from public rights-of-way and adjacent residentially zoned property by a wall or other objects that obscure the view to a height of at least six feet.
 - d. The recreational vehicles and trailers shall be owned or leased by the people who occupy the lot or their guests while staying overnight with the occupant in the occupant's single family, duplex, triplex, or townhouse unit. However, guests may not park such vehicle on the lot in violation of subsection B.2.b above or other provisions of this chapter. In addition, no guest may park such an item on the lot for more than ten nights during any 12-month time frame.
 - e. This section does not apply to duplexes and triplexes which are part of a multiple family housing development as defined in chapter 14-2.

C. *General requirements.*

1. Recreational vehicles and trailers must be located on a durable, all-weather surface. A durable all-weather surface shall consist of concrete, asphalt, brick or other permanent surfaces, not including gravel, wood chips, or other materials subject to change in structure and/or location. For the purpose of parking or storing recreational equipment or a trailer, a durable all-weather surface does not include single paver blocks, or similar material, placed under each of the items tires or a row of paver blocks, or similar material placed in such a way to lead to the dwelling units driveway or the adjacent right-of-way.
2. It shall be unlawful for any recreational vehicle or trailer to extend over, or interfere with, the use of any sidewalk or right-of-way.
3. Recreational vehicles and trailers measuring 30 feet or more shall not be parked or stored on any residential street.
- ~~34.~~ No recreational vehicle or trailer shall obstruct the sight visibility triangle (see section 14-7-2).
- ~~4.5~~ The owner of the recreational vehicle or trailer (or their agent) shall document compliance with this section within 30 days of a request for such documentation from the city.
- ~~565.~~ Notwithstanding other provisions of this section, only existing pieces of recreational vehicles or trailers which satisfy subsection D, below, shall be grandfathered. Any replacement, transfer, additional piece, or disposal shall end the grandfather status of that piece of recreational equipment or trailer.
- ~~76.~~ In the event that the parking of recreational vehicles or trailers impedes the flow of traffic, or causes a public safety hazard, owners may be required to move such vehicles despite being of permitted length.

- D. *Pre-existing recreational equipment and trailers.* Any resident who owned a recreational vehicle and/or a trailer at their place of residence prior to the adoption of Ordinance No. 2173 on July 15, 1997, may continue to locate that same recreational vehicle or trailer only on the same property in the same location even if the location does not satisfy those restrictions if the applicant can document that the following conditions are satisfied:

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1. The owner of the recreational vehicle or trailer resided on the lot at which the recreational vehicle or trailers are to be stored, prior to July 15, 1997;
 2. The recreational vehicle or trailer was owned by the resident prior to July 15, 1997, and was located on the lot in the same location sometime prior to July 15, 1997;
 3. The recreational vehicle or trailer is not used for business activities and is owned by the occupant or overnight guests of the property occupant where it is parked.

(Code 1995, § 14-2-62; Ord. No. 2038, 12-20-1994; Ord. No. 2119, 8-13-1996; Ord. No. 2158, 2-4-1997; Ord. No. 2173, 7-15-1997; Ord. No. 2445, 10-1-2002; Ord. No. 2522, 8-10-2004; Ord. No. 2692, 6-24-2008; Ord. No. 2726, 8-4-2009; Ord. No. 2741, 12-22-2009; Ord. No. 3034, § 1(14-6-14), 8-4-2020)

14-6-15. Repair and manufacturing accessory to permitted uses.

Establishments in the B-3, HC and CF zoning districts may have accessory fabricating and repairing of goods on the premises provided that the following standards are met:

- A. The space dedicated to repair and/or manufacturing shall not exceed 20 percent of the gross floor area of the establishment, whether such space is located indoors or outdoors. This shall not limit the gross floor area devoted to repair activities in repair service establishments which are listed as a principal use.
- B. All repair and manufacturing processes conducted within 300 feet of a residential district shall be in completely enclosed buildings. Processes located at a greater distance may be located outdoors if approved as a conditional use and if enclosed by a solid wall or fence at least six feet high.

(Code 1995, §§ 14-2-32, 14-2-33, 14-2-39; Ord. No. 3034, § 1(14-6-15), 8-4-2020)

14-6-16. Security trailers at schools.

Mobile home dwellings may be used as security trailers on public school sites only.

(Code 1995, § 14-2-62; Ord. No. 3034, § 1(14-6-16), 8-4-2020)

14-6-17. Swimming pools.

- A. Swimming pools, spas, hot tubs and customary accessory structures such as screened enclosures are deemed accessory structures and shall meet the standards of section 14-6-1. Pool setbacks shall be measured from the water's edge.
- B. See F.S. ch. 515, for fencing requirements.

(Code 1995, § 14-2-62; Ord. No. 2038, 12-20-1994; Ord. No. 2119, 8-13-1996; Ord. No. 2158, 2-4-1997; Ord. No. 2173, 7-15-1997; Ord. No. 2445, 10-1-2002; Ord. No. 2522, 8-10-2004; Ord. No. 2692, 6-24-2008; Ord. No. 2726, 8-4-2009; Ord. No. 2741, 12-22-2009; Ord. No. 3034, § 1(14-6-17), 8-4-2020)

14-6-18. Reserved.

14-6-19. Reserved.

14-6-20. Reserved.

14-6-21. Reserved.

14-6-22. Reserved.

14-6-23. Reserved.

14-6-24. Reserved.

PART II. TEMPORARY USES

Temporary uses identified below shall not be subject to normal yard size, impervious surface area, storage, parking, access, landscape planting, and site plan review standards unless determined to be necessary as a condition of approval or unless specifically required below.

(Code 1995, § 14-2-67; Ord. No. 3034, § 1(ch. 14-6, pt. II, intro. ¶), 8-4-2020)

14-6-25. Construction trailer.

A temporary building or construction trailer, not used for residential occupancy, may be used in any zoning district for office or storage purposes only in conjunction with the construction of a project. Any such temporary trailer must receive approval from the director in order to ensure the following, and shall be removed upon completion of the project:

- A. Adequate buffering from adjacent uses and streets;
- B. Suitable access and parking; and
- C. The provision of appropriate utilities.

(Code 1995, § 14-2-67; Ord. No. 3034, § 1(14-6-25), 8-4-2020)

14-6-26. Portable storage containers.

- A. Portable storage containers, as defined in chapter 14-2, shall be allowed in a residential district in association with the relocation of the contents of a residential structure. Such containers shall not remain on the site for more than seven consecutive days.
- B. Portage [portable] storage containers shall also be allowed in conjunction with a residential renovation and can remain on the property as long as a valid permit exists. The container must be removed within seven days of building permit expiration or after construction is completed, whichever is first.
- C. Placement of portable storage containers shall not be within any public rights-of-way and shall not interfere with traffic visibility onto public rights-of-way.

(Code 1995, § 14-2-77; Ord. No. 3034, § 1(14-6-26), 8-4-2020)

14-6-27. Garage/yard sales.

- A. Garage/yard sales shall be permitted in a residential district not to exceed two times per year for up to three days per sale. Said year shall be from January 1 through December 31. See chapter 14-11 for sign regulations.
- B. Outdoor sales used as fundraising opportunities for non-profit operations or businesses shall be permitted not to exceed two times per calendar year for up to three days per sale without a special event permit. The following requirements for such activities shall apply:
 - 1. Sales shall be limited to locations within non-residential districts, or to sites occupied by non-profit operations or businesses legally established within residential districts.
 - 2. Sales shall not be located within any required setbacks, required parking spaces, drive aisles or adjacent rights-of-way, and shall not block fire hydrants, fire department connections, required sidewalks or access to any building.
 - 3. Sales shall be conducted on the same property as the primary business location of said non-profit and shall only be performed with written authorization from the property owner.
 - 4. No onsite cooking or other preparation of food shall be permitted in association with such sales.
 - 5. A building permit shall be required for any tents or temporary signage associated with the event. Such signage shall be in accordance with chapter 14-11.
 - 6. No other items associated with the outdoor sales, such as moonwalks, stages, rides or other temporary structures, shall be permitted.
 - 7. Any business exceeding the parameters outlined above must apply for a special event with sales permit and shall adhere to all of the requirements outlined in section 14-6-30(Outdoor Sales, Temporary).

(Code 1995, § 14-2-65; Ord. No. 3034, § 1(14-6-27), 8-4-2020)

14-6-28. Special events.

Special events, as defined in this Code, are allowed as a temporary use subject to the following conditions:

- A. Shall only be allowed in non-residential zoning districts, multiple family housing developments and in non-profit sites in residential districts.
- B. The temporary use of any one site for special events shall be limited to 30 days per calendar year for multi-tenant sites and 20 days per calendar year for single-tenant sites, unless specifically authorized through conditional use and site plan approval.
- C. No special event shall be permitted on a site unless adequate site improvements including paved vehicular access and parking are present. All special events and host sites shall comply with the minimum parking standards outlined in section 14-7-22.
- D. Setbacks from property lines shall be governed by the zoning district in which such event is taking place.
- E. The use of any public address or sound projection system shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., shall not project sound onto adjacent streets or residential areas, and shall comply with the noise control provisions of chapter 22, article II of the Code of Ordinances. The use of any public address system or sound projection system may be prohibited after due warning from the city. Based on the severity of the violation of the provisions of chapter 22, article II of the Code of Ordinances, the temporary sales event may be closed immediately by order of city staff.

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- F. Signage for special events shall comply with the standards listed in chapter 14-11 and shall be limited to two of the following:
1. One 21 square foot banner sign.
 2. One cold air balloon.
 3. One eight square foot temporary sign.
- G. The use of any right-of-way for the purposes of conducting a special event is prohibited, unless approved by the development review committee (DRC) and subject to the following provisions:
1. The special event shall be limited only to rights-of-way located within the Downtown Form-Based Code Area; or minor collector or local rights-of-way, in accordance with section 14-7-1 (Streets).
 2. Barricades and detour signs in accordance with the current edition of MUTCD (Manual on Uniform Traffic Control Devices) standards to ensure proper closure of the street and maintenance of traffic shall be coordinated with the city public works and engineering department and shall be provided at all locations where streets are to be closed. Barricade/sign details and locations shall be provided at the time of application and are subject to approval by the city engineering traffic division.
 3. Events held on closed streets shall be limited to no more than 12 hours per closure, unless additional time is approved by the city.
 4. The applicant shall be responsible for sending notice via certified return receipt mail of the event to all property owners adjacent to the affected portion of street. Written consent from affected property owners that they acknowledge and understand the entirety of the application and that the adjacent street will be closed shall be provided prior to permit issuance.
 5. Required vehicular and pedestrian access necessary for surrounding properties and businesses shall be provided and shall be indicated on the approved event layout.
 6. A lane for emergency vehicle access shall be provided and maintained at all times. No event-related items may be placed within this area designated on the approved site layout.
 7. A designated parking area located outside of the event area shall be provided to accommodate the number of citizens expected to attend the event. Other than vehicles utilized for the event, parking within the barricaded area shall be prohibited. The use of private commercial parking lots shall be prohibited unless written authorizations from the owners of such lots are submitted for city review and approval.
 8. Trash cans shall be placed throughout the event area. Immediately after the event, the applicant shall clean the site, adjacent site(s) and rights-of-way of any debris from the event.
 9. Outdoor vendors shall not be permitted, except as part of an approved special event. Event organizers shall be responsible for any outside food vendors. For special events with food vendors, the event organizer shall:
 - a. Prior to event approval by the DRC, provide a list of all food vendors and verification of their FDACS food permit to the city. This list must include all vendors anticipated to participate in the event, as well as a list of alternates that may be substituted in the event an individual vendor is unable to participate. Failure to comply with this requirement will result in vendors being barred from participation in the scheduled event;
 - b. Submit a State of Florida Department of Health food service event notification form to the department of health. This form may be obtained from city staff during DRC review;

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- c. Require each vendor to provide their own garbage bags and to keep the area around the vendor's booth clean;
 - d. Designate, in conjunction with city staff, a specific area(s) for food vendors to be placed, as well as specific area(s) for vendor parking.
 10. Consumption or possession of alcohol shall be permitted only within cordoned-off areas if sold by vendors currently licensed to sell alcohol in the cordoned-off area, or contiguous thereto. The cordoned-off area shall be patrolled by a city police officer or officers, who shall be paid as a special detail to the city by the promoter of the special event. The number of police officers required at any special event shall be determined by the police department based on its evaluation of the security needs of the promoter and the safety of the public.
 11. Particular attention shall be given to traffic flow and control, auto and pedestrian safety, and the effect which such use and activity will have on surrounding uses, particularly where the adjoining use is residential.
- H. A special event permit application shall be obtained from the development services - planning division in accordance with the DRC schedule and at least 30 days prior but no more than 180 days prior to the desired date of the event. All permit applications shall be submitted to the department in accordance with and accompanied by the following:
1. An application fee in accordance with the applicable development review fee schedule; non-profit organizations or charitable institutions shall be exempt from payment of such fee, provided that documentation of tax-exempt status is provided.
 2. A completed special event application including a schedule of events, specific portions of requested right(s)-of-way to be closed, and all items associated with the requested event.
 3. A site sketch showing location of the proposed event, tents, temporary structures, location of barricades, life safety plan, emergency vehicle access, and signage proposed and the location of all existing site improvements, including parking lot striping, sidewalks, fire department connections, fire hydrants, and intersecting streets.
 4. Written authorization from the owner of the host site, allowing the special event and dates requested to occur and letters of authorization from all affected property owners adjacent to portions of streets to be closed.
 5. If street closures are proposed, proof of liability insurance in the amount of \$1,000,000.00 shall be provided to cover the event. This liability insurance shall cover the entire portion of the right-of-way, including sidewalks, to be used in conjunction with the event.
 6. A cash deposit or bond to cover any clean up or repairs to the right(s)-of-way caused by the event shall be provided. The amount of deposit or bond will be determined by the city after evaluating the application and determining the size [of] the event and the right(s)-of-way impacted and must be submitted prior to permit issuance. Should necessary repairs or cleaning costs exceed this amount, no further event permits will be issued until the balance has been paid to the city.
 7. Any other documentation necessary to determine the appropriateness of the application as requested by the department.
 8. Permit issuance shall constitute approval to conduct the event and covers any temporary signage, balloon or tents requested as part of the application, subject to the standards contained herein, the information provided on the application and site sketch, any conditions set by the DRC, as well as any applicable codes or ordinances. The DRC's decision may be appealed to the city commission following recommendation of the planning advisory board.

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- I. No more than two permits for streets closures within a one-mile radius shall be granted at any given time. No street closures associated with a private special event shall occur on Broadway. The city reserves the right to deny street closure requests based on safety, welfare and other events.
 - J. A copy of all applicable permits, the approval letter, and the approved site sketch shall be posted on site in a prominent location during the event and shall be made available for presentation upon request. Failure to obtain proper permits and failure to comply with all applicable code requirements of the Code of Ordinances and the conditions of the permit shall invalidate the approval and may result in a daily fine and the forfeiture of future event dates.
 - K. The city reserves the right to limit, alter, or deny special events at any time. The city may deny a special event permit application if it is determined that the activity will adversely impact neighboring businesses or residents, impose a safety hazard, create a noise disturbance that is not appropriate for the location, place the city in a position of liability, or overextends the city's ability to provide services. The city may limit the duration of the event, including the hours of the event and the number of days it may be conducted, to minimize adverse impact caused by the activity that the city cannot manage. If the city fails to notify the applicant of a decision within 25 days of filing an application it shall be deemed denied.

(Code 1995, § 14-2-67; Ord. No. 3034, § 1(14-6-28), 8-4-2020)

14-6-29. Mobile medical units.

A temporary vehicular medical unit shall be allowed if used solely for purposes of temporarily collecting donated blood, blood cells, plasma, platelets, and the like, as well as those providing MRI, CAT scan, nuclear medicine, or other similar imaging, diagnostic, or testing procedures.

- A. General requirements.
 - 1. The use and unit shall be regulated by the State of Florida Department of Business and Professional Regulation.
 - 2. The placement of the unit and any accessory components shall not alter or obstruct the flow of traffic or present a safety hazard to vehicles or pedestrians.
 - 3. Signage permanently integrated into or part of the unit or a banner permitted by the city attached to the unit may be allowed. All other signage shall be prohibited.
 - 4. Outdoor storage to accommodate the unit shall be prohibited.
 - 5. The unit shall be located on an approved paved vehicular use area and shall not occupy drive aisles, fire lanes, or required parking spaces for the businesses that the vehicular use area serves.
- B. A mobile medical unit located on a property for up to two consecutive days shall meet the following.
 - 1. Allowed in the B-2, B-3, B-5, HC, CF, HF, BP, AI, or IB, zoning districts, the T5-M, T5-U zones, or the MUPUD zoning district with commercial future land use designation.
 - 2. The use shall not exceed two consecutive days in any seven-day period and ten total days per calendar year.
 - 3. The unit shall be clearly accessory to the primary use on site and shall not encroach within the underlying zoning district setbacks and buffers.
 - 4. There shall not be any construction or site alterations to accommodate the unit.
- C. A mobile medical unit located on property for more than two consecutive days shall meet the following provisions:

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1. Allowed in the B-2, B-3, B-5, HC, BP, and HF zoning districts, the T5-M, T5-U zones, and the MUPUD zoning district with commercial future land use designation where medical establishments are permitted as the primary use.
 2. Shall not exceed a total of 60 days per calendar year.
 3. The units shall be accessory to a medical establishment, which has a valid business tax receipt (BTR) from the City of Kissimmee, and shall be located on the same property.
 4. The unit shall not encroach within the underlying zoning district setbacks or buffers.
 5. If the unit is not in operation for a period exceeding two consecutive days, the facility must be removed from the property.
 6. If the vehicular use area where the unit is located is necessary to accommodate requirements for another use, the unit must be removed within five calendar days.
 7. The accessibility requirements of the Americans with Disabilities Act (ADA) and pedestrian access must be provided in accordance with the Land Development Code, the Florida Building Code, and the National Fire Protection Act (NFPA).
 8. Prior to locating the unit on the property, plans shall be submitted to the development services department, planning division, outlining compliance with all of the above standards and requirements. Such plans shall also include the following:
 - a. Survey outlining location and dimensions in relationship to existing structures and improvements on site.
 - b. Any other information related to the mobile medical unit that may be requested by the city in order to make informed decisions regarding the unit.

(Code 1995, § 14-2-67; Ord. No. 2038, 12-20-1994; Ord. No. 2312, 12-7-1999; Ord. No. 2342, 5-16-2000; Ord. No. 2668, 12-18-2007; Ord. No. 2744, 12-2220-09; Ord. No. 2790, 12-21-2010; Ord. No. 3034, § 1(14-6-29), 8-4-2020)

14-6-30. Outdoor sales, temporary.

Outdoor sales of merchandise from a vehicle, stall or designated area shall constitute a roadside stand, curb market or open air market, as defined herein, and are not permitted within the city except as follows:

- A. *Outdoor sales of holiday-related merchandise.* Outdoor sales of holiday-related merchandise, specified in this section, are permitted, subject to the following restrictions:
 1. A business tax receipt fee must be paid and a license obtained before any sale shall take place; provided, however, nonprofit organizations or institutions shall be exempt from payment of such fee.
 2. A license for the outdoor sale of merchandise will only be issued for items sold in connection with the Fourth of July, Halloween (October 31), Christmas (December 25) and New Year's Day (January 1).
 3. Any license issued for sales permitted under this section shall only be valid for a temporary period of time, as prescribed below:
 - a. A maximum of ten days preceding the Fourth of July;
 - b. A maximum of 30 days preceding Halloween;
 - c. A maximum of 40 days preceding New Year's Day.

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4. Outdoor sales of holiday-related merchandise are subject to the following restrictions:
 - a. Shall only be located on privately owned lots with adequate access and located within the HC, B-3, MUPUD zoning districts or T5-M and T5-U zones.
 - b. The sales area shall be set back a minimum of 50 feet from all property lines; pyrotechnical items shall meet the following setbacks:
 - i. 200 feet from a site housing any fuel storage of any kind, measured from the property line of such site.
 - ii. 100 feet from any restaurant or lounge and from any parking area in connection with same.
 - iii. 1,000 feet from any school or church and any parking area in connection with same.
 5. All pyrotechnical items sold must be approved by state laws regulating same and all persons selling pyrotechnical merchandise must be licensed by the state fire marshal.
 6. Pyrotechnical items may be sold if each item and sales location have been approved by the city fire inspector.
 7. Signage for outdoor sales shall comply with the standards listed in chapter 14-11 and shall be limited to two of the following:
 - a. One 21 square foot banner sign.
 - b. One cold air balloon.
 - c. One eight square foot temporary sign.
 - B. *Outdoor sales in conjunction with special events.* Outdoor sales may be allowed as a temporary use by the development review committee (DRC) if such open-air sales are deemed by the DRC to be in the best interest of the public and associated with a special event approved in accordance with section 14-6-28 (Special Events). Such sales do not constitute retail sales establishments as defined herein, but shall be subject to the following provisions:
 1. The outdoor sales of vehicles shall be limited to 15 days per calendar year for multi-tenant sites and ten days per calendar year for single-tenant sites. Those days used for outdoor sales of vehicles shall count against the total days for outdoor sales.
 2. The special event permit shall be obtained before any outdoor sale can take place. See section 14-6-28 (Special Events).
 3. Any business not holding a business tax receipt for sales within the city shall obtain said license prior to permit issuance.

(Code 1995, § 14-2-67; Ord. No. 3034, § 1(14-6-30), 8-4-2020)

14-6-31. Reserved.

14-6-32. Reserved.

14-6-33. Reserved.

14-6-34. Reserved.

PART III. STANDARDS FOR SPECIFIC USES

14-6-35. General.

The following sections establish additional standards for uses that are allowed by right or through conditional use approval, as specified in chapter 14-4. In addition to the standards listed below, conditional uses shall also comply with the approval criteria set forth in section 14-3-29. The intent of this part is to ensure that certain uses shall only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity.

(Ord. No. 3034, § 1(14-6-35), 8-4-2020)

14-6-36. Bed and breakfast.

The following standards shall apply to all bed and breakfast establishments:

- A. Bed and breakfast establishments shall only be located within the Bed and Breakfast Overlay District within the CRA.
- B. The owner or manager of a bed and breakfast facility shall live on the premises.
- C. Separate toilet and bathing facilities shall be provided for the exclusive use of guests.
- D. Occupancy shall be on a transient basis such as in a hotel, motel or other similar public lodging. No individual shall occupy the establishment for a continuous period of time that would vest any rights provided for in F.S. ch. 83, Landlord and Tenant.
- E. Cooking facilities shall be approved by the Florida Department of Health. Cooking shall be for overnight guests and residents only. No cooking facilities shall be allowed in guest bedrooms.
- F. Neither hired receptions nor parties shall be permitted in bed and breakfast establishments located in residential zoning districts.
- G. Bed and breakfast establishments shall comply with appropriate health permits, building and fire codes, and business licenses, including, but not limited to, a license from the division of hotels and restaurants applicable to such use.
- H. In addition to the parking required for the residence, one parking space shall be provided for each guestroom. The board of adjustment may vary the parking requirement for those properties listed on the local register of historic places, based on site constraints, including, but not limited to, small yards, inadequate space for parking, and the availability of on-street parking. Properties within the historic preservation overlay must have approval from the historic preservation board.
- I. Signs shall be in conformance with chapter 14-11.
- J. The maximum number of rooms for guests shall be as follows:

Building Size (Gross Floor Area)	Maximum Guestrooms
Less than 1,200 square feet	1
1,200—1,800 square feet	2

1,801—2,400 square feet	3
2,401—3,000 square feet	4
3,001—3,600 square feet	5
Over 3,600 square feet	8

(Code 1995, § 14-2-47; Ord. No. 2629, 12-12-2006; Ord. No. 3034, § 1(14-6-36), 8-4-2020)

14-6-37. Child care facilities.

Child care facilities shall meet the following standards:

- A. Child care facilities are permitted as shown in tables 4-1 and 4-2. However, where shown as P/C (permitted/conditional), facilities within 300 feet from a residential zoning district require conditional use approval.
- B. Child care facilities shall provide adequate short-term parking to accommodate pick-up and drop-off areas which are not located in the public right-of-way.
- C. The location of parking for the child care facility shall be easily identifiable and separated from any parking required for other uses in the surrounding area in order to reduce parking conflicts.
- D. Separate lanes designated for ingress and egress of vehicular traffic shall be considered in parking areas to minimize negative impacts on parking lot flow.
- E. A pick-up/drop-off area shall be established in close proximity to the entrance of the child care facility to ensure safe ingress and egress into and out of the building.
- F. Adequate area for pick-up/drop-off shall be provided so that off-site traffic flow is not negatively impacted by on-street stacking or stopping. Sufficient turnaround areas should be provided so that traffic associated with the child care facility does not back up onto public roadways.
- G. Access to pick-up/drop-off areas shall be easily identifiable and located so as not to negatively impact or interfere with on-site traffic circulation or required parking. Adequate area shall be provided to absorb on-site queuing requirements during peak hour traffic to minimize any negative impacts to on-site circulation.
- H. For multi-tenant sites, pick-up/drop-off areas shall be separated from other tenant parking to reduce conflicts.

(Ord. No. 3034, § 1(14-6-37), 8-4-2020)

14-6-38. Communication towers and facilities.

Communication towers and facilities, as defined in chapter 14-2, shall meet the following standards:

- A. *Statement of need.* A statement shall be submitted which indicates the purpose of the communication tower or other communication facility, the benefits to be derived by the public as a result of the tower or other facility, and the availability of existing communication towers and other communication facilities which are technologically able to allow the owner/operator of the proposed tower or other facility to provide service to the service area of the owner/operator or service provider.
- B. *Lot size exception.* No minimum lot size is required for communication towers.

- C. *Residential district separation.* The distance from the base of the communication tower to residentially zoned lots, must be equal to or greater than the following:
1. *Camouflaged communication towers.* The distance shall be a distance equal to or greater than the tower height.
 2. *Monopole and similar communication tower types.* The distance shall be a distance equal to or greater than the tower height or 100 feet, whichever is greater.
 3. *Other tower types (including lattice and guyed tower types).* The distance shall be three times the tower height or 200 feet, whichever is greater.
- D. *Separation between communication towers.* The distance from the base of one communication tower to the base of other communication towers (including unbuilt towers which have a valid building permit or a valid conditional use, site plan, or PUD or BP district preliminary plan), must be equal to or greater than the following. Compliance with these separation requirements must be demonstrated by the applicant by using written information prepared by a civil engineer or surveyor registered with the State of Florida.

Proposed Tower Type:	Existing Towers - Types (Required Separation in Feet)			
	Camouflaged Less Than 75 ft. in Height	All Other Tower Types Less Than 75 ft. in Height	Monopole, Similar Tower Types and Camouflaged 75 ft. in Height or Greater	Other Tower Types (including Lattice & Guyed) 75 ft. in Height or Greater
Camouflaged - Less Than 75 ft. in Height	0	0	0	0
All Other Tower Types - Less Than 75 ft. in Height	0	750	750	750
Monopole, Similar Tower Types and Camouflaged - 75 ft. in Height or Greater	0	750	1,500	1,500
Other Tower Types (Including Lattice & Guyed) - 75 ft. in Height or Greater	0	750	1,500	1,500

- E. *Other minimum separation requirements.* Communication facilities and communications equipment shall not be located in front of any principal building on the lot and shall not be located in a required yard. A minimum setback of ten feet to property lines is required for the guy lines for any guyed tower. In addition, communication towers must comply with the following separation requirements:
1. The distance from the base of a communication tower to a public right-of-way must be equal to or greater than the tower height, except that camouflaged communication towers must only be set back a distance equal to 50 percent of the tower height.
 2. The distance from the base of a communication tower to other property lines shall be at least 20 percent of the tower height.
 3. The distance from the base of a communication tower to Lake Tohopekaliga must be equal to or greater than three times the tower height, except that camouflaged communication towers must only be set back a distance equal to 50 percent of the tower height.
- F. *Security barrier.* Each communication tower and communication equipment cabinet shall be surrounded by a six-foot high wall or fence with a locked security gate.

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- G. *Landscaping.* The visual impacts of a communication tower and communication equipment cabinets shall be mitigated for nearby viewers through landscaping or other screening materials at the base of the tower and cabinets. The following landscaping and buffering shall be the minimum required around the perimeter of the tower and cabinets. This landscaping and buffering shall be located on the outside of the wall or fence. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute of or a supplement for the landscaping and buffering requirements.
1. A row of evergreen trees with a minimum height of eight feet and a maximum separation of ten feet shall be planted around the perimeter of the wall or fence.
 2. If the wall or fence is not a solid wall or fence, a hedge at least 2½ feet high at the time of planting shall be planted near the perimeter of the wall or fence. This hedge shall be spaced and maintained so as to form a continuous, unbroken, solid, visual screen within one year after planting. Such spacing shall be no more than 30 inches on center at the time of planting.
- H. *Height of communication towers.* Communication towers shall not extend over 200 feet above the ground. Communication towers on buildings shall not exceed the building height by more than 40 percent. All communication towers shall comply with the height limits in chapter 8-1 of the Code, and the zoning districts in which the towers are located. The height of towers should be minimized to the maximum extent practical justification for the proposed tower height shall be submitted by the applicant. Evidence of compliance with Federal Aviation Administration (FAA) requirements governing structure heights shall also be submitted to the city. This evidence shall include, where applicable, a copy of the submitted FAA Form 7460-1, attachments submitted with the form, and a copy of any FAA responses. For purposes of determining tower height for compliance with the requirements of this section, the height shall be measured to include communication antennas located on the tower.
- I. *Illumination.* Communication towers and associated communication antennas shall not be artificially lighted except to assure human safety or as required by the FAA. At the time of construction, in cases where there are residentially zoned areas within a distance equal to three times the height of the tower, dual mode lighting shall be requested from the FAA.
- J. *Finished color.* Communication towers and associated communication antennas not requiring FAA painting/markings shall have either a galvanized finish or be painted a non-contrasting blue or gray finish. The color should be selected so as to minimize the equipment's visibility. Compliance with these requirements does not mean that the tower is a camouflaged communication tower.
- K. *Structural design.* Each new communication tower must be designed so that in the event a tower falls it will collapse only within the property lines of the lot on which the tower is located. No building permit shall be issued for a new communication tower until the applicant has provided verification of compliance with this design requirement from an engineer registered by the State of Florida. In addition, the construction of new communication towers shall comply with all city construction codes.
- L. *Noninterference.* No communication facility and no communication equipment shall be designed or operated in a manner which interferes with public safety communications. Frequency coordination is required to ensure noninterference with public safety systems and operations. Compliance with this requirement must be demonstrated by the applicant by using written information prepared by a communications expert or by submitting suitable Federal Communications Commission (FCC) information which verifies compliance.
- M. *Signage.* Each communication tower site shall be posted with signage to identify it as a "No Trespassing Area." No signage, other than governmentally required signage, shall be placed on a communication tower or communication equipment.
- N. *Site plan.* A site plan shall be required for new communication towers in accordance with section 14-3-31.

O. *FCC compliance.* No building permit may be issued for a new communication facility until the applicant has demonstrated that the proposed facility complies with FCC requirements.

P. *Co-location of communication antenna.*

1. *Use of existing communication towers.* New communication towers shall not be allowed unless the applicant can demonstrate that it is not feasible to use existing communication towers or other communication facilities. Factors to consider when evaluating the feasibility of joint use of existing communication facilities include, but are not limited to, the following: lack of structural capacity; radio frequency interference; geographic service area requirement problems; mechanical or electrical incompatibilities; excessive costs (if fees and costs for sharing would exceed the cost of the new communication tower amortized over a reasonable time period); FCC limitations which would preclude joint use; and difficulty complying with other requirements of this chapter.
2. *Co-location on new communication towers.* New communication towers shall be engineered and constructed to accommodate the following unless the applicant can demonstrate that such accommodation is not technologically, structurally, or cost feasible:
 - a. One additional communication service provider (such as a personal wireless service provider) if the new communication tower extends less than 75 feet above the ground.
 - b. Two additional communication service providers if the new communication tower extends 75 feet or more above the ground.

If co-location is determined to be feasible, verification from an engineer registered by the State of Florida shall be submitted which demonstrates that the communication tower is designed to accommodate the required number of service providers.

In addition, the owner/operator shall submit a joinder and consent or subordination agreement, in a form acceptable to the city attorney, which shall indicate that the owner/operator shall make the communications tower and site available to other legitimate service providers at a price equal to or lower than the market rates where feasible and subject to reasonable terms. Factors which may impact determinations regarding feasibility include, but are not limited to: the use of sound engineering principals, the impact of the co-location on the structural integrity of the tower, and the impact of the co-location on existing tower users. Factors which may impact determinations regarding reasonable terms include, but are not limited to: the capitalized cost of the communication tower and land, the amount of lease payments, the incremental cost of designing and constructing the tower to accommodate additional users, increases in maintenance expenses due to co-location, and a fair return on investment which is consistent with rates paid for comparable tower sites for co-location.

These instruments shall be recorded by the owner/operator at its expense. Any communication tower which has a valid approval may, without new conditional use approval, add additional communication antennas in accordance with a city approved tower design - unless prohibited by the conditions of a prior conditional use or other governmental approval

A communication tower which is designed to accommodate more than two service providers shall be granted a 20 percent reduction to the separation distances between towers discussed in subsection D above. Use of this incentive shall not be construed in a manner which would cause the tower or any existing lawfully established communication towers to be penalized with regard to criteria in subsection D.

3. *Review fees.* The city may charge the applicant a reasonable fee for the cost of reviewing applicant submittals and other information in order to help determine the feasibility of using existing communication towers and the feasibility of co-location on new communication towers.

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- Q. *Miscellaneous communication antenna requirements.* The placement of communication antennas should be considered during the conditional use approval process. Communication antennas mounted on buildings shall be camouflaged or screened from view to the maximum extent practical. Communication antennas mounted on buildings in the following districts shall be less than 20 feet tall and shall be camouflaged: RC-1, RC-2, B-2, B-5, RPUD, SRPUD, and MUPUD. Communication antennas shall not be mounted on buildings primarily used as a single family dwelling, duplex, or triplex. Communication antennas mounted on communication towers should utilize the minimum visible area practical and should be mounted in a manner which minimizes the visual impacts on residential areas, public rights-of-way, and Lake Tohopekaliga.
- R. *Miscellaneous communication equipment cabinet requirements.* Communication equipment cabinets must comply with all government health, fire, and safety requirements. Information shall be submitted indicating the types and amounts of any flammable, explosive, or other hazardous materials expected to be located in these cabinets. The placement, size, or number of cabinets must be indicated on the site plan. Any cabinets located on a building must be screened from view from public rights-of-way or camouflaged. Any cabinets located on buildings in the following districts shall be less than eight feet tall and shall be camouflaged: RC-1, RC-2, B-2, B-5, RPUD, SRPUD, and MUPUD. Communication equipment cabinets shall not be located on buildings primarily used as a single family dwelling, duplex, or triplex.
- S. *Electric utility exemption.* An electric utility provider may be exempted from separation standards (see subsections C, D, and E, above) only if the communications antenna involved are used solely for the administration of the electric utility. An exemption from the separation requirements shall automatically exempt the electric utility provider from the requirements in subsection P, above. The exemptions granted shall only be granted if the applicant can demonstrate that compliance with these sections is not technologically or cost feasible.
- T. *Public safety exemption.* All government communication towers with public safety systems or equipment may be exempted from separation standards (see subsections C, D, and E.1, above). These exemptions shall only be granted if the applicant can demonstrate that compliance with these sections is not technologically or cost feasible. Any such exemptions shall not be considered as precluding the co-location of other service providers.
- U. *Tower abandonment.* In the event that the use of a communication tower which was constructed after March 31, 1996, has been discontinued for a period of 180 consecutive days, the tower shall be deemed to be abandoned. Upon such abandonment, the owner/operator of the tower shall have an additional 180 days within which to reactivate the use of the tower, transfer the tower to another owner/operator who makes actual use of the tower, or dismantle and remove the tower. At the earlier of 181 days from the date of abandonment without reactivation or upon completion of dismantling and removal, any conditional use and/or variance approval for the tower shall automatically expire. Upon owner/operator application to the city manager (or designee thereof) prior to the expiration date, the period prior to expiration may be extended for up to an additional three months for good cause. An additional extension of up to nine months may be granted by the city commission for good cause. In order to help determine if abandonment has occurred, the city may request affidavits and other documentation from the communication tower owner/operator regarding the issue of tower usage.
- V. *Tower rebuilding.* When a communication tower is being rebuilt, after receiving conditional use approval to comply with current regulations, the pre-existing tower may be allowed to remain on site while the replacement communication tower is being constructed. Within 45 days of the completion of the replacement communication tower, only one tower may remain on site.
- W. *Tower modifications.* Each modification of an existing communication tower must be designed so that in the event a tower falls it will collapse only within the property lines of the lot on which the tower is

located. No building permit shall be issued for a construction modification to an existing tower until the applicant has provided verification of compliance with this design requirement from an engineer registered by the State of Florida. In addition, modifications to existing communication towers shall comply with all city construction codes.

- X. *Equipment cabinets.* Any replacement of equipment cabinets and any modification in the location, size, or number of these facilities after site plan approval must be approved by the building official.

(Code 1995, §§ 14-2-68.5, 14-2-206; Ord. No. 2158, 2-4-1997; Ord. No. 3034, § 1(14-6-38), 8-4-2020)

14-6-39. Community residential homes.

Community residential homes, as defined in chapter 14-2, shall be separated from another such use by at least 1,200 feet (measured property line to property line) and from a single family residential district by at least 500 feet.

(Code 1995, § 14-2-61; Ord. No. 3034, § 1(14-6-39), 8-4-2020)

14-6-40. Drive-through facility.

A drive-through facility, as defined in chapter 14-2, may be allowed as accessory to a principal use provided the design of the facility complies with the following standards:

- A. Drive-through facilities, including service window(s), menu board(s), and vehicle drive aisles, shall not be placed between the right-of-way and the associated building.
- B. Drive-through windows without menu boards shall be located at the side or rear of the building, and shall be located in a manner where they cannot be seen from the public rights-of-way.
- C. Drive-through facilities for restaurants and other uses that utilize a menu board shall be required to have the menu board located at the rear of the building and be located in a manner where it cannot be seen from public rights-of-way. Drive-through facilities on either side of a building that are visible to pass-by traffic shall be screened by a five-foot-wide landscape buffer of a length to cover the entire drive-through stacking area.
- D. Alternate locations for drive-through windows or menu boards may be considered by the development review committee (DRC) or planning advisory board (PAB) on a case-by-case basis if the location furthers the intent of this section.
- E. A permanent covered porte-cochere type structure, other than awning/canvas type structure(s), shall be installed to extend the width of the drive-through and covering the service window(s). Such structure shall comply with applicable zoning district building setbacks; be integrated structurally and architecturally into the design of the building; and shall be the same as the rest of the building elements that the drive-through use serves.
- F. Drive-through facilities shall not be allowed as freestanding buildings separate from the principal building, except for automated teller machine (ATM) kiosks.
- G. A minimum stacking lane distance of 100 feet shall be provided for each service window. Additional stacking lane distance shall be provided beyond the minimum if warranted by the specific use, as determined by the project's traffic impact analysis/statement, the DRC, and/or the planning advisory board. Stacking lanes shall be designed so that waiting vehicles do not extend into travel lanes or drive aisles, and the stacking measurement shall begin at the service window. Stacking lanes shall be designed to allow waiting motorists to exit to a bypass lane before reaching the service window.

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- H. Drive-through facilities shall also comply with the requirements of any applicable design guidelines adopted by the city.
 - I. A site plan shall be submitted in accordance with section 14-3-31 for review and approval. The addition of a drive-through facility to an existing building shall meet as many of the above standards as is practically possible, as determined by the DRC and/or planning advisory board. Alternate designs shall be explored to reduce the visual impact from public rights-of-way. Design features such as cross access and circulation with adjacent uses, and pedestrian connections to other adjacent uses may be required.

(Code 1995, § 14-2-65; Ord. No. 3034, § 1(14-6-40), 8-4-2020)

14-6-41. Mobile home and RV parks.

Mobile home and recreational vehicle (RV) parks shall meet the use and dimensional standards contained in chapter 14-4 and the following standards:

- A. *Permitted uses.* Mobile home and RV parks are intended for occupancy by single family mobile home dwellings, recreational vehicles, and similar vehicles on rental sites or common ownership arrangements such as condominiums.
- B. *Accessory uses and structures.* Customary accessory uses and structures in conformance with Part I of this chapter are permitted in mobile home parks, including an [any] administration and maintenance buildings, storage facilities, recreational facilities, and community centers. No business uses are permitted, other than home occupations. The accessory buildings shall have a minimum setback of 25 feet from mobile home park tract boundaries along a public street right-of-way, 25 feet (including a 15-foot landscape strip) from any adjoining single family residential district, and 15 feet in all other situations. In addition, no such building shall be within 20 feet of any other building in the mobile home park, including mobile homes. Parking spaces shall be located no closer than ten feet from the public right-of-way.
- C. *Mobile home/recreational vehicle sales.* The sale, by its owner or licensed dealer, of used mobile homes or recreational vehicles on sites presently or previously occupied by the owner of such mobile home is permitted.
- D. *License.* Each mobile home unit originally moved onto the site as a separate mobile home shall be licensed each year as provided under F.S. § 320.081.
- E. *Parking.* Each mobile home site shall be supplied with two parking spaces. One space shall be located on a paved driveway extending from the private street pavement; the other space may be provided in a parking lot within 200 feet of the site. Parking lot spaces shall not directly back onto a street.
- F. *Additions.* Structures of a permanent nature added or attached to a mobile home, such as enclosed porches, screened enclosures, storage closets and carports, shall conform to all applicable provisions of the building code. No such addition shall be used for sleeping, cooking or sanitary purposes. The total combined area of all such additions, except carports, shall not exceed the gross area of the mobile home itself.
- G. *Utilities.* Each site shall be supplied with water, sewer, electrical, and telephone connections with the service of such utilities to be underground.
- H. *Open space.* All mobile home parks shall provide common open space at a rate of 200 square feet per mobile home site, or a total of 10,000 square feet, whichever is more. Yards, lakes and other waterways, including retention and detention ponds, shall not be used in the calculation to satisfy this requirement.

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- I. *Vehicular access.* Each mobile home site shall abut a paved private street or drive at least 24 feet in width which is located within a 30-foot-wide common area.
 - J. *Pedestrian circulation.* Pedestrian paths or sidewalks shall be required.
 - K. *Fire protection.* The National Fire Protection Association (NFPA) provisions relative to "Manufactured Homes Installations, Sites and Communities" (as adopted by section 24-19 of the Code) shall be met.

(Code 1995, § 14-2-28; Ord. No. 3034, § 1(14-6-41), 8-4-2020)

14-6-42. Recycling collection centers and containers.

- A. Permanent, manned recycling collection centers shall be allowed as a conditional use within the IB, and AI zoning districts when in compliance with the following criteria:
 - 1. The use shall be conducted wholly within a structure or building.
 - 2. No processing shall take place on-site, unless in accordance with all of the following:
 - a. The facility shall be located in an IB or AI zoning district;
 - b. The facility is located more than 500 feet from any adjacent residentially zoned district.
 - 3. No unmanned drop-offs of items for collection shall be permitted.
 - 4. All items associated with the recycling collection center shall meet zoning district setbacks.
 - 5. Site shall be maintained free of litter and any other undesirable materials, shall be cleaned of loose debris on a daily basis and shall be secured from unauthorized entry and removal of materials when attendants are not present.
 - 6. The containers shall be clearly marked to identify the type of material that may be deposited. The facility shall display a notice stating that no material shall be left outside the recycling containers.
 - 7. Any drive-through facilities designated for donation shall follow the standards for drive-through facilities outlined in section 14-6-40.
 - 8. The facility shall be clearly marked with the name and phone number of the facility operator and the hours of operation.
 - 9. No dust, fumes, smoke, vibration or odor above ambient level shall be detectable on neighboring properties.
- B. Unmanned recycling collection containers shall be permitted in the B-3, HC, IB, AI, and CF zoning districts under the following conditions:
 - 1. Recycling collection containers shall be prohibited within the form-based code area and within rights-of-way and public land.
 - 2. Any containers provided for after-hours donation of recyclable materials shall not be located within a required setback, open space, or landscaping area, or within a parking space or travel aisle within a parking lot, shall not cause adjacent drive aisles to be blocked during drop-off or pick-up, shall not be located within 60 feet of an access point, and shall not be located in such a manner to impair a motor vehicle operator's view of motor vehicles, bicycles, or pedestrians upon entering, or exiting a right-of-way.
 - 3. If more than one container is located on site or exceeds nine feet by nine feet in size, these containers shall not be located between any building façade and adjacent street, except on lots with three or

more street frontages, the containers shall be located in the rear of the lot behind the façade of the building.

4. All containers shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate materials collected and shall be secure from unauthorized entry or removal of materials.
5. Donation areas shall be kept free of litter and any other undesirable material. The containers shall be clearly marked to identify the type of material that may be deposited. The facility shall display a notice stating that no material shall be left outside the recycling containers.
6. No additional signage, apart from that incorporated into the container itself, shall be visible from the right-of-way.
7. Containers shall be placed on a concrete pad or existing concrete surface.
8. A name and contact number for the party responsible for the container shall be listed clearly on the site of the container.
9. A building permit shall be obtained for the placement of any such containers.

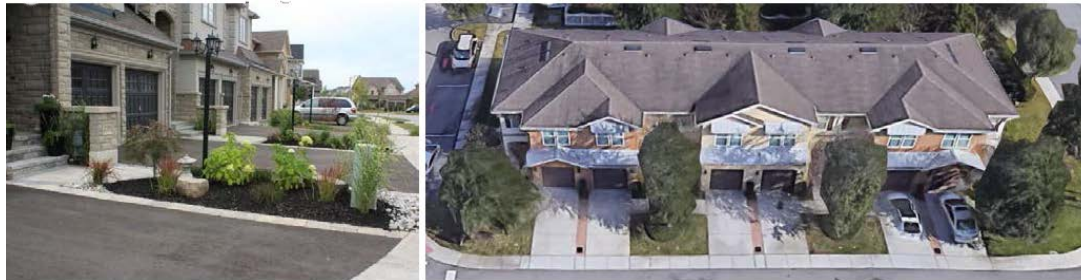
(Code 1995, § 14-2-65; Ord. No. 2038, 12-20-1994; Ord. No. 2158, 2-4-1997; Ord. No. 2264, 3-16-1999; Ord. No. 2357, 9-5-2000; Ord. No. 2379, 2-13-2001; Ord. No. 2431, 2-14-2002; Ord. No. 2457, 12-17-2002; Ord. No. 2508, 3-16-2004; Ord. No. 2589, 3-21-2006; Ord. No. 2692, 6-24-2008; Ord. No. 2721, 6-16-2009; Ord. No. 2740, 12-22-2009; Ord. No. 2741, 12-22-2009; Ord. No. 2804, 7-19-2011; Ord. No. 3034, § 1(14-6-42), 8-4-2020)

14-6-43. Residential development.

Duplexes, townhomes, triplexes, and multi-family developments shall meet the following standards in addition to all other requirements of the Land Development Code. In the case of mixed-use developments, the residential portion shall also meet the standards of this section. Properties within the form-base code area shall comply with the standards of chapter 14-5.

- A. When garages are alley (rear) loaded, there shall not be more than eight townhomes within one building. However, when front-loading parking, with or without garages, is proposed, individual buildings may include no more than six units within one building.
- B. No more than four townhome or multi-family buildings with the same orientation shall be built in a row, except when they are all facing the right-of-way.
- C. No more than three units within a single building shall be single story.
- D. Each duplex and townhome unit shall have an independent entrance, which shall open to the front of the unit. Common entrances shall be prohibited.
- E. External/outdoor stairwells shall be prohibited for all housing types.
- F. Entrances to individual multi-family units may be established from a common interior breezeway or hallway.
- G. A variation of building designs and architectural styles shall be used when developing more than four separate buildings.
- H. The front façade of each building shall have variable setbacks from the street to avoid monotonous façades.
- I. The distance between adjacent driveway surfaces and/or garage doors shall vary to avoid monotony.
- J. Landscaping shall be provided within the driveway separators required in chapter 10 (see Figure 6-1).

Figure 6-1: Landscaping in Townhome Developments



- K. Architectural features, such as gables, dormers, entranceways, proportioned and trimmed front windows, and porches or patios (suitable in size to accommodate seating for the dwelling's occupants) shall be emphasized.
- L. All elevations shall incorporate a comparable proportion of window surface area and associated ornamental features, such as molding and muntins, exposed rafters, decorative gables, dormers, first and second floor horizontal divider banding, decorative trim features, or similar elements.
- M. All elevations shall incorporate the same amount and style of architectural detailing and materials along the roofline and eaves as that provided on the front façade.
- N. Where false windows are utilized in lieu of actual windows, they shall be constructed so as to appear as actual windows with significant details, real glass (may be screened on the inside with window coverings), authentic molding materials, and with authentic sill and frame depths necessary to give the appearance of authentic windows enclosing an interior space.
- O. Stoops, colonnades, and open-sided porches in multi-family developments shall be located no less than five feet from the internal street or drive.
- P. All residential dwellings shall be raised a minimum of 18 inches from finished exterior grade. Waivers from this requirement may be approved during site plan review by DRC for alternative design proposals consistent with this provision's intent of requiring traditional architectural design themes.
- Q. All front-loading garage doors shall incorporate a pattern (stamped doors or similar design) or windows. In addition, at least one of the following design features shall be required:
 - 1. A garage door surface that is recessed a minimum of one foot behind the front face of the garage wall;
 - 2. An overhead trellis or arbor feature spanning over the garage opening and projecting a minimum of three feet from the face of the garage; or
 - 3. A useable space (i.e., air conditioned or open air balcony) that projects overhead from the front face of the garage (minimum three feet; cantilevered or with supporting columns), and extends over the full width of the garage opening.
- R. Each unit shall be self-contained with respect to utilities, heating and air conditioning. All outdoor mechanical equipment, such as heating, air conditioning and ventilation systems, shall be visually screened from the street.
- S. Parking spaces other than on-street parallel spaces or those spaces within driveways shall be located behind or to the side of the principal structures that front on a street or internal drive.

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- T. All land within the project shall be developed and maintained in a neat and orderly condition. Deed covenants shall be developed to ensure the maintenance and upkeep of areas and facilities retained in common ownership, in order to provide a safe, healthful and attractive living environment within these types of projects, and to prevent the occurrence of blight and deterioration of the individual units.

(Code 1995, § 14-2-60; Ord. No. 2038, 12-20-1994; Ord. No. 2139, 11-26-1996; Ord. No. 2589, 3-21-2006; Ord. No. 2609, 9-19-2006; Ord. No. 2690, 6-10-2008; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-6-43), 8-4-2020)

14-6-44. Short-term rentals and time-share dwellings.

- A. *Time-share units and state statutes.* Time-share units as defined in F.S. § 721.05, shall be regulated in accordance with the nature and use of the real estate time-share property, without regard to the form of ownership (per F.S. § 721.25). Prior to the occupancy of a time-share unit, proof of compliance with F.S. ch. 721, and the following provisions shall be submitted to the director in a form acceptable to the city attorney.
- B. *Short-term rentals and time-share units in existing residential dwellings.* The rental of a dwelling for less than 30 days in a residential district is prohibited except in the following cases:
1. The dwelling is located in an SRPUD or MUPUD district within an STRO district and the dwelling was approved by the city for short-term rental or time-share use during the planned unit development approval process or the dwelling was approved prior to the creation of STRO district regulations and the approval remains in effect.
 2. The dwelling is approved as a conditional use in a residential district (see Table 4-1) in accordance with this section and is located in a STRO district, or was approved prior to the creation of STRO district regulations and the approval remains in effect.
- C. *New development.* New short-term rentals and time-share dwellings shall meet the following standards:
1. *Minimum project size.* Two acres and at least 12 dwelling units.
 2. *Roadway access.* Direct access to a collector or arterial road.
 3. *Buffer.* The development shall be separated on each side from areas which have not been approved for short-term rental or time-share dwelling use by a 15-foot or wider common area buffer with dense vegetation or a wall at least six feet high. A waiver to the size of the buffer may be granted by the DRC when the development is adjacent to a non-residential district.
 4. *Location within mixed developments.* Developments which have one or more sections approved for short-term rentals or time-share units and one or more sections not approved for short-term rentals or time-share dwellings shall locate the sections approved for short-term rentals and time-share dwellings in the front of the development or shall provide separate driveway access to such sections.
 5. *Property owners association.* Developments shall be subject to a property owners' association which is responsible for suitably maintaining all common area buffers and which has the authority to assess all property owners for common area buffer maintenance expenses.
 6. *Conversions.* Conversion of existing dwellings to short-term rental or time-share units shall not be approved unless at least 80 percent, or the more restrictive standard in any specific property regulations controlling the property (example: association documents), of the owners in the development demonstrate acceptance of the conversion in a manner suitable to the city attorney.
 7. *Sales contracts.* All sales contracts involving the sale of lots or dwelling units in short-term rental or time-share developments shall indicate in bold red type that residential lots in the development may be used for short-term rental or time-share residential units.
 8. *Licenses.* Applicable city, county, and state licenses shall be obtained.

9. *Other conditions.* Developments shall comply with any other conditions deemed necessary and just.
(Code 1995, §§ 14-2-73, 14-2-74; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-6-44), 8-4-2020)

14-6-45. Temporary labor service establishments.

- A. *Gathering areas.* Temporary labor service establishments shall have enough space on site for any of the temporary employees which need to gather on site prior to traveling to their work assignments. The areas to be used for this purpose shall be in locations which are clearly marked, easily accessible for the temporary employees, and suitably placed in relation to other site features. Such locations must either be indoors or in areas bordered by screening materials which fully or partially obscure the view of the area to a height of six feet or more.
- B. *Separation from residential zoned property.* Temporary labor service establishments shall only be allowed on a lot located at least 300 feet from the boundaries of a residential district (as defined in chapter 14-2).

(Code 1995, § 14-2-206; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-6-45), 8-4-2020)

14-6-46. Utility facilities, minor.

Mechanical equipment intended to serve non-residential districts shall be permitted outside of the UT district. Examples include sewer lift stations and telephone switching boxes. Landscape screening is required unless waived by the director due to the small size of the equipment or due to safety hazards or operational problems which would result from the landscaping. Sewage treatment plants, water plants, power plants, similar facilities, and communication towers and other communication facilities as defined in chapter 14-2 are not considered minor utility facilities.

(Code 1995, § 14-2-62; Ord. No. 2400, 12-11-2001; Ord. No. 2515, 7-6-2004; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-6-46), 8-4-2020)

14-6-47. Self-storage facilities.

Self-storage facilities are allowed as noted in Table 4-2. However, they shall be designed to and constructed in accordance with the following requirements (Figure 6-2):

- A. In districts other than IB, self-storage facilities are only allowed as part of a mixed-use development, as defined in chapter 14-2, and must include retail, restaurants or office uses on the ground floor.
- B. Access to the individual storage units shall not be visible from the street and may only be provided from interior spaces.
- C. There shall be no outdoor storage allowed.
- D. Loading docks shall be located inside the building.
- E. Privacy fences or walls are not allowed around the property unless they are required by this Code.

Figure 6-2: Examples of Self-Storage Facilities



(Ord. No. 3034, § 1(14-6-47), 8-4-2020)

14-6-48. Reserved.

14-6-49. Reserved.

PART IV. PERFORMANCE STANDARDS

The following standards shall be met by all development.

(Code 1995, § 14-2-72; Ord. No. 3034, § 1(ch. 14-6, pt. IV, intro. ¶), 8-4-2020)

14-6-50. Noise.

The provisions of chapter 22, article II of the Code of Ordinances shall be used to control noise levels.

(Code 1995, § 14-2-72; Ord. No. 3034, § 1(14-6-50), 8-4-2020)

14-6-51. Glare.

In no case shall site lighting be provided in such a manner so as to impair the vision of motorists or cause undue glare into a residential neighborhood.

(Code 1995, § 14-2-72; Ord. No. 3034, § 1(14-6-51), 8-4-2020)

14-6-52. Vibration.

All uses shall be so operated that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line of the property on which use is located.

- A. Vibration shall be measured at or beyond any adjacent lot line or residential district line as indicated in Table 6-1 here and such measurements shall not exceed the particle velocities so designated. The instrument used for these measurements shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.
- B. The maximum vibration is given as particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$P.V. = 6.28 F \times D$$

Where

P.V. = Particle velocity, inches per second.

F = Vibration frequency, cycles per second.

D = Single amplitude displacement of the vibration, inches.

The maximum particle velocity shall be the vector sum of the three individual components recorded.
Such particle velocity shall not exceed the values given in Table 6-1.

Table 6-1. Maximum Ground Transmitted Vibration

Zoning District	Particle Velocity in Inches Per Second	
	Adjacent Lot Line	Residential Lot Line
AI and all more restrictive districts	0.10	0.02
IB District	0.20	0.02

Where vibration is produced as discrete impulses, and such impulses do not exceed a frequency of one second between impulses, then the value in Table 6-1 may be multiplied by two.

Vibrations resulting from temporary construction activity that occurs between 7 a.m. and 7 p.m. shall be exempt from the requirements of this section.

(Code 1995, § 14-2-72; Ord. No. 3034, § 1(14-6-52), 8-4-2020)

14-6-53. Fire and explosion hazards.

In addition to meeting the provisions of the Building Code, National Fire Protection Association Code (as adopted by Chapter 24), State Department of Insurance Division of Fire Marshall Uniform Safety Rules and Standards, [and] Standard Fire Prevention Code (as adopted by Chapter 24), the following standards shall be met:

A. *Explosive materials.*

1. *General requirements.*

- a. Activities involving the storage, utilization, or manufacture of materials or products which decompose by detonation are permitted only in accordance with the regulations of the IB district. Such materials shall include, but are not limited to: All primary explosives such as lead azide, lead styphnate, fulminates and tetracene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof such as nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate and potassium nitrate; blasting explosives such as dynamite and nitroglycerine, unstable organic compounds such as acetylides, tetrazoles and ozonides; strong unstable oxidizing agents such as perchloric acid, perchlorates, chlorates, and hydrogen peroxide in concentrations greater than 35 percent; and nuclear fuels, fissionable materials and products and reactor elements such as Uranium-235 and Plutonium-239.
- b. Where materials or products which decompose by detonation are permitted, these materials shall be handled, stored, utilized or manufactured in accordance with the National Fire Codes published by the National Fire Protection Association (as adopted by chapter 24).

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2. *Detailed standards.* Uses subject to Group I standards involving the storage, manufacture or utilization of materials and products which decompose by detonation are permitted up to five pounds. The storage and/or utilization (but not manufacture) of materials and products which decompose by detonation in excess of five pounds may be allowed only as a conditional use in the IB district.
- B. *Other conditional materials.*
1. The storage, utilization or manufacture of solid materials or products ranging from incombustible to moderate burning is permitted.
 2. The storage, utilization or manufacture of solid materials or products ranging from active burning to intense burning is permitted provided that said materials or products are stored, manufactured or utilized in fire resistant and fire protected buildings or spaces. The materials or products may be stored outdoors provided such storage is set back at least 50 feet from all lot lines and is permitted by the zoning district regulations for the property.
 3. The storage, utilization or manufacture of flammable liquids or gases shall be permitted in accordance with Table 6-2 below except that the storage of finished products in original sealed containers of 55 gallons or less shall be unrestricted.

Table 6-2. Flammable Materials Storage Standards
(Maximum Gallons to be Stored)

Flash Point, Closed Cup Tester	Above Ground	Below Ground
140° F. or higher	30,000	100,000
Less than 140° F. but higher than 73° F.	10,000	100,000
73° F. or less	3,000	100,000
Total	43,000	300,000

Note: When flammable gases are stored, utilized or manufactured and measured in cubic feet, the quantity of cubic feet at standard temperature and pressure permitted shall not exceed 30 times the quantities listed above.

(Code 1995, § 14-2-72; Ord. No. 3034, § 1(14-6-53), 8-4-2020)

14-6-54. Air pollution.

Air pollutants, including smoke, particulate matter, odor and toxic matter, shall be regulated by the standards cited below.

- A. *Smoke.* Every use shall be so operated as to prevent the emission into the air of smoke as specified in Title 40, CFR, "Protection of Environment."
- B. *Particulate matter including dust.* Every use shall be so operated as to prevent the emission into the air of dust or other solid matter as specified in Title 40, CFR.
- C. *Odor.* Every use shall be so operated as to prevent the emission of objectionable or offensive odors in such concentration as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located as specified in Title 40, CFR.

(Code 1995, § 14-2-72; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-6-54), 8-4-2020)

CHAPTER 14-7: ACCESS, CIRCULATION, AND PARKING

PART I. STREETS, ACCESS, AND CIRCULATION

14-7-1. Streets.

- A. *Street classification.* Street classification shall be based on projected traffic volumes using average daily trips based upon a table of rates available from the city or the latest Institute of Transportation Engineers (ITE) Manual Trip generation rates may also be determined by engineering studies or other data provided that the analysis techniques are technically sound and acceptable to the city. The relationship of the subdivision's street pattern to shopping areas, employment centers, and other trip generators must also be considered. Where the comprehensive plan has adopted a higher classification than the classification based on projected traffic volumes, the higher classification shall be used.
1. Principal arterial.
 2. Minor arterial.
 3. Major collector street: A street which has a projected traffic volume of 5,000 vehicles per day or more.
 4. Minor collector street: A street which has a projected traffic volume of 1,500 to 4,999 vehicles per day.
 5. Local street: A dead-end or other short interval subdivision street having a projected traffic volume of 300 vehicles per day or less and lot widths of 90 feet or more.
 6. Limited and controlled access facilities.
- B. *Street design standards.*
1. Streets shall be designed and constructed as required by the City of Kissimmee Construction Standards and Specifications and shall meet the provisions of this section.
 2. Widths of new rights-of-way shall comply with Table 7-1. Right-of-way widths may vary on existing roadways in accordance with a completed right-of-way needs assessment approved by the city engineer (or designee thereof).
 3. In addition to the travel lane widths specified in this section, the city may require either intersection turn lanes (right and/or left) and/or acceleration/deceleration lanes when traffic projections dictate.
 4. Public and private streets within the form-based code area shall meet the provisions of chapter 14-5. Where chapter 14-5 is silent, the provisions of this section shall apply.
 5. Street designs shall also consider the Florida Greenbook (Manual of Uniform Minimum Standards for Design, Construction and Maintenance).
 6. Roads shall be related appropriately to the topography.
 7. Interconnected curvilinear streets are encouraged. If connections are not possible, cul-de-sacs may be allowed, provided safe ingress and egress is achieved.
 8. All streets shall be arranged so as to obtain building sites which are at or above the grade of the streets, if at all possible. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the city construction standards and specifications.

9. All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established in the comprehensive plan.
10. Minor or local streets shall be laid out to promote connectivity, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
11. Proposed streets shall be extended to the boundary lines of the tract to be subdivided or developed, unless prevented by topography or other physical conditions, or unless, in the opinion of the city, such extension is not necessary or desirable for the coordination of the layout of the proposed subdivision or development with the existing street layout or the most advantageous for future development or adjacent tracts.

Table 7-1. Minimum Street Widths

Roadway Type	Minimum Right-of-Way Width (feet)
Minor local street	60
Local street	60
Minor collector	70
Major collector	100
Arterial	112

- C. *Travel lanes.* A standard travel lane pavement width shall be a minimum of ten feet. This width may be reduced to nine feet for urban roadways. In cases where the travel lane is shared with a bicycle way (sharrow), the width of the travel lane shall be 13 feet to safely accommodate both modes.
- D. *Residential alleys.* Rights-of-way for bi-directional alleys shall be a minimum of 24 feet in width, with a minimum of 20 feet of pavement, while rights-of-way for one-way alleys shall be a minimum of 16 feet in width, with a minimum pavement width of 12 feet.
- E. *Alignment.* Horizontal curves shall be used for all changes in direction, except that on local and collector streets an "L" intersection may be used as a temporary measure.
- F. *Intersections.*
 1. Streets shall be laid out so as to intersect at right angles. A proposed intersection of two new streets at an angle of less than 75 degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Not more than two streets shall intersect at any one point.
 2. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline off-sets of less than 150 feet shall not be permitted except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect arterial and major collector streets, their alignment shall be at least 800 feet apart.
- G. *Connectivity.* The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where such continuation is in accordance with the comprehensive plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary circular or T- or L-shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that

land outside the normal street right-of-way shall revert to abutters whenever the street is continued. Where possible, no platted lot shall front on such a temporary turnabout.

- H. *Reserve strips.* The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to such street except as required by the city.
- I. *Surface improvements.* After utilities have been installed, the applicant shall construct raised vertical curbs and gutters and shall surface roadways to the widths prescribed in these regulations. All road pavement, shoulders, drainage improvements and structures, raised vertical curbs, turnarounds, and sidewalks shall conform to city construction standards and specifications, and shall be incorporated into the construction plans to be submitted for plat approval.
- J. *Right-of-way encroachment prohibited.* No above-grade mechanical equipment, including utility cabinets, transformers and the like, shall be permitted along any street right-of-way, unless suitably screened from public view through landscaping or alternative visual screening. Such equipment may be permitted along alley rights-of-way or within easements that are not visible from the street right-of-way. Use of underground vaults for mechanical equipment and utilities on street rights-of-way is permitted.
- K. *Curbing.* All streets and alleys within a residential development shall be curbed. Curbs for streets shall be raised, Type F style curbs; however, curbs for alleys may be drop curb, shoulder gutter style (i.e., Miami curbs) or ribbon curb.
- L. *Street signs.* The applicant shall furnish and install street signs required by the city engineer at all road intersections. All street signs shall be installed prior to acceptance of the streets. All regulatory signs are to be placed at all intersections within or abutting the subdivision, the type and location of which is to be approved by the city engineer. Street signs shall be placed on the opposite corners of regulatory signs.
- M. *Streets near railroads.*
 - 1. *Intersection setbacks.* Streets parallel to a railroad, when intersecting a street that crosses the railroad at grade, shall be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.
- N. *Dedications and reservations.*
 - 1. *New perimeter streets.* Street systems in new subdivisions shall be laid out so as to eliminate existing half-streets. New half-streets are prohibited. Where an existing improved half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. If the existing half-street is not improved, the entire street shall be improved and the remaining half dedicated by the developer. A new perimeter street may be authorized where the subdivider improves and dedicates the entire required street right-of-way width within his own subdivision boundaries.
 - 2. *Widening and realignment of existing streets.* Where a subdivision borders an existing narrow street or when the comprehensive plan or setback regulations indicate plans for realignment or widening of streets that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate such areas for widening or realignment of such streets. Such streets shall be improved and dedicated to the full width as required by this subchapter [part]. Land reserved for any road purposes may not be counted in satisfying yard or lot area requirements whether the land is to be dedicated to the municipality in fee simple or an easement is granted to the city.
 - 3. *New major collectors or arterials:* Where such a new street is planned to be built in accordance with the five-year work program of the city, county or state. The city may waive the requirement for constructing the street if there is not demonstrable need for the street by the subdivision being developed. However, the developer shall reserve the right-of-way in conformance with the comprehensive plan and right-of-way width requirements. Any land reserved for road purposes shall

not be counted in satisfying any lot size, open space or other similar requirements. Where the development depends on the street for the efficient operation of the subdivision, the developer shall dedicate and improve the street in accordance with this chapter. Any land reserved for road purposes shall not be included in satisfying any area requirements for lot size, open space, or other zoning requirements.

(Code 1995, § 14-2-134; Ord. No. 2038, 12-20-1994; Ord. No. 2141, 12-17-1996; Ord. No. 2466, 4-15-2003; Ord. No. 2589, 3-21-2006; Ord. No. 2609, 9-19-2006; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-7-1), 8-4-2020)

14-7-2. Sight visibility triangle.

- A. *Vertical standards.* When an accessway intersects a public right-of-way or when the subject property abuts the intersection of two or more public rights-of-way, all landscaping, walls and fences within the triangular areas described in subsection B, below, shall provide unobstructed cross-visibility at a level between 30 inches and eight feet; the exception is a retaining wall required by the topography. Landscaping, except required grass and ground cover, shall not be located closer than three feet from the edge of any accessway pavement or swales within the triangular area.
- B. *Horizontal sight triangles.*
1. Access drive and street: The areas of property on both sides of an access drive formed by the intersection of each side of the accessway and the public right-of-way line with two sides of each triangle being ten feet in length from the point of intersection and the third side being a line connecting the ends of the two other sides. Landscape plans shall show these lines.
 2. Two streets: The area of property located at a corner formed by the intersection of two or more public rights-of-way with two sides of the triangular area being 25 feet in length along the abutting public right-of-way lines, measured from their point of intersection, and the third side being a line connecting the ends of the other two sides. Landscape plans shall show these lines.

(Code 1995, § 14-2-97; Ord. No. 2038, 12-20-1994; Ord. No. 2466, 4-15-2003; Ord. No. 3034, § 1(14-7-2), 8-4-2020)

14-7-3. Sidewalks.

- A. *Public sidewalks.*
1. Concrete sidewalks shall be included within the dedicated rights-of-way of all streets or outside of rights-of-way as required in accordance with division 3 below. Sidewalks within the form-based code area shall comply with the requirements of chapter 14-5. Public elementary, middle and high schools are exempt from the sidewalk widths shown below.
 2. The minimum sidewalk width for all streets is six feet. Where required by the city approved bicycle and pedestrian master plan, multi-use trails/paths shall be a minimum width of ten—12 feet
 3. All sidewalks and ramps shall be constructed in conformance with Americans with Disabilities Act (ADA) requirements and city construction standards and specifications.
 4. A grass or landscaped strip shall be provided separating sidewalks from adjacent curbs. This strip shall be wide enough to accommodate street trees, street lighting, fire hydrants and other required infrastructure, but shall in no event be less than eight feet wide. For sites within the FBC area, the provisions of chapter 14-5 shall apply.
 5. All developments shall have a concrete pedestrian connection from the adjacent public sidewalk to the main entrance of any building intended for pedestrian traffic. All developments shall also have a

sidewalk connection from the parking area to the main entrance of any building intended for pedestrian traffic. Such sidewalks shall be in compliance with the ADA, shall be a minimum of four feet in width, and shall not interfere with or be included in any area such as the drive aisle, fire lane, or loading dock. Projects which exceed 10,000 square feet of gross floor area may be required to provide wider internal sidewalks if either:

- a. The project contains two or more uses;
- b. Is located within a redevelopment, multi-modal or transit-oriented overlay district;
- c. Is located within 500 feet of any residential district; or
- d. Is determined by the director to have the potential of generating high volumes of pedestrian traffic from off-site.

(Code 1995, § 14-2-140; Ord. No. 3034, § 1(14-7-3), 8-4-2020)

14-7-4. Bikeways.

Bikeways shall be provided as follows:

- A. *Adjacent bikeway systems.* Any subdivision adjacent to a route in the city approved bicycle and pedestrian master plan shall be required to provide bikeways which tie into that system.
- B. *School access.* A bicycle lane or off-street bicycle path is required:
 1. Within the rights-of-way of any new street, other than a minor local street or local street, if the street segment is within two miles of a public school; and
 2. Within all other collector and arterial rights-of-way.
- C. *Bicycle lane and bicycle path standards.* Such lanes and paths shall comply with the mandatory minimum safety design standards in the FDOT Design Manual, 2018, as amended, published by the Florida Department of Transportation.

(Code 1995, § 14-2-140; Ord. No. 2038, 12-20-1994; Ord. No. 2689, 6-10-2008; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-7-4), 8-4-2020)

14-7-5. Pedestrian ways and bicycle paths outside of right-of-way.

The city may require sidewalks and/or bike paths outside of street rights-of-way in order to facilitate pedestrian access to schools, parks or other nearby streets. These sidewalks or bicycle paths shall be located in perpetual, unobstructed easements or rights-of-way at least 20 feet in width. Such easements or rights-of-way shall be indicated on the plat.

(Code 1995, § 14-2-140; Ord. No. 3034, § 1(14-7-5), 8-4-2020)

14-7-6. Street lighting.

Street lighting shall be provided along all streets within the area between sidewalks and curbs, at intervals no less than 75 feet in length, and shall comply with illumination standards adopted by the city. To avoid conflicts with street trees and to provide pedestrian-scale lighting, street lighting structures shall not exceed 18 feet in height. Where sidewalks abut the curb, street lighting structures shall be provided as close to the curb as possible. Decorative concrete, cast iron, painted aluminum, or similar street lighting shall be utilized.

Figure 7-1: Examples of Streetlight Fixtures



(Code 1995, § 14-2-53; Ord. No. 3034, § 1(14-7-6), 8-4-2020)

14-7-7. Street trees.

Street trees shall be planted in all rights-of-way in accordance with the city's street tree requirements contained in section 14-8-22. Street trees shall be used as a design element to provide visual identity to the development and shade for the pedestrian. All street trees planted in accordance with this section shall be maintained by the home/property owners' association of the development.

(Code 1995, § 14-2-53; Ord. No. 3034, § 1(14-7-7), 8-4-2020)

14-7-8. Reserved.

14-7-9. Reserved.***PART II. LOADING STANDARDS*****14-7-10. Intent.**

It is the intent of this subchapter [part] to establish minimum space and design requirements and require all development to provide adequate parking, access, and loading facilities.

(Code 1995, § 14-2-75; Ord. No. 2038, 12-20-94; Ord. No. 3034, § 1(14-7-10), 8-4-2020))

14-7-11. When required.

Off-street loading and unloading zones shall be provided on the same premises with every building that is used for non-residential purposes. Adequate space for loading services shall be provided to avoid undue interference with public streets and customer parking.

(Code 1995, § 14-2-76; Ord. No. 3034, § 1(14-7-11), 8-4-2020)

14-7-12. Number of loading spaces.

Gross Floor Area (square feet)	Number of Spaces Required
Less than 5,000	1 (restaurant only)
5,000 to 20,000	1
20,000 to 60,000	2
60,000 to 100,000	3
Over 100,000	1 additional space for each 60,000 sq. ft. or fraction thereof

(Code 1995, § 14-2-76; Ord. No. 3034, § 1(14-7-12), 8-4-2020)

14-7-13. Loading space size.

	Minimum in Feet		
	Width	Length	Vertical Clearance
Building of 20,000 square feet or less	10	40	14
Building over 20,000 square feet	12	55	14

(Code 1995, § 14-2-76; Ord. No. 3034, § 1(14-7-13), 8-4-2020)

14-7-14. General regulations.

A. All loading spaces shall be clearly marked by a sign or pavement marking.

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- B. Such spaces shall be located so that access and loading can occur without blocking the public right-of-way, internal circulation, parking spaces or fire lanes.
 - C. Loading spaces shall not be used or counted as parking spaces.
 - D. Properties within the form-based code area shall also comply with the provisions of chapter 14-5.

(Code 1995, § 14-2-76; Ord. No. 2038, 12-20-1994; Ord. No. 2059, 4-18-1995; Ord. No. 2369, 10-24-2000; Ord. No. 2523, 8-10-2004; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-7-14), 8-4-2020)

14-7-15. Reserved.

14-7-16. Reserved.

14-7-17. Reserved.

14-7-18. Reserved.

14-7-19. Reserved.

PART III. OFF-STREET PARKING STANDARDS

14-7-20. When required.

Parking in conformance with this subchapter [part] shall be provided at the time of site development. Additional parking may be required at the time any principal building or use is enlarged, or when an existing use is expanded or changed to a use requiring additional parking.

(Code 1995, § 14-2-78; Ord. No. 3034, § 1(14-7-20), 8-4-2020)

14-7-21. Downtown district exemption.

The off-street parking requirements shall not apply to the designated parking exemption area depicted on the Form-Based Code Special Requirements Plan (see chapter 14-5).

(Code 1995, § 14-2-78; Ord. No. 3034, § 1(14-7-21), 8-4-2020)

14-7-22. Automobile parking ratios.

- A. *Number of spaces.* Parking spaces for residential and non-residential uses shall be provided as listed in Table 7-2, unless a parking study, approved by the department, is provided demonstrating that a reduction in spaces is warranted.
 - 1. *Fractional spaces.* When units or measurements determining the number of required off-street parking spaces result in a requirement of a fractional space, any fraction shall be construed as an additional required off-street parking space.

2. *Excess parking.* Parking spaces in excess of the minimum number required shall not be permitted in new surface parking lots. The minimum number of spaces may be increased up to ten percent by submitting a parking study, approved by the department, that demonstrates the need.
- B. *Uses not listed.* Parking space requirements for a use not specifically listed in this subchapter [part] shall be determined by the director, based on required parking for uses with similar demand or the unique character of the use.
 - C. *Multiple use building.* In the case of multiple uses, the required parking shall be the sum of the separate requirements for the individual uses, unless shared parking is provided as allowed in section 14-7-25.
 - D. *Use change or building addition.* Whenever a building or structure is enlarged or a change of use occurs, parking shall conform to this chapter.
 - E. *Parking space reduction.*
 1. For each shower facility or bicycle locker (not a bike rack) provided on-site, the total number of vehicular parking spaces required may be reduced by two. There shall be no reduction in vehicular parking spaces greater than ten percent of the parking spaces, or ten parking spaces, whichever is greater.
 2. The parking space requirements for non-residential uses within traditional neighborhood developments may be waived by up to 50 percent by the city commission, after review by the planning advisory board (PAB), provided the commission determines that said non-residential uses are primarily oriented to serve residents and businesses within the neighborhood.

Table 7-2. Minimum Parking Ratios

Uses	Number of Spaces
Residential	
Single family, duplex, triplex, townhouse dwelling and mobile home	2 spaces per unit. See additional provisions in Section 14-7-24
Accessory dwelling unit	1 space per unit
Bed & breakfast	2 spaces per unit, plus 1 space per guestroom
Mobile home parks	2 spaces per unit. See section 14-6-43.
Multiple family housing developments with 4 to 8 units:	
Dwelling units with efficiency design or one bedroom	1.5 spaces per unit, plus 0.5 spaces per unit unassigned for guest parking
Dwelling units with 2 or more bedrooms	2 spaces per unit, plus 0.5 spaces per unit unassigned for guest parking
Multiple family housing developments with more than 8 units:	
Dwelling units with efficiency design or one bedroom	1 space per unit, plus 0.5 spaces per unit unassigned for guest parking
Dwelling units with 2 or more bedrooms	1.5 spaces per unit, plus 0.5 spaces per unit unassigned for guest parking
Non-Residential	
Airport	1.5 times the peak hour airplane load
Amusement park	1 space per 3 patrons and 1 space for each employee
Auditorium or exhibition hall	1 space per 4 seats, plus one space for each 25 sq. ft. available for temporary seating or standing
Auto repair or parts installation facility	3 spaces per repair or service bay

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Bank	1 space per 300 sq. ft. GFA
Beauty/barber shop	2 spaces for each operator chair
Boat salesroom	1 space per 600 sq. ft. GFA
Bus depot	1 space per 300 sq. ft. GFA
Bowling alley	4 spaces for each lane, plus 1 space for 200 sq. ft. of non-bowling uses
Cemetery	1 space per 4 seats in a chapel or assembly area, plus 2 spaces per 3 employees
Church	1 space per 4 seats, plus 1 space for each 25 sq. ft. available for temporary seating or standing
Community residential home	0.5 spaces per bed
Community center	1 space per 300 sq. ft. GFA
Civic or social club	1 space per 200 sq. ft. GFA including outside area used for assembly, recreation
Dance hall	1 space per 200 sq. ft. GFA
Dance, art and music studio/school	1 space per 300 sq. ft. GFA
Child care facility	1 space per 10 children with a drop-off area, or 1 space per 5 children without a drop-off area
Exercise studio or spa	1 space per 200 sq. ft. GFA
Funeral home	1 space per 3 seats, plus 1 space for each 25 sq. ft. available for temporary seats or standing, plus spaces required for vehicles operated by the establishment
Furniture store	1 space per 600 sq. ft. GFA
Golf course	4 spaces for each hole, plus 1 space for each 200 sq. ft. of clubhouse (excluding storage areas)
Heavy commercial vehicle sales, rentals and service	1 space per 600 sq. ft. GFA
Home improvement	1 space per 275 sq. ft. GFA, plus 1 space for each 1,000 square feet of permanent outdoor display area
Hospital	1 space per 0.5 beds
Industrial or manufacturing	1 space per 1,000 sq. ft. GFA or 2 spaces per 3 employees, whichever is greater
Institutional care facility	1 space per 2 beds
Library	1 space per 200 sq. ft. GFA
Medical office or clinic	1 space per 200 sq. ft. GFA
Mobile homes, RVs and motor vehicle sales or rentals	1 space per 200, plus 1 per 1,000 sq. ft. of outdoor display area
Motel or hotel	1 space per room, plus 50% of the spaces required elsewhere in this section for other uses that are accessory (e.g., restaurant, bar, nightclub, auditorium (meeting room), and the like)
Museum or art gallery	1 space per 200 sq. ft. GFA
Office building	1 space per 300 sq. ft. GFA
Restaurant (with indoor/outdoor seating)	1 space per 80 ¹ sq. ft. GFA, but no less than 8 spaces per takeout window
Restaurant (without indoor seating)	8 spaces per takeout window
Recreation vehicle park	1 RV sized space per RV, plus 3 spaces at the manager's office

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Retail stores ^{2, 4}	1 space per 200 sq. ft. GFA, plus 1 space for each 250 square feet of outdoor display area
Rooming house	1 space per bed
Schools ³ :	
Elementary & junior high	1 for each 6 auditorium or gymnasium seats or 2 for each classroom, lab or workshop
Senior high	1 space per 3 high school students
College & vocational	1 space per 3.5 students plus 2 spaces per 3 employees
Service station, gasoline ²	1 space per 2 pumps, plus 3 spaces per service bay
Shopping center ⁴	
Less than 50,000 sq. ft.	200, plus 1 space for each 250 square feet of outdoor display area
50,000 — 199,999 sq. ft.	1 space per 225 sq. ft. GFA
Over 200,000 sq. ft.	1 space per 250 sq. ft. GFA
Stadium	1 space per 4 seats
Temporary labor service establishment	1 space per 250 sq. ft. GFA
Tennis or handball court	3 spaces for each playing court, plus 1 space for each 200 sq. ft. of area for non-playing uses
Theater	1 space per 4 seats
Warehouse and storage	1 space per 1,000 sq. ft. GFA
Wholesale and distribution	1 space per 600 sq. ft. GFA

¹ Outdoor dining area square footage shall be included in restaurant gross floor area to calculate parking space requirements.

² Any convenience store associated with a gas station must meet the retail stores requirement in addition to the gas station requirement.

³ Total number of students in a school is based on Florida Inventory of School Houses (FISH) capacity. These parking ratios do not apply to public elementary, middle or high schools.

⁴ For lots in the B-2 (Neighborhood Commercial) Zoning District under five acres in size, any commercial building(s) over 10,000 square feet in gross floor area shall be considered a shopping center for parking calculation purposes. In all other zoning districts, any commercial building(s) over 25,000 square feet in gross floor area shall be considered a shopping center with regard to parking calculations.

(Code 1995, § 14-2-78; Ord. No. 3034, § 1(14-7-22), 8-4-2020)

14-7-23. Parking facility design standards.

A. *In General.*

1. *Intent.* These standards are intended to assure parking lots that are characterized by safe and convenient access and circulation with no adverse impact on the public right-of-way.
2. *Sources for standards not listed.* Where not specifically stated herein, standards and guidelines established by the Institute of Transportation Engineers, the Florida Department of Transportation (FDOT) or any other authoritative source approved by the city engineering department and director shall be used as the basic reference for the design of parking facilities.

B. *Vehicular use area setbacks.*

1. All vehicular use areas shall be located behind street right-of-way lines and arranged so that the required landscaping can be provided behind said line.

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2. No parking lots/spaces shall be located closer than seven feet from a public right-of-way unless this requirement is reduced by a maximum of two feet for all or part of the lot by the director provided the reduction would not be detrimental to the surrounding area based on consideration of nearby land uses and because one or more of the following criteria is satisfied:
 - a. A historic structure is located on the lot and a reduction of the requirement would significantly increase the potential for the lot to accommodate the use.
 - b. The lot has an area of less than 10,000 square feet and a reduction of the requirement would significantly increase the potential for the lot to accommodate the use.
 - c. One or more protected tree, as defined in section 14-8-4, shall be saved by granting the reduction.

C. *Parking space and aisle dimensions.*

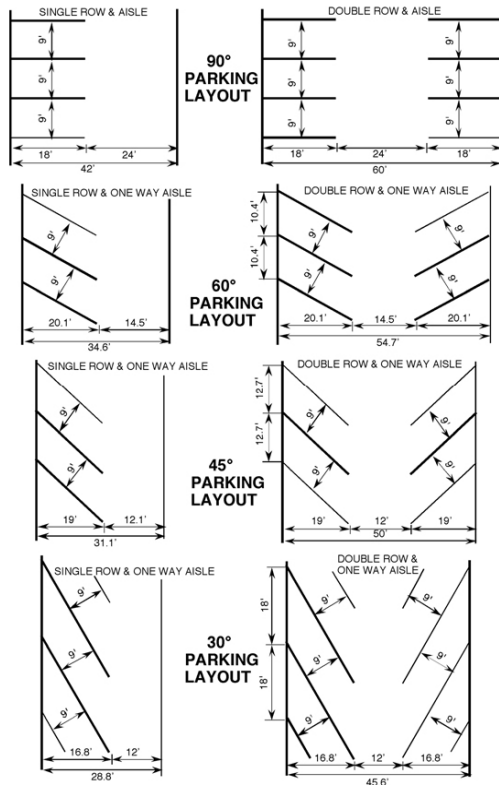
1. *Standard spaces.* All off-street parking areas shall comply with the dimensions shown in Table 7-3 and illustrated in Figure 7-2. ADA compliant parking spaces shall be designed and provided in accordance with the Americans with Disabilities Act.

Table 7-3. Parking Space and Aisle Dimensions

Parking Angle (degrees)	Standard Stall Width (feet)	Stall Depth Perpendicular to Aisle (feet)	Curb Length Parallel to Aisle (feet)	Aisle Width One (1)-Way Traffic (feet)*	Aisle Width Two (2)-Way Traffic (feet)*
0	9	—/23	23	12	24
30	9	16.8	18	12	-
45	9	19	12.7	12	-
60	9	20.1	10.4	14.5	-
90	9	—/18	9.0	-	24

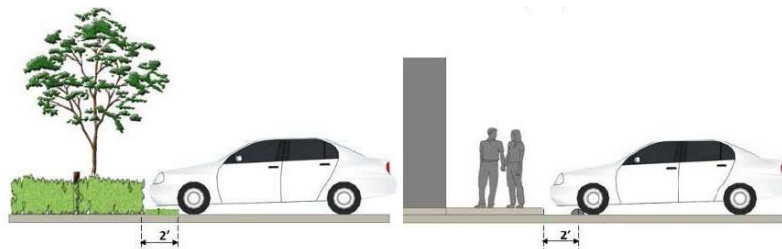
* Note: Subject to fire department approval.

Figure 7-2: Parking Space and Aisle Dimensions



2. **Wheel stops.** Standard wheel stops or a curb shall be provided for all parking spaces abutting a landscape area. Such wheel stops shall be a minimum of six feet in width and a maximum of 24 inches from the end of the parking space. The area between a wheel stop and a landscaped area may be in grass or mulch. Where continuous concrete curbing is provided with at least two feet separating the curb from any sidewalk, wheel stops will not be required. See Figure 7-3. If the sidewalk is a minimum of seven feet in width, neither wheel stops nor a two-foot separation are required.

Figure 7-3: Parking Overhang



3. **Mail kiosks and dumpsters.** If mail kiosks and dumpsters are utilized, a minimum of two parking spaces or a bypass lane dedicated for the use shall be provided, in accordance with this chapter, separate from the street or internal drive.

4. *Aisle dimensions.* All drive aisles will comply with the dimensions shown in Table 7-3 and illustrated in Figure 7-2. For drive aisles not directly adjacent to parking spaces, there shall be a minimum of 20 feet in width for one way traffic and a minimum of 24 feet in width for two way traffic. The width for two way traffic aisles can be reduced to 20 feet if adequate circulation is maintained and if approved by the Fire Department.

D. *Stacking.*

1. Any parking lot serving less than 40,000 square feet of non-residential gross floor area or less than 350 dwelling units shall be reviewed at the site plan stage to assure adequate stacking capability for the size and layout of the lot. In no case shall an entranceway have parking spaces that back directly onto it or an intersecting drive within 20 feet of the street right-of-way line of an arterial or collector street or within seven feet of the street right-of-way line of any other street.
2. Any parking lot serving 40,000 to 74,999 square feet of non-residential gross floor area or 351 to 524 dwelling units shall have an internal drive that has no parking spaces that back directly onto it within 60 feet of the street right-of-way line and no intersecting drives within 60 feet of the street right-of-way line.
3. Any parking lot serving 75,000 square feet or more of non-residential gross floor area or 525 or more dwelling units shall have an internal lot collector drive that has no parking spaces that back directly onto it and that has no intersecting drive within 60 feet of the street right-of-way line.

E. *Paved parking.* All vehicular use areas, including parking, shall have durable, all-weather surfaces with drainage and surface water control as required by the city's engineering standards, unless waived in conformance with subsection F below. Paver blocks or an alternative type of pervious surface in accordance with Code shall be provided in paved vehicle use areas that are within the dripline of any existing tree being preserved. For purposes of this section, a durable all-weather surface shall consist of concrete, asphalt, brick or other permanent surfaces; not including gravel, wood chips or other material subject to change in structure and/or location. Properties within the form-based code area are subject to the provisions of chapter 14-5.

F. *Unpaved parking areas.*

1. *In general.* The city may waive paved parking requirements for the following uses, if deemed appropriate:
 - a. Public recreational facility.
 - b. Special event facility where activities occur not more than 32 hours in a 90-day period, such as a stadium.
 - c. Low intensity use where parking is used not more than eight hours in any seven-day period, such as a church.
2. *Application.* The request for a waiver shall accompany the site plan application. If submitted after formal site plan approval, the application shall be submitted to the department for review by the development review committee and approval by the director. In both cases, the following information shall be included:
 - a. Location on parcel.
 - b. Soil and proposed surface characteristics.
 - c. Access points.
 - d. Method of delineating subject parking area.
 - e. Drainage and erosion control techniques.

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- f. Schedule of planned lot usage and why use should be classified as requested.
 - g. Landscaping, buffering and signage.
 - h. Any other information required by city staff.
3. *Review criteria.* The following criteria shall be used in reviewing the request:
- a. Traffic impact.
 - b. Erosion and drainage impact.
 - c. Environmentally sensitive land impact.
 - d. Compatibility with surrounding uses.
 - e. Nature of proposed surface.
4. *Conditions.* Conditions may be attached to the waiver including the following:
- a. Sedimentation and debris removal from drainage system.
5. *Unpaved parking area standards.*
- a. No waivers shall be granted for drive aisles or required ADA compliant parking spaces.
 - b. No more than 60 percent of the required spaces may be unpaved.
 - c. No parking area with less than 15 spaces shall receive a waiver.
 - d. All unpaved areas shall be stabilized at 50 psi Florida Bearing Value and covered with appropriate grass.
6. *Maintenance.* Unpaved parking spaces shall be maintained with a grass cover at all times. If the area becomes devoid of grass because of use by vehicles or other reasons, the area is in violation of the conditions of the waiver and subject to citation by a code enforcement officer. If more than three citations for lack of grass cover are issued in any 12-month period, the city shall require the area in question to be paved within 60 days. Failure to comply with said paving shall constitute a violation of this chapter and the violator shall be subject to penalties as defined in this chapter; included among these is that the subject property is liable for revocation of its occupational license.
7. *Change in parking intensity in unpaved parking areas.* Any change in use of the property which might change the intensity of parking shall require a complete review of the parking requirements with the requirement that parking be upgraded as indicated prior to issuance of the occupational license.
- Note: Approval of low intensity use parking without paved surfaces shall not be construed to allow such parking space areas to be counted as achieving landscaping or open space requirements.
- G. *Markings.* All parking lot spaces shall be adequately marked by a combination of pavement markings and signs to indicate parking spaces and circulation.
- H. *Approval.* No construction of a parking lot as described in this section shall commence prior to obtaining a development order from the development services department.
- I. *Restriping.* A restriping plan shall be approved by the development services department prior to commencing restriping activities within any parking lot.
- J. *Oversized commercial vehicles.* Storage of large buses, trucks, recreational vehicles or similar large commercial vehicles in designated public parking spaces shall be prohibited.
- K. *Maintenance.* The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of all vehicle use areas. In the event of deterioration of a hard-surface parking area, the

development services department may require full restoration of the parking facility to city standards, including markings, signs, and access points.

(Code 1995, § 14-2-78; Ord. No. 2038, 12-20-1994; Ord. No. 2085, 11-21-1995; Ord. No. 2121, 8-13-1996; Ord. No. 2605, 8-29-2006; Ord. No. 2628, 12-12-2006; Ord. No. 2692, 6-24-2008; Ord. No. 2776, 9-7-2010; Ord. No. 3034, § 1(14-7-23), 8-4-2020)

14-7-24. Parking facilities for duplex, triplex and townhomes.

- A. The required parking spaces for duplex, triplex and townhome developments shall be provided by one or a combination of the following:
1. *Parallel spaces.* Parallel parking within the street, a minimum of ~~eight-nine~~ feet wide by ~~22-23~~ feet long. Such spaces shall be located on the same side of the street, and offset no more than 20 feet from each associated dwelling unit.
 2. *Rear loading spaces.* Individual driveways accessed from the alley located at the rear of the structure shall be located within every townhome lot.
 - a. Driveways shall be a minimum of eight feet in width for a single vehicle, and a minimum of 16 feet in width for two vehicles parked side by side.
 - b. The minimum depth of the driveway shall be five feet if no parking is expected on the driveway, or 18 feet if parking is to be allowed on the driveway, measured from the alley right-of-way line to the dwelling.
 - c. When the driveways of two adjacent units are located immediately next to each other, a planting strip, a minimum of 30 inches in width, shall be provided between the two adjacent driveways. Such planting strip shall be planted with shrubs and ground cover.
 - d. When the driveways are not located immediately next to each other, a minimum separation of six feet shall be provided between driveways. Such space shall be planted with shrubs and ground cover.
 - e. Front loading driveways/access shall be prohibited for lots abutting an alley.
 3. *Front loading spaces.* Individual driveways shall be located within every townhome lot.
 - a. Such driveways shall be a minimum of eight feet in width and 18 feet in depth for a single vehicle, and have a garage door width no more than ten feet.
 - b. Garages shall be located no less than three feet and no more than five feet behind the structure's adjacent and forwardmost, enclosed living or entry area.
 - c. Driveways must be of brick/paver blocks or decorative stamped concrete. Asphalt or concrete driveways shall be prohibited.
 - d. When the driveways of two adjacent units are located immediately next to each other, a separator planting strip, a minimum 30 inches in width, and extending 15 feet from the structure, shall be provided between the two adjacent driveway surfaces. Such planting strip shall be planted with shrubs and ground cover.
 - e. When the driveways are not located immediately next to each other, a minimum pervious separation of 18 feet shall be provided between the driveways. Such pervious separation shall contain shrubs, ground cover and trees in accordance with the Florida-Friendly Plant List in "Florida Yards & Neighborhoods" edited by the University of Florida, Institute of Food and Agricultural Sciences (UF/IFAS).

- f. No more than two sets of consecutive, adjacent driveways may occur along the front of any townhouse structure.
4. *Side or rear parking lot.* Parking lots in accordance with other provisions of the Code shall be located behind or to the side of the principal structures that front on a street or internal drive.
- B. Parking spaces other than on-street parallel spaces or those spaces within driveways shall be located behind or to the side of the principal structures that front on a street or internal drive. Such spaces shall not back into the right-of-way/street.

(Code 1995, § 14-2-60; Ord. No. 3034, § 1(14-7-24), 8-4-2020)

14-7-25. Shared Parking.

No parking spaces provided to meet the requirements of this subchapter [part] for one building or use shall be included as part of the spaces required for another building or use, except as follows:

- A. Required off-street parking spaces may be provided cooperatively for two or more uses on the same site or on contiguous parcels similarly zoned, subject to a recorded joint use parking and access agreement, and any additional legal requirements that will assure the permanent availability of such spaces, to the satisfaction of the city attorney.
- B. The minimum amount of parking spaces shall equal the sum of the amounts required for the separate uses per Table 7-2, adjusted based on the percentages listed in Table 7-4. The minimum number of spaces required shall be the greater amount resulting from the weekday and weekend calculations. However, in no event shall the number of parking spaces provided be less than 40 percent of the required spaces according to Table 7-2. Table 7-5 contains an example of cooperative parking within a mixed-use development. It shows a reduction of 65 spaces by using the cooperative parking matrix to calculate required parking.

Table 7-4: Cooperative Parking Usage Percentages

USE	WEEKDAY			WEEKEND		
Time Frame	1 am—7 am	7 am—6 pm	6 pm—1 am	1 am—7 am	7 am—6 pm	6 pm—1 am
Residential/townhouse	100%	60%	100%	100%	75%	95%
Flex space/24-7 reserved parking	100%	100%	100%	100%	100%	100%
Community/cultural center	0%	100%	10%	0%	100%	30%
Government use	0%	100%	10%	0%	10%	0%
Day care facilities	0%	100%	0%	0%	0%	0%
Theater/entertainment	0%	40%	100%	0%	80%	100%
Office	5%	100%	5%	0%	15%	0%
Hotel/motel	100%	55%	90%	100%	55%	90%
Restaurant*	20%	70%	100%	30%	75%	100%
Commercial retail	0%	100%	80%	0%	100%	60%

*not 24 hour

Table 7-5: Cooperative Parking Matrix Example

					WEEKDAY	WEEKEND
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USE	Un	Total	Le	Sub	1a	Sp	7a	Sp	6a	Sp	1a	Sp	7a	Sp	6a	Sp
2 bedroom apt	52	104	5	99	100 %	99	60%	59	100 %	99	100 %	99	75%	74	95%	94
Office	15	50	2	48	5%	2	100 %	48	5%	2	0%	0	15%	7	0%	0
Retail	10	40	2	38	0%	0	100 %	38	80%	30	0%	0	100 %	38	60%	23
Restaurant	7	70	3	67	20%	13	70%	47	100 %	67	30%	20	75%	50	100 %	67
Totals		264	12	252	-	115	-	192	-	199	-	119	-	170	-	184

*No reductions allowed for ADA compliant parking spaces

(Code 1995, § 14-2-79; Ord. No. 3034, § 1(14-7-25), 8-4-2020)

14-7-26. Satellite parking.

Parking spaces provided pursuant to this subchapter [part] shall be located on the same building site as the use requiring such spaces. However, satellite parking on a properly classified and improved lot within 600 feet of the building site may be approved as part of the site plan process. In order to be considered properly classified, the building site and remote parking area must have been assigned the same future land use designation by the comprehensive plan, except as follows:

- A. Satellite parking for a building site with an Institutional (IN) future land use designation may be located on a lot with an Open Space (OS) future land use designation; and
- B. Satellite parking for a building site with a non-residential designation may be located on a lot with any non-residential designation, provided the parcel upon which the satellite parking will be located is not within 300 feet of a residential district. Such satellite parking shall not exceed 75 percent of the required parking.
- C. The site used for satellite parking shall be subject to a joint use parking and access agreement, and any additional legal requirements that will assure the permanent availability of such spaces, to the satisfaction of the city attorney.

(Code 1995, § 14-2-80; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-7-26), 8-4-2020)

14-7-27. Bicycle parking.

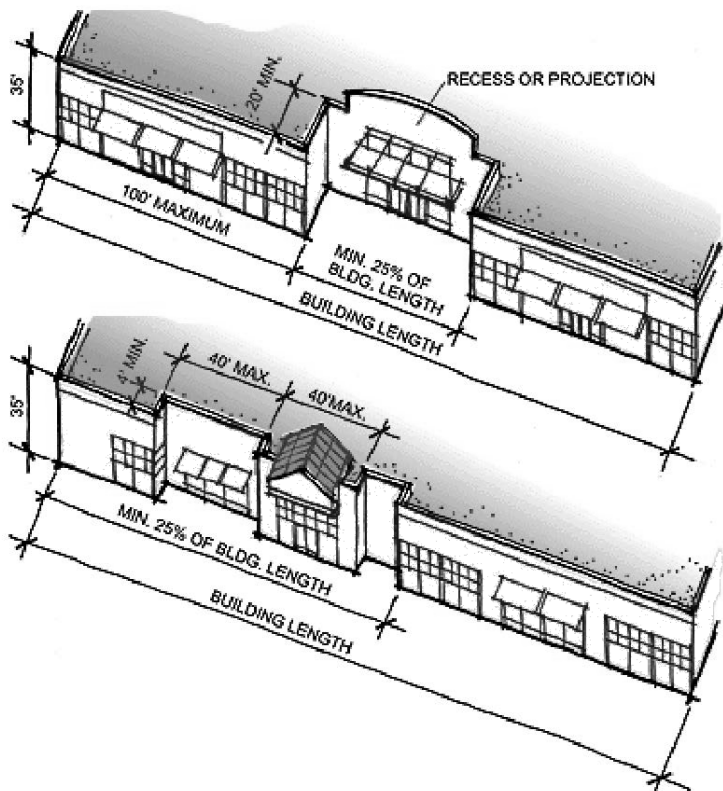
- A. Multi-family and non-residential development shall provide secure bicycle parking spaces/lockers for a minimum of ten percent of the total required automotive parking spaces, not to exceed 50 bicycle spaces.
- B. All spaces provided shall include a metal anchor sufficient to secure the bicycle frame when used in conjunction with a user-supplied lock.
- C. Bicycle parking should be located in a secure area covered from weather (not applicable to bicycle lockers) and shall be located as close to a building entrance as the closest on-site automobile parking space.

(Code 1995, § 14-2-78; Ord. No. 3034, § 1(14-7-27), 8-4-2020)

14-7-28. Parking structures.

- A. *Intent.* It is the intent of this division [section] to establish minimum requirements for space and design of off-street parking structures. The general regulations, design standards and space requirements set forth in this article [section] for off-street parking structures are intended to ensure the safe movement of traffic on the public streets, and to mitigate, where appropriate, potential adverse impacts of vehicular traffic and parking congestion on adjacent land uses.
- B. *Applicability.* Parking structures shall be subject to development standards generally applicable in the particular zoning district as well as the specific standards set forth in this section.
- C. *Structure design.*
 - 1. *façade modulation.* No parking structure shall present a blank wall on any side adjacent to or visible from the public right-of-way. A wall surface shall be no longer than 100 feet without a break: a recess or offset, measuring at least 20 feet in depth and one-quarter of the building in length, or a series of recesses or offsets, at intervals not more than 40 feet, that vary the depth of the building wall by a minimum of four feet. No less than 25 percent of the building wall shall be varied this way. The objective of this standard is to avoid large, undifferentiated wall surfaces. A combination of architectural detail, fenestration and landscaping shall be used to meet this requirement. See Figure 7-4.

Figure 7-4: Façade Modulation



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2. *Structure design.* Parking structures shall have complementary architectural style, form and materials to those of the primary site structures.
 3. *First floor uses.* All parking structures located along any public right-of-way shall contain active uses on the first floor (e.g., office or commercial activities permitted by the underlying zoning district).
 4. *Required setback.* Parking structures shall meet the building setback requirements of the district. The setback area in front of a parking structure shall be landscaped in accordance with chapter 14-8.
 5. *Building materials.* Building materials shall be similar to the materials already being used in the neighborhood, or if dissimilar materials are proposed, other characteristics, such as scale and proportions, form, architectural detailing, and color and texture, shall be utilized to ensure that sufficient similarity exists for the building to be compatible despite the difference in building materials.
 6. *Vehicle mobility analysis study.* A vehicle mobility analysis study, conducted, signed, and sealed by a certified transportation engineer, shall be provided. The vehicle mobility analysis study shall indicate: non-interference in public rights-of-way, vehicle stacking is sufficient to meet the demands of the peak hours of parking demand and safe vehicle movement throughout the structure.
 7. *Vehicle and pedestrian separation.* Vehicle and pedestrian areas shall be clearly marked, and physical separations, such as raised curbs or bollards, provided where practicable.
 8. *Parking space size and drive aisles.* The size of parking spaces and drive aisles shall conform to section 14-7-23.C, Parking [Space] and Aisle Dimensions.
 9. *Parking decks.* Parking decks should be flat, where feasible. At a minimum, the ground floor and the top parking deck shall be flat. Landscaping is not required, but may be provided on the top deck.
 10. *Elevators/stairs.* Exterior elevator towers and stair wells shall be open to public view, or enclosed with transparent glazing.
 11. *Lighting.* Lighting on and within multi-level parking structures shall be dark sky compliant and screened, hooded or otherwise limited in illumination area to prevent light spillage on adjacent property.
 12. *Signage.* All signage shall be in conformance with chapter 14-11, Signs.
 13. *Landscaping.* Exterior landscaping shall conform to chapter 14-8, Landscaping requirements, are not applicable to the interior of the parking structure.
 14. *Stormwater.* Stormwater systems shall comply with section 14-10-3, Stormwater Management. Green roofs and low impact design principles to provide stormwater management are encouraged.
 15. *ADA compliance.* All parking facilities shall be in compliance with all required state and federal requirements for ADA compliant parking and accessibility.
 16. *Emergency vehicle access.* Each restricted access parking lot shall be designed to allow emergency vehicle access at all times.
 17. *[Form-based code area properties.]* Properties within the form-based code area are subject to the provisions of chapter 14-5.

(Code 1995, § 14-2-78; Ord. No. 2038, 12-20-1994; Ord. No. 2065, 5-9-1995; Ord. No. 2143, 12-17-1996; Ord. No. 2157, 2-4-1997; Ord. No. 2520, 8-10-2004; Ord. No. 2559, 7-19-2005; Ord. No. 2650, 6-12-2007; Ord. No. 2680, 5-20-2008; Ord. No. 2692, 6-24-2008; Ord. No. 2698, 9-30-2008; Ord. No. 3034, § 1(14-7-28), 8-4-2020)

14-7-29. Reserved.

PART IV. ACCESS STANDARDS

14-7-30. In general.

- A. *Site plan.* All uses other than single family, duplex, triplex, and townhouse dwellings (unless they are part of a multiple family housing development) shall meet the standards of this section [part]. The access and curb cut design shall be reviewed at the site plan stage. More restrictive requirements may have to be imposed in cases where traffic concurrency constraints so dictate or where needed to comply with other sections of this Code.
- B. *Traffic study.* In the case of a project with more than 50,000 square feet of gross floor area, a traffic study by a traffic engineer registered in the State of Florida is required to determine necessary on-site and right-of-way improvements. This can be combined with the traffic concurrency analysis.
- C. *State and county standards.* In addition to the requirements of this section [part], access points on state and county roadways shall also meet the standards of those jurisdictions.

(Code 1995, § 14-2-81; Ord. No. 3034, § 1(14-7-30), 8-4-2020)

14-7-31. Number of vehicular access points.

The maximum number of vehicular access points (separate from emergency access) allowed per ~~parcel~~street shall be as follows:

Type of Development	Number of Access Points
Residential:	
Less than 100 units	1
Every additional 150 units (above 100 units)	1 additional access point
Non-Residential:	
Less than 300 required parking spaces less than 300 feet of frontage	1
300—999 required parking spaces and 300—999 feet of frontage	2
1,000 or more required parking spaces and 1,000 or more feet of frontage	3

- A. *Driveway separation.* The distance between any two vehicular access points to a site shall be no less than the following, measured centerline to centerline, and including access points on adjacent parcel, if lineal frontage permits:
1. Arterial streets: 150 feet.
 2. Collector streets: 100 feet.
 3. Local streets: 60 feet.

The spacing between two one-way access points does not have to meet this standard.

- B. *Distance from intersection.* The minimum distance between access drives and streets shall be as follows, if lineal frontage permits:

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1. Minimum of 50 feet from arterial and collector streets.
 2. Minimum of 25 feet from local streets.
 3. Minimum of 100 feet if right turn lane present.

Note: Measurement shall be from edge of drive pavement to street right-of-way line.

- C. *Alignment.* When the distance standards can also be met, access points on opposite sides of an individual street shall be opposite one another unless the access points are separated by a median or the centerlines are offset by more than 150 feet on an arterial street or 100 feet on a collector street.
- D. *Distance from property line.* At least a distance equal to the turning radii but in no case less than 15 feet unless a joint access drive is authorized under subsection I below or unless this requirement is reduced by a maximum of five feet for all or part of the lot by the director because the reduction would not be detrimental to the surrounding area based on consideration of nearby land uses and traffic characteristics and because one or more of the following criteria is satisfied:
 1. A historic structure is located on the lot and a reduction of the requirement would significantly increase the potential for the lot to accommodate the use.
 2. The lot has an area less than 10,000 square feet and a reduction of the requirement would significantly increase the potential for the lot to accommodate the use.
 3. One or more protected trees as defined in section 14-8-4 shall be saved by granting the reduction.
- E. *Vehicular access point widths.* The following widths shall be measured at the property line and exclude medians (see chapter 14-5 for permitted driveway widths in the form-based code area):
 1. Minimum width (two-way) of 24 feet.
 2. Maximum width (two-way) of 40 feet unless a drive with more than three lanes is needed and authorized.
 3. Maximum one-way width of 20 feet.
- F. *One-way access points.*
 1. The in-bound drive shall be upstream of the out-bound.
 2. All drives shall be suitably channeled by curbing (supplemented by pavement markings and signs) to discourage two-way usage.
- G. *Right-turn lanes and access drive turn radii.* Design standards available from the engineering and public works and engineering department shall be used in designing right turn or deceleration/acceleration lanes, turn radii, maximum grades and the angle of a drive intersection with the roadway.
- H. *Cross access.* At the time of site plan or plat review, the city will require vehicular cross access easements between adjacent parcels to achieve greater transportation mobility and to minimize the impact on adjacent roadways.
 1. The property owner of each property shall grant an easement, running with the land, allowing general cross-access to and from the other properties in the affected area. Such easement shall be recorded in the public records and constitute a covenant running with the land.
 2. Exceptions to the cross-access requirement may be approved administratively based on the following findings:
 - a. No logical connection(s) can be established which would improve system mobility; or

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- b. Compatibility concerns are created due to creation of unsafe or undesirable travel routes.
 - I. *Joint use access drives.* Shared access drives are encouraged and will be required by the city where appropriate, as a part of the site plan or plat review, see subsection H above.
 - J. *ADA compliant ramps.* Drives that intersect with sidewalks shall have ADA compliant ramps.

(Code 1995, § 14-2-81; Ord. No. 2038, 12-20-1994; Ord. No. 2064, 5-9-1995; Ord. No. 2085, 11-21-1995; Ord. No. 2688, 6-10-2008; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-7-31), 8-4-2020)

14-7-32. Fire protection access.

Fire department access roads shall be located and designed to assure efficiency in protecting life and property.

A. General.

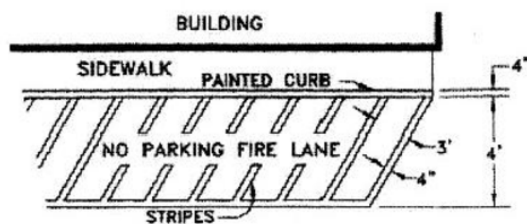
1. *Applicability.* Fire department access roads must be provided as required by the City of Kissimmee Fire Department. Fire department access roads shall consist of public or private roadways, fire lanes, parking lot lanes, or a combination thereof. Florida Fire Prevention Code (FFPC), NFPA 1, chapter 18, current edition. A variance request for fire department access roads width requirements may be requested if there is proven hardship for established properties within the form-based code area.
2. *Designation.* No driveway or portion of a driveway may be designated as a fire department access road without approval by the City of Kissimmee Fire Department.
3. *Timing.* Required fire department access roads shall be established by the developer prior to the beginning of construction and shall be maintained in good condition by the developer both throughout the project and after construction is complete.

B. Design standards.

1. *Florida Fire Prevention Code.* Fire department access roads shall meet the specifications of the Florida Fire Prevention Code, NFPA 1 current edition (as adopted by section 24-19 of the Code of Ordinances).
2. *Surface.* Fire department access roads shall have an all-weather surface.
3. *Loads.* Fire department access road surfaces and subgrades shall be capable of supporting the imposed loads of firefighting apparatus. Compaction and a sealed base must be provided per the Kissimmee Engineering Standards Manual.
4. *Width.* Fire department access road surfaces shall have a minimum unobstructed width of at least 20 feet. The required width of a fire department access road shall not be obstructed in any manner, including by the parking of vehicles. Wider fire lanes shall be required when necessary in accordance with the Florida Fire Prevention Code. Fire department access roads shall be measured from the edge of pavement to edge of pavement, or as determined by the fire department. On-Street Parking in Residential Developments. Pavement width shall be measured from edge of pavement to edge of pavement.
 - a. For parking on two sides of street minimum width shall be 36 feet.
 - b. For parking on one side of street minimum width shall be 28 feet.
 - c. No parking is allowed on any street that has a width less than 28 feet.

5. *Vertical clearance.* The area between the surface of the fire department access road and 13 feet six inches above the surface shall be unobstructed at all times.
6. *Fire department access road pavement markings.* Pavement markings shall meet the following criteria (see Figure 7-5):
 - a. Pavement markings shall be located adjacent to but not in travel lanes intended to be used by normal vehicular traffic. Greater travel lane widths than those specified in section 14-7-1 may be required as part of the development review process for fire safety reasons.
 - b. Markings shall use the color "safety yellow" (F.D.O.T. traffic rated pavement paint).
 - c. Markings shall include letters with a four-inch wide brush stroke and 18 to 24 inches high.
 - d. Markings shall include the message "No Parking - Fire Lane."
 - e. There shall be at least one fire lane pavement message for every 100 linear feet of fire lane or portion thereof.
 - f. Where a curb is provided, the curb top and face along the fire department access road are to be painted "traffic yellow" (F.D.O.T. traffic rated pavement paint). Solid stripes four inches wide extending outward to a width of four feet from the curb with three feet between each stripe. Striping to be thermoplastic or equivalent.
 - g. Markings and painting are to be maintained by the responsible party of the property.

Figure 7-5: Fire Lane Markings



7. *Fire department access roads signage located.* Fire department access roads shall be marked with freestanding signs with the wording "NO PARKING FIRE LANE" or similar wording. Such signs shall be 12 inches by 18 inches with a white background and red letters and shall be a maximum of seven feet in height from the roadway to the bottom part of the sign. The signs shall be within sight of traffic and be a maximum of 60 feet apart.

(Code 1995, § 14-2-82; Ord. No. 2038, 12-20-1994; Ord. No. 2692, 6-24-2008; Ord. No. 2749, 4-13-2010; Ord. No. 3034, § 1(14-7-32), 8-4-2020)

CHAPTER 14-9: ENVIRONMENT

14-9-1. Floodplain management.

- A. *Administration.* This section addresses the City of Kissimmee's administration of floodplain management, as authorized by F.S. ch. 166, for areas identified as special flood hazard areas by the Federal Emergency Management Agency (FEMA), in conformance with the National Flood Insurance Program and the requirements of the Florida Building Code.
- B. *General.*
1. *Definitions.*
 - a. Unless otherwise expressly stated, the words and terms used in this section shall have the meanings shown in chapter 14-2.
 - b. Terms defined in the Florida Building Code. Where terms are not defined in chapter 14-2 and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.
 - c. Terms not defined. Where terms are not defined in chapter 14-2 or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.
 2. *Scope.* The provisions of this section shall apply to all development that is wholly within or partially within any flood hazard area, including, but not limited to, the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.
 3. *Intent.* The purposes of this section and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:
 - a. Minimize unnecessary disruption of commerce, access and public service during times of flooding;
 - b. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
 - c. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
 - d. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
 - e. Minimize damage to public and private facilities and utilities;
 - f. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;

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- g. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
 - h. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the 44 CFR 59.22.
- 4. *Coordination with the Florida Building Code.* This section is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.
 - 5. *Warning.* The degree of flood protection required by this section and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the flood insurance study and shown on flood insurance rate maps and the requirements of Title 44 CFR 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this section.
 - 6. *Disclaimer of liability.* This section shall not create liability on the part of the city commission of the City of Kissimmee or by any officer or employee thereof for any flood damage that results from reliance on this section or any administrative decision lawfully made thereunder.

C. *Applicability.*

- 1. *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- 1. *Areas to which this section applies.* This section shall apply to all flood hazard areas within the City of Kissimmee, as established in subsection C.2 below.
- 2. *Basis for establishing flood hazard areas.* The Flood Insurance Study for Osceola County, Florida and Incorporated Areas dated June 18, 2013, and all subsequent amendments and revisions, and the accompanying flood insurance rate maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this section and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City of Kissimmee, Department of Public Works & Engineering, located at 101 N. Church Street, Kissimmee, Florida 34741.
- i. *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to subsection F below the floodplain administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:
 - i. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this section and, as applicable, the requirements of the Florida Building Code.
 - ii. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the special flood hazard area.

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3. *Other laws.* The provisions of this section shall not be deemed to nullify any provisions of local, state or federal law.
 4. *Abrogation and greater restrictions.* This section supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances, including, but not limited to, land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this section and any other ordinance, the more restrictive shall govern. This section shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this section.
 5. *Interpretation.* In the interpretation and application of this section, all provisions shall be:
 - j. Considered as minimum requirements;
 - k. Liberally construed in favor of the governing body; and
 - l. Deemed neither to limit nor repeal any other powers granted under state statutes.
- D. *Duties and powers of the floodplain administrator.*
1. *Designation.* The city manager is designated as the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees.
 2. *General.* The floodplain administrator is authorized and directed to administer and enforce the provisions of this section. The floodplain administrator shall have the authority to render interpretations of this section consistent with the intent and purpose of this section and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this section without the granting of a variance pursuant to subsection I below.
 3. *Applications and permits.* The floodplain administrator, in coordination with other pertinent offices of the community, shall:
 - a. Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
 - b. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this section;
 - c. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
 - d. Provide available flood elevation and flood hazard information;
 - e. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
 - f. Review applications to determine whether proposed development will be reasonably safe from flooding;
 - g. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this section is demonstrated, or disapprove the same in the event of noncompliance; and

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- h. Coordinate with and provide comments to the director to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this section.
 - 4. *Substantial improvement and substantial determinations.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the director, shall:
 - a. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 - b. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
 - d. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this section is required.
 - 5. *Modifications of the strict application of the requirements of the Florida Building Code.* The floodplain administrator shall review requests submitted to the director that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to subsection I below.
 - 6. *Notices and orders.* The floodplain administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this section.
 - 7. *Inspections.* The floodplain administrator shall make the required inspections as specified in subsection H below for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The floodplain administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.
 - 8. *Other duties of the floodplain administrator.* The floodplain administrator shall have other duties, including, but not limited to:
 - a. Establish, in coordination with the director, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to subsection D above;
 - b. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
 - c. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the flood insurance rate maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available;

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- d. Review required design certifications and documentation of elevations specified by this section and the Florida Building Code to determine that such certifications and documentations are complete; if deficiencies are identified, require the permittee to make appropriate corrections; and
 - e. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Kissimmee are modified.
9. *Floodplain management records.* Regardless of any limitation on the period required for retention of public records, the floodplain administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this section and the flood resistant construction requirements of the Florida Building Code, including flood insurance rate maps; letters of change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this section; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this section and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at the City of Kissimmee, Department of Public Works & Engineering, 101 N. Church Street, Kissimmee, Florida 34741.

E. *Permits.*

1. *Permits required.* Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this section, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the floodplain administrator, and the director if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this section and all other applicable codes and regulations has been satisfied.
2. *Floodplain development permits or approvals.* Floodplain development permits or approvals shall be issued pursuant to this section for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the floodplain administrator may determine that a floodplain development permit or approval is required in addition to a building permit.
3. *Buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 CFR 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this section:
 - a. Railroads and ancillary facilities associated with the railroad.
 - b. Non-residential farm buildings on farms, as provided in F.S. § 604.50.
 - c. Temporary buildings or sheds used exclusively for construction purposes.
 - d. Mobile or modular structures used as temporary offices.
 - e. Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

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- f. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this subsection, the term chickee means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
 - g. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
 - h. Temporary housing provided by the department of corrections to any prisoner in the state correctional system.
 - i. Structures identified in F.S. § 553.73(10)(k) are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on flood insurance rate maps.
4. *Application for a permit or approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:
- a. Identify and describe the development to be covered by the permit or approval.
 - b. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
 - c. Indicate the use and occupancy for which the proposed development is intended.
 - d. Be accompanied by a site plan or construction documents as specified in ~~division~~ ~~[subsection]~~ F below.
 - e. State the valuation of the proposed work.
 - f. Be signed by the applicant or the applicant's authorized agent.
 - g. Give such other data and information as required by the floodplain administrator.
5. *Validity of permit or approval.* The issuance of a floodplain development permit or approval pursuant to this section shall not be construed to be a permit for, or approval of, any violation of this section, the Florida Building Codes, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the floodplain administrator from requiring the correction of errors and omissions.
6. *Expiration.* A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.
7. *Suspension or revocation.* The floodplain administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this section or any other ordinance, regulation or requirement of this community.
8. *Other permits required.* Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including, but not limited to, the following:
- a. The South Florida Water Management District (SFWMD); F.S. § 373.036.
 - b. Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065 and F.A.C. ch. 64E-6.

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- c. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; F.S. § 161.055.
 - d. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; section 404 of the Clean Water Act.
 - e. Federal permits and approvals.
- F. *Site plans and construction documents.*
- 1. *Information for development in flood hazard areas.* The site plan or construction documents for any development subject to the requirements of this section shall be drawn to scale and shall include, as applicable to the proposed development:
 - a. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations, if necessary for review of the proposed development.
 - b. Where base flood elevations, or floodway data are not included on the FIRM or in the flood insurance study, they shall be established in accordance with subsection F.3.b. or F.3.c below.
 - c. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five acres and the base flood elevations are not included on the FIRM or in the flood insurance study, such elevations shall be established in accordance with subsection F.3.a below.
 - d. Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
 - e. Evidence that the interior portion of an enclosed area below the lowest floor is not partitioned and access to the enclosed area is the minimum necessary to allow for crawlspace access, for access to the occupiable space (stairway or elevator), for parking (garage door), and for limited storage of maintenance equipment used in connection with the premises (standard exterior door).
 - f. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
 - g. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
 - h. Existing and proposed alignment of any proposed alteration of a watercourse.
 - 2. *Waivers.* The floodplain administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this section but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this section.
 - 3. *Information in flood hazard areas without base flood elevations (approximate Zone A).* Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the floodplain administrator shall:
 - a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
 - b. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.

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- c. Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the floodplain administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
 - i. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
 - ii. Specify that the base flood elevation is three feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than three feet.
 - d. Where the base flood elevation data are to be used to support a letter of map change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.
4. *Additional analyses and certifications.* As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this subsection F, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:
- a. If permitted pursuant to [sub]section K.3, for development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in subsection F.5 below and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.
 - b. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the flood insurance study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
 - c. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channels flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in subsection F.5 below.
5. *Submission of additional data.* When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a letter of map change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMS, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

G. *Flood hazard areas.*

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1. *Filling.* Whenever a plan is submitted for an area that is a special flood hazard area but not in a floodway, the city may approve such subdivision, to an elevation sufficient to place the lowest floor, including basement, at a minimum of 18 inches above the base flood elevation of the 100-year frequency flood as determined by the city engineer or otherwise complies with [sub)section K.3.e. Any filling shall be in accordance with [sub)section K.3.e. Development of areas of extremely poor drainage should be discouraged.
 2. *Overflow zone.* If a subdivision is approved in an area of special flood hazard as defined in this section, it shall meet all the requirements of this section. The plat of such subdivision shall provide for an overflow zone along the bank of any stream or watercourse in a width that shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone nor shall any structure be erected or placed therein. The boundaries of the overflow zone shall be subject to approval by the city engineer.

H. *Inspections.*

1. *General.* Development for which a floodplain development permit or approval is required shall be subject to inspection.
2. *Development other than buildings and structures.* The floodplain administrator shall inspect all development to determine compliance with the requirements of this section and the conditions of issued floodplain development permits or approvals.
3. *Buildings, structures and facilities exempt from the Florida Building Code.* The floodplain administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this section and the conditions of issued floodplain development permits or approvals.
 - a. *Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.* Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the floodplain administrator:
 - i. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
 - ii. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with subsection F.3.c.ii, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.
 - b. *Buildings, structures and facilities exempt from the Florida Building Code, final inspection.* As part of the final inspection, the owner or owner's authorized agent shall submit to the floodplain administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in subsection H.3.a.
 - c. *Manufactured homes.* The director shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this section and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the floodplain administrator.

I. *Variances and appeals.*

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1. *General.* The public works director shall hear and decide on requests for appeals and requests for variances from the strict application of this section and from the strict application of the flood resistant construction requirements of the Florida Building Code.
 2. *Appeals.* The board of adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of this section. Any person aggrieved by the decision of [the] board of adjustment may appeal such decision to the circuit court, as provided by Florida Statutes.
 3. *Limitations on authority to grant variances.* The public works director shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in subsection I.7, the conditions of issuance set forth in subsection I.8, and the comments and recommendations of the floodplain administrator and the director. The board of adjustment has the right to attach such conditions as it deems necessary to further the purposes and objectives of this section.
 4. *Restrictions in floodways.* A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in subsection F.4.
 5. *Historic buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.
 6. *Functionally dependent uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this section, provided the variance meets the requirements of subsection I.4, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.
 7. *Considerations for issuance of variances.* In reviewing requests for variances, the board of adjustment shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this section, and the following:
 - a. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
 - d. The importance of the services provided by the proposed development to the community;
 - e. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
 - f. The compatibility of the proposed development with existing and anticipated development;
 - g. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
 - h. The safety of access to the property in times of flooding for ordinary and emergency vehicles;

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- i. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - j. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.
8. *Conditions for issuance of variances.* Variances shall be issued only upon:
- a. Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this section or the required elevation standards;
 - b. Determination by the board of adjustment that:
 - i. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
 - ii. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
 - iii. The variance is the minimum necessary, considering the flood hazard, to afford relief;
 - c. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land; and
 - d. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25.00 for \$100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.
- J. *Violations.*
- 1. *Violations.* Any development that is not within the scope of the Florida Building Code but that is regulated by this section that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this section, shall be deemed a violation of this section. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this section or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.
 - 2. *Authority.* For development that is not within the scope of the Florida Building Code but that is regulated by this section and that is determined to be a violation, the floodplain administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.
 - 3. *Unlawful continuance.* Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.
- K. *Flood resistant development.*

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1. *Buildings and structures exempt from building code.* Pursuant to [sub)section E.3, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of subsection 7 below.
 2. *Subdivisions.*
 - a. *Minimum requirements.* Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:
 - i. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
 - ii. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
 - iii. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
 - b. *Subdivision plats.* Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:
 - i. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
 - ii. Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with [sub)section F.3.a; and
 - iii. Compliance with the site improvement and utilities requirements of subsection 3 below.
 3. *Site improvements, utilities and limitations.*
 - a. *Minimum requirements.* All proposed new development shall be reviewed to determine that:
 - i. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
 - ii. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
 - iii. Adequate drainage is provided to reduce exposure to flood hazards; in Zones ~~AH-AH-AH~~ and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
 - b. *Sanitary sewage facilities.* All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in F.A.C. ch. 64E-6, and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into floodwaters, and impairment of the facilities and systems.
 - c. *Water supply facilities.* All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in F.A.C. 62-532.500, and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

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- d. *Limitations on sites in regulatory floodways.* No encroachment, including fill or new construction, is permitted. Minor improvements such as boat docks are authorized if the floodway encroachment analysis required in [sub]section F.4.a. demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.
- e. *Limitations on placement of fill.* Subject to the limitations of this section, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. To ensure no net loss of floodwater storage capacity, a hydrologically equivalent compensatory storage volume shall be provided in a location and configuration acceptable to the floodplain administrator. Hydraulic equivalency shall be demonstrated by calculations prepared in accordance with currently accepted engineering practices by a professional engineer. Excavation in wetland areas shall be prohibited, unless authorized in accordance with sections 14-3-33 and 14-9-4. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.
4. *Manufactured homes.*
- a. *General.* All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of F.A.C. ch. 15C-1, and the requirements of this section.
- b. *Foundations.* All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.2 and this section.
- c. *Anchoring.* All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.
- d. *Elevation.* All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the elevation required in the Florida Building Code, Residential Section R322.2 (Zone A). ~~Manufactured homes that are placed, replaced, or substantially improved shall comply with the following, as applicable:~~
- i. ~~*General elevation requirement.* Unless subject to the requirements of subsection ii, all manufactured homes that are placed, replaced, or substantially improved on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A).~~
- ii. ~~*Elevation requirement for certain existing manufactured home parks and subdivisions.* Manufactured homes that are not subject to subsection i above, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:~~

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- ~~(a) Bottom of the frame of the manufactured home is at or above the elevation required in the Florida Building Code, Residential Section R322.2 (Zone A); or~~
 - ~~(b) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.~~
 - e. *Enclosures.* Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322 for such enclosed areas.
 - f. *Utility equipment.* Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322.
5. *Recreational vehicles and park trailers.*
- a. *Temporary placement.* Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:
 - i. Be on the site for fewer than 180 consecutive days; or
 - ii. Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.
 - b. *Permanent placement.* Recreational vehicles and park trailers that do not meet the limitations in subsection K.5.a above for temporary placement shall meet the requirements of subsection K.4 above for manufactured homes.
6. *Tanks.*
- a. *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.
 - b. *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of subsection K.6.c below shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
 - c. *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.
 - d. *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:
 - i. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - ii. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
7. *Other development.*

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- a. *General requirements for other development.* All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this section or the Florida Building Code, shall:
 - i. Be located and constructed to minimize flood damage;
 - ii. Meet the limitations of subsection K.3.d if located in a regulated floodway;
 - iii. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
 - iv. Be constructed of flood damage-resistant materials; and
 - v. Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.
 - b. *Fences in regulated floodways.* Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of subsection K.3.d.
 - c. *Retaining walls, sidewalks and driveways in regulated floodways.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of subsection K.3.d.
 - d. *Roads and watercourse crossings in regulated floodways.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of section K.3.d. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of subsection 14-9-1.F.4.c.

8. Non-elevated accessory structures. Accessory structures are permitted below elevations required by the Florida Building Code provided the accessory structures are used only for parking or storage and:

- a. Are one-story and not larger than 600 sq. ft.
- b. Have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.
- c. Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.
- d. Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.
- e. Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot.

(Code 1995, §§ 14-2-115, 14-2-117; Ord. No. 2038, 12-20-1994; Ord. No. 2142, 12-17-1996; Ord. No. 2858, 5-21-2013; Ord. No. 3034, § 1(14-9-1), 8-4-2020)

14-9-2. Wetlands and habitat species preservation.

Wetlands. See section 14-4-7 for lots in the conservation overlay district and see section 14-9-4 for lots outside the conservation overlay district.

(Code 1995, § 14-2-101; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-9-2), 8-4-2020)

14-9-3. Wellfield protection.

- A. *Intent.* The purpose of groundwater protection standards is to safeguard the health, safety and welfare of the citizens of the city. This is accomplished through ensuring the protection of the principal sources of water for domestic and industrial use. The standards contained herein are intended to be interim rules designed to help protect both the quantity and quality of the groundwater supply. This intent is achieved in this section by controlling development activities in and adjacent to designated wellheads in order to protect water supplies from potential contamination.
- B. *Restrictions on development.*
1. *Septic tank disposal systems.* Septic tank disposal systems shall be separated from public water system wells in the manner required by F.A.C. ch. 10D-6 (Rules of the Department of Health and Rehabilitative Services: Standards for Onsite Sewage Disposal Systems).
 2. *Wastewater treatment plant facilities and effluent discharge.* Wastewater treatment plant facilities and discharges shall be separated from public water system wells in the manner required by F.A.C. ch. 17-610 (Rules of Department of Environmental Protection: Reuse off Reclaimed Water and Land Application) and F.A.C. ch. 17-640 (Rules of Department of Environmental Protection: Domestic Wastewater Residuals).
 3. *Solid waste management facilities.* Solid waste management facilities shall be separated from public water system wells in the manner required by F.A.C. ch. 17-701 (Rules of Department of Environmental Protection: Solid Waste-Management Facilities).
 4. *Toxic substance facilities.* No facilities for the bulk storage, bulk handling or processing of materials on the Florida Substance List (F.S. ch. 442) shall be located within 100 feet of a public water system well.
- C. *Administration.* Conformance with this section shall be achieved by monitoring occupational license, site plan and building permit applications.

(Code 1995, § 14-2-102; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-9-3), 8-4-2020)

14-9-4. Early land preparation and site improvement permits.

- A. *General.* An approved early land preparation permit or a city approved site improvement permit is required prior to any alteration of terrain, removal of trees, or removal of vegetative cover from land within the city except for:
1. *Residential lots.* Alteration of terrain or removal of vegetation on residential lots of less than two acres, except those intended for a townhouse or multiple family housing development, when the alteration or removal is under the specific direction of the resident owner.
 2. *Nurseries and greenhouses.* Alteration of terrain or removal of vegetation on the portion of property used for landscape nursery/greenhouse related activities when the property is:
 - a. Owned by a business with a city occupational license permitting landscape nursery/greenhouse related activities and is allowed to be used for such activities; or
 - b. Owned by a governmental agency and is allowed to be used for such activities.
 3. *Agricultural uses.* Alteration of terrain or removal of vegetation on property which is allowed to be used for agricultural purposes and which is used for bona fide agricultural purposes.
 4. *Public rights-of-way or public easements.* Alteration of terrain or removal of vegetation on public rights-of-way or public easements by an individual or organization which has the authority to

undertake such alteration or removal. Except that no trees may be removed, cut, or trimmed without compliance with 14-1-39 through 14-1-41.

5. *Public safety emergencies.* Alterations of terrain and removal of vegetation due to public safety emergencies. However, no trees located on any lot within the city shall be removed except in conformance with chapter 14-8 (unless the removal is needed due to a public safety emergency). In addition, no trees on any lot shall be removed if the trees are necessary to meet the requirements of chapter 14-8 (unless the removal is needed due to a public safety emergency). Further, no vegetation of any type shall be removed without an early land preparation permit if the vegetation was required by a landscape plan approved pursuant to chapter 14-8 (unless the removal is needed due to a public safety emergency).

B. *Early land preparation permits.*

1. *Early land preparation permit required.* An early land preparation permit shall be required for land clearing as defined in chapter 14-2 unless a permit is not required pursuant to subsection A above.
2. *Land preparation plans.* An early land preparation permit shall be issued by the director upon review and approval of an early land preparation plan submitted by the applicant. Early land preparation plans shall be approved if and only if they contain all of the information required in Section B.3. below and show conformance with all of the standards in subsection B.4 below.
3. *Information required in early land preparation plans.*
 - a. Early land preparation plans involving the removal of less than five trees and less than 25 shrubs and the removal or relocation of less than 150 cubic yards of soil shall:
 - i. Show the approximate location of the lot in relation to existing streets;
 - ii. Show the approximate location of lot lines;
 - iii. Indicate the existing land use for the lot;
 - iv. Show the approximate location of buildings and other major structures on the lot;
 - v. Indicate the reason for the proposed land clearing;
 - vi. Show the type and general location of all existing vegetative cover, including trees greater than four inches DBH, which is to be removed and indicate its approximate distance from the nearest lot line;
 - vii. Show the general location of all grading, excavating, or filling which is proposed and indicate the approximate change in elevation which is proposed in each location;
 - viii. Indicate whether or not the property has hydric soils, as identified by the "Soil Survey of Osceola County Area, Florida." A more detailed soil survey as approved by the city may be used or, where applicable, a statement that no hydric soils exist;
 - ix. For a lot which has a size of five acres or more, indicate vegetative communities in accordance with Level III or IV of the "Florida Land Cover Classification System" (FLCCS); and
 - x. Be accompanied by any reports required pursuant to division [subsection] B.4 below (the city may charge the applicant a reasonable fee for the cost of reviewing these reports and for on-site inspections to determine compliance with the reports as approved subject to conditions and modifications).
 - b. Early land preparation plans involving the removal of five or more trees, 25 or more shrubs, or the removal or relocation of 150 or more cubic yards of soil shall submit the information required

for early land preparation permits in subsection B.3.a above and for city certified land preparation plans in subsection C.3 below.

4. *Land clearing standards.* Land clearing activities and early land preparation plans involving the removal of less than five trees and less than 25 shrubs and the removal or relocation of less than 150 cubic yards of soil shall conform to the following standards:
- a. Land clearing in all areas must:
 - i. Result in the removal of less than five trees and less than 25 shrubs on a lot during a single calendar year;
 - ii. Result in the removal or relocation of less than 150 cubic yards of soil on a lot in a calendar year (all such removal or relocation must be completed within five consecutive days and the impacted areas must be sodded within the same five day time period); and
 - iii. Comply with the requirements of chapter 14-8 and Resolution 31-89.
 - b. Land clearing in areas subject to an approved landscape plan (a landscape plan required pursuant to chapter 14-8) must be determined by the director to be consistent with the general intent of the landscape plan and the associated site plan or subdivision plat. In determining consistency consideration shall be given, in part, to the impact of the land clearing and any replacement landscaping on:
 - i. The quality, quantity, and type of vegetation;
 - ii. The effectiveness of any buffering;
 - iii. The effectiveness of the stormwater management system;
 - iv. The ability of the site to comply with any applicable wetland and habitat/species preservation requirements in this section; and
 - v. The ability of the site to comply with traffic sight visibility requirements in chapter 14-10.
 - c. Land clearing in areas where the director determines that there may be hydric soils as indicated by the hydric soils list in the "Soil Survey of Osceola County Area, Florida" or wetlands vegetation in accordance with Level III or IV of the Florida Land Cover Classification System" (FLCCS) shall comply with the following:
 - i. A wetlands conservation impact report prepared in conformance with section 14-3-33 and which has been approved, with or without conditions or modifications, by the development review committee; and
 - ii. All applicable Florida Department of Environmental Protection (DEP), South Florida Water Management District (SFWMD), and U.S. Army Corps of Engineer (ACOE) permits.
 - d. For a lot which has a size of five acres or more, land clearing in areas where the director determines that there may be designated species as defined in chapter 14-2 or any identified habitat listed as threatened or endangered by the Florida Natural Areas Inventory shall comply with the following:
 - i. A land clearing conservation impact report prepared in conformance with section 14-3-33 and which has been approved, with or without conditions or modifications, by the development review committee; and
 - ii. All applicable DEP, SFWMD, and ACOE permits. Land clearing activities and land clearing plans involving the removal of five or more trees or 25 or more shrubs shall conform to the standards in subsection B.4.b and the standards for city site improvement plans in

subsection C.4, except that subsection C.4.a shall not apply to land clearing activities. No land clearing activities shall be allowed which would result in the removal or relocation of 150 or more cubic yards of soil on a lot in a calendar year (all such removal or relocation must be completed within five consecutive days and the impacted areas must be scheduled within the same five-day time period).

e. Fees. Fees for land clearing permits are specified in the Land Development Code Fee Schedule.

C. *Site improvement permits.*

1. *Site improvement permit required.* A city approved site improvement permit shall be required for land preparation as defined in chapter 14-2 unless a certified land preparation plan is not required pursuant to section A above.
2. *Site improvement plans.* A site improvement permit plan shall be certified by the director upon review and approval of a site improvement plan submitted by the applicant. Site improvement plans shall be approved if and only if they contain all of the information required in subsection C.3 below and conform with all of the standards set forth in subsection C.4 below.
3. *Information required.* Site improvement plans shall include:
 - a. Information indicating that each part was prepared by an appropriate professional;
 - b. Be at the same scale as grading, landscaping and basic layout drawings required for subdivision approval, site plan approval and building permits;
 - c. Show the location of lot lines;
 - d. Show existing topography at one foot contour intervals;
 - e. Show existing drainage patterns, including existing retention areas;
 - f. Show proposed topography at one foot contour intervals;
 - g. Show proposed drainage patterns, including proposed retention areas;
 - h. Indicate the final on site and/or off site disposition of any and all deleterious material, including muck and highly plastic clay;
 - i. Show all trees four inches or greater DBH (i.e., trees which may be removed only with a tree removal permit issued pursuant to chapter 14-8);
 - j. Show all trees listed in subsection C.3.i above which are to be removed;
 - k. Provide a tabular summary by species of existing trees listed in subsection C.3.i above which are to remain and to be removed;
 - l. Show the type and general location of existing vegetative cover other than trees greater than four inches DBH;
 - m. Show the type and general location of existing vegetative cover to be removed, including vegetative communities in accordance with Level III or IV of FLCCS;
 - n. Indicate whether or not the property has hydric soils, as identified by the "Soil Survey of Osceola County, Florida." A more detailed soil survey as approved by the city may be used or, where applicable, a statement that no hydric soils exist;
 - o. Be accompanied by any reports required pursuant to subsection C.4 (the city may charge the applicant a reasonable fee for the cost of reviewing these reports and for on-site inspections to determine compliance with the reports as approved subject to conditions and modifications);

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- p. Be accompanied by all other information needed to determine compliance with the land preparation standards set forth in subsection C.4 below, including:
 - i. A narrative and/or graphic explanation demonstrating that the area of land preparation is the minimum necessary to complete development in accordance with an approved building permit, site plan or subdivision approval;
 - ii. A narrative and/or graphic description of erosion and dust control techniques to be employed;
 - iii. A narrative and/or graphic description of the type, source and placement of any and all fill material to be used;
 - iv. A narrative and/or graphic description of methods to be employed to protect trees impacted by grading activities both during and after grading; and
 - v. A narrative and/or graphic description of land preparation phasing.
 - 4. *Site improvement standards.* Site improvements shall conform to the following standards:
 - a. Site improvement shall be confined to the minimum area necessary to complete development in accordance with approved building permits, site plans, and/or subdivision approvals.
 - b. Site improvement processes shall conform to "Chapter 6: Stormwater and Erosion and Sediment Control Best Management Practices for Developing Areas of The Florida Development Manual: A Guide to Sound Land and Water Management" (June 1988) prepared by the Florida Department of Environmental Regulation.
 - c. Site improvements on lots in the conservation overlay district shall comply with section 14-4-7.B.
 - d. Site improvements for lots outside the conservation overlay district shall comply with the following when there is land preparation in areas where the director or department determines that there may be hydric soils as indicated by the hydric soils list in the "Soil Survey of Osceola County Area, Florida" or wetlands vegetation in accordance with Level III or IV of the "Florida Land Cover Classification System" (FLCCS):
 - i. A wetlands conservation impact report prepared in conformance with section 14-3-33 and which has been approved, with or without conditions or modifications, by the city; and
 - ii. All applicable DEP, SFWMD, and ACOE permits.
 - e. Site improvements for lots which have a size of five acres or more and which are outside the conservation overlay district shall comply with the following when there is land preparation in areas where the director or department determines that there may be designated species as defined in chapter 14-2 or any identified habitat listed as threatened or endangered by the Florida Natural Areas Inventory:
 - i. A land clearing conservation impact report prepared in conformance with section 14-3-33 and which has been approved, with or without conditions or modifications, by the city; and
 - ii. All applicable DEP, SFWMD, and ACOE permits.
 - f. Rubble, debris, trash, junk, vegetative matter, hazardous wastes, garbage, tires or similar material shall not be used for fill or otherwise placed on property subject to land preparation.
 - g. Broken concrete and gravel may be used as fill provided that it is free of exposed reinforcing steel and provided it is covered with a minimum of two feet of clean fill.
 - h. No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubber or other waste materials of any kind shall be buried in any land, or left or deposited on any lot pursuant to land preparation.

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5. *Fees.* There are no additional fees for the certification of land preparation plans beyond what is charged for reviewing subdivisions, site plans, building permit requests, and conservation impact reports.

D. *Shorelines.* See section 14-3-33.D.1 for standards relative to Class III shorelines including littoral zones.

(Code 1995, § 14-2-104; Ord. No. 2038, 12-20-1994; Ord. No. 2276, 6-1-1999; Ord. No. 3034, § 1(14-9-4), 8-4-2020)

14-9-5. Mining and excavation.

- A. *Mining prohibited.* Mining and excavation (other than what is necessary for normal development construction or that is allowed in accordance with an approved early land preparation permit) is prohibited within the city.
- B. *Annexation of mining sites.* Any petitioner for annexation on whose land is located a borrow pit or other mining site shall submit a reclamation plan acceptable to the city engineer and based upon city administrative guidelines. The reclamation plan shall be implemented before a development order is issued or within five years of the final approval of the annexation, whichever occurs first. Before final approval of the annexation occurs, the petitioner and the city shall enter into a written agreement suitable to the city attorney which establishes the reclamation requirements in accordance with this section. The intent is to restore the site so that either its appearance resembles other nearby vacant parcels or it complies with the design requirements of section 14-10-3.B.

(Code 1995, § 14-2-105; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-9-5), 8-4-2020)

14-9-6. Vehicular air pollution.

- A. *When an air quality study is required.* The traffic concurrency assessment addresses most vehicular air pollution concerns. Therefore, an air quality study will be required at the site plan stage only if a unique use such as a stadium or arena is proposed. If the use will generate more than 500 peak hour trips, an air quality study analyzing carbon monoxide impacts of the project shall be required.
- B. *Contents of report.* The air quality impact report shall be prepared by a professional acceptable to the city engineer. Use of the most recent version of the Florida Department of Transportation's Carbon Monoxide Screening Test for Urban or Rural Areas (contained in their Project Development and Environment Guidelines) is recommended as a first step screening test. If the project fails the screening test, more complex computer modeling of the site geometry and projected traffic is required. This more thorough analysis should follow the guidance provided by the Florida Department of Environmental Protection's (DEP) Guidelines for Evaluating the Air Quality Impacts of Indirect Sources. This document provides general guidance on the use of the U.S. Environmental Protection Agency's motor vehicle emission factor model, MOBILE5a, and models used to predict pollutant concentrations near roadways, intersections, and parking facilities. The city engineer in turn is authorized to use the services of a qualified professional to review the report (at the applicant's expense) and to assess the impact of the project relative to the National Ambient Air Quality Standard (NAAQS) for carbon monoxide. More detailed guidance should be obtained from the DEP's division of air resources management.
- C. *Mitigation.* If the projected air quality proves unacceptable to the city engineer, the city will require the applicant to increase the capacity of either on-site or off-site traffic facilities and/or decrease project densities/intensities. No project requiring review shall be allowed to proceed unless a qualified professional certifies that the relevant NAAQS will not be violated as a result of the project.

(Code 1995, § 14-2-103; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-9-6), 8-4-2020)

CHAPTER 14-10: SUBDIVISION AND SITE DESIGN; PUBLIC IMPROVEMENTS

14-10-1. Intent.

The intent of this chapter is to establish standards for the subdivision of land, site design, and utility improvements. This chapter includes design requirements; procedures for subdivision approval are contained in chapter 14-3.

Subdivision, site design and utility improvements within the form-based code area shall also comply with the standards in chapter 14-5. Where there are conflicts between those standards and this chapter the standards in chapter 14-5 shall prevail, except that no new right-of-way may have a minimum width less than specified in the portion of Table 7-1 entitled "Design Standards for Streets."

(Code 1995, § 14-2-130; Ord. No. 2038, 12-20-1994; Ord. No. 2692, 6-24-2008; Ord. No. 3034, § 1(14-10-1), 8-4-2020)

14-10-2. Subdivision/lot standards.

- A. *In general.* The design of a proposed subdivision shall be such that satisfactory building sites are provided, all of which are properly related to topography, soils, flood hazards, environmentally sensitive areas, public facilities, anticipated use, and surrounding development. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra parcel depth.
- B. *Required frontage on street.*
 - 1. No subdivision or development (including townhomes on fee simple lots) shall be approved unless such subdivision, development site or lot has frontage on and access from an existing street meeting at least one of the following criteria:
 - a. An existing state, or county highway; or
 - b. A city-maintained street which meets city standards or is secured by a performance bond required under this chapter. Wherever the area to be subdivided is to utilize existing street frontage, such street shall be suitably improved as provided herein; [or]
 - c. A city-approved private street that meets city standards, other than the right-of-way width specified in Table 7-1 (Design Standards for Streets), or is secured by a performance bond required under this chapter.
 - 2. Where rear-loaded lots are created, the rear of each lot shall abut a public or private alley built to city standards.
- C. *Streets within and around a subdivision.* All streets within or adjacent to the proposed subdivision as well as those off-site streets required to be improved as a part of the subdivision, shall be designed, graded, paved, and improved to conform to this section, chapter 14-7, and the city construction standards and specifications, and shall be approved as to design and specification by the city engineer. The city may require special street, curb, gutter, sidewalk, water, sewer and stormwater drainage design and construction. Also see section 9-96(5) and (6).

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- D. *Access to arterials and collectors.* Where a residential subdivision with single family, duplex, or townhouse lots borders on or contains an existing or proposed arterial or collector, the city may require that access to such streets be limited by one of the following means (see also subsection G.3 below). The provisions of this subsection D shall not apply to the form-based code area (see chapter 14-5).
1. *Reverse frontage.* The lots shall back onto the arterial or collector and front on a parallel street. No access shall be provided from the arterial or collector and screening shall be provided in a strip of land along the rear property line of such lots in accordance with section 14-8-17 ([Landscaping and] Buffers Along Rights-of-Way). In addition, access rights shall be dedicated to the city.
 2. *Right angle streets.* A series of loop streets entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial or collector. No access to lots shall be provided from the arterial or collector and screening shall be provided in a strip of land along the property line of lots adjacent to the arterial or collector in accordance with section 14-8-17 ([Landscaping and] Buffers Along Rights-of-Way). In addition, access rights adjacent to the arterial or collector shall be dedicated to the city.
 3. *Frontage road.* A marginal access or service road, separated from the arterial or collector by a planting or grass strip and having access thereto at suitable points.
 4. *Shared access drives.* But only in the case of small subdivisions.
- E. *Landscape strips along roadways and railroads.* The buffer strips required by section 14-8-17 along arterials, collectors, limited access highways and railroads shall be provided above the minimum required lot width or depth and building setback. The buffer strip shall be considered a subdivision improvement and is subject to the requirements in section 14-3-43 (Subdivision Site Improvements).
1. The strip along arterials and collectors may be owned and maintained by the individual lot owners, or it may be placed in a tract to be owned and maintained by the homeowners' association.
 2. The buffer strip shall be designated on the plat as follows: "This strip is reserved for screening. The placement of structures hereon, other than a buffer wall, is prohibited."
- F. *Blocks.*
1. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this prescribed block width may be permitted in blocks adjacent to arterials, collectors, railroads, or waterways.
 2. The lengths, widths and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but generally block lengths in residential areas shall meet the following standards. Sites within the form-based code area shall meet the standards of chapter 14-5.
 - a. Maximum: 1,200 feet.
 - b. Minimum along arterial or collector: 600 feet.
 - c. Minimum along local street: 300 feet.
 3. No residential block shall be more than 480 feet in length without a dedicated alley or pedestrian pathway providing through access.
 4. Easements or rights-of-way for pedestrian ways and bikeways shall be provided in accordance with section 14-7-3.
- G. *Lot shape and dimensions.*
1. Lot dimensions shall comply with the minimum standards of chapters 14-4 and 14-5 except that lots may have a smaller lot area, lot width and lot depth if authorized in accordance with section 14-3-50.B.

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2. The creation of new flag lots is prohibited. In no case shall a lot have less than 30 feet of frontage at the property line (20 feet for townhome lots).
 3. Double frontage and reverse frontage lots shall be avoided in residential districts except where necessary to provide separation of residential development from arterial or collector streets (see section 14-10-2.D.1) or to overcome specific topographical or environmentally sensitive land constraints.
 4. In general, side lot lines shall be at right angles to street lines (or radii to curving street lines) unless a variation from this rule will give a better street or lot plan.
 5. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum setback from both streets (i.e., wider by the footage differential between side yard setbacks for corner lots versus interior lots).
 6. Depth and width of non-residential lots shall be adequate to provide for the off-street parking facilities and other site plan requirements.

H. *Lot grading and drainage.*

1. In the case of single family, duplex, triplex, and townhouse residential lots, no certificate of occupancy shall be issued until final lot grading has been completed in accordance with the approved land preparation plan and, where applicable, an approved subdivision grading plan. All other lots shall be graded in accordance with the approved land preparation plan.
2. Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area as per section 14-10-3 (Stormwater Management).

- I. *Waterbodies/density.* When a waterbody is located or created on a tract being subdivided, said waterbody shall be located on a common tract owned by a homeowners, condo, or property owner's association. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure with a design approved by the city engineer. In no case shall surface waters as defined by the Florida Department of Environmental Protection (DEP) in F.S. § 403.31, floodways, or similar natural features specified by the director be included in meeting the minimum lot size or used to calculate maximum density.

(Code 1995, § 14-2-133; Ord. No. 3034, § 1(14-10-2), 8-4-2020)

14-10-3. Stormwater management.

A. *Administration.*

1. *Stormwater management plan review.* No building permit shall be issued unless the standards in this section have been met. In most cases this will occur at the time of public facility concurrency review in conjunction with a site plan or preliminary subdivision plat. A stormwater management plan in accordance with this chapter and City of Kissimmee Construction Standards and Specifications, which includes all design computations, shall be submitted to the city engineer for approval.
2. *Exemptions.* The following activities shall be exempt from the requirements of this section:
 - a. Single family, duplex, or triplex homes built on individual lots that are part of a larger subdivision with an approved drainage plan.
 - ba.** Maintenance activity that does not change or affect the quality, rate, volume, or location of stormwater flows on the site or runoff from the site.

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- ~~b~~c. Bona fide agricultural pursuits for which a soil conservation plan has been approved by the local soil and water conservation district.
- ~~d~~e. Action taken under emergency conditions to prevent imminent harm or danger to persons or to protect property from imminent fire, violent storms, hurricanes or other hazards.
3. *Maintenance.* The city code enforcement program will include a regular schedule of inspections to ensure the ongoing effectiveness of on-site drainage systems. This shall include inspections to determine that detention ponds or swales have not been filled and that systems are functioning properly after heavy rains.
- B. *Detention/retention.* All new development shall limit off-site stormwater discharge by meeting the following standards:
1. *Off-site discharge.* Peak stormwater discharge from a detention pond on a site to be developed or altered shall not exceed the pre-development peak discharge for the ten-year frequency 72-hour duration storm.
2. ~~Detention/retention~~Water quality. Design wet detention for the first one inch of runoff or a total runoff of 2.5 inches times the percent of imperviousness, whichever is greater. Reductions in the above volumes of 25 percent and 50 percent for dry detention and retention respectively can be applied when conditions permit. Commercial or industrial zoned projects shall provide at least one-half inch dry detention or retention pretreatment as part of the required retention/detention.
~~Retention/detention ponds, for all sites greater than two acres of total area, shall have a minimum of one-foot freeboard. Sites less than or equal to two acres of total area shall meet freeboard requirements as determined by the city engineer.~~
3. Freeboard: Retention/detention ponds, for all sites greater than two acres of total area, shall have a minimum of one-foot freeboard. Sites less than or equal to two acres of total area shall meet freeboard requirements as determined by the City Engineer.
- ~~Runoff velocities. Limit velocities in any new system to a minimum of three feet/second or more for the ten-year storm.~~
- ~~a~~4. *Wet ponds.*
- ~~i~~a. *Slopes.* The sides shall be a minimum of 4:1 down to a point two feet below the control elevation ~~normal low~~ water line; from a point two feet below the control elevation ~~normal low~~ water surface the slope may increase to 2:1.
- ~~ii~~b. *Depth.* The water depth at points in the pond where the slopes have run their maximum shall be a minimum of six feet to prevent growth of weeds. A clear maintenance way 20 feet in width shall be maintained all the way around the pond.
- ~~iii~~c. *Calculations.* Appropriate drainage calculations shall be included to ensure the proper handling of stormwater runoff.
- ~~iv~~d. *Maintenance.* See subsection ~~A.3 above~~D.4 below.
5. ~~b.~~ *Dry ponds.*
- ~~i~~a. *Slopes.* The sides shall not exceed 3:1 except where some special architectural or landscaping effect has been approved.
- ~~ii~~b. *Depth to water table.* The ground surface of the pond bottom shall be a minimum of three feet above the normal wet weather water table. If this is not possible, underdrains may be used to control the water table elevation.
- ~~iii.~~ ~~Grading. Grading shall be done in such a way that adjacent property is not affected.~~

~~ivc.~~ *Rate of drainage.* Dry ponds must be capable of draining 50 percent dry within 24 hours and the remaining 50 percent within another 72 hours.

~~v. — *Water quality.* The ponds shall be designed in conformance with F.A.C. ch. 62-330.301.~~

6. Grading: Grading shall be done in such a manner that any adjacent property is not affected.

7. Conditions of Approval: The ponds shall be designed in conformance with Section 62-330.301 FAC.

- C. *Natural storage areas.* Isolated wetlands and other natural storage areas shall be used whenever feasible for retention and aquifer recharge purposes.
- D. *Drainage easements/*~~*Drainage Rights-of-Way-*~~
1. *General requirements.* Where a development or subdivision is traversed by a watercourse, channel, stream, or drainage way, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.
 2. *Drainage easements.*
 - a. Inclusion of open ditches other than swales is prohibited except where no feasible alternative exists. For underground drainage facilities, perpetual unobstructed easements at least 15 feet in width shall be provided. Greater width may be required dependent on the depth of the drainage facility. Easements shall be indicated on the plat. Where open drainage ditches less than three feet in depth are used, a perpetually, unobstructed maintenance berm of 15 feet on both sides shall be dedicated. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.
 - b. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.
 3. *Drainage rights-of-way.* Where the developer proposes to construct a drainage ditch in excess of three feet deep, or the development encompasses or is directly adjacent to a ditch or drainage way in excess of three feet deep, the developer shall dedicate a right-of-way rather than an easement to the city. The right-of-way shall be of sufficient width to provide a 25-foot maintenance berm on each side of the ditch or drainage way, in addition to the width of the ditch as measured at the top of the slopes.
 4. *Retention/detention ponds.* Any wet retention/detention ponds required for either attenuation of flow or treatment of stormwater shall have sufficient land an easement dedicated to the city to provide a 20-foot maintenance berm around the pond. If access to the pond is not available from an adjacent road, a minimum 30-foot wide access right-of-way tract with easement shall be dedicated to provide access to the ponds.
- E. *Drainage standards for agricultural land.* Any new agricultural activity shall meet the following drainage standards:
1. The natural direction of runoff flow shall not be altered.
 2. No agricultural activity shall be permitted on land shown on the comprehensive plan wetlands map (Map 1-3). See also the conservation overlay district in section 14-4-7.B.
 3. A six-foot natural buffer shall be preserved or provided between any naturally existing water body (pond, lake or stream) and any agricultural activity. Where not now in existence, native indigenous species of vegetation shall be planted in this buffer.
- F. *Inlets.* Storm sewer inlets shall be designed for a storm of a frequency of once every ten years and they shall be checked against a 100-year frequency storm to ensure that floodwater elevations will be below floor

elevations of buildings. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basin shall be used to intercept flow at this point. Surface water drainage patterns shall be shown for each and every lot and block.

G. *Storm drains.*

1. *Location.* The applicant may be required to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities may be located in the road right-of-way where feasible or in perpetual unobstructed easements of appropriate width and shall be constructed in accordance with the city construction standards and specifications.
2. *Accessibility.* Where a public storm sewer is accessible, the applicant shall install linking storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of stormwaters, subject to the specifications of the city engineer. However, in subdivisions containing lots less than 15,000 square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed.
3. *Upstream drainage.* A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The applicant's engineer shall demonstrate to the city engineer the necessary size of the facility, based on construction standards and specifications assuming conditions of maximum potential watershed development permitted by the zoning district.
4. *Downstream drainage.* The applicant shall indicate the subdivision runoff impact on existing downstream drainage facilities outside the area of the subdivision. City drainage studies, together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the city commission may withhold approval of the subdivision until provision has been made for the improvement of said potential condition in such sum as the city engineer shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

5. *Self-Cleaning Velocities:* Pipe velocities in any new system to be a minimum of three feet/second for the 10-year storm.

H. *Other drainage standards.* The following drainage standards shall also be met:

1. *Roadways.* Design subdivision drainage systems for the ten-year storm event, utilizing the Florida Department of Transportation Rainfall Intensity Curves.
2. *Pavement.* Design pavement drainage for ten-year design frequency storms. Roadway elevations shall be above the peak stage of the ten-year 24-hour storm event.
3. *Flood storage.* There shall be no net reduction in the flood storage capacity within a 100-year floodplain. All post developed floodplain storage shall be provided within the ponds and roadways.
4. *Water quality.* All stormwater management systems shall meet the water quality standards (including pollutant removal) of F.A.C. ch. 62-302.

(Code 1995, §§ 14-2-135, 14-2-136; Ord. No. 2038, 12-20-94; Ord. No. 2064, 5-9-1995; Ord. No. 2560, 7-20-2005; Ord. No. 2858, 5-21-2013; Ord. No. 3034, § 1(14-10-3), 8-4-2020)

14-10-4. Potable water facilities.

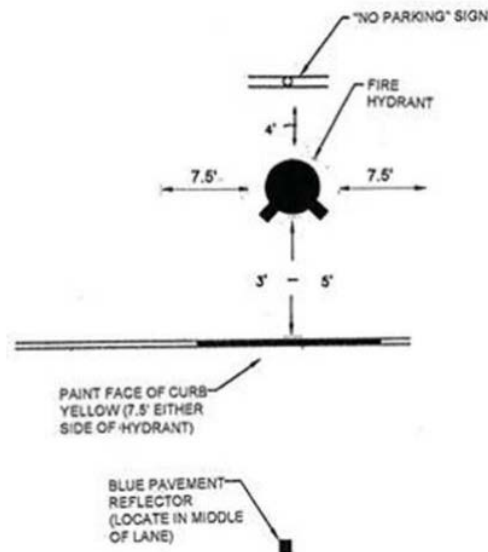
- A. *Public system.* All new development shall connect to the central water system in order to provide a water supply system capable of providing domestic water use and fire protection.
- B. *Standards.* The developer shall install adequate water appurtenances (including fire hydrants), subject to city, Toho Water Authority (TWA), National Fire Prevention Association (NFPA), and state specifications. All water facilities shall be located and designed in accordance with the TWA standards, specifications and details.
- C. *Plat requirements.* The location of all fire hydrants and all water supply improvements shall be shown on the preliminary plat, and the cost of installing such improvements shall be included in the guarantees to be furnished by the developer in accordance with section 14-3-43.

(Code 1995, § 14-2-137; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-10-4), 8-4-2020)

14-10-5. Fire protection.

- A. *Master mains.* No master fire (water) main shall be less than eight inches in diameter. The underground fire mains shall start from the point of service (back flow) to one foot above finish floor. (F.S. §§ 633.02(8) and 633.02.(18).) A Class V contractor's license is required to install an underground fire main. (F.S. § 633.02.4(e).) Underground fire mains shall be submitted for plan review and approval to the Kissimmee Fire Department. The underground fire main shall be inspected and approved by the fire department prior the [to] being put into service. (NFPA 24)
- B. *Single family and duplex subdivisions, and mobile home parks.* Fire hydrants in such developments (if all structures are two stories or less) shall be located at the development entrances and at appropriate street intersections determined by spacing criteria. Additional hydrants shall be spaced along roadways at distances no greater than 500 feet apart, measured within rights-of-way. No habitable structure shall be more than 400 feet from the nearest hydrant by lay of fire hose. Hydrant connections to the mains shall be no less than six inches.
- C. *All other subdivisions or projects.* [All other subdivisions or projects] shall comply with the requirements of the Florida Fire Prevention Code, NFPA 1 current edition and the following:
 - 1. Fire hydrants shall be spaced no greater than 500 feet apart measured within rights-of-way following fire lanes or fire access drives such as a fire department vehicle would follow and the entry door of a structure shall not be more than 400 feet from the nearest hydrant.
 - 2. Hydrants shall be placed at development entrances, other strategic locations and within 100 feet of fire department connections (FDC).
 - 3. Additional fire hydrants maybe required upon calculation of the fire flow. (FFPC NFPA 1 18.5.4.4)
 - 4. Water mains shall be no less than eight inches in diameter.
 - 5. Mains shall be looped except in small subdivisions.
- D. *Private mains.* Private mains shall be installed according to these standards and in addition, comply with the standards of NFPA 24, Standards for the Installation of Private Fire Service Mains and Their Appurtenances, as adopted in the current edition of the Florida Fire Prevention Code, NFPA 1 (as adopted by section 24-19 of the Code of Ordinances).
- E. *Fire hydrant access.*

1. *General.* All hydrants shall be installed in accordance with the requirements of the Florida Fire Prevention Code NFPA 1 current edition (as adopted by section 24-19 of the Code of Ordinances) and the following.
2. *Approval.* All locations are to be approved by the fire department.
3. *Placement.* Hydrants shall be placed a minimum of three feet but not greater than five feet from roadways and driveways and a minimum of 12 feet from the fire department access road (NFPA 1). They shall not be blocked by hedges, trees, parked vehicles, buildings, fences, utility poles, receptacles, signs, and the like. Hydrants shall be placed at least 40 feet from structures. Hydrants within developments shall be placed so that the use of a hydrant and connection to FDCs does not block or prevent the entrance or exit of other emergency vehicles responding to the scene.
4. *Nearby parking.* Parking shall not be allowed for seven feet, six inches to either side of a hydrant. "No Parking" areas associated with a hydrant shall be so marked. An alternate parking arrangement may be allowed if all the following criteria are met:
 - a. A hydrant is placed at the end of a parking island and is clear of the rear of the vehicles expected to be parked there;
 - b. A variance request in accordance with section 24-21 of the Code of Ordinances has been submitted to and approved by the fire department.



- F. *Hydrant specifications.* All fire hydrants shall have one 4½ inch steamer and two 2½ inch ports. Hydrant outlet threads shall have NH standard external threads for the size outlet supplied as specified in NFPA 1963 Standard for Fire Hose Connections (as adopted by section 24-19 of the Code of Ordinances). The center of the steamer shall be 18 inches minimum above grade. The 4½ inch steamer shall be turned to face the road or access drive. If the hydrant is on a corner, the steamer is to face the main road or accessway.
- G. *Hydrant maintenance.* Private hydrants shall be painted with the barrel red. Hydrants owned by the local water authority located within the city limits of Kissimmee shall be painted with the barrel silver. All caps and bonnets will be painted capacity color coded in accordance with the Florida Fire Prevention Code current edition NFPA 291 Recommended Practice for Fire Flow Testing and Marking of Hydrants (as adopted by section 24-19 of the Code of Ordinances). All hydrants are to be maintained in proper working order. All hydrants are to be inspected and have routine maintenance done on them a minimum of once annually in accordance with F.S. § 633.082, by a contractor licensed by the Florida State Fire Marshal. Immediate repair

shall be made on any hydrant that is found to be non-functional, difficult to operate, or have a reduced function or flow. Repair and maintenance shall be made by the entity legally responsible for the hydrant. All hydrants are to be marked with blue road reflectors per the following standards:

1. The marker shall be installed in the center of the driving lane in front of the fire hydrant on the same side of the street as the fire hydrant.
 2. The marker shall be Model 911A bidirectional.
 3. Marker size shall be four inches by four inches by three-fourths inch.
 4. Marker shall be bonded to roadways by using a two-part epoxy adhesive or other approved material.
- H. *Hydrant protection.* Fire hydrants in commercial and industrial areas or any other area where a hydrant may be endangered by vehicles shall have guard posts. The post shall not be placed in such a manner to be directly in front of a port or obstruct fire department use or be closer than three feet to the hydrant.
- I. *Fire department connections (FDC).* Fire department connections for fire sprinkler systems, standpipe systems, and combined systems shall meet the same standards as those for fire hydrants and undergrounds which are applicable to the FDCs. For NFPA 13 systems, a hydrant shall be placed within 100 feet of an FDC and the FDC shall be a minimum of 30 feet from the building. The FDC for 13R systems shall be located on an exterior wall of the building at the riser with no specific distance from a hydrant.
- J. *Design standards for FDS signs (wall and post).*
1. All FDCs are to be marked with a fire department approved sign. The sign shall be designed in accordance with Florida Department of Transportation standards for information signage.
 2. Signage background will be contrasting in color to lettering and shall be either: white with red lettering or red with white lettering. The letters "FDC" shall have a 1¼ inch minimum brush stroke.
- K. *Signage.* The Fire Department Connection (FDC) and the backflow preventer shall be marked with fire department approved signs designed in accordance with Florida Department of Transportation standards and the following:
1. The signage shall either have a white background and red lettering or red background with white lettering. Lettering shall have a minimum of 1¼ inch brush stroke.
 2. FDC signage shall have the letters "FDC" and the address of the building it serves.
 3. The backflow preventer shall have the address of the building it serves.

(Code 1995, § 14-2-138; Ord. No. 2038, 12-20-1994; Ord. No. 2749, 4-13-2010; Ord. No. 3034, § 1(14-10-5), 8-4-2020)

14-10-6. Sewage Facilities.

- A. *General requirements.* The applicant shall install sanitary sewer facilities in a manner prescribed by Toho Water Authority Standards, Specifications and Details. Plans shall be approved by TWA and, where appropriate, the county department of health and state agencies.
- B. *Subdivisions.* All new subdivisions as well as multiple family and non-residential development within the city which are served by existing or planned future expansions of the central wastewater collection and disposal system shall be required to connect to the central wastewater system pursuant to this chapter.
- C. *Other development permits.* Where public sanitary sewerage systems are not reasonably accessible, private wastewater disposal systems are acceptable as an interim measure for single family detached houses only, providing such facilities are approved by the director, and the department of health. However, all private

wastewater collection disposal systems shall be designed to facilitate mandatory hookups to the public wastewater system when the public system becomes available. See also chapter 10 of the Code.

D. *Design criteria for sanitary sewer.*

1. *Design factors.* Sanitary sewer systems should be designed for the anticipated population. Due consideration should be given to the future land use and public facilities elements of the comprehensive plan, and the latest TWA water and sewer system master plan.
2. *Sanitary sewer systems.* Sanitary sewer systems shall be designed in accordance with the standards and design criteria of TWA Standards, Specifications and Details.

(Code 1995, § 14-2-139; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-10-6), 8-4-2020)

14-10-7. Other utilities.

- A. *Location.* All utility lines, including, but not limited to, gas, electric, telephone and cable TV, shall be located underground. The underground installation of bulk electric power supply lines, including, but not limited to, transmission lines and primary distribution feeder lines, shall not be required. Wherever existing utility facilities are located aboveground, except where existing on public roads and rights-of-way, they should be removed and placed underground. Underground service connections to the street property line of each platted lot shall be installed at the developer's expense. Electric power utilities shall normally be in a ten-foot easement behind the sidewalk. Transformers shall normally be located within the easement on side lot lines. Final location of transformers shall be approved by the Kissimmee Utility Authority.
- B. *Easements.* When necessary to accommodate utilities, easements shall be centered on rear lot lines; such easements shall be at least 15 feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties. Where necessary for access, similar easements shall be provided along the side lot line.
- C. *Construction of electric utilities.* The developer shall install underground conduits for electric power lines in accordance with the specifications of the Kissimmee Utility Authority (KUA). These underground conduits shall include provisions for street lighting as approved by the KUA.

(Code 1995, § 14-2-141; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-10-7), 8-4-2020)

14-10-8. Dumpsters.

- A. *Below ground/Nord easy containers.* City approved below ground dumpsters shall be required for multi-family and townhome subdivisions and projects located within the Downtown Kissimmee CRA area. The public works director may provide an exemption to this requirement if it is determined that below ground dumpster service cannot be provided.
- B. *Below ground installation.* For all below ground dumpsters, the city will provide the containers; however, the property owner is responsible for installing the dumpster according to city specifications.
- C. *Concrete pad.* Above ground dumpsters require a minimum four-inch-thick concrete pad to accommodate the dumpster. The property owner may opt for a concrete pad that can accommodate a waste and recycling dumpster or shall provide two pads, one accommodating waste and the other recycling.
- D. *Enclosure.* Dumpster enclosures shall be a minimum of six feet in height and shall be made of a finished, maintenance free material such as brick, split-faced masonry block, textured concrete or similar materials, which shall be consistent with the architectural style of the building(s) on site. Dumpsters and enclosures shall not be located between any building façade and adjacent street, except lots with three or more streets

frontages, the dumpster and enclosure shall be located in the rear of the lot behind the façade of the building. A solid gate, made from pressure treated wood or metal, shall be installed on the enclosure and shall remain closed at all times. Chain link is not permitted. Where provided, dumpsters shall remain within the enclosure at all times. Enclosures are not required around underground refuse collection systems.

- E. *Trash cans.* Trash cans utilized for curb side pick-up shall be stored out of public view. A fence, wall or shrubs may be used for screening.

(Code 1995, § 14-2-94; Ord. No. 3034, § 1(14-10-8), 8-4-2020)

14-10-9. Site lighting.

An application for outdoor lighting plan approval must be submitted to the city on a form provided for such purpose. The application form must include a description of all the information, documents, and other submissions that city officials will need in order to review the proposal for compliance with this Code. At a minimum, the outdoor lighting plan must include or conform to the following:

- A. A photometric plan covering the entire site, including any new street right-of-way. The photometric plan must provide enough information to determine the potential for direct illumination of the site's outdoor areas, spill illumination, and compliance with this part [section]. The photometric plan must show the illumination levels (in footcandles) for all exterior fixtures.
- B. The plan must be prepared by a licensed design professional, who shall sign and seal the plans and certify that the plan complies with this part [section].
- C. The plan must be prepared in a scale that is easily legible.
- D. The plan must show all proposed and existing buildings on the site, pedestrian and vehicular areas, other above-ground improvements, the horizontal location of all proposed and existing outdoor lighting fixtures including pole and wall-mounted fixtures, mounting heights of each fixture, overall height of each pole above grade, location of externally illuminated signs and associated fixtures, and the location of all architectural and landscape lighting fixtures.
- E. The plan must show initial horizontal illuminance values in footcandles for the area to be illuminated. These values must be calculated at grade and include contributions from all onsite fixtures. The light loss factor may not be less than 0.8.
- F. The manufacturer's cut sheets (specifications) for each proposed fixture must be submitted. Each cut sheet must be legible and must identify the manufacturer's catalog number. A fixture schedule must be provided with this information and the plan cross-reference identification. Drawings of all typical fixtures must show the directional controls such as shields, reflectors, refractors, and lenses that will aim and limit the angle of illumination. Details must show the vertical angle of illumination that will determine shielding angle.
- G. A lighting fixture schedule that presents the following information:
 - 1. Lighting fixture plan identification symbol or abbreviation.
 - 2. Fixture type, including the manufacturer's product identification catalog number.
 - 3. Lamp type and wattage or LED luminaire wattage.
 - 4. Fixture mounting height.
 - 5. Light loss factors used in the plans.

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- H. The plan must plot footcandles of illumination at ground level to the nearest tenth of a footcandle, and at horizontal grid intervals of no more than ten feet. Light intensity values must be maintained values calculated using a maintenance factor of less than 0.8.
 - I. Illumination levels. Illumination levels may not exceed 0.5 footcandles at the property line where the neighboring property is a residential use or is zoned for a residential use. For all other uses, illumination levels may not exceed 1.0 footcandles at the property line. To avoid glare and light spilling onto neighboring properties, fixtures must be installed with shields and reflectors.
 - J. Light fixtures shall conform to the Joint International Dark-Sky Association and Illuminating Engineering Society Model Lighting Ordinance, as amended.
 - K. Except within the public rights-of-way, light fixtures may not exceed 30 feet in height when located within a parking lot and may not otherwise exceed 15 feet in height adjacent to pedestrian facilities.

(Ord. No. 3034, § 1(14-10-9), 8-4-2020)

14-10-10. Open space.

All residential developments are subject to the following open space provisions unless otherwise required by this Code:

- A. ~~A.~~ Amount of open space. A total of 25 percent of the buildable acreage (excluding wetlands) of residential development shall be devoted to open space, as defined in chapter 14-2. Said open space shall be under the jurisdiction of the property owners/condominium association or the city. Public and private street rights-of-way and private street tracts or easements are not considered open space and receive no credit toward the open space requirement. Sidewalks within public or private street tracts, and any sidewalk meant to connect to buildings, parking and streets shall not be counted towards the open space requirements.

 - a. Residential development shall provide active recreation areas within the required open space. These active recreation areas shall be at least equal to 3% of the buildable land on the project site, or 15-square feet per dwelling unit, whichever is greater.
 - b. Residential development shall provide passive recreation areas within the required open space. These passive recreation areas shall be at least equal to 15% of the buildable land on the project site. A portion of the passive recreation requirement may be located on unbuildable acreage if the city determines that it is appropriate.
- B. A minimum of 51 percent of the required open space acreage shall be centrally located to provide a focal point of social and recreational activity for the development, or portion thereof, and shall have frontage on, and direct access to, a public or private street. Location of all open space acreage amenities shall comply with the following standards:
 - 1. Open space dedicated to the city shall be located in areas accessible to all residents of the development and the general public.
 - 2. All amenities and open space acreage shall not be located within any fee simple lot, nor within the required perimeter setbacks.
 - 3. All active and passive recreational open space acreage and amenities shall be at least 25 feet from any lot and/or building.
- C. *Design and amenities.* No area may be accepted as required open space unless it meets the following requirements:

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1. Lakes or other waterways, including retention and detention ponds, may account for up to one quarter of the open space requirement, provided they are designed as amenities (e.g., with meandering banks, decreased slopes, docks, gazebos, park benches, pathways and similar features).
 2. All open space, including active and passive recreational open space acreage and amenities, shall be at least 50 feet in width.
 3. The required open space amenities shall not be located within the required buffers.
 4. Amenities shall not be located within any dry retention pond or swale.
 5. All amenities and uses shall be connected by a continuous network of sidewalks, a minimum of six feet in width, to form links on-site and off-site.
 6. Indoor, covered and impervious recreational spaces (e.g., swimming pools, sports courts, weight rooms, clubhouse, spas, and the like) shall not exceed 30 percent of the required open space acreage.
 7. If bike paths, pedestrian trails, nature trails or similar pathways are provided, such paths shall be a minimum of 12 feet in width and form a continuous loop. The path/trail must be paved.
 8. Each open space tract provided to satisfy open space requirements within the development shall contain an average of at least 15 trees per acre, each with a minimum caliper of 2½ inches at the time of planting.
 9. The shape, size, and character of the open space shall be suitable for the size, density, topography, and character of the development and must be large enough for its intended use.
 10. The open space shall be for recreational purposes or shall provide a suitable amenity for the residents of the development.
 11. The open space will be suitably improved for its intended use, except that open space containing natural features worthy of preservation should be left unimproved. The buildings, structures, and improvements to be permitted in the open space are appropriate to the uses which are authorized for the open space.
 12. No parking facilities shall be located in areas designated as open space unless the parking facilities are intended to provide access to the open space area and are not intended to meet the requirements of this chapter for other uses.
- D. *Phasing.* Required open space shall be calculated for each phase of a multiphase project. Open space areas shall be located contiguous to each other and in a manner that provides for a harmonious flow from one phase to the next where feasible. Open space must be developed according to a schedule tied to a percentage of building permits to assure completion prior to final build-out, said schedule to be approved at time of rezoning. Open space for each phase shall be provided at the same time as or in advance of the phase for which it is required.

(Code 1995, §§ 14-2-50, 14-2-52; Ord. No. 3034, § 1(14-10-10), 8-4-2020)

14-10-11. Parks and recreation facilities.

All residential developments, including PUDs, are required to provide park and recreation facilities as follows:

- A. In residential subdivisions of greater than 20 lots, active recreation for use of the subdivision's residents shall be provided on clearly designated tracts. The tract(s) shall be a minimum of one-half acre in size and shall be maintained by a homeowners' association or other entity acceptable to the

city. For subdivisions of 50 lots or greater, a tract of at least one acre shall be provided. Developments with more than 100 units shall provide a neighborhood park, clubhouse or community center, and sufficient surrounding open space to form a neighborhood square within 1,000 feet of the geographic center of each neighborhood, unless a natural feature to accommodate the use exists. The specific number of tracts which comprise the required acreage and the location of the tracts shall be dictated by the design of the subdivision and the need to maximize recreational value and accessibility for the residents of the subdivision. Uses may include, but not be limited to, tot lots, tennis courts, playgrounds, basketball courts and swimming pools.

- B. The recreational sites shall be developed in conjunction with the construction of the homes in the subdivision. The proposed recreational facilities shall be indicated on the preliminary plat or a subsequent site plan submitted for approval to the city prior to the granting of any certificates of occupancy for any non-sales model homes in the development. The site plan shall illustrate the type and location of all facilities. The park site(s) may be phased consistent with the phasing of the subdivision, but recreation for each phase must be developed prior to occupancy of homes in the subsequent phases. If a subdivision has only a single phase, the recreational site must be constructed before 50 percent of the homes in the subdivision have received their certificates of occupancy.
- C. Retention ponds may be integrated into the recreational system to provide a greater diversity in the type of recreational activities for the residents of the subdivision. If the developer can demonstrate creativity in the design (e.g., meandering bank and decreased slope) and usage (e.g., docks, gazebos, park benches, and pathways) of the ponds for legitimate recreational uses, a credit of 25 percent may be given towards the required active recreational acreage.

(Code 1995, § 14-2-143; Ord. No. 2038, 12-20-1994; Ord. No. 2400, 12-11-2001; Ord. No. 3034, § 1(14-10-11), 8-4-2020)

14-10-12. Performance guarantees.

Performance guarantees in the form of a surety bond shall be required to include an amount to guarantee completion of all requirements contained in this chapter, including, but not limited to, final grading, lot drainage, removal of debris and waste, streets, water, sewer, and all other required lot improvements. See section 14-3-43 for requirements and other details on this subject.

(Code 1995, § 14-2-146; Ord. No. 2038, 12-20-1994; Ord. No. 3034, § 1(14-10-12), 8-4-2020)

14-10-13. Traditional neighborhood design standards.

- A. *Intent.* The purpose of these standards is to allow the development of land consistent with the residential design principles of "traditional" neighborhoods. These principles provide an opportunity for diversification and integration of various land uses, including residential, retail, personal services and recreation, within close proximity to one another thereby providing for many of the daily needs of the residents of the neighborhood. These standards are intended to encourage development which is self-contained, highly inter-connective, and pedestrian-oriented to encourage socializing, walking and other aspects of a vibrant outdoor urban experience. These standards are supplemental to all other applicable standards within this chapter, but shall prevail when in conflict with other requirements.
- B. *Land use.*
 - 1. Similar land uses (uses within the same land use category) shall generally face across streets. Dissimilar uses, when adjacent, shall abut at rear lot lines. Parks, squares and civic uses are exempt from this standard.

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2. The development shall contain a clubhouse or community center and sufficient surrounding open space to form a neighborhood square within 1,000 feet of the geographic center of each neighborhood. Non-residential uses are encouraged to be located within this area where appropriate given the land use classification of the area.
 3. Neighborhoods shall be limited in size or shape to allow residents to walk to the neighborhood square in five to ten minutes (generally 1,320 feet or less). Each neighborhood shall be small enough so that at least 95 percent of the housing units are within 1,320 feet of the neighborhood square.
 4. When authorized by the land use classification, each neighborhood may provide areas of mixed-use (residential and commercial) buildings, with residential uses generally located on the second floor and above, and shall encourage the clustering of living, working, recreation, shopping and civic uses by design.

C. *Streets and alleys.*

1. Streets shall provide access to all lots, including townhouse lots. It is strongly encouraged that all residential lots abut an alley, unless good cause exists to omit alleys. Where alleys are provided, a continuous network of alleys to the rear of lots within the development shall be provided.
2. All streets and alleys shall connect to other streets within the development. All streets shall connect to existing and projected streets outside of the development when physically possible. Cul-de-sacs or dead-end streets are not permitted within the development unless necessary due to physical or geographic constraints such as a wetland, body of water, limited access highway or railroad. Gated streets are not permitted unless approved by the city commission as part of a short-term rental or time-share development. The commission's decision to allow gated streets in such cases shall be based on the determination that restricted access for the development would be consistent with the character of surrounding development and would not impede the interconnectivity of the surrounding street network. The commission's approval of gated streets in such instances shall control over the requirements of sections 14-4-8.C, [and] 14-6-44.
3. Rights-of-way for bi-directional alleys shall be a minimum of 24 feet in width with a minimum of 20 feet of pavement for bi-directional travel lanes, while rights-of-way for one-way alleys shall be a minimum of 16 feet in width with a minimum pavement width of 12 feet.
4. A system of sidewalks, bicycles and pedestrian paths shall provide connections between all residences, shopping, employment and recreation within and, where possible, adjacent to the neighborhood.
5. Sidewalks abutting all residential lots shall be separated from the edge of the street by a planting strip. This planting strip shall have a minimum width of six feet and be sufficiently designed to accommodate street trees, street lighting, fire hydrants and other required infrastructure.
6. No block shall be more than 480 feet in length without a dedicated alley or pedestrian pathway providing through access.
7. Street lighting shall be provided along all streets within the area between sidewalks and curbs, at intervals no less than 75 feet in length, and shall comply with illumination standards adopted by the city. Street lighting structures shall not exceed 18 feet in height to avoid conflicts with street trees and to provide pedestrian-scale lighting. Where sidewalks abut the curb, street lighting structures shall be provided as close to the curb as possible.
8. Traffic calming measures, such as traffic circles or streets paved with bricks or pavers, are encouraged.
9. Street trees shall be planted in all rights-of-way in accordance with the city's street tree requirements contained section 14-8-22. Street trees shall be used as a design element to provide visual identity to the development and shade for the pedestrian. All street trees planted in accordance with this section shall be maintained by the home or property owners' association of the development.

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10. No above-grade mechanical equipment, including utility cabinets, transformers and the like, shall be permitted along any street right-of-way unless suitably screened from public view through landscaping or alternative visual screening. Such equipment may be permitted along alley rights-of-way or within easements that are not visible from the street right-of-way. Use of underground vaults for mechanical equipment and utilities on street rights-of-way is permitted.
 11. All streets and alleys within the development shall be curbed. Curbs for streets shall be raised Type F style curbs, however curbs for alleys may be drop curb or shoulder gutter style (i.e., Miami curbs).

D. *Lots and buildings.*

1. Residential dwellings shall be set back a minimum of five feet and a maximum of 20 feet from the front lot line. Variation in building setbacks along each block is encouraged.
2. Consistent build-to lines shall be established for non-residential, multiple family and mixed-use buildings along all streets and public space frontages. This build-to line shall determine the width and ratio of enclosure desired for each street or public space. A minimum percentage build-out at the build-to line shall be established on the plan along all streets and public square frontages.
3. All buildings shall have their main entrance opening to a street.
4. Stoops, colonnades, awnings, projecting signs and open-sided porches may encroach up to ten feet into the front setback, but in no case shall such elements be set back less than five feet from the front property line.
5. A minimum of 50 percent of all residential dwellings shall have a front porch or patio suitable in size to accommodate seating for the dwelling's occupants.
6. In order to make the living area of a dwelling visually more dominant than its parking facilities, all garages shall be subject to the following:
 - a. Attached garages with openings for vehicles facing the front lot line shall be set back at least ten feet behind the front façade of the principal structure or any porch attached to the principal structure in accordance with the provisions of paragraph D.5 above. An additional setback for the garage may be required in order to accommodate the off-street parking requirements of subsection E.1, below.
 - b. No more than 40 percent of the total linear frontage of the front façade of the principal structure shall be comprised of garage door openings. Garage doors facing the front lot line shall be complementary in design to the architectural style of the principal structure and shall be designed with window panels or other decorative features to minimize the visual impact of the garage door's scale when viewed from the street.
 - c. Attached garages with openings facing the side, street side or rear lot line shall be subject to the setbacks established for principal structures.
 - d. Detached garages shall be set back at least ten feet behind the principal structure.
7. All residential dwellings shall be raised a minimum of 18 inches from finished exterior finished grade. Waivers from this requirement may be approved during site plan review by DRC for alternative design proposals that are consistent with this provision's intent of requiring traditional architectural design themes.
8. To avoid repetition of architectural styles, a method to ensure variation of building designs and architectural styles within the project shall be required.
9. All outdoor mechanical equipment, such as heating, air conditioning and ventilation systems, shall be visually screened from the street.

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10. All solid waste, recycling and yard trash containers on lots containing non-residential, multiple family and mixed-use structures shall be located in parking areas or in a location remote from the street. Such containers shall be screened to minimize sound and visibility from adjacent residences and streets and said screening shall be constructed in materials which are consistent with the adopted architectural style of the development.
 11. Since street trees are required along all streets within the proposed development, one of the two trees required on each lot per section 14-8-20 shall be planted in the required rear yard. No existing tree or trees planted within any project developed in accordance with this section shall be removed without first obtaining a permit for removal in accordance with the permitting requirements of section 14-8-5.

E. *Parking.*

1. Driveways for single family, duplex, triplex and townhouse residential structures shall be of sufficient width and length to accommodate two exterior off-street parking spaces of at least eight feet by 18 feet in size. Such spaces may be located either side by side or front-to-back and shall be located to the side or rear of the principal structure.
2. Parking lots for non-residential and multiple family structures shall be located behind or to the side of the principal structures which front on a street.
3. Parking serving duplex, triplex and townhouse structures shall be accommodated through individual driveways for each lot similar to the parking method used for single family dwellings. Accordingly, parking lots for such unit types are prohibited to ensure the residential character of the development, unless designed as common parking areas for multiple dwellings located to the rear of the buildings and accessible only from an alley.
4. The parking requirements outlined in section 14-7-22 for nonresidential uses within traditional neighborhood developments may be waived by up to 50 percent by the city commission, after review by the PAB, provided the commission determines that said non-residential uses are primarily oriented to serve residents and businesses within the neighborhood.

(Code 1995, § 14-2-53; Ord. No. 3034, § 1(14-10-13), 8-4-2020)

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State Of Florida
County Of Orange

Before the undersigned authority personally appeared
Rose Williams, who on oath says that he or she is a duly authorized
representative of the ORLANDO SENTINEL, a DAILY newspaper
published in ORANGE County, Florida; that the attached copy of
advertisement, being a Legal Notice in:

The matter of 11200-Misc. Legal
Was published in said newspaper by print in the issues of, or by publication
on the newspaper's website, if authorized on Oct 22, 2022.

Affiant further says that the newspaper complies with all legal requirements
for publication in Chapter 50, Florida Statutes.



Signature of Affiant

Rose Williams

Name of Affiant

Sworn to and subscribed before me on this 24 day of October, 2022,
by above Affiant, who is personally known to me (X) or who has produced identification ().



Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped

7313466

**NOTICE OF PUBLIC HEARINGS CITY
COMMISSION**

This is to inform you that the City Commission will hold a Public Hearing concerning this amendment on Tuesday, November 1, 2022 and on Tuesday November 15, 2022 at 6:00 p.m. in the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida 34741.

All interested parties may appear and be heard on the above date. Written opinion will be received until 5:30p.m., Tuesday, November 1, 2022 and on Tuesday November 15, 2022.

The proposed amendment to be discussed at the public hearing will be as follows:

Proposed Ordinance# 22-017: AN ORDINANCE AMENDING THE CODE OF THE CITY OF KISSIMMEE, FLORIDA CODE OF ORDINANCES TITLES; UPDATING LANGUAGE THROUGHOUT THE LAND DEVELOPMENT CODE, CHAPTER 14; MOVING A STATEMENT IN CODE OF ORDINANCES SECTION 42-48 TO SECTION 14-4-6.A.9 IN THE LAND DEVELOPMENT CODE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE

The proposed amendment and the supporting documents may be inspected in the Development Services Department, City Hall between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Any questions may be directed to the Development Services Department at (407) 518-2140 or planning@kissimmee.gov

Any interested party wanting to be heard on this issue may submit testimony to be read into the official record to CityClerkEmail@kissimmee.gov prior to the start of the meeting or may be heard by participating in person.

Reference # LUPA-22-0005
CITY COMMISSION

LDC Glitch Ordinance
KISSIMMEE, FLORIDA

In accordance with Florida Statute 286.26, persons needing assistance to participate in any of these proceedings should contact the Office of the City Clerk (407) 518-2308 prior to the meeting. (FS286.26)

In accordance with Florida Statute 286.0105: any person wishing to appeal any decision made by the City Commission with respect to any matter considered at such meeting or hearing will need a record of the proceedings, and for such purposes may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is made.
10/22/2022 7313466

7313466

ITEM 4.C

Public Hearing - First Reading - Car Washes in the Form-Based Code: ZMA-22-0003 - Proposed Ordinance #22-018

AN ORDINANCE AMENDING THE CITY OF KISSIMMEE, FLORIDA CODE OF ORDINANCES PART III, CHAPTER 14-5-8; ADDING SECTION 14-5-8.G. TO ESTABLISH DEVELOPMENT STANDARDS FOR CAR WASHES WITHIN THE FORM-BASED CODE AREA; AMENDING 14-5-6 SITE STANDARDS, TABLE 5-1 PERMITTED USES TO ADD CAR WASH AS A PERMITTED USE IN THE T5-U TRANSECT ZONE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

Request

Requesting approval of standards for car washes in the Form-Based Code area.

Explanation

This is a request to amend the T5-U transect zone to add car washes as a permitted use and establish development standards for them. While car washes are auto-centric, a use typically discouraged in the Form-Based Code, the proposed standards include requirements for active uses on frontage streets, locations of bay doors, and screening requirements that meet the intent of that chapter. The proposed standards also include location and noise measurement criteria to protect other uses, particularly residential, from vacuum stations and similar ancillary activities.

Recommendation

The Development Review Committee (DRC) recommended approval on September 6, 2022.

The Planning Advisory Board (PAB) recommended approval on October 5, 2022.

REQUESTED CITY COMMISSION ACTION:

Adopt

Department: Development Services

Presenter: Ashley Cornelison

Attachment(s):

1. Proposed Ordinance 22-018
2. Advertisement

PROPOSED ORDINANCE #22-018

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY OF KISSIMMEE, FLORIDA CODE OF ORDINANCES PART III, CHAPTER 14-5-8; ADDING SECTION 14-5-8.G. TO ESTABLISH DEVELOPMENT STANDARDS FOR CAR WASHES WITHIN THE FORM-BASED CODE AREA; AMENDING 14-5-6 SITE STANDARDS, TABLE 5-1 PERMITTED USES TO ADD CAR WASH AS A PERMITTED USE IN THE T5-U TRANSECT ZONE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA THAT PART III, CHAPTER 14-5-8 AND 14-5-6 OF THE CODE OF ORDINANCES IS AMENDED TO READ AS FOLLOWS:

SECTION 1.

14-5-8. - Supplemental site and building standards.

G. Car Wash Establishment (Primary Use).

1. Drive-through, mechanical, or automatic car washes are only permitted on properties with frontage along John Young Parkway, a minimum lot width of 200 feet and a minimum lot depth of 250 feet.
2. An active office/retail use must cover the entire width of the car wash building facing the frontage street. A customer waiting area/lounge may also be in this space. This can be in the form of a liner building or separate building. Faux frontages are not permissible. The façade of the office/retail must meet the site and building standards of Chapter 14-5. If located on a double frontage lot, both facades facing streets must be designed as building fronts.
3. The orientation and design of the car wash building must be such that the car wash tunnel openings, service and storage, and refuse enclosures are not visible from any street.
4. No drive aisles, parking, or other business activity can be located between a building and the primary frontage street.
5. A street wall meeting the standards of section 14-5-11.F shall be provided to screen vehicular use areas. Landscaping (up to three feet in height) shall be provided in front of the wall to soften the treatment.
6. Ancillary uses such as vacuum stations and vehicle detailing stations must be located adjacent to the rear of the car wash building and are not permitted along the periphery of the property.

7. All standards of Chapter 14-5 must be met.
8. A report showing the noise levels at all property lines must be provided with the site plan application. The report must include the noise generated by the car wash at full operating capacity as well as any other accessory services such as vacuums. Noise levels at all property lines must comply with the Code of Ordinances City of Kissimmee, Florida, Part II – Code of General Ordinances, Chapter 22 – Environment, Article II – Noise in order for the use to be approved.
9. As a traditional car wash does not meet the intent of the Form-Based Code (FBC), the standards above were created to allow car washes without compromising the intent of the FBC. The above standards shall not qualify for sections 14-3-50 Modification of standards and lot size waivers.

14-5-6. Site Standards.

A. Permitted uses.

Table 5-1 lists the various types of uses allowed in the form-based code area and identifies whether a use is permitted (P), conditional (C), or not permitted (N) within the noted transect zone. uses not listed in Table 5-1 are prohibited. Refer to section 14-5-3, Special Requirements Plan, for use restrictions in certain areas.

Mixed-use developments are allowed in all zones, provided that the individual uses are all allowed in the zone. If one of the uses requires conditional use, the entire development shall undergo conditional use review.

All developments, regardless of the use classification, shall comply with the standards of this chapter and all other applicable chapters of the Land Development Code.

Table 5-1: Permitted Uses

	See Section	T1	T3	T4-R	T4-O	T5-M	T5-U	T6	SD
COMMERCIAL/RETAIL USES									
Drive through facilities with an allowed use	14-6-40 14-5-8.B	N	N	N	N	N	C	C	N
Micro-brewery	Ch. 5-3	N	N	N	N	P	P	P	N
Pawn shop	5-7	N	N	N	N	N	C	N	N
Restaurants	14-6-9	N	N	N	C	P	P	P	C
Retail sales establishments		N	N	N	C	P	P	P	C
CIVIC/INSTITUTIONAL USES									
Churches		N	N	N	N	N	P	N	N
Civic, social clubs		N	N	N	N	N	C	N	N
Colleges and universities		N	N	N	N	C	C	C	P
Community centers		N	N	N	N	C	C	C	N

Educational service establishments		N	N	N	N	C	C	C	C
Hospitals		N	N	N	N	N	N	N	P
Institutional care facilities		N	N	N	N	C	C	C	C
Libraries and museums		N	N	N	N	P	P	P	P
Public uses		N	N	N	N	P	P	P	P
Schools, elementary and middle*		N	N	N	N	C	C	C	P
Schools, high*		N	N	N	N	N	N	N	P
LODGING									
Bed and breakfast establishments	14-6-36	N	N	N	C	C	N	N	N
Hotels and motels		N	N	N	N	C	P	P	N
MISCELLANEOUS USES									
Heliports, medical and law enforcement	14-6-6	N	N	N	N	N	N	N	C
RECREATION USES									
Recreation areas, passive		P	P	P	P	P	P	P	P
Recreation, indoor (private)		N	N	N	C	P	P	P	P
Recreation, active/outdoor (private)		N	N	N	N	N	C	N	N
RESIDENTIAL USES									
Accessory dwelling units	14-6-2	N	P	P	P	N	N	N	N
Community residential homes	14-6-39	N	N	P	P	N	N	N	N
Duplex dwellings	14-6-43	N	P	P	P	N	N	N	N
Multiple family residential	14-6-43	N	N	C	C	P	P	P	P
Single family dwellings (detached)	14-6-43	N	P	P	P	N	N	N	N
Townhome	14-6-43	N	N	C	C	P	P	P	P
Triplex	14-6-43	N	N	C	C	P	P	P	N
SERVICE USES									
Child care facilities	14-6-37	N	N	N	C	C	C	N	N
Equipment sales and leasing, light		N	N	N	N	N	P	N	N
Financial institutions		N	N	N	N	P	P	P	N
<u>Car Wash</u>	<u>14-5-8.G</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P</u>	<u>N</u>	<u>N</u>
Gasoline service stations	14-5-	N	N	N	N	N	C	N	N

	8.A								
Motor vehicle repair, light	14-5-8.C	N	N	N	N	N	C	N	N
Occult science establishment	Ch. 5-6	N	N	N	N	N	C	N	N
Office establishments		N	N	N	C	P	P	P	N
Parking garages, principal use		N	N	N	N	C	C	C	N
Rental, sale and leasing of mopeds, scooters, and/or neighborhood electric vehicles	14-5-8.C	N	N	N	N	N	C	N	N
Repair service establishments, light		N	N	N	N	C	P	C	N
Research & development establishments		N	N	N	N	P	P	P	C
Sales, rental and leasing (vehicles other than heavy commercial vehicles)	14-6-10 14-5-8.C	N	N	N	N	N	C	N	N
Service establishment, business		N	N	N	C	P	P	P	N
Service establishment, personal		N	N	N	C	P	P	P	N
Storage facilities, self-service	14-5-8.G	N	N	N	N	N	C	N	N
Veterinary clinics		N	N	N	N	P	P	N	N
UTILITY USES									
Communication towers and facilities	14-6-38	N	N	N	N	N	C	N	N
Utility Facilities, Minor	14-6-46	N	N	N	C	C	C	C	C
TRANSPORTATION USES									
Bus depots		N	N	N	N	N	C	N	N
Rail, bus and taxi stations with no onsite vehicle storage and/or repair		N	N	N	N	C	C	C	N
Rail stations		N	N	N	N	N	N	P	N

**Public and private schools shall not be permitted within the Vine Street CRA unless there are 2,000 residential dwelling units that have received a certificate of occupancy to support a student population creating the demand for new facilities. This provision shall be evaluated with each review of the CRA districts as required by the comprehensive plan.*

SECTION 2. All ordinances in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect immediately upon its passage

BE IT ORDAINED, by the City Commission of the City of Kissimmee, this _____ day of _____, 20____.

Mayor-Commissioner

ATTEST:

City Clerk

Approved as to form and legality:

City Attorney

Published Daily
ORANGE County, Florida

Sold To:

City of Kissimmee - CU00125223
101 Church St Fl 4
Kissimmee, FL 34741-5054

Bill To:

City of Kissimmee - CU00125223
101 Church St Fl 4
Kissimmee, FL 34741-5054

State Of Florida
County Of Orange

Before the undersigned authority personally appeared
Rose Williams, who on oath says that he or she is a duly authorized
representative of the ORLANDO SENTINEL, a DAILY newspaper
published in ORANGE County, Florida; that the attached copy of
advertisement, being a Legal Notice in:

The matter of 11200-Misc. Legal
Was published in said newspaper by print in the issues of, or by publication
on the newspaper's website, if authorized on Oct 22, 2022.

Affiant further says that the newspaper complies with all legal requirements
for publication in Chapter 50, Florida Statutes.



Signature of Affiant

Rose Williams

Name of Affiant

Sworn to and subscribed before me on this 24 day of October, 2022,
by above Affiant, who is personally known to me (X) or who has produced identification ().



Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped

7313439

NOTICE OF PUBLIC HEARINGS CITY COMMISSION

This is to inform you that the City Commission will hold a Public Hearing concerning this amendment on Tuesday, November 1, 2022 and on Tuesday November 15, 2022 at 6:00 p.m. in the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida 34741.

All interested parties may appear and be heard on the above date. Written opinion will be received until 5:30p.m., Tuesday, November 1, 2022 and on Tuesday November 15, 2022.

The proposed amendment to be discussed at the public hearing will be as follows:

Proposed Ordinance# 22-018: AN ORDINANCE AMENDING THE CITY OF KISSIMMEE, FLORIDA CODE OF ORDINANCES PART III, CHAPTER 14-5-8; ADDING SECTION 14-5-8.G. TO ESTABLISH DEVELOPMENT STANDARDS FOR CAR WASHES WITHIN THE FORM-BASED CODE AREA; AMENDING 14-5-6 SITE STANDARDS, TABLE 5-1 PERMITTED USES TO ADD CAR WASH AS A PERMITTED USE IN THE T5-U TRANSECT ZONE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

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Reference # ZMA-22-0003
CITY COMMISSION

Car Washes in FBC
KISSIMMEE, FLORIDA

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10/22/2022 7313439

7313439

ITEM 7.A**Approval of Aid to Provide Organizations Agreement for Advertising Funding from Experience Kissimmee for the Kissimmee Gateway Airport****Request**

Request Commission Approval to Accept Advertising Funding in the amount of \$30,000.00 from Experience Kissimmee for Kissimmee Gateway Airport.

Explanation

Experience Kissimmee is offering a grant to fund an advertising program by and for the Kissimmee Gateway Airport, in the amount of \$30,000.00 for FY 2022-2023. Funds will be used to advertise to the corporate and leisure travel market, the flight training, and aircraft maintenance market, and the aviation economic development market.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
46100389-389400		Increase		\$30,000
46170103-504901		Increase		\$30,000

Financial Summary:

The total amount of \$30,000.00 will go towards advertising the airport and its businesses.

Recommendation

Staff recommends acceptance of \$30,000.00 from Experience Kissimmee for airport advertising.

REQUESTED CITY COMMISSION ACTION:

Approve
Accept

Department: Airport
Presenter:

Attachment(s):

1. (S) Aid to Private Organizations Agreement

Aid to Private Organizations Agreement

Company Legal Name ("Organization"): Kissimmee Gateway Airport – City of Kissimmee
Organization Address: 401 Dyer Blvd., Kissimmee FL 34741
Organization Primary Contact Name: Mike Steigerwald, City Manager
Organization Primary Contact E-Mail: msteiger@kissimmee.org
Organization Contact Phone Number: 407-518-2306

Short General Description of Project ("Project"): Kissimmee Gateway Airport Destination Marketing Agreement

Start Date: October 1, 2022 **End Date:** September 30, 2023

Payment Amount and Schedule of Payments: Experience Kissimmee shall award the City of Kissimmee \$30,000.00. The entire award amount shall be due within thirty (30) days of the City's submission of and Experience Kissimmee's approval of a marketing and advertising plan but not prior to October 1, 2022.

Key Performance Indicators ("Key Performance Indicators" or "KPI") to be Reported to Experience Kissimmee and timing: Quarterly reports are due:

Q1 – October 1-December 31; report due February 1, 2023
Q2 – January 1 – March 31; report due May 1, 2023
Q3 – April 1 – June 30; report due August 1, 2023
Q4 – July 1 – September 30; report due November 1, 2023

Reports are to include:

- Return on Investment of advertising funded by Experience Kissimmee.
- Approximate number of Osceola County room nights booked by businesses located in the Airport for its transient customers and clients.
- A report of monthly visits to the Organization's website attributable to the advertising displayed at the Organization or on its website, and total monthly "click-thrus" from the Organization's website.

Experience Kissimmee Marks/Materials to be used, description of use and timing:

- The Organization's website shall prominently feature the Experience Kissimmee logo on the home page with text inviting viewers to visit www.ExperienceKissimmee.com for additional information.
- All marketing and advertising materials funded by Experience Kissimmee shall include its logo and be approved by Experience Kissimmee prior to insertion.

**Osceola Convention and Visitor's Bureau,
Inc. d/b/a Experience Kissimmee**

By: _____
Signature: 
Print Name: _____
Title: _____
Date: 10-1-22

Organization

By: _____
Signature: _____
Print Name: _____
Title: _____
Date: _____

Terms and Conditions

This Aid to Private Organizations Agreement (“agreement”) is entered into between Osceola Convention and Visitors Bureau, Inc. d/b/a Experience Kissimmee (“**Experience Kissimmee**”) and **Organization**. Experience Kissimmee and Organization are together the “**Parties**” or singularly a “**Party**”.

1) Duties

- a) Experience Kissimmee and Organization shall carry out the duties and obligations described in, and assigned to them, in the statement of work (“Statement of Work” or “SOW”).
- b) The Statement of Work forms a material part hereof and is incorporated herein fully by this reference.
- c) The Primary Contact identified in the SOW shall have sufficient authority to make decisions required under this agreement without resort to secondary authority.
- d) Organization shall provide to Experience Kissimmee proofs of all materials, advertisements, promotional materials, promotional videos, swag, collateral and the like that are intended to incorporate Experience Kissimmee intellectual property. Organization shall also provide a reasonable description of the intended use, channels of distribution and the like of same. Experience Kissimmee shall, in its sole discretion, review and approve, or disapprove, such. Subsequent to distribution/display, Organization shall provide proof of publication, use, distribution count, impressions and/or the like and other information as Experience Kissimmee shall reasonably require.

2) Payment

- a) As a condition to any payment by Experience Kissimmee, Organization shall:
 - i) Supply proof of performance as Experience Kissimmee may reasonably specify;
 - ii) Supply the required key performance indicators;

3) Term

- a) This agreement is effective as of the date of last signature affixed to the Statement or Work.
- b) This agreement shall commence on the “Start Date” specified in the SOW.
- c) This agreement shall end, except as otherwise provided herein, on the “End Date” specified in the SOW.

- d) The terms of this agreement which by their nature should survive the termination or expiration of this agreement will survive and be binding on the parties, including but not limited to sections 4 and 6.

4) Intellectual Property

- a) Experience Kissimmee grants to Organization from the Start Date to the End Date a non-exclusive, revocable, limited, royalty-free, and non-transferable license to use (i) Experience Kissimmee's trademarks, service marks, trademarks, and the like specifically designated by Experience Kissimmee in the SOW (collectively, "**Experience Kissimmee Marks**") and Experience Kissimmee's images, photographs, videos, and other copyrightable materials specifically designated by Experience Kissimmee in the SOW (collectively "**Experience Kissimmee Materials**", and together with the Experience Kissimmee Marks, the "**Experience Kissimmee IP**"), solely as necessary for use in the project described in the SOW. Organization shall use Experience Kissimmee IP in accordance with any trademark or other usage guidelines that Experience Kissimmee may communicate to Organization from time to time. Consistent with section 1(e), Organization shall submit examples of all proposed uses of the Experience Kissimmee IP to Experience Kissimmee for Experience Kissimmee's prior written approval in each instance. All uses of the Experience Kissimmee Marks, and all goodwill associated therewith, will inure solely to the benefit of Experience Kissimmee. Organization shall not use, register, or attempt to register any mark that is infringing, confusingly similar to or incorporates any of the Experience Kissimmee Marks. Organization acknowledges and agrees that Experience Kissimmee retains exclusive ownership and rights in the Experience Kissimmee IP.
- b) Other than as specified in the SOW and this section, the Parties each retain exclusive ownership and rights in their intellectual property, including without limitation, their trademarks, service marks, and commercial symbols as well as all associated moral rights. Further, Organization stipulates and agrees that the Experience Kissimmee Marks are valid, incontestable and not subject to collateral attack with the US Patent Trade Office, or any other similar body.

5) Termination

- a) This agreement may be terminated prior to the "End Date" as follows:
 - i) Either Party may terminate if the other fails to perform a material obligation required hereunder after thirty (30) days written notice to cure (which may be email);
 - ii) Either Party may terminate immediately if the other Party is insolvent or files or has filed against it any proceeding in federal or state court seeking insolvency protection or debtor relief;
 - iii) Either Party may terminate immediately if the other Party infringes on the intellectual property of the terminating Party or a third party, or acts in excess of the limited intellectual property license afforded to it under this agreement;

- iv) Experience Kissimmee may terminate immediately if the Organization's reputation falls into disrepute or becomes inconsistent with the image or reputation of Experience Kissimmee; and,
 - v) Experience Kissimmee may terminate for convenience on 30 days written notice (which may be by email).
- b) Termination pursuant to sections 5(a)(i)-(iv) will entitle the terminating Party to recover its damages; however, nothing in this agreement will prejudice the rights of the Parties to also seek temporary or permanent equitable relief. In the event of termination pursuant to section 5(a)(v), Experience Kissimmee's payment contemplated in the SOW will be presumed to be *pro rata* to the effective date of termination.
- 6) Confidentiality
- a) The terms of this agreement are confidential. In addition, the Parties each may provide to the other certain confidential information. When the providing Party designates information as confidential, or if the receiving Party has a reasonable basis to believe that information is confidential or should be treated as confidential, then the receiving Party shall maintain its confidentiality by not disclosing that information. Information designated confidential or reasonably implied to be confidential will only be used in a manner consistent with the reason for its being provided to the receiving Party.
 - b) Regardless of the designation of information as confidential, information exchanged by the Parties shall not be considered confidential when it (i) is publicly known; (ii) is received from another source who can lawfully disclose such information without a duty to maintain its confidentiality; (iii) is already known by the receiving Party prior to receiving such information from the disclosing Party; or (iv) is independently developed, each of (i) through (iv) without breach of this agreement. Further, information shall not be deemed confidential, regardless of designation, when required to be disclosed by federal, state or local law, regulation or rule, or because of directive, subpoena or order issued by an authority possessing competent jurisdiction to require its disclosure. The Parties may share confidential information with their affiliates, related entities and/or professionals hired to provide services to a party so long as they agree to maintain the confidentiality of the information. Notwithstanding the foregoing, Experience Kissimmee may in its sole discretion release this agreement (i) when prudent to do so in voluntary response to a request for public records even though Florida's Public Records Act does not apply to Experience Kissimmee, or (ii) otherwise as required by contract or as Experience Kissimmee deems appropriate.
 - c) Within ten days of the termination of this agreement, all confidential information shall be returned to the disclosing party. Should returning such information be impracticable, then the receiving Party shall destroy the information and provide written confirmation of its destruction to the disclosing Party. Nothing in this agreement shall require the receiving Party to return or destroy confidential information when prohibited by applicable law or regulation.

- d) The receiving Party shall maintain all confidential information in a manner no less secure than it maintains its own confidential information, but in any event, no less secure than commercially reasonable taking into account the nature and sensitivity of the information, the damage that would arise (including without limitation, reputational damage) should such confidential information be improperly disclosed, and the cost of remediating a breach of confidentiality, including without limitation, the cost of notice, litigation arising from a breach and third-party damages, if any. Organization will comply with all data protection laws, rules and regulations, including without limitation the Federal Trade Commission Act, the European Data Protection Regulation and the California Consumer Protection Act and comply with such data security standards as applicable.
- e) In the event of a data breach or similar event where Experience Kissimmee's data or other confidential information in the possession of Organization is improperly accessed or obtained, used, lost, or becomes the subject of malware or ransomware, the Parties shall reasonably cooperate to remediate such event and provide notice as and if required by applicable law, rule or regulation. Organization shall bear the cost of its own remediation, notice, defense and indemnity as well as that of Experience Kissimmee. Insurance coverage limits by Organization's insurer shall not serve to limit Organization's liability. Experience Kissimmee shall have the right to control its own defense and to choose its own counsel. Likewise, Experience Kissimmee shall have the right to control all communication and notices that may be useful, necessary or required related to or arising from such an event, at Organization's cost. Organization shall promptly notify Experience Kissimmee, but in any event, in less than seventy-two hours following discovery of such an event as generally described in this section.

7) Exclusivity

- a) Unless otherwise specified in the SOW, Organization shall not engage in activities that are in competition with Experience Kissimmee during the term of this agreement.
- b) Unless otherwise specified in SOW, Experience Kissimmee may continue to carry out its operations as it sees fit which may be in competition with Organization and the Project.

8) Independence

- a) The actions to be taken under this agreement by Organization and Experience Kissimmee shall be independent of the other and not taken as an employee, agent, partner, joint venture, subsidiary or parent of the other. The Parties acknowledge that they are independent entities, are not attorneys-in-fact of the other, are not agents of the other, and are not allowed to incur any obligation on the other's behalf. The Parties shall not hold the other out as an agent, legal representative, partner, subsidiary, joint venture or employee of the other and shall not indicate or suggest that they are related or the same entities.

- b) Except as generally required to carry-out the purpose and timing of the actions set-out in the SOW, each Party shall control the conditions, time, details, and means by which it performs its obligations under this agreement.
- c) Neither Party shall have the right to inspect the work of the other except solely for the purpose of determining whether the work is being completed according to the SOW.
- d) Neither Party is eligible for and shall not receive any employee benefits from the other Party. Each Party is solely responsible for the payment of all taxes, FICA, federal and state unemployment insurance contributions, state disability premiums, and all similar taxes and fees relating to its business.

9) Indemnification

- a) Organization shall defend, indemnify, and hold harmless the Experience Kissimmee Indemnified Parties, from and against all claims, suits, fines, liabilities, damages, losses and cost, including but not limited to, reasonable attorneys' fees, arising indirectly or directly, in part or solely by Organization's conduct, including but not limited to damage to the property or injury to a person. Organization covenants and warrants that it and all of its agents, vendors, servants, employees, and contractors will use due care and diligence in all of their activities and operations authorized by this agreement. In addition, Organization will defend, indemnify and hold harmless the Experience Kissimmee Indemnified Parties against any action, claim, or damages related or arising from (i) Organization's alleged violation of the intellectual property rights of a third party, and (ii) marketing ads, offerings or services provided by Organization including without limitation their associated contracts.
- b) For purposes of this section, "**Experience Kissimmee Indemnified Parties**" means Experience Kissimmee, its predecessors, successors and assigns, its directors, officers, agents, employees, contractors and subcontractors, and the directors, officers, agents, and employees of each of them as well as their assigns, its directors, officers, agents, employees, contractors and subcontractors, and the directors, officers, agents and employees.

10) Insurance

- a) Organization shall maintain insurance with coverage types and amounts that are reasonable under the circumstances including the indemnification requirements of §9 hereof.
- b) In addition to the requirements of § 10(a), above, Organization shall have and maintain those coverages in the amounts specified (if any) in SOW.
- c) Available insurance coverage will not serve to limit liability that may arise under this agreement. Organization shall name Experience Kissimmee as additional insureds.

Upon Experience Kissimmee's request, Organization shall provide Experience Kissimmee with a certificate of insurance from Organization's insurer evidencing the insurance coverage specified in this agreement. Organization shall provide Experience Kissimmee with 30 days' advance written notice in the event of a cancellation or material change in Organization's insurance policy. Except where prohibited by law, Organization shall require its insurer to waive all rights of subrogation against Organization and Experience Kissimmee.

11) Reporting, Books, Records

- a) Organization shall provide Experience Kissimmee with monthly or quarterly Project updates, the content, form, and frequency of which will be specified by Experience Kissimmee from time to time.
- b) The Parties expressly agree that Experience Kissimmee shall have, upon notice, access to all books, records and accounts of Organization relating to this agreement. Organization shall cooperate to provide such additional financial information relating to the Project and this agreement as requested by Experience Kissimmee from time to time, including but not limited to timely and prompt responses to all requests from Experience Kissimmee and its auditors.
- c) Likewise, Organization shall provide access to all data, information, books, records, materials and the like that Experience Kissimmee shall specify so as to permit Experience Kissimmee to audit and independently verify the key performance indicators set out the SOW.

12) General

- a) The Parties shall not assign this agreement or any rights or obligations hereunder, without prior written consent of the other Party.
- b) Organization shall comply with all applicable federal, state and local laws, ordinances, rules and regulations, both foreign and domestic, relating to Organization's obligations under this agreement.
- c) This agreement will be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument. The Parties stipulate, agree, and acknowledge the mutual negotiation of this agreement's terms.
- d) This agreement, including and together with the SOW, is the sole and entire agreement of the Parties concerning the subject matter contained in this agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter. Unless the subject of another written contract, no other warranties, promises or agreements, express or implied exist between the Parties.
- e) In the event the Terms and Conditions, and the SOW are in conflict, then the terms of the SOW shall first control, then the Terms and Conditions shall control. In any event, where

at all possible, the SOW and the Terms and Conditions shall be read to understand their intent and then read to harmonize their requirements and only when the Parties manifest a clear intent to modify and amend the terms of the inferior document will they be amended.

- f) Any notices required under this agreement must be in writing and sent to the Organization's mailing address or email address set forth in SOW. As to Experience Kissimmee, notice shall be sent to the address or email addresses set forth in this section, below. If emailed, the notice shall be deemed received on the same day if the sending party receives no notice of delivery failure and the email is coupled with a copy sent via U.S. Postal Service, 1st class postage pre-paid. If only mailed, the notice must be sent certified mail, return receipt and shall be deemed received three business days after mailing. If sent via third party overnight courier, signature must be required upon receipt and the notice shall be deemed received on the date signed for. Notice to Experience Kissimmee must be sent to (unless otherwise specified by Experience Kissimmee):

Osceola Convention and Visitors Bureau, Inc.
d/b/a Experience Kissimmee
Attn: Melissa Vallejo, Executive Business Operations Administrator
215 Celebration Place
Suite 200
Celebration, Florida 34747
Email: MVallejo@experiencekissimmee.com

- g) The laws of the State of Florida govern this agreement without application of Florida's conflicts of laws, rules and doctrines. Any suit arising from this agreement shall be filed exclusively in the Ninth Judicial Circuit Court in and for Kissimmee, Florida, or in the United States District Court for the Middle District of Florida, Orlando Division should such court have jurisdiction. The parties stipulate that venue and personal jurisdiction are proper in such courts and waive any argument of forum *non conveniens*.
- h) **THE PARTIES WAIVE AND RELINQUISH ANY RIGHT TO A TRIAL BY JURY.** In the event of litigation or legal process arising from or related to this agreement, Experience Kissimmee and Organization expressly submit and consent to a "bench" trial.
- i) In the event of litigation arising from or related to this agreement, the prevailing party shall be entitled to recover from the other, attorneys' fees, paralegal fees and costs through all appeals.
- j) If any portion of this agreement is declared invalid by any law, order, decree or judgment of a court having jurisdiction over the parties and/or the subject matter, this agreement will be construed as if such portion is deleted from this agreement.
- k) The headings that appear in this agreement are for reference purposes only and shall not affect the meaning or construction of this agreement.

- l) This agreement may be executed in counterparts, each of which is deemed an original. Delivery of an executed counterpart of a signature page to this agreement by facsimile or electronic scan and email shall be as effective as delivery of the originally executed signature page.
- m) The failure of Experience Kissimmee to insist upon the strict performance of any term of this agreement, or Experience Kissimmee's failure or refusal to exercise any option, right or remedy contained herein, will not be construed as a waiver or relinquishment for the future of such term, option, right or remedy. Rather, such term, option, right, or remedy will continue and remain in full force and effect. There will be no waiver by Experience Kissimmee unless explicitly set forth in writing and signed by Experience Kissimmee.

* * *

Statement of Work

Additional Terms not Contained in the Agreement:

I. ORGANIZATION OBLIGATIONS.

- A. The Organization will develop a one (1) year marketing and advertising plan to include, but not limited to print and online advertising to attract visitors to Osceola County. The plan will be presented to the EK President/CEO for approval within thirty (30) days of the execution date of this Agreement.
- B. The Organization's website, _____, shall prominently feature the EK logo on the home page with text inviting web viewers to visit www.ExperienceKissimmee.com for additional information and lodging reservations.
- C. All marketing and advertisements shall be approved by EK prior to insertion.
- D. The Organization will seek to demonstrate a Return on Investment (ROI) for advertising funded by EK to include but not limited to:
 - 1. A monthly report detailing the approximate number of Osceola County room nights booked by businesses located at the Organization for its transient customers and clients. This measurement will by no means capture the true number of the Organization users choosing to stay in Osceola County hotels as many users will book rooms on their own prior to traveling to Osceola County.
 - 2. A report of the monthly visits to the Organization's website attributable to the advertising displayed at the Organization or on its website, and the total monthly "click-thrus" from the Organization website to the EK website.
- E. The Organization will provide a copy of all expenses incurred for marketing, advertising and advertisement development.
- F. The Organization will give Experience Kissimmee the option of participating in monthly marketing conference calls to gain better synergy on marketing efforts.
- G. The Organization will give Experience Kissimmee the option of attending the Organization's After-Hours Events.

II. EXPERIENCE KISSIMMEE OBLIGATIONS.

- A. Experience Kissimmee will assist the Organization by hosting educational and informational sessions for airport tenants regarding the purpose of Tourist Development Tax, the importance of data collection and destination education.
- B. Experience Kissimmee will include Organization information on www.ExperienceKissimmee.com, related Experience Kissimmee websites and collateral distributed to visitors as deemed appropriate by Experience Kissimmee.

ITEM 7.B**Authorization To Accept 2022-23 Victims Of Crime Act (VOCA) Grant Funding****Request**

The Police Department requests Commission acceptance of the Victim of Crimes Act (VOCA) grant from the State of Florida, Office of the Attorney General, Bureau of Advocacy and Grants Management, in the amount of \$68,645.00.

Explanation

The Office of the Attorney General has announced the anticipated availability of Victims of Crime Act (VOCA) grant funds from the U.S. Department of Justice. The purpose of VOCA grant funds is to provide support services to victims of crime. Services are defined as those efforts that respond to the emotional and physical needs of crime victims, assist victims of crime to stabilize their lives after victimization, assist victims to understand and participate in the criminal justice system, and provide victims of crime with a measure of safety and security. The Police Department has received this grant for several years.

The funding cycle for the VOCA grant funds under this notice is October 1, 2022, through September 30, 2023.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
11400334 334200	VOCA23	Increase	\$68,645	
11430401 501212	VOCA23	Increase	\$37,086	
11430401 502121	VOCA23	Increase	\$2,837	
11430401 502222	VOCA23	Increase	\$6,305	
11430401 502323	VOCA23	Increase	\$13,327	
11430401 502424	VOCA23	Increase	\$1,595	
11430401 504747	VOCA23	Increase	\$4,995	
11430401 505555	VOCA23	Increase	\$2,500	

Financial Summary:

The above accounts will be amended accordingly upon acceptance of these grant funds.

Recommendation

Staff recommends the Commission accept and approve to amend the budget accordingly for the 2022-23 VOCA grant to the Office of the Attorney General.

REQUESTED CITY COMMISSION ACTION:

City of Kissimmee

Accept

Department: Police

Presenter:

Attachment(s):

1. VOCA Grant 2022-2023 Award Letter 09.28.22



OFFICE OF THE ATTORNEY GENERAL
Division of Victim Services and
Criminal Justice Programs

ASHLEY MOODY
ATTORNEY GENERAL
STATE OF FLORIDA

PL-01 The Capitol
Tallahassee, FL 32399-1050
Phone (850) 414-3300 Fax (850) 487-0168
<http://www.myfloridalegal.com>

September 28, 2022

Dear Colleague:

The Office of the Attorney General, Bureau of Advocacy and Grants Management, is pleased to inform you that Kissimmee Police Department will be awarded a Victims of Crime Act (VOCA) grant for the 2022-2023 funding cycle in the amount of \$68,644.00. This award amount is consistent with the award your agency received for the 2021-2022 grant cycle or the amount requested in the 2022-2023 grant application, whichever is less.

Our staff has worked diligently to determine how best to distribute the available VOCA grant funding while maintaining mandatory federal grant distribution guidelines, mission critical services and award funding to those organizations that submitted an application without deficiencies. These considerations and your agency's 2022-2023 application submission were a factor in the award decisions. The original application submitted by your agency was found to be deficient during the technical review process. An opportunity to correct deficiencies was offered to your agency; however, after completing a second review of the re-submitted application, deficiencies still remained. A copy of the Grant Application Review noting the outstanding deficiencies for your application is attached.

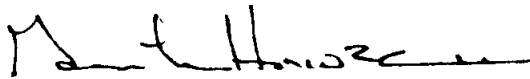
Because of these outstanding deficiencies, your agency is being awarded the same amount of funding as you were awarded in the 2021-2022 cycle or the amount requested in the 2022-2023 grant application, whichever is less. This award was made to avoid any disruption in the mission critical services you provide. However, you must correct these deficiencies during the 2022-2023 grant year.

Our staff will continue to work with you to correct these deficiencies and to bring your application and supporting documentation into compliance with our standards. You are strongly encouraged to update your 2022-2023 application to address any deficiencies noted as it will have direct bearing on consideration for additional funding. When the noted deficiencies are corrected during this 2022-2023 grant period, you may then apply for a grant modification for consideration

of additional VOCA funding in this grant year. Your corrected 2022-2023 application will also be referenced for consideration during the 2023-2024 competitive VOCA grant application period, as well as have you in good standing for any future abbreviated VOCA application processes.

Please contact the Bureau of Advocacy and Grants Management at (850) 414-3380 or Contact.Voca@myfloridalegal.com with any questions on this grant. Thank you for your continuing efforts in providing assistance to victims of crime.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary L. Howze". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gary L. Howze, Director
Law Enforcement Relations
Victim Services & Criminal Justice Programs

GLH/rs

Attached: Grant Application Review

VOCA Grant Application- Agency Information/Certification Review

Agency Information Review

Applicant Information

1. Are there any discrepancies in the information? If yes, then please explain in the comments field. No *

Comments:

Agency Eligibility

1. Is the applicant agency type correct? Yes *

2. Is the implementing agency type correct? Yes *

3. Is the indicated Judicial Circuit correct for the service area? Yes *

4. Are the correct counties selected for the judicial circuit? Yes *

5. Are the geographical characteristics correct? Yes *

6. Are the indicated Congressional District(s) correct? Yes *

7. Is the purpose of the project acceptable? Yes *

8. Is the primary use of funding acceptable? Yes *

9. Is an address where victim services will be provided included? Yes *

10. Is the address provided located in the judicial circuit for which funding is being requested, in this application? Yes *

11. Is the agency's website address included? Yes *

Comments:

Additional Reviewer Comments:

+12 points

Certification Review

Certificate of Debarment

1. Are there any discrepancies in the information provided? If yes, then please explain in the comments field. Yes *

Comments:

It appears the signatory did not log in to sign the forms.

—CORRECTED

-1 point

Special Conditions Certification

1. Is VOCA funding used to maintain or establish a computer network system? No *

2. If VOCA funding is being used to maintain or establish a computer network, is the applicant agency blocking the viewing, downloading and exchange of pornography? N/A *

3. If the applicant agency is not able to block the viewing, downloading and exchange of pornography, what is the anticipated date of being able to do so? N/A *

4. Are there any discrepancies in the information provided? If yes, then please explain in the comments field. Yes *

Comments:

It appears the signatory did not log in to sign the forms.

—CORRECTED

-1 point

Standard Assurances

1. Are there any discrepancies in the information provided? If yes, then please explain in the comments field. Yes *

Comments:

It appears the signatory did not log in to sign the forms.
-CORRECTED
-1 point

EEOP Certification Form

1. Are there any discrepancies in the information provided? If yes, then please explain in the comments field.
2. Is section A, B or C completed as appropriate?

Yes *

Yes *

Comments:

It appears the signatory did not log in to sign the forms.
-CORRECTED
-1 point

Related Parties Questionnaire

1. If any of the answers are Yes, is an acceptable explanation provided?

N/A *

Comments:

It appears the signatory did not log in to sign the forms.
-CORRECTED
-1 point

Additional Reviewer Comments:

+4 points

Project Information Review

Project Information Review

Statement of Need

1. Is the need for services to victims provided by the applicant agency acceptable?	Yes	*
2. Is the information about crime statistics for all counties that will be served in the service area acceptable?	Yes	*
3. Is the demographic information about the population of all of the counties that will be served acceptable?	Yes	*
4. Is the demographic information about the population to be served through the proposed VOCA project acceptable?	Yes	*

Comments:

3 & 4. Male statistics not included. - CORRECTED
-2 points

Project Proposal

1. Are services and service providers acceptable?	No	*
2. Is a complete listing of coordinating agencies and services identified?	No	*
3. Is the description of how the coordination of services will be accomplished acceptable?	No	*
4. If a duplication of services exist, is the explanation acceptable? If no, then please explain in the comments field.	N/A	*
5. Is the description on how volunteers will be utilized acceptable?	Yes	*
6. If a justification for not billing Victim Compensation was provided, is the justification acceptable?	N/A	*
7. Did the applicant agency confirm that Civil Rights training will be completed?	Yes	*

Comments:

1. Agency did not include how Operating or Training expenses are associated with the provision of services. After resubmission and second review by the OAG, the agency did not include how the Operating expenses are associated with the provision of services. Also, the agency should not include the partnering agencies in the response to #1.

2 & 3. Explain the need for Victim Advocate to coordinate with CINS/FINS for placement of the juvenile offender. Working with offenders is not allowable under the grant.

The State Attorney's Office does not provide Victim Compensation. Revise response to include services provided by SAO. - CORRECTED

Agency did not include legal aid services or sexual violence services in coordination of services. After resubmission and second review by the OAG, agency did not include legal aid services.

Victim Service Center provided letter of support but was not included in coordination of services. - CORRECTED
After resubmission and second review by the OAG, it is a requirement of the grant to assist with victims compensation not to refer to other agencies.

-2 points

Victims Served and Types of Services

1. Are there any discrepancies in the Victims to be Served section? If yes, then please explain in the comments field.	No	*
a. What is the proposed total number of victims to be served?		918
b. What is the current total number of victims to be served, if applicable?		800
c. Are the target numbers appropriate?	Yes	*
2. Are there any discrepancies in the Types of Services section? If yes, then please explain in the comments field.	Yes	*
a. What is the proposed total number of services?		3,678
b. What is the current total number of services, if applicable?		2,950

c. Are the target numbers appropriate?	Yes	*
3. Is the target number entered for Assisting with Victim Compensation applications appropriate for the victim population served?	No	*
4. Are "Others indicated appropriate?	No	*

Comments:

2c. Total number of each type of service to be provided must be less than or equal to the total number of victims to receive services.

—REVISE

3. Number of victims to be assisted with Victim Compensation application appears low

—REVISE

4. False Imprisonment, Strangulation, Violation of Injunction and Attempted Homicide are not services and must be REMOVED from the services section.

—REVISE

4. Attended Death, Unattended Death, Missing Person are not approved, as they are not types of victims.

—CORRECTED

-3 points

Required Documentation

1. Are three letters of support included?	Yes	*
a. Do letters of support address Victims to be Served and Types of Services?	Yes	*
b. Are the letters of support current?	Yes	*
c. Are the letters of support from an individual written on behalf of a local community or government group?	Yes	*
d. Are the letters of support similar in content (exact same narrative/text)?	No	*
2. Did the applicant agency provide documentation of it's 501(c)3 ruling from the Internal Revenue Service?	N/A	*
3. Did the applicant agency provide a current list of Board Members (if applicable)?	N/A	*

Comments:

Victim Service Center provided letter of support but was not included in coordination of services. - CORRECTED

Standard Assurances documents were not uploaded, as included in the instructions. - CORRECTED

-2 points

Additional Reviewer Comments:

+15 points

Application Score: 69 points

Audit Compliance: 6 points

Additional 6 criteria: 50 points

Signature of Reviewer:

OAG *

Date:

August 26, 2022 12:46PM

ITEM 7.C

Acceptance of Grant Award from the State of Florida for the Public Safety Training Center Support Annex

Request

Acceptance of the Grant Award in the amount of \$500,000 from the State of Florida (7G006) for the Public Safety Training Center Support Annex.

Explanation

During the last legislative session, the City requested \$500,000 in funding to expand the Public Safety Training Center. The request was sponsored by Representative Kristin Arrington and was successful. The ongoing support and follow-up of our lobbyists and city staff assisted this request through the legislative process and resulted in a tremendous win for the community.

These grant funds are reimbursable and will be used to design and construct an outdoor public safety training annex to expand the Public Safety Training Center. The new training annex will add additional covered training space to augment the existing training tower, as well as allow large fire apparatus and police vehicles to be utilized during the training while keeping the participants out of the sun or rain. Fire/Rescue special operations classes such as Vehicle and Machinery Rescue, Hazardous Materials Response, Confined Space Rescue, and Fire Apparatus Pumping Operations are a few examples of the training the annex will allow. Additionally, the annex will allow fire/rescue personnel to decontaminate themselves after live fire training with new showers located in this building, away from the main classroom facility.

These improvements will provide continued support to the fire department by enhancing training conditions for personnel and expanding training and development opportunities to ensure residents, businesses and visitors receive the best public safety services.

Recommendation

Staff recommends approval of the grant award, approval to amend the budget accordingly and authorization for the Mayor to execute all required documents for this award.

REQUESTED CITY COMMISSION ACTION:

Approve
Accept

Department: City Manager
Presenter:

Attachment(s):

1. (S) Kissimmee Signature Page- Public Safety Training Annex

**State of Florida
Office of Criminal Justice Grants
Florida Department of Law Enforcement
2331 Phillips Road
Tallahassee, Florida 32308**

GRANT AWARD

Recipient: City of Kissimmee
FLAIR Vendor ID: 596000348
Grant Period: 07/01/2022 – 06/30/2023
Project Title: Kissimmee Public Safety Training Support Annex
Grant Number: 7G006
Awarded Funds: \$500,000.00
CSFA Catalog Number: 71.065

This agreement is entered into by and between the Department of Law Enforcement (herein referred to as "FDLE" or "Department") and City of Kissimmee (herein referred to as "Recipient"); and

WHEREAS, the Department has authority pursuant to Florida law and does hereby agree to provide state financial assistance to the Recipient in accordance with the terms and conditions set forth in this agreement; and

WHEREAS the Department has available funds resulting from a single, non-recurring appropriation in The General Appropriations Act, 2022 Legislature, Section 4, Specific Appropriation 1253A, Grants and Aids-Special Projects, intended to be provided to the Recipient as reimbursement of eligible costs resulting from allowable activities as defined in the agreement, and

WHEREAS, the Recipient represents that it is fully qualified, possesses the requisite skills, knowledge, qualifications and experience to carry out the state project identified herein, and does offer to perform such services.

NOW THEREFORE, in consideration of the foregoing, the parties agree as follows:

The General Appropriations Act contains the following proviso language and provides information on the legislative intent for the use of these funds:

From the funds in Specific Appropriation 1253A, \$500,000.00 in nonrecurring fixed capital outlay funds is provided to the City of Kissimmee for the Public Safety Training Support Annex project.

This award is subject to the special conditions outlined in **Appendix A**.

Scope of Work

Award funds will be used to design and construct an outdoor public safety training annex. The training annex will add additional covered training space to augment the existing training tower, as well as allow a large fire apparatus and police vehicles to be utilized during the training while keeping the participants out of the sun or rain. Fire/Rescue special operations classes such as Vehicle and Machinery Rescue, Hazardous Materials Response, Confined Space Rescue, and Fire Apparatus Pumping Operations are a few examples of the training the annex would allow. Additionally, the annex would allow fire/rescue personnel to decontaminate themselves after live fire training in the showers located in this outside building, away from the main classroom facility.

The Recipient will be responsible for the following tasks and activities:

- Procuring the updated design of the training annex;
- Procuring construction documents for permitting and zoning;
- Preparing site for building;
- Procuring and installing utility infrastructure; and/or
- Procuring services for the construction of the public safety training annex.

Project Deliverables

Total payments for all deliverables in **Appendix B** will not exceed the maximum grant award amount of \$500,000.00.

Performance Reports

The Recipient shall provide **monthly** Performance Reports to the Department attesting to the progress towards deliverables and to validate the required minimum acceptable level of service performed. Performance Reports are due 15 days after the end of each reporting period. For example: If the monthly reporting period is July 1-31, the Performance Report is due August 15th.

The Recipient shall respond to the questions below in the monthly performance reports. Information provided by the Recipient will be used by the Department to process payments, verify deliverables, and to compile reports on project progress to the Legislature and Executive Office of the Governor.

Performance Reports may require the following information:

1. A narrative describing the activities and accomplishments achieved during the reporting period.
2. Provide a summary report of activities completed and a status addressing the deliverables in the scope of work.
3. Describe any progress or barriers encountered related to achieving those goals during the reporting period and how these obstacles will impact the successful completion of the project.
4. Describe the return on investment or benefits of this program for the organization and/or the community.

Supporting documentation for performance must be maintained by Recipient and made available upon request for monitoring purposes. Examples of supporting documentation include but are not limited to timesheets, activity reports, meeting notices, delivery documents, public announcements, rosters, presentations, database statistics, etc.

Payment Requirements & Financial Claim Reports

The State of Florida's performance and obligation to pay under this agreement is contingent upon an appropriation by the Legislature. The Department will administer and disburse funds under this agreement in accordance with ss. 215.97, 215.971, 215.981 and 215.985, F.S.

This is a cost reimbursement agreement with the ability to advance. The Department will reimburse the Recipient for allowable expenditures (**Appendix C**) which are incurred during each reporting period in according to the terms and conditions and satisfactory performance of all terms by the Recipient. The Recipient shall provide Claim Reports to the Department attesting to expenditures made during the reporting period. These reports are due 30 days after the end of each reporting period. For example: If the monthly reporting period is July 1-31, the Performance Report is due August 30th.

Claim Reports shall validate the receipt of goods and services and verify the Recipient's compliance with 69I-40.002, F.A.C. All expenditures for state financial assistance must comply with the Reference Guide for State Expenditures published by the Florida Department of Financial Services. All Claim Reports must be certified by the Recipient's chief financial official or financial designee and include a statement that costs claimed are incurred in accordance with the agreement.

Claim Reports must clearly identify the dates of services, a description of the specific contract deliverables provided during the reporting period, the quantity provided, and the payment amount specified in the agreement. All Claim Reports are reviewed and may be audited to the satisfaction of the Department. The Department's determination of acceptable expenditures shall be conclusive.

The final Claim Report shall be submitted to the Department no more than 30 days after the end date of the grant. Any payment due under the terms of this agreement may be withheld until performance of services, all reports due are received, and necessary adjustments have been approved by the Department.

The Recipient must maintain original supporting documentation for all funds expended and received under this agreement in sufficient detail for proper pre- and post-audit and to verify work performed was in accordance with the deliverable(s). Payment shall be contingent upon the Department's grant manager receiving and accepting the invoice and the associated supporting documentation. Supporting documentation includes, but is not limited to: quotes, procurement documents, purchase orders, original receipts, invoices, canceled checks or EFT records, bank statements, etc. The State Chief Financial Officer (CFO) reserves the right to require further documentation on an as needed basis.

Failure to comply with these provisions shall result in forfeiture of reimbursement.

Administration

Changes to the following points of contact and chief officials below must be submitted to FDLE Office of Criminal Justice Grants in writing.

Recipient Grant Manager

Name: Brandon Durango
Title: Procurement Manager
Address: 101 Church Street,
Kissimmee, FL 34741
Phone: 407-518-2216
Email: Brandon.Durango@kissimmee.gov

Recipient Chief Official

Name: Olga Gonzalez
Title: Mayor
Address: 101 Church Street,
Kissimmee, FL 34741
Phone: 407-518-2315
Email: Olga.Gonzalez@kissimmee.gov

Recipient Chief Financial Officer

Name: Tavia Ritchie
Title: Finance Director
Address: 101 Church Street,
Kissimmee, FL 34741
Phone: 407-518-2210
Email: Tavia.Ritchie@kissimmee.gov

Florida Department of Law Enforcement (FDLE) Grant Manager

Name: Amber Miller
Title: Government Analyst II
Address: P.O. Box 1489
Tallahassee, FL 32302-1489
Phone: 850-617-1269
Email: ambermiller@fdle.state.fl.us

Award Signatures

In witness whereof, the parties affirm they each have read and agree to the conditions set forth in this agreement, have read and understand the agreement in its entirety and have executed this agreement by their duly authorized officers on the date, month and year set out below.

Corrections on this page, including strikeouts, whiteout, etc. are not permitted.

Florida Department of Law Enforcement Office of Criminal Justice Grants

Signature: _____

Typed Name and Title: Cody Menacof, Bureau Chief

Date: _____

Recipient City of Kissimmee

Signature: _____

Typed Name and Title: Olga Gonzalez, Mayor

Date: _____

THIS CONTRACT IS NOT VALID UNTIL SIGNED AND DATED BY ALL PARTIES

Fiscal Year 2022-2023 State Financial Assistance Standard Conditions

The following terms and conditions will be binding upon approval of the grant award and execution of the contract by both the Recipient and the Florida Department of Law Enforcement. The Recipient will maintain required registrations and certifications for eligibility under this program.

The Department and the Recipient agree that they do not contemplate the development, transfer or receipt of intellectual property as a part of this agreement.

SECTION I: PROJECT IMPLEMENTATION

Legal Authority: The Recipient certifies with respect to this agreement that it possesses the legal authority to receive the funds to be provided under this agreement and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this agreement with all covenants and assurances contained herein. The Recipient also certifies that the undersigned possesses the authority to legally execute and bind Recipient to the terms of this agreement.

Not Operational within 60 and 90 Days: If a project is not operational within 60 days of the original start date of the award period, the Recipient must report by letter to the Department the steps taken to initiate the project, the reasons for delay, and the expected start date. If a project is not operational within 90 days of the original start date of the award period, the Recipient must submit a second statement to the Department explaining the implementation delay. Upon receipt of the 90-day letter, the Department shall determine if the reason for delay is justified or shall, at its discretion, require additional project documentation and justifications throughout the award period. The Department will also require the Recipient provide a revised project timeline that includes all anticipated project activities, tasks, and estimated completion date(s).

SECTION II: PAYMENTS

Obligation to Pay: The State of Florida's obligation to pay under this agreement is contingent upon an appropriation by the Legislature.

Overpayments: Any funds paid in excess of the amount to which the Recipient is entitled under the terms and conditions of the agreement must be refunded to the Department. Any balance of unobligated cash that has been paid and has not been authorized to be retained for direct program costs in a subsequent period must be refunded to the Department.

Advance Funding: Advance funding may be provided to a subrecipient upon completion and submission of a Cash Advance Request form to the Department. The request must be signed by the Chief Financial Officer or the Chief Financial Officer designee. Advance funding should be requested only when the Subrecipient has an imminent and specific need to expend project funds. Cash advances must be spent on project costs within 30 days of receipt. Should extenuating circumstances arise which prevent the expenditure of advance funds within 30 days of receipt, a written request to retain the funds must be provided by the recipient and approved by the Department. An expenditure claim for advance funding must be submitted to the Department within 45 days of advance funding receipt.

SECTION III: PROJECT AND GRANT MANAGEMENT

Personnel Changes: The recipient must notify the FDLE grant manager of any change in the Chief Officials or Project Director or any change in contact information, including mailing address, phone number, email, or title change.

Obligation of Grant Funds: Grant funds shall not under any circumstances be obligated prior to the effective date, or subsequent to the termination date, of the period of performance. Only project costs incurred on or after the effective date, and on or prior to the termination date of the Recipient's project are

eligible for reimbursement. All payments must be completed within thirty (30) days of the end of the grant period of performance.

Financial Management: The Recipient must have a financial management system able to record and report on the receipt, obligation, and expenditure of grant funds. An adequate accounting system must be able to separately track receipts, expenditures, assets, and liabilities for awards, programs, and subrecipients. The Recipient shall maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices. Recipient must have written procedures for procurement transactions.

Travel: Cost for travel shall be reimbursed at the Recipient's travel rate, but the maximum reimbursement for each type of travel cost shall not exceed rates established in State of Florida Travel Guidelines, §112.061, F.S.

Subcontracts: Recipient agrees that all employees, subcontractors, or agents performing work under the agreement shall be properly trained individuals who meet or exceed any specified training qualifications. Recipient agrees to be responsible for all work performance and all expenses incurred in fulfilling the obligations of this agreement, and will not assign the responsibility for this agreement to another party. If the Recipient subcontracts any or all of the work required under this agreement, the Recipient must provide a completed DFS-A2-NS (Recipient-Subrecipient vs. Vendor Determination) form and a copy of the executed subcontract within thirty (30) days after execution of the subcontract. The Recipient agrees to include in the subcontract that (i) the subcontractor is bound by all applicable state and federal laws and regulations, and (ii) the subcontractor shall hold the Department and Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this agreement, to the extent allowed and required by law.

Grant Adjustments: Recipients must submit a Request for Grant Adjustment to the FDLE grant manager for substantive changes such as: scope modifications, changes to project activities, target populations, service providers, implementation schedules, project director, designs or research plans set forth in the approved agreement, and for any budget changes affecting a cost category that was not included in the original budget. Recipients may transfer up to 10% of the total budget between current, approved budget categories without prior approval, as long as the funds are transferred to an existing line item. Adjustments are required when there will be a transfer of 10% or more of the total budget between budget categories. Under no circumstances can transfers of funds increase the total award. Requests for changes to the grant agreement must be signed by the Recipient or Implementing Agency's chief official or the chief official's designee. All requests for changes must be submitted no later than thirty (30) days prior to grant expiration date.

Property Management: The Recipient shall establish and administer a system to protect, preserve, use, maintain, and dispose of any property furnished to it by the Department or purchased pursuant to this agreement.

SECTION IV: MANDATORY DISCLOSURES

Conflict of Interest: The Recipient will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. Recipients must disclose in writing any potential conflict of interest to the Department.

Violations of Criminal Law: The Recipient must disclose all violations of state or federal criminal law involving fraud, bribery or gratuity violations potentially affecting the grant award.

Convicted Vendors: The Recipient shall disclose to the Department if it, or any of its affiliates, as defined in §287.133(1)(a) F.S., is on the convicted vendor list. A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any activities listed in the agreement for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

Vendors on Scrutinized Companies Lists: If this agreement is in the amount of \$1 million or more, Recipient certifies upon executing this agreement, that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to §215.473, F.S., or engaged in business operations in Cuba or Syria. In the event that federal law ceases to authorize the states to adopt and enforce the contracting prohibition identified herein, this provision shall be null and void.

Discriminatory Vendors: The Recipient shall disclose to the Department if it or any of its affiliates, as defined by §287.134(1)(a), F.S. appears on the discriminatory vendors list. An entity or affiliate placed on the discriminatory vendor list pursuant to §287.134, F.S. may not a) submit a bid, proposal, or reply on a contract or agreement to provide any goods or services to a public entity; b) submit a bid, proposal, or reply on a contract or agreement with a public entity for the construction or repair of a public building or public work; c) submit bids, proposals, or replies on leases of real property to a public entity; d) be awarded or perform work as a contractor, subcontractor, Recipient, supplier, subrecipient, or consultant under a contract or agreement with any public entity; or e) transact business with any public entity.

Reporting Potential Fraud, Waste, Abuse, and Similar Misconduct: The Recipient must promptly refer to the Department of Law Enforcement, Office of Criminal Justice Grants any credible evidence that a principal, employee, agent, contractor, subcontractor, or other person has either 1) submitted a claim for grant funds that violates the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds.

Non-Disclosure Agreements: Restrictions and certifications regarding non-disclosure agreements and related matters Recipients or contracts/subcontracts under this award may not require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits, restricts or purports to prohibit or restrict, the reporting of waste, fraud or abuse in accordance with law, to an investigative or law enforcement representative of a state or federal department or agency authorized to receive such information. The Recipient certifies that if informed or notified of any subrecipient, or contractor/subcontractor has been requiring their employees to execute agreements or statements that prohibit the reporting of fraud, waste, or abuse that it will immediately cease all further obligations of award funds to the entity and will immediately notify the Department. The Recipient will not resume obligations until expressly authorized to do so from the Department.

SECTION V: COMPLIANCE WITH STATUTES, RULES, AND REGULATIONS

In performing its obligations under this agreement, the Recipient shall without exception be aware of and comply with all State and Federal laws, rules and regulations relating to its performance under this agreement as they may be enacted or amended from time-to-time, as well as any court or administrative order, judgment, settlement or compliance agreement involving the Department which by its nature affects the services provided under this agreement. The following are examples of rules and regulations that govern Recipient's performance under this agreement.

Lobbying Prohibited: The Recipient shall comply with the provisions of 11.062 and 216.347, F.S., which prohibit the expenditure of funds for the purpose of lobbying the Legislature, judicial branch, or a State agency. No funds or other resources received from the Department in connection with this agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

State of Florida E.O. 20-44: Public-Private Partnerships: Any entity named in statute with which the agency must form a sole-source, public-private agreement; and any nongovernmental Recipient receiving 50% or more of their annual budget from any combination of state or federal funding must submit an annual report to the Office of Criminal Justice Grants. The report must include the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. In addition, the Recipient must agree through appropriate contract or grant agreement amendment to inform the agency of any changes in total executive

compensation between the annual reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Recipient.

Civil Rights: The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.) and shall not discriminate against any employee (or applicant for employment) in the performance of this agreement because of race, color, religion, sex, national origin, disability, age, or marital status. These requirements shall apply to all contractors, subcontractors, subgrantees or others with whom it arranges to provide services or benefits to clients or employees in connection with its programs and activities.

E-Verify: The Department shall consider the employment by any contractor of unauthorized aliens a violation of section 274(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this contract. Pursuant to F.S. 448.095, the Contracting Party and any subcontractors are required to register with and use the E-Verify system operated by the U.S. Department of Homeland Security beginning on January 1, 2021. The Contracting Party and any subcontractors are prohibited from entering into contracts with one another unless all parties register and use the E-Verify system. Subcontractors who enter into contracts with the Contracting Party are required to provide a certification that the subcontractor does not employ or use unauthorized aliens as defined in the statute, a copy of which the Contracting Party must maintain. The Contracting Party and any subcontractors are required to terminate a contract if a party has a good faith belief that another party is in violation of F.S. 448.09(1), prohibiting the employment of unauthorized aliens. If a public employer has a good faith belief that the subcontractor has violated these requirements, but that the Contracting Party has otherwise complied, the public employer must notify the Contracting Party to terminate its contract with the subcontractor. A party may challenge a contract termination in accordance with these requirements. A penalized Contractor is prohibited from obtaining another contract with a public employer for at least one year.

Background Check: Whenever a background screening for employment or a background security check is required by law for employment, unless otherwise provided by law, the provisions of Chapter 435 F.S., shall apply. All employees in positions designated by law as positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of the subsection, security background investigations shall include, but not be limited to, employment history checks, fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile record checks through the Florida Department of Law Enforcement, and federal criminal record checks through the Federal Bureau of Investigation, and may include local criminal record checks through local law enforcement agencies.

Public Records: As required by 287.058(1)(c), F.S., the Recipient shall allow public access to all documents, papers, letters, or other public records as defined in 119.011(12), F.S. as prescribed by 119.07(1) F.S., made or received by the Recipient in conjunction with this agreement, except public records which are made confidential by law must be protected from disclosure. It is expressly understood that the Recipient's failure to comply with this provision shall constitute an immediate breach of contract, for which the Department may unilaterally terminate this agreement.

Independent Contractor, Subcontracting and Assignments: In performing its obligations under this agreement, the Recipient shall at all times be acting in the capacity of an independent contractor and not as an officer, employee, or agent of the State of Florida. Neither the Recipient nor any of its agents, employees, subcontractors or assignees shall represent to others that it is an agent of or has the authority to bind the Department by virtue of this agreement, unless specifically authorized in writing to do so.

Timely Payment of Subcontractors: To the extent that a subcontract provides for payment after Recipient's receipt of payment from the Department, the Recipient shall make payments to any subcontractor within 7 working days after receipt of full or partial payments from the Department in accordance with §287.0585, F.S., unless otherwise stated in the agreement between the Recipient and subcontractor. Failure to pay within seven (7) working days will result in a penalty that shall be charged against the Recipient and paid by the Recipient to the subcontractor in the amount of one-half of one percent

(.005) of the amount due per day from the expiration of the period allowed for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen (15%) percent of the outstanding balance due.

Notice of Legal Actions: The Recipient shall notify the Department of potential or actual legal actions taken against the Recipient related to services provided through this agreement or that may impact the Recipient's ability to complete the deliverables outlined herein, or that may adversely impact the Department. The Department's Grant Manager will be notified within 10 days of Recipient becoming aware of such actions or potential actions or from the day of the legal filing, whichever comes first.

Property: In accordance with 287.05805, F.S., any State funds provided for the purchase of or improvements to real property are contingent upon the Recipient granting to the State a security interest in the property at least to the amount of the State funds provided for at least five (5) years from the date of purchase or the completion of the improvements or as further required by law.

SECTION VI: RECORDS, AUDITS, AND INFORMATION SECURITY

Records Retention: Retention of all financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this agreement shall be maintained by the Recipient during the term of this agreement and retained for a period of five (5) years after completion of the agreement or longer when required by law. In the event an audit is required under this agreement, records shall be retained for a minimum period of five years after the audit report is issued or until resolution of any audit findings or litigation based on the terms of this agreement, at no additional cost to the Department. Upon demand, at no additional cost to the Department, the Recipient will facilitate the duplication and transfer of any records or documents during the term of this agreement and the required five (5) year retention period. No record may be withheld, nor may the Recipient attempt to limit the scope of any of the foregoing inspections, reviews, copying, transfers or audits based on any claim that any record is exempt from public inspection or is confidential, proprietary or trade secret in nature; provided, however, that this provision does not limit any exemption to public inspection or copying to any such record. These records shall be made available at all reasonable times for inspection, review, copying, or audit by State, or other personnel duly authorized by the Department.

Records Inspection: Pursuant to Section 216.1366, F.S., in order to preserve the interest of the state in the prudent expenditure of state funds, the Department shall be authorized to inspect the (a) Financial records, papers, and documents of the Contractor that are directly related to the performance of the Contract or the expenditure of state funds, and (b) Programmatic records, papers, and documents of the Contractor which the Department determines are necessary to monitor the performance of the Contract or to ensure that the terms of the Contract are being met. The Contractor shall provide such records, papers, and documents requested by the Department within ten (10) business days after the request is made.

Monitoring: The Recipient agrees to comply with the Department's grant monitoring guidelines, protocols, and procedures; and to cooperate with the Department on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, site visits, and/or Florida Department of Financial Services contract reviews and Expanded Audits of Payment (EAP). The Recipient agrees to provide the Department all documentation necessary to complete monitoring of the award and verify expenditures in accordance with 215.971, F.S. Further, the Recipient agrees to abide by reasonable deadlines set by the Department for providing requested documents. Failure to cooperate with grant monitoring activities may result in sanctions affecting the Recipient's award, including, but not limited to: withholding and/or other restrictions on the Recipient's access to funds, and/or referral to the Office of the Inspector General for audit review.

Florida Single Audit Act (FSAA): The Recipient shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by The Office of the Inspector General (§20.055, F.S.). In the event that the Recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year, the Recipient must have a single audit or project-specific audit in accordance with §215.97, F.S. and the applicable rules of the Department of Financial Services

and the Auditor General. In determining the state financial assistance expended in its fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Law Enforcement, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements. The schedule of expenditures should disclose the expenditures by contract/agreement number for each contract with the Department in effect during the audit period. All questioned costs and liabilities due the Department shall be fully disclosed in the audit report package with reference to the specific contract number. If the Recipient expends less than \$750,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of 215.97, F.S., is not required. In the event that the Recipient expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of 215.97, F.S., the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the Recipient's resources obtained from other than State entities). Pursuant to 215.97(8), F.S., state agencies may conduct or arrange for audits of state financial assistance that are in addition to audits conducted in accordance with §215.97, F.S. In such an event, the state awarding agency must arrange for funding the full cost of such additional audits. Any reports, management letters, or other information required to be submitted to the Department pursuant to this agreement shall be submitted within nine (9) months after the end of the Recipient's fiscal year or within 30 days of the Recipient's receipt of the audit report, whichever occurs first, unless otherwise required by Florida Statutes. Copies of financial reporting packages required by this agreement shall be submitted by or on behalf of the Recipient directly to each of the following:

The Department of Law Enforcement:

Florida Department of Law Enforcement
Office of Criminal Justice Grants
ATTN: State Financial Assistance
Post Office Box 1489 Tallahassee, Florida 32302-1489

The Auditor General's Office at:

Auditor General's Office, Room 401
Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Criminal Justice Information Data Security: Acceptance of this award, constitutes understanding that transmission of Criminal Justice Information (CJI) between locations must be encrypted to conform to the Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Security Policy.

Recipient's Confidential and Exempt Information: By executing this agreement, the Recipient acknowledges that any information not marked as "confidential" or "exempt" will be posted by the Department on the public website maintained by the Department of Financial Services pursuant to 215.985, F.S. The Recipient agrees that, upon written request of the Department, it shall promptly provide to the Department a written statement of the basis for the exemption applicable to each provision identified by the Recipient as "confidential" or "exempt", including the statutory citation to an exemption created or afforded by statute, and state with particularity the reasons for the conclusion that the provision is exempt or confidential. Any claim by Recipient of trade secret (proprietary) confidentiality for any information contained in Recipient's documents (reports, deliverables or work papers, etc., in paper or electronic form) submitted to the Department in connection with this agreement cannot be waived, unless the claimed confidential information is submitted in accordance with the following two paragraphs.

The Recipient must clearly label any portion of the documents, data, or records submitted that it considers exempt from public inspection or disclosure pursuant to Florida's Public Records Law as trade secret. The labeling will include a justification citing specific statutes and facts that authorize exemption of the information from public disclosure. If different exemptions are claimed to be

applicable to different portions of the protected information, the Recipient shall include information correlating the nature of the claims to the particular protected information.

The Department, when required to comply with a public records request including documents submitted by the Recipient, may require the Recipient to expeditiously submit redacted copies of documents marked as trade secret in accordance with this section. Accompanying the submission shall be an updated version of the justification, correlated specifically to redacted information, either confirming that the statutory and factual basis originally asserted remain unchanged or indicating any changes affecting the basis for the asserted exemption from public inspection or disclosure. The redacted copy must exclude or obliterate only those exact portions that are claimed to be trade secret. If the Recipient fails to promptly submit a redacted copy, the Department is authorized to produce the records sought without any redaction of proprietary or trade secret information.

SECTION VII: PENALTIES, TERMINATION, DISPUTE RESOLUTION, AND LIABILITY

Financial Penalties for Failure to Take Corrective Action: Corrective action plans may be required for noncompliance, nonperformance, or unacceptable performance under this agreement. Penalties may be imposed for failures to implement or to make acceptable progress on such corrective action plans.

Termination: The Department reserves the right to unilaterally cancel this agreement for refusal by the Recipient to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Recipient in conjunction with this agreement, unless the records are exempt pursuant to Article I, Section 24(a), of the Florida Constitution and §119.07(1), F.S. The Department shall be the final authority as to the appropriation, availability and adequacy of funds. In the event the Recipient fails to fully comply with the terms and conditions of this agreement, the Department may terminate the agreement upon written notice. Such notice may be issued without providing an opportunity for cure if it specifies the nature of the noncompliance and states that provision for cure would adversely affect the interests of the State or is not permitted by law or regulation. Otherwise, notice of termination will be issued after the Recipient's failure to fully cure such noncompliance within the time specified in a written notice of noncompliance issued by the Department specifying the nature of the noncompliance and the actions required to cure such noncompliance. In addition, the Department may employ the default provisions in Rule 60A-1.006(3), F.A.C., but is not required to do so in order to terminate the agreement. The Department's failure to demand performance of any provision of this agreement shall not be deemed a waiver of such performance. The Department's waiver of any one breach of any provision of this agreement shall not be deemed to be a waiver of any other breach and neither event shall be construed to be a modification of the terms and conditions of this agreement. The provisions herein do not limit the Department's right to remedies at law or in equity. The validity of this agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this agreement, in any subsequent submission or response to Department request, or in any submission or response to fulfill the requirements of this agreement, and such information, representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes shall, at the option of the Department and with thirty (30) days written notice to the Recipient, cause the termination of this agreement and the release of the Department from all its obligations to the Recipient. This agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this agreement shall lie in Leon County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict, and shall be deemed severable, but shall not invalidate any other provision of this agreement. No waiver by the Department of any right or remedy granted hereunder or failure to insist on strict performance by the Recipient shall affect or extend or act as a waiver of any other right or remedy of the Department hereunder, or affect the subsequent exercise of the same right or remedy by the Department for any further or subsequent default by the Recipient. Any power of approval or disapproval granted to the Department under the terms of this agreement shall survive the terms and life of this agreement as a whole. The agreement may be executed in any number of counterparts, any one of which may be taken as an original. In the event of termination, the Recipient will be compensated for any work satisfactorily completed through the date of termination or an earlier date of suspension of work.

Disputes and Appeals: The Department shall make its decision in writing when responding to any disputes, disagreements, or questions of fact arising under this agreement and shall distribute its response to all concerned parties. The Recipient shall proceed diligently with the performance of this agreement according to the Department's decision. If the Recipient appeals the Department's decision, the appeal also shall be made in writing within twenty-one (21) calendar days to the Department's clerk (agency clerk). The Recipient's right to appeal the Department's decision is contained in Chapter 120, F.S., and in procedures set forth in Fla. Admin. Code R.28-106.104. Failure to appeal within this time frame constitutes a waiver of proceedings under Chapter 120, F.S. After receipt of a petition for alternative dispute resolution the Department and the Recipient shall attempt to amicably resolve the dispute through negotiations. Timely delivery of a petition for alternative dispute resolution and completion of the negotiation process shall be a condition precedent to any legal action by the Recipient concerning this agreement.

Liability: Unless the Recipient is a state agency or subdivision, the Recipient shall be solely responsible to parties with whom it shall deal in carrying out the terms of this agreement, and shall save the Department harmless against all claims of whatever nature by third parties arising out of the performance of work under this agreement. For purposes of this agreement, Recipient agrees that it is not an employee or agent of the Department, but is an independent contractor. Nothing herein shall be construed as consent by a state agency of the State of Florida to be sued by third parties in any matter arising out of any contract. Nothing shall be construed affect in any way the Recipient rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in 768.28, F.S.

Appendix A: Special Conditions

Grant Number: 7G006
Recipient: City of Kissimmee
Project Title: Kissimmee Public Safety Training Support Annex
Project Period: 07/01/2022 – 06/30/2023

In addition to the attached standard conditions, the above-referenced grant project is subject to the special conditions set forth below.

- W0001 Prior to the drawdown of funds for the training structure, the Recipient must provide a copy of the vendor's quote to the Office of Criminal Justice Grants.
- W0002 Prior to the drawdown of funds for any third-party contracts entered into by the Recipient for construction services, a completed DFS-A2-NS form must be provided to the Office of Criminal Justice Grants.
- W0003 Prior to the drawdown of funds for construction, the Recipient must submit a copy of any third-party subcontracts related to the agreement and must address the requirements identified in 215.97(7)(a) and (d), Florida Statutes.

Appendix B - Project Deliverables

Grant Number: 7G006
Recipient: City of Kissimmee
Project Title: Kissimmee Public Safety Training Support Annex
Project Period: 07/01/2022 – 06/30/2023

Total payments for all deliverables will not exceed the maximum grant award amount.

Deliverable 1	Procure services to design and construct an outdoor public safety training annex in the City of Kissimmee.
Minimum Performance Criteria:	Completion of progress with at least one activity described in the Scope of Work. Documentation includes an attestation of activities or services rendered on the expenditure report.
Financial Consequences:	This is a cost reimbursement deliverable. Only those items purchased and received will be eligible for payment.
Deliverable Price:	Total payments for this deliverable will be approximately \$500,000.00.

Appendix C - Budget Details

Grant Number: 7G006
Recipient: City of Kissimmee
Project Title: Kissimmee Public Safety Training Support Annex
Project Period: 07/01/2022 – 06/30/2023

Budget Category	Total
A. Personnel (Salary/Overtime)	\$0.00
B. Fringe Benefits	\$0.00
C. Travel	\$0.00
D. Equipment (OCO)	\$0.00
E. Supplies	\$0.00
F. Construction	\$500,000.00
G. Consultants/Contracts	\$0.00
H. Other Costs	\$0.00
TOTAL	\$500,000.00

F. Construction = \$500,000.00

Award funds will be used to design and construct an outdoor public safety training annex. The additional covered training space will be utilized by both fire/rescue and law enforcement to allow them to provide quality service to citizens and visitors in the City of Kissimmee. Additionally, the award funds will be utilized to prepare the site for the training annex. Construction activities will include design, zoning, permits, surveys, site preparation, utility Infrastructure, construction of foundation, metal building fabrication and assembly, as well as mechanical, electrical and plumbing construction.

Design: update engineering and construction plans = \$20,000.00

Permits = \$10,000.00

Excavation and site preparation = \$120,000.00

Utility Infrastructure: installing utility connections such as power, water, sanitation, fiber, etc. = \$50,000.00

Building Construction: including construction of foundation, metal building fabrication and assembly, as well as mechanical, electrical and plumbing construction = \$300,000.00

ITEM 7.D

Interlocal Agreement for the FY 2022-23 Osceola Legislative Effort

Request

Commission approval of an interlocal agreement with Osceola County, the School Board of Osceola County and the City of St. Cloud for the Osceola Legislative Effort (OLE) for the upcoming State Legislative Session and U.S. Congressional Sessions for 2023.

Explanation

OLE is an intergovernmental partnership that annually retains professional lobbyist services to promote, represent and protect the collective interests of Osceola County, City of St. Cloud, the Osceola County School District and the City of Kissimmee. The City has been a member of OLE on and off since its creation almost 20 years ago and most recently was granted membership as an auxiliary member as a result of the City's need to retain federal lobbying services not provided by OLE.

This year, OLE has restructured its lobbying approach to include the addition of federal lobbying services. With the increased need for federal funding for the airport, transportation, affordable housing and community development, and disaster recovery and mitigation, these additional lobbying services will benefit the City's efforts to secure funding for these issues. OLE's services in this regard will provide additional support for the City's lobbying efforts in these areas as well as on state issues.

As part of this agreement, the partnership will share costs for these lobbying services as follows: Osceola County (\$80,000), School Board (\$60,000), Kissimmee (\$40,000) and St. Cloud (\$30,000). Administrative support for OLE and management of the lobbying contracts is provided by the Osceola Chamber of Commerce.

Recommendation

Staff requests Commission approval to participate in the joint lobbying effort with OLE.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: City Attorney

Presenter:

Attachment(s):

1. (S) Interlocal Agreement for OLE

AGREEMENT

This is an agreement between Osceola County (hereinafter referred to as "COUNTY"), the City of St. Cloud (hereinafter referred to as "ST. CLOUD"), the City of Kissimmee (hereinafter referred to as "KISSIMMEE"), the School Board of Osceola County, Florida (hereinafter referred to as "SCHOOL BOARD"), and Osceola Legislative Effort, Inc., a Florida not-for-profit corporation, (hereinafter referred to as "OLE"), for the acquisition of lobbyist services to promote, represent and protect those interests which collectively affect and impact the interests of the County, Cities and the School Board.

WITNESSETH:

WHEREAS each year there are legislative issues which affect the collective interests of the COUNTY, ST. CLOUD, KISSIMMEE, and the SCHOOL BOARD; and

WHEREAS these collective interests would be better served with a unified voice and joint lobbying effort representing the interests of these parties as a whole; and

WHEREAS such unified joint representation would promote efficiency and provide for a large, more positive and more productive impact on those concerns and issues relating to these parties as a collective unit; and

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms and conditions contained herein, and for other good and valuable consideration provided by each party hereto, the parties agree as follows:

1. The recitals in the "WHEREAS" clauses are incorporated into and become part of this Agreement.
2. The term of this Agreement is from October 1, 2022 through September 30, 2023, to be approved and executed by all parties.
3. OLE agrees to acquire and retain professional lobbyist services to promote, represent and protect those interests that collectively affect the COUNTY, ST. CLOUD, KISSIMMEE, and the SCHOOL BOARD. The services to be contracted for shall include, but will not be limited to, the following:
 - a. Monitor legislation of interest to the represented parties herein; and
 - b. Advance the issues in the legislative program constructed for the parties represented herein, working to refine that legislation through the development of amendments as warranted and necessary; and
 - c. Assist in the development of strategies relating to the collective legislative concerns of the parties represented herein; and

- d. As needed, lobby the Governor, staff and state agencies on behalf of represented parties herein; and
 - e. As needed, lobby the federal executive and legislative branches, and their staff, on behalf of represented parties herein; and
 - f. Provide advice as to how the represented parties may obtain and maximize returns collectively received from the state Legislature or federal government based on the intricacies of the legislative process; and
 - g. Use all best efforts to coordinate funding, legislation and policy related activities with legislative bodies and interests; and
 - h. Use all best efforts to secure appropriate authorizations and funding from legislative bodies to implement projects for the collective benefit of the parties as stated above; and
 - i. Maintain direct and frequent contact with legislative members representing the interests of the parties as stated above, and inform the governing bodies of each of the represented parties as to the need to participate directly in the legislative process, such as through testimony in committee meetings or through conversations with members of the parties' legislative delegation or other members of the legislature; and
 - j. Advocate the collective interests of the aforementioned parties during the legislative process; and
 - k. Keep the parties apprised of the status of legislation on a regular basis by frequent telephone conversations with each of the represented parties, as well as with the members of the respective governing bodies and staff, and also maintain such contact in writing as appropriate; and
 - l. Deliver a written final report within 60 days of the conclusion of the state legislative session on the outcome of the issues in the parties' collective legislative program and, within the same time period if requested, provide a presentation regarding same to each of the respective governing bodies; and
 - m. Present an annual budget by December 15, 2022.
4. OLE shall select lobbyist(s) with the necessary expertise and background for the issues to be addressed. Said lobbyist(s) shall agree in writing, that the lobbyist(s) will not lobby before any of the entities, its elected officials or staff on behalf of any third party or lobby against any interests of the entities to this Agreement for a period of two (2) years after completion of representation. Provided, however, that the restriction herein may be waived or limited

by any of the parties hereto. Further, that the lobbyist(s) shall comply with all applicable state and federal laws and regulations governing lobbying. The contract with the lobbyist(s) shall be in writing.

5. The Board of Directors of OLE shall meet as soon as conveniently possible after the execution of the Agreement to collectively submit and discuss those issues of primary focus as previously agreed upon by their respective governing bodies. At such time, the Board shall create and formally adopt a list of issues and instructions for the engaged lobbyist(s) to pursue during the immediate legislative session. Notwithstanding any term contained in the by-laws to the contrary, the approval of a list of issues and instructions as contemplated herein, shall require the unanimous approval of the Board of Directors.
6. The parties herein agree that the fees for acquiring and retaining the services of the lobbyist(s) subject to this Agreement shall not exceed a total amount of TWO HUNDRED TWENTY THOUSAND DOLLARS AND 00/100 (\$220,000.00), and that payment for same shall be remitted to OLE in the following manner:
 - a. The COUNTY of Osceola shall pay no more than EIGHTY THOUSAND AND 00/100 DOLLARS (\$80,000.00) PER YEAR; and
 - b. The SCHOOL BOARD shall pay no more than SIXTY THOUSAND AND 00/100 DOLLARS (\$60,000.00) PER YEAR; and
 - c. KISSIMMEE shall pay no more than FORTY THOUSAND AND 00/100 (\$40,000.00) PER YEAR; and
 - d. ST. CLOUD shall pay no more than THIRTY THOUSAND AND 00/100 DOLLARS (\$30,000.00) PER YEAR; and
 - e. The parties further agree that one-half (1/2) of their individual payments, as outlined above, shall be submitted to OLE within 45 days (pursuant to the local Government Prompt Payment Act) after the date of execution of this Agreement, with the remaining balance due on or before February 1, 2023. Notwithstanding the foregoing, no Party shall be obligated to pay any portion of its contribution hereunder, until such time as that Party has budgeted or otherwise approved the funding of its contribution.
7. In the event one governmental entity elects to withdraw from the Agreement, said entity shall provide thirty (30) days prior written notice to each party of this Agreement.
8. This Agreement may be terminated at any time, by mutual and complete agreement between all parties hereto, or by thirty (30) days prior written notice to each party of this Agreement. Any funds not expended by OLE, shall be returned to the parties on a prorate basis.

9. This Agreement shall not be assigned by any party without prior written consent of the other parties.
10. All notices and/or reports required under this Agreement shall be delivered by United States mail, overnight express, or hand delivery to the following offices.

For Osceola County:

County Manager
1 Courthouse Square, Ste. 4700
Kissimmee, FL 34741

County Attorney
1 Courthouse Square, Ste. 4200
Kissimmee, FL 34741

For St. Cloud:

City Manger
City Hall
1300 Ninth Street
St. Cloud, FL 34769

For the School Board:

Office of the Superintendent
817 Bill Beck Blvd., Building 1000
Kissimmee, FL 34744

School Board Attorney Frank Kruppenbacher, P.A.
P. O. Box 3471
Orlando, FL 32836

For Kissimmee:

City Manager
City Hall
101 Church Street
Kissimmee, FL 34741

City Attorney
City Hall
101 Church Street
Kissimmee, FL 34741

For OLE

Osceola Legislative Effort, Inc.
1425 E. Vine Street
Kissimmee, FL 34744

11. This Agreement shall be governed by, and construed under, the laws of the State of Florida. Except for a suit in Federal court, venue for all suits to enforce this Agreement shall be in Osceola County, Florida. Any legal proceedings arising out of or in connection with this Agreement shall be brought in the Circuit Courts of Osceola County, Florida, or, if appropriate, the United States District Court for the Middle District of Florida, Orlando Division.
12. OLE agrees to indemnify, defend, and hold harmless the COUNTY, ST. CLOUD, KISSIMMEE, AND THE SCHOOL BOARD from any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suit proceedings, actions and costs of actions, including attorney's fees, at the trial, appellate and administrative levels, of any kind and nature, arising directly or indirectly from or out of any negligent act or omission of OLE arising out of or in any way connected with the performance of this Agreement by OLE, or because of or due to the existence of this Agreement itself.
13. Nothing herein is intended to serve, nor shall be construed, as a waiver, express or implied, of sovereign immunity by any party, agency, or political subdivision to which sovereign immunity by any party, agency, or political subdivision to which sovereign immunity is applicable. Further, without limitation, nothing herein modifies the rights of the parties and the limits of liability set forth in Section 768.28 Florida Statutes.
14. The parties agree that no action may be commenced or maintained unless all conditions precedent pursuant to this Agreement or set forth by law have been satisfied by the complaining party. The parties agree that non-binding mediation shall be attempted prior to filing suit. All parties shall be responsible for their own attorney's fees and costs.
15. In the performance of this Agreement, OLE shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. For purposes of this Agreement, books, records, and accounts shall refer to all information, materials and data of every kind and character, including hard copy and computer-readable data, where applicable, and shall include, without limitations, documents, recordings, agreements, contracts, commitments, arrangements, notes, journals, diaries, reports, receipts, memoranda, correspondence, written policies and procedures, expense records, and any other documents and sources of information that may in the parties' judgement have any bearing on or pertain to any matters, rights, duties or obligations under or covered by this Agreement. Throughout the term of this Agreement, books, records and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by any authorized representative of the COUNTY, ST. CLOUD, KISSIMMEE and the SCHOOL BOARD, and shall be retained by OLE for a period of

five (5) years after termination or completion of the Agreement or until the full audit is complete, whichever comes first. The COUNTY, ST. CLOUD, KISSIMMEE, and the SCHOOL BOARD shall retain the right to audit the books during the five (5) year retention period. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. The COUNTY, ST. CLOUD, KISSIMMEE, and the SCHOOL BOARD also have the right to conduct an audit within sixty (60) days from the effective date of this Agreement to determine whether OLE has the ability to fulfill its contractual obligations to the satisfaction of the COUNTY, ST. CLOUD, KISSIMMEE and the SCHOOL BOARD. The COUNTY, ST. CLOUD, KISSIMMEE, and the SCHOOL BOARD have the right to terminate this Agreement based upon the findings in this audit without regard to any notice requirement for termination. If OLE received notifications of a dispute or the commencement of litigation or other proceeding regarding any services performed under this Agreement within this five (5) year period, then OLE shall continue to maintain all books, records, and accounts in accordance with this paragraph until final resolution of the dispute, litigation, or other proceeding.

16. Public Records Act/Chapter 119 Requirements

IF OLE 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, 817 BILL BECK BOULEVARD, KISSIMMEE, FLORIDA 34744, PHONE: (407) 870-4600, EMAIL: PUBLCRECORDS@OSCEOLASCHOOLS.NET.

OLE understands that by virtue of this Agreement all of its documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If OLE will act on behalf of the PARTIES, as provided under section 119.011(2), Florida Statutes, OLE, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:

1. Keep and maintain public records by the PARTIES to perform the service.
2. Upon request from the PARTIES' custodian of public records, provide the PARTIES 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 by Florida 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 OLE does not transfer the records to the PARTIES.
4. Upon completion of the contract, transfer, at no cost, to the PARTIES all public records in possession of OLE or keep and maintain public records required by the PARTIES to perform the service. If OLE transfers all public records to the PARTIES upon completion of the contract, OLE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If OLE keeps and maintains public records upon completion of the contract, OLE shall meet all applicable requirements for retaining public records. All records stored electronically must be

provided to the PARTIES, upon request from the PARTIES' custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

5. If OLE does not comply with a public records request, the PARTIES shall enforce the contract provisions in accordance with the Agreement.
17. There are no third-party beneficiaries created or entitled by this Agreement, and only the specific parties hereto shall have any rights or standing to enforce this Agreement or any provision thereof.
18. The parties to this Agreement hereby expressly waive and forego any and all rights to trial by jury to the fullest extent allowed by law.
19. This Agreement sets forth the entire Agreement between the parties. There are no promises or understandings other than those stated herein. None of the provisions, terms or conditions contained in this Agreement may be modified, superseded or otherwise altered except by prior written agreement duly executed by all the parties.
20. If any item or provision of this Agreement, or the applications thereof to any persons or circumstances shall be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms and provisions shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
21. All Board of Directors meetings shall be held in accordance with the Florida Statutes 286.
22. This Agreement may be executed in five (5) original counterparts to expedite its implementation and effective date.

(Signature Pages to Follow)

IN WITNESS WHEREOF, the COUNTY, ST. CLOUD, KISSIMMEE, SCHOOL BOARD and OLE have caused this Agreement to be duly executed through authorized representatives, on the respective dates set forth below.

**OSCEOLA COUNTY
COUNTY MANAGER**

BY: _____
Don Fisher, Osceola County Manager

ATTEST: _____
Deputy Clerk

Date: _____

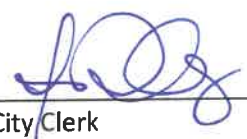
IN WITNESS WHEREOF, the COUNTY, ST. CLOUD, KISSIMMEE, SCHOOL BOARD and OLE have caused this Agreement to be duly executed through authorized representatives, on the respective dates set forth below.

CITY OF ST. CLOUD

BY:

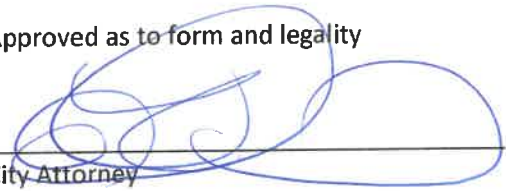

Veronica Miller, City Manager

ATTEST:


City Clerk

Date: Opped 8/10/22

Approved as to form and legality


City Attorney

IN WITNESS WHEREOF, the COUNTY, ST. CLOUD, KISSIMMEE, SCHOOL BOARD and OLE have caused this Agreement to be duly executed through authorized representatives, on the respective dates set forth below.

CITY OF KISSIMMEE

BY: _____
Mike Steigerwald, City Manager

ATTEST: _____
City Clerk

Date: _____

Approved as to form and legality

City Attorney

IN WITNESS WHEREOF, the COUNTY, ST. CLOUD, KISSIMMEE, SCHOOL BOARD and OLE have caused this Agreement to be duly executed through authorized representatives, on the respective dates set forth below.

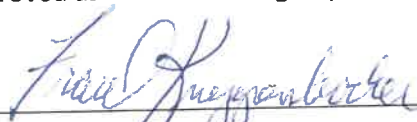
THE SCHOOL BAORD OF OSCEOLA COUNTY, FLORIDA

BY: 
Terry Castillo, Chairman

ATTEST: 
Superintendent Debra Pace

Date: 8/2/22

Approved as to form and legality


School Board Attorney

IN WITNESS WHEREOF, the COUNTY, ST. CLOUD, KISSIMMEE, SCHOOL BOARD and OLE have caused this Agreement to be duly executed through authorized representatives, on the respective dates set forth below.

OSCEOLA LEGISLATIVE EFFORT, INC.

BY: _____
John Newstreet, Executive Director

ATTEST: _____
Cindy Lewis, Secretary

Date: _____

ITEM 7.E

Acceptance of 2022 BJA Edward Byrne Memorial Justice Assistance Grant Program – Local Solicitation Program from the U.S. Department Of Justice

Request

Request City Commission approval of the acceptance of Fiscal Year 2022 Edward Byrne Memorial Justice Assistance Grant (JAG) from the United States Department of Justice Office of Justice.

Explanation

The Police Department applied for funding from the FY 2022 Edward Byrne Memorial Justice Assistance Grant (JAG). On September 29, 2022, the City was notified the Office of Justice Programs approved the application for funding under the FY 2022 Edward Byrne Memorial Justice Assistance Grant (JAG) Program: Local Solicitation. The City was awarded \$27,157, which will be allocated for the partial funding of salaries for two police officers and one police sergeant as outlined in the grant application. The balance of the monies needed for the salary and benefits of the officers and sergeant will continue to come from the General Fund.

Recommendation

Staff recommends that the City Commission accept the funding and authorize the City Manager to execute the required documents to accept the award.

REQUESTED CITY COMMISSION ACTION:

Accept

Department: Police

Presenter:

Attachment(s):

1. JAG Grant Award Notification 2022

✓ Award Letter

September 29, 2022

Dear Mike Steigerwald,

On behalf of Attorney General Merrick B. Garland, it is my pleasure to inform you the Office of Justice Programs (OJP) has approved the application submitted by KISSIMMEE, CITY OF for an award under the funding opportunity entitled 2022 BJA FY 22 Edward Byrne Memorial Justice Assistance Grant Program - Local Solicitation. The approved award amount is \$27,157.

Review the Award Instrument below carefully and familiarize yourself with all conditions and requirements before accepting your award. The Award Instrument includes the Award Offer (Award Information, Project Information, Financial Information, and Award Conditions) and Award Acceptance. For COPS Office and OVW funding the Award Offer also includes any Other Award Documents.

Please note that award requirements include not only the conditions and limitations set forth in the Award Offer, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. These requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds). Therefore, all key staff should receive the award conditions, the assurances and certifications, and the application as approved by OJP, so that they understand the award requirements. Information on all pertinent award requirements also must be provided to any subrecipient of the award.

Should you accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

Prior to accepting the award, your Entity Administrator must assign a Financial Manager, Grant Award Administrator, and Authorized Representative(s) in the Justice Grants System (JustGrants). The Entity Administrator will need to ensure the assigned Authorized Representative(s) is current and has the legal authority to accept awards and bind the entity to the award terms and conditions. To accept the award, the Authorized Representative(s) must accept all parts of the Award Offer in the Justice Grants System (JustGrants), including by executing the required declaration and certification, within 45 days from the award date.

To access your funds, you will need to enroll in the Automated Standard Application for Payments (ASAP) system, if you haven't already completed the enrollment process in ASAP. The Entity Administrator should have already received an email from ASAP to initiate this process.

Congratulations, and we look forward to working with you.

Maureen Henneberg
Deputy Assistant Attorney General

Office for Civil Rights Notice for All Recipients

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Section 504 of the

Rehabilitation Act of 1973, require recipients of federal financial assistance to give assurances that they will comply with those laws. Taken together, these civil rights laws prohibit recipients of federal financial assistance from DOJ from discriminating in services and employment because of race, color, national origin, religion, disability, sex, and, for grants authorized under the Violence Against Women Act, sexual orientation and gender identity. Recipients are also prohibited from discriminating in services because of age. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with DOJ awards, see <https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm>.

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria. These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a nondiscriminatory manner to their service population or have employment practices that meet equal-opportunity standards.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEO requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5).

The OCR is available to help you and your organization meet the civil rights requirements that are associated with DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to contact the OCR at askOCR@ojp.usdoj.gov.

Memorandum Regarding NEPA

NEPA Letter Type

OJP - Ongoing NEPA Compliance Incorporated into Further Developmental Stages

NEPA Letter

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in

office, household, recreational, or education environments; and
e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see <https://www.bja.gov/Funding/nepa.html>.

NEPA Coordinator

First Name

Middle Name

Last Name

Orbin

—

Terry

- **Award Information**
- **Project Information**
- **Financial Information**
- **Award Conditions**
- **Award Acceptance**

ITEM 7.F

Projects to be Carried Forward to FY 2022-2023

Request

Approval to increase the FY 2022-2023 budget to continue funding certain projects that were approved in prior years.

Explanation

Attached is a listing of projects that are being recommended for carryover to the FY2022-2023 budget. To expedite the carry forward process, staff has prepared the carry forward schedule based upon expenditures and transfers posted as of September 30, 2022. As such, staff requests Commission approval to carry forward the projects/accounts in an amount not to exceed the final adjusted balance at September 30, 2022.

After all accruals and budget transfers have been posted after the year-end, these amounts will be adjusted, if necessary. The projects/accounts that are being carried forward took longer than twelve months to complete or were delayed for some other reason. Most of these are capital projects; however, a few items are budgeted in other accounts. The carry forward of the funds in the projects and accounts listed was anticipated during preparation of the budget and will not adversely affect reserves for the current budget year.

Recommendation

Staff recommends Commission approval to carryover funds not to exceed the final adjusted balance for the projects/accounts on the attached list.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Finance

Presenter:

Attachment(s):

1. Carry Forwards 2022

CITY OF KISSIMMEE
PROJECTS TO BE CARRIED FORWARD TO FY 2022-2023

PROJECT	PROJECT TITLE	ACCOUNT	DEFAULT GL OBJ	REQUESTED
				CARRYOVER NOT TO EXCEED
AP2103	Comprehensive Airfield Security-Pha	46170106	506393	14,032.00
AP2201	Airport Master Plan	46170106	506393	9,400.00
CA2200	TABLET COMPUTER REPLACEMENT	00105106	506494	1,365.00
CM1710	Utility Relocation	35510106	506393	1,813,025.38
CM1815	Future Land Acquisitions	35610106	506191	344,163.00
CM2014	City Wide Security Initiatives	00110106	506393	3,748.00
CM2102	Camera Network Switch	00110106	506494	10,000.00
CM2103	Citywide Camera Expansion (6)	00110106	506393	7,012.60
CM2104	Citywide Camera Replacement (25)	00110106	506393	25,439.55
CM2201	Citywide Camera Replacement (25)	00110106	506393	67,598.16
CM2207	Performance Workstation	00110406	506494	5,000.00
CM2208	Access Osceola Renovation	00110406	506494	1,536.00
CR1901	Church Street Parking	35710106	506393	510,035.00
CR2100	Legacy Project	10610506	506393	500,000.00
CR2101	Beautification and Storm Water Proj	10725506	506393	445,000.00
CR2200	Toho Square Parking Garage Sign	10610506	506393	126,303.00
CR2201	Legacy Project	10610506	506393	600,000.00
CR2203	Beautification and Storm Water Proj	10725506	506393	200,000.00
CR2204	PIONEER PROJECT INCENTIVE PRO	10725508	508282	300,000.00
CS1811	Mill Run Parking Lot	56045606	506393	12,853.00
CS2202	Fuel Dispenser Pump (2)	56045706	506393	8,426.00
CS2203	Diagnostic Equipment (2)	56045706	506494	3,418.00
CS2210	Lakeside Community Park Pavilion Ro	56045606	506393	3,700.00
CS2212	Chambers Park Front Entryway Floori	56045606	506393	6,000.00
CS2213	Chambers Park Parking Lot Resurface	56045606	506393	10,000.00
CS2216	Lakeside Community Park Roof Modula	56045606	506393	14,900.00
CS2219	Streets Roof Replacement	56045606	506393	6,143.00
CS2220	Central Services Genterator	56045606	506393	37,500.00
CS2221	3/4 Ton Pick-up Truck	56045606	506495	39,800.00
CS2223	Police Department Standby Generator	56045606	506494	75,000.00
CS2226	City Hall Generators	56045606	506393	150,000.00
CS2227	Police Department Roof Replacement	56045606	506393	157,800.00
CS2228	City Hall VAV Upgrade (2)	56045606	506393	9,956.00
CS2231	Fire Station #13 Concrete Pad	56045606	506393	1,750.00
DS1908	Enterprise Resource Planning	10140106	506393	17,768.89
DS1908	Enterprise Resource Planning	10140106	506494	41,748.00
DS2104	Radio Base Station	10140106	506494	7,000.00
DS2105	Portable Radio (4)	10140106	506494	14,500.00
DS2106	Large Format Scanner (8)	10140106	506494	10,350.00
DS2107	Plan Size Scanner	10140106	506494	100,000.00
DS2108	Vehicle (4)	10140106	506495	31,856.00
DS2109	Permitting Service Center	10140106	506292	1,918,142.33
DS2115	PERSONAL COMPUTER	10140106	506494	1,800.00
DS2116	TABLET	10140106	506494	1,000.00
DS2117	DESK FOR DEPUTY BLDG OFFICIAL	10140106	506393	2,600.00
DS2120	PEDESTRIAN SAFETY IMPROVEMENTS	00125106	506393	123,022.00
DS2200	Personal Computer	00125106	506494	1,500.00
DS2205	Medium Duty Scanner (4)	10140106	506494	14,000.00
DS2206	Permitting Service Center	10140106	506292	658,366.28
DS2212	DESKTOP PERMIT COORDINATOR	10140106	506494	3,000.00
DS2213	Beaumont Project	35925506	506393	5,918,735.00
FA1601	Network Laser Printer	00120106	506494	5,500.00
FA2003	Fixed Asset Scan Gun (4)	00120106	506494	59,412.00
FD2038	Self Contained Breathing Apparatus	00135206	506494	70,000.00
FD2106	3/4 Ton Pick-up Truck	00135106	506495	6,770.26

CITY OF KISSIMMEE
PROJECTS TO BE CARRIED FORWARD TO FY 2022-2023

FD2137	Fire Hose and Appliance	00135206	506393	15,000.00
FD2146	Vehicle-Mounted Diesel Filter Syste	00135206	506393	43,695.30
FD2146	Vehicle-Mounted Diesel Filter Syste	00135206	506393	45,000.00
FD2149	Self Contained Breathing Apparatus	00135206	506494	70,000.00
FD2202	Storage Container	00135106	506494	5,100.00
FD2206	Temperature Gauge	00135106	506494	9,800.00
FD2212	Rotary Saw	00135206	506494	1,800.00
FD2213	Chain Vent Saw	00135206	506494	1,900.00
FD2215	Hydraulic Forcible Entry Tool	00135206	506494	2,000.00
FD2216	Exothermic Torch	00135206	506494	2,300.00
FD2218	Portable LED Scene Lighting (2)	00135206	506494	3,100.00
FD2219	Horizontal Fire Sled	00135206	506494	3,500.00
FD2221	Firefighting Ventilation Fan	00135206	506494	4,200.00
FD2222	Confined Space Air Cart	00135206	506494	5,000.00
FD2223	Artificial High Directional	00135206	506494	5,500.00
FD2224	Machine Rescue Kit	00135206	506494	5,800.00
FD2226	Wireless Headset	00135206	506494	7,000.00
FD2237	Powerload Cot Fastening System (2)	00135206	506494	8,402.12
FD2238	Vehicle-Mounted Diesel Filter Syste	00135206	506393	4,833.06
FD2239	Self Contained Breathing Apparatus	00135206	506494	70,000.00
FD2241	Laptop	00135106	506494	1,417.00
FD2247	Shipping Container	00135206	506494	1,200.00
FD2248	Training Manikins	00135203	505255	3,742.00
FD2251	Desktop Computer (4)	00135206	506494	6,178.00
GT1608	Quiet Zone	10345656	506393	2,910.00
GT1809	Hudson Street	10345206	506393	18,218.00
GT1904	Neptune Road Improvements - Design	10345656	506393	66,519.62
GT1905	Mabbette Street Improvements: John	10345656	506393	33,326.89
GT2003	Intelligent Transportation System	10345656	506393	53,583.00
GT2103	Neighborhood Street Light Infill Pr	10345656	506393	45,955.00
GT2104	Intelligent Transportation System	10345656	506393	50,000.00
GT2105	Denn John Lane Improvements	10345656	506393	300,000.00
GT2108	Temporary Vehicle Barrier	00145406	506393	14,000.00
GT2108	Temporary Vehicle Barrier	10345406	506393	80,000.00
GT2201	Thacker Avenue/Patrick Street Traff	10345406	506393	600,600.00
GT2204	Tilt Trailer	10345646	506494	3,527.00
GT2207	Intelligent Transportation System	10345656	506393	50,000.00
GT2209	West Oak Street at John Young Parkw	10345656	506393	8,717.00
HR2201	Scanner	00115106	506494	1,008.00
HR2202	Scanner	00115106	506494	1,008.00
MF1700	Emory Canal Trail	10945656	506393	5,121.00
MF1900	Hoagland Boulevard	10945656	506393	9,151.00
MF2000	Hoagland Boulevard: US 192/Carroll	10945656	506393	913,489.00
MF2100	Hoagland Boulevard: US 192/Carroll	10945656	506393	2,500,000.00
MF2200	Hoagland Boulevard: US 192/Carroll	10945656	506393	250,000.00
PD1916	KPD Training Facility Equipment	00130206	506494	9,275.00
PD2038	PD Building Renovations	00130206	506393	25,388.00
PD2112	Vehicle (2)	00130206	506495	10,000.62
PD2205	Copy Machine (4)	00130206	506494	4,708.84
PD2209	Vehicle (4)	00130206	506495	17,562.00
PD2211	Vehicle (9)	00130206	506495	27,833.75
pd2223	Electronic Parking Tickets	00130206	506494	20,000.00
PD2225	Fingerprint Scanner	00130206	506494	14,500.00
PR1838	Cremation Garden Phase 2	00150506	506393	32,855.00
PR1913	Oak Street Playground Safety Surfac	00150206	506393	40,000.00
PR1931	Front Fencing	00150506	506393	46,553.00
PR1932	Maintenance Building	00150506	506393	33,925.00
PR2125	Batwing Tractor	00150206	506494	49,800.00

CITY OF KISSIMMEE
PROJECTS TO BE CARRIED FORWARD TO FY 2022-2023

PR2140	Hockey Court Refurbishment	00150206	506393	14,500.00
PR2143	Batting Cages	00150406	506393	3,221.50
PR2203	Sidewalk Replacement	00150206	506393	5,000.00
PR2205	Pressure Washer Trailer	00150206	506494	15,000.00
PR2209	Dually Pick-up Truck	00150206	506495	35,000.00
PR2210	Loader	00150206	506494	35,000.00
PR2213	Basketball Court Resurface (10)	00150206	506393	50,000.00
PR2216	Slide Platform	00150306	506393	7,500.00
PR2222	Arena Floor Protection System	00150666	506393	40,000.00
PW1520	Carroll/Dyer	35545206	506393	52,446.00
PW1522	Carroll/Dyer	35545206	506393	38,188.00
PW1728	SCRT PH-1B South Construction Proje	35745656	506393	83,129.00
PW1730	SCRT PH-1A South	35745656	506393	19,615.00
PW1913	Variable Message Board	00145406	506494	19,500.00
PW1916	Traffic Control Pre-Emption/Opticom	00145406	506494	8,413.00
PW2010	Signal Uninterrupted Power Supply	00145406	506494	4,500.00
PW2015	Video Imaging Vehicle Detection Sys	00145406	506494	17,900.00
PW2016	Data Line Connection	00145406	506393	40,000.00
PW2017	1 1/2 Ton Pick-up Truck with Flat B	00145406	506495	32,000.00
PW2018	Station 12 Traffic Light	00145406	506393	130,000.00
PW2110	Signal Uninterrupted Power Supply	00145406	506494	4,500.00
PW2111	Vinyl Cutter/Plotter	00145406	506494	2,435.00
PW2115	Data Line Connection	00145406	506393	20,000.00
PW2118	Dyer/Ballpark Traffic Signal	35545206	506393	8,550.00
PW2203	Laser Printer	00145206	506494	1,500.00
PW2207	Personal Computer	00145306	506494	1,887.00
PW2210	Signal Uninterrupted Power Supply	00145406	506494	4,500.00
PW2211	Controller with Communications (2)	00145406	506494	7,000.00
PW2213	Cabinet/Controller 8 Phase	00145406	506494	10,400.00
PW2214	Data Line Connection	00145406	506393	20,000.00
PW2216	Connect Kissimmee Complete Streets	10610506	506393	223,697.00
RI1900	Mark Durbin Handball Court	10550706	506393	98,570.00
RI2000	Shingle Creek Regional Trail Land A	10550706	506191	16,907.94
RI2002	Lancaster Ranch Park	10550706	506393	44,500.00
RI2101	Shingle Creek Regional Trail Land A	10550706	506191	29,470.25
RI2200	Shingle Creek Regional Trail Constr	10550706	506393	268,089.00
RI2201	Shingle Creek Regional Trail Land A	10550706	506191	150,000.00
SA2101	Personal Computer	41145726	506494	1,500.00
SA2202	Personal Computer	41145726	506494	1,500.00
SA2204	Refuse Project	41145716	506494	117,994.00
ST1621	Lakefront Park	35545206	506393	592,843.00
ST1717	KPD Training Facility	10430106	506393	270,474.67
ST1717	KPD Training Facility	35745206	506393	1,740.00
ST1801	Automated Secure Alarm Protocol Int	10460106	506393	17,765.00
ST1802	911 Interface	10460106	506393	12,100.00
ST2001	Geographic Information Systems Impl	10460106	506393	75,103.00
ST2003	Fiber Connectivity	10460106	506393	61,606.97
ST2004	Flail Mower	10445306	506494	26,466.00
ST2009	Back Office Licensing	10460106	506393	6,297.61
ST2013	Facilities ADA Compliance	10445206	506494	6,097.07
ST2013	Facilities ADA Compliance	10445606	506393	411,625.00
ST2014	Lancaster Ranch Park	10450106	506393	240,773.50

CITY OF KISSIMMEE
PROJECTS TO BE CARRIED FORWARD TO FY 2022-2023

ST2015	Enterprise Resource Planning	10460106	506393	37,285.25
ST2015	Enterprise Resource Planning	10460106	506494	3,463.00
ST2100	Geographic Information Systems Impl	10460106	506393	8,990.97
ST2101	OneSolution Alarm Interface	10460106	506393	10,500.00
ST2102	1/2 Ton Pick-up Truck	10445406	506495	30,000.00
ST2103	Neighborhood Improvement Program	10445206	506393	77,502.50
ST2111	FUEL TANK TRAILER	10445706	506494	2,414.00
ST2112	CARPORT/AWNING FOR FUEL TRAILERS	10445706	506393	2,600.00
ST2117	Berlinsky Community House	10445606	506393	150,000.00
ST2117	Berlinsky Community House	10445606	506393	2,178,289.00
ST2202	Neighborhood Improvement Program	10445206	506393	46,258.50
ST2203	Outfit Sign Truck	10445406	506495	50,200.00
ST2204	Back Office Licensing	10460106	506393	5,542.41
ST2205	Breakwater Repairs	10450106	506393	150,000.00
ST2206	Rescue Rechassis	10435206	506495	2,382.14
ST2208	Wide Area Network	10460106	506393	215,315.66
ST2208	Wide Area Network	10460106	506494	146,595.38
ST2209	Fire Station 15	10435106	506292	490,650.00
ST2210	Facilities ADA Compliance	10445206	506393	500,000.00
ST2214	Fire Station 11 Bay LED Lights	10445606	506393	7,749.00
ST2215	RUBA PARK LATRINE REPLACEMENT	10445606	506393	10,095.00
ST2216	Pavilion	10450106	506393	40,000.00
ST2218	KPD Metal Building	10445606	506393	10,050.00
SW1609	Woodside Drainage Improvements	40945206	506393	38,593.00
SW1708	Furniture	40945206	506393	13,000.00
SW1725	Nutrient Reduction Plan	40945206	506393	8,500.00
SW1827	Woodside Drainage Improvements	40945206	506393	379,750.00
SW1907	Mill Slough Restoration	40945206	506393	1,476,140.00
SW2009	Terra Condos Drainage	40945206	506393	150,000.00
SW2025	Bermuda Estate Drainage	40945206	506393	68,320.00
SW2100	Rain Gauge	40945206	506494	1,200.00
SW2106	Optical Sensor (10)	40945206	506494	1,638.00
SW2109	Woodside Drainage	40945206	506393	350,000.00
SW2112	Slip-line Program	40945506	506393	365,928.00
SW2118	Lyndell Drainage Improvement	40945206	506393	56,500.00
SW2200	Rain Gauge	40945206	506494	1,200.00
SW2205	Data Collection System	40945206	506494	2,100.00
SW2206	Stage Meter (2)	40945206	506494	6,700.00
SW2207	Velocity Meter	40945206	506494	6,270.00
SW2209	Optical Sensor (8)	40945206	506494	5,024.00
SW2210	Stormwater System Improvement	40945206	506393	150,000.00
SW2213	Tablet Computer (2)	40945506	506494	1,896.00
SW2214	Laptop Computer (3)	40945506	506494	1,331.40
SW2216	Slip-line Program	40945506	506393	100,000.00
SW2217	Mower	40945506	506494	8,264.75
SW2218	Dump Truck	40945506	506494	2,609.00
SW2221	Hill Street Phase III Drainage Proj	40945206	506393	811,045.00
Grand Total				31,759,241.12

CITY OF KISSIMMEE
PROJECTS TO BE CARRIED FORWARD TO FY 2022-2023

Arising non-budgetted items and unforeseen projects	00125103	503131	562,581.00
Arising non-budgetted items and unforeseen projects	00125103	503434	172,376.00
Unused funds allocated to Salvation Army	00101208	508282	22,371.00
ED advertising efforts	00110603	504901	18,000.00
ED inventive fund	00110603	503434	295,932.00
Arising non-budgetted items and unforeseen projects	00110203	503434	23,000.00
Funds for year end and grant management assistance	00120103	503232	87,639.00
Funds for year end and grant management assistance	00120103	503434	125,000.00
New software project	00135203	503434	50,000.00
Compensation and classification study	00115103	503131	33,448.00
Replacement chairs and I-pads	00115103	505255	3,284.00
City wide training and on-line training platform	00115103	505555	33,570.00
Fundraising balance and special events to pay for holiday luncheon	01015203	508382	10,543.00
Alert Grant	00130601	501414	14,510.39
Axon - ending contract in negotiations	00130203	504141	32,000.00
Dues & Subscriptions	00130203	505252	14,340.00
Xybix - Comm Center exercise equipment	00130203	505255	3,420.00
Legal services for CM related projects not anticipated	00105103	503131	313,046.00
Appraisal services for CM related projects not anticipated	00105103	503434	44,711.00
Annual Student Scholarships	01330733	505261	2,000.00
Funding all donated funds for use during the FY2023	01530203	505255	41,232.00
<u>Grand Total</u>			<u>1,903,003.39</u>

ITEM 7.G**Authorization to Purchase the City Vehicle Requirements included in the FY2022-23 Budget****Request**

This request is for authorization to purchase the FY 2022-23 City vehicle requirements from the State Contract, Sheriff's Contract, Cooperative Purchasing Contracts or the City bid, whichever is most cost-effective, considering the requirements of the departments.

Explanation

The City has 27 new and replacement vehicles in the budget this year at a budgeted cost of \$957,000. Included in this total are 20 vehicles for the Police Department at a cost of \$735,000.

Standard procedure is to identify the pricing for those vehicles planned for purchase using the State and Sheriff's Association and Cooperative Purchasing contracts, and then solicit bids from local dealers to match or beat the State contract pricing.

Recommendation

Staff recommends approval to purchase City vehicle requirements from the State Contract, Sheriff's Contract, Cooperative Purchasing Contracts or City bid, whichever is the most cost effective, considering the needs of each Department.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Finance

Presenter:

Attachment(s):

None

ITEM 7.H**Construction Manager at Risk Agreement with Arnco Construction Inc. for the Lancaster Ranch Park Phase 1 Project****Request**

Approve Addendum No. 2, to the Construction Manager at Risk (CMAR) services contract with Arnco Construction Inc. for the construction of the new Kissimmee Lancaster Ranch Park Phase 1 Project.

Explanation

On July 5, 2022, the City Commission approved the CMAR contract with Arnco Construction Inc. This contract provided pre-construction services for Lancaster Ranch Park Phase 1 Project in the amount of \$17,000.00.

Arnco Construction Inc. has provided a Guaranteed maximum price (GMP), in the amount of \$4,096,864.91 for the construction of phase 1. The scope of work includes all labor, equipment, materials and supervision to complete the project per the associated GMP documents attached herewith.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
10450106-506393	ST2014			\$228,126
15150106-506393	ST2014			\$3,232,242
10450106-506393	ST2313			\$500,000
10550706-506393	RI2002			\$44,500
10550706-506393	RI2303			\$125,000

Financial Summary:

Construction services for the Kissimmee Lancaster Ranch Park Phase 1 Project will be provided from monies within the Parks and Recreation Sales Tax and Recreation Impact funds listed above.

Recommendation

Staff recommends City Commission approval of the Addendum No. 2 to the CMAR with Arnco Construction, Inc. for the Lancaster Ranch Park Phase 1 Project and to allow the City Manager to sign any additional documents or addendums needed pertaining to this contract.

REQUESTED CITY COMMISSION ACTION:

Approve

City of Kissimmee

Department: Public Works & Engineering

Presenter:

Attachment(s):

1. (S) Kissimmee Lancaster Ranch Park Phase 1 GMP Contract Addendum No. 2.
2. Kissimmee Lancaster Ranch Park Phase 1 GMP Contract Fully Executed



1110 PENNSYLVANIA AVENUE – SAINT CLOUD, FL 34769
TEL: 407-892-0111 – FAX: 407-892-0053
ARNCOCONSTRUCTION.COM

September 30, 2022

City of Kissimmee
101 Church Street, Ste 301
Kissimmee, FL 34741

Re: City of Kissimmee, Lancaster Ranch Park

Attn: Victor Aponte

We are pleased to submit for your review, the following proposal on the above referenced project in the amount of \$4,096,864.91 for the Construction Phase of this project as further described below.

- Proposal includes all labor, equipment, materials and supervision to complete the project per the associated GMP documents attached herewith

Thank you for the opportunity to submit our proposal on the referenced project

Sincerely,

A handwritten signature in blue ink, appearing to read 'Phillip Owen', is written over a light blue horizontal line.

Phillip Owen
Project Manager

Specializing in Commercial Building



ARNCO CONSTRUCTION, INC.
1110 Pennsylvania Avenue, St. Cloud, FL 34769
PH. 407-892-0111 Fax 407-892-0053

Schedule 1

Construction Manager's Personnel During Construction Phase

Name	Title	Duration (Weeks)	Percentage
Off-Site Staff			
Phillip Owen	Project Manager	36	100%
Kim Cover	Project Engineer	9	25%
On-Site Staff			
Kasey Ellis	Superintendent	36	100%



Schedule 2

Lancaster Ranch Park

Documents

N/A

Drawings

Sheet	TITLE	Date	Rev. Date
	Cover Sheet		
	Site Plan & Notes		
SN-01	STND Notes & Drawing Symbols	5/4/2022	9/9/2022
SP-01	Overall Site Plan	5/4/2022	9/9/2022
	Tree Mitigation		
TM-01	Tree Mitigation Plans	5/4/2022	9/9/2022
TM-03	Tree Mitigation Plans	5/4/2022	9/9/2022
TM-04	Tree Mitigation Plans	5/4/2022	9/9/2022
TM-06	Tree Mitigation Data	5/4/2022	9/9/2022
	Civil		
SL-1	Site Layout and Dimensioning Plans	5/4/2022	9/9/2022
SL-2	Site Layout and Dimensioning Plans	5/4/2022	9/9/2022
SL-3	Site Layout and Dimensioning Plans	5/4/2022	9/9/2022
SL-4	Site Layout and Dimensioning Plans	5/4/2022	9/9/2022
SL-5	Site Layout and Dimensioning Plans	5/4/2022	9/9/2022
SL-6	Point Table	5/4/2022	9/9/2022
SL-7	Site Details	5/4/2022	9/9/2022
SL-8	Site Details	5/4/2022	9/9/2022
SL-9	Site Details	5/4/2022	9/9/2022
PGD-1	Grading, Drainage and Erosion Control Plans	5/4/2022	9/9/2022
PGD-2	Grading, Drainage and Erosion Control Plans	5/4/2022	9/9/2022
PGD-3	Grading, Drainage and Erosion Control Plans	5/4/2022	9/9/2022
PGD-4	Grading, Drainage and Erosion Control Plans	5/4/2022	9/9/2022
PGD-5	Grading, Drainage and Erosion Control Plans	5/4/2022	9/9/2022
PGD-6	Main Access Drive Profile	5/4/2022	9/9/2022
PGD-7	Main Access Drive Profile & Typical Sections	5/4/2022	9/9/2022
PGD-8	Storm Drain Profiles	5/4/2022	9/9/2022
PGD-9	Details	5/4/2022	9/9/2022
PGD-10	Details	5/4/2022	9/9/2022
PGD-11	Details	5/4/2022	9/9/2022
WS-1	Water and Sanitary Sewer Plans	5/4/2022	9/9/2022
WS-2	Water and Sanitary Sewer Plans	5/4/2022	9/9/2022
WS-3	Water and Sanitary Sewer Plans	5/4/2022	9/9/2022
WS-4	Water and Sanitary Sewer Plans	5/4/2022	9/9/2022
WS-5	Water and Sanitary Sewer Plans	5/4/2022	9/9/2022
WS-6	Sanitary Sewer Profile	5/4/2022	9/9/2022
WS-7	Water Line Profile	5/4/2022	9/9/2022
WS-8	Water Line Profile	5/4/2022	9/9/2022
WS-9	Water Line Profile	5/4/2022	9/9/2022
WS-10	Utility Details	5/4/2022	9/9/2022

WS-11	Utility Details	5/4/2022	9/9/2022
WS-12	Utility Details	5/4/2022	9/9/2022
	Electrical		
E-00	Overall Electrical Sit Plan	5/4/2022	9/9/2022
E-01	Electrical Site Plans	5/4/2022	9/9/2022
E-02	Electrical Site Plans	5/4/2022	9/9/2022
E-03	Electrical Site Plans	5/4/2022	9/9/2022
E-04	Electrical Site Plans	5/4/2022	9/9/2022
E-10	Electrical Legend	5/4/2022	9/9/2022
E-11	Electrical Abbreviations and General Notes	5/4/2022	9/9/2022
E-20	Electrical Specifications	5/4/2022	9/9/2022
E-21	Electrical Specifications	5/4/2022	9/9/2022
E-50	Power Riser Diagram	5/4/2022	9/9/2022
E-60	Lighting Controls and Schedule	5/4/2022	9/9/2022
E-70	Panel Schedule	5/4/2022	9/9/2022
	Hardscape		
HS-01	Hardscape Plans	5/4/2022	9/9/2022
HS-02	Hardscape Plans	5/4/2022	9/9/2022
HS-03	Hardscape Plans	5/4/2022	9/9/2022
HS-04	Hardscape Plans	5/4/2022	9/9/2022
HS-05	Hardscape Plans	5/4/2022	9/9/2022
HS-06	Hardscape Details & Finish Schedule	5/4/2022	9/9/2022
	Signage		
GR-001	General Notes	5/4/2022	9/9/2022
GR-002	Graphic Standards	5/4/2022	9/9/2022
GR-101	Sign Location Plan	5/4/2022	9/9/2022
GR-301	Sign Type A2	5/4/2022	9/9/2022
GR-302	Sign Type A2	5/4/2022	9/9/2022
	Irrigation		
L1-01	Irrigation Plans	5/4/2022	9/9/2022
L1-02	Irrigation Plans	5/4/2022	9/9/2022
L1-03	Irrigation Plans	5/4/2022	9/9/2022
L1-04	Irrigation Plans	5/4/2022	9/9/2022
L1-05	Irrigation Plans	5/4/2022	9/9/2022
L1-06	Irrigation Notes & Schedule	5/4/2022	9/9/2022
L1-07	Irrigation Details	5/4/2022	9/9/2022
L1-08	Irrigation Details	5/4/2022	9/9/2022
	Landscape		
LS-01	Landscape Plans	5/4/2022	9/9/2022
LS-02	Landscape Plans	5/4/2022	9/9/2022
LS-03	Landscape Plans	5/4/2022	9/9/2022
LS-04	Landscape Plans	5/4/2022	9/9/2022
LS-05	Landscape Plans	5/4/2022	9/9/2022
LS-06	Planting Details	5/4/2022	9/9/2022
LS-07	Plant List	5/4/2022	9/9/2022



Schedule 4

Clarifications, Assumptions, Exclusions and Allowances

I. Clarifications and Assumptions:

- Includes allowance for demuck under future building pads and roadways but does not include removing unsuitable soils from site
- Includes construction related permits, NOI, and ROW
- Electrical scope now includes power for sign and gate (no details received)
- Includes painting of all racks and backflows (not shown on plans)

II. Exclusions:

- Excludes site permit costs
- Excludes removal of unsuitable soils from site

III. Allowances:

Demuck under future building pads	\$ 30,420.00
Demuck under roadways	\$175,500.00
Sod (disturbed areas and pond slopes)	\$ 45,000.00
Temporary water/mowing	\$ 15,000.00
Site concrete misc materials	\$ 25,000.00
Bollards	\$ 6,000.00
Plumbing (connection to stub out)	\$ 2,500.00
Access controls gate arms	\$ 7,500.00

CONSTRUCTION MANAGER AT RISK AGREEMENT BETWEEN CITY OF KISSIMMEE AND CONSTRUCTION MANAGER

THIS CONSTRUCTION MANAGER AT RISK AGREEMENT ("Agreement") is entered into as of the Effective Date (hereinafter defined) by and between City of Kissimmee, a municipal corporation of the State of Florida, 101 Church Street, Kissimmee, Florida 34741 (hereinafter designated as the "City") and **ARNCO Construction**, at 1110 Pennsylvania Avenue, Saint Cloud, Florida 34769, whose Federal Identification Number is: 59-3253396 (hereinafter designated as the "Construction Manager".)

WITNESSETH:

WHEREAS, the City desires certain Construction Manager At Risk services to be performed in the City of Kissimmee; and

WHEREAS, the City solicited for these professional services via RFP2022-005, an advertised request for proposals, and received numerous responsive proposals thereto; and

WHEREAS, after review and consideration of all responsive proposals, the City intends to retain the Construction Manager identified above to provide such professional services under this Agreement; and

WHEREAS, the Construction Manager remains agreeable to providing the City the professional services and represents that it is capable and prepared to do so;

NOW, THEREFORE, in consideration of the promises contained herein, the City and the Construction Manager (collectively, the "Parties") hereby agree, as follows:

ARTICLE 1

THE CONSTRUCTION TEAM, EXTENT OF AGREEMENT AND DEFINITIONS

The Construction Manager accepts the relationship of trust and confidence established between The Construction Manager and the City by this Agreement. The Construction Manager covenants with the City to furnish his best skill and judgment in furthering the interest of the City. The Construction Manager agrees to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Services in the best way and the most expeditious and economical manner, consistent with the interests of the City, and the terms and conditions of the Contract Documents. Further, the Construction Manager acknowledges that (i) they have represented to the City that they have specific expertise in the planning, reviewing, management, and construction of projects of similar size, cost, and complexity and (ii) that such representation is a material inducement to the City to enter into this Agreement.

1.1 The Construction Team:

The Construction Manager, the City, and the Architect/Engineer, collectively called the "Construction Team", shall work jointly during the Pre-Construction Phase and the Construction Phase. The Architect/Engineer and the Construction Manager shall communicate through the

City's Representative, except as may otherwise be provided in this Agreement. The Construction Manager shall copy the City's Representative on all correspondence sent to or received from the Architect/Engineer or any of its consultants of which the City's Representative was not copied. The specific representatives of the Construction Team shall be identified further in the Pre-Construction Addendum and the GMP Addendum.

1.2 Extent of Agreement:

This Agreement, between the City and the Construction Manager, supersedes any prior negotiations, representations or agreements. This Agreement shall not be superseded by any provisions/revisions of the Construction Documents and may be amended only by Change Order or through a duly executed amendment as authorized herein.

1.3 Definitions:

- 1.3.1 Project – the design and construction of the Lancaster Ranch Park for the City of Kissimmee, Florida, as further described in RFP #2022-005, including all attachments and addenda, and this Agreement. Pre-Construction Services of the Project shall include coordination of all architectural, landscaping and engineering design and other pre-construction services, including, without limitation, the preparation of a proposed GMP, necessary to provide a complete and usable facility in accordance with this Agreement. Construction Phase of the Project shall include the construction of the facility, along with project management and coordination and quality assurance services necessary to complete the Project to the City's satisfaction.
- 1.3.2 Services – shall include: (1) all professional services described in the City of Kissimmee's Request for Proposals RFP #2022-005, including all attachments and addenda and all services described in the Construction Manager's response thereto (collectively, "RFP2022-005" is attached hereto as a composite **Exhibit "A"** and made a part of this Agreement); (2) all services described in Article 2 herein (but as may be specifically excluded by the City in the Pre-Construction Addendum); and (3) all Pre-Construction Phase Services and Construction Phase Services (the Construction Phase Services may also be referred to herein as the "Work") as further set forth and described herein or in either the Pre-Construction Addendum, the GMP Addendum, or both.
- 1.3.3 Pre-Construction Services Addendum is attached hereto and incorporated herein as **Exhibit "B"**.
- 1.3.4 GMP Addendum is attached hereto and incorporated herein as **Exhibit "C"** and shall be completed and executed by the City and the Construction Manager following the completion of Pre-Construction Phase Services and determination of a mutually-acceptable Guaranteed Maximum Price ("GMP") and related terms.
- 1.3.5 Architect/Engineer – Architects Design Group/ADG, Inc.,
- 1.3.6 Contract Documents - The Contract Documents consist of this Agreement, the Exhibits hereto, and any duly executed amendments and/or addendums, including, without limitation, the Pre-Construction Addendum and the GMP Addendum, in addition to all plans and specifications for the construction of the Project ("Construction Documents") that have been completed by the Architect/Engineer and approved in writing by the City's Representative.

- 1.3.7 Punch List – A final list of items of Work to be completed and deficiencies to be corrected, which items shall not affect the attainment of Substantial Completion. Such items shall be complete or otherwise disposed of prior to Final Completion.
- 1.3.8 Schedule of Values - The schedule to be used as a basis for progress payments to be made to the Construction Manager by the City during performance of the Work, based on the then current percentage of progress of construction of the Work, subject to the review of the Architect/Engineer and the City's Representative.
- 1.3.9 Subcontractor – A subcontractor is any person or entity performing, furnishing, supplying or providing any portion of the Work pursuant to a contract with the Construction Manager. Construction Manager shall be solely responsible for and have control over the subcontractors.
- 1.3.10 Substantial Completion Date – The date, certified by the Architect/Engineer, that the Project, or designated portion thereof, is sufficiently complete, in accordance with the Construction Documents and as further delineated in Article 2, Section 2.5.1 so that the City can reasonably occupy or utilize the Project, or a designated portion thereof, for its intended use.
- 1.3.11 General Conditions – Those items that are not specific to any trade and are required for the construction of the Project.
- 1.3.12 City's Construction Budget: The City's Construction Budget shall be set forth in the completed GMP Addendum and shall include an estimated total of all three segments of the budget, including all Construction Manager Fees, Costs of the Work and the City's Allowance, as defined in Article 6. This acknowledgment of the City's Construction Budget is not to be construed as the Construction Manager's Guaranteed Maximum Price ("GMP").
- 1.3.13 *Intentionally omitted.*
- 1.3.14 Term –The "Term" of this Agreement shall commence on the Effective Date and shall continue thereafter through the date of completion by Construction Manager of all its contractual obligations (with the exception of the Warranty period as set forth in Section 2.6.3 and any other provisions contained herein which are specifically stated to survive expiration or earlier termination of this Agreement), and the City has paid the final balance due Construction Manager, including any retainage, as noted in the Certificate for Final Completion.
- 1.3.15 Allowance – Funds and time appropriated by the City for additional work which is not included in the contract document yet may be necessary for the completion of the Work. Any unused allowance funds shall be returned to the City by Change Order at the completion of the Project.
- 1.3.16 Contingency – Those areas of work that are not at 100% design completion, at the time of GMP, for which additional monies will be allowed. A contingency dollar amount will be shown as a separate amount at the appropriate line item within the GMP and labeled as a contingency for that item of work. Any unused contingency funds shall be reassigned to the City's Buyout Allowance, as defined in Section 6.1.5.

1.3.17 Effective Date – shall be the date this Agreement is executed by the Mayor after approval by the City Commission.

1.3.18 The City's Representative(s) may be any or all of the following: City Manager, Deputy City Manager, and/or the Public Works and Engineering Director.

ARTICLE 2

CONSTRUCTION MANAGER'S SERVICES

The CITY does hereby retain the Construction Manager to furnish, provide and perform the Services (as defined in Section 1.3.2), as those Services may be further specifically designated and authorized by the CITY in writing, including, without limitation, those services as set forth in the Scope of Services of the Pre-Construction Services Addendum and in the GMP Addendum.

The Services shall include, without limitation, those described or specified in this Article 2. Such services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned. Additionally, some of the services described in this Article 2 may be specifically excluded by the City, as set forth in the completed Pre-Construction Services Addendum.

2.1 Project Management Information System (PMIS):

2.1.1 General:

2.1.1.1 Commencing immediately upon issuance by the City of a Notice To Proceed, the Construction Manager shall implement and shall utilize throughout the life of the particular Project all subsystems of the Project Management Information System hereinafter referred to as PMIS.

2.1.1.2 The reports, documents, and data to be provided shall represent an accurate assessment of the current status of the Project and of the Work remaining to be accomplished and it shall provide a sound basis for identifying variances and problems and for making management decisions. It shall be prepared and furnished to the City's Representative and the Architect/Engineer monthly.

2.1.1.3 If requested by the City's Representative, the Construction Manager shall conduct a comprehensive workshop for participants designated by the City's Representative and additional seminars as required, to provide instruction. This workshop and the seminars shall facilitate each participant's and the City's Representatives' use and understanding of PMIS; shall support, in-part, the function of organizing in concert with the Architect/Engineer for the design and construction of the Project; and shall establish, with the full concurrence of the City's Representative and the Architect/Engineer, procedures for accomplishing the management control aspect of the Project.

2.1.1.4 The PMIS shall be described in terms of the following major subsystems:

2.1.1.4.1 Narrative Reporting, on a monthly basis, and

2.1.1.4.2 Schedule Control, on a monthly basis, and

2.1.1.4.3 Cost Control, and estimating, and

- 2.1.1.4.4 Project Accounting, and
- 2.1.1.4.5 Accounting and Payment, on a monthly basis, and
- 2.1.1.4.6 Action Reports.

2.1.2 Narrative Reporting Subsystem:

2.1.2.1 The Construction Manager shall prepare written reports as described hereunder. No other PMIS narrative reports shall be required. All reports shall be in 8.5" X 11" format, unless directed otherwise by the City's Representative.

2.1.2.2 The Narrative Reporting Subsystem shall include the following reports:

2.1.2.2.1 A Monthly Executive Summary which provides an overview of current issues and pending decisions, future developments and expected achievements, and any problems or delays, including all violations and deficiencies found by the applicable permitting authorities.

2.1.2.2.2 A Monthly Cost Narrative describing the current cost status of the Project.

2.1.2.2.3 A Monthly Scheduling Narrative summarizing the current status of the Master Project Schedule. This report shall include an analysis of the various Project schedules, a description of the critical path, tracking of approved original baseline schedule versus the actual progress of the Work and other analyses as necessary.

2.1.2.2.4 A Monthly Accounting Narrative describing the current cost and payment status of the Project. This report shall relate current encumbrances and expenditures to the budget allocations.

2.1.2.2.5 A Monthly Progress Report, during the Construction Phase, summarizing the work of the various subcontractors and consultants. This report shall include information from the weekly job site meetings, as applicable, such as General Conditions, long lead supplies, current deliveries, safety and labor relations programs, permits, construction problems and recommendations, and plans for the succeeding month.

2.1.2.2.6 A Daily Construction Diary during the Construction Phase describing events and conditions on the site.

2.1.2.3 The reports outlined in subsection 2.1.2.2 shall be bound and submitted monthly during the Construction Phase and shall be current through the end of the preceding month. Copies shall be transmitted to the City's Representative and the Architect/Engineer and others as designated by the City's Representative with the monthly pay requisition. Additional copies of the Monthly Executive Summary, as outlined in subsection 2.1.2.2.1, shall be bound separately and distributed monthly, as directed by the City's Representative. The Daily Construction Diary, as outlined in subsection 2.1.2.2.6, shall be maintained at the Project Site Office Facility and be made

available to the City's Representative and Architect/Engineer. A bound copy of the complete Daily Construction Diary shall be submitted to the City's Representative at the conclusion of the Project.

2.1.3 Scheduled Control Subsystem:

2.1.3.1 Master Project Schedule: Within 30 days following issuance of the Notice To Proceed, the Construction Manager shall submit, to the City's Representative for approval, a Master Project Schedule covering the Pre-Construction Phase and Construction Phase. The Master Project Schedule shall serve as the framework for the subsequent development of all detailed schedules. The Master Project Schedule shall be produced and updated monthly throughout the Project. No revisions, activity additions, activity deletions, or logic changes to the Master Project Schedule or any other schedule previously approved by the City, shall be made without the City's approval. Minor or immaterial deviations that do not affect key milestone dates may be amended if approved by the City's Representative.

2.1.3.2 Construction Schedule: With the submission of the GMP Proposal, the Construction Manager shall submit to the City's Representative, for approval, a Critical Path Construction Schedule (hereinafter "Construction Schedule") in sufficient detail to graphically depict the activities contemplated to occur as a necessary incident to performance of the Work required to complete the Work, showing the sequence in which the Construction Manager proposes for each such activity to occur and duration (dates of commencement and completion, respectively) of each such activity. The Construction Schedule shall be based on a "Network Analysis System" and shall be the latest version of Microsoft Schedule, Primavera P3, or equivalent, as determined by the City's Representative. The City's Representative shall determine whether the Construction Schedule developed and submitted by the Construction Manager meets the requirements stated above and such determination shall be binding on the Construction Manager. Failure of the Construction Manager to develop and submit a Construction Schedule as aforesaid shall be sufficient grounds for the City to find the Construction Manager in substantial default and certify that sufficient cause exists to terminate the Agreement or to withhold any payment.

2.1.3.3 Updated Construction Schedule: Following development and submittal of the Construction Schedule as aforesaid, the Construction Manager shall, at the end of each calendar month occurring thereafter during the period of time required to finally complete the Work, or at such earlier intervals as circumstances may require, update the Construction Schedule. The updated Construction Schedule will show the actual progress of the Work performed compared to the original baseline schedule, approved as set forth in Section 2.1.3.2, and all updates thereto as reflected in the updated Construction Schedule last submitted prior to submittal of each such monthly update. Each such update to the Construction Schedule shall be submitted to the City's Representative. Failure of the Construction Manager to update and submit the Construction Schedule as aforesaid shall be sufficient grounds for the City to find the Construction Manager in substantial default, and certify that sufficient cause exists to terminate the Agreement or to withhold payment to the Construction Manager, until a schedule or schedule update acceptable to the City's Representative is submitted.

2.1.3.4 When required by the City's Representative, the Construction Manager shall prepare and incorporate into the schedule database, at the required intervals, the following schedules:

2.1.3.4.1 Subcontractor Construction Schedules (Sub-networks) - Upon the award of each sub-contract, the Construction Manager shall jointly, with the subcontractor, develop a schedule which is more detailed than the Construction Schedule, taking into account the work schedule of the other subcontractors. The Construction Manager shall ensure each Subcontractor's Construction Schedule is incorporated into the Construction Manager's Construction Schedule, ensuring the necessary information is included to allow for construction planning and monitoring the performance of each subcontractor.

2.1.3.4.2 Final Completion Schedule - The Construction Manager shall jointly develop with the Architect/Engineer and the City's Representative, a detailed plan, inclusive of Punch Lists, final inspections, maintenance training and turn-over procedures, to be used for ensuring accomplishment of a smooth and phased transition from construction to Final Completion. The Final Completion Schedule shall be produced and updated monthly and may be part of the Construction Schedule.

2.1.3.4.3 Utility Relocation Schedule - The Construction Manager shall jointly develop with the Architect/Engineer and the City's Representative a detailed plan, for any and all utility relocations required for successful completion of the Work. The Utility Relocation Schedule shall be produced and updated monthly, and may be part of the Construction Schedule.

2.1.3.4.4 Recovery Schedule - If any portion of the Master Project Schedule or any current updates fail to reflect the actual plan or method of operation of the Work, or a contractual milestone date is more than 15 days behind, the City's Representative may require that a Recovery Schedule for completion of the remaining work be submitted. The Recovery Schedule must be submitted within 7 calendar days of the request by the City's Representative. The Recovery Schedule shall describe in detail the Construction Manager's plan to complete the remaining work by the required Agreement milestone date. The narrative submitted with the Recovery Schedule should describe in detail all changes that have been made to meet the Agreement milestone dates.

2.1.3.4.5 Change Orders - When a Change Order is proposed, the City's Representative may require the Construction Manager to identify all logic changes as a result of the Change Order. The Construction Manager shall include, as part of each Change Order proposal, a sketch showing all schedule logic revisions, duration changes, and the relationships to other activities in the Master Project Schedule. This sketch shall be known as the fragnet for the change. Upon acceptance of the fragnet, the Construction Manager will revise the Master Project Schedule. The logic changes required by the Change Order will be considered incidental to the Construction Manager's work. No separate payment will be made for the work required to identify all logic changes that result from the Change Order.

- 2.1.4 Budget Control Subsystem - The operation of this subsystem shall provide sufficient timely data and detail to permit the Construction Team to control and adjust the Project requirements, needs, materials, equipment and site elements, so that the Work will be completed at a cost which, together with all other Costs of the Work, will not exceed the City's Project Budget. Requirements of this subsystem may include the following submissions:
- 2.1.4.1 Estimate at the completion of schematic design; and
 - 2.1.4.2 Estimate at the completion of 100% design development plans; and
 - 2.1.4.3 Estimate at the submission of the GMP Proposal.
- 2.1.5 Project Accounting Subsystem - The operation of this subsystem shall enable the Construction Team to plan effectively and to enable the City's Representative to monitor and control the funds available for the Project, cash flow, costs, Change Orders, payments, and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced, amounts payable, and to plan effectively. This subsystem will be produced and updated monthly and includes the following reports, which together will serve as a basic accounting tool and an audit trail. This report may be further defined by the City's Representative.
- 2.1.5.1 A Payment Status Report - showing the value in place (both current and cumulative), the amount invoiced (both current and cumulative), the amount retained, the amount payable (both current and cumulative), and the balance remaining. A summary of this report shall accompany each pay request.
 - 2.1.5.2 Project Accounting Structure. It shall include the budget, estimate and base commitment figures for each contract. It shall give the Change Order history including Change Order numbers, description, proposed and approved dates, and the proposed and approved dollar amounts. It shall also show all pending Change Orders.
 - 2.1.5.3 A Cash Flow Diagram - showing the projected accumulation of cash payments against the Project. Cash flow projections shall be generated for anticipated monthly payments as well as cumulative payments and may be requested at earlier or more frequent intervals by the City's Representative.
 - 2.1.5.4 A Job Ledger - shall be maintained as necessary to supplement the operation of the Project accounting subsystem. The job ledger will be used to provide construction cost accountability for General Conditions work, on-site reimbursable expenses, and costs requiring accounting needs.
- 2.2 Project Manual: Upon the execution of this Agreement, the Construction Manager shall develop a draft comprehensive Project Manual describing the services set forth in this Agreement. This shall provide a plan for the control, direction, coordination and evaluation of Work performed throughout the Project; the Project organization including identification of key personnel, responsibilities of Construction Manager, the City's Representative and Architect/Engineer; work flow diagrams; and strategy for bidding the Work. The Project Manual shall be completed and submitted to the Architect/Engineer and the City's Representative for their review of the format and content, and to the City's Representative for approval as a condition precedent to the first progress payment by City to Construction Manager for services provided in the Pre-Construction Phase. The Project Manual shall be updated as necessary, with the approval of City's Representative throughout the Pre-

Construction and Construction Phases. A copy of the Project Manual, and any updates, shall be submitted separately to the City's Representative and Architect/Engineer. In developing the Project Manual, the Construction Manager shall coordinate with the City's Representative and the Architect/Engineer. The Project Manual is merely an amplification and clarification of this Agreement. Any conflicts between the Project Manual and this Agreement shall be governed by the latter. The Project Manual shall describe in detail the procedures for executing the Work and the organizations participating. The Project Manual shall include as a minimum the following sections:

- 2.2.1 Project Definition - The known characteristics of the Project or sub-projects shall be described in general terms which will provide the participants a basic understanding of the Project or sub-projects.
- 2.2.2 Project Goals - The schedule, budget, physical, technical and other objectives for the Project.
- 2.2.3 Project Strategy - A narrative description of the Project delivery methods shall be utilized to accomplish the Project goals.
- 2.2.4 Project Work Plan - A matrix display of the program of Work to be performed by the Construction Manager, the Architect/Engineer and the City's Representative during each phase of the Project.
- 2.2.5 Project Organization - A summary organization chart showing the interrelationships between the City, the Construction Manager, the Architect/Engineer, and other supporting firms, organizations and permitting review agencies. Detailed charts, one each for the Construction Manager, the Architect/Engineer, and the City's Representative, showing organizational elements participating in the Project shall be included.
- 2.2.6 Responsibility Performance Chart - A detailed matrix showing the specific responsibilities of the City, the Architect/Engineer, and Construction Manager. The Responsibility Performance Chart shall indicate major responsibility, and minor responsibility, for each specific task required to deliver the Project. The Construction Manager shall develop a similar chart for the personnel within his own organization who are assigned to the Project, and also for the personnel of the City and the Architect/Engineer from data supplied by each.
- 2.2.7 Flow Diagrams - These charts shall display the flow of information and the decision process for the review and approval of shop drawings, submittals, and Change Orders.
- 2.2.8 Written Procedures - The Construction Manager will provide written procedures for communications and coordination required between Construction Team members throughout the Project. Procedures shall cover such items as correspondence, minutes, reports, inspections, team meetings, technical reviews, design reviews, and other necessary communications.
- 2.2.9 Emergency Contact List: A complete list of the names, company affiliation and emergency contact phone numbers (both day and night) for all key Project personnel from City, Construction Manager and Architect/Engineer, as well as from all subcontractors, sub-consultants and suppliers of any of them. This list shall be

continuously updated by the Construction Manager throughout the Project duration, with Construction Manager distributing a copy of all updates to City's Representative and Architect/Engineer.

- 2.3 Pre-Construction Phase Services: The services to be provided under this Section 2.3 constitute the Pre-Construction Phase Services. The parties acknowledge the Construction Phase may commence before the Pre-Construction Phase is completed, and to a certain extent both phases may proceed concurrently.
- 2.3.1 Preliminary Evaluation - The Construction Manager shall provide a preliminary evaluation of the Project and the City's Project Budget requirements, each in terms of the other.
- 2.3.2 Consultation - The Construction Manager will jointly schedule and attend regular meetings with the City's Representative and Architect/Engineer. The Construction Manager shall make recommendations with respect to the selection of systems and materials, and cost – reducing alternatives, including assistance to the Architect/Engineer and City's Representative, in evaluating alternative comparisons versus long term cost effects. The evaluation shall address the benefits of the speed of construction and early completion of the Project. The Construction Manager shall furnish pertinent information as to the availability of materials and labor that will be required, in addition to items such as the identification, if necessary, of right-of-way to be acquired, outstanding permits and related issues and the status of utility relocations.
- 2.3.3 Right of Way Acquisition – When requested, Construction Manager shall assist the City's Representative, in conjunction with the City Attorney's Office, with right of way acquisition, including but not limited to, obtaining appraisals, and assisting with the negotiation of purchase agreements. Construction Manager shall coordinate and develop in the Construction Documents all applicable conditions negotiated through the right-of-way acquisition process, including but not limited to such items as driveway transitions and modifications, fence relocations and other related items.
- 2.3.4 Phased Construction - Without assuming any design responsibilities, the Construction Manager shall review the design with the Architect/Engineer and may make recommendations to the City's Representative with respect to dividing the Work in such manner as will permit the Construction Manager to take bids and award separate construction sub-contracts on the current schedule, while the design is being completed. The Construction Manager shall take into consideration such factors as natural and practical lines of severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, maintenance of traffic and utility relocation issues, status of right of way acquisition and community relations and any other factors pertinent to saving time and cost by overlapping design and construction that are authorized by the City's Representative.
- 2.3.5 Review Reports - Within 30 days after receiving the Construction Documents for each phase of the Project, the Construction Manager shall perform a specific review thereof, focused upon factors of a nature encompassed in Article 2, Section 2.3. Promptly after completion of the review, the Construction Manager shall submit to the Construction Team, with copies to the Architect/Engineer, a written report covering suggestions or recommendations previously submitted, additional

suggestions or recommendations as they may deem appropriate, and all actions taken by the Architect/Engineer with respect to same, any comments they may deem to be appropriate with respect to separating the work into separate contracts, alternative materials, and all comments called for under Article 2, Section 2.3. Construction Manager shall not assume in any way the responsibilities of the Architect/Engineer, in particular, the responsibility of assuring that the Construction Documents are in accordance with applicable laws, statutes, ordinances, Building Codes, Rules, and Regulations. However, if the Construction Manager recognizes that portions of the Construction Documents are at variance therewith, the Construction Manager shall include notice of same in the written report. THE CONSTRUCTION MANAGER SHALL WARRANT, TO THE BEST OF CONSTRUCTION MANAGER'S KNOWLEDGE, WITHOUT ASSUMING ANY ENGINEERING RESPONSIBILITY, THAT THE CONSTRUCTION DOCUMENTS ARE CONSISTENT, PRACTICAL, FEASIBLE AND CONSTRUCTIBLE. CONSTRUCTION MANAGER SHALL WARRANT THAT THE WORK DESCRIBED IN THE CONSTRUCTION DOCUMENTS FOR THE VARIOUS BIDDING PACKAGES IS CONSTRUCTIBLE WITHIN THE SCHEDULED CONSTRUCTION TIME.

- 2.3.6 Long Lead Procurements - The Construction Manager shall review the design for the purpose of identifying long lead procurement items (machinery, equipment, materials and supplies). When each item is identified, the Construction Manager shall notify the subcontractors, the City's Representative and the Architect/Engineer of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected sub-contracts. The Construction Manager shall keep himself informed of the progress of the respective subcontractors or suppliers, manufacturing or fabricating such items and advise City's Representative and Architect/Engineer of any problems or prospective delay in delivery. The Construction Manager may recommend to the City's Representative a schedule for procurement of the long-lead time items, which will constitute part of the Work as required to meet the Master Project Schedule. If such long-lead time items are procured by the City, they shall be procured on terms and conditions acceptable to the Construction Manager. Upon the City's acceptance of the Construction Manager's GMP proposal, all contracts for such items may be assigned by the City to the Construction Manager, who shall accept responsibility for such items as if procured by the Construction Manager. The Construction Manager shall assist in expediting the delivery of long-lead time items.
- 2.3.7 Project Site Office Facilities - The Construction Manager shall arrange for all job-site facilities necessary to enable the Construction Team to perform their respective duties in the management, inspection, and supervision of construction. Tangible personal property, otherwise referred to as Project Site Office Facilities, include but are not limited to such things as trailers, toilets, computers and any other equipment necessary to carry on the Project. The method of acquiring such Project Site Office Facilities, which are planned to become the property of the City at the conclusion of the Project, shall be evaluated based on cost over the life of the Project. Owning versus leasing shall be considered by the Construction Manager obtaining at least three (3) proposals for leasing and at least three (3) proposals for purchasing, and then analyzing which is the most cost effective over the useful life of the item. The Construction Manager shall present their evaluation with recommendation to the City's Representative for approval. When the Construction Manager wishes to supply Project Site Office Facilities from their own equipment pool, they shall first

evaluate buy versus lease as discussed previously herein. If leasing is found to be the least expensive approach, then they may lease such Project Site Office Facilities from their own equipment pool at a price not greater than the lowest of the three (3) lease proposals obtained. For all such facilities purchased, which are to become the property of the City at the conclusion of the Project, the Construction Manager shall maintain care and custody responsibilities of such facilities until the Project conclusion. At the conclusion of the Project, the Construction Manager shall provide the City's Representative with a complete inventory of equipment that has been purchased for the City. The inventory shall describe the equipment and identify the purchase price, serial number, model number, current location, and condition. Where said equipment has a title, said title shall be properly transferred to the City or to his designee. The Construction Manager is responsible for proper care and maintenance of all equipment while in his control. At the time of transfer to the City, the City may refuse acceptance of the equipment if the City determines in its sole discretion that the equipment has not been properly cared for by the Construction Manager. In such event, the Construction Manager shall reimburse City for the cost of such item.

- 2.3.8 Weather Protection - The Construction Manager shall ascertain what temporary enclosures, if any, of work areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the Work in periods when extreme weather conditions are likely to be experienced. The Construction Manager shall submit to the Construction Team their recommendations as to needed requirements of this nature and as to the contract, or contracts, in which they should be included. The Construction Manager is totally responsible for all weather protection necessary to ensure that all new construction is adequately protected from the normal inclement elements.
- 2.3.9 Market Analysis and Stimulation of Bidder Interest - The Construction Manager shall monitor conditions in the construction market to identify factors that will or may affect costs and time for completing the Project. The Construction Manager shall submit to the City's Representative a written "Construction Market Analysis and Prospective Bidders Report" setting out recommendations and providing information as to prospective bidders. As various bid packages are prepared for bidding, the Construction Manager shall submit to the City's Representative and the Architect/Engineer a list of potential bidders. The Construction Manager shall be responsible to stimulate bidder interest in the City of Kissimmee marketplace and identify and encourage bidding competition. The Construction Manager shall carry out an active program of stimulating interest of qualified contractors in bidding on the Work and of familiarizing those bidders with the requirements of this Project.
- 2.4 Construction Phase - After the Construction Documents have been sufficiently completed by Architect/Engineer and approved by City's Representative for all the Work (or such portions thereof as may be designated by City in writing) and City and Construction Manager have agreed in writing upon the GMP to be paid to Construction Manager and the Contract Time for the Work (or designated portions thereof) as hereafter provided, Construction Manager shall fully perform and complete in a good and workmanlike manner the construction of the Work (or designated portions thereof) in accordance with all the terms and conditions of the Contract Documents.
 - 2.4.1 Construction Manager's Staff - The Construction Manager shall maintain sufficient off-site support staff, and competent, full time, staff at the Project Site, authorized to

act on behalf of the Construction Manager to coordinate, inspect and provide general direction of the Work and progress of the subcontractors, and they shall provide no less than those personnel during the respective phases of construction that are set forth in Schedule 1 of the GMP Addendum. The Construction Manager shall not change any of those persons named in said Schedule unless mutually agreed to by the City's Representative and Construction Manager. In such case, the City's Representative shall have the right of approval of the qualifications of replacement personnel. Such approval will not be unreasonably withheld.

- 2.4.2 Lines of Authority - The Construction Manager shall establish and maintain lines of authority for their personnel, and shall provide this definition to the City's Representative and all other affected parties, such as the code inspectors of the permitting agencies, the subcontractors and the Architect/Engineer, to provide general direction of the Work and progress of the various phases and subcontractors. The City's Representative and Architect/Engineer may attend meetings between the Construction Manager and his subcontractors; however, such attendance shall not diminish either the authority or responsibility of the Construction Manager to administer the subcontracts.
- 2.4.3 Schedule and Project Manual Provisions - The Construction Manager shall provide subcontractors and the City, its representatives and the Architect/Engineer with copies of the Project Manual (total number of copies not to exceed 10) developed and updated as required by Article 2, expanded for the Construction Phase employing their respective milestones, beginning and finishing dates, their respective responsibilities for performance and the relationships of their work with respect to subcontractors and suppliers. The Construction Manager shall also continue to provide current scheduling information, direction and coordination regarding milestones, and beginning and finishing dates. The Construction Manager is also responsible for performance and the relationships of his work to the work of his subcontractors and suppliers, to enable them to perform their respective tasks, so that the development of construction progresses in a smooth and efficient manner in conformance with the Master Project Schedule.
- 2.4.4 Solicitation of Bids Without assuming responsibilities of the Architect/Engineer, the Construction Manager shall prepare invitations for bids, or requests for proposals when applicable, for all procurement of long lead items, materials and services, for Subcontractor contracts and, if directed by the City, for site utilities. Such invitations for bids shall be prepared in accordance with the following guidelines:
 - 2.4.4.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Construction Manager shall obtain bids from subcontractors, vendors, consultants and from suppliers of materials or equipment fabricated to a special design for the Work. The Construction Manager shall strive to receive at least three competitive bids per trade package. Should the nature of the trade package prohibit three competitive bids, the Construction Manager shall notify the City's Representative in writing as to the reason and offer suggestions, if any, to create trade interest.

2.4.4.2 The Construction Manager shall be responsible for coordinating with the Architect/Engineer and preparing all information that is the responsibility of the Construction Manager for bidding of the separate bid packages.

2.4.4.3 The Construction Manager and the City's Representative shall mutually agree when and if to conduct a pre-bid conference with prospective bidders and the Architect/Engineer. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, the Construction Manager shall transmit these to the City's Representative and the Architect/Engineer and, upon receiving clarification or correction in writing, shall prepare an addendum to the bidding document, and issue same to all of the prospective bidders.

2.4.5 Subcontracts Subject to Article 6 and, in accordance with Article 2, Section 2.4.4, the Construction Manager shall award subcontracts to the qualified low bidder after the Construction Manager and the City have reviewed each proposal and are satisfied that the subcontractor/supplier is qualified to perform the work. Construction Manager shall make available to each proposed subcontractor, prior to the execution of the subcontract, complete copies of the Contract Documents to which the subcontractor will be bound by this Section 2.4.5 and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents. Each subcontractor shall similarly make copies of such documents available to its sub-subcontractors.

2.4.5.1 All subcontracts shall: (1) require each subcontractor to be bound to Construction Manager to the same extent Construction Manager is bound to City by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the subcontractor, (2) provide for the assignment of the subcontracts from Construction Manager to City at the election of City, upon termination of Construction Manager, (3) provide that City will be an additional indemnified party of the subcontract, (4) provide that City will be an additional insured on all insurance policies required to be provided by the subcontractor, except workman's compensation, (5) assign all warranties directly to City, and (6) identify City as an intended third-party beneficiary of the subcontract.

2.4.5.2 Unless otherwise expressly agreed to by City in writing, all subcontracts shall provide: LIMITATION OF REMEDIES – NO DAMAGES FOR DELAY The subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the City or Architect/Engineer or attributable to the City or Architect/Engineer and including claims based on breach of contract or negligence, shall be an extension of its contract time and shall in no way involve any monetary claim. Each subcontract shall require that any claims by the subcontractor for delay must be submitted to the Construction Manager within the time and in the manner in which the Construction Manager must submit such claims to the City, and that failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

- 2.4.5.3 Subcontractual Relations - The Construction Manager shall require each Subcontractor to assume all the obligations and responsibilities which the Construction Manager owes the City, under the agreement, by the parties to the extent of the work to be performed by the subcontractor. Said agreements shall be made in writing and shall preserve and protect the rights of the City and Architect/Engineer under the Contract Documents, with respect to the Work to be performed by the subcontractor, so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Construction Manager shall require each subcontractor to enter into similar agreements with its sub-subcontractor.
- 2.4.5.4 Insurance requirements for subcontractors shall be no more stringent than those requirements imposed on the Construction Manager by the City. The Construction Manager shall be responsible to the City for the acts and omissions of his employees, agents, subcontractors, their agents and employees, and all other persons performing any of the work or supplying materials under a contract to the Construction Manager.
- 2.4.5.5 If bids are not received for a portion of the Work at or below the applicable line item amount in the GMP Addendum, the Construction Manager reserves the right to perform that portion of the Work, or negotiate for its performance for the specified line item lump sum amount or less.
- 2.4.6 A Public Construction Bond in the total amount of the GMP, along with all insurance certificates will be provided by the Construction Manager after approval of the GMP by the City Commission, in the form attached hereto and incorporated herein as **Exhibit "L"**. No work shall be performed until these documents are provided and the certificates are current.
- 2.4.6.1 The Bond shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents.
- 2.4.6.2 All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570, as amended by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department and A.M. Best rated A VIII or better.
- 2.4.6.3 If the surety on any Bond furnished by the Construction Manager is declared bankrupt, becomes insolvent, its right to do business is terminated in any state or it ceases to meet the requirements of Section 2.4.6.2, the Construction Manager shall within ten (10) days thereafter substitute another Bond and surety, both of which must be acceptable to the City.
- 2.4.6.4 All Bonds and insurance required by the Contract Documents to be purchased and maintained by the Construction Manager shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Florida to issue bonds or insurance policies for the limits and coverage so required. All bonds signed by an agent must be accompanied by a certified copy of authority to act.

2.4.7 Quality Control - The Construction Manager shall develop and maintain a written program, acceptable to the City's Representative and Architect/Engineer, to assure quality control of the construction. The Construction Manager shall supervise the work of all subcontractors, providing instructions to each when their work does not conform to the requirements of the Construction Documents, and the Construction Manager shall continue to exert their influence and control over each subcontractor to ensure that corrections are made in a timely manner, so as to not affect the efficient progress of the Work. Should disagreement occur between the Construction Manager and Architect/Engineer over acceptability of Work and conformance with the requirements of the Construction Documents, the City's Representative shall be the final judge of performance and acceptability, subject to the dispute provisions of this Agreement.

2.4.8 Submittals and Substitutions- Construction Manager shall carefully examine the Contract Documents for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. Construction Manager shall submit all such materials in such form and manner as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof. The Construction Manager shall also carefully review and certify for accuracy and completeness all shop drawings and other submittals and then forward the same to the Architect/Engineer for review and action. Within 14 days, the Architect/Engineer will transmit them back to the Construction Manager, who will then issue the submittals to the affected subcontractor for fabrication or revision. The Construction Manager shall maintain a suspense control system to promote the expeditious handling of shop drawings and all other submittals. The Construction Manager shall request the Architect/Engineer to make interpretations of the drawings or specifications requested of it by the subcontractors. The Construction Manager shall advise the Architect/Engineer in writing which submittals or requests for clarification have the greatest urgency; the purpose being to enable the Architect/Engineer to prioritize requests coming from the Construction Manager. The Construction Manager shall advise the City's Representative and Architect/Engineer in writing when timely response is not occurring on any of the above.

2.4.8.1 If Construction Manager wishes to furnish or use a substitute item of material or equipment, Construction Manager shall make application to Architect/Engineer for acceptance thereof, certifying that the proposed substitute shall perform adequately the functions and achieve the results called for by the general design, be similar and at least of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Construction Manager's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with City for the Project) to adapt the design to the proposed substitute, and whether or not incorporation or use by the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement services shall be indicated. The application also shall contain an itemized estimate of all costs or

savings that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by Architect/Engineer in evaluating the proposed substitute. Architect/Engineer may require Construction Manager to furnish, at Construction Manager's expense, additional data about the proposed substitute.

2.4.8.2 If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Construction Manager may furnish or utilize a substitute means, method, technique, sequence or procedure of construction acceptable to Architect/Engineer, if Construction Manager submits sufficient information to allow Architect/Engineer to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedures for submission to and review by Architect/Engineer shall be the same as those provided herein for substitute materials and equipment.

2.4.8.3 Architect/Engineer shall be allowed a reasonable time within which to evaluate each proposed substitute. Architect/Engineer and City's Representative shall be the sole judges of the acceptability of any substitute. No substitute shall be ordered, installed or utilized without City's and Architect/Engineer's prior written acceptance which shall be evidenced by either a Change Order or an approved submittal. City may require Construction Manager to furnish, at Construction Manager's expense, a special performance guarantee or other surety with respect to any substitute. The cost of such guarantee may be reimbursable from the City's Owner Allowance or Buyout Allowance funds, provided that this cost is presented with the proposed substitute. If City rejects the proposed substitute, at City's direction, City may require Construction Manager to reimburse City for the charges of Engineer and Engineer's consultants for evaluating the proposed substitute.

2.4.9 Subcontractor Interfacing - The Construction Manager shall be the single point of interface with all subcontractors for the City and the City's Representative, including the Architect/Engineer.

2.4.10 Permits - The Construction Manager shall secure and pay for all permits and/or licenses which are customarily secured by a General Contractor. If Construction Manager performs any Work without obtaining, or contrary to, such permits or licenses, Construction Manager shall bear all costs arising therefrom. Cost for all re-inspections of Work found defective and subsequently repaired, shall be borne by the Construction Manager, unless such cost is not a result of negligence on the part of the Construction Manager.

2.4.11 Project Administration - The Construction Manager shall provide Project Administrative functions during construction to assure proper documentation, including, but not limited to, such things as the following:

2.4.11.1 Job Meetings – Hold weekly progress and coordination meetings, or more or less frequently, if required, to provide for the timely completion of the Work. In addition, a regular monthly Project status meeting will be held between the Architect/Engineer, City's Representative and Construction

Manager. The meetings shall serve as a tool for planning of work and enforcing schedules and for establishing procedures and responsibilities.

- 2.4.11.2 Shop Drawing Submittals/Approvals – Check shop drawings and implement procedures to be approved by City's Representative for submittal and transmittal to the Architect/Engineer and City's Representative of such drawings for action, and closely monitor their submittal and approval process.
- 2.4.11.3 Material and Equipment Expediting – Closely monitor material and equipment deliveries, follow-up procedures on supplier commitments of all subcontractors, and maintain a material and equipment expediting log.
- 2.4.11.4 Payments to subcontractors - Develop and implement a procedure for review, processing, and payment of applications by subcontractors for progress and final payments.
- 2.4.11.5 Document Interpretation (RFI) - Refer all questions for interpretation of the Construction Documents to the Architect/Engineer with a copy to the City's Representative.
- 2.4.11.6 Reports and Project Site Documents - Record the progress of the Project. Submit written progress reports to the City's Representative and the Architect/Engineer including information on the subcontractors' work, and the percentage of completion. Keep a daily log available to the City, the Engineer and the permitting authority's inspectors.
- 2.4.11.7 Subcontractors' Progress - Prepare periodic punch lists for the subcontractors' work, including unsatisfactory or incomplete items and schedules for their completion.
- 2.4.11.8 Start-Up - With the City's personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the trade contractors.
- 2.4.11.9 Safety – Provide a safety program for the Project to meet OSHA requirements. Monitor for subcontractor compliance without relieving them of responsibilities to perform Work in accordance with the best acceptable practice.
- 2.4.11.10 Record Drawings - The Construction Manager shall monitor the progress of his own forces and his Subcontractors on marked up field prints, which at project completion, shall be sent to the Architect/Engineer, who will prepare the final record drawings. The Construction Manager shall continuously review "As-Built" Drawings and marked up progress prints to provide as much accuracy as possible.
- 2.4.11.11 Systems Maintenance and Instruction - The Construction Manager shall catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey those to the City in such a manner as to promote their usability. The Construction Manager shall provide City's operations and maintenance personnel with operations and

maintenance training with respect to the equipment and systems being provided as part of the Work. This training shall be videotaped by Construction Manager for subsequent presentation to City's operations and maintenance personnel.

2.4.11.12 Administrative Records - Construction Manager shall maintain in a safe place at the Project Site Office Facility, one record copy and one permit set of the Contract Documents, including, but not limited to, all Construction Documents, addenda, amendments, Change Orders, Construction Change Directive and Field Orders, as well as all written interpretations and clarifications issued by Architect/Engineer, in good order and annotated to show all changes made during construction. The record Contract Documents shall be updated by Construction Manager throughout the prosecution of the Work to accurately reflect all field changes that have been made to adapt the Work to field conditions, changes resulting from Change Orders, Construction Change Directive and Field Orders, and all concealed and buried installations of piping, conduit and utility services. Construction Manager shall certify the accuracy of the updated record Contract Documents. As a condition precedent to City's obligation to make a monthly progress payment, Construction Manager shall provide evidence, satisfactory to City's Representative and Architect/Engineer, that Construction Manager is fulfilling its obligation to update the record Contract Documents. All buried and concealed items, within the Project site, shall be accurately located on the record Contract Documents as to depth and in relationship to not less than 2 permanent features. The record Contract Documents shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in red. The record Contract Documents, together with all approved samples and a counterpart of all approved shop drawings, shall be available to City's Representative and Architect/Engineer for reference. In addition, the Construction Manager shall be required to maintain at the Project Site Office Facility on a current basis, electronic and/or copies of files and records such as, but not limited to the following:

- Contracts [subcontracts]
- Purchase Orders
- Shop Drawing Submittal/Approval Logs
- Equipment Purchase/Delivery Logs
- Contract Drawings and Specifications with Addenda
- Warranties and Guarantees
- Cost Accounting Records
- Labor Costs
- Material Costs
- Equipment Costs
- Cost Proposal Requests
- Payment Request Records
- Meeting Minutes
- Cost Estimates
- Bulletin Quotations
- Lab Test Reports
- Insurance Certificates and Bonds
- Contract Changes

- Construction Change Directives
- Permits
- Purchase Orders
- Material Purchase Delivery Logs
- Technical Standards
- Design Handbooks
- "As-Built" Marked Prints
- Operating & Maintenance Instruction
- Daily Progress Reports
- Monthly Progress Reports
- Correspondence Files
- Transmittal Records
- Inspection Reports
- Bid/Award Information
- Bid Analysis and Negotiations
- Punch Lists
- PMIS Schedule and Updates
- Suspense (Tickler) Files of Outstanding Requirements
- Project Manual
- Job Photographs

2.5 Final Completion:

2.5.1 Substantial Completion: When the entire Work (or any portion thereof designated in writing by City) is ready for its intended use, Construction Manager shall notify City's Representative and Architect/Engineer in writing that the entire Work (or such designated portion) is substantially complete and request that Architect/Engineer prepare a Certificate of Substantial Completion (or a Certificate of Partial Substantial Completion), a copy of which is attached as **Exhibit "D"**. Said written notice from Construction Manager shall include a proposed punch list of all items of Work to be completed or corrected by Construction Manager. Within a reasonable time thereafter, City's Representative, Construction Manager and Architect/Engineer shall make an inspection of the Work (or designated portion thereof) to determine the status of completion. If City's Representative and Architect/Engineer do not consider the Work (or designated portion) substantially complete, Architect/Engineer shall notify Construction Manager in writing giving the reasons therefore. If City and Architect/Engineer consider the Work (or designated portion) substantially complete, Architect/Engineer shall deliver to Construction Manager the Certificate of Substantial Completion (or Certificate of Partial Substantial Completion) which shall fix the date Substantial Completion for the entire Work (or designated portion thereof) is actually achieved by Construction Manager and include a final punch list of items to be completed or corrected by Construction Manager before final payment. Failure to include an item on the final Punch List does not waive City's right to demand completion of the item pursuant to the Contract Documents prior to or after final payment.

2.5.2 Final Acceptance: When Construction Manager believes it has fully performed all of the Services, including all punch list items, Construction Manager shall deliver to City's Representative all items listed on **Exhibit "G"**, which includes, but is not limited to, a written Release and Affidavit from Construction Manager certifying that all Work has been completed in accordance with the requirements of the Contract Documents. That written affidavit shall be in conformance with **Exhibit "E"** and

shall be delivered to City's Representative by Construction Manager at the same time it submits its final Application for Payment. After receipt of such affidavit, the final Application for Payment and all other documents required for Project close-out, Architect/Engineer and City's Representative shall promptly inspect the Work to determine if all of the Work has been completed and is ready for Final Acceptance by City. If City's Representative and Architect/Engineer determine Construction Manager has completed the entire Work and performed all of the Services, City's Representative shall promptly approve the Final Completion Certificate of the Project, stating that, to the best of its knowledge, information and belief, and on the basis of its observations and inspections: (i) all of the Services have been completed in accordance with the requirements of the Contract Documents; (ii) the final balance due Construction Manager, as noted in the final Certificate for Completion, is due and payable; and (iii) all conditions precedent to Construction Manager's entitlement to final payment has been satisfied. Neither the final payment nor any retainage shall become due and payable until Construction Manager submits: (1) the final Release and Affidavit in the form attached to the Agreement as **Exhibit "E"**, (2) consent of surety to final payment, and (3) other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by City. City reserves the right to inspect the Work and make an independent determination as to the Work's acceptability, even though Architect/Engineer may have issued its recommendations. Until the Construction Manager completes all of its contractual obligations, with the exception of the Warranty period, neither the final payment nor any retainage shall become due and payable.

The City may occupy or take control of portions of the project providing the above items discussed in this paragraph have been completed and the "Substantial Completion", "Start-Up", "Record Drawing", and "Warranty" requirements specified in Article 2, Sections 2.4.11.8, 2.4.11.10, 2.5.1 and 2.6 have been completed to the City's satisfaction for the portions to be occupied, excluding the requirements for a warranty inspection eleven (11) months after Substantial Completion.

2.6 Warranty and Corrective Period

- 2.6.1 The Construction Manager shall warrant that all materials and equipment included in the Work will be new, except where indicated otherwise in Contract Documents, and that the Work will be of good quality, free from improper workmanship and defective materials and in conformance with the Construction Documents.
- 2.6.2 The Construction Manager shall collect and deliver to the City's Representative any specific written warranties given by others as required by the Contract Documents. Also, the Construction Manager shall conduct, jointly with the City's Representative and the Architect/Engineer, a warranty inspection eleven (11) months after the date of Substantial Completion of the Project. Construction Manager shall obtain and assign to City all express warranties given to Construction Manager by any subcontractors or by any supplier of materials, equipment or fixtures to be incorporated into the Project. Construction Manager further warrants to City that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. Further, any special

warranty to be provided will be in such form as is acceptable to City and shall not include any exclusions, exceptions or modifications except to the extent approved by City in its sole discretion.

- 2.6.3 In addition to the express warranties provided for in Sections 2.6.1 and 2.6.2, and all other rights and remedies available to City at law or in equity, including any implied warranties City may be entitled to as a matter of law, Construction Manager shall promptly correct, upon receipt of written notice from City's Representative, any portion of the Work which is found to be defective or otherwise not in conformance with the requirements of the Contract Documents. In the event that any defective or non-conforming work is deemed by City in its sole discretion to present an immediate threat to safety or security, City shall be entitled to correct and fix such defective or non-conforming portions of the Work, and Construction Manager shall reimburse City for all costs and expenses incurred by City in performing such Work. This obligation to correct defective or nonconforming Work shall run for a period of one year (or such longer period of time as may otherwise be specified in the Contract Documents) commencing from the date Substantial Completion is achieved.
- 2.6.4 With respect to the correction of any defective or nonconforming Work, Construction Manager shall be liable for all damage to any part of the Work itself and to any adjacent property which is caused by such corrective work. Construction Contingency Funds may be utilized to correct such damage provided that damage was not caused by negligence on the part of the Construction Manager. Construction Manager's warranty excludes remedy for damage or defect caused by City's abuse, modifications not performed by Construction Manager, improper or insufficient maintenance by City (unless such maintenance was performed in accordance with the directions from Construction Manager), improper operation by City (unless such operations were performed in accordance with the directions from Construction Manager), or normal wear and tear under normal usage.

ARTICLE 3

CITY'S RESPONSIBILITIES

3.1 City's Information:

The City shall provide full information regarding the requirements for the Project.

3.2 City's Representative:

The City shall designate in writing any additional representatives authorized to act on the City's behalf with respect to the Project, together with the scope of his/her respective authority. In no event, shall any delegation of authority be contrary to State or City laws or codes. Such designations as of the date hereof are set forth in Section 1.3.18. Functions that this Agreement provides, which will be performed by the City, can be delegated by written notice to the Construction Manager from the City. The designation(s) of City's Representative, as set forth in Section 1.3.18, may be amended from time to time by the City, pursuant to written notice to the Construction Manager of such amendment. The Construction Manager shall be entitled to rely on directions (and it shall be required to follow directions) from the City's Representative within the authority conferred by the City

Commission in this Agreement or any Amendment or Change Order to this Agreement. The City Commission hereby authorizes the City's Representative to: (1) act as the Board's agent and execute documents associated with the Project. Examples of these documents are Notices of Commencement, Certificates of Substantial and Final Completion and permits from applicable agencies; (2) administer, coordinate, interpret and otherwise manage the contractual provisions and requirements of this Agreement; (3) negotiate a duly authorized Change Order on behalf of the City; and (4) issue a duly authorized memorandum, letter or other instrument covering the services and work to be provided pursuant to this Agreement. Directions and decisions made by City's Representatives shall be binding on the City. The City's Representative does not have the authority to authorize work beyond the scope of the Contract Documents.

The City additionally authorizes the City Manager, or his designee, in conjunction with the City's Representative, to authorize individual changes in the Work up to \$100,000.00. Said changes shall be funded from the City's Allowance and shall not cause an increase to City's Project Budget.

3.3 Design Engineer and Engineer's Agreement:

The City shall retain an Architect/Engineer for design and to prepare Construction Documents for the Project. The Architect/Engineer's services, duties and responsibilities are described in the Agreement between the City and the Architect/Engineer, a copy of which will be furnished to the Construction Manager.

3.4 Site Survey and Reports:

The City shall provide for the site of the Project all surveys describing the physical characteristics, soil reports, and subsurface investigations, legal limitations, utility locations, and a legal description.

3.5 Approvals and Easements:

The City shall pay for necessary approvals, properties, easements, assessments and charges required for the construction, use or acceptance of permanent structures or for permanent changes in existing facilities.

3.6 Legal Services:

The City shall furnish such legal services as may be necessary for providing the items set forth in Article 3, Section 3.5, and such auditing services as it may require.

3.7 Construction Documents:

The Construction Manager shall be furnished a reproducible set of all copies of the Construction Documents reasonably necessary and ready for printing.

3.8 Cost of Surveys & Reports:

The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the City's expense. Construction Manager shall rely upon the accuracy and completeness

thereof as noted in the various reports and surveys. Additional reports or surveys deemed to be necessary by the Construction Manager shall be obtained by the Construction Manager.

3.9 Project Fault Defects:

If the City becomes aware of any fault or defect in the Project or non-conformance with the Construction Documents, the City shall give prompt written notice thereof to the Construction Manager and Architect/Engineer.

3.10 Funding:

The City shall furnish, in accordance with the established Master Program Schedule, reasonable evidence satisfactory to the Construction Manager that sufficient funds will be available and committed for the cost of each part of the Project. The Construction Manager shall not commence performance of any Services, unless authorized in writing by the City.

3.11 Permitting & Code Inspections:

The City and Construction Manager shall coordinate with the appropriate permitting authorities.

ARTICLE 4

CONTRACT TIME

- 4.1 The total period of time beginning with the Construction Phase Commencement Date and ending on the date of Final Completion of the Work is referred to hereafter as the "Contract Time". With respect to the Construction Phase Services, the "Construction Phase Commencement Date" shall be established in the GMP Addendum. No portion of the Work, with respect to the Construction Phase Services, shall be performed prior to the Construction Phase Commencement Date, unless expressly approved in advance by the City in writing. The GMP Addendum shall also include the date that portion of the Work associated with the Construction Phase Services must be substantially completed by Construction Manager. The "Substantial Completion" date shall be established in terms of calendar days after the Construction Phase Commencement Date. Unless noted otherwise, the Final Completion Date is 30 (thirty) days after Substantial Completion. In the event Construction Manager and City fail to reach an agreement on the Contract Time, City may elect to terminate this Agreement. In the event of any such termination, Construction Manager shall be entitled to receive that portion of the Contract Amount attributable to the Pre Construction Phase Services earned to the date of termination plus that portion of any earned compensation associated with any Construction Phase Services provided, to the extent such services were expressly approved in advance and in writing by City; but Construction Manager shall not be entitled to any further or additional compensation from City, including, but not limited to, damages or lost profits on portions of the Work not performed.
- 4.2 Liquidated Damages. City and Construction Manager recognize that, since time is of the essence for this Agreement, City will suffer financial loss if the Work associated with the Construction Phase is not substantially completed within the time specified in the GMP

Addendum, as said time may be adjusted as provided for herein. In such event, the total amount of City's damages, will be difficult, if not impossible, to definitively ascertain and quantify, because this is a public construction project that will, when completed, benefit the public in the City of Kissimmee, Florida. It is hereby agreed that it is appropriate and fair that the City receive liquidated damages from Construction Manager, if Construction Manager fails to achieve Substantial Completion of the Work within the required Contract Time. Should Construction Manager fail to substantially complete the Work within the required time period, the City shall be entitled to assess, as liquidated damages, but not as a penalty, the amount specified in the GMP Addendum, for each calendar day thereafter until Substantial Completion is achieved. Construction Manager hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represent a fair and reasonable estimate of City's actual damages at the time of contracting if Construction Manager fails to substantially complete the Work in a timely manner.

ARTICLE 5

CONTRACT TIME EXTENSIONS

- 5.1 Should Construction Manager be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Construction Manager, and not due to its fault or neglect, including but not restricted to acts of God or the public enemy, acts of government, fires, floods, epidemics, quarantine regulation, strikes, lockouts, utility work being performed within the Project limits, or by unusually severe weather conditions by comparison with the ten year Osceola City, Florida average not reasonably anticipatable, Construction Manager shall notify City's Representative and Architect/Engineer, in writing within seven (7) calendar days after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Construction Manager may have had to request a Contract Time Extension. Contract Time Extension requests shall be evaluated through the Change Order process.
- 5.2 If Construction Manager encounters on the Project site any materials reasonably believed by Construction Manager to be petroleum, or petroleum related products, or other hazardous or toxic substances which have not been rendered harmless, Construction Manager immediately shall: (i) stop Work in the area affected, and (ii) report the condition to City's Representative in writing. If the Work is so stopped in excess of ten (10) days and hazardous material is found, the Work in the affected area shall not thereafter be resumed except by Change Order. Any such Change Order shall include, but not be limited to, an adjustment to the Contract Time as appropriate. If no hazardous material is found after the Work is stopped, no Change Order is required to resume the Work in the affected area. Further, if the hazardous material was generated or caused by the Construction Manager or any of its employees, agents, subcontractors, or material suppliers, no Change Order will be required for an adjustment in the Contract Time and Construction Manager shall indemnify the City and hold City harmless for any costs incurred by the City with respect to such material.
- 5.3 NO DAMAGES FOR DELAY. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which the City and Architect/Engineer may be responsible, in whole or in part, shall relieve Construction Manager of his duty to perform, or give rise to any right to damages or additional compensation from the City. Construction Manager's sole remedy, if any, against the City will be the right to seek an extension to the Contract Time and the payment

of additional Costs of the Work and associated increase in the Construction Manager's Fee, as allowed pursuant to Article 6. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion. In no event shall the City be liable to Construction Manager, whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any acceleration, soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.

ARTICLE 6

CONTRACT AMOUNT

- 6.1 In consideration of the full and faithful performance by the Construction Manager of the covenants in this Agreement, City agrees to pay, or cause to be paid, to Construction Manager the following amounts (hereinafter collectively referred to as "Contract Amount"), in accordance with the terms of this Agreement and with the Hourly Rate Schedule attached hereto and incorporated herein as **Exhibit "K"**. The Hourly Rate Schedule identifies all job classifications which will perform billable services pursuant to this Agreement and the fee for each job classification. Performance of work by personnel in job classifications not listed on the fee schedule will result in nonpayment for such services.
- 6.1.1 **Pre-Construction Phase Services** - For all Pre-Construction Phase Services enumerated in this Agreement, including, but not limited to, providing value engineering, reviewing documents for constructability, assisting and meeting with the City and the Design professionals, preparing cost estimates and schedules and preparing the GMP Proposal, Construction Manager shall receive the lump sum amount as specified in the Pre-Construction Services Addendum, attached to the Agreement as **Exhibit "B"**, and in accordance with the payment schedule set forth in said Addendum.
- 6.1.2 **Construction Phase Services** – With respect to the Construction Phase Services to be provided by Construction Manager, City shall: 1) reimburse Construction Manager for the Cost of the Work; and 2) pay the Construction Manager a Construction Manager's Fee to be negotiated as part of the GMP Addendum process.
- 6.1.2.1 **Construction Manager's Fee**: The Construction Manager's Fee shall be Construction Manager's total compensation for the Construction Manager's profit on the Cost of the Work, as defined below. Construction Manager agrees to provide City with a GMP Proposal for the total sum of the Construction Manager's Fee, plus the Cost of the Work, plus the Construction Manager's Contingency, after the Construction Manager determines the Construction Documents are sufficiently complete.
- 6.1.2.2 The GMP Proposal shall be based upon actual subcontractor cost proposals with the various subcontractors. Further, the proposal shall be broken down into the categories and level of detail required by City's Representative. Construction Manager agrees that all its books, records and files, with respect to its development of the GMP Proposal, shall be open to City for review and copying. The final GMP Proposal shall be mutually agreed upon by City and Construction Manager and shall be set forth in the GMP Addendum (**Exhibit "C"**). The GMP Addendum shall further identify the drawings, specifications (Schedule 1 of the GMP Addendum) and other

descriptive documents (Schedule 4 of the GMP Addendum) upon which the GMP is based. The Construction Manager guarantees that in no event shall the sum of the Construction Manager's Fee, the total Cost of the Work, and the Construction Manager's Contingency exceed the GMP. The Construction Manager acknowledges multiple GMP Addendums may be required for the portions of the Project to support the Project phasing and schedule.

6.1.2.3 The amount to be paid for Construction Manager's Fee shall be stated in the GMP Addendum. The Construction Manager's Fee shall be paid proportionally to the ratio of the Cost of the Work completed. The balance of the Construction Manager's Fee shall be paid at Final Completion. If construction is authorized for a portion of the Project, the Construction Manager's Fee shall be paid proportionally to the amount of the Work authorized by the City.

6.1.2.4 In the event Construction Manager and City fail to reach an agreement on the GMP, the City may elect to terminate this Agreement. In the event of any such termination, Construction Manager shall be entitled to receive that portion of the Contract Amount attributable to the completed Pre Construction Phase Services; but Construction Manager shall not be entitled to any further additional compensation from City, including but not limited to damages or lost profits on portions of the Work not performed. Construction Manager may be required to continue to provide all other agreed upon Pre Construction services.

6.1.2.5 The Construction Manager will not be due any increases in the Construction Manager's Fee on increases in the GMP value that do not exceed a cumulative total of a specified amount which shall be stated as a "nominal overage" in the GMP Addendum. Should the GMP value be increased by more than such nominal overage amount under the terms of Article 7 hereinafter due to no fault of the Construction Manager, the Construction Manager's additional Construction Manager's Fee will be (5) five percent of that portion of the accumulative increases in the GMP value that exceed the GMP value by more than such nominal overage amount.

6.1.3 Cost of the Work. The Phrase "Cost of the Work" shall mean all costs necessarily and reasonably incurred by Construction Manager in the proper performance of the Construction Phase Services portion of the Services. Such costs shall be at rates not higher than the standard paid at the place of the Project except with the prior written consent of City only after Construction Manager has provided sufficient support in writing that exceptional circumstances exist, which justify the payment of rates higher than the standard. The Cost of the Work shall include only those items set forth below in this subsection 6.1.3:

6.1.3.1 Construction Phase Costs: The following items constitute the elements that can be included in the Construction Phase Cost calculations.

6.1.3.1.1 Wages of construction workers directly employed by Construction Manager to perform the construction of the Work at the Project site or, with City's written agreement, at off-site workshops;

6.1.3.1.2 Wages of Construction Manager's supervisory, technical and administrative personnel who are stationed at the Project site as specified in Schedule 1 to the proposed GMP;

6.1.3.1.3 Wages of Construction Manager's supervisory and administrative personnel engaged at factories, workshops or on the road in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work and only with City's written agreement;

6.1.3.1.4 Wages of Construction Manager's supervisory, technical, and administrative personnel when assigned to this Project and specifically working on this Project, as specified in Schedule 1 to the proposed GMP;

6.1.3.1.5 Payments made by Construction Manager to subcontractors in accordance with the requirements of the applicable written subcontracts;

6.1.3.1.6 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents;

6.1.3.1.7 Cost of all materials, supplies and equipment incorporated in the Project, including costs of transportation and storage thereof;

6.1.3.1.8 Minor expenses at the site, such as internet, long distance telephone calls, telephone service, expressage, postage, and similar petty cash items in connection with the Project to be billed at cost.

6.1.3.2 Subcontract and Material Costs. All Subcontractor Costs will be documented and signed by Subcontractor invoices and all material costs will be documented by copies of invoices. Subcontract and Material Costs may also be referred to as "Reimbursable Costs". All requests for payment of expenses eligible for reimbursement under the terms of this Agreement, unless otherwise specifically stated herein, shall be reimbursed per the City's Reimbursable Schedule that is attached hereto as **Exhibit "J"** and made a part of this Agreement. Reimbursable Costs shall include:

6.1.3.2.1 Rental charges on all necessary machinery and equipment, exclusive of hand tools used at the site of the Project, whether rented from the Construction Manager or other, including installation, repairs and replacement, dismantling, removal, costs of lubrication, transportation and delivery costs thereof, which are used in the support of a sub-contractor or the Construction Manager's own forces in the performance of the work, at rental charges consistent with those prevailing in the area;

6.1.3.2.2 Cost of the premiums for all insurance and cost of premiums for all bonds, which the Construction Manager is required to procure by this Agreement specifically for the construction project. General Liability will be cost at a fixed rate of a specified percentage, to be stated in the GMP Addendum of the final Contract Amount, adjusted

to include any previously deducted City Direct Purchase amounts, and Construction Manager bonds will be cost at a fixed rate of a specified percentage, to be stated in the GMP Addendum. The premium stated will be substantiated with industry standard documentation. The cost of the work shall include any subcontractor bonds the Construction Manager deems appropriate. **There shall be no Construction Phase Fee on this item;**

6.1.3.2.3 Losses and expenses sustained by the Construction Manager in connection with the work, not compensated by insurance, including deductibles, provided they have resulted from causes other than the negligent misconduct of Construction Manager;

6.1.3.2.4 Sales, use, gross receipts or similar taxes related to allowable direct costs of the Project imposed by any governmental authority, and for which the Construction Manager is liable;

6.1.3.2.5 The cost of corrective work, subject to the GMP, except for any corrective work made necessary because of defective workmanship, or other causes due to the negligence of the Construction Manager or his subcontractors or suppliers. No costs shall be paid by the City to the Construction Manager for any expenses made necessary to correct defective workmanship, or to correct any work not in conformance with the Plans and Specifications, or to correct any deficiency or damage caused by negligent acts by the Construction Manager;

6.1.3.2.6 Costs for repairs and maintenance, which are consistent with industry standards associated with work required during the warranty period, which may be the responsibility of Construction Manager. This shall not apply to work, which is the responsibility of Subcontractors, except in the case of a Subcontractor's default;

6.1.3.2.7 Costs for trash and debris control and removal from the site;

6.1.3.2.8 Costs incurred due to an emergency affecting the safety of persons and property;

6.1.3.2.9 Legal costs reasonably and properly resulting from prosecution of the Project for the City, including handling claims for changes by Subcontractors and Vendors, subject to the following limitations: 1) The City approved, in writing, incurring such costs in advance, which approval shall be in the City's sole discretion; and 2) the legal costs were not incurred as result of the Construction Manager's own negligence or default. This paragraph does not provide for payment of legal costs incurred in preparing or asserting claim or requests, by Construction Manager itself, for change orders, or in enforcing the obligations of this Agreement;

6.1.3.2.10 Transportation outside of Osceola County for those personnel employed directly for the project, not including relocation expenses. Such transportation must be extraordinary and be approved in

advance by the City's Representative, and will be in accordance with the Construction Manager's standard personnel policy;

- 6.1.3.2.11 Costs of all reproductions used for bidding or information purposes required by the Project to directly benefit the project;
- 6.1.3.2.12 Costs for security services for the project, if necessary;
- 6.1.3.2.13 Costs for efficient logistical control of the Project, including horizontal and vertical transportation of materials and personnel. Also, costs for adequate storage and parking space;
- 6.1.3.2.14 Costs for such temporary facilities and temporary protection during construction, as approved by the City, including temporary water, heat, power, sanitary facilities, telephones, radios and computers with software;
- 6.1.3.2.15 Costs for any job site items not referenced herein, not normally provided by the subcontractors, which will be provided by the Construction Manager as required to complete the Work;
- 6.1.3.2.16 Costs, including transportation, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities (including Project field offices, furniture and fixtures), temporary utilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by Construction Manager at the Project site and fully consumed in the performance of the Work; and costs less salvage value on such items if not fully consumed, whether sold to others or retained by Construction Manager;
- 6.1.3.2.17 Rental charges, at standard industry rates for the area, for temporary facilities, machinery, vehicles, equipment, and hand tools not customarily owned by the construction workers, which are provided by Construction Manager at the Project site, whether rented from Construction Manager or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Rates and quantities of all equipment rented, whether from Construction Manager or others, shall be subject to the prior written approval of City's Representative;
- 6.1.3.2.18 Costs, fees and assessments for the building permit and for other permits, licenses and inspections for which Construction Manager is required by the Contract Documents to pay;
- 6.1.3.2.19 Cost of Public Information Programs or other neighborhood functions hosted by Construction Manager at the direction of City's Representative;
- 6.1.3.2.20 Costs of testing laboratories for tests required by the Contract Documents, except those related to defective or nonconforming

Work for which reimbursement is excluded pursuant to the terms of this Agreement;

6.1.3.2.21 Cost of documentation, inspection and testing as required for the preparation of the Final Estimate and implementation of the FDOT Contractor Quality Control process;

6.1.3.3 Costs Not To Be Reimbursed. The Cost of the Work shall not include the following items: Except as provided in Article 6, Section 6.1.3.1:

6.1.3.3.1 Temporary living and travel expenses of employees who are not relocated, but are assigned to the Project;

6.1.3.3.2 Except as provided in the Fringe Benefits rate included in Article 6, Section 6.1.3.1.4, expenses of Construction Manager's principal office and offices other than the Project site office;

6.1.3.3.3 Overhead and general expenses, except as may be expressly included in Article 6, Section 6.1.3.1 and 6.1.3.2;

6.1.3.3.4 Construction Manager's capital expenses, including interest on Construction Manager's capital employed for the Work;

6.1.3.3.5 Rental costs of machinery and equipment, except as specifically provided in Article 6, Section 6.1.3.2.1;

6.1.3.3.6 Except as expressly provided in Article 6, Section 6.1.3.2.5, costs due to the negligence of Construction Manager, subcontractors, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including, but not limited to, costs for the correction of damaged, defective, or nonconforming Work, disposal and replacement of materials and equipment incorrectly ordered or supplied;

6.1.3.3.7 Any costs not specifically and expressly described in Article 6, Section 6.1.3.1 and 6.1.3.2 above;

6.1.3.3.8 Construction Manager is responsible, without reimbursement from City, for re-inspection fees and costs; to the extent such re-inspections are due to the negligence of the Construction Manager;

6.1.3.4 Adjustments in Construction Phase Costs: For changes in the Project as provided in Article 7, the Construction Phase Costs shall be adjusted as follows:

6.1.3.4.1 The Construction Manager shall be paid an additional amount, subject to negotiation, if the Construction Manager is placed in charge of reconstruction of an insured or uninsured loss, excluding any condition that may have been caused from negligent acts by the Construction Manager.

6.1.3.4.2 Should the construction duration for any phase extend longer than stipulated above, there shall be no additional Construction Phase

Costs or Construction Manager's Fee paid to the Construction Manager, unless such delays are as defined in Article 7.

- 6.1.4 City's Allowance: The GMP Addendum shall include the City's Owner Allowance, which permits the City to authorize the Construction Manager to perform work which may not have been specifically addressed in the original contract documents, but which the City deems necessary for the project. The City's Allowance is also intended to protect against price increases between the GMP Addendum and the completion of the 100% Construction Documents, as well as for the purpose of defraying the expenses due to unforeseen circumstances relating to construction, and for price increases attributable to any code compliance reviews. The Construction Manager will be required to furnish documentation evidencing expenditures charged to the City's Allowance prior to the release of funds by the City. Documentation for use of the City's Allowance shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the PMIS. The Architect/Engineer shall verify the actual costs. The maximum dollar amount of permitted Allowance Work shall be 5% of the GMP or \$250,000, whichever is less. The City Manager or his designee can approve the use of the City's Allowance up to \$50,000 per occurrence. When allowance funds are utilized for changes and/or additions to the work, the CM shall submit a written request to the City's Representative, in the same manner as a change order request. The City's Representative shall prepare an Allowance Authorization Release, in form attached here to as **Exhibit "I"** to this Agreement.

The GMP Addendum may, at the City's discretion, also contain allowance time, not to exceed fifteen (15) percent of the total amount of time allotted for the work. This time shall be used for any unforeseen changes to the work which may cause the time to be extended and will be granted via an Allowance Authorization Release, approved by the City Manager or his designee.

- 6.1.4.1 Following the full execution of the GMP Addendum, at a point mutually agreed upon between the City's Representative and Construction Manager, the net amount of the buyout will be reviewed. If the net amount of the total buyout results in excess funds being required, those funds may be taken from the City's Allowance. If the net amount of the buyout results in a savings, the savings will be assigned to the City's Buyout Allowance.
- 6.1.5 The City's Buyout Allowance shall be created by savings generated by the subcontractor buyout, unused contingency funds, and also by reductions in scope that otherwise could reduce the GMP. The intent of this City's Buyout Allowance is to allow funds already approved within the GMP Addendum to remain and be used at the City's discretion for scope issues that may become required and/or desired during the course of the project. Authorizations up to \$50,000, for the use of the City's Buyout Allowance, will be granted by the City Manager, or his designee. Authorizations for more than \$50,000 will be required to be obtained from the Commission. The City's Representative shall prepare an Allowance Authorization Release, in form attached here to as **Exhibit "M"** to this Agreement.

ARTICLE 7

CHANGE IN THE PROJECT

7.1 Change Orders:

- 7.1.1 City shall have the right, at any time during the progress of the Work, to increase or decrease the Work. Promptly after being notified of a change, but in no event more than 14 days after its receipt of such notification (unless City's Representative has agreed in writing to a longer period of time), Construction Manager shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or for minor changes ordered by the Architect/Engineer, no addition or changes to the Work shall be made except upon written order of City, and City shall not be liable to Construction Manager for any increased compensation or adjustment to the Contract Time without such written order.
- 7.1.2 A Change Order, in form attached here to as **Exhibit "H"** to this Agreement, shall be prepared by City's Representative, reviewed by Architect/Engineer and Construction Manager, and executed promptly by the parties after an agreement is reached between Construction Manager and City, concerning the requested changes. Construction Manager shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as City and Construction Manager shall mutually agree.
- 7.1.3 Notwithstanding anything in the Contract Documents to the contrary, if conditions are encountered at the Project site which are: (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, or (2) unknown physical conditions of any unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, and which reasonably would not have been discovered by Construction Manager as part of its scope of site investigative services required pursuant to the terms of the Contract Documents, then Construction Manager shall provide City's Representative with prompt written notice thereof before conditions are disturbed and in no event later than 48 hours after first observance of such conditions. City's Representative and Architect/Engineer shall promptly investigate such conditions and, if they differ materially and cause an increase or decrease in Construction Manager's cost of, or time required for, performance of any part of the Work, City will acknowledge and agree to an equitable adjustment to the Contract Amount or Contract Time, or both, for such Work. If City's Representative determines that the conditions at the site are not materially different from those indicated in the Contract Document or not of an unusual nature or should have been discovered by Construction Manager as part of its investigative services, and that no change in the terms of the Contract is justified, City shall so notify Construction Manager in writing, stating its reasons. Claims by Construction Manager in opposition to such determination by City must be made within 48 hours after Construction Manager's receipt of the written determination of City's Representative. If City's Representative and Construction Manager cannot agree on an adjustment to the Contract Amount or Contract Time, the parties shall comply with the dispute resolution procedure set forth in the Contract Documents.
- 7.1.4 The increase or decrease in the GMP as set forth in the GMP Addendum resulting from a change in the Project shall be determined in one or more of the following ways: 1) by mutual acceptance of a lump sum properly itemized and supported by

sufficient substantiating data to permit evaluation by the Architect/Engineer and City's Representative, or 2) by unit prices stated in the Agreement or subsequently agreed upon.

- 7.1.5 If none of the methods set forth in Article 7, Section 7.1.4 are agreed upon, the Construction Manager, provided they receive a written order signed by the City, shall promptly proceed with the Work involved. The increase or decrease in the GMP shall then be determined on the basis of the reasonable expenditures and savings of those performing the Work attributed to the change. However, in the event a Change Order is issued under these conditions, the Construction Manager shall establish an estimated cost of the work and the Construction Manager shall not perform any work whose cost exceeds that estimate, without prior written approval by the City's Representative. In such case, and also under Article 7, Section 7.1.4 above, the Construction Manager shall keep and present, in such form as the City's Representative may prescribe, an itemized accounting together with appropriate supporting data of the increase in the Cost of the Work as outlined in Article 6., Section 6.1.3.2.
- 7.1.6 If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order, and that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the City or the Construction Manager, the applicable unit prices and GMP shall be equitably adjusted.
- 7.1.7 In the event the Construction Manager encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, petroleum waste, biohazardous substances, radioactive waste or any other substance falling within the category of hazardous or toxic waste under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or any other state or federal environmental statute or regulation, hereinafter collectively referred to as "hazardous waste," the Construction Manager shall immediately stop Work in the area affected and report the condition to the City in writing. City shall thereafter, as soon as reasonably possible, conduct a thorough investigation to determine if the suspected material in the affected area is in fact hazardous waste and shall certify to Construction Manager that such material is not hazardous waste, or if such material is in fact hazardous waste that such hazardous waste has been abated and that it is safe to return to the affected area and resume work. The Construction Manager may require the City to furnish copies of reports of tests conducted by a qualified testing laboratory acceptable to Construction Manager verifying the absence of such hazardous waste before Construction Manager will be required to resume work. The Contract time and amount shall thereafter be equitably adjusted to account for the time lost due to the encountering of the hazardous waste and the reasonable cost associated therewith. The Construction Manager shall, through an analysis of network schedule, prove such time delays and associated costs.
- 7.1.8 The Construction Manager shall not be required to perform any work relating to hazardous waste without consent pursuant to the changes clause herein.
- 7.1.9 *Intentionally omitted.*

- 7.1.10 Claims for Additional Cost or Time: All claims for additional cost or time, in excess of what is addressed in Article 6.1.4, shall be made by request for a Change Order submitted as provided in this Article. The Substantial Completion date shall be extended by Change Order for such reasonable time as the Construction Manager may determine. If the Construction Manager is delayed at any time in the progress of the Work by any act or neglect of the City or the Architect/Engineer or of any employee of either or by any separate Construction Manager employed by the City or by any changes ordered in the work by labor disputes, fire, or unusual delay in transportation, unavoidable casualties or any causes beyond the Construction Manager's control or by delay authorized by the City pending resolution of disputes, and such delay extends the completion date, then the dates for completion may be equitably adjusted. Only delays, which are determined to extend the critical path of the schedule for constructing the project, will result in a time extension.
- 7.1.11 Minor Changes in the Project: The City will have authority to order minor changes in the Project not involving an adjustment in the Contract Amount or Contract Time and not inconsistent with the intent of the Construction Documents. Such changes shall be effected in writing. The Documentation of changes shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the PMIS. Changes shall be approved by the City and Architect/Engineer.
- 7.1.12 Emergencies: In any emergency affecting the safety of persons or property, the Construction Manager shall act at his discretion, to prevent threatened damage, injury or loss. Any increase in the GMP or extension of time claimed by the Construction Manager on account of emergency work shall be determined as provided herein. Construction Manager shall take immediate action to prevent injury to any person or damage to any property (including the Work and any adjacent property) which otherwise might arise from an emergency event at the Project Site. If conditions are such that it is safe to return to the Project site, Construction Manager shall give Architect/Engineer written notice within 48 hours after the occurrence of the emergency, if Construction Manager believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If Architect/Engineer determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Construction Manager fails to provide the 48 hour written notice noted above, Construction Manager shall be deemed to have waived any right it otherwise may have had to seek and adjustment to the Contract Amount or an extension to the Contract Time. Construction Manager is obligated to promptly report in writing to City all accidents relating to the Work that result in any personal injury or property damage.

ARTICLE 8

PAYMENTS TO THE CONSTRUCTION MANAGER

8.1 Progress Payments for Construction Phase Services

- 8.1.1 Construction Manager's monthly Applications for Payment shall be in a form, as shown in **Exhibit "F"**, and shall contain such detail and backup as City reasonably may require. Such detail and backup shall include documentation of actual payments made.

- 8.1.2 At the time it submits its GMP Proposal to City, Construction Manager shall submit to City's Representative and Architect/Engineer, for their review, a Schedule of Values based upon the GMP Proposal. The Schedule of Values will be based on the major items of work. The Schedule of Values will be structured so that the costs of the major items of work can be allocated to the various elements of work. The Schedule of Values shall be updated for the current month Change Orders and submitted each month to Architect/Engineer along with a completed and notarized copy of the Application for Payment form attached to the Agreement as **Exhibit "F"**.
- 8.1.3 If the payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site or at an approved location off site, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that City has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect City's interest therein, all of which shall be subject to City's satisfaction.
- 8.1.4 Construction Manager shall submit a notarized original of its monthly Application for Payment to City's Representative, or Architect/Engineer, as directed by the City's Representative, on a monthly basis, on or before the 25th of each month. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. Within seven calendar days after receipt of each Application for Payment, Architect/Engineer shall submit to City's Representative, a certification of the Application for Payment in the amount recommended by Architect/Engineer as being due and owing Construction Manager. Upon approval by City's Representative, payment shall be made to Construction Manager in accordance with the Florida Prompt Payment Act Statute 218.735. As a condition to the application for the monthly partial pay requisition, the Construction Manager agrees that all as-built information will be recorded within 30 days after receipt of information that a change to the Construction Documents has occurred.
- 8.1.5 Ten percent (10%) retainage shall be held on all payments until the Construction Phase is 50% complete, except when approved by the City, certain suppliers and subcontractors may be paid the entire amount due when such payment is generally the practice of the industry. After 50% completion, the amount of retainage shall be reduced from 10% to 5%, in accordance with Section 255.078, Florida Statutes. Retainage shall not be withheld on services or fees set forth in Article 6, Section 6.1.2 and 6.1.3.
- 8.1.6 Monthly payments to Construction Manager shall in no way imply approval or acceptance of Construction Manager's work.
- 8.1.7 Each Application for Payment shall be accompanied by a Release and Affidavit showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested on have been paid in full through the previous month's Application for Payment. City shall not be required to make payment until and unless these affidavits are furnished by Construction Manager. Further, if Construction Manager is withholding any portion of a payment to any subcontractor for any labor, services, or materials for which City has paid Construction Manager, Construction Manager agrees to refund such money to City.

8.2 Payments Withheld

Architect/Engineer shall review each Application for Payment submitted by Construction Manager and shall make recommendations to City's Representative as to the proper amounts, if any, which may be owed Construction Manager under the Application for Payment. Both Architect/Engineer and City's Representative shall have the right to refuse to certify or approve for payment any amounts, or portions thereof, requested by Construction Manager in an Application for Payment, and City's Representative may withhold any payments otherwise due Construction Manager under this Agreement, to the extent it is reasonably necessary, to protect City from any expense, cost or loss attributable to: (a) defective or deficient Work not properly remedied in accordance with the terms of the Contract Documents; (b) the filing or reasonable evidence indicating the probable filing of third party claims against City attributable to the negligence of Construction Manager; (c) Construction Manager's failure to make timely and proper payments to all subcontractors and suppliers; (d) reasonable evidence that the remaining Work cannot be completed for the unpaid Contract Amount balance; (e) reasonable evidence indicating that the remaining Work cannot be completed within the remaining Contract Time; (f) Construction Manager's failure to satisfactorily prosecute the Work in accordance with the requirements of the Contract Documents; or (g) any other material breach of the requirements of the Contract Documents by Construction Manager. City shall have the right, but not the obligation, to take any corrective action City deems appropriate to cure any of the above noted items, at the Construction Manager's expense, if Construction Manager has not started with a cure, to the City's reasonable satisfaction, of any of the above noted items within five working days after Construction Manager's receipt of written notice from City.

8.3 Final Payment.

City shall make final payment to Construction Manager provided the Work is finally accepted by City in accordance with Article 2, Section 2.5.2, and provided that Construction Manager first, and as an explicit condition precedent to the accrual of Construction Manager's right to final payment, shall have furnished City with a properly executed and notarized final release (conditioned only upon receipt of final payment) in the form of the Release and Affidavit attached to the Agreement as **Exhibit "E"**, as well as a duly executed copy of the surety's consent to final payment and such other documentation that may be required by the Contract Documents or City. Construction Manager's acceptance of final payment shall constitute a full waiver of any and all claims by Construction Manager against City arising out of this Contract or otherwise relating to the Project, except those identified in writing by Construction Manager as unsettled in the final Application for Payment. Neither the acceptance of the Work nor the payment by City shall be deemed to be a waiver of City's right to enforce any obligations of Construction Manager hereunder or to the recovery of damages for defective Work not discovered by City's Representative or Architect/Engineer at the time of final inspection. The Project will be considered complete when all Work has been completed and accepted by the City Commission. The Construction Manager will then be released from further obligation except as set forth in Section 2.6 Warranty.

ARTICLE 9

INSURANCE, WAIVER OF SUBROGATION, AND INDEMNITY

9.1 Construction Manager's Insurance:

- 9.1.1 The Construction Manager shall not commence any construction work in connection with this Agreement until he has obtained all of the following types of insurance and such insurance has been approved by the City, nor shall the Construction Manager allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in Florida with an A.M. Best & Company rating of no less than A. The insurance company must have a current A.M. Best & Company financial rating of Class VIII or higher. The insurance company must be duly licensed and authorized by the Department of Insurance of the State of Florida to transact the appropriate insurance business in the State of Florida. The insurance company must have been in such insurance business continuously for not less than 5 years prior to the date of the execution of this Agreement.
- 9.1.2 Worker's Compensation Insurance - The Construction Manager shall take out and maintain during the life of this Agreement Worker's Compensation Insurance for all his employees connected with the work of this Project and, in case any work is sublet, the Construction Manager shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Construction Manager. Such insurance shall comply with the Florida Worker's Compensation Law. In case any class of employees engaged in hazardous work under this contract at the site of the Project is not protected under the Worker's Compensation statute, the Construction Manager shall provide adequate insurance, satisfactory to the City, for the protection of employees not otherwise protected. Employers' liability shall be set at \$1,000,000/1,000,000/1,000,000.
- 9.1.3 Construction Manager's Public Liability and Property Damage Insurance - The Construction Manager shall take out and maintain during the life of this Agreement Comprehensive General Liability and Comprehensive Automobile Liability Insurance as shall protect him from claims for damage for personal injury, including accidental death, as well as claims for property damages which may arise from operating under this Agreement whether such operations are by himself or by anyone directly or indirectly employed by him, and the amount of such insurance shall be minimum limits as follows:
- 9.1.3.1 Construction Manager's Comprehensive General, \$1,000,000 Each (\$2,000,000 aggregate) Liability Coverages, Bodily Injury Occurrence, & Property Damage Combined Single Limit
 - 9.1.3.2 Automobile Liability Coverages, \$1,000,000 Each Bodily Injury & Property Damage Occurrence, Combined Single Limit
 - 9.1.3.3 Excess Liability, Umbrella Form \$2,000,000 Each Occurrence, Combined Single Limit
 - 9.1.3.4 Insurance clause for both BODILY INJURY AND PROPERTY DAMAGE shall be amended to provide coverage on an occurrence basis. There shall not be an EFIS Exclusion Endorsement on any general liability policy. The Products and Completed operations portions of the General Liability shall extend for a period of two years after the Final Acceptance of the Project by the City.

- 9.1.4 Subcontractor's Public Liability and Property Damage Insurance - The Construction Manager shall require each of his subcontractors to procure and maintain during the life of this subcontract, insurance of the type specified above or insure the activities of his subcontractors in his policy, as specified above.
- 9.1.5 *Intentionally omitted.*
- 9.1.6 "XCU" (Explosion, Collapse, Underground Damage) - The Construction Manager's Liability Policy shall provide "XCU" coverage for those classifications in which they are excluded.
- 9.1.7 Broad Form Property Damage Coverage, Products & Completed Operations Coverages - The Construction Manager's Liability Policy shall include Broad Form Property Damage Coverage, Products and Completed Operations Coverages.
- 9.1.8 Contractual Liability Work Contracts - The Construction Manager's Liability Policy shall include Contractual Liability Coverage designed to protect the Construction Manager for contractual liabilities assumed by the Construction Manager in the performance of this Agreement.
- 9.1.9 Certificate of Insurance - The City shall be furnished proof of coverage of Insurance as follows:
- 9.1.9.1 Certificate of Insurance form will be furnished to the City. These shall be completed and signed by an authorized Resident Agent. This Certificate shall be dated and show: the name of the insured Construction Manager, the specific job by name and job number, the name of the insurer, the number of the policy, its effective date, and its termination date. Such Certificates of Insurance shall be updated within five (5) business days of the expiration of or material change to any insurance evidenced on the Certificate of Insurance.
- 9.1.9.2 Certificate of Insurance shall be in the form as approved by Insurance Standards Office (ISO) and such Certificate shall clearly state all the coverages required in this Section.
- 9.1.9.3 City of Kissimmee, a municipal corporation of the State of Florida, is to be named as an Additional Insured under all policies except for Worker's Comp.
- 9.1.9.4 The insurance evidenced by the certificate shall be primary and non-contributory to any other insurance of the certificate holder.
- 9.1.9.5 The Notice to Proceed will not be given until the Construction Manager has obtained all the insurance and Bonds required by the Contract Documents and such insurance has been approved by the City.
- 9.1.10 The Construction Manager shall not be required to provide Builder's Risk or Architects' and Engineers' Professional Liability Insurance unless specifically requested by the City. The City has Builder's Risk coverage and will provide the Construction Manager with appropriate Certificate of Insurance upon request. The City's Builder's Risk policy does not insure the Construction Manager's tools,

machinery or equipment that is stored at the Project site. The Construction Manager should provide insurance in the form of an equipment floater for the Construction Manager's tools and equipment and the City should be named as an additional insured on the Construction Manager's policy with an appropriate waiver of subrogation as to any claims the Construction Manager or the Construction Manager's insurer may have against the City arising from the storage of the Construction Manager's tools and equipment. The Construction Manager shall be responsible for the first \$5,000 of any claim against the City's Builder's Risk policy.

- 9.1.11 The Construction Manager shall not allow a subcontractor to work on the Project without the subcontractor carrying its own Workers Compensation and Liability insurance or the Construction Manager covering the subcontractor under its policies. This requirement is the same for each succeeding sub-tier contractor. The Construction Manager shall provide proof of such coverage to the City upon the City's request.

9.2 Waiver of Subrogation:

- 9.2.1 The Construction Manager shall ensure all insurance policies it maintains in fulfillment of its obligations under this Agreement shall contain a waiver of subrogation against the City, its officials, employees, agents and consultants. Waiver of subrogation will apply to the general liability and workers compensation policies. The City, a municipal corporation of the State of Florida, shall be named as an additional insured with respect to liability arising from all Services and work performed under this Agreement for automotive and general liability policies of insurance, and such policies should so state in the Certificate of Insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
- 9.2.2 The Construction Manager hereby waives all rights against the City for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.

9.3 Indemnification of City

Construction Manager, to the maximum extent permitted by law, shall indemnify, defend (by counsel reasonably acceptable to City) protect and hold the City, and its officers, employees and agents harmless from and against any and all, claims, actions, causes of action, liabilities, penalties, forfeitures, damages, losses, and expenses (including, without limitation, attorneys' fees costs and expenses incurred during negotiation, through litigation and all appeals therefrom) whatsoever including, but not limited, to those pertaining to the death of or injury to any person, or damage to any property, arising out of or resulting from (i) the failure of Construction Manager to comply with applicable laws, rules or regulations, (ii) the breach by Construction Manager of its obligations under this Agreement, (iii) any claim for trademark, patent or copyright infringement arising out of the scope of Construction Manager's performance or nonperformance of this Agreement, or (iv) the negligent acts, errors or omissions, or intentional or willful misconduct, of Construction Manager, its professional associates, subcontractors, agents, and employees; provided, however, that Construction Manager shall not be obligated to defend or indemnify the City with respect to any such claims or damages arising out of the City's sole negligence. The provisions of this Section shall include any claims for equitable relief or for damages

(compensatory or punitive) against the City, its agents, officials, and employees including alleged injury to the business or any claimant and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, costs and expenses. Expenses as used herein shall include, without limitation, the costs incurred by the City, its agents, officials and employees in connection with investigating any claim or defending any action, and shall also include reasonable attorneys' fees, costs and expenses incurred by reason of the assertion of any such claim against the City, its agents, officials or employees. The Construction Manager expressly understands and agrees that any insurance protection required by this Agreement, or otherwise provided by the Construction Manager, shall in no way limit the Construction Manager's responsibility to release, indemnify, keep and save harmless and defend the City as herein provided. The intention of the parties is to apply and construe broadly in favor of the City the foregoing provisions subject to the limitations, if any, set forth in the Florida Statutes. The Construction Manager shall obtain an endorsement or other affirmative coverage from its insurance policies required by this Agreement insuring the Construction Manager's contractual obligations under this Section. The obligations imposed by this Section shall survive the expiration or earlier termination of this Agreement.

ARTICLE 10

TERMINATION OF THE AGREEMENT AND THE CITY'S RIGHT TO PERFORM CONSTRUCTION MANAGER'S OBLIGATION

10.1 Termination by the Construction Manager:

If the Project is stopped for a period of thirty (30) days under an order of any court or other public authority having jurisdiction or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Construction Manager, or if the Project should be stopped for a period of sixty (60) days by the Construction Manager, for the City's failure to make payments thereon, then the Construction Manager may, upon seven (7) days written notice to the City, request payment for all work executed, the Construction Manager's fees earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment, and machinery, including reasonable profit thereon and termination expenses incurred by the Construction Manager.

10.2 City's Right to Perform Construction Manager's Obligations and Termination by City for Cause:

10.2.1 If the Construction Manager fails to perform any of their obligations under this Agreement, including any obligation they assumes to perform work with thier own forces, the City may, after seven (7) days written notice during which period the Construction Manager fails to perform such obligation, make good such deficiencies. The GMP, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the City of making good such deficiencies and the Construction Manager's Construction Phase Fee shall be reduced by an amount required to manage the making good of such deficiencies.

10.2.2 The City may, without prejudice to any right or remedy and after giving the Construction Manager and his surety, if any, seven (7) days written notice, during which period Construction Manager fails to cure the violation, terminate the employment of the Construction Manager and take possession of the site and of all

materials, equipment, tools, construction equipment and machinery thereon owned by the Construction Manager, and may finish the Project by whatever method he may deem expedient if: the Construction Manager is adjudged bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or if he persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule (failure to maintain schedule shall be defined as any activity on the critical path that falls 45 days or more behind schedule) which has been adopted by the Construction Team, or if he fails to make prompt payment to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a breach of a material provision of the Agreement. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished, nor shall he be relieved from his obligations assumed under Article 6. Reasonable terminal expenses incurred by the City may be deducted from any payments left owing the Construction Manager (excluding monies owed the Construction Manager for subcontract work).

10.2.3 The City may terminate the employment of the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the project by whatever method he may deem expedient, without prejudice to any right or remedy and after giving the Construction Manager and his surety, if any, seven (7) days written notice, during which period Construction Manager fails to allow access to the City. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall he be relieved from his obligations assumed under Article 7. Reasonable termination expenses incurred by the City may be deducted from any payments left owing the Construction Manager (excluding moneys owed to the Construction Manager for subcontract work).

10.3 Termination by City Without Cause:

10.3.1 The City may, at any time, terminate this Agreement for the City's convenience and without cause.

10.3.2 Upon receipt of written notice from the City of such termination for the City's convenience, the Contractor shall:

10.3.2.1 Cease operations as directed by the City in the notice;

10.3.2.2 Take actions necessary, or that the City may direct, for the protection and preservation of the Work; and

10.3.2.3 Terminate all existing subcontracts and purchase orders and not enter into further subcontracts and purchase orders, except for Work directed to be performed prior to the effective date of termination stated in the notice.

10.4 In case of such termination for the City's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination,

along with reasonable fee, as defined in Article 6, overhead and profit on the Work performed.

ARTICLE 11

ASSIGNMENT AND GOVERNING LAW

- 11.1 Neither the City nor the Construction Manager shall assign their interest in this Agreement without the written consent of the other except as to the assignment of proceeds.
- 11.2 This Agreement shall be governed by the Laws of the State of Florida. Venue shall be as specified in Section 13.2.3. The parties waive all rights to trial by jury.

ARTICLE 12

NOTICE OF CLAIM: WAIVER OF REMEDIES

- 12.1 The City's liability to the Construction Manager for any claims arising out of or related to the subject matter of this contract, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment by the City of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions, subject to Section 13.4 herein:
 - 12.1.1 All claims must be submitted as a Request for Change Order in the manner as provided herein;
 - 12.1.2 The Construction Manager must submit a Notice of Claim to City within 20 days of the Construction Manager becoming aware of the occurrence, or the event, giving rise to the claim; and
 - 12.1.3 Within 10 days of submitting its Notice of Claim, the Construction Manager shall submit to the City its Request for Change Order, which shall include a written statement of all the details of the claim, including a description of the work affected. The Construction Manager agrees that the City shall not be liable for any claim that the Construction Manager fails to submit as a Request for Change Order as provided in this paragraph to the extent that the City is prejudiced by the failure of the Construction Manager to give notice.
- 12.2 After receipt of a Request for Change Order, the City, in consultation with the Engineer, shall deliver to the Construction Manager its written determination of the claim.
- 12.3 For work the Construction Manager performs with its own forces, and in addition to the adjustments provided for in Article 6, the Construction Manager's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the City or the Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Article 12.1 above, for an extension of the scheduled construction time. In the event of a change in such work, the Construction Manager's claims for adjustments in the contract sum are limited exclusively to its actual costs for such changes plus 5% for profit. The Construction Manager expressly agrees that the foregoing constitutes its sole and exclusive remedy for delays and changes in such work, and eliminate any other remedies for claim,

for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.

ARTICLE 13

MISCELLANEOUS

13.1 Harmony:

The Construction Manager is advised and hereby agrees that he will exert every reasonable and diligent effort to assure that all labor employed by the Construction Manager and his Subcontractors for work on the Project shall work in harmony with and be compatible with all other labor being used by building and construction contractors now or hereafter on the site of the Project.

The Construction Manager further agrees that this provision will be included in all subcontracts of the Subcontractors as well as the Construction Manager's own contract; provided, however, that this provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

13.2 Dispute Resolution:

13.2.1 All claims, disputes and other matters in question (hereinafter referred to as a "Controversy") between the parties to this Agreement arising out of or relating to this Agreement or the breach thereof shall be initially submitted to mediation if mutually agreeable in accordance with the Construction Mediation Rules of the American Arbitration Association ("AAA") or any other mutually agreeable mediation firm.

13.2.2 Should either the City or the Construction Manager feel it necessary and appropriate to take any legal action to enforce any of the terms or conditions of this Agreement between said parties, then each party shall be responsible for its own attorney's fees and costs associated with such litigation.

13.2.3 Any litigation between the City and Construction Manager (which term for the purposes of this subparagraph shall include the Construction Manager's surety), whether arising out of any claim as described in Article 12, or Controversy arising out of this Agreement or any breach thereof, shall be brought, maintained, and pursued only in the State of Florida's Ninth Judicial Circuit in and for Osceola County, Florida or in the United State District Court, Middle District of Florida in Orange County, Florida. Construction Manager consents and submits to the jurisdiction of such courts and agrees to accept service of process from the State of Florida in any matter to be submitted to any such court.

13.3 Construction Manager's Project Records and City's Auditing Rights

The Construction Manager's Project Records shall be maintained as prescribed hereinabove for the minimum period required by State and Federal Law, and shall be made available to the City or his authorized representative at mutually convenient times.

Construction Manager shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of 3 years from the date of termination of this Agreement or the date the Project is completed, whichever is later or such longer period of time as may be required by law. Construction Manager shall require all of its subcontractors to likewise retain all of their Project records and supporting documentation. City, and any duly authorized agents or representatives of City, shall be provided access to all such records and supporting documentation at any and all times during normal business hours upon request by City. Further, City, and any duly authorized agents or representatives of the City, including, without limitation, the Office of the Osceola County Clerk and Comptroller, shall have the right to audit, inspect and copy all of Construction Manager's and any subcontractor's Project records and documentation as often as they deem necessary and Construction Manager shall cooperate in any audit, inspection, or copying of the documents.

If at any time, the City, or its duly authorized agents or representatives, or any other authorized party conducts such an audit of Construction Manager's records and documentation and finds that Construction Manager overcharged City, Construction Manager shall pay to City the Overcharged Amount which is defined as the total aggregate overcharged amount together with interest thereon (such interest to be established at the rate of 12% annum). If the Audit Amount is equal to or greater than \$10,000.00, which is defined as the total aggregate of City's reasonable audit costs incurred as a result of its audit of Construction Manager, City may recover the Overcharged Amount and the Audit Amount, as applicable, from any amount due or owing Construction Manager with regard to the Project or under any other agreement between Construction Manager and City. If such amounts owed Construction Manager are insufficient to cover the Overcharged Amount and Audit Amount, as applicable, then Construction Manager hereby acknowledges and agrees that it shall pay such remaining amounts to City within 30 business days of its receipt of City's invoice for such remaining amounts. In no event shall the Overcharged Amount or the Audit Amount be deemed a reimbursable Cost of the Work.

This Article, including all access, inspection, copying, auditing, reimbursement and repayment rights shall survive the termination of this Agreement.

13.4 **LIMITATION OF LIABILITY**

IN NO EVENT, SHALL THE CITY BE LIABLE TO THE CONSTRUCTION MANAGER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS AGREEMENT BY THE CITY WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.

13.5 **Cleanup and Protections**

Construction Manager agrees to keep the Project Site clean at all times of debris, rubbish and waste materials arising out of the Work. If Construction Manager fails to keep the Project Site clean, City has the right, after providing a 24 hour written notice, to perform any required clean up and to back charge the Construction Manager for the costs of such clean

up. At the completion of the Work, Construction Manager shall remove all debris, rubbish and waste materials from and about the Project Site, as well as all tools, appliances, construction equipment and machinery and surface materials, and shall leave the Project Site clean and ready for occupancy by City.

Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Construction Manager from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Construction Manager to condition at least equal to that existing at the time of Construction Manager's commencement of the Work.

13.6 Ownership of Documents

All analyses, reference data, bills, completed reports, or any other form of written instrument or document created or resulting from the Construction Manager's performance of the Services pursuant to this Agreement shall become the property of the City after payment is made to the Construction Manager for such instruments or documents.

13.7 No Contingent Fees

The Construction Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Construction Manager 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 the Construction Manager, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award of or making of the Agreement. For the breach or violation of this provision, the City shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

13.8 Sovereign Immunity

Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable. Nothing in this Agreement is intended to be, nor shall be construed as an extension of liability beyond the statutory limitations of liability set forth in section 768.28 Florida Statutes. Except for the enforcement of the express provisions of this Agreement, which may only be enforced by the expressly identified parties to the Agreement, the City of Kissimmee shall have and maintain all rights, privileges, and immunities of sovereign immunity, including, but not limited to those at common law, and those rights and limitations of liability set out in section 768.28 Florida Statutes."

13.9 Public Entity Crimes

The Construction Manager understands and acknowledges that this Agreement will be voidable by the City in the event the conditions stated in Florida Statutes, Section 287.133 relating to conviction for a public entity crime apply to the Construction Manager.

13.10 Non-Discrimination

The Construction Manager warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, gender, gender identity, sex, sexual orientation, age or national origin.

13.11 All Prior Agreements Superseded

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document or its designated exhibits. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. No modification, amendment or alteration in the terms or conditions contained herein, unless otherwise stated herein, shall be effective unless agreed to and executed in writing by both parties to this Agreement in a form acceptable to the City.

13.12 Independent Contractor

Nothing stated in this Agreement is intended or should be construed in any manner as creating or establishing a relationship of co-partners between the parties, or as constituting the Construction Manager (including its officers, employees, and agents) as the agent, representative, or employee of the City for any purpose, or in any manner, whatsoever. The Construction Manager is to be and shall remain forever an independent contractor with respect to all Services performed under this Agreement. The Construction Manager shall not pledge the City's credit or make the City a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness and the Construction Manager shall have no right to speak for or bind the City in any manner.

13.13 Public Records

CONSTRUCTION MANAGER acknowledges CITY's obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and that the constitutional and statutory provisions control over the terms of this Agreement. As such, CONSTRUCTION MANAGER shall keep and maintain public records required by the CITY to perform the service.

If CONSTRUCTION MANAGER has questions regarding the application of Chapter 119, Florida Statutes, to CONSTRUCTION MANAGER's duty to provide public records relating to this Agreement, contact the Custodian of Public Records at 407-518-2308, cityclerkemail@kissimmee.gov and 101 Church Street, Kissimmee, Florida 34741.

- a. If CITY's Custodian of Records requests records from CONSTRUCTION MANAGER, CONSTRUCTION MANAGER shall provide the City's Custodian of Records 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 charged by CITY, as provided in Chapter 119, Florida Statutes or as otherwise provided by law.

- b. CONSTRUCTION MANAGER 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 for the duration of the agreement term and following completion of the agreement if the CONSTRUCTION MANAGER does not transfer the records to CITY.
- c. Upon completion of the contract, CONSTRUCTION MANAGER shall transfer, at no cost, to CITY all public records in possession of CONSTRUCTION MANAGER or keep and maintain public records required by CITY to perform the service. If CONSTRUCTION MANAGER transfers all public records to CITY upon completion of the Agreement, CONSTRUCTION MANAGER shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONSTRUCTION MANAGER keeps and maintains public records upon completion of the Agreement, CONSTRUCTION MANAGER shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of CITY. Unless otherwise directed by CITY, all records will be transferred at the conclusion of the Agreement.
- d. Upon notice to CONSTRUCTION MANAGER of a request to inspect or copy public records relating to CITY's agreement for services, CONSTRUCTION MANAGER shall provide the records to CITY or allow the records to be inspected or copied within a reasonable time.
- e. If CONSTRUCTION MANAGER does not comply with CITY's request for records, such failure shall constitute a material breach and the Agreement shall terminate upon notice by the CITY.
- f. If the CONSTRUCTION MANAGER fails to provide the public records to CITY within a reasonable time may be subject to penalties under Florida Statutes §119.1

13.14 Compliance with Laws and Regulations

In providing all Services pursuant to this Agreement, the Construction Manager shall abide by all statutes, ordinances, rules, and regulations pertaining to or regulating the provisions of such Services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement, and shall entitle the City to terminate this Agreement immediately upon delivery of written notice of termination to the Construction Manager.

13.15 Notices

Whenever either party desires to give notice unto the other, it must be given by written notice, delivered (i) in person, (ii) via registered or certified United States mail, postage prepaid with return receipt requested, or (iii) via nationally recognized overnight delivery service, and addressed to the party for whom it is intended at the place last specified by each party. The place for giving of notice shall remain such until it is changed by written notice delivered in compliance with the provisions of this Section 13.15. For the present, the parties designate the following as the respective places for giving of notice, to wit:

For City:

City of Kissimmee Public Works Director
101 Church Street
Kissimmee, Florida, 34741
Attention: Public Works Director

For Construction Manager

Company Arnco Construction, Inc.
Attention: Title Ben Arnold, President
Address 1 1110 Pennsylvania Ave
Address 2 Saint Cloud, FL 34769

13.16 Severability

The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement; any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

13.17 Annual Appropriations

Construction Manager acknowledges that during any fiscal year the City shall not expend money, incur any liability, or enter into any agreement which by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Accordingly, any agreement, verbal or written, the City may make in violation of this fiscal limitation is null and void, and no money may be paid on such agreement. The City may enter into agreements whose duration exceeds one year; however, any such agreement shall be executory only for the value of the services to be rendered which the City agrees to pay as allocated in its annual budget for each succeeding fiscal year. Accordingly, the City's performance and obligation to pay the Construction Manager under this Agreement is contingent upon annual appropriations being made for that purpose.

13.18 E-Verify

In compliance with Section 448.095, Fla. Stat., CONSTRUCTION MANAGER and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.

- CONSTRUCTION MANAGER shall require each of its subcontractors to provide CONSTRUCTION MANAGER with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. CONSTRUCTION MANAGER shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Agreement.
- CITY, CONSTRUCTION MANAGER, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity.

- CITY, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but CONSTRUCTION MANAGER otherwise complied, shall promptly notify CONSTRUCTION MANAGER and CONSTRUCTION MANAGER shall immediately terminate the contract with the subcontractor.
- Termination of this Agreement under the provisions of this section is not a breach of contract and may not be considered such. Any Agreement termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. CONSTRUCTION MANAGER acknowledges that upon termination of this Agreement by the City for a violation of this section by CONSTRUCTION MANAGER, CONSTRUCTION MANAGER may not be awarded a public contract for at least one (1) year. CONSTRUCTION MANAGER further acknowledges that CONSTRUCTION MANAGER is liable for any additional costs incurred by the CITY as a result of termination of any contract for a violation of this section.
- *Subcontracts.* CONSTRUCTION MANAGER or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. CONSTRUCTION MANAGER shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

13.19 Construction Manager Representations - The Construction Manager hereby represents and warrants the following to the City:

- 13.19.1 Construction Manager is a corporation that is duly organized and existing in good standing under the laws of the State of Florida with full right and authority to do business within the State of Florida;
- 13.19.2 Construction Manager's performance under this Agreement will not violate or breach any contract or agreement to which the Construction Manager is a party or is otherwise bound, and will not violate any governmental statute, ordinance, rule, or regulation;
- 13.19.3 Construction Manager has the full right and authority to enter into this Agreement and to perform its obligations in accordance with its terms;
- 13.19.4 Construction Manager now has and will continue to maintain all licenses and approvals required for conducting its business, and that it will at all times conduct its business activities in a reputable manner;
- 13.19.5 Construction Manager has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement;
- 13.19.6 Construction Manager has the personnel and experience necessary to perform all Services in a professional and workmanlike manner;
- 13.19.7 Construction Manager shall exercise the same degree of care, skill, and diligence in the performance of the Services as provided by a professional of like experience, knowledge and resources, under similar circumstances;
- 13.19.8 Construction Manager shall, at no additional cost to the City, re-perform those Services which fail to satisfy the foregoing standard of care or which otherwise fail to meet the requirements of this Agreement;

- 13.19.9 Each individual executing this Agreement on behalf of the Construction Manager is authorized to do so.

13.20 Waiver

A waiver by either City or Construction Manager of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach of this Agreement. The making or acceptance of a payment by either party with the knowledge of the other party's existing default or breach of the Agreement shall not waive such default or breach, or any subsequent default or breach of this Agreement, and shall not be construed as doing so.

13.21 Scrutinized Companies Certification

By signing this Agreement, Construction Manager certifies that it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or engaged in a boycott of Israel. If City determines, using credible information available to the public, that Construction Manager has submitted false certification, City shall provide Construction Manager with written notice of its determination. Construction Manager shall have 90 days following receipt of the notice to respond in writing and to demonstrate that the determination of false certification was made in error. Failure to comply with this provision is a material breach of this Agreement, and City may choose to terminate the Agreement at its sole discretion.

ARTICLE 14
DIRECT MATERIALS ACQUISITION AND SALES TAX EXEMPT PURCHASE PROCEDURES
FOR PUBLIC PROJECTS

14.1 Direct Materials Acquisition by City - Supply Bonds:

- 14.1.1 Each Subcontractor shall include Florida State Tax and other applicable Sales Taxes for all material, supplies and equipment included in the Subcontractor's bid.
- 14.1.2 The City may, if not prohibited by Law, exercise a right to purchase directly various construction materials, supplies and equipment that may be part of the Subcontract. Any materials purchased by the City shall be referred to as "City Purchased Materials" and the responsibilities of both the City and the Construction Manager relating to such City Purchased Materials shall be governed by the terms and conditions of the "Sales Tax Exempt Purchasing Procedures for Public Projects", which shall take precedence over other conditions and terms of this Agreement where inconsistencies or conflicts exist.
- 14.1.3 The City will issue its own Purchase Orders directly to the vendor. The City's Purchase Order shall contain or be accompanied by the City's Certificate of Entitlement and must include the City's name, address, and exemption number. The materials shall be purchased from the vendors and suppliers selected by the Construction Manager, for prices negotiated by the Construction Manager or

Subcontractor. The Construction Manager will provide all the necessary information for preparation of the purchase orders by the City and will coordinate the purchase of the materials in a timely manner so as not to negatively impact on the performance of the construction activity of the project.

- 14.1.4 The Subcontract amount shall be reduced by the net, undiscounted amount of these purchase orders, plus all sales taxes. Issuance of the purchase orders by the City shall not relieve the Subcontractor or the Construction Manager of any of their responsibilities regarding material purchases, or installation, with the exception of the payments for the material so purchased. The Construction Manager and the Subcontractor shall remain, with respect to materials, supplies and equipment, fully responsible for coordination, correct quantities ordered, submittals, protection, storage, scheduling, shipping, security, expediting, receiving, installation, cleaning, and the management of all applicable warranties.
- 14.1.5 Notwithstanding the transfer of City Purchased Materials by the City to the Subcontractor's possession, the City shall retain title to any and all City Purchased Materials.
- 14.1.6 The Contractor shall maintain products liability insurance, which shall include City Purchased Materials, as required for the normal practice of general contracting.
- 14.1.7 The material supplier may be required to provide a supply bond in the amount of 100% of the purchase order price. The bond shall be from a qualified surety company authorized to do business in the State of Florida and acceptable to the City and the Construction Manager. The premium cost for this supply bond shall be included in the sub-contractor's cost. Verifying that a designated material supplier can furnish a supply bond (if required) will be the responsibility of the Subcontractor. City reserves the right to waive the requirement of providing a supply bond at the discretion of City.
- 14.1.8 If the State of Florida assesses any Sales Tax penalties and/or interest against the Construction Manager or any of its Subcontractors or Material Suppliers relating to the direct acquisition of materials and/or equipment by City as authorized by this paragraph, such taxes, penalties, interest and/or any legal and administrative fees expended by the Construction Manager as a direct result of any action or assessment made by the State of Florida, shall be reimbursed by City to the Construction Manager in a prompt and reasonable manner and shall not be considered a Project Cost.

14.2 Sales Tax Exempt Purchasing Procedures for Public Projects:

- 14.2.1 The Subcontractor has included Florida State Sales and other applicable taxes in their bid for material, supplies and equipment. The City, being exempt from sales tax, reserves the right to make direct purchases of various construction equipment, materials or supplies included in the Subcontractor's bid and/or contract, substantially in accordance with the form of Purchase Order attached herewith.
- 14.2.2 Any equipment, materials or supplies directly purchased by the City that are included in the Subcontractor's contract shall be referred to as City Purchased Materials and the responsibilities of both the City/Public Entity and the

Subcontractor relating to such City Purchased Materials shall be governed by the terms and conditions of these procedures.

- 14.2.3 Material suppliers shall be selected by the Subcontractor awarded the subcontract.
- 14.2.4 The Subcontractor has included the price for all construction materials plus applicable taxes in their bid. City purchasing of construction materials, if selected, will be administered on a deductive Change Order basis, the Subcontract amount shall be reduced by the net undiscounted amount of these Purchase Orders, plus all sales tax.
- 14.2.5 The Subcontractor shall provide the Construction Manager a list of all intended suppliers, vendors, and material men for consideration as City Purchased Materials. This list shall be submitted at the same time as the preliminary schedule of values and the Project schedule. The Subcontractor shall submit a description of the materials to be supplied, estimated quantities and prices.
- 14.2.6 Upon request from Construction Manager, and in a timely manner, the Subcontractor shall prepare a standard Purchase Order Requisition Form in a form acceptable to the City and the Construction Manager, to specifically identify the materials, which City has, at its sole option, elected to purchase directly. The Purchase Order Requisition Form shall include:
 - A. the name, address, telephone number and contact person for the material supplier
 - B. manufacturer or brand, model or specification number of the item
 - C. quantity needed as estimated by Subcontractor
 - D. the price quoted by the supplier for the materials identified therein, including freight
 - E. any sales tax associated with such quote
 - F. delivery dates as established by Subcontractor
- 14.2.7 Subcontractor shall include reference to any terms and conditions, which have been negotiated with the vendors; i.e., warranties, retainage, etc. The Purchase Order Requisition Forms are to be submitted to the City's designated representative no less than seven (7) days prior to the need for ordering such City Purchased Materials, in order to provide sufficient time for City review and approval and to assure that such Directly Purchased Materials may be directly purchased by City and delivered to the Project site without any delay to the Project.
- 14.2.8 After receipt of the Purchase Order Requisition Form, the City's Representative shall prepare Purchase Orders for equipment, materials or supplies which the City chooses to purchase directly. Pursuant to the Purchase Order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the Subcontractor, less any sales tax associated with such price. Promptly upon receipt of each Purchase Order, Subcontractor shall verify the terms and conditions of the Purchase Order prior to its issuance to supplier and in a manner to assure proper and timely delivery of items. The City's Procurement Director or their designated representative shall be the approving authority for the City on Purchase Orders in conjunction with City Purchased Materials. The

Purchase Order shall require that the supplier provide the required shipping and handling insurance. The Purchase Order shall also require the delivery of the City Purchased Materials on the delivery date provided by the Subcontractor in the Purchase Order Requisition Form and shall indicate F.O.B. jobsite. The City's Purchase Orders shall contain or be accompanied by the City's Certificate of Entitlement and must include the City's name, address, and exemption number.

- 14.2.9 In conjunction with the execution of the Purchase Orders by the suppliers, the Subcontractor shall execute and deliver to the City, through the Construction Manager, one or more deductive Change Orders, referencing the full value of all City-Purchased materials to be provided by each supplier from whom the City elected to purchase material directly, plus all sales tax savings associated with such materials in the Subcontractor's bid to the Construction Manager.
- 14.2.10 All shop drawings and submittals shall be made by the Subcontractor in accordance with the Project Specifications.
- 14.2.11 Subcontractor shall be fully responsible for all matters relating to the receipt of materials furnished by the City in accordance with these Procedures, including, but not limited to, verifying correct quantities, verifying documentation of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials following acceptance of items by the City due to the negligence of the Subcontractor. The Subcontractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Subcontractor for the particular materials furnished. The Subcontractor shall provide all services required for the unloading, handling and storage of materials through installation. The Subcontractor agrees to indemnify and hold harmless the City from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions or directions of Subcontractor.
- 14.2.12 As City Purchased Materials are delivered to the jobsite, the Subcontractor and the Construction Manager, as City's Representative, shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for material delivered. The Subcontractor shall assure that each delivery of City Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order, together with such additional information as the City or Construction Manager may require. The Construction Manager, as City's Representative, shall verify in writing to the City the accuracy of the delivery ticket. The Subcontractor will then forward the invoice to the City through the Construction Manager for payment. The invoice shall be thereupon furnished to the City for processing and payment in the manner as all other City invoices are processed. The City shall have the right to assign City personnel to verify and audit the accuracy of all City Purchased Material documents.
- 14.2.13 The Subcontractor shall ensure that City Purchased Materials conform to the Specifications and determine, prior to incorporation into the Work, if such materials are patently defective, whether such materials are identical to the materials ordered and match the description on the bill of lading. If the Subcontractor

discovers defective or nonconformities in the City Purchased Material upon such visual inspection, the Subcontractor shall not utilize such nonconforming or defective materials in the Work and instead shall promptly notify the Vendor of the defective or non-conforming condition in order to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the Subcontractor shall notify the City, through the Construction Manager, of such occurrence. If the Subcontractor fails to perform such inspection and otherwise incorporates City Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, the Subcontractor shall be responsible for all damages to the City resulting from the Subcontractor's incorporation of such materials into the Project, including liquidated or delay damages. In the event that materials furnished are found to be defective, or nonconforming, the Subcontractor shall promptly take action to remedy the defect or nonconformance so as not to delay the work.

- 14.2.14 The Subcontractor shall maintain records of all City Purchased Materials it incorporates into the Work from the stock of City Purchased Materials in its possession. The Subcontractor shall account monthly to the City, through the Construction Manager, for any City Purchased Materials delivered into the Subcontractor's possession, including portions of all such materials, which have been incorporated into the Work.
- 14.2.15 The Subcontractor shall be responsible for obtaining and managing all warranties and guarantees for all materials and products as required by the Contract Documents. All repairs, maintenance or damage repair calls shall be forwarded to the Subcontractor for resolution with the appropriate supplier or vendor.
- 14.2.16 Notwithstanding the transfer of City Purchased Materials by the City to the Subcontractor's possession, the City shall retain title to any and all City Purchased Materials.
- 14.2.17 The transfer of possession of City-Purchased Materials from the City to the Subcontractor shall constitute a bailment for mutual benefit of the City and the Subcontractor. The City shall be considered the bailor and the Subcontractor the bailee of the City Purchased Materials. City Purchased Materials shall be considered returned to the City for purposes of its bailment at such time as they are incorporated into the Project or consumed in the process of completing the Project. The Bailee shall have the duty to safeguard, store and protect all City Purchased Materials.
- 14.2.18 The City shall purchase and maintain insurance pursuant to the requirements set forth in the City and Construction Manager Agreement which shall be sufficient to protect against any loss of or damage to City Purchased equipment, materials or supplies. Such insurance shall cover the full value of any City Purchased Materials not yet incorporated into the Project from the time the City first takes title.
- 14.2.19 The City shall in no way be liable for interruption or delay in the Project, for any defects or other problems with the Project, or for any extra costs or time resulting from delay in the delivery of, or defects in, City Purchased Materials.

- 14.2.20 On a monthly basis, the Subcontractor shall be required to review invoices submitted by all suppliers of City Purchased Materials delivered to the Project site during that month and either concur or object to the City's issuance of payment to the suppliers, based upon the Subcontractor's records of materials delivered to the site and any defects in such materials.
- 14.2.21 In order to arrange for the prompt payment to the supplier, the Subcontractor shall provide to the City, through the Construction Manager, a list indicating the acceptance of the goods or materials in accordance with the established monthly Payment Request Schedule. The list shall include a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the City. Upon receipt and verification of the appropriate documentation, the City shall prepare a check drawn to the supplier based upon the receipt of data provided. This check will be released, delivered and remitted directly to the supplier. The Subcontractor agrees to assist the City to immediately obtain partial or final release of lien waivers as appropriate.
- 14.2.22 At the end of the Project, any refund for surplus materials returned to suppliers, plus applicable sales tax savings amount, shall be credited with an additive Change Order to the Subcontractor's agreement with the Construction Manager. Salvage materials shall be the property of the City and stored or removed from the site by the Subcontractor at the City's direction.

ARTICLE 15

INCORPORATION OF EXHIBITS

- 15.1 The following Exhibits, attached hereto, are hereby fully incorporated herein by this specific reference as if fully set forth in the body of this Agreement:

Exhibit "A"	-	RFP2022-005 and Construction Manager's Proposal
Exhibit "B"	-	Pre-Construction Services Addendum
Exhibit "C"	-	GMP Addendum
Exhibit "D"	-	Certificate of Substantial Completion
Exhibit "E"	-	Release and Affidavit
Exhibit "F"	-	Application for Payment Form
Exhibit "G"	-	Final Payment Request Checklist / Certificate of Final Completion
Exhibit "H"	-	Change Order
Exhibit "I"	-	Allowance Authorization Release
Exhibit "J"	-	Schedule of Reimbursables
Exhibit "K"	-	Hourly Rate Schedule
Exhibit "L"	-	Public Construction Bond
Exhibit "M"	-	Buy-Out Allowance Authorization Release

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

**CITY OF KISSIMMEE, a municipal
corporation of the
State of Florida**

ATTEST:

By: _____
Linda Hansell
City Clerk

By: _____
Olga Gonzalez, Mayor
City of Kissimmee Commission

Date Signed by Mayor: _____

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Olga Sanchez de Fuentes
City Attorney

Date

ATTEST: **Arncos Construction, Inc.**, a Florida corporation

By: _____

Printed Name: Phillip Owen

By: _____

Printed Name: BEN ARNOLD

Title: PRESIDENT

EXHIBIT “A”

RFP2022-005 and Construction Manager’s Proposal

Lancaster Ranch Park – Phase 1

EXHIBIT “B”

PRE-CONSTRUCTION SERVICES ADDENDUM

Lancaster Ranch Park – Phase 1

I. Construction Team Representatives

CityCity of Kissimmee

- Kissimmee City Commission
- City Manager
- Deputy City Manager
- Public Works & Engineering Division Director

Architect/EngineerArchitects Design Group/ADG, Inc.,

- Ian A. Reeves, President
- Ian A. Reeves, Project Architect
- Sami M. Gerwick, Project Coordinator

Construction Manager.....ABC Construction

- TBD, President
- TBD, Vice-President
- TBD, Sr. Project Manager
- TBD, Pre-Construction Manager
- TBD, Superintendent

II. Pre-Construction Phase Services

1. 100% Design Development Estimate
2. GMP Proposal Estimate

III. Omitted Services as previously included in Article 2 of the Agreement

1.2.1.4.1 – Estimate at completion of Schematic Design

IV. Revised Services as previously included in Article 2 of the Agreement

V. Construction Manager's Staff Positions to be assigned to the Pre-Construction/Design Phases

Position	Name	Duration in Months	Percentage of Time Assigned
Vice President	tbd	x	x
Preconstruction Manager	tbd	x	x
Sr. Project Manager	tbd	x	x
Superintendent	tbd	x	x

EXHIBIT “C”

GMP ADDENDUM

to

Agreement between City of Kissimmee and Construction Manager At Risk

Lancaster Ranch Park – Phase 1

Pursuant to the Master Services Agreement (the “Agreement”) dated _____ between City of Kissimmee Commission, a municipal corporation of the State of Florida (the “City”) and **Arnco Construction, Inc.** (the “Construction Manager”), with respect to the Project, as identified and described in the Pre-Construction Addendum, the City and the Construction Manager hereby establish a Guaranteed Maximum Price (GMP), Contract Time for the Work and amend the Agreement as set forth below.

1. The Construction Manager’s GMP for the Work as defined in Section 6.1.3 and the Construction Manager’s Fee as defined in Section 6.1.2, for the Construction Phase Services is **Four Million, Ninety-Six Thousand, Eight Hundred Sixty-Four and Ninety-One Cents (\$4,096,864.91).**

2. This price is for the performance of the Work in accordance with the Schedules listed below and attached to this Addendum as follows:

- Schedule 1 Construction Manager’s Personnel.
- Schedule 2 Contract Drawings & Specifications.
- Schedule 3 GMP Bid Breakdown.
- Schedule 4 Clarifications, Assumptions, Exclusions and Allowances.

3. Pursuant to Section 1.3.12 of the Agreement, the City’s Construction Budget is estimated at **\$4,096,864.91** including all Construction Manager fees, costs of the work, the City’s Allowances and the Construction Manager’s contingencies within the GMP as defined in Articles 2, 3 and 6 of the Agreement.

4. Pursuant to Section 1.3.12 of the Agreement, the City’s funds budgeted for the development of the Project including the construction budget and all professional service fees and equipment necessary to develop the project, excluding land costs is N/A

5. Pursuant to Article 2, Section 2.5, the Project critical dates are as follow:

- | | |
|--|---|
| A. Construction Phase Commencement Date: | <u>Within 15 days of the Notice To Proceed</u> |
| B. Project Substantial Completion Date: | <u>12 Months from Construction Phase Commencement Date</u> |
| C. Project Final Completion Date: | <u>30 Calendar Days after Substantial Completion</u> |

6. In the event the Construction Manager does not achieve Substantial Completion within the Contract Time, including approved extensions, the Construction Manager shall pay the City, as liquidated damages and not as a penalty, the sum of **\$2,579.00** per day for each calendar day the actual time of performance exceeds the authorized Contract Time.

7. The Construction Manager shall not be due any additional Construction Phase Fee on increases in the GMP that do not exceed a cumulative total of **\$0.00** Should the GMP be increased by more than **\$0.00** under the terms of Article 7 hereinafter due to no fault of the Construction Manager, the Construction Manager’s additional Construction Phase Fee will be 5% percent of that portion of the accumulative increases in the GMP that exceed the GMP by more than **\$0.00.**

8. The Construction Manager’s Fee for overhead, profit and general expenses of any kind, except as may be expressly included in Article 9, for services provided during and related to the construction phase, shall be **5.0%** of the

GMP value and shall be converted to a fixed amount upon acceptance of the GMP, subject to changes as described herein, and shall be paid proportionally to the ratio of the cost of the work in place, including stored materials (see Article 8.1.3), as it bears on the latest estimate of the total construction cost and/or to the GMP, whichever is less.

9. Pursuant to Section 6.1.3.2.2, the cost of the premiums for all insurance and cost of premiums for all bonds, which the Construction Manager is required to procure by this Agreement specifically for the construction project. General Liability will be cost at a fixed rate of 0.78 % of the final Contract Amount and Construction Manager bonds will be cost at a fixed rate of 0.85 %. The premium stated will be substantiated with industry standard documentation. The cost of the work shall include any subcontractor bonds the Construction Manager deems appropriate. There shall be no Construction Manager overhead and profit fee on this item.

IN WITNESS WHEREOF, the parties have caused this amendment to be executed by their duly authorized representatives, as of the effective date.

**CITY OF KISSIMMEE, a municipal
corporation of the
State of Florida**

ATTEST:

By: _____
Linda Hansell
City Clerk

By: _____
Olga Gonzalez, Mayor
City of Kissimmee Commission

Date Signed by Mayor: _____

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Olga Sanchez de Fuentes
City Attorney

Date

ATTEST: **Arnco Construction, Inc., a Florida corporation**

By: Kimberle Cover

Printed Name: Kimberle Cover

By: Benjamin Arnold

Printed Name: Benjamin Arnold

Title: President

SCHEDULE 1 to the GMP ADDENDUM

Lancaster Ranch Park – Phase 1

Construction Manager's Personnel
During Construction Phase

(TO BE COMPLETED AT GMP)

Name	Title	Duration (Months)	Percentage
Off-Site Staff			
On-Site Staff			

SCHEDULE 2 to the GMP ADDENDUM

Lancaster Ranch Park – Phase 1

Contract Drawings & Specifications

SCHEDULE 3 to the GMP ADDENDUM

Lancaster Ranch Park – Phase 1

GMP Bid Breakdown

SCHEDULE 4 to the GMP ADDENDUM

Lancaster Ranch Park – Phase 1

Clarifications, Assumptions, Exclusions and Allowances

EXHIBIT “D”

Lancaster Ranch Park – Phase 1

Certificate of Substantial Completion

Standard AIA Document G704 to be used

EXHIBIT “E”

Lancaster Ranch Park – Phase 1 **RELEASE AND AFFIDAVIT**

STATE OF FLORIDA
COUNTY OF Osceola County

Before me, the undersigned authority, personally appeared _____, who after being duly sworn, deposes and says:

(1) In accordance with the Contract Documents and in consideration of \$_____ paid, _____ (“Construction Manager”) releases and waives for itself and its subcontractors, materialmen, successors and assigns, all claims, demands damages, costs and expenses, whether in contract or in tort, against the City of Kissimmee City Commission, a body corporate existing under the laws of the State of Florida (“City”) relating in any way to the performance of the Agreement between Construction Manager and City, dated _____, 20____, for the period from _____ to _____.

(2) Construction Manager certifies for itself and its subcontractors, materialmen, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which City might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.

(3) Construction Manager agrees to indemnify, defend, and save harmless City from all demands or suits, actions, claims of liens or other charges filed or asserted against City arising out of the performance by Construction Manager of the Work covered by this Release and Affidavit.

(4) Construction Manager certifies that it has paid all its subcontractors and materialmen in full all amounts owed them from any previous payments received by Construction Manager from City and has not withheld any such amounts. In the event Construction Manager withholds any unpaid amounts due to its subcontractors and/or materialmen from the payment it receives from City with respect to the Application for Payment referenced in Paragraph 5 below, Construction Manager agrees to immediately refund all such unpaid amounts to City.

(5) This Release and Affidavit is given in connection with Construction Manager's [monthly/final] Application for Payment No. _____.

Construction Manager:

By: _____

Title: _____

Witnesses

[Corporate Seal]

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization on this _____ day of _____, 2022, by _____, as _____ of _____, a corporation organized under the laws of the State of Florida, who is ☐ personally known to me or ☐ who has produced _____ as identification, and acknowledged before me that they executed the foregoing instrument as such officer in the name and on behalf of the corporation.

My Commission Expires:

(AFFIX NOTARY SEAL)

Notary Public / signature

Printed Name

Title or Rank

Serial Number, if any

EXHIBIT “F”

Lancaster Ranch Park – Phase 1

Application for Payment

Form shall be AIA Document G702 Application and Certificate for Payment

EXHIBIT “G”

Lancaster Ranch Park – Phase 1 **Final Payment Request Check List / Certificate of Final Completion**

Items to be submitted with Construction Manager’s Request for Final Payment

- ___ 1. Pay Request (1 copy with original signatures and original seals, noted as FINAL)
- ___ 2. Final Schedule of Contract Values
- ___ 3. Consent of Surety to make Final Payment (signed and sealed)
- ___ 4. Power of Attorney from Surety for Release of Final Payment (signed, sealed and dated same as Consent of Surety)
- ___ 5. Affidavit of Contract Completion (**Exhibit “E”**)
- ___ 6. Satisfactory Conclusion or Release of Lien from all Subcontractors or laborers who have filed Intent to Lien or have indicated non-payment from the Contractor
- ___ 7. Construction Manager’s Guarantee of Construction for one (1) year from the date of Substantial Completion
- ___ 8. Copy of the approval by the Architect/Engineer and the transmittal to the City of Manuals, Shop Drawings, As-Builts (one electronic media and two sets of prints), brochures, warranties, and list of Subcontractors with telephone numbers and addresses
- ___ 9. Verification that City’s personnel have been trained in the operation of their new equipment, attendance lists and videos
- ___ 10. Other special Warranties are required by Specifications in the name of the City

EXHIBIT “G”

Lancaster Ranch Park – Phase 1 **CERTIFICATE OF FINAL COMPLETION**

Project: _____ City’s Project No.: _____

Contract No.: _____ Contract Date: _____

Notice to Proceed Date: _____ Completion Date: _____

The Work to which this Certificate applies has been inspected by the authorized representatives of the City, Construction Manager and Professional; and that Work is hereby declared to be finally complete in accordance with the Contract Documents on _____. This Certificate of Final Completion applies to all Work under the Contract Documents.

All punch list items have been completed and corrected for compliance with Contract Documents. This Certificate constitutes acceptance of Work as specified and intended in the Contract Documents. Construction Manager retains responsibility and obligation to the City for warranty Work arising after admission and acceptance of final completion. Signatories agree the project is finally complete as of the date of signature such that the project is in complete compliance with Contract Documents and authorized Change Orders.

Construction Manager: _____

By: _____
(Authorized Signature)

(Typed Name & Title)

Date: _____

Professional: _____
(Authorized Signature)

By: _____
(Typed Name & Title)

Date: _____

City: _____
(Division Director)

Date: _____



EXHIBIT “H”
CHANGE ORDER

CHANGE
ORDER

City _____
Engineer _____
Contractor _____

PROJECT: Lancaster Ranch Park – Phase 1

CHANGE ORDER NO: _____

CITY OF KISSIMMEE, A MUNICIPAL CORPORATION OF
THE STATE OF FLORIDA

INITIATION DATE: _____

TO CONTRACTOR:

PROJECT NO: RFP2022-005

ABC Construction
123 N South Drive
Tampa, FL 12345

CONTRACT DATE: _____

The contract is changed as follows:

The original (Contract Sum) (Guaranteed Maximum Price) was..... \$
Net Change by previously authorized Change Orders.....\$
The (Contract Sum) (Guaranteed Maximum Price) prior to this change order was.....\$
The (Contract Sum) (Guaranteed Maximum Price) will be (increased) (decreased)
(unchanged) by this Change Order in the amount of.....\$
The new (Contract Sum) (Guaranteed Maximum Price) including this Change Order will be..... \$
The Contract Time will be (increased) (decreased) (unchanged) by () days
The date of Substantial Completion as of date of this Change Order therefore is: SUBSTANTIAL COMPLETION DATE HERE

_____ ARCHITECT/ENGINEER	_____ CONTRACTOR	<u>Kissimmee City Commission</u> CITY
_____ ADDRESS	_____ ADDRESS	101 Church Street ADDRESS
_____ By _____	_____ By _____	Kissimmee, Florida, 34741 By _____ Mayor / Commissioner
		Or _____ City Manager or Designee
Date _____	Date _____	Date _____

To the CONTRACTOR: Your acceptance of this Change Order shall constitute a modification to our agreement and will be performed subject to all of the same terms and conditions as contained in our Agreement indicated above, as fully as if the same were repeated in this acceptance. The adjustment, if any, to the agreement shall constitute a full and final settlement of any and all claims arising out of or related to the change set forth herein, including claims for impact and delay costs.



EXHIBIT "I"
ALLOWANCE AUTHORIZATION RELEASE (AAR)

PROJECT: Lancaster Ranch Park – Phase 1

AAR NO: _____

CITY OF KISSIMMEE,
A MUNICIPAL CORPORATION OF
THE STATE OF FLORIDA

CONTRACT NO: _____

INITIATION DATE: _____

CONSTRUCTION MANAGER: ABC Construction, 123 N South Drive, Tampa, FL 12345

ARCHITECT/ENGINEER: Architects Design Group/ADG, Inc.,

DESCRIPTION OF ALLOWANCE WORK:

Reason for change:

***Not valid until signed by the City, Architect/Engineer and Construction Manager.**

Amount of Allowance Authorization included in this Contract is _____ \$

Amount of Allowance Authorization used to date _____ \$

Amount of Allowance Authorization used this AAR _____ \$

Balance of remaining AAR _____ \$

Original Contract Time _____ days

Amount of the Allowance Authorization time included in this Contract is _____ days

Amount of the Allowance Authorization time used to date _____ days

Amount of the Allowance Authorization time used this AAR _____ days

Balance of remaining Allowance Authorization Time is _____ days

Date of Substantial Completion therefore is _____

(THE TOTAL ORIGINAL CONTRACT AMOUNT REMAINS UNCHANGED)

CONSTRUCTION

ARCHITECT/

MANAGER: _____

ENGINEER: _____

Date: _____

Date: _____

CITY: _____

City Manager or Designee

Date: _____



EXHIBIT “J”

REIMBURSABLE COST SCHEDULE

1.	Reproduction Cost		
	A.....Regular Copying	Single Side	Double
	Sided		
	8 ½ x 11 (black & white).....	\$ 0.15/page	\$ 0.25/sheet
	8 ½ x 11 (color)	\$ 0.30/page	\$ 0.40/sheet
	8 ½ x 14 (black & white).....	\$ 0.15/page	\$ 0.25/sheet
	8 ½ x 14 (color)	\$ 0.30/page	\$ 0.40/sheet
	11 x 17 (black & white).....	\$ 0.25/page	\$ 0.35/sheet
	11 x 17 (color)	\$ 0.40/page	\$ 0.50/sheet
	9 ½ x 24 Single Side Only.....	\$ 1.00/page	
	17 x 22 Single Side Only.....	\$ 2.00/page	
	18 x 24 Single Side Only.....	\$ 2.00/page	
	24 x 36 Single Side Only.....	\$ 3.00/page	
	30 x 30 Single Side Only.....	\$ 5.00/page	
	32 x 34 Single Side Only.....	\$ 5.00/page	
	Other sizes-per square inch	\$ 0.03/page	
	Compact Digital Disk.....	\$ 6.00/disk	
	B. Blueprint Copy.....	\$10.00/page	
2.	Subcontractor Services	Actual Costs	
3.	Special Consultants	Actual costs	
4.	Telecommunications		
	A. Local	Non-reimbursable	
	B. Non-Local	Actual Costs	
5.	Computer Services	Non-reimbursable	
6.	Travel Expenses	In accordance with Chapter 112.061, F.S.; and further defined in the City of Kissimmee Employee Handbook	
7.	Postage, Fed Express, UPS	Actual Costs	
8.	Pre-approved Equipment (includes purchase and rental of equipment used in project)	Actual Costs	

EXHIBIT “K”

Lancaster Ranch Park – Phase 1

HOURLY RATE SCHEDULE

EXHIBIT L
PUBLIC CONSTRUCTION BOND
FRONT PAGE
F.S. CHAPTER 255.05

BOND NO.: _____

CONTRACTOR NAME: _____

CONTRACTOR ADDRESS: _____

CONTRACTOR PHONE NO: _____

SURETY COMPANY: _____

OWNER NAME: City of Kissimmee, a municipal corporation of the State of Florida

OWNER ADDRESS: 101 Church Street
Kissimmee, FL 34741

OWNER PHONE NO: _____

OBLIGEE NAME: (if
contracting entity is different
from the owner, the contracting
public entity) _____

OBLIGEE ADDRESS: _____

OBLIGEE PHONE NO: _____

BOND AMOUNT: \$ _____

CONTRACT NUMBER: _____

GENERAL DESCRIPTION
OF PROJECT: _____

PROJECT LOCATION: _____

PUBLIC CONSTRUCTION BOND

KNOW ALL PERSONS BY THESE PRESENTS: That _____, as Principal, and _____, as Surety, located at _____ (Business Address) are held and firmly bound unto City of Kissimmee, a municipal corporation of the State of Florida, as Obligee in the sum of _____) in lawful currency of the United States, for the payment whereof we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the Contract executed between Principal and City for construction of _____, the Contract being made a part of this bond by reference, at the times and in the manner prescribed in the Contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1) Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided in the Contract; and
3. Pays City all losses, damages, expenses, costs, liquidated damages, and attorney fees, including appellate proceedings, that City sustains because of a default by Principal under the Contract; and
4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this bond is void, otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.

Any changes in or under the Contract Documents and compliance or non-compliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this bond.

Reference is hereby made to Section 255.05 Florida Statutes, and to the notice and time limitation provisions thereof:

IN WITNESS WHEREOF, this instrument is executed this _____ day of _____, 20 ____.

ATTEST:

Witness

Witness

ATTEST:

Witness

Witness

PRINCIPAL:

BY: _____(SEAL)
Authorized Signature (Principal)

Printed Name

Title of Person Signing Above

SURETY:

Printed Name

BY: _____(SEAL)
Attorney in Fact

Printed Name

Business Address

EXHIBIT “M”
BUY-OUT ALLOWANCE AUTHORIZATION RELEASE (AAR)

PROJECT: Lancaster Ranch Park – Phase 1

AAR NO:

CITY OF KISSIMMEE,
A MUNICIPAL CORPORATION OF
THE STATE OF FLORIDA

CONTRACT NO: RFP2022-005

INITIATION DATE:

CONSTRUCTION MANAGER: ABC CONSTRUCTION, 123 N South Drive, Tampa, FL 12345

ARCHITECT/ENGINEER: AECOM

DESCRIPTION OF ALLOWANCE WORK:

Total: _____ \$

***Not valid until signed by the City, Architect/Engineer and Construction Manager.**

Amount of Buy-out Allowance _____ \$

Amount of Buy-out Allowance Authorization used to date _____ \$

Amount of Buy-out Allowance this AAR _____ \$

Balance of remaining Buy-out Allowance _____ \$

(THE TOTAL ORIGINAL CONTRACT AMOUNT REMAINS UNCHANGED)

CONSTRUCTION

MANAGER: _____

Date: _____

ARCHITECT/

ENGINEER: _____

Date: _____

CITY: _____

City Manager or Designee

Date: _____

CONSTRUCTION MANAGER AT RISK AGREEMENT BETWEEN CITY OF KISSIMMEE AND CONSTRUCTION MANAGER

THIS CONSTRUCTION MANAGER AT RISK AGREEMENT ("Agreement") is entered into as of the Effective Date (hereinafter defined) by and between City of Kissimmee, a municipal corporation of the State of Florida, 101 Church Street, Kissimmee, Florida 34741 (hereinafter designated as the "City") and **ARNCO Construction**, at 1110 Pennsylvania Avenue, Saint Cloud, Florida 34769, whose Federal Identification Number is: 59-3253396 (hereinafter designated as the "Construction Manager".)

WITNESSETH:

WHEREAS, the City desires certain Construction Manager At Risk services to be performed in the City of Kissimmee; and

WHEREAS, the City solicited for these professional services via RFP2022-005, an advertised request for proposals, and received numerous responsive proposals thereto; and

WHEREAS, after review and consideration of all responsive proposals, the City intends to retain the Construction Manager identified above to provide such professional services under this Agreement; and

WHEREAS, the Construction Manager remains agreeable to providing the City the professional services and represents that it is capable and prepared to do so;

NOW, THEREFORE, in consideration of the promises contained herein, the City and the Construction Manager (collectively, the "Parties") hereby agree, as follows:

ARTICLE 1

THE CONSTRUCTION TEAM, EXTENT OF AGREEMENT AND DEFINITIONS

The Construction Manager accepts the relationship of trust and confidence established between The Construction Manager and the City by this Agreement. The Construction Manager covenants with the City to furnish his best skill and judgment in furthering the interest of the City. The Construction Manager agrees to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Services in the best way and the most expeditious and economical manner, consistent with the interests of the City, and the terms and conditions of the Contract Documents. Further, the Construction Manager acknowledges that (i) they have represented to the City that they have specific expertise in the planning, reviewing, management, and construction of projects of similar size, cost, and complexity and (ii) that such representation is a material inducement to the City to enter into this Agreement.

1.1 The Construction Team:

The Construction Manager, the City, and the Architect/Engineer, collectively called the "Construction Team", shall work jointly during the Pre-Construction Phase and the Construction Phase. The Architect/Engineer and the Construction Manager shall communicate through the

City's Representative, except as may otherwise be provided in this Agreement. The Construction Manager shall copy the City's Representative on all correspondence sent to or received from the Architect/Engineer or any of its consultants of which the City's Representative was not copied. The specific representatives of the Construction Team shall be identified further in the Pre-Construction Addendum and the GMP Addendum.

1.2 Extent of Agreement:

This Agreement, between the City and the Construction Manager, supersedes any prior negotiations, representations or agreements. This Agreement shall not be superseded by any provisions/revisions of the Construction Documents and may be amended only by Change Order or through a duly executed amendment as authorized herein.

1.3 Definitions:

- 1.3.1 Project – the design and construction of the Lancaster Ranch Park for the City of Kissimmee, Florida, as further described in RFP #2022-005, including all attachments and addenda, and this Agreement. Pre-Construction Services of the Project shall include coordination of all architectural, landscaping and engineering design and other pre-construction services, including, without limitation, the preparation of a proposed GMP, necessary to provide a complete and usable facility in accordance with this Agreement. Construction Phase of the Project shall include the construction of the facility, along with project management and coordination and quality assurance services necessary to complete the Project to the City's satisfaction.
- 1.3.2 Services – shall include: (1) all professional services described in the City of Kissimmee's Request for Proposals RFP #2022-005, including all attachments and addenda and all services described in the Construction Manager's response thereto (collectively, "RFP2022-005" is attached hereto as a composite **Exhibit "A"** and made a part of this Agreement); (2) all services described in Article 2 herein (but as may be specifically excluded by the City in the Pre-Construction Addendum); and (3) all Pre-Construction Phase Services and Construction Phase Services (the Construction Phase Services may also be referred to herein as the "Work") as further set forth and described herein or in either the Pre-Construction Addendum, the GMP Addendum, or both.
- 1.3.3 Pre-Construction Services Addendum is attached hereto and incorporated herein as **Exhibit "B"**.
- 1.3.4 GMP Addendum is attached hereto and incorporated herein as **Exhibit "C"** and shall be completed and executed by the City and the Construction Manager following the completion of Pre-Construction Phase Services and determination of a mutually-acceptable Guaranteed Maximum Price ("GMP") and related terms.
- 1.3.5 Architect/Engineer – Architects Design Group/ADG, Inc.,
- 1.3.6 Contract Documents - The Contract Documents consist of this Agreement, the Exhibits hereto, and any duly executed amendments and/or addendums, including, without limitation, the Pre-Construction Addendum and the GMP Addendum, in addition to all plans and specifications for the construction of the Project ("Construction Documents") that have been completed by the Architect/Engineer and approved in writing by the City's Representative.

- 1.3.7 Punch List – A final list of items of Work to be completed and deficiencies to be corrected, which items shall not affect the attainment of Substantial Completion. Such items shall be complete or otherwise disposed of prior to Final Completion.
- 1.3.8 Schedule of Values - The schedule to be used as a basis for progress payments to be made to the Construction Manager by the City during performance of the Work, based on the then current percentage of progress of construction of the Work, subject to the review of the Architect/Engineer and the City's Representative.
- 1.3.9 Subcontractor – A subcontractor is any person or entity performing, furnishing, supplying or providing any portion of the Work pursuant to a contract with the Construction Manager. Construction Manager shall be solely responsible for and have control over the subcontractors.
- 1.3.10 Substantial Completion Date – The date, certified by the Architect/Engineer, that the Project, or designated portion thereof, is sufficiently complete, in accordance with the Construction Documents and as further delineated in Article 2, Section 2.5.1 so that the City can reasonably occupy or utilize the Project, or a designated portion thereof, for its intended use.
- 1.3.11 General Conditions – Those items that are not specific to any trade and are required for the construction of the Project.
- 1.3.12 City's Construction Budget: The City's Construction Budget shall be set forth in the completed GMP Addendum and shall include an estimated total of all three segments of the budget, including all Construction Manager Fees, Costs of the Work and the City's Allowance, as defined in Article 6. This acknowledgment of the City's Construction Budget is not to be construed as the Construction Manager's Guaranteed Maximum Price ("GMP").
- 1.3.13 *Intentionally omitted.*
- 1.3.14 Term –The "Term" of this Agreement shall commence on the Effective Date and shall continue thereafter through the date of completion by Construction Manager of all its contractual obligations (with the exception of the Warranty period as set forth in Section 2.6.3 and any other provisions contained herein which are specifically stated to survive expiration or earlier termination of this Agreement), and the City has paid the final balance due Construction Manager, including any retainage, as noted in the Certificate for Final Completion.
- 1.3.15 Allowance – Funds and time appropriated by the City for additional work which is not included in the contract document yet may be necessary for the completion of the Work. Any unused allowance funds shall be returned to the City by Change Order at the completion of the Project.
- 1.3.16 Contingency – Those areas of work that are not at 100% design completion, at the time of GMP, for which additional monies will be allowed. A contingency dollar amount will be shown as a separate amount at the appropriate line item within the GMP and labeled as a contingency for that item of work. Any unused contingency funds shall be reassigned to the City's Buyout Allowance, as defined in Section 6.1.5.

1.3.17 Effective Date – shall be the date this Agreement is executed by the Mayor after approval by the City Commission.

1.3.18 The City's Representative(s) may be any or all of the following: City Manager, Deputy City Manager, and/or the Public Works and Engineering Director.

ARTICLE 2

CONSTRUCTION MANAGER'S SERVICES

The CITY does hereby retain the Construction Manager to furnish, provide and perform the Services (as defined in Section 1.3.2), as those Services may be further specifically designated and authorized by the CITY in writing, including, without limitation, those services as set forth in the Scope of Services of the Pre-Construction Services Addendum and in the GMP Addendum.

The Services shall include, without limitation, those described or specified in this Article 2. Such services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned. Additionally, some of the services described in this Article 2 may be specifically excluded by the City, as set forth in the completed Pre-Construction Services Addendum.

2.1 Project Management Information System (PMIS):

2.1.1 General:

2.1.1.1 Commencing immediately upon issuance by the City of a Notice To Proceed, the Construction Manager shall implement and shall utilize throughout the life of the particular Project all subsystems of the Project Management Information System hereinafter referred to as PMIS.

2.1.1.2 The reports, documents, and data to be provided shall represent an accurate assessment of the current status of the Project and of the Work remaining to be accomplished and it shall provide a sound basis for identifying variances and problems and for making management decisions. It shall be prepared and furnished to the City's Representative and the Architect/Engineer monthly.

2.1.1.3 If requested by the City's Representative, the Construction Manager shall conduct a comprehensive workshop for participants designated by the City's Representative and additional seminars as required, to provide instruction. This workshop and the seminars shall facilitate each participant's and the City's Representatives' use and understanding of PMIS; shall support, in-part, the function of organizing in concert with the Architect/Engineer for the design and construction of the Project; and shall establish, with the full concurrence of the City's Representative and the Architect/Engineer, procedures for accomplishing the management control aspect of the Project.

2.1.1.4 The PMIS shall be described in terms of the following major subsystems:

2.1.1.4.1 Narrative Reporting, on a monthly basis, and

2.1.1.4.2 Schedule Control, on a monthly basis, and

2.1.1.4.3 Cost Control, and estimating, and

- 2.1.1.4.4 Project Accounting, and
- 2.1.1.4.5 Accounting and Payment, on a monthly basis, and
- 2.1.1.4.6 Action Reports.

2.1.2 Narrative Reporting Subsystem:

2.1.2.1 The Construction Manager shall prepare written reports as described hereunder. No other PMIS narrative reports shall be required. All reports shall be in 8.5" X 11" format, unless directed otherwise by the City's Representative.

2.1.2.2 The Narrative Reporting Subsystem shall include the following reports:

2.1.2.2.1 A Monthly Executive Summary which provides an overview of current issues and pending decisions, future developments and expected achievements, and any problems or delays, including all violations and deficiencies found by the applicable permitting authorities.

2.1.2.2.2 A Monthly Cost Narrative describing the current cost status of the Project.

2.1.2.2.3 A Monthly Scheduling Narrative summarizing the current status of the Master Project Schedule. This report shall include an analysis of the various Project schedules, a description of the critical path, tracking of approved original baseline schedule versus the actual progress of the Work and other analyses as necessary.

2.1.2.2.4 A Monthly Accounting Narrative describing the current cost and payment status of the Project. This report shall relate current encumbrances and expenditures to the budget allocations.

2.1.2.2.5 A Monthly Progress Report, during the Construction Phase, summarizing the work of the various subcontractors and consultants. This report shall include information from the weekly job site meetings, as applicable, such as General Conditions, long lead supplies, current deliveries, safety and labor relations programs, permits, construction problems and recommendations, and plans for the succeeding month.

2.1.2.2.6 A Daily Construction Diary during the Construction Phase describing events and conditions on the site.

2.1.2.3 The reports outlined in subsection 2.1.2.2 shall be bound and submitted monthly during the Construction Phase and shall be current through the end of the preceding month. Copies shall be transmitted to the City's Representative and the Architect/Engineer and others as designated by the City's Representative with the monthly pay requisition. Additional copies of the Monthly Executive Summary, as outlined in subsection 2.1.2.2.1, shall be bound separately and distributed monthly, as directed by the City's Representative. The Daily Construction Diary, as outlined in subsection 2.1.2.2.6, shall be maintained at the Project Site Office Facility and be made

available to the City's Representative and Architect/Engineer. A bound copy of the complete Daily Construction Diary shall be submitted to the City's Representative at the conclusion of the Project.

2.1.3 Scheduled Control Subsystem:

2.1.3.1 Master Project Schedule: Within 30 days following issuance of the Notice To Proceed, the Construction Manager shall submit, to the City's Representative for approval, a Master Project Schedule covering the Pre-Construction Phase and Construction Phase. The Master Project Schedule shall serve as the framework for the subsequent development of all detailed schedules. The Master Project Schedule shall be produced and updated monthly throughout the Project. No revisions, activity additions, activity deletions, or logic changes to the Master Project Schedule or any other schedule previously approved by the City, shall be made without the City's approval. Minor or immaterial deviations that do not affect key milestone dates may be amended if approved by the City's Representative.

2.1.3.2 Construction Schedule: With the submission of the GMP Proposal, the Construction Manager shall submit to the City's Representative, for approval, a Critical Path Construction Schedule (hereinafter "Construction Schedule") in sufficient detail to graphically depict the activities contemplated to occur as a necessary incident to performance of the Work required to complete the Work, showing the sequence in which the Construction Manager proposes for each such activity to occur and duration (dates of commencement and completion, respectively) of each such activity. The Construction Schedule shall be based on a "Network Analysis System" and shall be the latest version of Microsoft Schedule, Primavera P3, or equivalent, as determined by the City's Representative. The City's Representative shall determine whether the Construction Schedule developed and submitted by the Construction Manager meets the requirements stated above and such determination shall be binding on the Construction Manager. Failure of the Construction Manager to develop and submit a Construction Schedule as aforesaid shall be sufficient grounds for the City to find the Construction Manager in substantial default and certify that sufficient cause exists to terminate the Agreement or to withhold any payment.

2.1.3.3 Updated Construction Schedule: Following development and submittal of the Construction Schedule as aforesaid, the Construction Manager shall, at the end of each calendar month occurring thereafter during the period of time required to finally complete the Work, or at such earlier intervals as circumstances may require, update the Construction Schedule. The updated Construction Schedule will show the actual progress of the Work performed compared to the original baseline schedule, approved as set forth in Section 2.1.3.2, and all updates thereto as reflected in the updated Construction Schedule last submitted prior to submittal of each such monthly update. Each such update to the Construction Schedule shall be submitted to the City's Representative. Failure of the Construction Manager to update and submit the Construction Schedule as aforesaid shall be sufficient grounds for the City to find the Construction Manager in substantial default, and certify that sufficient cause exists to terminate the Agreement or to withhold payment to the Construction Manager, until a schedule or schedule update acceptable to the City's Representative is submitted.

2.1.3.4 When required by the City's Representative, the Construction Manager shall prepare and incorporate into the schedule database, at the required intervals, the following schedules:

2.1.3.4.1 Subcontractor Construction Schedules (Sub-networks) - Upon the award of each sub-contract, the Construction Manager shall jointly, with the subcontractor, develop a schedule which is more detailed than the Construction Schedule, taking into account the work schedule of the other subcontractors. The Construction Manager shall ensure each Subcontractor's Construction Schedule is incorporated into the Construction Manager's Construction Schedule, ensuring the necessary information is included to allow for construction planning and monitoring the performance of each subcontractor.

2.1.3.4.2 Final Completion Schedule - The Construction Manager shall jointly develop with the Architect/Engineer and the City's Representative, a detailed plan, inclusive of Punch Lists, final inspections, maintenance training and turn-over procedures, to be used for ensuring accomplishment of a smooth and phased transition from construction to Final Completion. The Final Completion Schedule shall be produced and updated monthly and may be part of the Construction Schedule.

2.1.3.4.3 Utility Relocation Schedule - The Construction Manager shall jointly develop with the Architect/Engineer and the City's Representative a detailed plan, for any and all utility relocations required for successful completion of the Work. The Utility Relocation Schedule shall be produced and updated monthly, and may be part of the Construction Schedule.

2.1.3.4.4 Recovery Schedule - If any portion of the Master Project Schedule or any current updates fail to reflect the actual plan or method of operation of the Work, or a contractual milestone date is more than 15 days behind, the City's Representative may require that a Recovery Schedule for completion of the remaining work be submitted. The Recovery Schedule must be submitted within 7 calendar days of the request by the City's Representative. The Recovery Schedule shall describe in detail the Construction Manager's plan to complete the remaining work by the required Agreement milestone date. The narrative submitted with the Recovery Schedule should describe in detail all changes that have been made to meet the Agreement milestone dates.

2.1.3.4.5 Change Orders - When a Change Order is proposed, the City's Representative may require the Construction Manager to identify all logic changes as a result of the Change Order. The Construction Manager shall include, as part of each Change Order proposal, a sketch showing all schedule logic revisions, duration changes, and the relationships to other activities in the Master Project Schedule. This sketch shall be known as the fragnet for the change. Upon acceptance of the fragnet, the Construction Manager will revise the Master Project Schedule. The logic changes required by the Change Order will be considered incidental to the Construction Manager's work. No separate payment will be made for the work required to identify all logic changes that result from the Change Order.

2.1.4 Budget Control Subsystem - The operation of this subsystem shall provide sufficient timely data and detail to permit the Construction Team to control and adjust the Project requirements, needs, materials, equipment and site elements, so that the Work will be completed at a cost which, together with all other Costs of the Work, will not exceed the City's Project Budget. Requirements of this subsystem may include the following submissions:

2.1.4.1 Estimate at the completion of schematic design; and

2.1.4.2 Estimate at the completion of 100% design development plans; and

2.1.4.3 Estimate at the submission of the GMP Proposal.

2.1.5 Project Accounting Subsystem - The operation of this subsystem shall enable the Construction Team to plan effectively and to enable the City's Representative to monitor and control the funds available for the Project, cash flow, costs, Change Orders, payments, and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced, amounts payable, and to plan effectively. This subsystem will be produced and updated monthly and includes the following reports, which together will serve as a basic accounting tool and an audit trail. This report may be further defined by the City's Representative.

2.1.5.1 A Payment Status Report - showing the value in place (both current and cumulative), the amount invoiced (both current and cumulative), the amount retained, the amount payable (both current and cumulative), and the balance remaining. A summary of this report shall accompany each pay request.

2.1.5.2 Project Accounting Structure. It shall include the budget, estimate and base commitment figures for each contract. It shall give the Change Order history including Change Order numbers, description, proposed and approved dates, and the proposed and approved dollar amounts. It shall also show all pending Change Orders.

2.1.5.3 A Cash Flow Diagram - showing the projected accumulation of cash payments against the Project. Cash flow projections shall be generated for anticipated monthly payments as well as cumulative payments and may be requested at earlier or more frequent intervals by the City's Representative.

2.1.5.4 A Job Ledger - shall be maintained as necessary to supplement the operation of the Project accounting subsystem. The job ledger will be used to provide construction cost accountability for General Conditions work, on-site reimbursable expenses, and costs requiring accounting needs.

2.2 Project Manual: Upon the execution of this Agreement, the Construction Manager shall develop a draft comprehensive Project Manual describing the services set forth in this Agreement. This shall provide a plan for the control, direction, coordination and evaluation of Work performed throughout the Project; the Project organization including identification of key personnel, responsibilities of Construction Manager, the City's Representative and Architect/Engineer; work flow diagrams; and strategy for bidding the Work. The Project Manual shall be completed and submitted to the Architect/Engineer and the City's Representative for their review of the format and content, and to the City's Representative for approval as a condition precedent to the first progress payment by City to Construction Manager for services provided in the Pre-Construction Phase. The Project Manual shall be updated as necessary, with the approval of City's Representative throughout the Pre-

Construction and Construction Phases. A copy of the Project Manual, and any updates, shall be submitted separately to the City's Representative and Architect/Engineer. In developing the Project Manual, the Construction Manager shall coordinate with the City's Representative and the Architect/Engineer. The Project Manual is merely an amplification and clarification of this Agreement. Any conflicts between the Project Manual and this Agreement shall be governed by the latter. The Project Manual shall describe in detail the procedures for executing the Work and the organizations participating. The Project Manual shall include as a minimum the following sections:

- 2.2.1 Project Definition - The known characteristics of the Project or sub-projects shall be described in general terms which will provide the participants a basic understanding of the Project or sub-projects.
- 2.2.2 Project Goals - The schedule, budget, physical, technical and other objectives for the Project.
- 2.2.3 Project Strategy - A narrative description of the Project delivery methods shall be utilized to accomplish the Project goals.
- 2.2.4 Project Work Plan - A matrix display of the program of Work to be performed by the Construction Manager, the Architect/Engineer and the City's Representative during each phase of the Project.
- 2.2.5 Project Organization - A summary organization chart showing the interrelationships between the City, the Construction Manager, the Architect/Engineer, and other supporting firms, organizations and permitting review agencies. Detailed charts, one each for the Construction Manager, the Architect/Engineer, and the City's Representative, showing organizational elements participating in the Project shall be included.
- 2.2.6 Responsibility Performance Chart - A detailed matrix showing the specific responsibilities of the City, the Architect/Engineer, and Construction Manager. The Responsibility Performance Chart shall indicate major responsibility, and minor responsibility, for each specific task required to deliver the Project. The Construction Manager shall develop a similar chart for the personnel within his own organization who are assigned to the Project, and also for the personnel of the City and the Architect/Engineer from data supplied by each.
- 2.2.7 Flow Diagrams - These charts shall display the flow of information and the decision process for the review and approval of shop drawings, submittals, and Change Orders.
- 2.2.8 Written Procedures - The Construction Manager will provide written procedures for communications and coordination required between Construction Team members throughout the Project. Procedures shall cover such items as correspondence, minutes, reports, inspections, team meetings, technical reviews, design reviews, and other necessary communications.
- 2.2.9 Emergency Contact List: A complete list of the names, company affiliation and emergency contact phone numbers (both day and night) for all key Project personnel from City, Construction Manager and Architect/Engineer, as well as from all subcontractors, sub-consultants and suppliers of any of them. This list shall be

continuously updated by the Construction Manager throughout the Project duration, with Construction Manager distributing a copy of all updates to City's Representative and Architect/Engineer.

2.3 Pre-Construction Phase Services: The services to be provided under this Section 2.3 constitute the Pre-Construction Phase Services. The parties acknowledge the Construction Phase may commence before the Pre-Construction Phase is completed, and to a certain extent both phases may proceed concurrently.

2.3.1 Preliminary Evaluation - The Construction Manager shall provide a preliminary evaluation of the Project and the City's Project Budget requirements, each in terms of the other.

2.3.2 Consultation - The Construction Manager will jointly schedule and attend regular meetings with the City's Representative and Architect/Engineer. The Construction Manager shall make recommendations with respect to the selection of systems and materials, and cost – reducing alternatives, including assistance to the Architect/Engineer and City's Representative, in evaluating alternative comparisons versus long term cost effects. The evaluation shall address the benefits of the speed of construction and early completion of the Project. The Construction Manager shall furnish pertinent information as to the availability of materials and labor that will be required, in addition to items such as the identification, if necessary, of right-of-way to be acquired, outstanding permits and related issues and the status of utility relocations.

2.3.3 Right of Way Acquisition – When requested, Construction Manager shall assist the City's Representative, in conjunction with the City Attorney's Office, with right of way acquisition, including but not limited to, obtaining appraisals, and assisting with the negotiation of purchase agreements. Construction Manager shall coordinate and develop in the Construction Documents all applicable conditions negotiated through the right-of-way acquisition process, including but not limited to such items as driveway transitions and modifications, fence relocations and other related items.

2.3.4 Phased Construction - Without assuming any design responsibilities, the Construction Manager shall review the design with the Architect/Engineer and may make recommendations to the City's Representative with respect to dividing the Work in such manner as will permit the Construction Manager to take bids and award separate construction sub-contracts on the current schedule, while the design is being completed. The Construction Manager shall take into consideration such factors as natural and practical lines of severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, maintenance of traffic and utility relocation issues, status of right of way acquisition and community relations and any other factors pertinent to saving time and cost by overlapping design and construction that are authorized by the City's Representative.

2.3.5 Review Reports - Within 30 days after receiving the Construction Documents for each phase of the Project, the Construction Manager shall perform a specific review thereof, focused upon factors of a nature encompassed in Article 2, Section 2.3. Promptly after completion of the review, the Construction Manager shall submit to the Construction Team, with copies to the Architect/Engineer, a written report covering suggestions or recommendations previously submitted, additional

suggestions or recommendations as they may deem appropriate, and all actions taken by the Architect/Engineer with respect to same, any comments they may deem to be appropriate with respect to separating the work into separate contracts, alternative materials, and all comments called for under Article 2, Section 2.3. Construction Manager shall not assume in any way the responsibilities of the Architect/Engineer, in particular, the responsibility of assuring that the Construction Documents are in accordance with applicable laws, statutes, ordinances, Building Codes, Rules, and Regulations. However, if the Construction Manager recognizes that portions of the Construction Documents are at variance therewith, the Construction Manager shall include notice of same in the written report. THE CONSTRUCTION MANAGER SHALL WARRANT, TO THE BEST OF CONSTRUCTION MANAGER'S KNOWLEDGE, WITHOUT ASSUMING ANY ENGINEERING RESPONSIBILITY, THAT THE CONSTRUCTION DOCUMENTS ARE CONSISTENT, PRACTICAL, FEASIBLE AND CONSTRUCTIBLE. CONSTRUCTION MANAGER SHALL WARRANT THAT THE WORK DESCRIBED IN THE CONSTRUCTION DOCUMENTS FOR THE VARIOUS BIDDING PACKAGES IS CONSTRUCTIBLE WITHIN THE SCHEDULED CONSTRUCTION TIME.

- 2.3.6 Long Lead Procurements - The Construction Manager shall review the design for the purpose of identifying long lead procurement items (machinery, equipment, materials and supplies). When each item is identified, the Construction Manager shall notify the subcontractors, the City's Representative and the Architect/Engineer of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected sub-contracts. The Construction Manager shall keep himself informed of the progress of the respective subcontractors or suppliers, manufacturing or fabricating such items and advise City's Representative and Architect/Engineer of any problems or prospective delay in delivery. The Construction Manager may recommend to the City's Representative a schedule for procurement of the long-lead time items, which will constitute part of the Work as required to meet the Master Project Schedule. If such long-lead time items are procured by the City, they shall be procured on terms and conditions acceptable to the Construction Manager. Upon the City's acceptance of the Construction Manager's GMP proposal, all contracts for such items may be assigned by the City to the Construction Manager, who shall accept responsibility for such items as if procured by the Construction Manager. The Construction Manager shall assist in expediting the delivery of long-lead time items.
- 2.3.7 Project Site Office Facilities - The Construction Manager shall arrange for all job-site facilities necessary to enable the Construction Team to perform their respective duties in the management, inspection, and supervision of construction. Tangible personal property, otherwise referred to as Project Site Office Facilities, include but are not limited to such things as trailers, toilets, computers and any other equipment necessary to carry on the Project. The method of acquiring such Project Site Office Facilities, which are planned to become the property of the City at the conclusion of the Project, shall be evaluated based on cost over the life of the Project. Owning versus leasing shall be considered by the Construction Manager obtaining at least three (3) proposals for leasing and at least three (3) proposals for purchasing, and then analyzing which is the most cost effective over the useful life of the item. The Construction Manager shall present their evaluation with recommendation to the City's Representative for approval. When the Construction Manager wishes to supply Project Site Office Facilities from their own equipment pool, they shall first

evaluate buy versus lease as discussed previously herein. If leasing is found to be the least expensive approach, then they may lease such Project Site Office Facilities from their own equipment pool at a price not greater than the lowest of the three (3) lease proposals obtained. For all such facilities purchased, which are to become the property of the City at the conclusion of the Project, the Construction Manager shall maintain care and custody responsibilities of such facilities until the Project conclusion. At the conclusion of the Project, the Construction Manager shall provide the City's Representative with a complete inventory of equipment that has been purchased for the City. The inventory shall describe the equipment and identify the purchase price, serial number, model number, current location, and condition. Where said equipment has a title, said title shall be properly transferred to the City or to his designee. The Construction Manager is responsible for proper care and maintenance of all equipment while in his control. At the time of transfer to the City, the City may refuse acceptance of the equipment if the City determines in its sole discretion that the equipment has not been properly cared for by the Construction Manager. In such event, the Construction Manager shall reimburse City for the cost of such item.

2.3.8 Weather Protection - The Construction Manager shall ascertain what temporary enclosures, if any, of work areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the Work in periods when extreme weather conditions are likely to be experienced. The Construction Manager shall submit to the Construction Team their recommendations as to needed requirements of this nature and as to the contract, or contracts, in which they should be included. The Construction Manager is totally responsible for all weather protection necessary to ensure that all new construction is adequately protected from the normal inclement elements.

2.3.9 Market Analysis and Stimulation of Bidder Interest - The Construction Manager shall monitor conditions in the construction market to identify factors that will or may affect costs and time for completing the Project. The Construction Manager shall submit to the City's Representative a written "Construction Market Analysis and Prospective Bidders Report" setting out recommendations and providing information as to prospective bidders. As various bid packages are prepared for bidding, the Construction Manager shall submit to the City's Representative and the Architect/Engineer a list of potential bidders. The Construction Manager shall be responsible to stimulate bidder interest in the City of Kissimmee marketplace and identify and encourage bidding competition. The Construction Manager shall carry out an active program of stimulating interest of qualified contractors in bidding on the Work and of familiarizing those bidders with the requirements of this Project.

2.4 Construction Phase - After the Construction Documents have been sufficiently completed by Architect/Engineer and approved by City's Representative for all the Work (or such portions thereof as may be designated by City in writing) and City and Construction Manager have agreed in writing upon the GMP to be paid to Construction Manager and the Contract Time for the Work (or designated portions thereof) as hereafter provided, Construction Manager shall fully perform and complete in a good and workmanlike manner the construction of the Work (or designated portions thereof) in accordance with all the terms and conditions of the Contract Documents.

2.4.1 Construction Manager's Staff - The Construction Manager shall maintain sufficient off-site support staff, and competent, full time, staff at the Project Site, authorized to

act on behalf of the Construction Manager to coordinate, inspect and provide general direction of the Work and progress of the subcontractors, and they shall provide no less than those personnel during the respective phases of construction that are set forth in Schedule 1 of the GMP Addendum. The Construction Manager shall not change any of those persons named in said Schedule unless mutually agreed to by the City's Representative and Construction Manager. In such case, the City's Representative shall have the right of approval of the qualifications of replacement personnel. Such approval will not be unreasonably withheld.

2.4.2 Lines of Authority - The Construction Manager shall establish and maintain lines of authority for their personnel, and shall provide this definition to the City's Representative and all other affected parties, such as the code inspectors of the permitting agencies, the subcontractors and the Architect/Engineer, to provide general direction of the Work and progress of the various phases and subcontractors. The City's Representative and Architect/Engineer may attend meetings between the Construction Manager and his subcontractors; however, such attendance shall not diminish either the authority or responsibility of the Construction Manager to administer the subcontracts.

2.4.3 Schedule and Project Manual Provisions - The Construction Manager shall provide subcontractors and the City, its representatives and the Architect/Engineer with copies of the Project Manual (total number of copies not to exceed 10) developed and updated as required by Article 2, expanded for the Construction Phase employing their respective milestones, beginning and finishing dates, their respective responsibilities for performance and the relationships of their work with respect to subcontractors and suppliers. The Construction Manager shall also continue to provide current scheduling information, direction and coordination regarding milestones, and beginning and finishing dates. The Construction Manager is also responsible for performance and the relationships of his work to the work of his subcontractors and suppliers, to enable them to perform their respective tasks, so that the development of construction progresses in a smooth and efficient manner in conformance with the Master Project Schedule.

2.4.4 Solicitation of Bids Without assuming responsibilities of the Architect/Engineer, the Construction Manager shall prepare invitations for bids, or requests for proposals when applicable, for all procurement of long lead items, materials and services, for Subcontractor contracts and, if directed by the City, for site utilities. Such invitations for bids shall be prepared in accordance with the following guidelines:

2.4.4.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Construction Manager shall obtain bids from subcontractors, vendors, consultants and from suppliers of materials or equipment fabricated to a special design for the Work. The Construction Manager shall strive to receive at least three competitive bids per trade package. Should the nature of the trade package prohibit three competitive bids, the Construction Manager shall notify the City's Representative in writing as to the reason and offer suggestions, if any, to create trade interest.

2.4.4.2 The Construction Manager shall be responsible for coordinating with the Architect/Engineer and preparing all information that is the responsibility of the Construction Manager for bidding of the separate bid packages.

2.4.4.3 The Construction Manager and the City's Representative shall mutually agree when and if to conduct a pre-bid conference with prospective bidders and the Architect/Engineer. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, the Construction Manager shall transmit these to the City's Representative and the Architect/Engineer and, upon receiving clarification or correction in writing, shall prepare an addendum to the bidding document, and issue same to all of the prospective bidders.

2.4.5 Subcontracts Subject to Article 6 and, in accordance with Article 2, Section 2.4.4, the Construction Manager shall award subcontracts to the qualified low bidder after the Construction Manager and the City have reviewed each proposal and are satisfied that the subcontractor/supplier is qualified to perform the work. Construction Manager shall make available to each proposed subcontractor, prior to the execution of the subcontract, complete copies of the Contract Documents to which the subcontractor will be bound by this Section 2.4.5 and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents. Each subcontractor shall similarly make copies of such documents available to its sub-subcontractors.

2.4.5.1 All subcontracts shall: (1) require each subcontractor to be bound to Construction Manager to the same extent Construction Manager is bound to City by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the subcontractor, (2) provide for the assignment of the subcontracts from Construction Manager to City at the election of City, upon termination of Construction Manager, (3) provide that City will be an additional indemnified party of the subcontract, (4) provide that City will be an additional insured on all insurance policies required to be provided by the subcontractor, except workman's compensation, (5) assign all warranties directly to City, and (6) identify City as an intended third-party beneficiary of the subcontract.

2.4.5.2 Unless otherwise expressly agreed to by City in writing, all subcontracts shall provide: **LIMITATION OF REMEDIES – NO DAMAGES FOR DELAY** The subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the City or Architect/Engineer or attributable to the City or Architect/Engineer and including claims based on breach of contract or negligence, shall be an extension of its contract time and shall in no way involve any monetary claim. Each subcontract shall require that any claims by the subcontractor for delay must be submitted to the Construction Manager within the time and in the manner in which the Construction Manager must submit such claims to the City, and that failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

- 2.4.5.3 **Subcontractual Relations** - The Construction Manager shall require each Subcontractor to assume all the obligations and responsibilities which the Construction Manager owes the City, under the agreement, by the parties to the extent of the work to be performed by the subcontractor. Said agreements shall be made in writing and shall preserve and protect the rights of the City and Architect/Engineer under the Contract Documents, with respect to the Work to be performed by the subcontractor, so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Construction Manager shall require each subcontractor to enter into similar agreements with its sub-subcontractor.
- 2.4.5.4 Insurance requirements for subcontractors shall be no more stringent than those requirements imposed on the Construction Manager by the City. The Construction Manager shall be responsible to the City for the acts and omissions of his employees, agents, subcontractors, their agents and employees, and all other persons performing any of the work or supplying materials under a contract to the Construction Manager.
- 2.4.5.5 If bids are not received for a portion of the Work at or below the applicable line item amount in the GMP Addendum, the Construction Manager reserves the right to perform that portion of the Work, or negotiate for its performance for the specified line item lump sum amount or less.
- 2.4.6 A Public Construction Bond in the total amount of the GMP, along with all insurance certificates will be provided by the Construction Manager after approval of the GMP by the City Commission, in the form attached hereto and incorporated herein as **Exhibit "L"**. No work shall be performed until these documents are provided and the certificates are current.
- 2.4.6.1 The Bond shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents.
- 2.4.6.2 All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570, as amended by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department and A.M. Best rated A VIII or better.
- 2.4.6.3 If the surety on any Bond furnished by the Construction Manager is declared bankrupt, becomes insolvent, its right to do business is terminated in any state or it ceases to meet the requirements of Section 2.4.6.2, the Construction Manager shall within ten (10) days thereafter substitute another Bond and surety, both of which must be acceptable to the City.
- 2.4.6.4 All Bonds and insurance required by the Contract Documents to be purchased and maintained by the Construction Manager shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Florida to issue bonds or insurance policies for the limits and coverage so required. All bonds signed by an agent must be accompanied by a certified copy of authority to act.

2.4.7 Quality Control - The Construction Manager shall develop and maintain a written program, acceptable to the City's Representative and Architect/Engineer, to assure quality control of the construction. The Construction Manager shall supervise the work of all subcontractors, providing instructions to each when their work does not conform to the requirements of the Construction Documents, and the Construction Manager shall continue to exert thier influence and control over each subcontractor to ensure that corrections are made in a timely manner, so as to not affect the efficient progress of the Work. Should disagreement occur between the Construction Manager and Architect/Engineer over acceptability of Work and conformance with the requirements of the Construction Documents, the City's Representative shall be the final judge of performance and acceptability, subject to the dispute provisions of this Agreement.

2.4.8 Submittals and Substitutions- Construction Manager shall carefully examine the Contract Documents for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. Construction Manager shall submit all such materials in such form and manner as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof. The Construction Manager shall also carefully review and certify for accuracy and completeness all shop drawings and other submittals and then forward the same to the Architect/Engineer for review and action. Within 14 days, the Architect/Engineer will transmit them back to the Construction Manager, who will then issue the submittals to the affected subcontractor for fabrication or revision. The Construction Manager shall maintain a suspense control system to promote the expeditious handling of shop drawings and all other submittals. The Construction Manager shall request the Architect/Engineer to make interpretations of the drawings or specifications requested of it by the subcontractors. The Construction Manager shall advise the Architect/Engineer in writing which submittals or requests for clarification have the greatest urgency; the purpose being to enable the Architect/Engineer to prioritize requests coming from the Construction Manager. The Construction Manager shall advise the City's Representative and Architect/Engineer in writing when timely response is not occurring on any of the above.

2.4.8.1 If Construction Manager wishes to furnish or use a substitute item of material or equipment, Construction Manager shall make application to Architect/Engineer for acceptance thereof, certifying that the proposed substitute shall perform adequately the functions and achieve the results called for by the general design, be similar and at least of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Construction Manager's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with City for the Project) to adapt the design to the proposed substitute, and whether or not incorporation or use by the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement services shall be indicated. The application also shall contain an itemized estimate of all costs or

savings that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by Architect/Engineer in evaluating the proposed substitute. Architect/Engineer may require Construction Manager to furnish, at Construction Manager's expense, additional data about the proposed substitute.

2.4.8.2 If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Construction Manager may furnish or utilize a substitute means, method, technique, sequence or procedure of construction acceptable to Architect/Engineer, if Construction Manager submits sufficient information to allow Architect/Engineer to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedures for submission to and review by Architect/Engineer shall be the same as those provided herein for substitute materials and equipment.

2.4.8.3 Architect/Engineer shall be allowed a reasonable time within which to evaluate each proposed substitute. Architect/Engineer and City's Representative shall be the sole judges of the acceptability of any substitute. No substitute shall be ordered, installed or utilized without City's and Architect/Engineer's prior written acceptance which shall be evidenced by either a Change Order or an approved submittal. City may require Construction Manager to furnish, at Construction Manager's expense, a special performance guarantee or other surety with respect to any substitute. The cost of such guarantee may be reimbursable from the City's Owner Allowance or Buyout Allowance funds, provided that this cost is presented with the proposed substitute. If City rejects the proposed substitute, at City's direction, City may require Construction Manager to reimburse City for the charges of Engineer and Engineer's consultants for evaluating the proposed substitute.

2.4.9 Subcontractor Interfacing - The Construction Manager shall be the single point of interface with all subcontractors for the City and the City's Representative, including the Architect/Engineer.

2.4.10 Permits - The Construction Manager shall secure and pay for all permits and/or licenses which are customarily secured by a General Contractor. If Construction Manager performs any Work without obtaining, or contrary to, such permits or licenses, Construction Manager shall bear all costs arising therefrom. Cost for all re-inspections of Work found defective and subsequently repaired, shall be borne by the Construction Manager, unless such cost is not a result of negligence on the part of the Construction Manager.

2.4.11 Project Administration - The Construction Manager shall provide Project Administrative functions during construction to assure proper documentation, including, but not limited to, such things as the following:

2.4.11.1 Job Meetings - Hold weekly progress and coordination meetings, or more or less frequently, if required, to provide for the timely completion of the Work. In addition, a regular monthly Project status meeting will be held between the Architect/Engineer, City's Representative and Construction

Manager. The meetings shall serve as a tool for planning of work and enforcing schedules and for establishing procedures and responsibilities.

- 2.4.11.2 Shop Drawing Submittals/Approvals – Check shop drawings and implement procedures to be approved by City's Representative for submittal and transmittal to the Architect/Engineer and City's Representative of such drawings for action, and closely monitor their submittal and approval process.
- 2.4.11.3 Material and Equipment Expediting – Closely monitor material and equipment deliveries, follow-up procedures on supplier commitments of all subcontractors, and maintain a material and equipment expediting log.
- 2.4.11.4 Payments to subcontractors - Develop and implement a procedure for review, processing, and payment of applications by subcontractors for progress and final payments.
- 2.4.11.5 Document Interpretation (RFI) - Refer all questions for interpretation of the Construction Documents to the Architect/Engineer with a copy to the City's Representative.
- 2.4.11.6 Reports and Project Site Documents - Record the progress of the Project. Submit written progress reports to the City's Representative and the Architect/Engineer including information on the subcontractors' work, and the percentage of completion. Keep a daily log available to the City, the Engineer and the permitting authority's inspectors.
- 2.4.11.7 Subcontractors' Progress - Prepare periodic punch lists for the subcontractors' work, including unsatisfactory or incomplete items and schedules for their completion.
- 2.4.11.8 Start-Up - With the City's personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the trade contractors.
- 2.4.11.9 Safety – Provide a safety program for the Project to meet OSHA requirements. Monitor for subcontractor compliance without relieving them of responsibilities to perform Work in accordance with the best acceptable practice.
- 2.4.11.10 Record Drawings - The Construction Manager shall monitor the progress of his own forces and his Subcontractors on marked up field prints, which at project completion, shall be sent to the Architect/Engineer, who will prepare the final record drawings. The Construction Manager shall continuously review "As-Built" Drawings and marked up progress prints to provide as much accuracy as possible.
- 2.4.11.11 Systems Maintenance and Instruction - The Construction Manager shall catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey those to the City in such a manner as to promote their usability. The Construction Manager shall provide City's operations and maintenance personnel with operations and

maintenance training with respect to the equipment and systems being provided as part of the Work. This training shall be videotaped by Construction Manager for subsequent presentation to City's operations and maintenance personnel.

2.4.11.12 Administrative Records - Construction Manager shall maintain in a safe place at the Project Site Office Facility, one record copy and one permit set of the Contract Documents, including, but not limited to, all Construction Documents, addenda, amendments, Change Orders, Construction Change Directive and Field Orders, as well as all written interpretations and clarifications issued by Architect/Engineer, in good order and annotated to show all changes made during construction. The record Contract Documents shall be updated by Construction Manager throughout the prosecution of the Work to accurately reflect all field changes that have been made to adapt the Work to field conditions, changes resulting from Change Orders, Construction Change Directive and Field Orders, and all concealed and buried installations of piping, conduit and utility services. Construction Manager shall certify the accuracy of the updated record Contract Documents. As a condition precedent to City's obligation to make a monthly progress payment, Construction Manager shall provide evidence, satisfactory to City's Representative and Architect/Engineer, that Construction Manager is fulfilling its obligation to update the record Contract Documents. All buried and concealed items, within the Project site, shall be accurately located on the record Contract Documents as to depth and in relationship to not less than 2 permanent features. The record Contract Documents shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in red. The record Contract Documents, together with all approved samples and a counterpart of all approved shop drawings, shall be available to City's Representative and Architect/Engineer for reference. In addition, the Construction Manager shall be required to maintain at the Project Site Office Facility on a current basis, electronic and/or copies of files and records such as, but not limited to the following:

- Contracts [subcontracts]
- Purchase Orders
- Shop Drawing Submittal/Approval Logs
- Equipment Purchase/Delivery Logs
- Contract Drawings and Specifications with Addenda
- Warranties and Guarantees
- Cost Accounting Records
- Labor Costs
- Material Costs
- Equipment Costs
- Cost Proposal Requests
- Payment Request Records
- Meeting Minutes
- Cost Estimates
- Bulletin Quotations
- Lab Test Reports
- Insurance Certificates and Bonds
- Contract Changes

Construction Change Directives
Permits
Purchase Orders
Material Purchase Delivery Logs
Technical Standards
Design Handbooks
"As-Built" Marked Prints
Operating & Maintenance Instruction
Daily Progress Reports
Monthly Progress Reports
Correspondence Files
Transmittal Records
Inspection Reports
Bid/Award Information
Bid Analysis and Negotiations
Punch Lists
PMIS Schedule and Updates
Suspense (Tickler) Files of Outstanding Requirements
Project Manual
Job Photographs

2.5 Final Completion:

2.5.1 Substantial Completion: When the entire Work (or any portion thereof designated in writing by City) is ready for its intended use, Construction Manager shall notify City's Representative and Architect/Engineer in writing that the entire Work (or such designated portion) is substantially complete and request that Architect/Engineer prepare a Certificate of Substantial Completion (or a Certificate of Partial Substantial Completion), a copy of which is attached as **Exhibit "D"**. Said written notice from Construction Manager shall include a proposed punch list of all items of Work to be completed or corrected by Construction Manager. Within a reasonable time thereafter, City's Representative, Construction Manager and Architect/Engineer shall make an inspection of the Work (or designated portion thereof) to determine the status of completion. If City's Representative and Architect/Engineer do not consider the Work (or designated portion) substantially complete, Architect/Engineer shall notify Construction Manager in writing giving the reasons therefore. If City and Architect/Engineer consider the Work (or designated portion) substantially complete, Architect/Engineer shall deliver to Construction Manager the Certificate of Substantial Completion (or Certificate of Partial Substantial Completion) which shall fix the date Substantial Completion for the entire Work (or designated portion thereof) is actually achieved by Construction Manager and include a final punch list of items to be completed or corrected by Construction Manager before final payment. Failure to include an item on the final Punch List does not waive City's right to demand completion of the item pursuant to the Contract Documents prior to or after final payment.

2.5.2 Final Acceptance: When Construction Manager believes it has fully performed all of the Services, including all punch list items, Construction Manager shall deliver to City's Representative all items listed on **Exhibit "G"**, which includes, but is not limited to, a written Release and Affidavit from Construction Manager certifying that all Work has been completed in accordance with the requirements of the Contract Documents. That written affidavit shall be in conformance with **Exhibit "E"** and

shall be delivered to City's Representative by Construction Manager at the same time it submits its final Application for Payment. After receipt of such affidavit, the final Application for Payment and all other documents required for Project close-out, Architect/Engineer and City's Representative shall promptly inspect the Work to determine if all of the Work has been completed and is ready for Final Acceptance by City. If City's Representative and Architect/Engineer determine Construction Manager has completed the entire Work and performed all of the Services, City's Representative shall promptly approve the Final Completion Certificate of the Project, stating that, to the best of its knowledge, information and belief, and on the basis of its observations and inspections: (i) all of the Services have been completed in accordance with the requirements of the Contract Documents; (ii) the final balance due Construction Manager, as noted in the final Certificate for Completion, is due and payable; and (iii) all conditions precedent to Construction Manager's entitlement to final payment has been satisfied. Neither the final payment nor any retainage shall become due and payable until Construction Manager submits: (1) the final Release and Affidavit in the form attached to the Agreement as Exhibit "E", (2) consent of surety to final payment, and (3) other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by City. City reserves the right to inspect the Work and make an independent determination as to the Work's acceptability, even though Architect/Engineer may have issued its recommendations. Until the Construction Manager completes all of its contractual obligations, with the exception of the Warranty period, neither the final payment nor any retainage shall become due and payable.

The City may occupy or take control of portions of the project providing the above items discussed in this paragraph have been completed and the "Substantial Completion", "Start-Up", "Record Drawing", and "Warranty" requirements specified in Article 2, Sections 2.4.11.8, 2.4.11.10, 2.5.1 and 2.6 have been completed to the City's satisfaction for the portions to be occupied, excluding the requirements for a warranty inspection eleven (11) months after Substantial Completion.

2.6 Warranty and Corrective Period

- 2.6.1 The Construction Manager shall warrant that all materials and equipment included in the Work will be new, except where indicated otherwise in Contract Documents, and that the Work will be of good quality, free from improper workmanship and defective materials and in conformance with the Construction Documents.
- 2.6.2 The Construction Manager shall collect and deliver to the City's Representative any specific written warranties given by others as required by the Contract Documents. Also, the Construction Manager shall conduct, jointly with the City's Representative and the Architect/Engineer, a warranty inspection eleven (11) months after the date of Substantial Completion of the Project. Construction Manager shall obtain and assign to City all express warranties given to Construction Manager by any subcontractors or by any supplier of materials, equipment or fixtures to be incorporated into the Project. Construction Manager further warrants to City that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. Further, any special

warranty to be provided will be in such form as is acceptable to City and shall not include any exclusions, exceptions or modifications except to the extent approved by City in its sole discretion.

- 2.6.3 In addition to the express warranties provided for in Sections 2.6.1 and 2.6.2, and all other rights and remedies available to City at law or in equity, including any implied warranties City may be entitled to as a matter of law, Construction Manager shall promptly correct, upon receipt of written notice from City's Representative, any portion of the Work which is found to be defective or otherwise not in conformance with the requirements of the Contract Documents. In the event that any defective or non-conforming work is deemed by City in its sole discretion to present an immediate threat to safety or security, City shall be entitled to correct and fix such defective or non-conforming portions of the Work, and Construction Manager shall reimburse City for all costs and expenses incurred by City in performing such Work. This obligation to correct defective or nonconforming Work shall run for a period of one year (or such longer period of time as may otherwise be specified in the Contract Documents) commencing from the date Substantial Completion is achieved.

- 2.6.4 With respect to the correction of any defective or nonconforming Work, Construction Manager shall be liable for all damage to any part of the Work itself and to any adjacent property which is caused by such corrective work. Construction Contingency Funds may be utilized to correct such damage provided that damage was not caused by negligence on the part of the Construction Manager. Construction Manager's warranty excludes remedy for damage or defect caused by City's abuse, modifications not performed by Construction Manager, improper or insufficient maintenance by City (unless such maintenance was performed in accordance with the directions from Construction Manager), improper operation by City (unless such operations were performed in accordance with the directions from Construction Manager), or normal wear and tear under normal usage.

ARTICLE 3

CITY'S RESPONSIBILITIES

3.1 **City's Information:**

The City shall provide full information regarding the requirements for the Project.

3.2 **City's Representative:**

The City shall designate in writing any additional representatives authorized to act on the City's behalf with respect to the Project, together with the scope of his/her respective authority. In no event, shall any delegation of authority be contrary to State or City laws or codes. Such designations as of the date hereof are set forth in Section 1.3.18. Functions that this Agreement provides, which will be performed by the City, can be delegated by written notice to the Construction Manager from the City. The designation(s) of City's Representative, as set forth in Section 1.3.18, may be amended from time to time by the City, pursuant to written notice to the Construction Manager of such amendment. The Construction Manager shall be entitled to rely on directions (and it shall be required to follow directions) from the City's Representative within the authority conferred by the City

Commission in this Agreement or any Amendment or Change Order to this Agreement. The City Commission hereby authorizes the City's Representative to: (1) act as the Board's agent and execute documents associated with the Project. Examples of these documents are Notices of Commencement, Certificates of Substantial and Final Completion and permits from applicable agencies; (2) administer, coordinate, interpret and otherwise manage the contractual provisions and requirements of this Agreement; (3) negotiate a duly authorized Change Order on behalf of the City; and (4) issue a duly authorized memorandum, letter or other instrument covering the services and work to be provided pursuant to this Agreement. Directions and decisions made by City's Representatives shall be binding on the City. The City's Representative does not have the authority to authorize work beyond the scope of the Contract Documents.

The City additionally authorizes the City Manager, or his designee, in conjunction with the City's Representative, to authorize individual changes in the Work up to \$100,000.00. Said changes shall be funded from the City's Allowance and shall not cause an increase to City's Project Budget.

3.3 Design Engineer and Engineer's Agreement:

The City shall retain an Architect/Engineer for design and to prepare Construction Documents for the Project. The Architect/Engineer's services, duties and responsibilities are described in the Agreement between the City and the Architect/Engineer, a copy of which will be furnished to the Construction Manager.

3.4 Site Survey and Reports:

The City shall provide for the site of the Project all surveys describing the physical characteristics, soil reports, and subsurface investigations, legal limitations, utility locations, and a legal description.

3.5 Approvals and Easements:

The City shall pay for necessary approvals, properties, easements, assessments and charges required for the construction, use or acceptance of permanent structures or for permanent changes in existing facilities.

3.6 Legal Services:

The City shall furnish such legal services as may be necessary for providing the items set forth in Article 3, Section 3.5, and such auditing services as it may require.

3.7 Construction Documents:

The Construction Manager shall be furnished a reproducible set of all copies of the Construction Documents reasonably necessary and ready for printing.

3.8 Cost of Surveys & Reports:

The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the City's expense. Construction Manager shall rely upon the accuracy and completeness

thereof as noted in the various reports and surveys. Additional reports or surveys deemed to be necessary by the Construction Manager shall be obtained by the Construction Manager.

3.9 Project Fault Defects:

If the City becomes aware of any fault or defect in the Project or non-conformance with the Construction Documents, the City shall give prompt written notice thereof to the Construction Manager and Architect/Engineer.

3.10 Funding:

The City shall furnish, in accordance with the established Master Program Schedule, reasonable evidence satisfactory to the Construction Manager that sufficient funds will be available and committed for the cost of each part of the Project. The Construction Manager shall not commence performance of any Services, unless authorized in writing by the City.

3.11 Permitting & Code Inspections:

The City and Construction Manager shall coordinate with the appropriate permitting authorities.

ARTICLE 4

CONTRACT TIME

- 4.1** The total period of time beginning with the Construction Phase Commencement Date and ending on the date of Final Completion of the Work is referred to hereafter as the "Contract Time". With respect to the Construction Phase Services, the "Construction Phase Commencement Date" shall be established in the GMP Addendum. No portion of the Work, with respect to the Construction Phase Services, shall be performed prior to the Construction Phase Commencement Date, unless expressly approved in advance by the City in writing. The GMP Addendum shall also include the date that portion of the Work associated with the Construction Phase Services must be substantially completed by Construction Manager. The "Substantial Completion" date shall be established in terms of calendar days after the Construction Phase Commencement Date. Unless noted otherwise, the Final Completion Date is 30 (thirty) days after Substantial Completion. In the event Construction Manager and City fail to reach an agreement on the Contract Time, City may elect to terminate this Agreement. In the event of any such termination, Construction Manager shall be entitled to receive that portion of the Contract Amount attributable to the Pre Construction Phase Services earned to the date of termination plus that portion of any earned compensation associated with any Construction Phase Services provided, to the extent such services were expressly approved in advance and in writing by City; but Construction Manager shall not be entitled to any further or additional compensation from City, including, but not limited to, damages or lost profits on portions of the Work not performed.
- 4.2** Liquidated Damages. City and Construction Manager recognize that, since time is of the essence for this Agreement, City will suffer financial loss if the Work associated with the Construction Phase is not substantially completed within the time specified in the GMP

Addendum, as said time may be adjusted as provided for herein. In such event, the total amount of City's damages, will be difficult, if not impossible, to definitively ascertain and quantify, because this is a public construction project that will, when completed, benefit the public in the City of Kissimmee, Florida. It is hereby agreed that it is appropriate and fair that the City receive liquidated damages from Construction Manager, if Construction Manager fails to achieve Substantial Completion of the Work within the required Contract Time. Should Construction Manager fail to substantially complete the Work within the required time period, the City shall be entitled to assess, as liquidated damages, but not as a penalty, the amount specified in the GMP Addendum, for each calendar day thereafter until Substantial Completion is achieved. Construction Manager hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represent a fair and reasonable estimate of City's actual damages at the time of contracting if Construction Manager fails to substantially complete the Work in a timely manner.

ARTICLE 5

CONTRACT TIME EXTENSIONS

- 5.1 Should Construction Manager be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Construction Manager, and not due to its fault or neglect, including but not restricted to acts of God or the public enemy, acts of government, fires, floods, epidemics, quarantine regulation, strikes, lockouts, utility work being performed within the Project limits, or by unusually severe weather conditions by comparison with the ten year Osceola City, Florida average not reasonably anticipatable, Construction Manager shall notify City's Representative and Architect/Engineer, in writing within seven (7) calendar days after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Construction Manager may have had to request a Contract Time Extension. Contract Time Extension requests shall be evaluated through the Change Order process.
- 5.2 If Construction Manager encounters on the Project site any materials reasonably believed by Construction Manager to be petroleum, or petroleum related products, or other hazardous or toxic substances which have not been rendered harmless, Construction Manager immediately shall: (i) stop Work in the area affected, and (ii) report the condition to City's Representative in writing. If the Work is so stopped in excess of ten (10) days and hazardous material is found, the Work in the affected area shall not thereafter be resumed except by Change Order. Any such Change Order shall include, but not be limited to, an adjustment to the Contract Time as appropriate. If no hazardous material is found after the Work is stopped, no Change Order is required to resume the Work in the affected area. Further, if the hazardous material was generated or caused by the Construction Manager or any of its employees, agents, subcontractors, or material suppliers, no Change Order will be required for an adjustment in the Contract Time and Construction Manager shall indemnify the City and hold City harmless for any costs incurred by the City with respect to such material.
- 5.3 **NO DAMAGES FOR DELAY.** No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which the City and Architect/Engineer may be responsible, in whole or in part, shall relieve Construction Manager of his duty to perform, or give rise to any right to damages or additional compensation from the City. Construction Manager's sole remedy, if any, against the City will be the right to seek an extension to the Contract Time and the payment

of additional Costs of the Work and associated increase in the Construction Manager's Fee, as allowed pursuant to Article 6. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion. In no event shall the City be liable to Construction Manager, whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any acceleration, soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.

ARTICLE 6

CONTRACT AMOUNT

6.1 In consideration of the full and faithful performance by the Construction Manager of the covenants in this Agreement, City agrees to pay, or cause to be paid, to Construction Manager the following amounts (hereinafter collectively referred to as "Contract Amount"), in accordance with the terms of this Agreement and with the Hourly Rate Schedule attached hereto and incorporated herein as **Exhibit "K"**. The Hourly Rate Schedule identifies all job classifications which will perform billable services pursuant to this Agreement and the fee for each job classification. Performance of work by personnel in job classifications not listed on the fee schedule will result in nonpayment for such services.

6.1.1 **Pre-Construction Phase Services** - For all Pre-Construction Phase Services enumerated in this Agreement, including, but not limited to, providing value engineering, reviewing documents for constructability, assisting and meeting with the City and the Design professionals, preparing cost estimates and schedules and preparing the GMP Proposal, Construction Manager shall receive the lump sum amount as specified in the Pre-Construction Services Addendum, attached to the Agreement as **Exhibit "B"**, and in accordance with the payment schedule set forth in said Addendum.

6.1.2 **Construction Phase Services** – With respect to the Construction Phase Services to be provided by Construction Manager, City shall: 1) reimburse Construction Manager for the Cost of the Work; and 2) pay the Construction Manager a Construction Manager's Fee to be negotiated as part of the GMP Addendum process.

6.1.2.1 **Construction Manager's Fee**: The Construction Manager's Fee shall be Construction Manager's total compensation for the Construction Manager's profit on the Cost of the Work, as defined below. Construction Manager agrees to provide City with a GMP Proposal for the total sum of the Construction Manager's Fee, plus the Cost of the Work, plus the Construction Manager's Contingency, after the Construction Manager determines the Construction Documents are sufficiently complete.

6.1.2.2 The GMP Proposal shall be based upon actual subcontractor cost proposals with the various subcontractors. Further, the proposal shall be broken down into the categories and level of detail required by City's Representative. Construction Manager agrees that all its books, records and files, with respect to its development of the GMP Proposal, shall be open to City for review and copying. The final GMP Proposal shall be mutually agreed upon by City and Construction Manager and shall be set forth in the GMP Addendum (**Exhibit "C"**). The GMP Addendum shall further identify the drawings, specifications (Schedule 1 of the GMP Addendum) and other

descriptive documents (Schedule 4 of the GMP Addendum) upon which the GMP is based. The Construction Manager guarantees that in no event shall the sum of the Construction Manager's Fee, the total Cost of the Work, and the Construction Manager's Contingency exceed the GMP. The Construction Manager acknowledges multiple GMP Addendums may be required for the portions of the Project to support the Project phasing and schedule.

6.1.2.3 The amount to be paid for Construction Manager's Fee shall be stated in the GMP Addendum. The Construction Manager's Fee shall be paid proportionally to the ratio of the Cost of the Work completed. The balance of the Construction Manager's Fee shall be paid at Final Completion. If construction is authorized for a portion of the Project, the Construction Manager's Fee shall be paid proportionally to the amount of the Work authorized by the City.

6.1.2.4 In the event Construction Manager and City fail to reach an agreement on the GMP, the City may elect to terminate this Agreement. In the event of any such termination, Construction Manager shall be entitled to receive that portion of the Contract Amount attributable to the completed Pre Construction Phase Services; but Construction Manager shall not be entitled to any further additional compensation from City, including but not limited to damages or lost profits on portions of the Work not performed. Construction Manager may be required to continue to provide all other agreed upon Pre Construction services.

6.1.2.5 The Construction Manager will not be due any increases in the Construction Manager's Fee on increases in the GMP value that do not exceed a cumulative total of a specified amount which shall be stated as a "nominal overage" in the GMP Addendum. Should the GMP value be increased by more than such nominal overage amount under the terms of Article 7 hereinafter due to no fault of the Construction Manager, the Construction Manager's additional Construction Manager's Fee will be (5) five percent of that portion of the accumulative increases in the GMP value that exceed the GMP value by more than such nominal overage amount.

6.1.3 Cost of the Work. The Phrase "Cost of the Work" shall mean all costs necessarily and reasonably incurred by Construction Manager in the proper performance of the Construction Phase Services portion of the Services. Such costs shall be at rates not higher than the standard paid at the place of the Project except with the prior written consent of City only after Construction Manager has provided sufficient support in writing that exceptional circumstances exist, which justify the payment of rates higher than the standard. The Cost of the Work shall include only those items set forth below in this subsection 6.1.3:

6.1.3.1 Construction Phase Costs: The following items constitute the elements that can be included in the Construction Phase Cost calculations.

6.1.3.1.1 Wages of construction workers directly employed by Construction Manager to perform the construction of the Work at the Project site or, with City's written agreement, at off-site workshops;

6.1.3.1.2 Wages of Construction Manager's supervisory, technical and administrative personnel who are stationed at the Project site as specified in Schedule 1 to the proposed GMP;

6.1.3.1.3 Wages of Construction Manager's supervisory and administrative personnel engaged at factories, workshops or on the road in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work and only with City's written agreement;

6.1.3.1.4 Wages of Construction Manager's supervisory, technical, and administrative personnel when assigned to this Project and specifically working on this Project, as specified in Schedule 1 to the proposed GMP;

6.1.3.1.5 Payments made by Construction Manager to subcontractors in accordance with the requirements of the applicable written subcontracts;

6.1.3.1.6 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents;

6.1.3.1.7 Cost of all materials, supplies and equipment incorporated in the Project, including costs of transportation and storage thereof;

6.1.3.1.8 Minor expenses at the site, such as internet, long distance telephone calls, telephone service, expressage, postage, and similar petty cash items in connection with the Project to be billed at cost.

6.1.3.2 Subcontract and Material Costs. All Subcontractor Costs will be documented and signed by Subcontractor invoices and all material costs will be documented by copies of invoices. Subcontract and Material Costs may also be referred to as "Reimbursable Costs". All requests for payment of expenses eligible for reimbursement under the terms of this Agreement, unless otherwise specifically stated herein, shall be reimbursed per the City's Reimbursable Schedule that is attached hereto as Exhibit "J" and made a part of this Agreement. Reimbursable Costs shall include:

6.1.3.2.1 Rental charges on all necessary machinery and equipment, exclusive of hand tools used at the site of the Project, whether rented from the Construction Manager or other, including installation, repairs and replacement, dismantling, removal, costs of lubrication, transportation and delivery costs thereof, which are used in the support of a sub-contractor or the Construction Manager's own forces in the performance of the work, at rental charges consistent with those prevailing in the area;

6.1.3.2.2 Cost of the premiums for all insurance and cost of premiums for all bonds, which the Construction Manager is required to procure by this Agreement specifically for the construction project. General Liability will be cost at a fixed rate of a specified percentage, to be stated in the GMP Addendum of the final Contract Amount, adjusted

to include any previously deducted City Direct Purchase amounts, and Construction Manager bonds will be cost at a fixed rate of a specified percentage, to be stated in the GMP Addendum. The premium stated will be substantiated with industry standard documentation. The cost of the work shall include any subcontractor bonds the Construction Manager deems appropriate. **There shall be no Construction Phase Fee on this item;**

6.1.3.2.3 Losses and expenses sustained by the Construction Manager in connection with the work, not compensated by insurance, including deductibles, provided they have resulted from causes other than the negligent misconduct of Construction Manager;

6.1.3.2.4 Sales, use, gross receipts or similar taxes related to allowable direct costs of the Project imposed by any governmental authority, and for which the Construction Manager is liable;

6.1.3.2.5 The cost of corrective work, subject to the GMP, except for any corrective work made necessary because of defective workmanship, or other causes due to the negligence of the Construction Manager or his subcontractors or suppliers. No costs shall be paid by the City to the Construction Manager for any expenses made necessary to correct defective workmanship, or to correct any work not in conformance with the Plans and Specifications, or to correct any deficiency or damage caused by negligent acts by the Construction Manager;

6.1.3.2.6 Costs for repairs and maintenance, which are consistent with industry standards associated with work required during the warranty period, which may be the responsibility of Construction Manager. This shall not apply to work, which is the responsibility of Subcontractors, except in the case of a Subcontractor's default;

6.1.3.2.7 Costs for trash and debris control and removal from the site;

6.1.3.2.8 Costs incurred due to an emergency affecting the safety of persons and property;

6.1.3.2.9 Legal costs reasonably and properly resulting from prosecution of the Project for the City, including handling claims for changes by Subcontractors and Vendors, subject to the following limitations: 1) The City approved, in writing, incurring such costs in advance, which approval shall be in the City's sole discretion; and 2) the legal costs were not incurred as result of the Construction Manager's own negligence or default. This paragraph does not provide for payment of legal costs incurred in preparing or asserting claim or requests, by Construction Manager itself, for change orders, or in enforcing the obligations of this Agreement;

6.1.3.2.10 Transportation outside of Osceola County for those personnel employed directly for the project, not including relocation expenses. Such transportation must be extraordinary and be approved in

advance by the City's Representative, and will be in accordance with the Construction Manager's standard personnel policy;

- 6.1.3.2.11 Costs of all reproductions used for bidding or information purposes required by the Project to directly benefit the project;
- 6.1.3.2.12 Costs for security services for the project, if necessary;
- 6.1.3.2.13 Costs for efficient logistical control of the Project, including horizontal and vertical transportation of materials and personnel. Also, costs for adequate storage and parking space;
- 6.1.3.2.14 Costs for such temporary facilities and temporary protection during construction, as approved by the City, including temporary water, heat, power, sanitary facilities, telephones, radios and computers with software;
- 6.1.3.2.15 Costs for any job site items not referenced herein, not normally provided by the subcontractors, which will be provided by the Construction Manager as required to complete the Work;
- 6.1.3.2.16 Costs, including transportation, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities (including Project field offices, furniture and fixtures), temporary utilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by Construction Manager at the Project site and fully consumed in the performance of the Work; and costs less salvage value on such items if not fully consumed, whether sold to others or retained by Construction Manager;
- 6.1.3.2.17 Rental charges, at standard industry rates for the area, for temporary facilities, machinery, vehicles, equipment, and hand tools not customarily owned by the construction workers, which are provided by Construction Manager at the Project site, whether rented from Construction Manager or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Rates and quantities of all equipment rented, whether from Construction Manager or others, shall be subject to the prior written approval of City's Representative;
- 6.1.3.2.18 Costs, fees and assessments for the building permit and for other permits, licenses and inspections for which Construction Manager is required by the Contract Documents to pay;
- 6.1.3.2.19 Cost of Public Information Programs or other neighborhood functions hosted by Construction Manager at the direction of City's Representative;
- 6.1.3.2.20 Costs of testing laboratories for tests required by the Contract Documents, except those related to defective or nonconforming

Work for which reimbursement is excluded pursuant to the terms of this Agreement;

6.1.3.2.21 Cost of documentation, inspection and testing as required for the preparation of the Final Estimate and implementation of the FDOT Contractor Quality Control process;

6.1.3.3 Costs Not To Be Reimbursed. The Cost of the Work shall not include the following items: Except as provided in Article 6, Section 6.1.3.1:

6.1.3.3.1 Temporary living and travel expenses of employees who are not relocated, but are assigned to the Project;

6.1.3.3.2 Except as provided in the Fringe Benefits rate included in Article 6, Section 6.1.3.1.4, expenses of Construction Manager's principal office and offices other than the Project site office;

6.1.3.3.3 Overhead and general expenses, except as may be expressly included in Article 6, Section 6.1.3.1 and 6.1.3.2;

6.1.3.3.4 Construction Manager's capital expenses, including interest on Construction Manager's capital employed for the Work;

6.1.3.3.5 Rental costs of machinery and equipment, except as specifically provided in Article 6, Section 6.1.3.2.1;

6.1.3.3.6 Except as expressly provided in Article 6, Section 6.1.3.2.5, costs due to the negligence of Construction Manager, subcontractors, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including, but not limited to, costs for the correction of damaged, defective, or nonconforming Work, disposal and replacement of materials and equipment incorrectly ordered or supplied;

6.1.3.3.7 Any costs not specifically and expressly described in Article 6, Section 6.1.3.1 and 6.1.3.2 above;

6.1.3.3.8 Construction Manager is responsible, without reimbursement from City, for re-inspection fees and costs; to the extent such re-inspections are due to the negligence of the Construction Manager;

6.1.3.4 Adjustments in Construction Phase Costs: For changes in the Project as provided in Article 7, the Construction Phase Costs shall be adjusted as follows:

6.1.3.4.1 The Construction Manager shall be paid an additional amount, subject to negotiation, if the Construction Manager is placed in charge of reconstruction of an insured or uninsured loss, excluding any condition that may have been caused from negligent acts by the Construction Manager.

6.1.3.4.2 Should the construction duration for any phase extend longer than stipulated above, there shall be no additional Construction Phase

Costs or Construction Manager's Fee paid to the Construction Manager, unless such delays are as defined in Article 7.

- 6.1.4 City's Allowance: The GMP Addendum shall include the City's Owner Allowance, which permits the City to authorize the Construction Manager to perform work which may not have been specifically addressed in the original contract documents, but which the City deems necessary for the project. The City's Allowance is also intended to protect against price increases between the GMP Addendum and the completion of the 100% Construction Documents, as well as for the purpose of defraying the expenses due to unforeseen circumstances relating to construction, and for price increases attributable to any code compliance reviews. The Construction Manager will be required to furnish documentation evidencing expenditures charged to the City's Allowance prior to the release of funds by the City. Documentation for use of the City's Allowance shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the PMIS. The Architect/Engineer shall verify the actual costs. The maximum dollar amount of permitted Allowance Work shall be 5% of the GMP or \$250,000, whichever is less. The City Manager or his designee can approve the use of the City's Allowance up to \$50,000 per occurrence. When allowance funds are utilized for changes and/or additions to the work, the CM shall submit a written request to the City's Representative, in the same manner as a change order request. The City's Representative shall prepare an Allowance Authorization Release, in form attached here to as Exhibit "I" to this Agreement.

The GMP Addendum may, at the City's discretion, also contain allowance time, not to exceed fifteen (15) percent of the total amount of time allotted for the work. This time shall be used for any unforeseen changes to the work which may cause the time to be extended and will be granted via an Allowance Authorization Release, approved by the City Manager or his designee.

- 6.1.4.1 Following the full execution of the GMP Addendum, at a point mutually agreed upon between the City's Representative and Construction Manager, the net amount of the buyout will be reviewed. If the net amount of the total buyout results in excess funds being required, those funds may be taken from the City's Allowance. If the net amount of the buyout results in a savings, the savings will be assigned to the City's Buyout Allowance.
- 6.1.5 The City's Buyout Allowance shall be created by savings generated by the subcontractor buyout, unused contingency funds, and also by reductions in scope that otherwise could reduce the GMP. The intent of this City's Buyout Allowance is to allow funds already approved within the GMP Addendum to remain and be used at the City's discretion for scope issues that may become required and/or desired during the course of the project. Authorizations up to \$50,000, for the use of the City's Buyout Allowance, will be granted by the City Manager, or his designee. Authorizations for more than \$50,000 will be required to be obtained from the Commission. The City's Representative shall prepare an Allowance Authorization Release, in form attached here to as Exhibit "M" to this Agreement.

ARTICLE 7

CHANGE IN THE PROJECT

7.1 Change Orders:

- 7.1.1 City shall have the right, at any time during the progress of the Work, to increase or decrease the Work. Promptly after being notified of a change, but in no event more than 14 days after its receipt of such notification (unless City's Representative has agreed in writing to a longer period of time), Construction Manager shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or for minor changes ordered by the Architect/Engineer, no addition or changes to the Work shall be made except upon written order of City, and City shall not be liable to Construction Manager for any increased compensation or adjustment to the Contract Time without such written order.
- 7.1.2 A Change Order, in form attached here to as **Exhibit "H"** to this Agreement, shall be prepared by City's Representative, reviewed by Architect/Engineer and Construction Manager, and executed promptly by the parties after an agreement is reached between Construction Manager and City, concerning the requested changes. Construction Manager shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as City and Construction Manager shall mutually agree.
- 7.1.3 Notwithstanding anything in the Contract Documents to the contrary, if conditions are encountered at the Project site which are: (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, or (2) unknown physical conditions of any unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, and which reasonably would not have been discovered by Construction Manager as part of its scope of site investigative services required pursuant to the terms of the Contract Documents, then Construction Manager shall provide City's Representative with prompt written notice thereof before conditions are disturbed and in no event later than 48 hours after first observance of such conditions. City's Representative and Architect/Engineer shall promptly investigate such conditions and, if they differ materially and cause an increase or decrease in Construction Manager's cost of, or time required for, performance of any part of the Work, City will acknowledge and agree to an equitable adjustment to the Contract Amount or Contract Time, or both, for such Work. If City's Representative determines that the conditions at the site are not materially different from those indicated in the Contract Document or not of an unusual nature or should have been discovered by Construction Manager as part of its investigative services, and that no change in the terms of the Contract is justified, City shall so notify Construction Manager in writing, stating its reasons. Claims by Construction Manager in opposition to such determination by City must be made within 48 hours after Construction Manager's receipt of the written determination of City's Representative. If City's Representative and Construction Manager cannot agree on an adjustment to the Contract Amount or Contract Time, the parties shall comply with the dispute resolution procedure set forth in the Contract Documents.
- 7.1.4 The increase or decrease in the GMP as set forth in the GMP Addendum resulting from a change in the Project shall be determined in one or more of the following ways: 1) by mutual acceptance of a lump sum properly itemized and supported by

sufficient substantiating data to permit evaluation by the Architect/Engineer and City's Representative, or 2) by unit prices stated in the Agreement or subsequently agreed upon.

- 7.1.5 If none of the methods set forth in Article 7, Section 7.1.4 are agreed upon, the Construction Manager, provided they receive a written order signed by the City, shall promptly proceed with the Work involved. The increase or decrease in the GMP shall then be determined on the basis of the reasonable expenditures and savings of those performing the Work attributed to the change. However, in the event a Change Order is issued under these conditions, the Construction Manager shall establish an estimated cost of the work and the Construction Manager shall not perform any work whose cost exceeds that estimate, without prior written approval by the City's Representative. In such case, and also under Article 7, Section 7.1.4 above, the Construction Manager shall keep and present, in such form as the City's Representative may prescribe, an itemized accounting together with appropriate supporting data of the increase in the Cost of the Work as outlined in Article 6., Section 6.1.3.2.
- 7.1.6 If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order, and that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the City or the Construction Manager, the applicable unit prices and GMP shall be equitably adjusted.
- 7.1.7 In the event the Construction Manager encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, petroleum waste, biohazardous substances, radioactive waste or any other substance falling within the category of hazardous or toxic waste under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or any other state or federal environmental statute or regulation, hereinafter collectively referred to as "hazardous waste," the Construction Manager shall immediately stop Work in the area affected and report the condition to the City in writing. City shall thereafter, as soon as reasonably possible, conduct a thorough investigation to determine if the suspected material in the affected area is in fact hazardous waste and shall certify to Construction Manager that such material is not hazardous waste, or if such material is in fact hazardous waste that such hazardous waste has been abated and that it is safe to return to the affected area and resume work. The Construction Manager may require the City to furnish copies of reports of tests conducted by a qualified testing laboratory acceptable to Construction Manager verifying the absence of such hazardous waste before Construction Manager will be required to resume work. The Contract time and amount shall thereafter be equitably adjusted to account for the time lost due to the encountering of the hazardous waste and the reasonable cost associated therewith. The Construction Manager shall, through an analysis of network schedule, prove such time delays and associated costs.
- 7.1.8 The Construction Manager shall not be required to perform any work relating to hazardous waste without consent pursuant to the changes clause herein.
- 7.1.9 *Intentionally omitted.*

- 7.1.10 Claims for Additional Cost or Time: All claims for additional cost or time, in excess of what is addressed in Article 6.1.4, shall be made by request for a Change Order submitted as provided in this Article. The Substantial Completion date shall be extended by Change Order for such reasonable time as the Construction Manager may determine. If the Construction Manager is delayed at any time in the progress of the Work by any act or neglect of the City or the Architect/Engineer or of any employee of either or by any separate Construction Manager employed by the City or by any changes ordered in the work by labor disputes, fire, or unusual delay in transportation, unavoidable casualties or any causes beyond the Construction Manager's control or by delay authorized by the City pending resolution of disputes, and such delay extends the completion date, then the dates for completion may be equitably adjusted. Only delays, which are determined to extend the critical path of the schedule for constructing the project, will result in a time extension.
- 7.1.11 Minor Changes in the Project: The City will have authority to order minor changes in the Project not involving an adjustment in the Contract Amount or Contract Time and not inconsistent with the intent of the Construction Documents. Such changes shall be effected in writing. The Documentation of changes shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the PMIS. Changes shall be approved by the City and Architect/Engineer.
- 7.1.12 Emergencies: In any emergency affecting the safety of persons or property, the Construction Manager shall act at his discretion, to prevent threatened damage, injury or loss. Any increase in the GMP or extension of time claimed by the Construction Manager on account of emergency work shall be determined as provided herein. Construction Manager shall take immediate action to prevent injury to any person or damage to any property (including the Work and any adjacent property) which otherwise might arise from an emergency event at the Project Site. If conditions are such that it is safe to return to the Project site, Construction Manager shall give Architect/Engineer written notice within 48 hours after the occurrence of the emergency, if Construction Manager believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If Architect/Engineer determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Construction Manager fails to provide the 48 hour written notice noted above, Construction Manager shall be deemed to have waived any right it otherwise may have had to seek and adjustment to the Contract Amount or an extension to the Contract Time. Construction Manager is obligated to promptly report in writing to City all accidents relating to the Work that result in any personal injury or property damage.

ARTICLE 8

PAYMENTS TO THE CONSTRUCTION MANAGER

8.1 Progress Payments for Construction Phase Services

- 8.1.1 Construction Manager's monthly Applications for Payment shall be in a form, as shown in **Exhibit "F"**, and shall contain such detail and backup as City reasonably may require. Such detail and backup shall include documentation of actual payments made.

- 8.1.2 At the time it submits its GMP Proposal to City, Construction Manager shall submit to City's Representative and Architect/Engineer, for their review, a Schedule of Values based upon the GMP Proposal. The Schedule of Values will be based on the major items of work. The Schedule of Values will be structured so that the costs of the major items of work can be allocated to the various elements of work. The Schedule of Values shall be updated for the current month Change Orders and submitted each month to Architect/Engineer along with a completed and notarized copy of the Application for Payment form attached to the Agreement as **Exhibit "F"**.
- 8.1.3 If the payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site or at an approved location off site, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that City has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect City's interest therein, all of which shall be subject to City's satisfaction.
- 8.1.4 Construction Manager shall submit a notarized original of its monthly Application for Payment to City's Representative, or Architect/Engineer, as directed by the City's Representative, on a monthly basis, on or before the 25th of each month. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. Within seven calendar days after receipt of each Application for Payment, Architect/Engineer shall submit to City's Representative, a certification of the Application for Payment in the amount recommended by Architect/Engineer as being due and owing Construction Manager. Upon approval by City's Representative, payment shall be made to Construction Manager in accordance with the Florida Prompt Payment Act Statute 218.735. As a condition to the application for the monthly partial pay requisition, the Construction Manager agrees that all as-built information will be recorded within 30 days after receipt of information that a change to the Construction Documents has occurred.
- 8.1.5 Ten percent (10%) retainage shall be held on all payments until the Construction Phase is 50% complete, except when approved by the City, certain suppliers and subcontractors may be paid the entire amount due when such payment is generally the practice of the industry. After 50% completion, the amount of retainage shall be reduced from 10% to 5%, in accordance with Section 255.078, Florida Statutes. Retainage shall not be withheld on services or fees set forth in Article 6, Section 6.1.2 and 6.1.3.
- 8.1.6 Monthly payments to Construction Manager shall in no way imply approval or acceptance of Construction Manager's work.
- 8.1.7 Each Application for Payment shall be accompanied by a Release and Affidavit showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested on have been paid in full through the previous month's Application for Payment. City shall not be required to make payment until and unless these affidavits are furnished by Construction Manager. Further, if Construction Manager is withholding any portion of a payment to any subcontractor for any labor, services, or materials for which City has paid Construction Manager, Construction Manager agrees to refund such money to City.

8.2 Payments Withheld

Architect/Engineer shall review each Application for Payment submitted by Construction Manager and shall make recommendations to City's Representative as to the proper amounts, if any, which may be owed Construction Manager under the Application for Payment. Both Architect/Engineer and City's Representative shall have the right to refuse to certify or approve for payment any amounts, or portions thereof, requested by Construction Manager in an Application for Payment, and City's Representative may withhold any payments otherwise due Construction Manager under this Agreement, to the extent it is reasonably necessary, to protect City from any expense, cost or loss attributable to: (a) defective or deficient Work not properly remedied in accordance with the terms of the Contract Documents; (b) the filing or reasonable evidence indicating the probable filing of third party claims against City attributable to the negligence of Construction Manager; (c) Construction Manager's failure to make timely and proper payments to all subcontractors and suppliers; (d) reasonable evidence that the remaining Work cannot be completed for the unpaid Contract Amount balance; (e) reasonable evidence indicating that the remaining Work cannot be completed within the remaining Contract Time; (f) Construction Manager's failure to satisfactorily prosecute the Work in accordance with the requirements of the Contract Documents; or (g) any other material breach of the requirements of the Contract Documents by Construction Manager. City shall have the right, but not the obligation, to take any corrective action City deems appropriate to cure any of the above noted items, at the Construction Manager's expense, if Construction Manager has not started with a cure, to the City's reasonable satisfaction, of any of the above noted items within five working days after Construction Manager's receipt of written notice from City.

8.3 Final Payment.

City shall make final payment to Construction Manager provided the Work is finally accepted by City in accordance with Article 2, Section 2.5.2, and provided that Construction Manager first, and as an explicit condition precedent to the accrual of Construction Manager's right to final payment, shall have furnished City with a properly executed and notarized final release (conditioned only upon receipt of final payment) in the form of the Release and Affidavit attached to the Agreement as **Exhibit "E"**, as well as a duly executed copy of the surety's consent to final payment and such other documentation that may be required by the Contract Documents or City. Construction Manager's acceptance of final payment shall constitute a full waiver of any and all claims by Construction Manager against City arising out of this Contract or otherwise relating to the Project, except those identified in writing by Construction Manager as unsettled in the final Application for Payment. Neither the acceptance of the Work nor the payment by City shall be deemed to be a waiver of City's right to enforce any obligations of Construction Manager hereunder or to the recovery of damages for defective Work not discovered by City's Representative or Architect/Engineer at the time of final inspection. The Project will be considered complete when all Work has been completed and accepted by the City Commission. The Construction Manager will then be released from further obligation except as set forth in Section 2.6 Warranty.

ARTICLE 9

INSURANCE, WAIVER OF SUBROGATION, AND INDEMNITY

9.1 Construction Manager's Insurance:

- 9.1.1 The Construction Manager shall not commence any construction work in connection with this Agreement until he has obtained all of the following types of insurance and such insurance has been approved by the City, nor shall the Construction Manager allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in Florida with an A.M. Best & Company rating of no less than A. The insurance company must have a current A.M. Best & Company financial rating of Class VIII or higher. The insurance company must be duly licensed and authorized by the Department of Insurance of the State of Florida to transact the appropriate insurance business in the State of Florida. The insurance company must have been in such insurance business continuously for not less than 5 years prior to the date of the execution of this Agreement.
- 9.1.2 Worker's Compensation Insurance - The Construction Manager shall take out and maintain during the life of this Agreement Worker's Compensation Insurance for all his employees connected with the work of this Project and, in case any work is sublet, the Construction Manager shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Construction Manager. Such insurance shall comply with the Florida Worker's Compensation Law. In case any class of employees engaged in hazardous work under this contract at the site of the Project is not protected under the Worker's Compensation statute, the Construction Manager shall provide adequate insurance, satisfactory to the City, for the protection of employees not otherwise protected. Employers' liability shall be set at \$1,000,000/1,000,000/1,000,000.
- 9.1.3 Construction Manager's Public Liability and Property Damage Insurance - The Construction Manager shall take out and maintain during the life of this Agreement Comprehensive General Liability and Comprehensive Automobile Liability Insurance as shall protect him from claims for damage for personal injury, including accidental death, as well as claims for property damages which may arise from operating under this Agreement whether such operations are by himself or by anyone directly or indirectly employed by him, and the amount of such insurance shall be minimum limits as follows:
- 9.1.3.1 Construction Manager's Comprehensive General, \$1,000,000 Each (\$2,000,000 aggregate) Liability Coverages, Bodily Injury Occurrence, & Property Damage Combined Single Limit
- 9.1.3.2 Automobile Liability Coverages, \$1,000,000 Each Bodily Injury & Property Damage Occurrence, Combined Single Limit
- 9.1.3.3 Excess Liability, Umbrella Form \$2,000,000 Each Occurrence, Combined Single Limit
- 9.1.3.4 Insurance clause for both BODILY INJURY AND PROPERTY DAMAGE shall be amended to provide coverage on an occurrence basis. There shall not be an EFIS Exclusion Endorsement on any general liability policy. The Products and Completed operations portions of the General Liability shall extend for a period of two years after the Final Acceptance of the Project by the City.

- 9.1.4 Subcontractor's Public Liability and Property Damage Insurance - The Construction Manager shall require each of his subcontractors to procure and maintain during the life of this subcontract, insurance of the type specified above or insure the activities of his subcontractors in his policy, as specified above.
- 9.1.5 *Intentionally omitted.*
- 9.1.6 "XCU" (Explosion, Collapse, Underground Damage) - The Construction Manager's Liability Policy shall provide "XCU" coverage for those classifications in which they are excluded.
- 9.1.7 Broad Form Property Damage Coverage, Products & Completed Operations Coverages - The Construction Manager's Liability Policy shall include Broad Form Property Damage Coverage, Products and Completed Operations Coverages.
- 9.1.8 Contractual Liability Work Contracts - The Construction Manager's Liability Policy shall include Contractual Liability Coverage designed to protect the Construction Manager for contractual liabilities assumed by the Construction Manager in the performance of this Agreement.
- 9.1.9 Certificate of Insurance - The City shall be furnished proof of coverage of Insurance as follows:
- 9.1.9.1 Certificate of Insurance form will be furnished to the City. These shall be completed and signed by an authorized Resident Agent. This Certificate shall be dated and show: the name of the insured Construction Manager, the specific job by name and job number, the name of the insurer, the number of the policy, its effective date, and its termination date. Such Certificates of Insurance shall be updated within five (5) business days of the expiration of or material change to any insurance evidenced on the Certificate of Insurance.
- 9.1.9.2 Certificate of Insurance shall be in the form as approved by Insurance Standards Office (ISO) and such Certificate shall clearly state all the coverages required in this Section.
- 9.1.9.3 City of Kissimmee, a municipal corporation of the State of Florida, is to be named as an Additional Insured under all policies except for Worker's Comp.
- 9.1.9.4 The insurance evidenced by the certificate shall be primary and non-contributory to any other insurance of the certificate holder.
- 9.1.9.5 The Notice to Proceed will not be given until the Construction Manager has obtained all the insurance and Bonds required by the Contract Documents and such insurance has been approved by the City.
- 9.1.10 The Construction Manager shall not be required to provide Builder's Risk or Architects' and Engineers' Professional Liability Insurance unless specifically requested by the City. The City has Builder's Risk coverage and will provide the Construction Manager with appropriate Certificate of Insurance upon request. The City's Builder's Risk policy does not insure the Construction Manager's tools,

machinery or equipment that is stored at the Project site. The Construction Manager should provide insurance in the form of an equipment floater for the Construction Manager's tools and equipment and the City should be named as an additional insured on the Construction Manager's policy with an appropriate waiver of subrogation as to any claims the Construction Manager or the Construction Manager's insurer may have against the City arising from the storage of the Construction Manager's tools and equipment. The Construction Manager shall be responsible for the first \$5,000 of any claim against the City's Builder's Risk policy.

- 9.1.11 The Construction Manager shall not allow a subcontractor to work on the Project without the subcontractor carrying its own Workers Compensation and Liability insurance or the Construction Manager covering the subcontractor under its policies. This requirement is the same for each succeeding sub-tier contractor. The Construction Manager shall provide proof of such coverage to the City upon the City's request.

9.2 Waiver of Subrogation:

- 9.2.1 The Construction Manager shall ensure all insurance policies it maintains in fulfillment of its obligations under this Agreement shall contain a waiver of subrogation against the City, its officials, employees, agents and consultants. Waiver of subrogation will apply to the general liability and workers compensation policies. The City, a municipal corporation of the State of Florida, shall be named as an additional insured with respect to liability arising from all Services and work performed under this Agreement for automotive and general liability policies of insurance, and such policies should so state in the Certificate of Insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
- 9.2.2 The Construction Manager hereby waives all rights against the City for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.

9.3 Indemnification of City

Construction Manager, to the maximum extent permitted by law, shall indemnify, defend (by counsel reasonably acceptable to City) protect and hold the City, and its officers, employees and agents harmless from and against any and all, claims, actions, causes of action, liabilities, penalties, forfeitures, damages, losses, and expenses (including, without limitation, attorneys' fees costs and expenses incurred during negotiation, through litigation and all appeals therefrom) whatsoever including, but not limited, to those pertaining to the death of or injury to any person, or damage to any property, arising out of or resulting from (i) the failure of Construction Manager to comply with applicable laws, rules or regulations, (ii) the breach by Construction Manager of its obligations under this Agreement, (iii) any claim for trademark, patent or copyright infringement arising out of the scope of Construction Manager's performance or nonperformance of this Agreement, or (iv) the negligent acts, errors or omissions, or intentional or willful misconduct, of Construction Manager, its professional associates, subcontractors, agents, and employees; provided, however, that Construction Manager shall not be obligated to defend or indemnify the City with respect to any such claims or damages arising out of the City's sole negligence. The provisions of this Section shall include any claims for equitable relief or for damages

(compensatory or punitive) against the City, its agents, officials, and employees including alleged injury to the business or any claimant and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, costs and expenses. Expenses as used herein shall include, without limitation, the costs incurred by the City, its agents, officials and employees in connection with investigating any claim or defending any action, and shall also include reasonable attorneys' fees, costs and expenses incurred by reason of the assertion of any such claim against the City, its agents, officials or employees. The Construction Manager expressly understands and agrees that any insurance protection required by this Agreement, or otherwise provided by the Construction Manager, shall in no way limit the Construction Manager's responsibility to release, indemnify, keep and save harmless and defend the City as herein provided. The intention of the parties is to apply and construe broadly in favor of the City the foregoing provisions subject to the limitations, if any, set forth in the Florida Statutes. The Construction Manager shall obtain an endorsement or other affirmative coverage from its insurance policies required by this Agreement insuring the Construction Manager's contractual obligations under this Section. The obligations imposed by this Section shall survive the expiration or earlier termination of this Agreement.

ARTICLE 10

TERMINATION OF THE AGREEMENT AND THE CITY'S RIGHT TO PERFORM CONSTRUCTION MANAGER'S OBLIGATION

10.1 Termination by the Construction Manager:

If the Project is stopped for a period of thirty (30) days under an order of any court or other public authority having jurisdiction or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Construction Manager, or if the Project should be stopped for a period of sixty (60) days by the Construction Manager, for the City's failure to make payments thereon, then the Construction Manager may, upon seven (7) days written notice to the City, request payment for all work executed, the Construction Manager's fees earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment, and machinery, including reasonable profit thereon and termination expenses incurred by the Construction Manager.

10.2 City's Right to Perform Construction Manager's Obligations and Termination by City for Cause:

10.2.1 If the Construction Manager fails to perform any of their obligations under this Agreement, including any obligation they assumes to perform work with their own forces, the City may, after seven (7) days written notice during which period the Construction Manager fails to perform such obligation, make good such deficiencies.

The GMP, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the City of making good such deficiencies and the Construction Manager's Construction Phase Fee shall be reduced by an amount required to manage the making good of such deficiencies.

10.2.2 The City may, without prejudice to any right or remedy and after giving the Construction Manager and his surety, if any, seven (7) days written notice, during which period Construction Manager fails to cure the violation, terminate the employment of the Construction Manager and take possession of the site and of all

materials, equipment, tools, construction equipment and machinery thereon owned by the Construction Manager, and may finish the Project by whatever method he may deem expedient if: the Construction Manager is adjudged bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or if he persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule (failure to maintain schedule shall be defined as any activity on the critical path that falls 45 days or more behind schedule) which has been adopted by the Construction Team, or if he fails to make prompt payment to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a breach of a material provision of the Agreement. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished, nor shall he be relieved from his obligations assumed under Article 6. Reasonable terminal expenses incurred by the City may be deducted from any payments left owing the Construction Manager (excluding monies owed the Construction Manager for subcontract work).

10.2.3 The City may terminate the employment of the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the project by whatever method he may deem expedient, without prejudice to any right or remedy and after giving the Construction Manager and his surety, if any, seven (7) days written notice, during which period Construction Manager fails to allow access to the City. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall he be relieved from his obligations assumed under Article 7. Reasonable termination expenses incurred by the City may be deducted from any payments left owing the Construction Manager (excluding moneys owed to the Construction Manager for subcontract work).

10.3 Termination by City Without Cause:

10.3.1 The City may, at any time, terminate this Agreement for the City's convenience and without cause.

10.3.2 Upon receipt of written notice from the City of such termination for the City's convenience, the Contractor shall:

10.3.2.1 Cease operations as directed by the City in the notice;

10.3.2.2 Take actions necessary, or that the City may direct, for the protection and preservation of the Work; and

10.3.2.3 Terminate all existing subcontracts and purchase orders and not enter into further subcontracts and purchase orders, except for Work directed to be performed prior to the effective date of termination stated in the notice.

10.4 In case of such termination for the City's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination,

along with reasonable fee, as defined in Article 6, overhead and profit on the Work performed.

ARTICLE 11

ASSIGNMENT AND GOVERNING LAW

- 11.1 Neither the City nor the Construction Manager shall assign their interest in this Agreement without the written consent of the other except as to the assignment of proceeds.
- 11.2 This Agreement shall be governed by the Laws of the State of Florida. Venue shall be as specified in Section 13.2.3. The parties waive all rights to trial by jury.

ARTICLE 12

NOTICE OF CLAIM: WAIVER OF REMEDIES

- 12.1 The City's liability to the Construction Manager for any claims arising out of or related to the subject matter of this contract, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment by the City of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions, subject to Section 13.4 herein:
 - 12.1.1 All claims must be submitted as a Request for Change Order in the manner as provided herein;
 - 12.1.2 The Construction Manager must submit a Notice of Claim to City within 20 days of the Construction Manager becoming aware of the occurrence, or the event, giving rise to the claim; and
 - 12.1.3 Within 10 days of submitting its Notice of Claim, the Construction Manager shall submit to the City its Request for Change Order, which shall include a written statement of all the details of the claim, including a description of the work affected. The Construction Manager agrees that the City shall not be liable for any claim that the Construction Manager fails to submit as a Request for Change Order as provided in this paragraph to the extent that the City is prejudiced by the failure of the Construction Manager to give notice.
- 12.2 After receipt of a Request for Change Order, the City, in consultation with the Engineer, shall deliver to the Construction Manager its written determination of the claim.
- 12.3 For work the Construction Manager performs with its own forces, and in addition to the adjustments provided for in Article 6, the Construction Manager's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the City or the Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Article 12.1 above, for an extension of the scheduled construction time. In the event of a change in such work, the Construction Manager's claims for adjustments in the contract sum are limited exclusively to its actual costs for such changes plus 5% for profit. The Construction Manager expressly agrees that the foregoing constitutes its sole and exclusive remedy for delays and changes in such work, and eliminate any other remedies for claim,

for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.

ARTICLE 13

MISCELLANEOUS

13.1 Harmony:

The Construction Manager is advised and hereby agrees that he will exert every reasonable and diligent effort to assure that all labor employed by the Construction Manager and his Subcontractors for work on the Project shall work in harmony with and be compatible with all other labor being used by building and construction contractors now or hereafter on the site of the Project.

The Construction Manager further agrees that this provision will be included in all subcontracts of the Subcontractors as well as the Construction Manager's own contract; provided, however, that this provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

13.2 Dispute Resolution:

13.2.1 All claims, disputes and other matters in question (hereinafter referred to as a "Controversy") between the parties to this Agreement arising out of or relating to this Agreement or the breach thereof shall be initially submitted to mediation if mutually agreeable in accordance with the Construction Mediation Rules of the American Arbitration Association ("AAA") or any other mutually agreeable mediation firm.

13.2.2 Should either the City or the Construction Manager feel it necessary and appropriate to take any legal action to enforce any of the terms or conditions of this Agreement between said parties, then each party shall be responsible for its own attorney's fees and costs associated with such litigation.

13.2.3 Any litigation between the City and Construction Manager (which term for the purposes of this subparagraph shall include the Construction Manager's surety), whether arising out of any claim as described in Article 12, or Controversy arising out of this Agreement or any breach thereof, shall be brought, maintained, and pursued only in the State of Florida's Ninth Judicial Circuit in and for Osceola County, Florida or in the United State District Court, Middle District of Florida in Orange County, Florida. Construction Manager consents and submits to the jurisdiction of such courts and agrees to accept service of process from the State of Florida in any matter to be submitted to any such court.

13.3 Construction Manager's Project Records and City's Auditing Rights

The Construction Manager's Project Records shall be maintained as prescribed hereinabove for the minimum period required by State and Federal Law, and shall be made available to the City or his authorized representative at mutually convenient times.

Construction Manager shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of 3 years from the date of termination of this Agreement or the date the Project is completed, whichever is later or such longer period of time as may be required by law. Construction Manager shall require all of its subcontractors to likewise retain all of their Project records and supporting documentation. City, and any duly authorized agents or representatives of City, shall be provided access to all such records and supporting documentation at any and all times during normal business hours upon request by City. Further, City, and any duly authorized agents or representatives of the City, including, without limitation, the Office of the Osceola County Clerk and Comptroller, shall have the right to audit, inspect and copy all of Construction Manager's and any subcontractor's Project records and documentation as often as they deem necessary and Construction Manager shall cooperate in any audit, inspection, or copying of the documents.

If at any time, the City, or its duly authorized agents or representatives, or any other authorized party conducts such an audit of Construction Manager's records and documentation and finds that Construction Manager overcharged City, Construction Manager shall pay to City the Overcharged Amount which is defined as the total aggregate overcharged amount together with interest thereon (such interest to be established at the rate of 12% annum). If the Audit Amount is equal to or greater than \$10,000.00, which is defined as the total aggregate of City's reasonable audit costs incurred as a result of its audit of Construction Manager, City may recover the Overcharged Amount and the Audit Amount, as applicable, from any amount due or owing Construction Manager with regard to the Project or under any other agreement between Construction Manager and City. If such amounts owed Construction Manager are insufficient to cover the Overcharged Amount and Audit Amount, as applicable, then Construction Manager hereby acknowledges and agrees that it shall pay such remaining amounts to City within 30 business days of its receipt of City's invoice for such remaining amounts. In no event shall the Overcharged Amount or the Audit Amount be deemed a reimbursable Cost of the Work.

This Article, including all access, inspection, copying, auditing, reimbursement and repayment rights shall survive the termination of this Agreement.

13.4 LIMITATION OF LIABILITY

IN NO EVENT, SHALL THE CITY BE LIABLE TO THE CONSTRUCTION MANAGER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS AGREEMENT BY THE CITY WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.

13.5 Cleanup and Protections

Construction Manager agrees to keep the Project Site clean at all times of debris, rubbish and waste materials arising out of the Work. If Construction Manager fails to keep the Project Site clean, City has the right, after providing a 24 hour written notice, to perform any required clean up and to back charge the Construction Manager for the costs of such clean

up. At the completion of the Work, Construction Manager shall remove all debris, rubbish and waste materials from and about the Project Site, as well as all tools, appliances, construction equipment and machinery and surface materials, and shall leave the Project Site clean and ready for occupancy by City.

Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Construction Manager from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Construction Manager to condition at least equal to that existing at the time of Construction Manager's commencement of the Work.

13.6 Ownership of Documents

All analyses, reference data, bills, completed reports, or any other form of written instrument or document created or resulting from the Construction Manager's performance of the Services pursuant to this Agreement shall become the property of the City after payment is made to the Construction Manager for such instruments or documents.

13.7 No Contingent Fees

The Construction Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Construction Manager 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 the Construction Manager, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award of or making of the Agreement. For the breach or violation of this provision, the City shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

13.8 Sovereign Immunity

Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable. Nothing in this Agreement is intended to be, nor shall be construed as an extension of liability beyond the statutory limitations of liability set forth in section 768.28 Florida Statutes. Except for the enforcement of the express provisions of this Agreement, which may only be enforced by the expressly identified parties to the Agreement, the City of Kissimmee shall have and maintain all rights, privileges, and immunities of sovereign immunity, including, but not limited to those at common law, and those rights and limitations of liability set out in section 768.28 Florida Statutes."

13.9 Public Entity Crimes

The Construction Manager understands and acknowledges that this Agreement will be voidable by the City in the event the conditions stated in Florida Statutes, Section 287.133 relating to conviction for a public entity crime apply to the Construction Manager.

13.10 Non-Discrimination

The Construction Manager warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, gender, gender identity, sex, sexual orientation, age or national origin.

13.11 All Prior Agreements Superseded

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document or its designated exhibits. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. No modification, amendment or alteration in the terms or conditions contained herein, unless otherwise stated herein, shall be effective unless agreed to and executed in writing by both parties to this Agreement in a form acceptable to the City.

13.12 Independent Contractor

Nothing stated in this Agreement is intended or should be construed in any manner as creating or establishing a relationship of co-partners between the parties, or as constituting the Construction Manager (including its officers, employees, and agents) as the agent, representative, or employee of the City for any purpose, or in any manner, whatsoever. The Construction Manager is to be and shall remain forever an independent contractor with respect to all Services performed under this Agreement. The Construction Manager shall not pledge the City's credit or make the City a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness and the Construction Manager shall have no right to speak for or bind the City in any manner.

13.13 Public Records

CONSTRUCTION MANAGER acknowledges CITY's obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and that the constitutional and statutory provisions control over the terms of this Agreement. As such, CONSTRUCTION MANAGER shall keep and maintain public records required by the CITY to perform the service.

If CONSTRUCTION MANAGER has questions regarding the application of Chapter 119, Florida Statutes, to CONSTRUCTION MANAGER's duty to provide public records relating to this Agreement, contact the Custodian of Public Records at 407-518-2308, cityclerkemail@kissimmee.gov and 101 Church Street, Kissimmee, Florida 34741.

- a. If CITY's Custodian of Records requests records from CONSTRUCTION MANAGER, CONSTRUCTION MANAGER shall provide the City's Custodian of Records 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 charged by CITY, as provided in Chapter 119, Florida Statutes or as otherwise provided by law.

- b. CONSTRUCTION MANAGER 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 for the duration of the agreement term and following completion of the agreement if the CONSTRUCTION MANAGER does not transfer the records to CITY.
- c. Upon completion of the contract, CONSTRUCTION MANAGER shall transfer, at no cost, to CITY all public records in possession of CONSTRUCTION MANAGER or keep and maintain public records required by CITY to perform the service. If CONSTRUCTION MANAGER transfers all public records to CITY upon completion of the Agreement, CONSTRUCTION MANAGER shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONSTRUCTION MANAGER keeps and maintains public records upon completion of the Agreement, CONSTRUCTION MANAGER shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of CITY. Unless otherwise directed by CITY, all records will be transferred at the conclusion of the Agreement.
- d. Upon notice to CONSTRUCTION MANAGER of a request to inspect or copy public records relating to CITY's agreement for services, CONSTRUCTION MANAGER shall provide the records to CITY or allow the records to be inspected or copied within a reasonable time.
- e. If CONSTRUCTION MANAGER does not comply with CITY's request for records, such failure shall constitute a material breach and the Agreement shall terminate upon notice by the CITY.
- f. If the CONSTRUCTION MANAGER fails to provide the public records to CITY within a reasonable time may be subject to penalties under Florida Statutes §119.1

13.14 Compliance with Laws and Regulations

In providing all Services pursuant to this Agreement, the Construction Manager shall abide by all statutes, ordinances, rules, and regulations pertaining to or regulating the provisions of such Services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement, and shall entitle the City to terminate this Agreement immediately upon delivery of written notice of termination to the Construction Manager.

13.15 Notices

Whenever either party desires to give notice unto the other, it must be given by written notice, delivered (i) in person, (ii) via registered or certified United States mail, postage prepaid with return receipt requested, or (iii) via nationally recognized overnight delivery service, and addressed to the party for whom it is intended at the place last specified by each party. The place for giving of notice shall remain such until it is changed by written notice delivered in compliance with the provisions of this Section 13.15. For the present, the parties designate the following as the respective places for giving of notice, to wit:

For City:

City of Kissimmee Public Works Director
101 Church Street
Kissimmee, Florida, 34741
Attention: Public Works Director

For Construction Manager

Company
Attention: Title
Address 1
Address 2

13.16 Severability

The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement; any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

13.17 Annual Appropriations

Construction Manager acknowledges that during any fiscal year the City shall not expend money, incur any liability, or enter into any agreement which by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Accordingly, any agreement, verbal or written, the City may make in violation of this fiscal limitation is null and void, and no money may be paid on such agreement. The City may enter into agreements whose duration exceeds one year; however, any such agreement shall be executory only for the value of the services to be rendered which the City agrees to pay as allocated in its annual budget for each succeeding fiscal year. Accordingly, the City's performance and obligation to pay the Construction Manager under this Agreement is contingent upon annual appropriations being made for that purpose.

13.18 E-Verify

In compliance with Section 448.095, Fla. Stat., CONSTRUCTION MANAGER and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.

- CONSTRUCTION MANAGER shall require each of its subcontractors to provide CONSTRUCTION MANAGER with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. CONSTRUCTION MANAGER shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Agreement.
- CITY, CONSTRUCTION MANAGER, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity.

- CITY, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but CONSTRUCTION MANAGER otherwise complied, shall promptly notify CONSTRUCTION MANAGER and CONSTRUCTION MANAGER shall immediately terminate the contract with the subcontractor.
- Termination of this Agreement under the provisions of this section is not a breach of contract and may not be considered such. Any Agreement termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. CONSTRUCTION MANAGER acknowledges that upon termination of this Agreement by the City for a violation of this section by CONSTRUCTION MANAGER, CONSTRUCTION MANAGER may not be awarded a public contract for at least one (1) year. CONSTRUCTION MANAGER further acknowledges that CONSTRUCTION MANAGER is liable for any additional costs incurred by the CITY as a result of termination of any contract for a violation of this section.
- *Subcontracts.* CONSTRUCTION MANAGER or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. CONSTRUCTION MANAGER shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

13.19 Construction Manager Representations - The Construction Manager hereby represents and warrants the following to the City:

- 13.19.1 Construction Manager is a corporation that is duly organized and existing in good standing under the laws of the State of Florida with full right and authority to do business within the State of Florida;
- 13.19.2 Construction Manager's performance under this Agreement will not violate or breach any contract or agreement to which the Construction Manager is a party or is otherwise bound, and will not violate any governmental statute, ordinance, rule, or regulation;
- 13.19.3 Construction Manager has the full right and authority to enter into this Agreement and to perform its obligations in accordance with its terms;
- 13.19.4 Construction Manager now has and will continue to maintain all licenses and approvals required for conducting its business, and that it will at all times conduct its business activities in a reputable manner;
- 13.19.5 Construction Manager has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement;
- 13.19.6 Construction Manager has the personnel and experience necessary to perform all Services in a professional and workmanlike manner;
- 13.19.7 Construction Manager shall exercise the same degree of care, skill, and diligence in the performance of the Services as provided by a professional of like experience, knowledge and resources, under similar circumstances;
- 13.19.8 Construction Manager shall, at no additional cost to the City, re-perform those Services which fail to satisfy the foregoing standard of care or which otherwise fail to meet the requirements of this Agreement;

- 13.19.9 Each individual executing this Agreement on behalf of the Construction Manager is authorized to do so.

13.20 Waiver

A waiver by either City or Construction Manager of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach of this Agreement. The making or acceptance of a payment by either party with the knowledge of the other party's existing default or breach of the Agreement shall not waive such default or breach, or any subsequent default or breach of this Agreement, and shall not be construed as doing so.

13.21 Scrutinized Companies Certification

By signing this Agreement, Construction Manager certifies that it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or engaged in a boycott of Israel. If City determines, using credible information available to the public, that Construction Manager has submitted false certification, City shall provide Construction Manager with written notice of its determination. Construction Manager shall have 90 days following receipt of the notice to respond in writing and to demonstrate that the determination of false certification was made in error. Failure to comply with this provision is a material breach of this Agreement, and City may choose to terminate the Agreement at its sole discretion.

ARTICLE 14
DIRECT MATERIALS ACQUISITION AND SALES TAX EXEMPT PURCHASE PROCEDURES
FOR PUBLIC PROJECTS

14.1 Direct Materials Acquisition by City - Supply Bonds:

- 14.1.1 Each Subcontractor shall include Florida State Tax and other applicable Sales Taxes for all material, supplies and equipment included in the Subcontractor's bid.
- 14.1.2 The City may, if not prohibited by Law, exercise a right to purchase directly various construction materials, supplies and equipment that may be part of the Subcontract. Any materials purchased by the City shall be referred to as "City Purchased Materials" and the responsibilities of both the City and the Construction Manager relating to such City Purchased Materials shall be governed by the terms and conditions of the "Sales Tax Exempt Purchasing Procedures for Public Projects", which shall take precedence over other conditions and terms of this Agreement where inconsistencies or conflicts exist.
- 14.1.3 The City will issue its own Purchase Orders directly to the vendor. The City's Purchase Order shall contain or be accompanied by the City's Certificate of Entitlement and must include the City's name, address, and exemption number. The materials shall be purchased from the vendors and suppliers selected by the Construction Manager, for prices negotiated by the Construction Manager or

Subcontractor. The Construction Manager will provide all the necessary information for preparation of the purchase orders by the City and will coordinate the purchase of the materials in a timely manner so as not to negatively impact on the performance of the construction activity of the project.

- 14.1.4 The Subcontract amount shall be reduced by the net, undiscounted amount of these purchase orders, plus all sales taxes. Issuance of the purchase orders by the City shall not relieve the Subcontractor or the Construction Manager of any of their responsibilities regarding material purchases, or installation, with the exception of the payments for the material so purchased. The Construction Manager and the Subcontractor shall remain, with respect to materials, supplies and equipment, fully responsible for coordination, correct quantities ordered, submittals, protection, storage, scheduling, shipping, security, expediting, receiving, installation, cleaning, and the management of all applicable warranties.
- 14.1.5 Notwithstanding the transfer of City Purchased Materials by the City to the Subcontractor's possession, the City shall retain title to any and all City Purchased Materials.
- 14.1.6 The Contractor shall maintain products liability insurance, which shall include City Purchased Materials, as required for the normal practice of general contracting.
- 14.1.7 The material supplier may be required to provide a supply bond in the amount of 100% of the purchase order price. The bond shall be from a qualified surety company authorized to do business in the State of Florida and acceptable to the City and the Construction Manager. The premium cost for this supply bond shall be included in the sub-contractor's cost. Verifying that a designated material supplier can furnish a supply bond (if required) will be the responsibility of the Subcontractor. City reserves the right to waive the requirement of providing a supply bond at the discretion of City.
- 14.1.8 If the State of Florida assesses any Sales Tax penalties and/or interest against the Construction Manager or any of its Subcontractors or Material Suppliers relating to the direct acquisition of materials and/or equipment by City as authorized by this paragraph, such taxes, penalties, interest and/or any legal and administrative fees expended by the Construction Manager as a direct result of any action or assessment made by the State of Florida, shall be reimbursed by City to the Construction Manager in a prompt and reasonable manner and shall not be considered a Project Cost.

14.2 Sales Tax Exempt Purchasing Procedures for Public Projects:

- 14.2.1 The Subcontractor has included Florida State Sales and other applicable taxes in thier bid for material, supplies and equipment. The City, being exempt from sales tax, reserves the right to make direct purchases of various construction equipment, materials or supplies included in the Subcontractor's bid and/or contract, substantially in accordance with the form of Purchase Order attached herewith.
- 14.2.2 Any equipment, materials or supplies directly purchased by the City that are included in the Subcontractor's contract shall be referred to as City Purchased Materials and the responsibilities of both the City/Public Entity and the

Subcontractor relating to such City Purchased Materials shall be governed by the terms and conditions of these procedures.

- 14.2.3 Material suppliers shall be selected by the Subcontractor awarded the subcontract.
- 14.2.4 The Subcontractor has included the price for all construction materials plus applicable taxes in their bid. City purchasing of construction materials, if selected, will be administered on a deductive Change Order basis, the Subcontract amount shall be reduced by the net undiscounted amount of these Purchase Orders, plus all sales tax.
- 14.2.5 The Subcontractor shall provide the Construction Manager a list of all intended suppliers, vendors, and material men for consideration as City Purchased Materials. This list shall be submitted at the same time as the preliminary schedule of values and the Project schedule. The Subcontractor shall submit a description of the materials to be supplied, estimated quantities and prices.
- 14.2.6 Upon request from Construction Manager, and in a timely manner, the Subcontractor shall prepare a standard Purchase Order Requisition Form in a form acceptable to the City and the Construction Manager, to specifically identify the materials, which City has, at its sole option, elected to purchase directly. The Purchase Order Requisition Form shall include:
 - A. the name, address, telephone number and contact person for the material supplier
 - B. manufacturer or brand, model or specification number of the item
 - C. quantity needed as estimated by Subcontractor
 - D. the price quoted by the supplier for the materials identified therein, including freight
 - E. any sales tax associated with such quote
 - F. delivery dates as established by Subcontractor
- 14.2.7 Subcontractor shall include reference to any terms and conditions, which have been negotiated with the vendors; i.e., warranties, retainage, etc. The Purchase Order Requisition Forms are to be submitted to the City's designated representative no less than seven (7) days prior to the need for ordering such City Purchased Materials, in order to provide sufficient time for City review and approval and to assure that such Directly Purchased Materials may be directly purchased by City and delivered to the Project site without any delay to the Project.
- 14.2.8 After receipt of the Purchase Order Requisition Form, the City's Representative shall prepare Purchase Orders for equipment, materials or supplies which the City chooses to purchase directly. Pursuant to the Purchase Order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the Subcontractor, less any sales tax associated with such price. Promptly upon receipt of each Purchase Order, Subcontractor shall verify the terms and conditions of the Purchase Order prior to its issuance to supplier and in a manner to assure proper and timely delivery of items. The City's Procurement Director or their designated representative shall be the approving authority for the City on Purchase Orders in conjunction with City Purchased Materials. The

Purchase Order shall require that the supplier provide the required shipping and handling insurance. The Purchase Order shall also require the delivery of the City Purchased Materials on the delivery date provided by the Subcontractor in the Purchase Order Requisition Form and shall indicate F.O.B. jobsite. The City's Purchase Orders shall contain or be accompanied by the City's Certificate of Entitlement and must include the City's name, address, and exemption number.

- 14.2.9 In conjunction with the execution of the Purchase Orders by the suppliers, the Subcontractor shall execute and deliver to the City, through the Construction Manager, one or more deductive Change Orders, referencing the full value of all City-Purchased materials to be provided by each supplier from whom the City elected to purchase material directly, plus all sales tax savings associated with such materials in the Subcontractor's bid to the Construction Manager.
- 14.2.10 All shop drawings and submittals shall be made by the Subcontractor in accordance with the Project Specifications.
- 14.2.11 Subcontractor shall be fully responsible for all matters relating to the receipt of materials furnished by the City in accordance with these Procedures, including, but not limited to, verifying correct quantities, verifying documentation of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials following acceptance of items by the City due to the negligence of the Subcontractor. The Subcontractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Subcontractor for the particular materials furnished. The Subcontractor shall provide all services required for the unloading, handling and storage of materials through installation. The Subcontractor agrees to indemnify and hold harmless the City from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions or directions of Subcontractor.
- 14.2.12 As City Purchased Materials are delivered to the jobsite, the Subcontractor and the Construction Manager, as City's Representative, shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for material delivered. The Subcontractor shall assure that each delivery of City Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order, together with such additional information as the City or Construction Manager may require. The Construction Manager, as City's Representative, shall verify in writing to the City the accuracy of the delivery ticket. The Subcontractor will then forward the invoice to the City through the Construction Manager for payment. The invoice shall be thereupon furnished to the City for processing and payment in the manner as all other City invoices are processed. The City shall have the right to assign City personnel to verify and audit the accuracy of all City Purchased Material documents.
- 14.2.13 The Subcontractor shall ensure that City Purchased Materials conform to the Specifications and determine, prior to incorporation into the Work, if such materials are patently defective, whether such materials are identical to the materials ordered and match the description on the bill of lading. If the Subcontractor

discovers defective or nonconformities in the City Purchased Material upon such visual inspection, the Subcontractor shall not utilize such nonconforming or defective materials in the Work and instead shall promptly notify the Vendor of the defective or non-conforming condition in order to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the Subcontractor shall notify the City, through the Construction Manager, of such occurrence. If the Subcontractor fails to perform such inspection and otherwise incorporates City Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, the Subcontractor shall be responsible for all damages to the City resulting from the Subcontractor's incorporation of such materials into the Project, including liquidated or delay damages. In the event that materials furnished are found to be defective, or nonconforming, the Subcontractor shall promptly take action to remedy the defect or nonconformance so as not to delay the work.

- 14.2.14 The Subcontractor shall maintain records of all City Purchased Materials it incorporates into the Work from the stock of City Purchased Materials in its possession. The Subcontractor shall account monthly to the City, through the Construction Manager, for any City Purchased Materials delivered into the Subcontractor's possession, including portions of all such materials, which have been incorporated into the Work.
- 14.2.15 The Subcontractor shall be responsible for obtaining and managing all warranties and guarantees for all materials and products as required by the Contract Documents. All repairs, maintenance or damage repair calls shall be forwarded to the Subcontractor for resolution with the appropriate supplier or vendor.
- 14.2.16 Notwithstanding the transfer of City Purchased Materials by the City to the Subcontractor's possession, the City shall retain title to any and all City Purchased Materials.
- 14.2.17 The transfer of possession of City-Purchased Materials from the City to the Subcontractor shall constitute a bailment for mutual benefit of the City and the Subcontractor. The City shall be considered the bailor and the Subcontractor the bailee of the City Purchased Materials. City Purchased Materials shall be considered returned to the City for purposes of its bailment at such time as they are incorporated into the Project or consumed in the process of completing the Project. The Bailee shall have the duty to safeguard, store and protect all City Purchased Materials.
- 14.2.18 The City shall purchase and maintain insurance pursuant to the requirements set forth in the City and Construction Manager Agreement which shall be sufficient to protect against any loss of or damage to City Purchased equipment, materials or supplies. Such insurance shall cover the full value of any City Purchased Materials not yet incorporated into the Project from the time the City first takes title.
- 14.2.19 The City shall in no way be liable for interruption or delay in the Project, for any defects or other problems with the Project, or for any extra costs or time resulting from delay in the delivery of, or defects in, City Purchased Materials.

- 14.2.20 On a monthly basis, the Subcontractor shall be required to review invoices submitted by all suppliers of City Purchased Materials delivered to the Project site during that month and either concur or object to the City's issuance of payment to the suppliers, based upon the Subcontractor's records of materials delivered to the site and any defects in such materials.
- 14.2.21 In order to arrange for the prompt payment to the supplier, the Subcontractor shall provide to the City, through the Construction Manager, a list indicating the acceptance of the goods or materials in accordance with the established monthly Payment Request Schedule. The list shall include a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the City. Upon receipt and verification of the appropriate documentation, the City shall prepare a check drawn to the supplier based upon the receipt of data provided. This check will be released, delivered and remitted directly to the supplier. The Subcontractor agrees to assist the City to immediately obtain partial or final release of lien waivers as appropriate.
- 14.2.22 At the end of the Project, any refund for surplus materials returned to suppliers, plus applicable sales tax savings amount, shall be credited with an additive Change Order to the Subcontractor's agreement with the Construction Manager. Salvage materials shall be the property of the City and stored or removed from the site by the Subcontractor at the City's direction.

ARTICLE 15

INCORPORATION OF EXHIBITS

- 15.1 The following Exhibits, attached hereto, are hereby fully incorporated herein by this specific reference as if fully set forth in the body of this Agreement:

Exhibit "A"	-	RFP2022-005 and Construction Manager's Proposal
Exhibit "B"	-	Pre-Construction Services Addendum
Exhibit "C"	-	GMP Addendum
Exhibit "D"	-	Certificate of Substantial Completion
Exhibit "E"	-	Release and Affidavit
Exhibit "F"	-	Application for Payment Form
Exhibit "G"	-	Final Payment Request Checklist / Certificate of Final Completion
Exhibit "H"	-	Change Order
Exhibit "I"	-	Allowance Authorization Release
Exhibit "J"	-	Schedule of Reimbursables
Exhibit "K"	-	Hourly Rate Schedule
Exhibit "L"	-	Public Construction Bond
Exhibit "M"	-	Buy-Out Allowance Authorization Release

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CITY OF KISSIMMEE, a municipal
corporation of the
State of Florida

ATTEST:

By: Linda Hansell

Linda Hansell
City Clerk

By: Olga Gonzalez

Olga Gonzalez, Mayor
City of Kissimmee Commission

Date Signed by Mayor: July 5, 2022

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Olga Sanchez de Fuentes
Olga Sanchez de Fuentes
City Attorney

7/5/22
Date

ATTEST: Arnco Construction, Inc., a Florida Corporation

By: Kimberle Cover

Printed Name: Kimberle Cover

By: Benjamin Arndt

Printed Name: Benjamin Arndt

Title: President

EXHIBIT “A”

RFP2022-005 and Construction Manager’s Proposal

Lancaster Ranch Park – Phase 1



ARNCO CONSTRUCTION, INC.
1110 Pennsylvania Avenue, St. Cloud, FL 34769
PH. 407-892-0111 Fax 407-892-0053

EXHIBIT B

Construction Manager's Personnel During Construction Phase

Name	Title	Duration (Weeks)	Percentage
Off-Site Staff			
Phillip Owen	Project Manager	TBD	

On-Site Staff

TBD	Superintendent	TBD
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Arnco Construction, Inc.
1110 Pennsylvania Avenue, St. Cloud, FL 34769
PH. 407-892-0111 Fax 407-892-0053

City of Kissimmee Lancaster Park

Construction Team Representatives

City.....	City of Kissimmee The City of Kissimmee Commission City Manager Deputy City Manager Public Works & Engineering Division Director
Architect / Engineer.....	Mike Brown, AECOM Technical Services Inc
Construction Manager.....	CM@Risk Arnco Construction, Inc. Benjamin Arnold, President Phillip Owen, Project Manager / Pre-Construction Rick Smallish, Project Manager / Pre-Construction Kim Cover, Project Engineer TBD, Project Superintendent



Arco Construction, Inc.
1110 Pennsylvania Avenue, St. Cloud, FL 34769
PH. 407-892-0111 Fax 407-892-0053

City of Kissimmee Lancaster Park

Pre-Construction Phase Services

1. Document & Drawing Review
2. Scope origination
3. Bid package preparation / Estimating
4. Meetings with Design Team
5. Printing / Advertising
6. Receive & Open Subcontract Bids
7. Bid tabulation & GMP preparation
8. Prepare all documentation for Board review.

City of Kissimmee Lancaster Park

Omitted Services as previously included in Article 2 of the Agreement

1. All construction phase elements are omitted until GMP is complete. See above Exhibit II for Pre-Con Scope



Arnco Construction, Inc.
1110 Pennsylvania Avenue, St. Cloud, FL 34769
PH. 407-892-0111 Fax 407-892-0053

City of Kissimmee Lancaster Park

Construction Manager's Staff Positions to be Assigned to the Preconstruction Phase

Name	Title	Duration (Weeks)	Percentage
Phillip Owen	PM / Pre-Construction	8	15%
Rick Smallish	PM / Pre-Construction	8	15%
Kim Cover	Pre-Construction PE	2	4%

V. Construction Manager's Staff Positions to be assigned to the Pre-Construction/Design Phases

Position	Name	Duration in Months	Percentage of Time Assigned
Vice President	tbd	x	x
Preconstruction Manager	tbd	x	x
Sr. Project Manager	tbd	x	x
Superintendent	tbd	x	x



1110 PENNSYLVANIA AVENUE – SAINT CLOUD, FL 34769
TEL: 407-892-0111 – FAX: 407-892-0053
ARNCOCONSTRUCTION.COM

June 24, 2022

City of Kissimmee
101 Church Street, Ste 301
Kissimmee, FL 34741
Re: City of Kissimmee – Lancaster Park

Attn: Robert Masiku,

We are pleased to submit for your review, the following proposal on the above referenced project in the amount of \$17,000.00 for the Pre-Construction Phase of this project as further described below.

- Document & Drawing review
- Scope origination
- Bid package preparation / Estimating
- Meetings with design team
- Printing / Advertising
- Pre Bid Conference
- Receiving of subcontract bids
- Bid Tabulation & GMP Preparation
- Prepare all documentation for Board review

Thank you for the opportunity to submit our proposal on the referenced project
Sincerely,

A handwritten signature in blue ink, appearing to read "Phillip Owen", with a long horizontal flourish extending to the right.

Phillip Owen
Project Manager

Specializing in Commercial Building

ITEM 7.I

Request additional funds to purchase a replacement vehicle for AP30 from Airport Reserves

Request

Request Commission approval for additional funds of \$2,531.00 to purchase a replacement vehicle for AP30 from Airport Reserves.

Explanation

The auto dealership that supplies the City with trucks and vehicles has informed the Purchasing Division that all orders have been canceled. There is another dealership that has been selling vehicles to municipalities for over 40 years and has some vehicles in stock. However, they are selling quickly. The original cost of the previous Purchase Order was \$33,248.80 and the cost at the new location is \$35,779.00, which is a difference of \$2,530.20. Due to the airport losing two vehicles to biohazard flooding during Hurricane Ian, and the nationwide shortage in inventory, the airport has struggled with normal airport daily operations due to the lack of available vehicles.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
46170100-509276	AP2202	Decrease	2,531	2,531
46170106-506495	AP2202	Increase	2,531	2,531

Financial Summary:

Airport reserves has adequate funding to support this request.

Recommendation

Staff recommends Commission approval for additional funds of \$2,531.00 to purchase a replacement vehicle for AP30 from Airport Reserves.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Airport
Presenter: Shaun Germolus

Attachment(s):

City of Kissimmee

1. Purchase Order (Archive) - 22000543_N (1)
2. Airport W1E -10-20-22 157 X 1



City of Kissimmee
Procurement Division
101 Church Street
Kissimmee, FL 34741
407-518-2214



Purchase Order

Fiscal Year 2022

Page 1 of 2

**THIS NUMBER MUST APPEAR ON ALL INVOICES,
PACKAGES, AND SHIPPING PAPERS.**

Bill To
City of Kissimmee
Procurement Division, 4th Floor
101 Church Street
Kissimmee, FL 34741

Ship To
CS - Vehicle Purchases
100 N Alaska Avenue
Kissimmee, FL 34741

CSV

Purchase Order Number **22000543**

Purchase Order Date **12/20/2021**

Department **AIRPORT**

Purchase Order Terms and Conditions:
www.Kissimmee.org/po-terms

Vendor 137701
GARBER FORD MERCURY, INC.
PO BOX 945
ATTN: TODD BRANDT
GREEN COVE SPRINGS, FL 32043-0945

VENDOR PHONE NUMBER	VENDOR EMAIL	VENDOR NUMBER	REQUISITION NUMBER	BUYER NAME	DELIVERY REFERENCE
904-264-4502		137701	22100691	DEBBIE LUKE	

NOTES

NONE

2022 Ford F-150 4WD Supercrew 157" w/options

The Above Purchase Order Number Must Appear On All Correspondence - Packing Sheets And Bills Of Lading

ITEM #	DESCRIPTION	QUANTITY	UOM	UNIT PRICE	EXTENDED PRICE
1	W1E 2022 Ford F-150 4WD Supercrew 157" XL w/HD Payload PKG (W1E, 627) Base Price 34865 100A/145" Downgrade to Short Box credit -4414 995 5.0L Flex Fuel V8 Engine 1955.10 44G 10-Speed Automatic Transmission INCL XL3 3.31 Electronic Locking Rear Axle INCL YZ Oxford White INCL AS Vinyl 40/20/40 Seats: Med Dark Slate INCL 85A Power Equipment is Standard INCL Tires: LT265/70R17C BSW A/T INCL Backup Camera and Blue Tooth are standard Front Tow Hooks are standard 53B Class IV Trailer Hitch 200.90 413 Skid Plates 156.80 Dealer Installed Items Linex Professional Spray in Liner 485 T&D Temporary Tag and Delivery State of Florida contract #25100000-21-STC PLEASE SEND INVOICES TO: CITY OF KISSIMMEE FLEET SERVICES, 100 N. ALASKA AVE KISSIMMEE, FL, 34741 NOTES: The unit MUST be delivered to 100 N. Alaska Ave., Kissimmee, FL between the hours of 8:00 AM - 2:30 PM., Monday through Friday. Notify the City of Kissimmee 48 hours prior to delivery at (407)518-2508 Fleet Services. Vehicle(s)/Equipment MUST be accompanied by all applicable paperwork: - Invoice - Application for title and registration, form 40 completed and signed by the dealer. - ALL TAG AND TITLE WORK MUST BE ADDRESSED TO THE BELOW ADDRESS:	1.0000	EACH	\$33,248.8000	\$33,248.80

Tax Exemption Number 85-8012621610C-8

Total Ext. Price \$33,248.80

Purchase Order Total \$33,248.80


Authorized Signature

ITEM #	DESCRIPTION	QUANTITY	UOM	UNIT PRICE	EXTENDED PRICE
	100 N. Alaska Ave, Kissimmee, FL 34741 - Manufacturer's statement of origin (MSO) - Vehicle delivery inspection form - Owner's manual and warranty certificate - Two (2) complete sets of keys - Title applications fee (if applicable) (Check made Payable to: City of Kissimmee) - Form DR41A (Tax Exempt Form) - Include Odometer Disclosure Form NOTE: IF FOR ANY REASON ANY OF THE ABOVE REQUIRED ITEMS ARE NOT DELIVERED WITH VEHICLE, IT WILL NOT BE ACCEPTED. GL #: 46170106 - 506495 Project # : E-AP2202 -461 -506495 -				\$33,248.80

Total Ext. Price \$33,248.80

Purchase Order Total \$33,248.80

FORD CRESTVIEW**FT WALTON BCH CDJR**

STEP ONE AUTOMOTIVE GROUP
 4060 FERDON BLVD
 CRESTVIEW, FL 32536
 ERIC JORE
 GOVERNMENT SALES
 CELL 407-234-5116
 OFFICE 850-292-4580
 E-MAIL
 EJORE@STEPONEAUTO.COM

PROPOSAL

NAME CITY OF KISSIMMEE	
EMAIL	
ATTN	
DATE 10-21-22	
2022 FORD F150 CREW CAB 4WD WITH 6.5 BED W1E 157" WB	32,399.00
5.0 V-8 ENGINE WITH 10 SPEED AUTO TRANS	
101A PKG INC POWER GROUP, CRUISE CONTROL, REV SENSORS	920.00
265/70R-17 TIRES AT, VINYL 40/20/40 FRONT SEAT	
LIMITED SLIP REAR AXLE, REMOVE STOP START	
LT265 AT TIRES UP GRADE	295.00
CHROME BUMPERS	175.00
SKID PLATES	160.00
TRAILER TOW PKG	1395.00
FOG LIGHTS	140.00
SUBJECT TO PRIOR SALE	
TOTAL	35.779.00
IN STOCK	
PER STATE CONTRACT 25-00000-21-STC	

PURCHASER ACKNOWLEDGES:

STEP ONE AUTOMOTIVE IS UNABLE TO GUARANTEE DELIVERY DATES DUE TO MANY FACTORS, NOT LIMITED TO BUT INCLUDING: PRODUCTION SCHEDULES, WEATHER, AVAILABILITY OF RAIL CARS, ETC.

ALL PAYMENTS ARE DUE ON A NET 30 DAY BASIS UPON RECEIPT OF EACH VEHICLE AS INVOICED REGARDLESS OF THE NUMBER OF VEHICLES ON THE PURCHASE ORDER.

We thank you for the opportunity to make this proposal and will appreciate your acceptance. Acceptance of this proposal will not be binding until this proposal is approved here in writing by an official of Step One Automotive. **Return of one copy of this proposal and your purchase order number constitutes your official acceptance.**

Respectfully submitted,
 Eric Jore
 Government Sales

ITEM 7.J

Approval of a Permanent Right-of-Way Easement between Vine Street Plaza Investors, LLC and the City of Kissimmee.

Request

Approval of a Permanent Right-of-Way Easement between Vine Street Plaza Investors, LLC and the City of Kissimmee to accommodate streetscape zone requirements on Vine St. and Cypress St. at 101 & 105 W Vine St.

Explanation

Due to the lack of right-of-way to accommodate adequate streetscape zones along streets within the Form Based Code (FBC) area of the City, some projects are required to dedicate an easement on private property to the city to accommodate such zones. Streetscape zones include a sidewalk and a furnishing zone. This right-of-way easement includes 3.5 feet on Cypress St. and 13 feet on Vine St.

FINDINGS AND REASONS:

1. Compliance with Land Development Code Section 14-5-5(E), Streetscape Zone, which requires an easement dedication if there is not sufficient space in the existing right-of-way to accommodate the streetscape zones.

Recommendation

Staff recommends approval.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Development Services

Presenter:

Attachment(s):

1. (S) Permanent Right of Way Easement - Vine Street Plaza Investors & the City of Kissimmee

This instrument prepared
by and return to:

City Attorney's Office
101 Church Street
Kissimmee, FL 34741
407-518-2310

Property Appraiser's Parcel ID Number: 15-25-29-2171-0001-0010
15-25-29-2171-0001-0020

PERMANENT RIGHT OF WAY EASEMENT

THIS PERMANENT RIGHT OF WAY EASEMENT ("Easement Agreement") is made and executed this **1st** day of **November**, 2022, by and between Vine Street Plaza Investors, LLC, a Florida limited liability company, whose address is 2221 Lee Road, Suite 11, Winter Park, FL 32789 (hereinafter "GRANTOR") and the CITY OF KISSIMMEE, a municipal corporation of the State of Florida, whose address is 101 Church Street, Kissimmee, FL 34741, (hereinafter "GRANTEE").

"WITNESSETH"

WHEREAS, Grantor is the fee owner of certain real property located in Osceola County, Florida (the "Property"); and

WHEREAS, Grantee desires to obtain a permanent right of way easement in connection with the Grantee's redevelopment of the Vine Street Corridor within the Vine Street CRA overlay District over a portion of the Property more particularly shown and described on Exhibit "A" attached hereto and made a part hereof (the "Easement Area"); and

WHEREAS, Grantee agrees that the existing parking space length may be reduced to accommodate this Easement Area without impacting the ability to use these parking spaces in the future; and

WHEREAS, Grantor agrees to grant this Permanent Right of Way Easement to Grantee upon and subject to the terms and conditions set forth below.

NOW THEREFORE, in consideration of the foregoing premises, the mutual covenants and promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. RECITATIONS. The above recitations are true and correct.

2. GRANT AND USE OF EASEMENT. Grantor hereby grants and conveys to Grantee (its successors and assigns) a permanent right of way easement in perpetuity. This easement is subject to the terms and conditions set forth herein and in other recorded easements, restrictions, conditions, and limitations affecting the Easement Area and the Property. The easement shall be used by the Grantee (and its successors, assigns, licensees or designees) for the construction, maintenance and repair, landscaping, surface water drainage, current utilities, ingress and egress and all other uses traditionally associated with public road rights of way, including for the use of the traveling public across the Easement Area, at the Grantee's sole discretion.

3. CONDITION OF EASEMENT AREA. Grantee acknowledges that it (i) has physically inspected the Easement Area; and (ii) accepts the Easement Area "as is" and "where is" with full knowledge of the condition thereof and subject to all the terms, conditions, restrictions and limitation applicable thereto.

4. PARKING SPACES. Grantee acknowledges that the Easement Area extends into the existing parking spaces by three feet. Due to the present length of the parking spaces (20 feet) the Grantee agrees to allow 16 foot long parking spaces to accommodate the Easement Area. No parking spaces will be lost when the Easement Area is improved or reconstructed, whether it is by the Grantee or a third party.

5. INDEMNIFICATION. In addition to any other indemnification provided herein, Grantee, shall indemnify, defend, protect and hold Grantor and its officers, directors, shareholders, employees, agents and lenders, (collectively the "Indemnities"), harmless for, from and against any and all causes of action, claims, liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees and court costs) sustained by or asserted against the Indemnities from the activities, operations, or use of the Easement Area by Grantee or arising from, out of or in any manner connected with the acts or omissions of the Grantee in exercising the rights and obligations granted and set forth herein.

- a. To the extent provided by F.S. 768.28, Grantee hereby agrees to indemnify, defend, and hold harmless the Indemnities from and against any and all liability, loss, claim, demand, lien, damage, penalty, fine, interest, cost and expense (including, without limitation, reasonable attorney fees and litigation costs) incurred by the Indemnities for injuries to persons (including, without limitation, loss of life) or for damage, destruction of property, which is caused directly in whole or in part by:
 - (i) The activity, work or act committed, omitted, permitted or suffered by Grantee, its successors, assigns, grantees, invitees, and any of their officers, directors, employees, representatives and agents, or caused, in whole or in part, on or about the Easement area;
 - (ii) the negligence of Grantee, its successors, assigns, grantees, invitees,

- agents, employees, representatives or contractors;
 - (iii) Grantee's failure to perform any obligations imposed hereunder;
 - (iv) Grantee's use, maintenance, or repair of the Easement Area; or
 - (vi) Grantee's failure to abide by any applicable Laws as exist at present and those which may be enacted subsequent to the date of this Easement Agreement, and whether or not such injuries, damage, destruction or theft are sustained by Grantee or Grantor, or by other persons or entities on the Easement Area
- b. Nothing contained herein shall be construed as a waiver by Grantee of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.

6. **BINDING OBLIGATIONS.** Grantee and Grantor covenant and agree that the terms and provisions of this Easement Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective permitted legal representatives, successors and permitted assigns.

7. **CONSTRUCTION OF AGREEMENT.** This Easement Agreement has been fully reviewed and approved by the parties hereto, and their respective counsel. Accordingly, in interpreting this Easement Agreement, no weight shall be placed upon which Party hereto or its counsel drafted the provisions being interpreted.

8. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding and agreement between the parties hereto concerning the Easement and supersedes any prior or written or oral agreements between the parties concerning the subject matter. There are no representations, agreements, or arrangements or understandings, oral or written, between or among the parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

9. **NOTICES.** All notices, demands, requests and other communications required or to be given pursuant to this Easement Agreement shall be in writing, given by the parties hereto and shall be sent by registered mail, return receipt requested, or by a national overnight receipt delivery service (e.g., Federal Express). Such notices shall be deemed served, given and delivered on the earlier of the following: (i) the date of actual receipt; (ii) the fifth (5th) business day after any registered or certified notice was deposited in a sealed envelope in the U.S. mail, postage prepaid; (iii) the next business day after any notice was delivered (on a business day) to a receipted overnight delivery service of said notice accepted same). All notices shall be addressed as set forth below:

If to Grantor: Forness Properties
2221 Lee Road, Suite 11
Winter Park, FL 32789
Attn. Drew Forness

If to Grantee: Craig Holland
Development Services
City of Kissimmee
101 Church St.
Kissimmee, FL
34741

Or to such other address or to the attention of such other person as hereinafter shall be designated in writing and sent in accordance with the foregoing provisions.

10. **NO IMPLIED WAIVER.** The failure of any Party to insist upon strict performance of any of the terms and provisions of this Easement Agreement, irrespective of the length of time for which such failure continues, shall not be a waiver of any such Party's rights. No course of dealing between the parties and no delay in exercising any right, power or remedy conferred hereby or now hereafter existing at Law, in equity, by statute or otherwise shall operate as a waiver of, or otherwise prejudice, any such right, power or remedy.

11. **SEVERABILITY.** Every provision of this Agreement is intended to be severable. In the event that any provision of this Agreement is held to be invalid, the same shall not affect in any respect whatsoever the validity of the remaining provisions of this Agreement.

12. **AMENDMENTS.** This Agreement may be changed, modified, amended or rescinded only by an instrument in writing duly executed and acknowledged by all parties hereto, or their successors or assigns.

13. **GOVERNING LAW.** This Easement Agreement shall be governed by and, construed in accordance with the Laws of the State of Florida. Any legal action instituted or arising out of this Easement Agreement shall be brought in the Courts of Osceola County, Florida. The parties consent and submit to the exclusive jurisdiction of any such court and agree to accept service of process outside the State of Florida in any matter to be submitted to any such court pursuant hereto.

14. **ATTORNEY'S FEES AND WAIVER OF JURY TRIAL.** The parties hereto agree to waive trial by jury in any legal proceeding of any nature brought by either Party against the other to enforce any right or obligation under this Easement Agreement, or arising out of any matter pertaining to this Easement Agreement. Each Party further agrees that in any action, proceeding or claim which may be brought from any matter arising out of this Easement Agreement there shall be no entitlement to attorney's fees or court costs from the opposing Party.

15. COUNTERPARTS. This Easement Agreement may be executed in any number of counterparts with the same effect as if all parties hereto have signed the same agreement. All such counterparts shall be deemed to be an original and all of which shall together constitute one and the same instrument.

{Signature pages follow}

IN WITNESS WHEREOF, the parties hereto have duly authorized and executed this Easement Agreement as of the day and year first written above.

GRANTOR:

Signature

Name: Andrew E. Forness

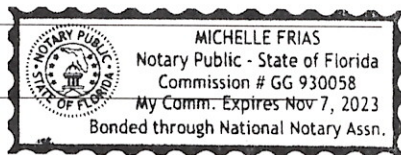
Title: Manager

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 11 day of April, 2022, by means of ☒ physical presence or ☐ online notarization, by Andrew Forness as manager for Forness Properties, a Florida limited liability company, who is personally known to me or has produced identification.

Notary Seal:



Notary:

Print Name: Michelle Frias

My Commission Expires: 11/7/2023

GRANTEE:

By: _____

Olga Gonzalez, Mayor/Commissioner

ATTEST:

City Clerk

Approved as to form and legal sufficiency:

City Attorney

EXHIBIT "A" Legal Description of Easement

SKETCH OF DESCRIPTION

PROJECT NAME: VINE STREET PLAZA
PURPOSE: LANDSCAPE EASEMENT

THIS IS NOT A BOUNDARY SURVEY
NOT VALID WITHOUT SHEET 2

DESCRIPTION:

The North 3.50 feet of Tract A and Lots 1 and 2, Staples Plaza, according to the plat thereof as recorded in Plat Book 11, Pages 102 through 103, Public Records of Osceola County, Florida, more particularly described as follows:

Begin at the Northwest corner of said Tract A; thence run S88°45'11"E along the North lines of said Tract A and Lots 1 and 2, a distance of 793.73 feet; thence run S00°38'10"W along the East line of said Lot 2, a distance of 3.50 feet; thence run N88°45'11"W along a line 3.50 feet South of and parallel to said North lines of Tract A and Lots 1 and 2, a distance of 793.80 feet; thence run N01°51'05"E along the West line of said Tract A, a distance of 3.50 feet to the Point of Beginning.

Contains 2,778 square feet or 0.064 acres, more or less.

SURVEYORS NOTES

1. Bearings based on the North lines of Tract A & Lots 1 and 2 as being S88°45'11"E.
2. I hereby certify that the above described property is true and correct to the best of my knowledge and belief as recently drawn under my direction and that it meets the Standards of Practice for Land Surveying set forth in Florida Administrative Code Rule 5J-17.05 requirements.
3. Not valid without the signature and seal of a Florida Licensed Surveyor and Mapper.
4. The electronic signature hereon is in compliance with the Florida Administrative Code (FAC) 5J-17.062(3)
5. The seal appearing on this document was authorized by James R. Shannon, PLS 4671 on 03/25/2022 per 5J17-062(2).



JAMES R. SHANNON, JR., P.L.S. #4671
NOT VALID WITHOUT THE SIGNATURE AND THE
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

SHANNON SURVEYING, INC.
499 NORTH S.R. 434 - SUITE 2045
ALTAMONTE SPRINGS, FLORIDA, 32714
(407) 774-8372 LB # 6898

DATE OF SURVEY: 03/25/2022

DRAWN BY: BP SCALE: 1" = 160'

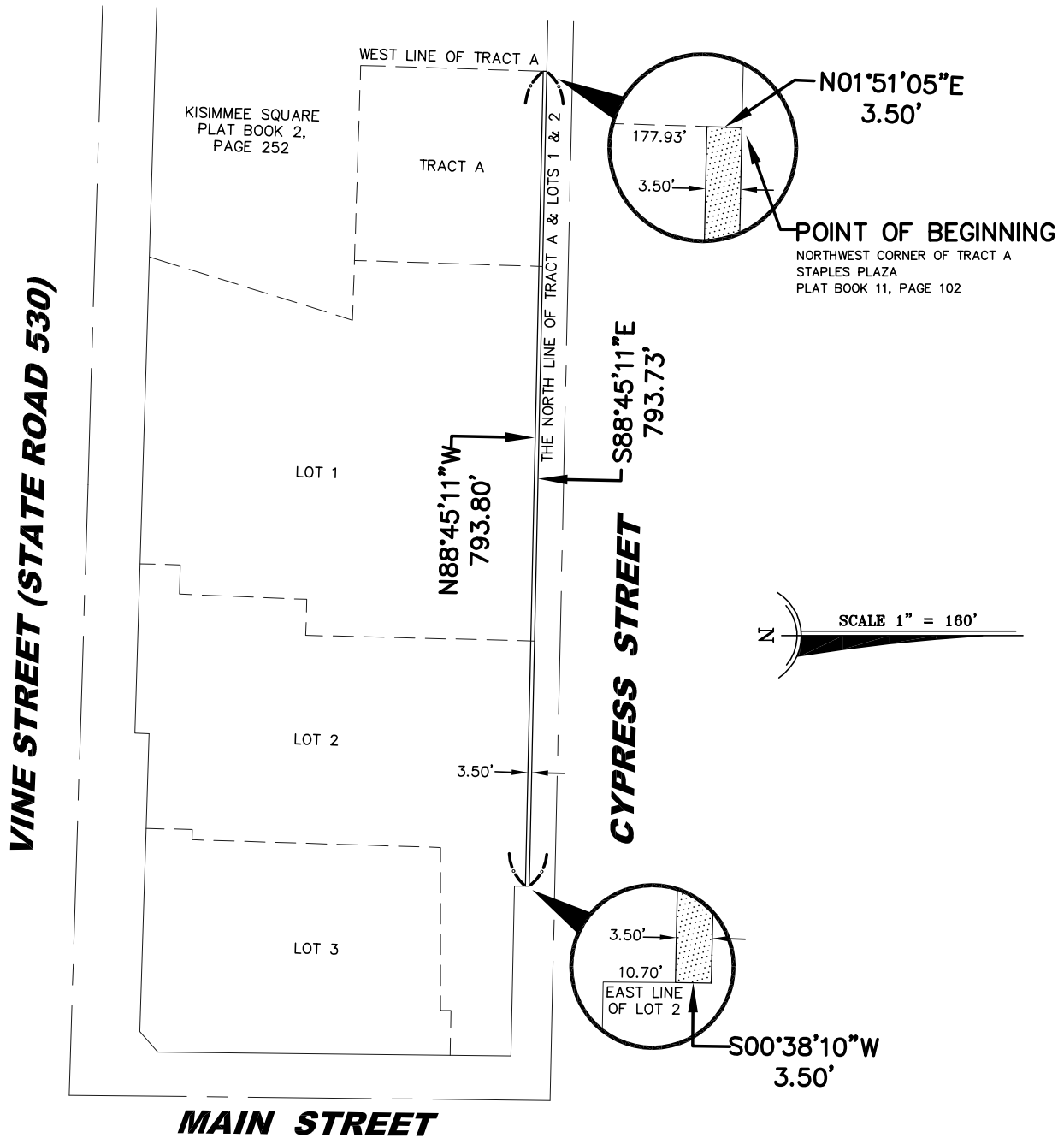
PB11-PG102 EASE-1

SHEET 1 OF 2

SKETCH OF DESCRIPTION

PROJECT NAME: VINE STREET PLAZA
PURPOSE: LANDSCAPE EASEMENT

THIS IS NOT A BOUNDARY SURVEY
NOT VALID WITHOUT SHEET 1



SHANNON SURVEYING, INC.
499 NORTH S.R. 434 - SUITE 2045
ALTAMONTE SPRINGS, FLORIDA, 32714
(407) 774-8372 LB # 6898

DATE OF SURVEY: 03/25/2022
DRAWN BY: BP SCALE: 1" = 160'
PB11-PG102 EASE-1
SHEET 2 OF 2

SKETCH OF DESCRIPTION

PROJECT NAME: VINE STREET PLAZA
PURPOSE: LANDSCAPE EASEMENT

THIS IS NOT A BOUNDARY SURVEY
NOT VALID WITHOUT SHEET 2

DESCRIPTION:

The South 13.00 feet of Lots 1 and 2, Staples Plaza, according to the plat thereof as recorded in Plat Book 11, Pages 102 through 103, Public Records of Osceola County, Florida, more particularly described as follows:

Begin at the Southwest corner of said Lot 1; thence run N17°17'07"E along the West line of said Lot 1, a distance of 13.49 feet; thence run S88°15'53"E along a line 13.50 feet North of and parallel to the South lines of said Lots 1 and 2, a distance of 460.43 feet; thence run S01°50'09"W along the East line of said Lot 2, a distance of 13.00 feet; thence run N88°15'53"W along said South lines of Lot 1 and 2, a distance of 464.02 feet to the Point of Beginning.

Contains 6,009 square feet, or 0.138 acres more or less.

SURVEYORS NOTES

1. Bearings based on the North lines of Tract A & Lots 1 and 2 as being S88°45'11"E.
2. I hereby certify that the above described property is true and correct to the best of my knowledge and belief as recently drawn under my direction and that it meets the Standards of Practice for Land Surveying set forth in Florida Administrative Code Rule 5J-17.05 requirements.
3. Not valid without the signature and seal of a Florida Licensed Surveyor and Mapper.
4. The electronic signature hereon is in compliance with the Florida Administrative Code (FAC) 5J-17.062(3)
5. The seal appearing on this document was authorized by James R. Shannon, PLS 4671 on 03/25/2022 per 5J17-062(2).



JAMES R. SHANNON, JR., P.L.S. #4671
NOT VALID WITHOUT THE SIGNATURE AND THE
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

SHANNON SURVEYING, INC.
499 NORTH S.R. 434 - SUITE 2045
ALTAMONTE SPRINGS, FLORIDA, 32714
(407) 774-8372 LB # 6898

DATE OF SURVEY: 03/25/2022

DRAWN BY: BP SCALE: 1" = 160'

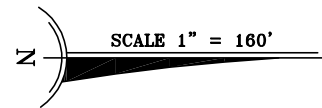
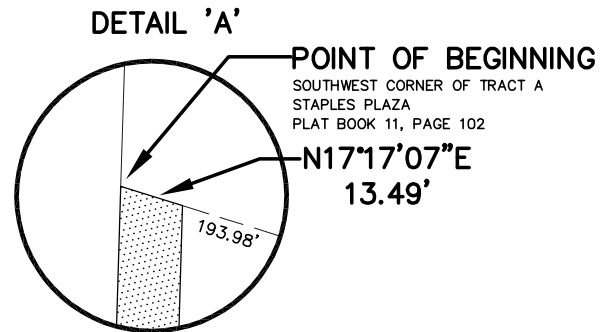
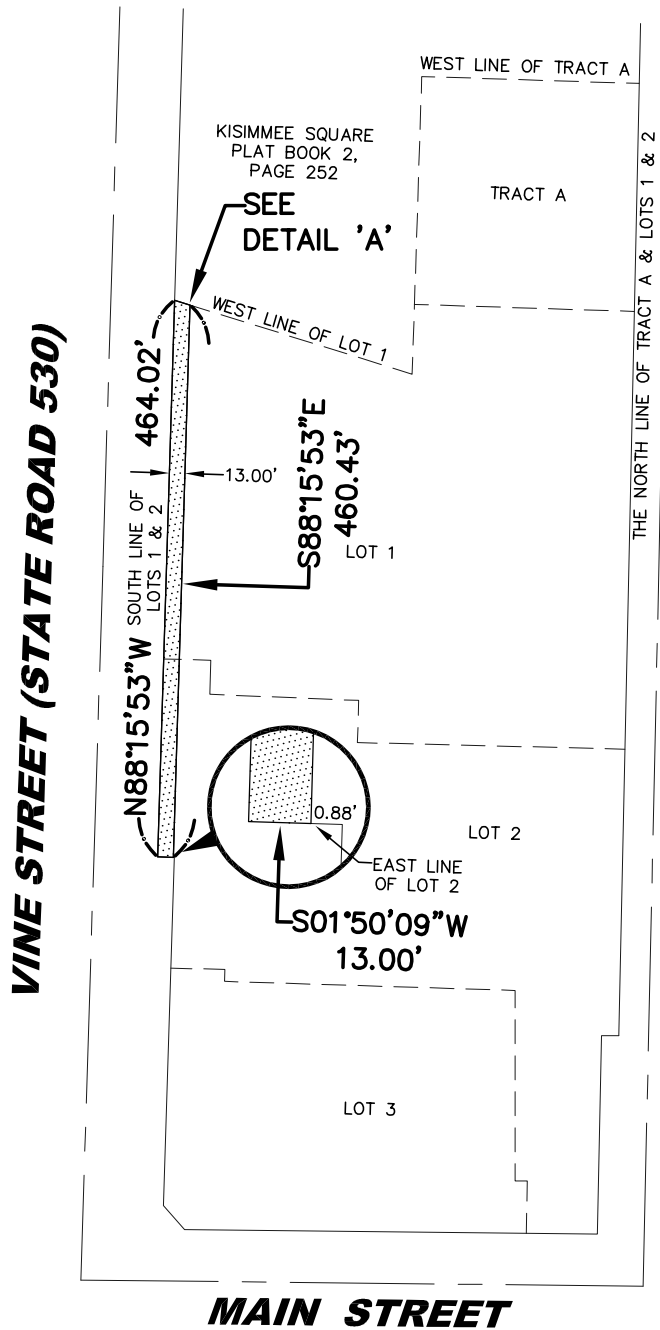
PB11-PG102 EASE-2

SHEET 1 OF 2

SKETCH OF DESCRIPTION

PROJECT NAME: VINE STREET PLAZA
PURPOSE: LANDSCAPE EASEMENT

THIS IS NOT A BOUNDARY SURVEY
NOT VALID WITHOUT SHEET 1



SHANNON SURVEYING, INC.
499 NORTH S.R. 434 - SUITE 2045
ALTAMONTE SPRINGS, FLORIDA, 32714
(407) 774-8372 LB # 6898

DATE OF SURVEY: 03/25/2022
DRAWN BY: BP SCALE: 1" = 160'
PB11-PG102 EASE-2
SHEET 2 OF 2

ITEM 7.K

Government Experience Cloud Web Content Management Software

Request

Approval of a five-year Government Experience Cloud Web Content Management System contract in the amount of \$270,033.91 from Granicus utilizing the National Cooperative Purchasing Alliance (NCPA) contract.

Explanation

The City currently uses Granicus to provide a govAccess web content management solution. This request is to upgrade the current system to the Government Experience Cloud offering. This agreement will span five years and includes a one-time cost in the amount of \$79,650 for configuration and migration services for all of the City's current content as well as analytics and assistance to take advantage of the new tool's capabilities. The services also include training for City staff. In addition, the contract provides for guaranteed pricing of the annual subscription cost for five years. The first year's subscription fee will be \$34,454.69. Years 2-5 are outlined in the agreement.

The OpenCities platform will allow us to modernize our current website to increase functionality and the ability for our residents to interact and receive digital services in a more efficient and user-friendly way. This means more emphasis on service to our residents as opposed to simply providing a narrative regarding City operations. The solution will also allow for a 100% mobile-friendly design, making content available to our residents across platforms and various smart devices such as cell phones. The new platform also provides administrative tools that greatly increase the efficiency of staff, reducing time spent on site maintenance.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
56060103 503131			\$100,000	\$100,000
56060103 505455			\$10,000	\$14,104.69

Financial Summary:

The actual amount needed for the first year subscription will be offset by the credit provided for the existing subscription previously paid. Years 2 through 5 of the agreement will be budgeted in the Information Technology Dues and Subscription budget line item for fiscal years 2024 through 2027.

Recommendation

Staff recommends approval of a five-year agreement for a Government Experience Cloud Web Content Management System in the amount of \$270,033.91 from Granicus utilizing the National Cooperative Purchasing Alliance (NCPA) contract.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Information Technology

Presenter:

Attachment(s):

1. (S) Government Experience Cloud Web Content Management Software

**AGREEMENT BETWEEN CITY OF KISSIMMEE
AND GRANICUS LLC**

THIS AGREEMENT is made this _____ day of _____, 2022 by and between the **CITY OF KISSIMMEE**, a municipal corporation of the State of Florida, 101 Church Street, Kissimmee, Florida 34741, hereinafter "**CITY**", and **GRANICUS LLC**, whose address is 508 St. Peter Street, Suite 600, Saint Paul, MN 55102, hereinafter "**CONTRACTOR**", collectively hereinafter the "**Parties**", and each represents as follows:

WITNESSETH

WHEREAS, the City seeks to upgrade its current web content management system; and

WHEREAS, National Cooperative Purchasing Alliance (NCPA), a council of government of which the City is a member, has created a cooperative purchasing program;

WHEREAS, Pursuant to the City's Purchasing Manual, the City may procure goods and services from bid or proposals through NCPA; and

WHEREAS, Pursuant to a competitive bidding and selection process, NCPA, a State of Texas local government agency and service cooperative created under the laws of the State of Texas, entered into "Contract Number 01-115", hereinafter the "Master Agreement," with Contractor which is attached hereto and incorporated herein as "Exhibit A"; and

WHEREAS, City has determined that it is economically advantageous and in the best interest of the City to enter into contract with Contractor to upgrade its current web content management system; and

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and value considerations, the receipt and sufficiency of which is hereby acknowledged, each party hereby promises to the other as follows:

1. **RECITALS.** The foregoing recitals are true and correct and specifically incorporated herein.
2. **SERVICES.** Consultant will provide the software and services described in the "Order Form" pursuant to the terms and conditions therein which is attached hereto and incorporated herein as "Exhibit B."
3. **TERM.** This Agreement will begin on the date of signature and will continue through the end of the then current billing term, which concludes on February 28, 2023, and will continue for an additional 48 months thereafter. Upon the signing of this Agreement, any prior agreements between Contractor and City concerning web content management system software shall terminate and any annual fees due on such agreements shall cease. If the City has pre-paid fees for any prior terminated agreements, such fees shall be prorated

from the signing of this Agreement to the end of the City's then-current billing term, credited, and such credit applied to the annual fees for new subscriptions.

4. **PAYMENT.** Upon review and approval of the Contractor's invoice and verification that services have been rendered in conformity with this Agreement, the City, shall pay Contractor in accordance with the Local Government Prompt Payment Act, Chapter 218, Part VII, Florida Statutes. Contractor shall not apply any late charges, interest or penalties to any invoice or charges for services until 30 days from the City's receipt of the invoice. If this Agreement is terminated for convenience for any reason, then the Contractor shall be paid pro rata for all services performed, materials purchased, and administrative costs incurred to the effective date of termination.
5. **NON-APPROPRIATION.** All funds for payment by City under this Agreement are subject to the availability of an annual appropriation for this purpose by the Kissimmee City Commission. In the event of non-appropriation of funds by the Kissimmee City Commission for the goods and/or services provided under this Agreement, City will terminate this Agreement, without termination charge on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods and/or services covered by this Agreement is spent, whichever event occurs last. If at any time funds are not appropriated for the continuance of this Agreement, Contractor on thirty (30) days prior written notice shall accept cancellation, but failure to give such notice shall be of no effect and City shall not be obligated under this Agreement beyond the date of termination.
6. **INSURANCE.** Certificates of insurance shall be delivered to the City prior to commencement of work. The insurance company shall be licensed in the applicable state in which work is being conducted. The awarded vendor shall give the participating entity a minimum of thirty (30) days notice prior to any modifications or cancellation of policies.
7. **RELATIONSHIP BETWEEN THE PARTIES.** This Agreement does not create an employee-employer relationship between the City and Contractor. Contractor is an independent contractor of the City and will be in control of the means and the method in which the requested work is performed. As an independent contractor, Contractor will be solely responsible for payment of all federal, state and local income tax, and self-employment taxes, arising from this Agreement. The City will not make deductions from payments due, for such taxes, or for social security, unemployment insurance, worker's compensation, or other employment or payroll taxes.
8. **PUBLICITY AND ENDORSEMENT.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from City. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with

others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract. The Vendor must not claim that City endorses its equipment, products, or services.

9. **TERMINATION.**

- a. Either Party may terminate this Agreement, at any time for its sole convenience by giving ninety (90) days written notice of termination to the other Party.
- b. City may terminate this Agreement upon written notice to Contractor in the event Contractor materially breaches this Agreement and such failure continues for a period of thirty (30) days following notice from City specifying the default.
- c. Notwithstanding the foregoing, City reserves the right to immediately terminate this Agreement for convenience by providing written notice to the Contractor, but without an opportunity to cure, if City determines Contractor knowingly furnished any representation, warranty or certification in connection with the solicitation of Contractor's bid or this Agreement, which representation was materially false, deceptive, incorrect, or incomplete.
- d. Notwithstanding the foregoing, City reserves the right to immediately terminate this Agreement by providing written notice to Contractor if the State of Florida or the federal government enacts a law, which removes or restricts authority of City to conduct all or part of its function.
- e. Upon receipt of such notice of termination, Contractor shall: (1) discontinue the terminated work as mutually agreed by the Parties, (2) thereafter perform only such portion of the work not terminated, (3) not place further task orders or enter into further subcontracts for services related to this Agreement, and (4) terminate all existing orders and subcontracts insofar as such orders and subcontracts relate to performance of this Agreement.
- f. There shall be no termination charges for services not yet provided. City will be responsible for payment of authorized services already provided by Contractor but not yet invoiced, provided such services have been approved by the City. Upon payment of Contractor's claims, City shall be entitled to services paid for.

10. **INDEMNIFICATION.** Contractor shall protect, indemnify, and hold harmless City and its employees and agents against all third party claims, damages, losses and expenses arising out of or resulting from the gross negligence or willful misconduct of Contractor or Contractor's employees in the preparation of the solicitation and the later execution of this

Agreement. Notwithstanding the foregoing or anything to the contrary herein, in no event shall vendor's liability under this Agreement exceed the fees paid by the entity for the vendor products and services during the six (6) months immediately preceding the date the entity notifies the vendor in writing of a claim for direct damages, and in no event shall Contractor be liable for any: i) special, indirect, punitive, incidental, or consequential damages; or ii) loss or damage to data, lost profits, sales, business, goodwill or anticipated savings, whether an action is in contract or tort (including negligence) and regardless of the theory of liability, even if a party has been advised of the possibility of such damages.

11. **NON-ASSIGNMENT.** Contractor shall not, without prior consent of the City, assign this contract or any portion hereof. This Agreement is hereby deemed to be of a personal service contact nature, thus, subcontracting any portion of this Agreement is prohibited unless Contractor obtains the City's prior written consent.
12. **APPLICABLE LAWS.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Florida.
13. **VENUE.** Venue shall be Osceola County, Florida.
14. **WAIVER.** No failure of the City to insist upon strict performance in any one or more terms of this Agreement, nor any failure of the City to exercise any right or remedy under this Agreement shall constitute a waiver of any such term, right or remedy the City may have, or future rights to enforce compliance.
15. **NOTICES.** Notice under this Agreement shall be deemed effective when mailed, certified mail return receipt requested or when delivered personally at the parties address below:

Notice to CITY:

Peggy Sousa
Director of Information Technology
101 N. Church Street
Kissimmee, Florida 34741

Notice to Contractor:

Granicus, LLC
ATTN: Contracts
408 Saint Peter St, Ste 600
Saint Paul, MN 55102
contracts@granicus.com

16. **MODIFICATIONS.** Any modifications or additional obligations assumed by either party shall be binding only upon mutual written agreement of the Parties.

17. **PUBLIC RECORDS LAW.** The Contractor acknowledges the City's obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and that the constitutional and statutory provisions control over the terms of this Agreement. As such, the Contractor shall keep and maintain public records required by the City to perform the service.

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 407-518-2308, Cityclerkemail@kissimmee.org, and 101 Church Street, Kissimmee, Florida 34741.

1. If the City's Custodian of Records requests records from the Contractor, the Contractor shall provide the City's Custodian of Records 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 charged by the City of Kissimmee, as provided in Chapter 119, Florida Statutes or as otherwise provided by law.
2. The 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 for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.
3. Upon completion of the contract, the Contractor shall transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
4. Upon notice to the Contractor of a request to inspect or copy public records relating to a City's contract for services, the Contractor shall provide the records to the City or allow the records to be inspected or copied within a reasonable time.
5. If the Contractor does not comply with the City's request for records, such failure shall constitute a material breach and the Contract shall terminate upon notice by the City.

6. A Contractor who fails to provide the public records to the City within a reasonable time may be subject to penalties under Florida Statutes §119.10.

18. **COMPLIANCE WITH LAWS AND REGULATIONS.** In performing under this Agreement, the Parties, shall abide by all applicable laws, statutes, ordinances, rules and regulations pertaining to, or regulating the performance set forth herein, including those now in effect and hereafter adopted. Any violation of said law, statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement.

19. **SEVERABILITY.** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provision, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

20. **E-VERIFY.** In accordance with Section 448.095, Florida Statutes, Contractor shall register with and utilize the E-Verify System operated by the United States Department of Homeland Security to verify the employment eligibility of all new employees hired during the term of the Agreement and shall expressly require any subcontractors performing work or providing services pursuant to this Agreement to likewise utilize the E-Verify System to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Agreement. If Contractor enters into a contract with a subcontractor performing work or providing services on its behalf, Contractor shall also require the subcontractor to provide an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Information on registration for and use of the E-Verify System can be obtained via the internet at the Department of Homeland Security website: <http://www.dhs.gov/E-Verify>.

Every contractor shall, upon request provide evidence of compliance with this provision to City. Failure to comply with this provision is a material breach of this Agreement, and City may choose to terminate the Agreement at its sole discretion. Contractor may be liable for all costs associated with City securing the same services, inclusive, but not limited to, higher costs for the same services and rebidding costs (if necessary).

21. **SCRUTINIZED COMPANIES CERTIFICATION.** By signing this Agreement, Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or engaged in a boycott of Israel. If City determines, using credible information available to the public, that Contractor has submitted false certification, City shall provide Contractor with written notice of its determination. Contractor shall have 90 days following receipt of the notice to respond in writing and to demonstrate that the determination of false certification was made in error. Failure to comply with this provision is a material breach of this Agreement, and City may choose to terminate the Agreement at its sole discretion.

22. **NONDISCRIMINATION.** Contractor agrees not to discriminate against any citizen, employee or employment applicant on the basis of race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, marital status or age in the performance of the obligations of this Agreement. Violation of this provision shall be treated as a breach of this Agreement.

23. **NO WAIVER OF SOVEREIGN IMMUNITY.** Nothing in this Agreement shall be construed as a waiver by the City of its rights to statutory sovereign immunity pursuant to Fla. Stat. §768.28.

24. **ENTIRETY OF AGREEMENT.** This Agreement, together with corresponding Exhibits and together with Master Agreement referenced herein, shall constitute the entire Agreement of the parties. Any prior understanding or representations of any kind preceding the date of this Agreement shall not be binding on either party except as incorporated herein.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed:

GRANICUS LLC

By: DocuSigned by:
Brendan Stierman
8E942686D9714DF...

Title: Manager, Contracts

Date: 10/25/2022

Witness as to Granicus LLC:

By: DocuSigned by:
Olivia Martin
7A1034258EFD4AD...

Title: Contracts Specialist

Date: 10/25/2022

CITY OF KISSIMMEE

By: _____
Olga Gonzalez, Mayor

Date: _____

ATTEST:

Linda Hansell, City Clerk

Approved as to form and legal sufficiency:

Olga Sanchez de Fuentes, City Attorney

EXHIBIT A



GRANICUS

Request for Proposal for
Region 14 Education Service Center
For
Software and SaaS Solutions
RFP #39-20



Response Submitted by Granicus
Proposal Contact:
Sam.morton@granicus.com
Submitted on November 19, 2020



To Whom It May Concern,

Thank you for the opportunity to connect with Region 14 Education Service Center (the Region) and other public agencies supported by this contract. We look forward to detailing throughout this process and proposal how we can provide a platform of products to increase the efficiency of civic engagement and move towards a true digital Region.

Granicus' platform of digital engagement will allow the Region, and other agencies, to transition to on-line services. During current times, the public is getting used to working on-line and from their own spaces. After the dust settles, a new normal, as already seen in the UK, will be employees and the public wishing to work within the digital world.

Granicus is uniquely position with a proven platform of integrated tools to make this new normal a reality. We have the digital tools to communicate both within and outside of agencies, move workflows and public facing processes like paying student fees, to a digital format with minimal coding. We can also wrap it all within a communication network that is made for mobile access.

We look forward to being able to guide the Region and its agencies in changing the way that you connect with residents, creating better lives for more people through secure, world-class technology.

Sincerely,

Sam Morton

Sam Morton
Vice President of Sales
303-521-0052
Sam.morton@granicus.com

Granicus' statements regarding its plans, directions, and intent are subject to change or withdrawal without notice at Granicus' sole discretion. The information mentioned regarding potential future products is not a commitment, promise, or legal obligation to deliver any material, code, or functionality. Unless otherwise stated, this proposal is valid for 180 days.



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Executive Summary

Broken customer experiences, legacy technologies, paper-based processes, and siloed departmental workflows cause frustration (and increase administrative cost) for both government employees and their customers. The COVID-19 pandemic is only making things worse.

Many of our competitors have gone to market with service-specific solutions that automate only a small portion of a city's resident connection strategy. This traditionally forces cities to rely heavily on fragmented solutions from multiple vendors, but the Granicus Platform will show why a partnership between the Region and its agencies and Granicus can transform how they connect with residents while following the guiding principles, including:

- | | |
|----------------|----------------|
| 1. Meaningful | 6. Informative |
| 2. Transparent | 7. Responsive |
| 3. Respectful | 8. Timely |
| 4. Inclusive | 9. Convenient |
| 5. Accessible | 10. Continuous |

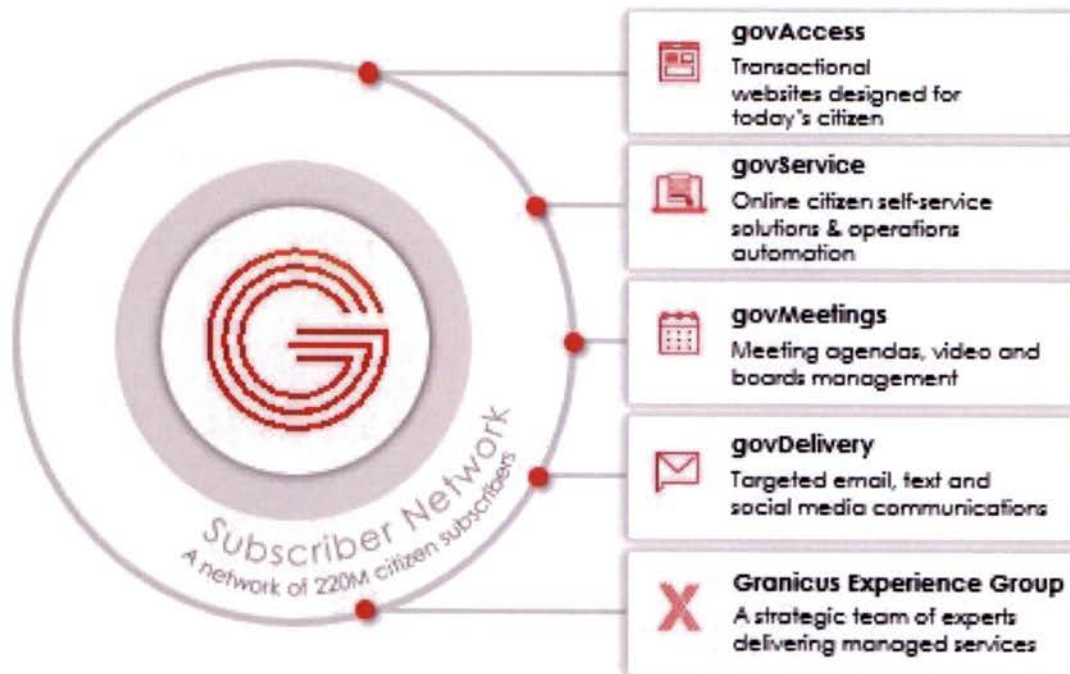
Why Granicus? There is no other company with the flexibility and configurability of solutions that also has the speed of implementation and breadth of capability that we can achieve. Our solutions are purpose-built for government organizations. Our portfolio is tailored to make government employees' lives easier. We will help the Region solve pressing challenges faced both today and well into the future.

Specifically, the Granicus Citizen Engagement Platform will unify technology systems to improve the overall resident experience, transparency and accountability, therefore increasing resident engagement. Our systems will automate back-office processes and work by internal staff.

Continue reading for a sneak peek of what is possible by partnering with Granicus.



ELEMENTS OF THE PLATFORM



BENEFITS AND OUTCOMES

The opportunity in front of the Region's agencies to build a true digital platform is profound. It starts with a robust CSM via govAccess and flows all the way through internal and external process to a fully integrated digital communication with GovDelivery.

In the end, the Granicus Citizen Engagement Platform is a connected platform to improve resident relationship and accountability and ensure council aids and council staff members follow through on requests from constituents.

Our solution is built for government, by government. A single platform with a single vendor will not only mean streamlining implementation, support and service, but a unique opportunity to bring to the table features that are integrated together, enhance public engagement, ensure accessibility, and continuous engagement.

We look forward to the opportunity to partner with the Region and its agencies on this endeavor.

Tab 1 – Master Agreement

General Terms and Conditions

- ◆ Customer Support
 - The vendor shall provide timely and accurate technical advice and sales support. The vendor shall respond to such requests within one (1) working day after receipt of the request.
- ◆ Disclosures
 - Respondent affirms that he/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this contract.
 - The respondent affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this contract.
- ◆ Renewal of Contract
 - Unless otherwise stated, all contracts are for a period of three (3) years with an option to renew for up to two (2) additional one-year terms or any combination of time equally not more than 2 years if agreed to by Region 14 ESC and the vendor.
- ◆ Funding Out Clause
 - Any/all contracts exceeding one (1) year shall include a standard “funding out” clause. A contract for the acquisition, including lease, of real or personal property is a commitment of the entity’s current revenue only, provided the contract contains either or both of the following provisions:
 - Retains to the entity the continuing right to terminate the contract at the expiration of each budget period during the term of the contract and is conditioned on a best efforts attempt by the entity to obtain appropriate funds for payment of the contract.
- ◆ Shipments (if applicable)
 - The awarded vendor shall ship ordered products within seven (7) working days for goods available and within four (4) to six (6) weeks for specialty items after the receipt of the order unless modified. If a product cannot be shipped within that time, the awarded vendor shall notify the entity placing the order as to why the product has not shipped and shall provide an estimated shipping date. At this point the participating entity may cancel the order if estimated shipping time is not acceptable.
- ◆ Tax Exempt Status
 - Since this is a national contract, knowing the tax laws in each state is the sole responsibility of the vendor.

◆ Payments

- The entity using the contract will make payments directly to the awarded vendor or their affiliates (distributors/business partners/resellers) as long as written request and approval by NCPA is provided to the awarded vendor.

◆ Adding authorized distributors/dealers

- Awarded vendors may submit a list of distributors/partners/resellers to sell under their contract throughout the life of the contract. Vendor must receive written approval from NCPA before such distributors/partners/resellers considered authorized.
- Purchase orders and payment can only be made to awarded vendor or distributors/business partners/resellers previously approved by NCPA.
- Pricing provided to members by added distributors or dealers must also be less than or equal to the pricing offered by the awarded contract holder.
- All distributors/partners/resellers are required to abide by the Terms and Conditions of the vendor's agreement with NCPA.

◆ Pricing

- All pricing submitted shall include the administrative fee to be remitted to NCPA by the awarded vendor. It is the awarded vendor's responsibility to keep all pricing up to date and on file with NCPA.
- All deliveries shall be freight prepaid, F.O.B. destination and shall be included in all pricing offered unless otherwise clearly stated in writing

◆ Warranty

- Proposals should address each of the following:
 - Applicable warranty and/or guarantees of equipment and installations including any conditions and response time for repair and/or replacement of any components during the warranty period.
 - Availability of replacement parts
 - Life expectancy of equipment under normal use
 - Detailed information as to proposed return policy on all equipment

◆ Indemnity

- The awarded vendor shall protect, indemnify, and hold harmless Region 14 ESC and its participants, administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of the vendor, vendor employees or vendor subcontractors in the preparation of the solicitation and the later execution of the contract.

◆ Franchise Tax

- The respondent hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes.

◆ Supplemental Agreements

- The entity participating in this contract and awarded vendor may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this contract i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement developed as a result of this contract is exclusively between the participating entity and awarded vendor.

◆ Certificates of Insurance

- Certificates of insurance shall be delivered to the Public Agency prior to commencement of work. The insurance company shall be licensed in the applicable state in which work is being conducted. The awarded vendor shall give the participating entity a minimum of ten (10) days notice prior to any modifications or cancellation of policies. The awarded vendor shall require all subcontractors performing any work to maintain coverage as specified.

◆ Legal Obligations

- It is the Respondent's responsibility to be aware of and comply with all local, state, and federal laws governing the sale of products/services identified in this RFP and any awarded contract and shall comply with all while fulfilling the RFP. Applicable laws and regulation must be followed even if not specifically identified herein.

◆ Protest

- A protest of an award or proposed award must be filed in writing within ten (10) days from the date of the official award notification and must be received by 5:00 pm CST. Protests shall be filed with Region 14 ESC and shall include the following:
 - Name, address and telephone number of protester
 - Original signature of protester or its representative
 - Identification of the solicitation by RFP number
 - Detailed statement of legal and factual grounds including copies of relevant documents and the form of relief requested
- Any protest review and action shall be considered final with no further formalities being considered.

◆ Force Majeure

- If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.
- The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the

United States or any civil or military authority; insurrections; riots; epidemics; landslides; lighting; earthquake; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty

◆ Prevailing Wage

- It shall be the responsibility of the Vendor to comply, when applicable, with the prevailing wage legislation in effect in the jurisdiction of the purchaser. It shall further be the responsibility of the Vendor to monitor the prevailing wage rates as established by the appropriate department of labor for any increase in rates during the term of this contract and adjust wage rates accordingly.

◆ Miscellaneous

- Either party may cancel this contract in whole or in part by providing written notice. The cancellation will take effect 30 business days after the other party receives the notice of cancellation. After the 30th business day all work will cease following completion of final purchase order.

◆ Open Records Policy

- Because Region 14 ESC is a governmental entity responses submitted are subject to release as public information after contracts are executed. If a vendor believes that its response, or parts of its response, may be exempted from disclosure, the vendor must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt. In addition, the respondent must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s).
- The determination of whether information is confidential and not subject to disclosure is the duty of the Office of Attorney General (OAG). Region 14 ESC must provide the OAG sufficient information to render an opinion and therefore, vague and general claims to confidentiality by the respondent are not acceptable. Region 14 ESC must comply with the opinions of the OAG. Region 14 ESC assumes no responsibility for asserting legal arguments on behalf of any vendor. Respondent are advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

Process

Region 14 ESC will evaluate proposals in accordance with, and subject to, the relevant statutes, ordinances, rules, and regulations that govern its procurement practices. NCPA will assist Region 14 ESC in evaluating proposals. Award(s) will be made to the prospective vendor whose response is determined to be the most advantageous to Region 14 ESC, NCPA, and its participating agencies. To qualify for evaluation, response must have been submitted on time, and satisfy all mandatory requirements identified in this document.

- ◆ Contract Administration
 - The contract will be administered by Region 14 ESC. The National Program will be administered by NCPA on behalf of Region 14 ESC.
- ◆ Contract Term
 - The contract term will be for three (3) year starting from the date of the award. The contract may be renewed for up to two (2) additional one-year terms or any combination of time equally not more than 2 years.
 - It should be noted that maintenance/service agreements may be issued for up to (5) years under this contract even if the contract only lasts for the initial term of the contract. NCPA will monitor any maintenance agreements for the term of the agreement provided they are signed prior to the termination or expiration of this contract.
- ◆ Contract Waiver
 - Any waiver of any provision of this contract shall be in writing and shall be signed by the duly authorized agent of Region 14 ESC. The waiver by either party of any term or condition of this contract shall not be deemed to constitute waiver thereof nor a waiver of any further or additional right that such party may hold under this contract.
- ◆ Products and Services additions
 - Products and Services may be added to the resulting contract during the term of the contract by written amendment, to the extent that those products and services are within the scope of this RFP.
- ◆ Competitive Range
 - It may be necessary for Region 14 ESC to establish a competitive range. Responses not in the competitive range are unacceptable and do not receive further award consideration.
- ◆ Deviations and Exceptions
 - Deviations or exceptions stipulated in response may result in disqualification. It is the intent of Region 14 ESC to award a vendor's complete line of products and/or services, when possible.
- ◆ Estimated Quantities
 - The estimated dollar volume of Products and Services purchased under the proposed Master Agreement is \$10 - \$15 million dollars annually. This estimate is based on the anticipated volume of Region 14 ESC and current sales within the NCPA program. There is no guarantee or commitment of any kind regarding usage of any contracts resulting from this solicitation

- ◆ Evaluation
 - Region 14 ESC will review and evaluate all responses in accordance with, and subject to, the relevant statutes, ordinances, rules and regulations that govern its procurement practices. NCPA will assist the lead agency in evaluating proposals. Recommendations for contract awards will be based on multiple factors, each factor being assigned a point value based on its importance.
- ◆ Formation of Contract
 - A response to this solicitation is an offer to contract with Region 14 ESC based upon the terms, conditions, scope of work, and specifications contained in this request. A solicitation does not become a contract until it is accepted by Region 14 ESC. The prospective vendor must submit a signed Signature Form with the response thus, eliminating the need for a formal signing process.
- ◆ NCPA Administrative Agreement
 - The vendor will be required to enter and execute the National Cooperative Purchasing Alliance Administration Agreement with NCPA upon award with Region 14 ESC. The agreement establishes the requirements of the vendor with respect to a nationwide contract effort.
- ◆ Clarifications / Discussions
 - Region 14 ESC may request additional information or clarification from any of the respondents after review of the proposals received for the sole purpose of elimination minor irregularities, informalities, or apparent clerical mistakes in the proposal. Clarification does not give respondent an opportunity to revise or modify its proposal, except to the extent that correction of apparent clerical mistakes results in a revision. After the initial receipt of proposals, Region 14 ESC reserves the right to conduct discussions with those respondent's whose proposals are determined to be reasonably susceptible of being selected for award. Discussions occur when oral or written communications between Region 14 ESC and respondent's are conducted for the purpose clarifications involving information essential for determining the acceptability of a proposal or that provides respondent an opportunity to revise or modify its proposal. Region 14 ESC will not assist respondent bring its proposal up to the level of other proposals through discussions. Region 14 ESC will not indicate to respondent a cost or price that it must meet to neither obtain further consideration nor will it provide any information about other respondents' proposals or prices.
- ◆ Multiple Awards
 - Multiple Contracts may be awarded as a result of the solicitation. Multiple Awards will ensure that any ensuing contracts fulfill current and future requirements of the diverse and large number of participating public agencies.
- ◆ Past Performance
 - Past performance is relevant information regarding a vendor's actions under previously awarded contracts; including the administrative aspects of performance; the vendor's history of reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the vendor's businesslike concern for the interests of the customer.

Evaluation Criteria

- ◆ Pricing (40 points)
 - Electronic Price Lists
 - Products, Services, Warranties, etc. price list
 - Prices listed will be used to establish both the extent of a vendor's product lines, services, warranties, etc. available from a particular bidder and the pricing per item.
- ◆ Ability to Provide and Perform the Required Services for the Contract (25 points)
 - Product Delivery within participating entities specified parameters
 - Number of line items delivered complete within the normal delivery time as a percentage of line items ordered.
 - Vendor's ability to perform towards above requirements and desired specifications.
 - Past Cooperative Program Performance
 - Quantity of line items available that are commonly purchased by the entity.
 - Quality of line items available compared to normal participating entity standards.
- ◆ References (15 points)
 - A minimum of ten (10) customer references for product and/or services of similar scope dating within past 3 years
- ◆ Technology for Supporting the Program (10 points)
 - Electronic on-line catalog, order entry use by and suitability for the entity's needs
 - Quality of vendor's on-line resources for NCPA members.
 - Specifications and features offered by respondent's products and/or services
- ◆ Value Added Services Description, Products and/or Services (10 points)
 - Marketing and Training
 - Minority and Women Business Enterprise (MWBE) and (HUB) Participation
 - Customer Service



Tab 1 - Master Agreement/Signature Form

SIGNATURE FORM

Signature Form

The undersigned hereby proposes and agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices proposed within response unless noted in writing. The undersigned further certifies that he/she is an officer of the company and has authority to negotiate and bind the company named below and has not prepared this bid in collusion with any other Respondent and that the contents of this proposal as to prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any person engaged in this type of business prior to the official opening of this proposal.

Prices are guaranteed: **120 days**

Company name	Granicus, LLC
Address	408 St Peter St, Suite 600
City/State/Zip	Saint Paul, Minnesota, 55102
Telephone No.	800-314-0147
Fax No.	651-665-0943
Email address	contracts@granicus.com
Printed name	Mark Hynes
Position with company	Chief Executive Officer
Authorized signature	



Tab 1 – Master Agreement

Granicus Exceptions to RFP #39-20

Tab 1 – Master Agreement General Terms and Conditions

- ◆ Customer Support
 - The vendor shall provide timely and accurate technical advice and sales support in accordance with vendor's Service Level Agreement as Exhibit A. ~~The vendor shall respond to such requests within one (1) working day after receipt of the request.~~
- ◆ Shipments (if applicable)
 - The awarded vendor shall ship ordered products within seven (7) working days for goods available and within four (4) to six (6) weeks for specialty items after the receipt of the order unless modified. If a product cannot be shipped within that time, the awarded vendor shall notify the entity placing the order as to why the product has not shipped and shall provide an estimated shipping date. ~~At this point the participating entity may cancel the order if estimated shipping time is not acceptable.~~
- ◆ Warranty
 - Vendor warrants that it takes all precautions that are standard in the industry to increase the likelihood of a successful performance for the Vendor Products and Services; however, the Vendor Products and Services are provided "AS IS" and as available. ~~Proposals should address each of the following:~~
 - ◆ ~~Applicable warranty and/or guarantees of equipment and installations including any conditions and response time for repair and/or replacement of any components during the warranty period.~~
 - ◆ ~~Availability of replacement parts~~
 - ◆ ~~Life expectancy of equipment under normal use~~
 - ◆ ~~Detailed information as to proposed return policy on all equipment~~
- ◆ Indemnity

The awarded vendor shall protect, indemnify, and hold harmless Region 14 ESC and its participants, administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of the vendor, vendor employees or vendor subcontractors in the preparation of the solicitation and the later execution of the contract. **Notwithstanding the foregoing or anything to the contrary herein, in no event shall vendor's liability under this Agreement exceed the fees paid by the entity for the vendor products and services during the six (6) months immediately preceding the date the entity notifies the vendor in writing of a claim for direct damages.**
- ◆ Certificates of Insurance
 - Certificates of insurance shall be delivered to the Public Agency prior to commencement of work. The insurance company shall be licensed in the applicable state in which work is being conducted. The awarded vendor shall give the participating entity a minimum of **thirty (30)** ~~ten (10)~~ days notice prior to any modifications or cancellation of policies. The



awarded vendor shall require all subcontractors performing any work to maintain coverage as specified.

- ◆ Supplemental Agreements
 - The entity participating in this contract and awarded vendor may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this contract i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement developed as a result of this contract is exclusively between the participating entity and awarded vendor. **For the avoidance of doubt, Vendor's End User License Agreement ("EULA") is attached and incorporated into this Agreement as Exhibit B. All use of the vendor products shall be subject to the EULA. NCPA agrees to pass along the EULA to the entity for their review and signature and further acknowledges that vendor has no obligation to provide any entity with access to the vendor products until that entity has signed the Granicus EULA.**

Tab 1 – Master Agreement

- ◆ General Terms and Conditions
 - The Master Agreement, **Exhibit A, and Exhibit B** attached hereto as Tab 1 and incorporated herein by reference as though fully set forth herein, and the terms and conditions contained therein shall apply to this Agreement except as expressly changed or modified by this Agreement.



Exhibit A: Help Desk Services and Availability

Granicus will provide complete help desk support for administrators and customers of the Granicus Solutions. Regular support will be available during regular business hours, Monday-Friday; via email or toll-free telephone.

CUSTOMER SUPPORT CONTACT

Hours: 8:00 am – 10:00 pm ET (9:30 am – 5:00 pm Europe)

Emergency Support is available 24/7

Please submit support requests via:

- Portal: support.granicus.com
- Email: support@granicus.com
- Phone: 1-800-314-0147 USA, 0800 032 7764 Europe

Please submit govDelivery Communications Cloud subscriber support only requests to:

- Portal: subscriberhelp.granicus.com
- Email: subscriberhelp@granicus.com
- Phone: 1-800-439-1420 USA, 0808 234 7450 Europe

COMMUNICATION SERVICE LEVEL AGREEMENT

Granicus response to support and service requests will be based on four (4) Severity Levels:

Severity Level	Description	Examples	Initial Customer Response Time
Level 1	Emergency. Incident represents a total outage; the product is unavailable or not accessible for use	• govDelivery's admin.govdelivery.com is down or all sending is significantly delayed • govMeetings web server is running but the application is non-functional or SQL-server errors that are not related to hardware • govAccess website is unreachable by public users	Within one (1) hour of notification by the customer of occurrence
Level 2	Severely Impaired. Incident occurs when a major feature of the product is not working and there is no workaround available, or the workaround is not acceptable and impacts the primary usability of the product	• govDelivery PageWatch sending is delayed by more than 20-30 minutes, or sudden and significant deliverability issues or intermittent errors or low performance issues for some or many customers • Site operational but govMeetings modular functionality is non-operational • govAccess error, where there is no means of circumvention, that renders an essential component of the content management tool non-functioning that did not occur at the time of the website launch and usually requires debugging of programming code	Within four (4) hours of notification by the customer of occurrence



Level 3	Impaired. Incident occurs when a primary feature of the product is not working as expected and an acceptable workaround is available – does not impact the basic usability of the product	- govDelivery system not connecting to social media, single customer app/feature help, or database requests - govMeetings system files won't upload, or text not rendering - govAccess website works but there are problems with presentation	Within one (1) business day of notification by the customer of occurrence
Level 4	Low Impact. Incident that has a limited business impact and requests can be scheduled.	- Programmatic change to back-end or front-end to improve efficiency - Distribution of all patches and upgrades	Within three (3) business days of notification of customer of occurrence

Resolution time will be based on the service or support request and regular follow-ups will be communicated with the customer on final resolution. Granicus shall use commercially reasonable efforts to resolve errors affecting non-essential components of Granicus Solutions, or errors that can be reasonably circumvented but errors that require debugging of programming code may need to be corrected during the next regular update cycle.

AVAILABILITY

Availability is defined as the ability of users to access the Granicus Solutions services via the internet. Granicus represents an up-time guarantee of 99% per calendar quarter for its hosted services. Notifications for Granicus Solutions of any system-wide outages will occur within one hour from the time the issues are first recognized by Granicus.

Downtime is defined as any time that the Granicus Solutions services are unavailable.

A **Site Outage** is defined as continuous Downtime, as determined through URL monitoring (HTTP). Downtime reporting is limited to a Site Outage. Site Outage monitoring is conducted by Granicus utilizing industry-standard monitoring tools. Reports of Site Outages will be provided on an as-requested basis up to once per calendar quarter.

A Site Outage does not include Downtime that falls into one or several of the exclusions below:

- Scheduled or routine maintenance
- Caused by force majeure (which shall include any circumstances beyond Granicus's reasonable control, including but not limited to, acts of God, labor strikes and other labor disturbances, power surges or failures)
- The first four (4) Site Outages in any given quarter that are corrected within fifteen (15) minutes of their start
- The first five (5) minutes of any Site Outage is a grace period and will not be considered Downtime under any circumstances
 - Example: a Site Outage of fourteen (14) minutes in duration that is one of the first four (4) such outages in a given quarter would not result in any Downtime, while a Site Outage of sixteen (16) minutes would result in eleven (11) minutes of Downtime. After four (4) Site Outages of between five (5) and fifteen (15) minutes in a quarter, all Site Outage time over five (5) minutes for any one instance will count as Downtime.



- For **govAccess**, Granicus is not responsible for errors associated with denial of service attacks, distributed denial of service attacks, or customer DNS

SCHEDULED MAINTENANCE

govDelivery. Scheduled maintenance typically occurs every thirty (30) days with average Downtime required being less than thirty (30) minutes. Planned or routine maintenance is limited to two (2) hours per week. Total scheduled Downtime for the year will not typically exceed twenty (20) hours.

govMeetings. Scheduled maintenance will take place between 11:00 pm – 4:00 am ET on Fridays. Granicus, will provide the customer with at least two (2) days' notice for any scheduled maintenance. All system maintenance will be performed during these times, except for emergency maintenance. In the case that emergency maintenance is required, the customer will be provided as much advance notice as possible. Granicus will clearly post that the site is down for maintenance and the expected duration of the maintenance.

govAccess. Scheduled maintenance will take place between 1:00 am – 4:00 am ET every Monday.

govService. Planned or routine maintenance is limited to two (2) hours and typically occurs every two (2) weeks.

All Solutions. Notifications and additional scheduled maintenance will be posted on status.granicusops.com. Email notifications for these products can be subscribed to from that page.

HARDWARE REPLACEMENT

For hardware issues requiring replacement (where applicable), Granicus shall respond to the request made by the customer within one (1) business day. Hardware service repair or replacement will occur within four (4) business days of the request by the customer, not including the time it takes for the part to ship and travel to the customer. The customer shall grant Granicus or its representatives access to the equipment for the purpose of repair or replacement at reasonable times. Granicus will keep the customer informed regarding the time frame and progress of the repairs or replacements.



Master Subscription Agreement

This Master Subscription Agreement ("**Agreement**") is made by and between the party procuring Granicus Products under NCPA 01-115 ("**Client**") and Granicus, LLC ("**Granicus**").

1. Ordering and Scope

- 1.1. **Ordering Granicus Products.** The parties will enter into a binding order, proposal or purchase document (each, an "**Order**"), setting forth the products and services made available to Client pursuant to NCPA 01-115 and this Agreement which may include online or cloud subscription services, on-premise software, or required equipment or hardware components (the "**Granicus Products**"), and may enter into statements of work ("**SOW**") setting forth corresponding professional or consulting services related to the Granicus Products. The parties may execute one or more Orders or SOWs under this Agreement, each Order or SOW becoming effective when executed by both parties or upon delivery and acceptance of purchase orders referencing the Order or SOW and this Agreement. Each Order and SOW will constitute a separate agreement between the parties related to the sale and purchase of Granicus Products. Each Order or SOW will generally include an itemized list of the Granicus Products as well as the Order Term for such Granicus Products.
- 1.2. **Support.** Basic support and maintenance services provided to Client for Granicus Products ("**Support**") is included in the fees paid for the Granicus Product subscription or maintenance during the Term. Granicus may update its Support obligations under this Agreement, so long as the level of Support agreed to by the parties is not materially diminished due to such modification.
- 1.3. **Future Functionality.** Client acknowledges that any purchase hereunder is not contingent on the delivery of any future functionality or features.
- 1.4. **Cooperative Purchasing.** To the extent permitted by law the terms of this Agreement may be extended for use by other municipalities, school districts and governmental agencies. Orders and SOWs entered into by such third parties are independent agreements between the third party and Granicus and do not affect this Agreement or any Order or SOW between Granicus and Client.

2. Use Rights

- 2.1. **License.** Subject to the terms and conditions of this Agreement, Granicus hereby grants to Client a non-exclusive, non-transferable right and license to use the Granicus Products for its internal purposes during the Term, subject to any additional rights and restrictions set forth in the applicable Order or SOW. This grant of rights is not a sale of the Granicus Products. Granicus and its third-party providers reserve all rights not expressly granted to Client in this Agreement. In addition to the license terms set forth in this Agreement, certain third-party products may be subject to additional terms and conditions, set forth in Exhibit A, below, which will apply to such third-party products in addition to the terms of this Agreement.
- 2.2. **Use of Granicus Products.**
 - 2.2.1. **Data Sources.** Client may only upload data related to individuals that originates with or is owned by Client. Data purchased from third parties may not be used with the Granicus Products without Granicus' prior written consent and list cleansing services provided by Granicus for an additional fee. Granicus will not sell, use, or disclose any personal information provided by Client for any purpose other than performing services subject to this Agreement.

- 2.2.2. Passwords.** Passwords are not transferable to any third party. Client is responsible for keeping all passwords secure and all use of the Granicus Products accessed through Client's passwords.
- 2.2.3. Third Party Contractors.** Client may permit its third party contractors to access and use the Granicus Products solely on behalf of, and for the benefit of, Client, so long as: (i) contractor agrees to comply fully with this Agreement as if it were Client; (ii) Client remains responsible for each contractor's compliance with this Agreement and any breach thereof; and (iii) all use of the Granicus Products and any metered or transactions includes licenses and use allocated to contractors. All rights granted to any contractor terminate immediately upon conclusion of the services rendered to Client that gives rise to such right. Upon termination of such rights, contractor must immediately cease all use of the Granicus Products, un-install and destroy all confidential or proprietary Granicus information in its possession, and Client must certify its compliance with this section in writing upon Granicus' request.
- 2.2.4. Content.** "Content" means text, data, graphics, personal information or any other material: (i) displayed or published on Client's website; (ii) provided by Client to Granicus to perform services; or (iii) uploaded into Granicus Products for use by Client or end users of the Granicus Products. Client can only use Granicus Products to share Content that is created by or owned by Client and/or Content for affiliated organizations provided that use by Client for affiliated organizations is in support only, and not as a primary communication vehicle for other organizations that do not have a separate license to a Granicus Product. Granicus is not responsible for any Content used, uploaded or migrated by Client or any third party.
- 2.2.5. Advertising.** Granicus Products will not be used to promote products or services available for sale through Client or any third party without Granicus' prior written consent. Upon Granicus' request, Client will provide a copy of any agreement between Client and a third party that compensates Client for the right to have information included in Content distributed or made available through Granicus Products for Granicus review prior to granting such approval.
- 2.2.6. Granicus Subscriber Information for Communications Cloud Suite only**
- 2.2.6.1. Data Provided by Client.** Data provided by Client and contact information gathered through Client's own web properties or activities will remain the property of Client ("Direct Subscriber"), including any personal information.
- 2.2.6.2.** Granicus will not disclose Direct Subscriber data except as required by law, or to third parties solely as necessary to operate the Granicus Products.
- 2.2.6.3.** Data generated by use of the Granicus Products, including system data and data derived from Content in an aggregated and anonymized form is not Direct Subscriber data and may be used by Granicus for its business purposes including product improvements and development, subject to any applicable laws governing the use and disclosure of such data.
- 2.2.6.4. Data Obtained through the Granicus Advanced Network**
- 2.2.6.4.1.** Communications Cloud, a Granicus Product, offers Direct Subscribers the opportunity to subscribe to digital communications offered by other Granicus clients (the "Advanced Network"). When a Direct Subscriber registers on the Advanced Network, that subscriber is a "Network Subscriber" to the agency it subscribed to through the Advanced Network.

2.2.6.4.2. Network Subscribers are not Direct Subscribers and are only available for use while Client is under an active GovDelivery Communications Cloud subscription. Network Subscribers will not transfer to Client upon termination of Client's subscription, and Client must delete all information related to Network Subscribers within fifteen (15) days of expiration or termination of Client's access to the Advanced Network. Client is permitted to send an email inviting Network Subscribers to subscribe to updates directly from Client in the last ten (10) days of Client's subscription term. Network Subscribers that do not engage with Client directly will not be included in any subscriber list provided to Client upon conclusion of Client's subscription.

2.3. Restrictions. Client will not:

- 2.3.1.** Use or permit any end user to use the Granicus Products to store or display adult content, promote illegal or immoral activities, send or store infringing, obscene, threatening or unlawful or tortious material or disrupt others use of the Granicus Products, network services or network equipment, including unsolicited advertising or chain letters, propagation of computer worms and viruses, or use of the Granicus Products to make unauthorized entry into any other device accessible via the network or Granicus Products;
- 2.3.2.** Use the Granicus Products as a door or signpost to another server;
- 2.3.3.** Disassemble, decompile, reverse engineer or make derivative works of the Granicus Products;
- 2.3.4.** Rent, lease, lend, or host the Granicus Products to or for any third party, or disclose the Granicus Products to any third party except as otherwise permitted in this Agreement or an Order or SOW;
- 2.3.5.** Use the Granicus Products in violation of any applicable law, rule, or regulation, including violation of laws regarding the processing, use, or disclosure of personal information, or violation of any United States export control or regulation, United States embargo, or denied parties prohibitions; or
- 2.3.6.** Modify, adapt, or use the Granicus Products to develop any software application intended for resale which uses or competes with the Granicus Products in whole or in part.

2.4. Client Feedback. Granicus may use any suggestion, enhancement request, recommendation, correction or other feedback provided by Client relating to the Granicus Products or use thereof without need for permission or consent or the payment of fees or attribution to Client.

3. Payment

- 3.1. Fees.** Client will pay all fees, costs and other amounts as specified in each Order or SOW. Annual fees are due upfront according to the billing frequency specified in each Order or SOW. Granicus may suspend Client's access to any Granicus Products if there is a lapse in payment not remedied promptly upon notice to Client. A lapse in the Term of each Order or SOW will require the payment of a setup fee to reinstate the subscription. All fees are exclusive of applicable value-added tax (VAT), which, if any, will be included in the invoice.
- 3.2. Payment.** Client will remit payment of the fees due within thirty (30) days of receipt of an accurate invoice from Granicus, or if Client is subject to different payment terms imposed by applicable regulation, such required payment duration. Any disputed amounts will be identified in writing to Granicus within the payment period or be deemed accurate and payable.
- 3.3. Purchase Orders.** Upon request, Granicus will reference a purchase order number on its invoices if Client provides the corresponding purchase order information to Granicus prior to generating the invoice. Client agrees that a failure to provide Granicus with purchase order

information will not relieve Client of its obligations to provide payment in accordance with this section.

- 3.4. Price Increases.** Subject to any prices separately negotiated by the parties, Granicus will provide notice of price increases at least thirty (30) days prior to the end of the current Term, which will become effective as of the next Renewal Term. Price increases will not exceed ten percent (10%) over the prior annual Term's fees.

4. Representations, Warranties and Disclaimers

- 4.1. Representations.** Each Party represents that it has validly entered into this Agreement and has the legal power to do so.
- 4.2. Warranties.** Granicus warrants that it has the rights necessary to grant to Client the license granted in this Agreement, and that it will perform its obligations in a professional and workmanlike manner in accordance with industry standards.
- 4.3.** Client represents and warrants that all Content is owned or properly licensed by Client for use with the Granicus Products or services provided under this Agreement, and that the Content does not infringe or misappropriate the intellectual property, privacy, moral or other rights of any third party.
- 4.4. Disclaimers.** EXCEPT AS EXPRESSLY STATED IN THIS THIS SECTION 4, THE GRANICUS PRODUCTS ARE PROVIDED "AS IS" AND GRANICUS DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. GRANICUS DOES NOT WARRANT THAT GRANICUS PRODUCTS WILL MEET CLIENT'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE.

5. Confidential Information

- 5.1. Confidential Information.** It is expected that one party (Disclosing Party) may disclose to the other party (Receiving Party) certain information which may be considered confidential and/or trade secret information ("Confidential Information"). Confidential Information will include: (i) Granicus' Products; (ii) non-public information if it is clearly and conspicuously marked as "confidential" or with a similar designation at the time of disclosure; (iii) non-public information of the Disclosing Party if it is identified as confidential and/or proprietary before, during, or promptly after presentation or communication; and (iv) any information that should be reasonably understood to be confidential or proprietary to the Receiving Party, given the nature of the information and the context in which disclosed.

- (a) Subject to applicable law, each Receiving Party will receive and hold any Confidential Information in strict confidence and will: (a) protect and safeguard the Confidential Information against unauthorized use, publication or disclosure; (b) not reveal, report, publish, disclose, transfer, copy or otherwise use any Confidential Information except as specifically authorized by the Disclosing Party; (c) not use any Confidential Information for any purpose other than in performance of this Agreement; (d) restrict access to Confidential Information to those of its advisors, officers, directors, employees, agents, consultants, contractors and lobbyists who have a need to know, who have been advised of the confidential nature thereof, and who are under express written obligations of confidentiality or under obligations of confidentiality imposed by law or rule; and (e) exercise at least the same standard of care and security to protect the confidentiality of the Confidential

Information received by it as it protects its own confidential information, but no less than a reasonable degree of care.

- (b) If a Receiving Party is requested or required in a judicial, administrative, or governmental proceeding to disclose any Confidential Information, it will notify the Disclosing Party as promptly as practicable so that the Disclosing Party may seek an appropriate protective order or waiver for that instance, unless such notification is prohibited by law or judicial order.

5.2. Exceptions. Confidential Information will not include information which: (i) is or becomes public knowledge through no fault of the Receiving Party; (ii) was in the Receiving Party's possession before receipt from the Disclosing Party; (iii) is rightfully received by the Receiving party from a third party without any duty of confidentiality; (iv) is disclosed by the Disclosing Party without any duty of confidentiality on the third party; (v) is independently developed by the Receiving Party without use or reference to the Disclosing Party's Confidential Information; or (vi) is disclosed with the prior written approval of the Disclosing Party.

5.3. Storage and Sending. If Granicus Products will be used to store or send Confidential Information, Client will notify Granicus in writing, in advance of the storage or sending. If Client provides such notice, Client will ensure that Confidential Information is stored behind a secure firewall and that Granicus Products be used only to notify people of updates to the information, but that accessing the Confidential Information is permitted only after authentication and access through the secure firewall managed by Client.

5.4. Return of Confidential Information. Each Receiving Party will return or destroy the Confidential Information immediately upon written request by the Disclosing Party; provided, however, that each Receiving Party may retain one copy of the Confidential Information in order to comply with applicable laws and the terms of this Agreement, and may retain archival copies in strict confidence in accordance with Receiving Party's standard document retention policies for the duration of any retention requirements.

5.5. Disclosing Party may be irreparably damaged if the obligations under this Section 5 are not enforced and as such may not have an adequate remedy in the event of a breach by Receiving Party of its obligations hereunder. The parties agree, therefore, that Disclosing Party is entitled to seek, in addition to other available remedies, an injunction restraining any actual, threatened or further breaches of the Receiving Party's obligations under this Section 5 or any other appropriate equitable order or decree.

6. Term and Termination

6.1. Agreement Term. This Agreement will begin on the Effective Date and continue in effect until all Orders and SOWs are expired or terminated unless otherwise terminated as provided in this Section 6. The initial term of each Order or SOW will be as specified therein (the "Initial Term") and will automatically renew for additional one (1) year terms unless otherwise terminated as set forth below (each, a "Renewal Term"), the Initial Term and all Renewal Terms being the "Term".

6.2. Termination. Either party may terminate this Agreement or any Order or SOW by written notice to the other party if the other party materially breaches this Agreement or applicable Order or SOW and fails to cure such breach within thirty (30) days after receipt of such notice, or such other time as agreed to in writing by the parties. Orders and SOWs may be terminated at the end of the Initial Term or each Renewal Term with ninety (90) days prior written notice to the other party.

- 6.3. Effect of Termination.** Upon expiration or termination of an Order or SOW for any reason: (i) Client's right to access and use the Granicus Products will immediately cease (except for perpetual licenses granted under an Order, which will continue to be governed by this Agreement for the duration of the license); (ii) Client will promptly remit any fees due and owing to Granicus under all Orders and SOWs; and (iii) the parties will return or destroy any Confidential Information of the other party in its possession, and certify upon request to the other party of compliance with the foregoing.
- 6.4. Survival.** Sections 4 (Representations, Warranties and Disclaimers), 5 (Confidential Information), 6 (Term and Termination), 7 (Limitation of Liability), 9.11 (Choice of Law and Jurisdiction) and any other section that by its nature is intended to survive termination of this Agreement will survive and continue in full force and effect.

7. Limitation of Liability

- 7.1. EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES.** EXCEPT FOR LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL GRANICUS BE LIABLE FOR ANY: (I) SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES; OR (II) LOSS OR DAMAGE TO PROFITS, SALES, BUSINESS, GOODWILL OR ANTICIPATED SAVINGS, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 7.2. LIMITATION OF LIABILITY.** EXCEPT FOR CLIENT'S BREACH OF SECTION 2.3 OR OBLIGATION TO PAY FEES DUE, EACH PARTY'S TOTAL LIABILITY, IN TORT (INCLUDING NEGLIGENCE) CONTRACT OR OTHERWISE RELATING TO THIS AGREEMENT AND ANY ORDER OR SOW HERETO, WILL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED THE FEES PAID BY CLIENT FOR THE GRANICUS PRODUCTS DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM. NEITHER PARTY MAY INSTITUTE AN ACTION IN ANY FORM ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION HAS ARISEN.

8. Indemnification

- 8.1. Indemnification by Granicus.** Granicus will defend, indemnify and hold Client harmless from and against all losses, liabilities, damages and expenses including reasonable attorney fees (collectively, "Losses") arising from any claim or suit by an unaffiliated third party that the Granicus Products as delivered to Client and when used in accordance with this Agreement and the applicable SOW or Order infringes a valid U.S. copyright or U.S. patent issued as of the date of the applicable Order or SOW (a "Claim").
- 8.2.** Granicus will have control of the defense and reserves the right to settle any Claim. Client must notify Granicus promptly of any Claim and provide reasonable cooperation to Granicus, upon Granicus' request and at Granicus' cost, to defend such Claim. Granicus will not agree to any settlement which requires acknowledgment of fault or an incurred liability on the part of an indemnified party not otherwise covered by this indemnification without indemnified party's prior consent. Client may elect to participate in the defense of any claim with counsel of its choosing at its own expense.
- 8.3.** If the Granicus Products are subject to a claim of infringement or misappropriation, or if Granicus reasonably believes the Granicus Products may be subject to such a Claim, Granicus reserves the right, in its sole discretion, to: (i) replace the affected Granicus Products with non-infringing functional equivalents; (ii) modify the affected Granicus Products to render it non-infringing; or (iii) terminate this Agreement or the applicable Order or SOW with respect to the affected

Granicus Product and refund to Client any prepaid fees for the then-remaining or unexpired portion of the Order or SOW Term.

- 8.4. Granicus will have no obligation to indemnify, defend, or hold Client harmless from any Claim to the extent it is based upon: (i) a modification to the Granicus Product by Client (or by anyone under Client's direction or control or using logins or passwords assigned to Client); (ii) a modification made by Granicus pursuant to Client's required instructions or specifications or in reliance on materials or information provided by Client; (iii) combination with the Granicus Products with non-Granicus software or data; or (iv) Client's use (or use by anyone under Client's direction or control or using logins or passwords assigned to Client) of any Granicus Products other than in accordance with this Agreement. This section 8 sets forth Client's sole and exclusive remedy, and Granicus' entire liability, for any Claim that the Granicus Products or any other materials provided by Granicus violate or infringe upon the rights of any third party.

9. General

- 9.1. **Relationship of the Parties.** Granicus and Client acknowledge that they operate independent of each other. Nothing in this Agreement will be deemed or construed to create a joint venture, partnership, agency, or employee/employer relationship between the Parties for any purpose, including, but not limited to, taxes or employee benefits. Each Party will be solely responsible for the payment of all taxes and insurance for its employees and business operations.
- 9.2. **Applicable Law.** Each party will, at all times, exercise its rights and perform its obligations under this Agreement in compliance with all applicable law, rules, and regulations.
- 9.3. **Headings.** The various section headings of this Agreement are inserted only for convenience of reference and are not intended, nor will they be construed to modify, define, limit, or expand the intent of the Parties.
- 9.4. **Amendments.** This Agreement may only be amended or modified by a written instrument signed by authorized representatives of both Parties.
- 9.5. **Severability.** To the extent permitted by applicable law, the Parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.
- 9.6. **Assignment.** Neither Party may assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations hereunder, either voluntarily or by operation of law, without the prior written consent of the other Party (such consent not to be unreasonably withheld); provided, however, that either Party may assign this Agreement without the other Party's consent in the event of any successor or assign that has acquired all, or substantially all, of the assigning Party's business by means of merger, stock purchase, asset purchase, or otherwise. Any assignment or attempted assignment in violation of this Agreement will be null and void.
- 9.7. **No Third-Party Beneficiaries.** Subject to Section 9.7 this Agreement is binding upon, and insures solely to the benefit of the Parties hereto and their respective permitted successors and assigns; there are no third-party beneficiaries to this Agreement.
- 9.8. **Notice.** Other than routine administrative communications, which may be exchanged by the Parties via email or other means, all notices, consents, and approvals hereunder will be in writing and will be deemed to have been given upon: (i) personal delivery; (ii) the day of receipt, as shown in the applicable carrier's systems, if sent via FedEx, UPS, DHL, or other nationally recognized express carrier; (iii) the third business day after sending by U.S. Postal Service, First Class, postage prepaid, return receipt requested; or (iv) sending by email, with confirmed receipt from the

receiving party. Either Party may provide the other with notice of a change in mailing or email address in which case the mailing or email address, as applicable, for that Party will be deemed to have been amended.

- 9.9. Force Majeure.** Any delay in the performance by either party of its obligations hereunder will be excused when such delay in performance is due to any cause or event of any nature whatsoever beyond the reasonable control of such Party, including, without limitation, any act of God; any fire, flood, or weather condition; any computer virus, worm, denial of service attack; any earthquake; any act of a public enemy, war, insurrection, riot, explosion or strike; provided, that written notice thereof must be given by such Party to the other Party within twenty (20) days after occurrence of such cause or event.
- 9.10. Choice of Law and Jurisdiction.** This Agreement shall be governed by and interpreted under the laws of the State of Minnesota, without reference to the State's principles of conflicts of law. The Parties expressly consent and submit to the exclusive jurisdiction of the state and federal courts of Ramsey County, MN.
- 9.11. Entire Agreement.** This Agreement, together with all Orders or SOWs referenced herein, sets forth the entire understanding of the Parties with respect to the subject matter of this Agreement, and supersedes any and all prior oral and written understandings, quotations, communications, and agreements. Any conflict between the Agreement and any other documents will be resolved in the following order: (i) this Agreement; (ii) Orders and SOWs; (iii) Granicus' response to Client's request for RFI, RFP, RFQ (if this Agreement results from such solicitation); and (iv) Client's RFI, RFP, RFQ, or other solicitation. Any pre-printed or standard terms on any purchase order or ordering document issued by Client are hereby expressly disclaimed and do not apply.
- 9.12. Reference.** Notwithstanding any other terms to the contrary contained herein, Client grants Granicus the right to use Client's name and logo in Client lists and marketing materials.

EXHIBIT A-THIRD PARTY TERMS

ClearCaster Terms & Conditions

The ClearCaster products are subject to the following terms:

Permitted Use. Granicus hereby grants during each Order Term or as otherwise specified in the Order, and Customer hereby accepts, solely for its internal use, a worldwide, revocable, non-exclusive, non-transferrable right to use the ClearCaster products to the extent allowed in the relevant Order (collectively the "Permitted Use"). The Permitted Use shall also include the right, subject to the conditions and restrictions set forth herein, to use the ClearCaster products up to the levels limited in the applicable Order.

Data Sources. Data uploaded into ClearCaster products must be brought in from Customer sources (interactions with end users and opt-in contact lists). Customer cannot upload purchased contact information into the ClearCaster products without Granicus' written permission and professional services support for list cleansing.

Passwords. Passwords are not transferable to any third party. Customer is responsible for keeping all passwords secure and all use of the the ClearCaster products accessed through Customer's passwords.

Content. Customer can only use the ClearCaster products to share content that is created by and owned by Customer and/or content for related organizations provided that it is in support of other organizations but not as a primary communication vehicle for other organizations that do not have a Granicus subscription. Any content deemed inappropriate for a public audience or in support of programs or topics that are unrelated to Customer, can be removed or limited by Granicus.

Disclaimers. Any text, data, graphics, or any other material displayed or published on Customer's website must be free from violation of or infringement of copyright, trademark, service mark, patent, trade secret, statutory, common law or proprietary or intellectual property rights of others. Granicus is not responsible for content migrated by Client or any third party.

Advertising. The ClearCaster products shall not be used to promote products or services available for sale through Customer or any third party unless approved in writing, in advance, by Granicus. Granicus reserves the right to request and review the details of any agreement between Customer and a third party that compensates Customer for the right to have information included in Content distributed or made available through the ClearCaster products prior to approving the presence of Advertising within the ClearCaster products.

Restrictions. Customer shall not:

- Misuse any Granicus resources or the ClearCaster products or cause any disruption, including but not limited to, the display of pornography or linking to pornographic material, advertisements, solicitations, or mass mailings to individuals who have not agreed to be contacted;
- Use any process, program, or tool for gaining unauthorized access to the systems, networks, or accounts of other parties, including but not limited to, other Granicus customers;

- Customer must not use the Granicus products, services or the ClearCaster products in a manner in which system or network resources are unreasonably denied to other Granicus clients;
- Customer must not use the services or ClearCaster products as a door or signpost to another server.
- Access or use any portion of the ClearCaster products, except as expressly allowed by this Order;
- Copy, distribute, sublicense, or otherwise share, software provided on the ClearCaster products;
- Disassemble, decompile, or otherwise reverse engineer all or any portion of the ClearCaster products; or add or remove software on the ClearCaster products without Granicus consent;
- Use the ClearCaster products for any unlawful purposes;
- Export or allow access to the ClearCaster products in violation of U.S. laws or regulations;
- Except as expressly permitted in this Order, subcontract, disclose, rent, or lease the ClearCaster products, or any portion thereof, for third party use; or
- Modify, adapt, or use the ClearCaster products to develop any software application intended for resale which uses the ClearCaster products in whole or in part.

Customer Feedback. Customer assigns to Granicus any suggestion, enhancement, request, recommendation, correction or other feedback provided by Customer relating to the use of the ClearCaster products. Granicus may use such submissions as it deems appropriate in its sole discretion.

Reservation of Rights. Subject to the limited rights expressly granted hereunder, Granicus and/or its licensors reserve all right, title and interest in the ClearCaster products, the documentation and resulting product including all related intellectual property rights. Further, no implied licenses are granted to Customer. The Granicus name, the Granicus logo, and the product names associated with the services are trademarks of Granicus or its suppliers, and no right or license is granted to use them.

License to Content; Access. Customer hereby grants Granicus and its vendors a limited right and license to view, access, use, modify, adapt, reproduce, transmit, distribute, display, and disclose Content for the sole purpose of providing the ClearCaster products. Customer agrees that Granicus and its vendors may remotely access the ClearCaster products for the sole purpose of providing Granicus products and services, and the ClearCaster products.

Warranties and Disclaimers. The ClearCaster products are provided "AS IS" and as available. EACH PARTY HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY NATURE WHATSOEVER WHETHER ORAL AND WRITTEN, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER GRANICUS NOR ITS SUPPLIERS WARRANT THAT THE CLEARCASTER PRODUCTS WILL MEET CUSTOMER'S REQUIREMENTS NOR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE.

Notwithstanding the foregoing and subject to payment of all applicable fees, Granicus will provide a three (3) year warranty with respect to required hardware. Within the three (3) year warranty period, Granicus shall repair or replace any required hardware provided directly from Granicus that fails to function properly due to normal wear and tear, defective workmanship, or defective materials.

Tab 2 – NCPA Administration Agreement

This Administration Agreement is made as of December 8, 2020, by and between National Cooperative Purchasing Alliance ("NCPA") and Granicus, LLC ("Vendor").

Recitals

WHEREAS, Region 14 ESC has entered into a certain Master Agreement dated December 8, 2020, referenced as Contract Number 01-115, by and between Region 14 ESC and Vendor, as may be amended from time to time in accordance with the terms thereof (the "Master Agreement"), for the purchase of Software and SaaS Solutions;

WHEREAS, said Master Agreement provides that any state, city, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution, other government agency or nonprofit organization (hereinafter referred to as "public agency" or collectively, "public agencies") may purchase products and services at the prices indicated in the Master Agreement;

WHEREAS, NCPA has the administrative and legal capacity to administer purchases under the Master Agreement to public agencies;

WHEREAS, NCPA serves as the administrative agent for Region 14 ESC in connection with other master agreements offered by NCPA

WHEREAS, Region 14 ESC desires NCPA to proceed with administration of the Master Agreement;

WHEREAS, NCPA and Vendor desire to enter into this Agreement to make available the Master Agreement to public agencies on a national basis;

NOW, THEREFORE, in consideration of the payments to be made hereunder and the mutual covenants contained in this Agreement, NCPA and Vendor hereby agree as follows:

◆ General Terms and Conditions

- The Master Agreement, attached hereto as Tab 1 and incorporated herein by reference as though fully set forth herein, and the terms and conditions contained therein shall apply to this Agreement except as expressly changed or modified by this Agreement.
- NCPA shall be afforded all of the rights, privileges and indemnifications afforded to Region 14 ESC under the Master Agreement, and such rights, privileges and indemnifications shall accrue and apply with equal effect to NCPA under this Agreement including, but not limited to, the Vendor's obligation to provide appropriate insurance and certain indemnifications to Region 14 ESC.
- Vendor shall perform all duties, responsibilities and obligations required under the Master Agreement in the time and manner specified by the Master Agreement.
- NCPA shall perform all of its duties, responsibilities, and obligations as administrator of purchases under the Master Agreement as set forth herein, and Vendor acknowledges that NCPA shall act in the capacity of administrator of purchases under the Master Agreement.
- With respect to any purchases made by Region 14 ESC or any Public Agency pursuant to the Master Agreement, NCPA (a) shall not be construed as a dealer, re-marketer, representative, partner, or agent of any type of Vendor, Region 14 ESC, or such Public Agency, (b) shall not be obligated, liable or responsible (i) for any orders made by Region

14 ESC, any Public Agency or any employee of Region 14 ESC or Public Agency under the Master Agreement, or (ii) for any payments required to be made with respect to such order, and (c) shall not be obligated, liable or responsible for any failure by the Public Agency to (i) comply with procedures or requirements of applicable law, or (ii) obtain the due authorization and approval necessary to purchase under the Master Agreement. NCPA makes no representations or guaranties with respect to any minimum purchases required to be made by Region 14 ESC, any Public Agency, or any employee of Region 14 ESC or Public Agency under this Agreement or the Master Agreement.

- The Public Agency participating in the NCPA contract and Vendor may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this contract i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement developed as a result of this contract is exclusively between the Public Agency and Vendor. NCPA, its agents, members and employees shall not be made party to any claim for breach of such agreement.

◆ **Term of Agreement**

- This Agreement shall be in effect so long as the Master Agreement remains in effect, provided, however, that the obligation to pay all amounts owed by Vendor to NCPA through the termination of this Agreement and all indemnifications afforded by Vendor to NCPA shall survive the term of this Agreement.

◆ **Fees and Reporting**

- The awarded vendor shall electronically provide NCPA with a detailed quarterly report showing the dollar volume of all sales under the contract for the previous quarter. Reports are due on the fifteenth (15th) day after the close of the previous quarter. It is the responsibility of the awarded vendor to collect and compile all sales under the contract from participating members and submit one (1) report. The report shall include at least the following information as listed in the example below:

Entity Name	Zip Code	State	PO or Job #	Sale Amount

Total _____

- Each quarter NCPA will invoice the vendor based on the total of sale amount(s) reported. From the invoice the vendor shall pay to NCPA an administrative fee based upon the tiered fee schedule below. Vendor's annual sales shall be measured on a calendar year basis. Deadline for term of payment will be included in the invoice NCPA provides.

<u>Annual Sales Through Contract</u>	<u>Administrative Fee</u>
0 - \$30,000,000	2%
\$30,000,001 - \$50,000,000	1.5%
\$50,000,001+	1%

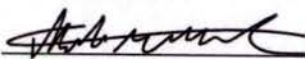
- Supplier shall maintain an accounting of all purchases made by Public Agencies under the Master Agreement. NCPA and Region 14 ESC reserve the right to audit the accounting for a

period of four (4) years from the date NCPA receives the accounting. In the event of such an audit, the requested materials shall be provided at the location designated by Region 14 ESC or NCPA. In the event such audit reveals an under reporting of Contract Sales and a resulting underpayment of administrative fees, Vendor shall promptly pay NCPA the amount of such underpayment, together with interest on such amount and shall be obligated to reimburse NCPA's costs and expenses for such audit.

◆ General Provisions

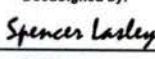
- This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.
- Awarded vendor agrees to allow NCPA to use their name and logo within website, marketing materials and advertisement. Any use of NCPA name and logo or any form of publicity regarding this contract by awarded vendor must have prior approval from NCPA.
- If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement or to recover any administrative fee and accrued interest, the prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief to which such party may be entitled.
- Neither this Agreement nor any rights or obligations hereunder shall be assignable by Vendor without prior written consent of NCPA, provided, however, that the Vendor may, without such written consent, assign this Agreement and its rights and delegate its obligations hereunder in connection with the transfer or sale of all or substantially all of its assets or business related to this Agreement, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all assigned obligations of its assignor under this Agreement.
- This Agreement and NCPA's rights and obligations hereunder may be assigned at NCPA's sole discretion, to an existing or newly established legal entity that has the authority and capacity to perform NCPA's obligations hereunder
- All written communications given hereunder shall be delivered to the addresses as set forth below.

National Cooperative Purchasing Alliance:

Name: Matthew Mackel
 Title: Director, Business Development
 Address: PO Box 701273
Houston, TX 77270
 Signature: 
 Date: December 8, 2020

Vendor:

Granicus, LLC

Name: Spencer Lasley
 Title: Contracts Manager
 Address: 408 St. Peter Street, Suite 600
St. Paul, MN 55102
 Signature: 
DocuSigned by:
E6E7D02A3785496...
 Date: 11/06/2020



Tab 3 – Vendor Questionnaire

Tab 3 – Vendor Questionnaire

Please provide responses to the following questions that address your company's operations, organization, structure, and processes for providing products and services.

◆ **States Covered**

- Bidder must indicate any and all states where products and services can be offered.
- Please indicate the price co-efficient for each state if it varies.

☒ **50 States & District of Columbia** (Selecting this box is equal to checking all boxes below)

- | | | |
|---|---|---|
| ☐ Alabama | ☐ Maryland | ☐ South Carolina |
| ☐ Alaska | ☐ Massachusetts | ☐ South Dakota |
| ☐ Arizona | ☐ Michigan | ☐ Tennessee |
| ☐ Arkansas | ☐ Minnesota | ☐ Texas |
| ☐ California | ☐ Mississippi | ☐ Utah |
| ☐ Colorado | ☐ Missouri | ☐ Vermont |
| ☐ Connecticut | ☐ Montana | ☐ Virginia |
| ☐ Delaware | ☐ Nebraska | ☐ Washington |
| ☐ District of Columbia | ☐ Nevada | ☐ West Virginia |
| ☐ Florida | ☐ New Hampshire | ☐ Wisconsin |
| ☐ Georgia | ☐ New Jersey | ☐ Wyoming |
| ☐ Hawaii | ☐ New Mexico | |
| ☐ Idaho | ☐ New York | |
| ☐ Illinois | ☐ North Carolina | |
| ☐ Indiana | ☐ North Dakota | |
| ☐ Iowa | ☐ Ohio | |
| ☐ Kansas | ☐ Oklahoma | |
| ☐ Kentucky | ☐ Oregon | |
| ☐ Louisiana | ☐ Pennsylvania | |
| ☐ Maine | ☐ Rhode Island | |



☒ **All US Territories and Outlying Areas** (Selecting this box is equal to checking all boxes below)

- | | |
|---|---|
| ☐ American Samoa | ☐ Northern Mariana Islands |
| ☐ Federated States of Micronesia | ☐ Puerto Rico |
| ☐ Guam | ☐ U.S. Virgin Islands |
| ☐ Midway Islands | |

♦ **Minority and Women**

Business Enterprise (MWBE) and (HUB) Participation

- It is the policy of some entities participating in NCPA to involve minority and women business enterprises (MWBE) and historically underutilized businesses (HUB) in the purchase of goods and services. Respondents shall indicate below whether or not they are an M/WBE or HUB certified.

- **Minority / Women Business Enterprise**
 - Respondent Certifies that this firm is a M/WBE ☐
- **Historically Underutilized Business**
 - Respondent Certifies that this firm is a HUB ☐

♦ **Residency**

- Responding Company's principal place of business is in the city of Saint Paul
State of MN

♦ **Felony Conviction Notice**

- Please Check Applicable Box;

- ☐ A publically held corporation; therefore, this reporting requirement is not applicable.
- ☒ Is not owned or operated by anyone who has been convicted of a felony.
- ☐ Is owned or operated by the following individual(s) who has/have been convicted of a felony

- If the 3rd box is checked, a detailed explanation of the names and convictions must be attached.

♦ **Distribution Channel**

- Which best describes your company's position in the distribution channel:

- | | |
|---|--|
| ☒ Manufacturer Direct | ☐ Certified education/government reseller |
| ☐ Authorized Distributor | ☐ Manufacturer marketing through reseller |
| ☐ Value-added reseller | ☐ Other: _____ |

♦ **Processing Information**

- Provide company contact information for the following:

- Sales Reports / Accounts Payable

Contact Person: Rebecca Cromar
 Title: Accounts Receivable Manager
 Company: Granicus, LLC
 Address: 408 St Peter St, Suite 600
 City: Saint Paul State: Minnesota Zip: 55102
 Phone: 800-314-0147 Email: AR@granicus.com



▪ Purchase Orders

Contact Person: Jessica Yang
 Title: Manager of Business and Contracts
 Company: Granicus, LLC
 Address: 408 St Peter St, Suite 600
 City: Saint Paul State: Minnesota Zip: 55102
 Phone: 800-314-0147 Email: bizcon@granicus.com

▪ Sales and Marketing

Contact Person: info@granicus.com
 Title: Information - General
 Company: Granicus, LLC
 Address: 408 St Peter St, Suite 600
 City: Saint Paul State: Minnesota Zip: 55102
 Phone: 800-314-0147 Email: info@granicus.com

♦ Pricing Information

- In addition to the current typical unit pricing furnished herein, the Vendor agrees to offer all future product introductions at prices that are proportionate to Contract Pricing.
 - If answer is no, attach a statement detailing how pricing for NCPA participants would be calculated for future product introductions.

☒ Yes ☐ No
- Pricing submitted includes the required NCPA administrative fee. The NCPA fee is calculated based on the invoice price to the customer.

☒ Yes ☐ No
- Vendor will provide additional discounts for purchase of a guaranteed quantity.

☐ Yes ☒ No

♦ Cooperatives

- List any other cooperative or state contracts currently held or in the process of securing.

Cooperative/State Agency	Discount Offered	Expires	Annual Sales Volume

Granicus is a privately owned company and does not share information about its other vendors.



Tab 4 - Vendor Profile

Company's official registered name.

Granicus, LLC

Brief history of your company, including the year it was established.

Granicus provides technology and services that empowers government organizations to create seamless digital experiences for the people they serve. Offering the industry's leading cloud-based solutions for communications, content management, meeting and agenda management, and digital services to more than 4,500 public sector organizations, Granicus helps turn government missions into quantifiable realities.

Granicus was founded in 1999 and acquired Vision in 2018, the national leader in government website design, development and hosting. Granicus has continued to grow and expand our platform of digital, civic engagement products detailed in this RFP.

Company's Dun & Bradstreet (D&B) number.

DUNS: 12-910-6469

Company's organizational chart of those individuals that would be involved in the contract.

Depending on which products are chosen for purchase, the agencies involved could work with any number of different departments and people within Granicus. Below are just a few of the people you may work with in Granicus.

- **Executives** – Our leadership team guides the entire company to do what is best for our clients. Each week the leadership team reviews client satisfaction survey results and discusses any proactive actions that need to be taken. Our leadership team also brings years of experience across government, software, design and technology industries to the table.
- **Certified Experts** – Our certified experts are passionate about helping you deliver a superior digital customer experience, which is why we are constantly learning new and better ways of doing things. Many of our team members hold the following certifications: NN/g certified User Experience Specialist, Web Graphic Design certified, WebAIM WCAG 2.0 educated, Network, and CCNA certified.



- **Project Managers and Customer Support** – Our project managers and customer support team are fanatical about your success and will go above and beyond to support you.

Corporate office location.

Denver, CO

1999 Broadway, Suite 3600
Denver, Colorado 80202
Phone: 800-314-0147

List the number of sales and services offices for states being bid in solicitation.

Granicus has three primary offices in the US and one in the UK. The US offices are in Denver, CO, St. Paul, MN and Washington, DC. Additionally, Granicus' 600+ employees work remotely throughout the globe to provide our customers with local service.

List the names of key contacts at each with title, address, phone and e-mail address.

Sam Morton
Vice President of Sales
Denver, CO
1999 Broadway, Suite 3600
Denver, Colorado 80202
Phone: 303-521-0052
Email: sam.morton@granicus.com

Define your standard terms of payment.

Net 30

Who is your competition in the marketplace?

Granicus has a large platform of civil engagement. For that reason, we have a large group of competitors both large and small. Our major competitors include Salesforce, AWS, Oracle, Adobe, MailChimp, Constant Contact, Civic Plus, Open Source, MS Dynamics, PayIt and NIC.



Provide Annual Sales for last 3 years broken out into the following categories:

Cities / Counties

K-12

Higher Education

Other government agencies or nonprofit organizations

This information is not available. Granicus is a privately held company, and as such we cannot share our long-term strategic plans or detailed financial information. However, we are continuously improving and expanding our products through customer feedback and industry analysis. We have over 4,200 public sector clients and maintain a high retention rate, so you can rest assured that we are financially sound now, and for the foreseeable future. Granicus has been operating since 1999 and has not filed for bankruptcy or had any interruptions in operations due to financial issues. We are also backed by Vista Equity Partners.

What differentiates your company from competitors?

Granicus provides an integrated platform that empowers government organizations to create better lives for the people they serve. By offering the industry's leading cloud-based solutions for communications, meeting and agenda management, and digital services to more than 4,500 government customers, Granicus helps turn government missions into quantifiable realities. Granicus products connect more than 200 million people, creating a powerful network to enhance government transparency and citizen engagement. By optimizing decision-making processes, Granicus helps government realize better outcomes and have a greater impact for the citizens they serve.

Customer Service

Simply saying we're dedicated to client satisfaction isn't enough. It's our relentless focus, and one that we measure. In fact, across all of our client implementations over the past three years, our average client satisfaction rating is 9 on a 10-point scale.

At Granicus, anything less than the best for our clients is unacceptable.

Granicus Network

The Granicus Network is one of the most powerful and unique capabilities that organizations using Granicus Communications Cloud can leverage to reach the maximum number of people. With the Granicus Network, organizations are able to cross-promote their subscription content on the websites of other similar



government organizations. The Network currently supports over 5,000 of these cross-promotional partnerships for more than 1,000 organizations.

Granicus is the only digital communications platform exclusively for government

Promote & Transform Services	Enhance Public Awareness	Improve Citizen Involvement
Accelerate and streamline usage of your services. More purchases, enrollments, and attendees require embracing the digital world. Communications form an essential part of a winning strategy.	Inform and engage your audience to drive changes in behavior. Public awareness is about more than just distributing news. It's about getting the right information to the right audience at the right time.	People volunteer, participate, and donate. It's not just about more involvement, it's about involving people in a way that improves the work you do for citizens.
		

Describe how your company will market this contract if awarded.

If awarded the NCPA contract – Granicus will perform the following marketing actions:

- 1) Conduct a customer and prospect facing webinar to the current 3,000+ city/county customers and over 55,000 eligible prospects
- 2) Full training of the 80+ sales personnel and resellers (CDW, SHI, Carahsoft, etc.) on how to proactively utilize the contract in the selling, quoting, and fulfillment processes
- 3) Build collateral and branding to be utilized at trade shows (50+ each year)
- 4) Utilize best practices from other NCPA partners – especially those who do not have competing solutions



Describe how you intend to introduce NCPA to your company.

Granicus has 2 full time trainers who work closely with sales leadership for execution of go to market strategies and plans. This team will be responsible to train sales personnel on how to proactively propose the NCPA program. In addition – sales leadership will work with sales operations for execution of all procedures for quoting and reporting requirements. In addition – Sales leadership will collaborate with marketing to develop demand generating, co-branding, and market awareness campaigns and programs

Describe your firm's capabilities and functionality of your on-line catalog / ordering website.

As a provider of services that range in complexity and volume of use, Granicus does not have an on-line catalog. Each opportunity is individually researched through discovery and interviews to create a mutually agreeable price per service/product.

Describe your company's Customer Service Department (hours of operation, number of service centers, etc.)

Customer Support and Maintenance

The Granicus Customer Support Team is focused around a single common mission: provide our clients with high quality, responsive support across all of our product families. We are a diverse team of dedicated professionals driven by the mission and call to public service who strive to be on the cutting edge of technology and innovation.

Philosophy and Team Credentials

Teachers, public servants, musicians...this is just a sampling of the kinds of folks who embody the Granicus support organization. Despite our diverse backgrounds - we are all focused on one mission: to provide highly responsive world-class support to our local, state and federal clients.

We employ a large and distributed team of support representatives, senior representatives and team leads across the U.S. and the U.K. with our primary locations in Denver, Colorado and St. Paul, MN. In addition to our standard product training, all of our GovMeetings representatives undergo an intensive training process that includes an introduction to Robert's Rules of Order, the local legislative process, key state and local considerations (e.g. The Brown Act, Section 508 Compliance etc.) and technology-specific training.



We also employ a host of tools and systems that enable our team to better support our customers, including skill-based call routing, a centralized ticketing system, a robust knowledge base, remote support and desktop tools, and 24/7 monitoring of our cloud-based infrastructure.

Our Team



Ernie Granillo

Director of
Customer Support

Ernie started his career as an intern for the U.S. Department of Justice as a high school student in San Diego. Coming from a family of law enforcement, educators and military, Ernie continued his career as a programmer at the IT department of his alma mater, UC Riverside. Eventually making his way up to Oakland, C.A., Ernie joined the strategic communications and marketing department for the UC Office of the President where he oversaw all web and digital communications for over 200,000 UC employees and retirees. Ernie has been with Granicus since 2012 and now resides in Denver with his wife and son.



Travis Kozik

Senior Customer
Support Engineer

Travis started his career in customer service while attending Film School. Travis's skills would eventually take him to Netflix, where he would work as a technical support representative and work his way up to running his own team. Travis joined Granicus with the goal of further honing his technical skills and has been with the company since 2016. Travis works out of Denver where he lives with his wife and 7 children.

Contacting our Support Organization

Regular Support Hours (Phone, Email, Chat):
Monday-Friday, 9AM EST – 9pm EST

Urgent After-Hours Support is also available 24/7 800.314.0147

Extended Live Meeting and Video Streaming Support (Phone, Email):
Monday-Friday 9PM EST - Midnight

Phone:
(800) 314-0147 (US)

Granicus Support Portal - [Support.Granicus.com](https://support.granicus.com)



The Granicus support portal is your 24/7 resource for user guides, knowledge base articles and training videos for all of our product offerings. Additionally - our users can sign up for weekly webinars/how-to sessions led by our support and services team. Users can also initiate a chat session with a live support agent during our standard business hours.

Granicus System Status

Granicus customers can opt-in to receive email and or SMS text alerts to our online status page (status.granicus.com) that provides real-time information around product releases, service disruptions and outages for all of our products. Granicus support and engineering provides for 24/7 response and monitoring of all cloud-based systems and software.

SUPPORT SERVICE LEVELS AND PRIORITY LEVELS

Granicus is dedicated to providing the highest levels of support to our customers. To ensure that each support case is handled efficiently, we commit to the below service levels.

PRIORITY 1: EMERGENCY

Initial response: Within at least one hour

Severe application problem that causes productivity to cease for a large number of staff or complete loss of service to either website or intranet (application-related site outage).

Examples:

- Web server is running but application is non- functional
- SQL-server errors not related to hardware

PRIORITY 2: HIGH

Initial response: Within at least four business hours

Application or service is degraded but is available. A work-around is possible or a brief loss of service is acceptable. Impacts only a small group or causes work to cease for an individual staff member.

Example:

- Granicus site is operational but search, calendar or other modular functionality is impaired
- Application is operational but bulletin sending is disrupted

PRIORITY 3: MEDIUM



Initial response: Within at least one business day

Moderate business impact; issues have affected productivity. A work-around may exist or the problem is for a non-business-critical task.

Examples:

- File attachments won't upload
- Text is not rendering correctly
- Bulletins are sending but sending not as quickly as expected or with higher than usual bounce rates

PRIORITY 4: LOW

Initial response: Within at least three business days

Limited business impact. Requests can be scheduled.

Examples:

- Programmatic change to back-end or front-end to improve efficiency
- Distribution of all patches and upgrade

Security Overview

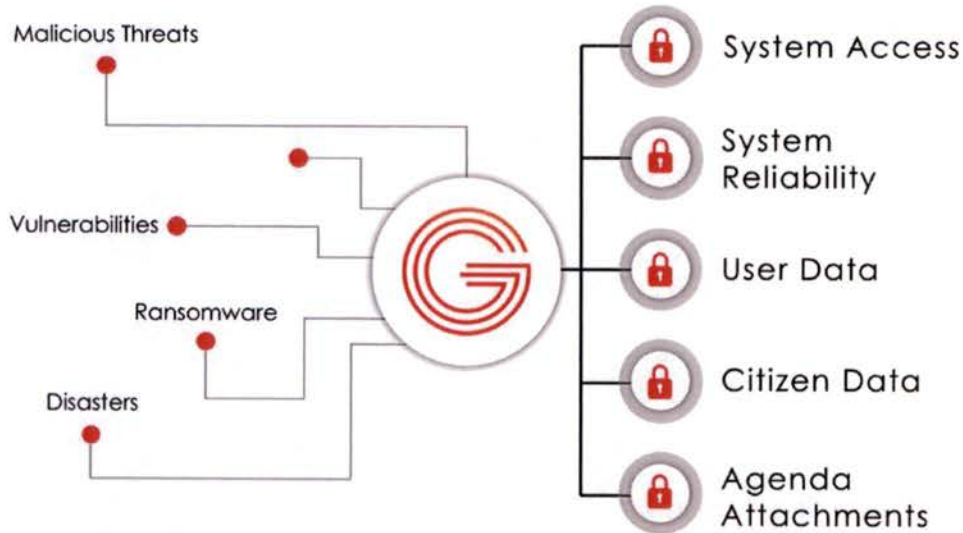
Your data and application reliability is of paramount importance. As an organization, Granicus invests heavily in data protection, infrastructure and security. To that end, Granicus views the National Institute of Standards and Technology (NIST) Special Publication ST 800-53rev4 as the gold standard for security controls, particularly the Moderate data designation established under the Federal Information Protection Standards (FIPS.)

All our products are hosted entirely within the Continental United States, by reliable cloud providers. In addition to hosting in Amazon Web Services (AWS) Elastic Compute Cloud and Microsoft Azure, Granicus's datacenter provider QTS maintains two datacenters certified as Tier III by the Uptime Institute. These applications are maintained by a robust team of over 50 engineers led by our Vice President of Cloud Operations.

But security is more than hosting – personnel represent the single largest security vulnerability in an organization. All Granicus employees must pass a background check upon hire and are re-screened every five years as required to maintain the FedRAMP authorization for Granicus's govDelivery application. In addition, all employees participate in annual privacy and security training facilitated by Granicus's Information System Security Officer.



Granicus understands the impact of disruption and takes the necessary steps, in our infrastructure design and scale, to ensure the availability of your applications when you need them. Data in those applications is encrypted at rest and in transit using FIPS 140-2 validated encryption methods. The remainder of the suite



is hosted in Amazon Web Services and all backups (from every application) are replicated to AWS datacenters.

Green Initiatives

As our business grows, we want to make sure we minimize our impact on the Earth's climate. We are taking every step we can to implement innovative and responsible environmental practices throughout NCPA to reduce our carbon footprint, reduce waste, energy conservation, ensure efficient computing and much more. To that effort we ask respondents to provide their companies environmental policy and/or green initiative.

Granicus provides mostly SaaS and PaaS products hosted through partners. For that reason, we do not have a Green Initiative in place. However, Granicus' is acutely aware of our carbon footprint. Our corporate office is housed in a building with Gold Standards and Green Policies.

Vendor Certifications (if applicable)

Provide a copy of all current licenses, registrations and certifications issued by federal, state and local agencies, and any other licenses, registrations or certifications from any other governmental entity with



jurisdiction, allowing respondent to perform the covered services including, but not limited to, licenses, registrations, or certifications. Certifications can include M/WBE, HUB, and manufacturer certifications for sales and service.

- ISO27001 Certification
- FedRAMP Authorized • ISO27001 certified
- SOC 2 (SSAE 16) certified



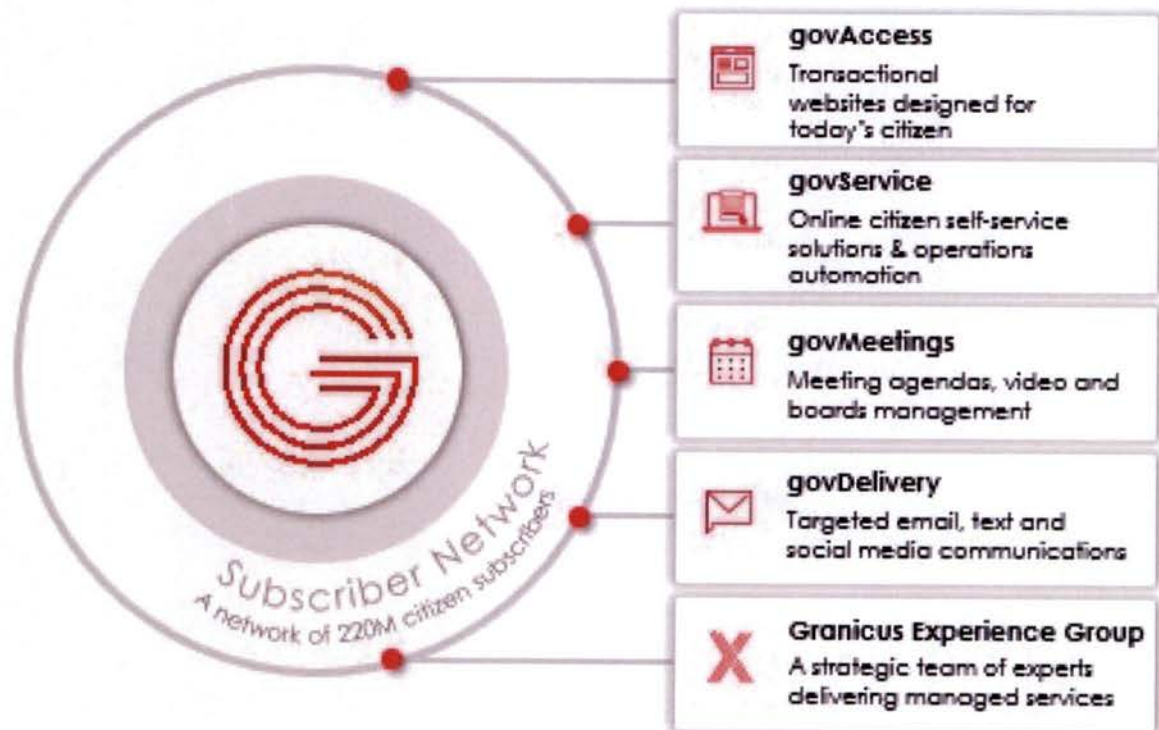
Tab 5 – Product and Services/Scope

Granicus will be responding to the following Products/Services:

SaaS

- Cloud Based Applications
- Citizen and Resident Engagement
- Meeting Automation
- Website Design
- Communication Tools
- Online Transactions
- Software Asset Management & Compliance

Granicus is the sole manufacturer of these Products.





GRANICUS CIVIC ENGAGEMENT PLATFORM

Granicus Civic Engagement Platform

Connecting People & Government

Cloud-Based Solutions for Government Innovators



TRUSTED PARTNER:

4,500+

government agencies have chosen to partner with Granicus to power their digital transformation.

“Investing in Granicus was a game changer. Now, we connect with people in need and as a result see at least a 4x return on our investment.”

– Sean Bennett, Director of Marketing & Outreach, Making Home Affordable

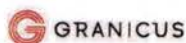
It's Time to Reimagine Our Connections

At Granicus, we believe that the key to improving our communities is transforming the way governments connect and interact with their residents. To do that, governments need a new generation of tools that deliver a superior community experience — increasing civic participation, fostering transparency and accountability, and building trust with your residents.

That's why we developed the first and only unified Civic Engagement Platform — purpose-built for government, our seamless digital solutions help governments actively reach, inform, engage, and serve citizens for a better civic experience.

The Granicus Difference

- **Platform of unified solutions**, designed to support government workflows and processes with no- or low-code integrations
- **Market leading, established partner to the public sector** with over 30+ years of experience gained from working exclusively with government organizations
- **Product capabilities designed to meet government needs**, enabling federated content creation and flexibility to configure based on unique workflow requirements
- **Security-first mindset**, adhering to Federal-grade security and compliance standards, like NIST and FedRAMP
- **Subscriber Network of over 200M citizens** opted-in to receive pertinent government communications, expanding your reach and impact
- **Cloud-based scalability & continually evolving solutions**, driven by continuous investment, customer recommendations, and team of over 600 developers



For more information, visit granicus.com or email us at info@granicus.com.



Granicus Civic Engagement Platform

OUR IMPACT

Partnerships that span all levels of government.

- Serving 400+ Federal agencies, 15 cabinet level agencies with FedRAMP authorized software powering 10K emails per second and 10B messages every year.
- Helping over 500 State Governments reach program objectives, with 98% deliverability rate of digital messages.
- Providing tools to over 2,500 Local Governments, including 48 of the 50 largest cities, 200 Special Districts, 450 Counties, and 250 School Districts.
- Supporting digital service delivery and omni-channel communications efforts of over 200 UK government organizations.

ENDURING PARTNERSHIPS

98%

of customers renew their contracts with Granicus each year.

GET INSPIRED

See more customer successes.



Platform designed to support you today and tomorrow...



govAccess — Transactional websites designed for today's citizen



govService — Online citizen self-service solutions & operations management



govMeetings — Meeting agendas, video, and board management



govDelivery — Targeted email, text and social media communications



govRecords — Paperless records management

...with professional expertise and unparalleled citizen reach.



Granicus Experience Group (GXG) — In-house strategists, analysts, communications, and Granicus technology experts ready to help build better customer experiences, and get more value out of your Granicus technology.



Granicus Implementation Services — Get up and running quickly partnering with our team of experts.



Granicus Subscriber Network — Opt-in citizen database + proprietary recommendation engine designed to rapidly expand digital community membership & drive citizen engagement.

About Granicus: More than 4,200 government agencies use Granicus to modernize their online services, web presence, and communications strategies. We offer seamless digital solutions that help government actively reach, inform, and engage citizens on the first unified civic engagement platform for government.



For more information, visit granicus.com or email us at info@granicus.com.



GOVACCESS

govAccess

Citizen-first Websites That Work

Research-Based, Results-Driven Website Solutions for Government



IMPROVE CITIZEN EXPERIENCE

91%

Government organizations state that their website strategy is extremely or very important to their overall communications strategy.

“ I love working with Granicus because the CMS always evolves to meet the changing dynamics of government. They never settle and always strive to deliver the best technology in the market.”

– Anthony Wilson, Public Information Officer, San Angelo, TX

The Challenge

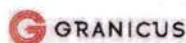
Your website is often the first point of engagement for constituents searching for information on services, events, and more. But are they finding what they need quickly? Are they having a positive experience? For teams working on government websites, it can be difficult to know which pages to update, how to modernize for mobile devices, and what needs to be done to meet modern security and accessibility requirements.

What If You Could...

- ✓ **Make information and services easy to find** to drive more visitor based revenue to your community?
- ✓ **Save time on content updates** by empowering staff at all levels?
- ✓ **Drive revenue growth** by enabling your website for trusted, secure payments?
- ✓ **Be completely confident** that your website meets modern security, design, and compliance best practices?

govAccess: For Government Efficiency & Citizen Satisfaction

Designed by industry experts and informed by in-depth research, govAccess websites deliver an unequalled balance of efficiency, design, and accessibility that modern governments need. The govAccess solution not only provides rich, easy to manage CMS tooling, it's also purpose-built for government. Additionally, our Granicus design experts are with you every step of the way to remove guesswork, get results, and ultimately create positive, engaging experiences for residents & visitors.



For more information, visit granicus.com/solution/govaccess or email us at info@granicus.com.



govAccess

GOVACCESS FEATURES

Tools to Meet Rising Expectations

- Site Search
- Email Notifications
- Mobile Designer
- Social Media Campaigns
- Form Builder with Payments
- 100+ Other Dynamic Modules

Technology Built for Government

- ADA/WCAG Compliance
- Embedded Training & Support
- Webmaster Tools
- Administrative Management
- 3rd Party Integrations
- Digital Asset Management
- Reports and Analytics

A Platform to Grow With You

- Subsites & Microsites
- Design Studio
- Content-as-a-Service
- CDN by Akamai
- Tier III Data Center
- Two-factor Authentication

GET INSPIRED

See more customer successes



With govAccess You Can...

- ✓ **Align your website to the citizen journey** to increase citizen satisfaction and reduce call-ins.
- ✓ **Draw on experts of government website design** whose knowledge translates to faster delivery and better outcomes.
- ✓ **Eliminate costly contractors and lengthy redesigns** with web tools designed for any skill level.
- ✓ **Get federal-grade security and hosting** to ensure a high percentage of uptime and dependable disaster recovery practices.

Customer Success



Olathe, Kansas, takes pride in transparency and data-driven decision making. After working with experts at govAccess, they turned their website into a virtual city hall. Citizens are better informed and city departments have improved efficiency.



12%
direct traffic
increase



136%
visitor
increase



51%
mobile
users

“govAccess helped us simplify our website content to make it easily consumable for citizens.”

– Ed Foley, Management and Budget Services, Olathe, KS

About Granicus: More than 4,200 government agencies use Granicus to modernize their online services, web presence, and communications strategies. We offer seamless digital solutions that help government actively reach, inform, and engage citizens on the first unified civic engagement platform for government.



For more information, visit granicus.com/solution/govaccess or email us at info@granicus.com.



GOVSERVICE

govService

Simplify Service Delivery

Online Citizen Self-Service Solutions & Operations Automation



STREAMLINE SERVICES:

80% Fewer

Walk-ins after switching to online services.

“ We wanted to replace our CRM and forms solution. Granicus was the leader with the right solution and price. The product is easy. The company is helpful. The best part of govService? Flexibility — there are so many different things we can do with it. ”

— Huw Ap Dewi, Digital Projects Office, Wrexham

The Challenge

Service delivery is a core function across all levels of government — from filling potholes to distributing critical benefits. But, for those requesting and fulfilling these services, the process is demanding. For government, the back-end procedures for completing a request are often tedious and costly. For citizens, getting through the labyrinth of inconsistent, paper-based workflows is frustrating (and often requires assistance). At best, the experience chips away at a citizen's positive attitude toward their government. At worst, government directs time and money toward unnecessary manual processes.

What If You Could...

- ✓ **Make it easier for citizens** to pay bills, apply for jobs, pay parking tickets, and more?
- ✓ **Make it easier for staff** to handle, track, and deliver inbound service requests?
- ✓ **Elevate productivity** by nearly eliminating the need for in-person visits?
- ✓ **Shrink costs of service delivery** by streamlining internal operations?

Reinvent Citizen-to-Government Interaction With govService

With govService, smart governments are transforming customer service. They're delivering an intuitive online citizen self-service experience while automating back-office operations to simplify workflow management of inbound requests. Advanced APIs can connect to existing systems, seamlessly empowering government organizations to modernize service delivery. At the same time, citizens get the digital accessibility they want — online, on any device, on their own time.



For more information, visit granicus.com/solution/govservice or email us at info@granicus.com.



govService

With govService You Can...

- ✓ **Modernize to digital service delivery** easily by connecting existing technology to ready-made integrations.
- ✓ **Streamline customer service** by letting citizens complete common tasks online and on their own time.
- ✓ **Spend less time managing inbound requests** with customizable workflows that support multiple departments and offices.
- ✓ **Keep staff and citizens informed of status** — start to finish — through automatically tracked transactions.

“With our previous vendor, we had only 10,000 online self-service accounts. But with Granicus, we’re seeing a dramatic increase — adding over 500 more a month. It’s now much easier for citizens to transact.”

— Huw Ap Dewi, Digital Projects Office, Wrexham

GET INSPIRED

See more customer successes >

Time-Saving Integrations

Take advantage of these ready-made digital services from govService. Each comes fully supported with workflow solutions that facilitate collaboration among departments, teams, and front and back offices. Below, a list of most-popular services.

Bookings / Appointments

- Book an Appointment
- Picnic Area Reservation

Code Enforcement and Permits

- Driveway Permit Application
- Plumbing Permit Application
- Public Right-of-Way Permit Application
- HVAC Permit Application
- Property or Building Complaint
- Sewer Permit Application
- Special Event Permit
- Yard Sale Permit
- Short-term Rental (STR)
- Fishing Permit Application
- Apply for a Construction Permit
- Bulky Item Pick Up
- Park Vendor Permit

Pet License and Registration

FOIA Request Tracking and Management

Business Licensing

- Business License Application
- Business License Tax Certificate

Make a Payment

- Parking tickets
- Utility bills

Public Records

- Birth and Death Certificate Request
- Change of Address
- Contact the Office of the City Clerk
- Public / Court Records Request
- Marriage License Application
- Tax Return Request

Report It / Report an Issue

- 311 Request Tracking and Management
- Formal Personnel Complaint
- Discrimination Claim

About Granicus: More than 4,200 government agencies have chosen Granicus to modernize their online services, web presence, and communications strategies. We offer seamless digital solutions that help government actively reach, inform, and engage citizens for a better civic experience.



For more information, visit granicus.com/solution/govservice or email us at info@granicus.com.



GOVMEETINGS

govMeetings

Make Meetings Easy

Meeting, Agenda, Video, & Board Management Solutions



INCREASE EFFICIENCY:

600 hours

lost yearly from printing and distributing public meeting agendas.

“govMeetings took a lot of work off my plate, and it made things clearer for the public. We have enhanced civic engagement, increased transparency, and improved accessibility.”

— Laura Reams, City Clerk,
Hyattsville, MD

The Challenge

As a clerk or meeting manager, you have many responsibilities. But the public meeting process — preparing, getting approvals, compiling agendas, sharing results, and much more — consumes much of your time. Unable to focus on the work you value most, your day is spent on manual meeting processes that are outdated, inefficient, and costly. Finally, one of your most important audiences, the citizens, struggle to stay informed.

What If You Could...

- ✓ **Reclaim time** to focus on what matters by automating manual meeting processes?
- ✓ **Run meetings effortlessly** by capturing minutes digitally, tracking motions and votes, and streaming video?
- ✓ **Better serve your constituents** by giving them one digital place with everything they need to participate?

Run Perfect Meetings With govMeetings

With govMeetings solutions, you can streamline the entire meeting process. You can dramatically reduce staff time, provide easily accessible meeting information to constituents, and run the perfect meeting. Join over 2,400 other government organizations who use govMeetings to simplify public meetings—start to finish.



For more information, visit granicus.com/solution/govmeetings or email us at info@granicus.com.



govMeetings

FEATURES & SERVICES:

PRE-meeting

Automated preparation

- Simplify Boards and Commissions Management
- Automate agenda creation & approvals
- Collect online citizen feedback

IN-meeting

Streamlined facilitation

- Capture meeting motions & votes
- Live stream & record comprehensive public records
- Go paperless with digital board agendas & meeting materials
- Caption video for ADA accessibility

POST-meeting

Simplified sharing

- Finalize meeting minutes quickly
- Automate publishing to a central web page on your site
- Enable social sharing & notifications

GET INSPIRED

See more customer successes



With govMeetings You Can...

- ✓ **Automate the end-to-end meeting process** — easily build digital agendas, capture in-meeting actions & automatically record minutes into public record.
- ✓ **Improve collaboration and decision-making** with a digital agenda app for board members, including convenient research and annotation capabilities.
- ✓ **Provide a central online meeting location** where citizens can search, find, and review meeting videos, agendas, minutes, and more.
- ✓ **Meet compliance requirements for accessibility and security** by optimizing meeting content for your website.

Customer Success



Instead of losing valuable hours to printing, assembling, and distributing agenda packets, the City of Keene uses govMeetings to increase transparency and save time and resources.



65%

Reduction in time spent fielding meeting inquiries



50%

Reduction in paper waste



90%

Fewer meeting inquiries after change to self-service

“With convenient access to over 3 years of meeting minutes, including video & attachments, Granicus provides a simple public meeting site and useful research tools for our community.”

- Bill Dow - Keene, NH

About Granicus: More than 4,200 government agencies use Granicus to modernize their online services, web presence, and communications strategies. We offer seamless digital solutions that help government actively reach, inform, and engage citizens on the first unified civic engagement platform for government.



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GOVDELIVERY



Digital communications platform for government

Communications Cloud is a marketing-automation platform that enables government organizations to quickly and easily connect with more constituents. As the only FedRAMP-certified marketing-automation platform, Communications Cloud is the most-secure marketing solution available for public sector organizations.

Craft messages in custom-built branded templates to provide a consistent and familiar experience for audiences across all platforms. Engage citizens with content by sending messages to a specific segment of your audience and save valuable time by crafting a single message and sharing through email, text and social media instantly.

Grow an audience through text-to-subscribe, social media promotion, other government agencies through the GovDelivery Network and by leveraging website traffic with attention-commanding subscription strategies. The simple sign-up process allows constituents to opt into receiving communication on the topics that matter to them, simultaneously allowing your organization to divide constituent subscribers by interests.

Communications Cloud delivers messaging at a higher rate, keeping emails out of spam folders and handling unsubscribes, bounces and inactive emails, allowing communicators to focus on content.

Available reports on open and click-through rates provide insight into message success and allow for continuous improvements to a marketing strategy to make each touch better than the last.

GOVDELIVERY NETWORK

Further build out subscriber lists through cross-promotion opportunities with nearby and related organizations by leveraging the GovDelivery Network, which includes over 1,800 organizations with more than 150 million citizens. With more than 50,000 new people signing up for messages from government through Granicus' solutions every day, organizations using Communications Cloud have increased subscribers by up to 500 percent.



Email, text message
and social media
communications



Secured with
FedRAMP
certification



Audience growth
opportunities/
strategies



Customizable,
branded templates



Open, click-through,
and bounce rate
reporting

For more info visit granicus.com/commscloud or email us at info@granicus.com





GovDelivery Communications Cloud



ADVANCED PACKAGE FOR COMMUNICATIONS CLOUD

*Improve communications strategy
with advanced marketing
techniques*

- Drive engagement with proven marketing techniques
- Use A/B testing to improve tactics and messaging
- Built-in campaigns welcome and re-engage subscribers
- Dynamic segmentation boosts communication efforts



TARGETED MESSAGING SERVICE

*Automate personalized
messaging*

- Secure API with ReST architecture
- Text, voice and email delivery options
- Delivery status, click and timestamp reporting
- Scalable infrastructure



FEDRAMP & ENHANCED SECURITY

*Government-grade cloud software
protection*

Communications Cloud and associated modules are FedRAMP certified, protecting communication and subscriber data with the highest-available data security certification available. Additionally, opting in to Enhanced Security provides the hands-on guidance, online on-demand training and recommendations for integrating security requirements into existing business processes to make your organization FedRAMP compliant.



CONNECT

*Sync your CRM system with
Communications Cloud*

- Automated customer data sync
- Compatible with Microsoft Dynamics or Salesforce
- Single location for complete contact data
- Advanced Package integration for complex segmentation

For more info visit granicus.com/communications-cloud or email us at info@granicus.com





GRANICUS EXPERIENCE GROUP

Granicus Experience Group (GXG)

The Granicus Experience Group (GXG) is the agency arm of Granicus' larger Professional Services organization. Our human-centered, data-driven approach to communications will help you better understand your audiences and what they need or want to hear from you. We'll use this understanding to sync your communications with your customers' priorities.

What is GxG?

GXG is a cross-functional team of strategists, analysts, communicators, and Granicus technology experts ready to work as an extension of the current teams, partnering with you to stand up new technology solutions and transform your overall customer experience.

GXG is driven to help our public sector clients be more customer experience-centric and get more value out of our technology. Our services fuel digital and organizational transformation year-over-year through our agile, flexible, and repeatable process. We use data and insights to define an optimal communications experience, including considerations for rapid audience growth, then we build and launch that experience, helping you mature your communications and programs over time. GXG will work hand-in-hand with you to develop notifications integrated with strategic multichannel programs



GRANICUS EXPERIENCE GROUP

that inform, educate, and compel your customers to take action.

GXG's team of strategic designers can also facilitate virtual workshops to foster alignment across various teams or departments through a series of design-thinking and brainstorming activities. These workshops can enable ongoing cross-functional knowledge-sharing, problem-solving, program innovation, persona development, journey mapping, and message refinement.

Our multidisciplinary team will focus on maximizing your approach to communications through targeted outreach. Our proven process includes programmatic communications strategies to ensure messaging is tailored based on increasingly deeper audience understanding and segmentation over the course of the engagement. We'll deliver detailed campaign plans, custom content, and regular reporting on the effectiveness of our efforts.

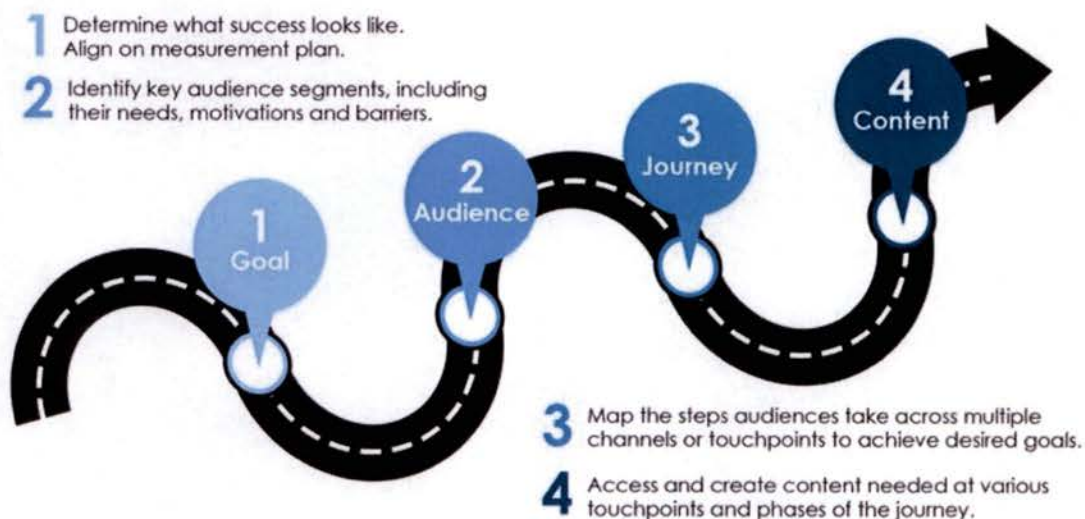
How does it work?

Our human-centered, data-driven approach will help you better understand your audiences and what they need or want to hear from you. We



use this understanding to **sync your digital strategy with your customers' priorities**. Our unique approach breaks down departmental silos and brings together key stakeholders to align on a

singular view of your customers and map out an experience that can achieve better outcomes.



About Granicus: More than 4,200 government agencies have chosen Granicus to modernize their online services, web presence, and communications strategies. We offer seamless digital solutions that help government actively reach, inform, and engage citizens for a better civic experience.



For more information, visit granicus.com/solution/govservice or email us at info@granicus.com.



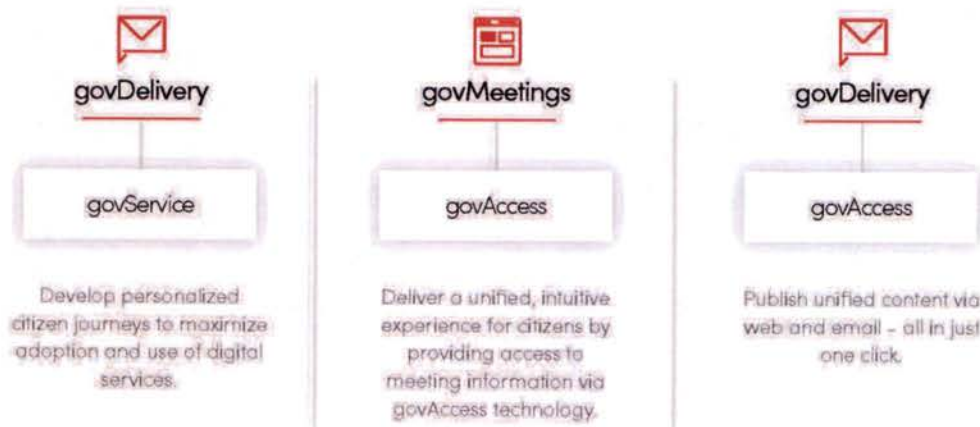
PRODUCT ROADMAP 2020

2020 GRANICUS PRODUCT ROADMAP

In 2020, Granicus will continue building the leading Civic Engagement Platform by investing in key product developments informed by customer feedback. This year, our roadmap focuses on continuing to enable our products to work together seamlessly and refining our products to make it easier for government employees to get their work done. Our end goal? To help strengthen the connection between people and governments and, ultimately, improve the lives of constituents.

A SINGLE, INTEGRATED PLATFORM

Improve the citizen experience, share data among products, and automate work through the Granicus Civic Engagement Platform.



**This product roadmap represents Granicus' current product direction, but is subject to change.*

info@granicus.com | granicus.com





INNOVATIVE GOVERNMENT SOLUTIONS

Pioneering technologies that help governments achieve their objectives and better serve their constituents.

 govDelivery	 govMeetings	 govAccess	 govService	 govRecords
✓ Email delivery optimization across all devices. ✓ Subscriber sign-up improvements and welcome campaign enhancements.	✓ Next generation video solution for public meetings. ✓ Simplified board management with enhancements to board applications and user permissions.	✓ Pre-built library of landing page designs. ✓ Access to API for advanced CMS customization.	✓ Citizen mobile app with service request capabilities & push notifications. ✓ Amazon Alexa integration for enhanced citizen access to information.	✓ Additional integrations with 3rd party eRecording providers.

A MORE PRODUCTIVE DIGITAL GOVERNMENT

Enhanced capabilities that increase back-office efficiency, enabling government operations to accomplish more with fewer resources.

 govDelivery	 govMeetings	 govAccess	 govService	 govRecords
✓ Email send time optimization and device type. ✓ Email call-to-action button creation.	✓ ADA enhancements across public-facing govMeetings web pages. ✓ Peak Agenda Video Integration allows control of live and on-demand streaming from within Peak agenda.	✓ Powerful new analytics tools empower content editors to work smarter and more efficiently.	✓ Hundreds of new pre-built digital services workflows for state and local governments. ✓ Advanced reporting (for a data-driven approach).	✓ Enhanced payment features with improved financial records and receipts. ✓ System configurability: Document batches, marginal references.

Info@granicus.com | granicus.com





Tab 7 – Pricing

Please see the attached Excel sheet "RFP#39-20 – Pricing – Granicus, LLC" for complete pricing.

- Granicus pricing is developed through deep market analysis and research
- This "not to exceed" pricing is intended as a baseline; however we may review pricing on a case by case basis when certain conditions or term/sale are met - volume, scope, purchase commitment.



Tab 8 – Value Added Products and Services

GOVACCESS

Product Name	Product Code	Product Description
Design Custom - govAccess	PFS-PS-OO-GA-DEGNCUSTOM	
Web Design and Implementation		
govAccess - Web Design and Implementation - Branded w/Domain	PFS-CONTENT-GA-DB-DOMAIN	Branded Subsites allow a department to customize their pages with a unique color scheme and branding while still utilizing the framework of the main website. This package includes: Wireframe based on the main website Unique design theme, including color palette for landing page and interior pages Customizable background image or slideshow Customizable navigation, including graphics Customizable header and footer Individual URL and search capabilities. *To apply this SKU to K-12 and Higher Ed a scope of work must be jointly agreed upon by both parties.
govAccess - Web Design and Implementation - Independent Sub	PFS-CONTENT-GA-DB-IS	Independent Subsite Package offers a mutually agreed upon wireframe based on department needs from Granicus' selection of templates. The package includes: Unique design theme, including color palette for landing page and interior pages Unique header and



		footer Unique navigation design Individual URL and search capabilities Optional custom mobile homepage (included). *To apply this SKU to K-12 and Higher Ed a scope of work must be jointly agreed upon by both parties.
govAccess - Web Design and Implementation - Specialty Sub	PFS-CONTENT-GA-DB-SS	Specialty Subsite package is intended to serve the needs of larger and often revenue-generating departments that have either maintained their own separate website in the past or would like to develop one as part of this project. This package includes: UX consultation, which may include one (1) or more of the following: One (1) site analytics report One (1) heatmap analysis One (1) internal stakeholder survey Three (3) customer journeys (top tasks or heavily visited webpages) identified for optimization Fully customized wireframe Unique design theme, including color palette for landing page and interior pages Unique header and footer Unique navigation design Individual URL and search capabilities Optional video background (included) Optional custom mobile homepage (included). *To apply this SKU to K-12 and Higher Ed a scope of work must be jointly agreed upon by both parties.



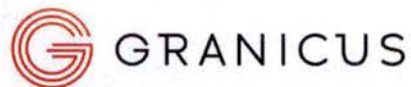
govAccess Website Design and Implementation - Innovator	PFS-CONTENT-GA-WDP-A	govAccess Website Design and Implementation - Innovator provides a citizen focused website and includes: UX consultation, which may include one (1) or more of the following: One (1) site analytics report. One (1) heatmap analysis. One (1) internal stakeholder survey. Modular homepage wireframe based on predefined building blocks. Fully responsive design. Custom mobile homepage or standard mobile responsive homepage. Video background or standard rotating image carousel (switchable at any time). One (1) customer experience feature - Choose from Granicus' library that includes service finder or data visualization banner. Programming/CMS implementation. Migrate up to 200 webpages. Up to five (5) forms converted into the new CMS. One (1) day of web-based training. *To apply this SKU to K-12 and Higher Ed a scope of work must be jointly agreed upon by both parties.
govAccess Website Design and Implementation - Trailblazer	PFS-CONTENT-GA-WDP-B	Website Design and Implementation - Trailblazer provides a citizen focused website and includes: Advanced UX Consultation, which may include one (1) or more of the following: 1. One (1) site analytics report. 2. One (1) heatmap analysis. 3. One



		(1) internal stakeholder survey 4. One (1) community stakeholder survey. 5. One (1) remote user testing of top tasks. Three (3) customer landing page consultation. Fully customized homepage wireframe. Fully responsive design. Custom mobile homepage or standard mobile responsive homepage. Video background or standard rotating image carousel (switchable at any time). Up to three (3) customer experience features - Choose from Granicus' library including service finder, geo finder, or data visualization banner. Programming/CMS implementation. Migrate up to 200 webpages. Up to ten (10) forms converted into the new CMS. One (1) day of on-site consultation / training to be applied towards additional project management or training (two (2) of three (3) days must be consecutive). *To apply this SKU to K-12 and Higher Ed a scope of work must be jointly agreed upon by both parties.
govAccess Website Design and Implementation - Pioneer	PFS-CONTENT-GA-WDP-C	govAccess Website Design and Implementation - Pioneer provides a citizen focused website and includes: One (1) homepage wireframe from Granicus' design library. Fully responsive design. One enhanced custom mobile homepage. Video background or standard



		rotating Image carousel (switchable at any time). Programming/CMS implementation. Migrate up to 50 webpages. One (1) day of remote web-based training. *To apply this SKU to K-12 and Higher Ed a scope of work must be jointly agreed upon by both parties.
Maintenance, Hosting, & Licensing		
COUNTY		
govAccess - Maintenance, Hosting, & Licensing Fee - Core Intranet	MTN-CONTENT-GA-INTRANET	govAccess Maintenance and Licensing includes the following for Intranet website(s) covered by the subscription: Monthly software updates Unlimited technical support (6:00 AM - 6:00 PM PT, Monday - Friday) Access to training webinars and on-demand video library Access to best practice webinars and resources Annual health check with research-based recommendations for website optimization The Intranet will be hosted on the Granicus' servers. *To apply this SKU to K-12 and Higher Ed a scope of work must be jointly agreed upon by both parties.
govAccess - Maint/Hosting/License Fee - Branded w/Domain	MTN-CONTENT-GA-VL-DOMAIN	Maintenance, Hosting and Licensing includes the following for Independent Subsite(s) covered by the subscription: Monthly Software Updates Unlimited Technical Support (6 am - 6 pm PT,



		Monday - Friday) Training Webinars and On-Demand Video Library Best Practice Webinars and Resources DDoS Mitigation Disaster Recovery with 90-minute failover (RTO) and 15-minute data replication (RPO). *To apply this SKU to K-12 and Higher Ed a scope of work must be jointly agreed upon by both parties.
govAccess - Setup and Config - Branded w/Domain	PFS-CONTENT-GA-DB-DOMAIN	One Time Fee
MUNICIPALITY (*To use this SKU for K-12 and Higher Education, scoping must be jointly agreed upon).		
govAccess - Maintenance, Hosting, & Licensing Fee - Core Intranet	MTN-CONTENT-GA-INTRANET	govAccess Maintenance and Licensing includes the following for Intranet website(s) covered by the subscription: Monthly software updates Unlimited technical support (6:00 AM - 6:00 PM PT, Monday - Friday) Access to training webinars and on-demand video library Access to best practice webinars and resources Annual health check with research-based recommendations for website optimization The Intranet will be hosted on the Granicus' servers. *To apply this SKU to K-12 and Higher Ed a scope of work must be jointly agreed upon by both parties.



govAccess - Maint/Hosting/License Fee - Branded w/Domain	MTN-CONTENT-GA- VL-DOMAIN	Maintenance, Hosting and Licensing includes the following for Independent Subsite(s) covered by the subscription: Monthly Software Updates Unlimited Technical Support (6 am - 6 pm PT, Monday - Friday) Training Webinars and On-Demand Video Library Best Practice Webinars and Resources DDoS Mitigation Disaster Recovery with 90-minute failover (RTO) and 15-minute data replication (RPO). *To apply this SKU to K-12 and Higher Ed a scope of work must be jointly agreed upon by both parties.
govAccess - Setup and Config - Branded w/Domain	PFS-CONTENT-GA-DB- DOMAIN (NRR)	One Time Fee

GOVSERVICE

Product Name	Product Code	Description
Consulting Custom - govService	PFS-PS-OO-GS- CONCUST	Priced as per jointly agreed upon custom scoping
GovService - Public Records Request Module - GovService	SAS-GOVS-BNDL- CLERK	Public Records Request Module includes access to: Up to 3 digital services (ie., workflows/business processes) built, activated and live in govService using Service Designer. Services must be related to workflows involving open/public record requests (ie., Police records requests, General record requests, appeals, etc.) Annual Case



		Volume: Up to 5,000 annual cases submitted for management and resolution in govService. Record Request Template: Leverage this pre-built template and configure its settings, permissions, workflow stages, and more. Customer Portal: An online self-service portal to provide a common interface where users can request records, make payments, and see personalized information including historical requests. Back-office Administration: Internal employees processing services are provided a portal to log-in and access assigned tasks, fulfill requests, and complete desired workflow. Service Designer: Build no-code/low-code digital services using tools such as Form Builder, Integration Manager, and Workflow Designer. Customer Service Hub: An integrated constituent contact tracking solution for up to two (2) licensed seats; users able to access workspaces such as Inbox, Face-to-Face, Search, Phone Team, and Reception. Note: additional seats will incur additional maintenance costs.
GovService - Public Records Request Module Set-up & Configuration	PS-GOVS-BNDL-CLERK-CONFIG	Public Records Request Module Set-up & Config includes: Test and Live Sites: deployment of both a test and live site hosted in a production environment.



		Portals: deployment of both Customer and Staff Portals hosted in a live production environment. Customer Service Hub Configuration: set-up each major digital workspace (Phone Team, Face-to-Face, Reception, Inbox, and Search) and configure default system settings.
GovService - Public Records Request Module Training	PS-GOVS-BNDL-CLERK-TRN	Public Records Request Module Training includes: Basic Online Training: up to eight (8) hours of remote training to introduce all core aspects of the solution such as customer portal, case management and system settings. Form Designer & Workflow Online Training: up to eight (8) hours of remote training to co-build the first digital service. Customer Service Hub Training: up to eight (8) hours of remote training to cover each major digital workspace and configure default system settings.
Consulting Custom - govService	PFS-PS-OO-GS-CONCUST	Priced as per jointly agreed upon custom scoping
Design Custom - govService	PFS-PS-OO-GS-DEGN-CUST	Priced as per jointly agreed upon custom scoping
Development Custom - govService	PFS-PS-OO-GS-DEVCUST	Priced as per jointly agreed upon custom scoping



GOVMEETINGS

Product Name	Product Code	Description
Boards and Commissions		
Boards and Commissions	SAS-SE-DS-BCCO	Boards and Commissions bundle enables automation and management of the citizen advisory boards and commissions workflow.
Boards and Commissions - Setup and Configuration	PFS-PS-DS-BC-SC	Setup and configuration for Boards and Commissions
Data Migration		
Data Migration	PFS-PS-DM-OOS-DMMM	Data Migration
Encoder/Encoding Appliance Hardware		
Granicus Encoding Appliance Hardware - SDI (AMAX) (GT)	HDW-SU-MA-VID-EAMXSD	AMAX Encoder with Osprey SDI Card. Used to pass commands and data from LiveManager that include Start/Stop of webcast, indexing, and document display. Also serves to distribute video and captions to be distributed to the CDN or Performance Accelerator.
Meeting Efficiency		
Meeting Efficiency	SAS-SE-MA-MIN	
Meeting Efficiency - Setup and Configuration (GT)	PFS-PS-MA-MIN-MEGT-SC	Setup and configuration of Meeting Efficiency (Government Transparency)
Peak		



Peak Agenda Management	SAS-SE-MA-PAM	Peak Agenda Management is a Software-as-a-Service (SaaS) solution that enables government organizations to simplify the agenda management process of the clerk's office. Peak Agenda Management allows clerks to streamline the way they compile and produce agendas for public meetings.
Design Custom - govMeetings	PFS-PS-OO-GM-DEGNCUST	Priced as per jointly agreed upon custom scoping
Development Custom - govMeetings	PFS-PS-OO-GM-DEVCUST	Priced as per jointly agreed upon custom scoping

GOVDELIVERY

Product Name	Product Code	Description
Consulting Custom - govDelivery	PFS-PS-OO-GD-CONCUST	Priced as per jointly agreed upon custom scoping
govDelivery for Integrations	SAS-SB-CO-CC-INT	
SMS	SAS-SB-CO-SMS	SMS/Text Messaging includes: Access to the selected volume of additional SMS/text messages per year from a shared short code within the United States* Use of responsively designed sign-up pages that allow the public to subscribe to communication updates from various devices *International numbers are not supported. SMS/text messages not used in the period of performance will not carry over to the following year.



		SMS Transactions. Must be used within 1 year. Includes up to 100,000 SMS Transactions.
SMS - Setup and Configuration	PFS-PS-CO-SMS-SC	Covers the consultative PM/Implementation time required to get a client fully up and running on a new instance of a Product. Priced as per jointly agreed upon custom scoping
Targeted Messaging	SAS-SB-CO-TMS	Targeted Messaging is a unique, automated solution that makes critical, large-scale email and SMS/text message communication between government organizations and the public more personal, effective, and reliable. Targeted Messaging helps deliver and track emails and SMS messages for Web applications via secure APIs. This allows the client's Web application to focus on core business logic and operational needs, such as enrollment, licensing, or renewals. Targeted Messaging includes: - Access to the selected volume of Targeted Messages per year - Text or HTML formatting capabilities - Robust, secure, and scalable infrastructure - Certified delivery of email and SMS/text message confirmations and reminders - Real-time resolution services (blocked emails) Targeted Messages not used in the period of performance will not carry over to the



		following year. Includes up to 400,000 Targeted Messages per year.
Targeted Messaging - Setup and Configuration	PFS-PS-CO-TMS-SC	Implementation includes: Access to an implementation consultant for up to 90 days to provide assistance, guidance, sample code, and best practices Access to a stage environment for testing integration Access to online resources and reference documentation Granicus recommends that the client's developer team plan for a minimum of 50-70 developer hours and more for complex workflows.

GRANICUS EXPERIENCE GROUP

Product Name	Product Code	Description
4-Hour Virtual Experience Center	GXG-VIR-EXP-4HR	Successful digital initiatives require more than just the right technology. Organizations also need the right strategy and culture. The GxG team of strategists, analysts, communicators and Granicus technology experts will design and deliver a custom workshop in support of client's goals. GxG's custom Experience Center workshops are designed to solve client's unique pain points and enable progress toward an



		achievable goal. Sold as Firm Fixed Price (not Time & Materials). Designed to support clients with a single Granicus product
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SUCCESS STORIES

SUCCESS STORY

FLORIDA COURT CLERKS & COMPTROLLERS



OVERVIEW

Over 10 years ago, the Supreme Court of Florida began the process of switching to electronic filing for its court systems. While it took some time to find and fully implement eUniverse throughout the 67 counties in Florida, it's been a welcome change that has saved the Florida Court Clerks & Comptrollers, taxpayers, and those who utilize the system, millions of dollars.

POPULATION 20.61 MILLION

SOLUTIONS

EUNIVERSA
(Active since 2010)

info@granicus.com | granicus.com

FLORIDA COURT CLERKS & COMPTROLLERS PRIORITIZES E-FILING, SAVES MILLIONS

SITUATION

Paper Causes Backups in Florida's Court System

In the early 2000s, the court system for the state of Florida relied exclusively on paper processes for filing. However, this process was costly for the counties, attorneys and citizens who represent themselves in court cases. Since files were paper-based, only one person or party could use each file at a time. "If you wanted to look at a file, you had to wait until the judge was done with it," says Tim Smith, Clerk of Courts for Putnam County, FL. The Florida Association of County Clerks (FACC) was also required by law to keep past filings, which it had to do in a hurricane-safe warehouse.

When it came time for lawyers to file court documents, they would have to do so in person, which also meant they could only file between the hours of 8 a.m. and 5 p.m. If someone chose to file by mail, or lived too far from a courthouse to file in person, they would have to pay to send their documents. As these packets could be up to 50 pages, this often added up to large postage costs for lawyers and other filers.

As the reasons for shifting this process to the digital world became too numerous and too compelling to ignore, the state of Florida began making preparations to get all of its 67 counties on the same page.



GRANICUS



SUCCESS STORY

FLORIDA COURT CLERKS & COMPTROLLERS

METRICS

\$16M

SAVED IN POSTAGE
COSTS

1.3M

E-FILING
SUBMISSIONS
RECEIVED PER MONTH

160K

PORTAL USERS
MANAGED

SOLUTION

Courts, Clerks, and Lawyers Speed Up Processes

Once the Florida Supreme Court decided to make a change to e-filing roughly 10 years ago, they put together a committee to address some of the questions that lingered. It was necessary to have a single system, the committee decided, and one that was easy for all counties to adopt.

"It would be easier to manage, easier to maintain [if everyone used the same system]," says Melvin Cox, Director of IT for Florida Court Clerks & Comptrollers. Before this could happen, however, the state had to find a system that would layer over and interface with the 67 different case management systems utilized by each of the 67 counties.

They eventually discovered that Granicus' [eUniversa](#) solution could accomplish this large undertaking. While it took nearly two years to fully implement due the sheer number of counties where it would be used, the solution began to prove its own value immediately. Once the system was available in all counties, its use was mandated by the Florida Supreme Court for all court participants beginning on April 1, 2013.

The result of this change is that court documents are easy to file, which creates more efficiency for everyone from litigants to attorneys to the courts themselves. Filers can now send documents from anywhere they have an internet connection, at any time of day or night.

The system also has another welcome benefit: "It's a huge savings to the taxpayers," says Carolyn Weber, Portal Program Manager for Florida Court Clerks & Comptrollers.

While the state and those in charge of the system continue to make adjustments that allow the eUniversa portal to move beyond its original planned use, it continues to make the filing process within the courts easier to manage.

RESULTS

A More Efficient Court System

Now that Florida Court Clerks & Comptrollers allows filers to submit documents electronically using eUniversa, it saves the state of Florida a tremendous amount of time, money, and space. Their court system runs much more efficiently and smoothly, to the benefit of all involved.

ABOUT GRANICUS

Granicus provides technology that empowers government organizations to create better lives for the people they serve. By offering the industry's leading cloud-based solutions for communications, meeting and agenda management, and digital services to over 3,000 public sector organizations, Granicus helps turn government missions into quantifiable realities. Granicus products connect over 150 million people, creating a powerful network to enhance citizen engagement. By optimizing decision-making processes, Granicus strives to help government see better outcomes and a greater impact for the citizens they serve. For more information on Granicus, visit [granicus.com](#).

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SUCCESS STORY

CITY OF NEWTON, MASS.



OVERVIEW

The City of Newton, Mass. wanted to accomplish three major goals with their website: update the site to reflect a more modern look and feel, ease the burden of maintenance and security on the IT department and empower citizens to interact with their government more easily. To accomplish these goals, the City enlisted the help of Granicus' CivicaCMS. Now, Newton's website has a fresh layout, is easier to navigate, and most importantly, is easier to manage and maintain.

POPULATION

90,000

SOLUTIONS

CivicaCMS

(Active since 2014)

NEWTON TAKES CONTROL OF ITS TIME WITH BETTER WEBSITE MANAGEMENT

SITUATION

Crunch Time for the IT Department

Newton, a suburb of Boston, is home to nearly 90,000 people, and in an effort to get all those citizens more engaged with their community, the City needed to make some changes online to make it easier for individuals and businesses alike to interact with their government.

Chief Information Officer Joseph Mulvey had a particular interest in updating the City's website, as making content changes and adding minutes, agendas and other information to the website was complex, to say the least. "In the old days, Fridays were web update days," Mulvey says. "Any department with a committee gave themselves a deadline of noon on Friday to have their Word documents done, agendas for the following week and minutes from the previous week."

Those documents were sent to Mulvey's team en masse on Friday afternoons, and while this worked for the individual departments, it placed stress on the IT department, which was responsible for adding all the new information to various pages of the website.

"At 2 o'clock, we would start getting emails from people, and we'd have 30 to 40 documents to post online, turn into PDFs and insert lines and tables into," says Mulvey. "There were a lot of steps. It was very mechanical, very time consuming. That was crunch time for the IT department."



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SUCCESS STORY

CITY OF NEWTON, MASS.



[CivicaCMS] literally frees up a couple of days a month by not having to constantly maintain and update our web pages.

Joseph Mulvey, Chief Information Officer

METRICS

SAVE MONEY ON
MAINTENANCE AND
SERVER REPLACEMENT
COSTS

CUT DOWN ON TIME
SPENT UPLOADING
DOCUMENTS TO THE
WEBSITE

UPDATED WEBSITE
TO FEATURE A MORE
MODERN LOOK
AND IMPROVE USER
EXPERIENCE

SOLUTION

Newton Found a Better Option

In addition to wanting to ease the burden of regular website updates, the City also had an interest in easing citizens' confusion in navigating the website. With most citizens not completely familiar with the structure of local government departments, and therefore unsure of which department handled the issue they were trying to resolve, it created frustration and generated calls and emails to the City. So Mulvey and his team began searching for a vendor to design a new website, with a team of constituents recommending a CMS-driven site, which is how the City found Granicus. "We liked that the system was proprietary," says Mulvey. "We liked the idea that no one could mess with [the site]." The City also liked the Filebank storage option, as well as some of the more popular modules such as News Items and Slideshows.

"We would be able to give people just the things they needed without confusing them with things they didn't." In working with the Granicus team, the City was also able to streamline the site's navigation. Content on the site isn't organized by department, but by task. A site visitor simply needs to decide what they wish to accomplish, mouse over a menu and click.

For example, to apply for a marriage license, one needs to simply mouse over the popout menu, look under "apply for..." and select "marriage license." "We wanted to make things more transparent without making the user decide which department was responsible for something," says Mulvey.

RESULTS

A Perfect Fit for the City and for the Public

Having Granicus host the website turned out to be a good decision for the City, Mulvey says.

"Now I don't have to worry about backups," says Mulvey. "I don't have to come in on a weekend because a drive died or a network cable became unplugged. If we were to be hit by catastrophic weather, the site's still up because the servers are in sunny Colorado."

"The public really likes it," Mulvey says. "Just this year, we converted again to responsive design and redesigned the whole site. It was a lot of work but at the end the public was very happy."

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SUCCESS STORY

COUNTY OF SAINT
CHARLES, MO.



ST. CHARLES
COUNTY

OVERVIEW

After using a variety of solutions to manage their enormous volume of land records, including an in-house, custom-built program, Saint Charles County in Missouri made the switch to Granicus. Since then, they've been able to easily manage all records, which include over 45 years' worth of deeds, licenses, and more.

POPULATION

379,493

SOLUTIONS

**eAccept,
Land and Vitals,
ROAM**

(Active since 2001)

SAINT CHARLES COUNTY MANAGES DECADES OF RECORDS WITH GRANICUS

SITUATION

Saint Charles County Overwhelmed by over 150 Years of Land Records

When Barb Hall was first elected to her position of Recorder of Deeds for Saint Charles County, MO. in 1987, one of her main priorities was to digitize the way her county stored and managed land and vital records. At the time, not many options were available, so she sat with a programmer and designed a custom solution built specifically for her department's needs.

This worked for a while, but after going through changes in the way the County managed records, Hall saw the need for a more long-term solution. At the time, all files were kept on discs in a machine that worked exactly like an old-fashioned jukebox. Once a user knew the number of the document they needed, they'd have to type that number into the jukebox, which would then pull up the image or document.

As the population of Saint Charles County continued to increase, the number of homeowners also increased, and Hall and her staff once again recognized the need for a better long-term solution, preferably one that could grow with the County. That's when they found Granicus.

SOLUTION

County Accomplishes More with Granicus

Implementing the Land and Vitals system was such a positive event for Hall that she even remembers the date it went live: "Late September 2003 - what a wonderful change." Hall and her staff members were pleased to be able to allow the public to visit a website and be able to search for documents. Not only that, but they were able to pay for the documents online, which meant that staff members no longer had to spend time looking for documents or taking payment for them. Marriage licenses became easier to issue as well, since applicants are able to fill out a form online -- saving staff members from having to type the information onto a form manually.

In July of 2011, when the County experienced a critical system failure within their network, they lost all of their images, documents, and records. Staff members prepared themselves to have to rescan documents, comb through years of archived records stored on microfilm, and try to get records up and running again. However, since Granicus is a cloud-based system,

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SUCCESS STORY

COUNTY OF SAINT CHARLES, MO.



[The solution] is very sophisticated and it integrated with our other programs. What a wonderful change.

Burt Hall, Recorder of Deeds



they still had copies of every single file that had been lost. After copying all of these files to an external hard drive, which was then overnighted to the County, Granicus and the County's IT staff were able to get the records department up and running again within days instead of weeks or even months.

"Thanks to Granicus, we were back up and running with everything long before our IT Department could have gotten us there," says Hall. "I am truly grateful for the excellent and timely service provided by Granicus."

RESULTS

A More Efficient Way to Manage Records

- Manages over 45 years of land records easily
- Allows citizens to apply for licenses and more online
- Decreases time to process applications

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SUCCESS STORY

FLORIDA FISH & WILDLIFE CONSERVATION COMMISSION



OVERVIEW

The Florida Fish and Wildlife Conservation Commission (Florida FWC) has more than 2,000 full time employees across the state managing fish and wildlife resources for their long term well-being and the benefit of people. More than 19 million Florida residents and millions of visitors share the land and water with Florida's wildlife. Hunting, fishing and wildlife viewing bring in billions of dollars in economic impact for the state each year.

POPULATION
20,612,439

SOLUTIONS
GovDelivery
Communications Cloud
(Active since 2016)

WITH MORE RELEVANT, ENGAGING DIGITAL COMMUNICATIONS, FLORIDA FWC DRIVES OUTDOOR PARTICIPATION AND INCREASES REVENUE.

SITUATION

Reaching a vast audience comes with complex challenges.

The Florida Fish and Wildlife Conservation Commission (Florida FWC) manages fish and wildlife resources within the state of Florida. With more than 19 million residents and millions of visitors to the state, Florida FWC needed to find a way to effectively communicate with this vast audience.

The agency had too many distribution lists; and they were "owned" by separate divisions within the organization. Many of the contacts overlapped across lists without any way to manage them comprehensively. When Florida FWC wanted to cross-promote license sales, events, or other programs among divisions, it was a tedious task.

Florida FWC needed a solution for creating an easier process for people to sign up for communications and for employees to manage the process of sending communications. The agency needed to fulfill two goals:

1. Drive outdoor participation.
2. Increase revenues associated with permits and licenses.

SOLUTION

Florida FWC partners with GovDelivery to streamline communications.

After recommendation from other state agencies, Florida FWC partnered with GovDelivery. They implemented the technology in early 2013.

GovDelivery's solution provided a technology to elevate, streamline, and track its communication efforts: all within a secure, private, and compliant platform.

The solution provided a way for the Florida FWC to reach its vast audience, while also creating targeted messages for key geographic or topical areas.

Florida FWC used the robust analytics within GovDelivery to measure the success of its

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SUCCESS STORY

FLORIDA FISH & WILDLIFE CONSERVATION COMMISSION



"Our GovDelivery implementation and training went very smoothly... GovDelivery helped guide us through it and realize what we needed and what GovDelivery could do. Over a few days they helped us organize our groups of topics and categories and trained us how to use the tool. It was very helpful and it's been great ever since."

Scott Ball, Internal Communications Director, Florida FWC

METRICS

1.6M+

PEOPLE
REACHED

85.6M

MESSAGES SENT
IN 2016

43.9%

ENGAGEMENT
RATE

messages. It regularly checks on web traffic spikes when new messages are distributed. The agency also keeps a close eye on data after sending messages and news releases.

RESULTS

With more relevant, engaging digital communications, Florida FWC drives outdoor participation and increases revenue.

With the implementation of the GovDelivery Communications Cloud, Florida FWC saw a 37 percent lift in total audience reached. With the use of Granicus' technology, Florida FWC successfully reached its goal of driving outdoor participation and experiencing cost savings.

Increased Email Subscribers

Today, Florida FWC has more than 726,000 subscribers. Rather than managing many different lists across departments, the agency could keep track of its contacts within one system, while still being able to segment the lists according to the division, topic, and geographic area. For example, the agency can message people regionally according to specific updates, like fishing information.

Greater Outdoor Participation and Permit Revenue

As a product, Florida FWC saw increased outdoor participation and license or permit revenue. Because the people could self-subscribe to a range of regionally focused communication topics, the information received is always relevant, making it more relevant and engaging to readers.

Added Benefit: Maintaining Alignment With Legislation

When laws like the Endangered Species Act are updated, the agency "gets the word out" to the public through GovDelivery. When emergency situations like excessive rainfall and flooding affect its stakeholders, the agency uses GovDelivery to warn residents.

Florida FWC uses GovDelivery to directly communicate with its stakeholders rather than only sending out messages to the media or trying to get a story on the news about important information.

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Tab 9 – Required Documents

- ◆ Clean Air and Water Act / Debarment Notice
- ◆ Contractors Requirements
- ◆ Antitrust Certification Statements
- ◆ Required Clauses for Federal Funds Certifications
- ◆ Required Clauses for Federal Assistance by FTA
- ◆ State Notice Addendum



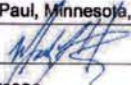
Tab 9 – Required Documents

CLEAN AIR AND WATER ACT / DEBARMENT NOTICE

Clean Air and Water Act & Debarment Notice

I, the Vendor, am in compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970, as Amended (42 U.S.C. 1857 (h), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15 as required under OMB Circular A-102, Attachment O, Paragraph 14 (1) regarding reporting violations to the grantor agency and to the United States Environment Protection Agency Assistant Administrator for the Enforcement.

I hereby further certify that my company has not been debarred, suspended or otherwise ineligible for participation in Federal Assistance programs under Executive Order 12549, "Debarment and Suspension", as described in the Federal Register and Rules and Regulations

Potential Vendor	Granicus, LLC
Print Name	Mark Hynes
Address	408 St Peter St, Suite 600
City, State, Zip	Saint Paul, Minnesota, 55102
Authorized signature	
Date	11/06/2020



CONTRACTORS REQUIREMENTS

Contractor Requirements

Contractor Certification Contractor's Employment Eligibility

By entering the contract, Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA), and all other federal and state immigration laws and regulations. The Contractor further warrants that it is in compliance with the various state statutes of the states it is will operate this contract in.

Participating Government Entities including School Districts may request verification of compliance from any Contractor or subcontractor performing work under this Contract. These Entities reserve the right to confirm compliance in accordance with applicable laws.

Should the Participating Entities suspect or find that the Contractor or any of its subcontractors are not in compliance, they may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

The offeror complies and maintains compliance with the appropriate statutes which requires compliance with federal immigration laws by State employers, State contractors and State subcontractors in accordance with the E-Verify Employee Eligibility Verification Program.

Contractor shall comply with governing board policy of the NCPA Participating entities in which work is being performed

Fingerprint & Background Checks

If required to provide services on school district property at least five (5) times during a month, contractor shall submit a full set of fingerprints to the school district if requested of each person or employee who may provide such service. Alternately, the school district may fingerprint those persons or employees. An exception to this requirement may be made as authorized in Governing Board policy. The district shall conduct a fingerprint check in accordance with the appropriate state and federal laws of all contractors, subcontractors or vendors and their employees for which fingerprints are submitted to the district. Contractor, subcontractors, vendors and their employees shall not provide services on school district properties until authorized by the District.

The offeror shall comply with fingerprinting requirements in accordance with appropriate statutes in the state in which the work is being performed unless otherwise exempted.

Contractor shall comply with governing board policy in the school district or Participating Entity in which work is being performed

Business Operations in Sudan, Iran

In accordance with A.R.S. 35-391 and A.R.S. 35-393, the Contractor hereby certifies that the contractor does not have scrutinized business operations in Sudan and/or Iran.

Authorized signature

Mark Hynes, CEO

Date

11/06/2020



ANTITRUST CERTIFICATION STATEMENTS

Antitrust Certification Statements (Tex. Government Code § 2155.005)

I affirm under penalty of perjury of the laws of the State of Texas that:

- (1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;
- (2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- (3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law; and
- (4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Company name	Granicus, LLC
Address	408 St Peter St, Suite 600
City/State/Zip	Saint Paul, Minnesota, 55102
Telephone No.	800-314-0147
Fax No.	
Email address	contracts@granicus.com
Printed name	Mark Hynes
Position with company	Chief Executive Officer
Authorized signature	

Required Clauses for Federal Funds Certifications

Participating Agencies may elect to use federal funds to purchase under the Master Agreement. The following certifications and provisions may be required and apply when a Participating Agency expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases, awarded by the Participating Agency and the Participating Agency's subcontractors shall contain the procurement provisions of Appendix II to Part 200, as applicable.

APPENDIX II TO 2 CFR PART 200

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to Federal Rule (C) above, when a Participating Agency expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision

for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended— Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee

of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS

When federal funds are expended by Participating Agency for any contract resulting from this procurement process, offeror certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The offeror further certifies that offeror will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT

When Participating Agency expends federal funds for any contract resulting from this procurement process, offeror certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

To the extent purchases are made with Federal Highway Administration, Federal Railroad Administration, or Federal Transit Administration funds, offeror certifies that its products comply with all applicable provisions of the Buy America Act and agrees to provide such certification or applicable waiver with respect to specific products to any Participating Agency upon request. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

Required Clauses for Federal Assistance provided by FTA

ACCESS TO RECORDS AND REPORTS

Contractor agrees to:

- a) Maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract or any extensions thereof except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until Public Agency, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.
- b) Permit any of the foregoing parties to inspect all work, materials, payrolls, and other data and records with regard to the Project, and to audit the books, records, and accounts with regard to the Project and to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed for the purpose of audit and examination.

FTA does not require the inclusion of these requirements of Article 1.01 in subcontracts. Reference 49 CFR 18.39 (i)(11).

CIVIL RIGHTS / TITLE VI REQUIREMENTS

- 1) Non-discrimination. In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12132, and Federal Transit Law at 49 U.S.C. § 5332, Contractor or subcontractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, marital status age, or disability. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- 2) Equal Employment Opportunity. The following Equal Employment Opportunity requirements apply to this Contract:
 - a. Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal Transit Law at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable Equal Employment Opportunity requirements of U.S. Dept. of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, 41 CFR, Parts 60 *et seq.*, and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of this Project. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, marital status, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.
 - b. Age. In accordance with the Age Discrimination in Employment Act (ADEA) of 1967, as amended, 29 U.S.C. Sections 621 through 634, and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act", 29 CFR Part 1625, prohibit employment discrimination by Contractor against individuals on the basis of age, including present and prospective

employees. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

- c. Disabilities. In accordance with Section 102 of the Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. Sections 12101 *et seq.*, prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Contractor agrees that it will comply with the requirements of the Equal Employment Opportunity Commission (EEOC), "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR, Part 1630, pertaining to employment of persons with disabilities and with their responsibilities under Titles I through V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions.
 - d. Segregated Facilities. Contractor certifies that their company does not and will not maintain or provide for their employees any segregated facilities at any of their establishments, and that they do not and will not permit their employees to perform their services at any location under the Contractor's control where segregated facilities are maintained. As used in this certification the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin because of habit, local custom, or otherwise. Contractor agrees that a breach of this certification will be a violation of this Civil Rights clause.
- 3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation, made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract and the regulations relative to non-discrimination on the grounds of race, color, creed, sex, disability, age or national origin.
 - 4) Sanctions of Non-Compliance. In the event of Contractor's non-compliance with the non-discrimination provisions of this Contract, Public Agency shall impose such Contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to: 1) Withholding of payments to Contractor under the Contract until Contractor complies, and/or; 2) Cancellation, termination or suspension of the Contract, in whole or in part.

Contractor agrees to include the requirements of this clause in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

DISADVANTAGED BUSINESS PARTICIPATION

This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, "*Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*", therefore, it is the policy of the Department of Transportation (DOT) to ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in the performance of DOT-assisted contracts.

- 1) Non-Discrimination Assurances. Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out all applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or other such remedy as public agency deems appropriate. Each subcontract Contractor signs with a subcontractor must include the assurance in this paragraph. (See 49 CFR 26.13(b)).

- 2) **Prompt Payment.** Contractor is required to pay each subcontractor performing Work under this prime Contract for satisfactory performance of that work no later than thirty (30) days after Contractor's receipt of payment for that Work from public agency. In addition, Contractor is required to return any retainage payments to those subcontractors within thirty (30) days after the subcontractor's work related to this Contract is satisfactorily completed and any liens have been secured. Any delay or postponement of payment from the above time frames may occur only for good cause following written approval of public agency. This clause applies to both DBE and non-DBE subcontractors. Contractor must promptly notify public agency whenever a DBE subcontractor performing Work related to this Contract is terminated or fails to complete its Work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. Contractor may not terminate any DBE subcontractor and perform that Work through its own forces, or those of an affiliate, without prior written consent of public agency.
- 3) **DBE Program.** In connection with the performance of this Contract, Contractor will cooperate with public agency in meeting its commitments and goals to ensure that DBEs shall have the maximum practicable opportunity to compete for subcontract work, regardless of whether a contract goal is set for this Contract. Contractor agrees to use good faith efforts to carry out a policy in the award of its subcontracts, agent agreements, and procurement contracts which will, to the fullest extent, utilize DBEs consistent with the efficient performance of the Contract.

ENERGY CONSERVATION REQUIREMENTS

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plans issued under the Energy Policy and Conservation Act, as amended, 42 U.S.C. Sections 6321 *et seq.* and 41 CFR Part 301-10.

FEDERAL CHANGES

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Contract between public agency and the FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this Contract.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding Contract provisions. All contractual provisions required by the DOT, as set forth in the most current FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. Contractor agrees not to perform any act, fail to perform any act, or refuse to comply with any public agency requests that would cause public agency to be in violation of the FTA terms and conditions.

NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

Agency and Contractor acknowledge and agree that, absent the Federal Government's express written consent and notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to agency, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract.

Contractor agrees to include the above clause in each subcontract financed in whole or in part with federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS

Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Contract. Upon execution of the underlying Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA assisted project for which this Contract Work is being performed.

In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

Contractor agrees to include the above clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

State Notice Addendum

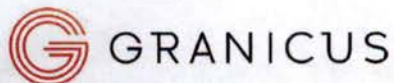
The National Cooperative Purchasing Alliance (NCPA), on behalf of NCPA and its current and potential participants to include all county, city, special district, local government, school district, private K-12 school, higher education institution, state, tribal government, other government agency, healthcare organization, nonprofit organization and all other Public Agencies located nationally in all fifty states, issues this Request for Proposal (RFP) to result in a national contract.

For your reference, the links below include some, but not all, of the entities included in this proposal:

http://www.usa.gov/Agencies/State_and_Territories.shtml

<https://www.usa.gov/local-governments>

EXHIBIT B



408 Saint Peter Street, Suite 600
Saint Paul, MN 55102
United States

THIS IS NOT AN INVOICE

Order Form
Prepared for
Kissimmee, FL

Procurement Vehicle: NCPA (01-115) In Support of: Kissimmee, FL

ORDER DETAILS

Prepared By:	Bill Marshall
Phone:	(202) 559-3037
Email:	bill.marshall@granicus.com
Order #:	Q-180283
Prepared On:	06/07/2022
Expires On:	11/4/2022

ORDER TERMS

Currency:	USD
Payment Terms:	Net 45 (Payments for subscriptions are due at the beginning of the period of performance.)
Current Billing Term End Date:	02/28/2023
Period of Performance:	The Agreement will begin on date of signature and will continue through the end of the then current billing term, and will continue for an additional 48 months thereafter.

The subscription includes the following domain(s) and subdomain(s):
<https://www.kissimmee.gov/>



Order Form
Kissimmee, FL

PRICING SUMMARY

The pricing and terms within this Proposal are specific to the products and volumes contained within this Proposal.

Terminating Subscriptions		
Solution	Quantity/Unit	Prior Annual Fee
govAccess - Maintenance, Hosting, & Licensing Fee - Core	0 Each	\$9,572.12
SUBTOTAL:		\$9,572.12

Upon the signing of this Agreement, annual fees for the terminating subscription(s) shall cease. Any pre-paid fees for the terminating subscription(s) after the signing of this Agreement will be prorated from the signing of this Agreement to the end of the Client's then-current billing term, credited, and such credit applied to the annual fees for new subscriptions.

Client will continue to have access to and use the terminating solution until the new subscription(s) is/are deployed. Upon the deployment of Client's new solution as determined at Granicus' sole discretion, Granicus shall remove access to the Client's terminating subscription(s).

One-Time Fees			
Solution	Billing Frequency	Quantity/Unit	One-Time Fee
Government Experience Cloud (SERVE) – Setup and Configuration	Up Front	1 Each	\$79,650.00
SUBTOTAL:			\$79,650.00

New Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
Government Experience Cloud (SERVE)	Annual	1 Each	\$34,454.69
SUBTOTAL:			\$34,454.69

Please note, annual fees for new subscriptions will be prorated to align to Client's then-current billing term. Exceptions include Recurring Captioning Services, SMS, and Targeted Messages.

FUTURE YEAR PRICING

Solution(s)	Period of Performance			
	Year 2	Year 3	Year 4	Year 5
Government Experience Cloud (SERVE)	\$36,177.42	\$37,986.30	\$39,885.61	\$41,879.89
SUBTOTAL:	\$36,177.42	\$37,986.30	\$39,885.61	\$41,879.89



PRODUCT DESCRIPTIONS

Government Experience Cloud (SERVE)	
Solution	Description
OpenCities SaaS License	The OpenCities platform allows you to launch modern, easy to use websites that evolve to put the needs of your community at the centre. The SaaS License includes:- All OpenCities out of the box functionality (excluding optional/premium modules priced separately)- Platform setup and full project management- Managed cloud hosting via Microsoft AzureGov- Ongoing security updates- Ongoing product updates and enhancements- WCAG AA Accessibility maintained perpetually- 99.9% up-time guarantee and 24/7 support for Priority 1 issues (per SLA)- Comprehensive SLA and Support Ticketing systemSee full service agreement for details.
GXG Information Architecture	Updating your website's Information Architecture (IA) is key to improving the overall user experience. Our IA process involves website data analysis, user research and user testing, and other best-practice methodologies that serve to seamlessly bridge your goals with user needs. This effort will result in a strategic and scalable approach to content priorities, a development of a navigation structure for your new site, and the creation of an actionable implementation strategy for your existing content. Activities include: • Kickoff: Align on goals, expectations, timelines, and deliverables • Data Audit: We'll review surveys, Google Analytics, and any other piece of data to get a sense of how the website is currently utilized, what the user priorities are, and how the current content is meeting their needs. • User engagement: Conduct up to one (1) card sort with up to forty (40) external users OR up to one (1) tree test with up to forty (40) external users Deliverable: • Recommendations & Implementation Report. Includes new Information Architecture map, connecting individual pages to their new categories and location in the site tree Assumptions: • Covers analysis and IA for sites with up to 2,500 URLs. • Three-month period of performance to be completed within the contract period. • Does NOT include a content audit. • Does NOT include content creation. • Client sources external users for testing. • Does NOT include document review.
OpenCities CMS Design	This is a design package tailored for unique city requirements. Requires scoping by implementation.



Order Form
Kissimmee, FL

Government Experience Cloud (SERVE)	
Solution	Description
OpenCities Content Rationalization	In every engagement, our team walks you through an established process for reviewing your existing web content, and applying our AIM framework for evaluating what content to Archive, Improve or Move (as is). This work is most effective when conducted by the client, as they know their own government and processes best. In cases where the client does not have the support internally, the Granicus Web Team can provide the AIM process. This includes meeting with the client at the outset to determine key information and current analytics, and then reviewing each page in the main website to determine what action to take. In the cases where a page will be moved or improved, we assign the appropriate OpenCities page type to be used. This work must be done before any content migration work, and in conjunction with or after the IA process (if purchased).



OpenCities Content Migration	Content Migration Delivery: Once we have agreed upon a strategy and a timeline, our team of migrators will work to deliver your project by the designated deadline. At the end, you will receive: • Access to the system with all agreed pages moved over • A recap document that details anything your team should know about what we migrated as well as recommendations Client Responsibilities: • Completion of an AIM Spreadsheet (provided by OpenCities) listing all pages in hierarchical order classified as either Archive, Improve or Migrate (or purchase the Content Rationalization package add on) • Identify individual or team with the ability to clarify questions and promptly make decisions about migration questions • Provide a desired folder structure for files (if contracted) What's IN scope? • Content managed within your current CMS • Documents/images (if contracted) What's NOT in scope? • Anything within an iFrame or embedded HTML content • Dynamic content pulled from other systems • Content not managed within CMS • JavaScript, CSS, or other custom code • Interactive web forms and/or single page applications • Written content within image/diagram • Content contained inside a PDF file • Documents and images on pages marked "Archive"
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Order Form
Kissimmee, FL

Government Experience Cloud (SERVE)	
Solution	Description
Training - OpenCities	OpenCities training session for up to 20 people, covering one of these topics: 1. Site Admin training 2. Content Publisher Training 3. Power Publisher training
OpenCities SaaS License - Setup and configuration package	Installation and setup of OpenCities SaaS, including an assigned Project Manager during the implementation phase.
OpenCities Imperva Security License - Services Setup and Configuration Package	Setup and configuration of OpenCities Imperva Security License
OpenForms Enterprise License (30 users, 100 forms)	OpenForms is a digital forms builder specifically designed for Government. Government services can be complicated, but the experience for the residents accessing them shouldn't have to be. OpenForms is perfect for the business of government, with capabilities that will help you convert complex, multi-page forms and processes into simple, step-by-step online forms that adjust based on customers responses. The Enterprise plan to accelerate digital transformation for up to: 30 users, 100 published forms. Key features include:- Workspaces- Response workflows- Custom documents (Certificates, permits, formal letters & more)- Form versioning & scheduling- Drag and drop form builder- Display logic and calculations- Payments- Insights dashboard- Form analytics- Support team access- Save responses- Unlimited responses- Data connections and API access- Up to: 50GB file uploads, 2,000 web API calls per hour, 20 custom documents per form
Training - OpenForms	OpenForms training session for up to 20 people.
OpenForms Enterprise (30 users, 100 forms) Setup and Configuration Package	Set up and configuration of OpenForms Enterprise License, 30 users, 100 forms
OpenCities SaaS License - Setup and configuration package	Installation and setup of OpenCities SaaS, including an assigned Project Manager during the implementation phase.
AzureAD Connector - Services Setup and Configuration Package	Set up and configuration of AzureAD Connector



Government Experience Cloud (SERVE)	
Solution	Description
GXG Digital Services Academy	Digital transformation is more than just creating PDFs as online services. It's about creating a digital experience that starts long before the user gets to the online form. GXG experience strategists will help your team think about your top services through a user experience lens, focusing on journey mapping, user stories, content improvement, user testing, and smart forms that include workflows and smart logic, learning how to support an improved user experience from the start. The Digital Services Academy lays the foundation for better government websites, empowered teams, and engaged users. Activities include: • Insights Session. One (1) 30-min virtual meeting prior to the DSA with GXG and client to align on goals, dates, participants, and services. • Services review. Following the Insights Session, GXG will review each service selected to validate workshop feasibility. • Digital Services Academy. At least one GXG team member will be virtual with your team to facilitate three 2.5-hour workshops over the course of one week, on Monday, Wednesday and Friday, for example. Assumptions: • Sold as Firm Fixed Price (not Time & Materials). • Assumes a 1-month level of effort to be completed within the contract period. • Assumes the client has manual PDFs or use another digital tool. • No more than 20 participants for each session. Each participant should attend all three sessions. • NOT for clients that mainly use third-party applications for all services. • NOT for clients that have a centralized content creation model.
GXG Writing for the Web Workshop	Content is the most important element of a website. We believe in using best practices to standardize and promote consistency. There's no better time to completely revamp your content than when you're updating your website and moving to a new CMS. We'll teach your team how to undeniably sound like the agency and focus on the user, helping you mature your communications and services over time. Services include: • Workshop kick off: align on goals, dates, and participants / services • Services review: review every service selected to confirm workshop feasibility • One 3-hour workshop (remote) Sold as Firm Fixed Price (not Time & Materials). Assumes a 2-week level of effort to be completed within the contract period. Assumes the client has manual PDFs or use another digital tool. NOT for clients that mainly use third party applications for all services. NOT for clients that have a centralized content creation model (1-2 Content Authors/Publishers for the entire website)



Government Experience Cloud (SERVE)	
Solution	Description
Communications Cloud Advanced Package	The Advanced Cloud Module gives government communicators better insight into the needs of citizens and improves their ability to enhance online transactions, promote behavior change through public awareness, and improve citizen engagement. The Advanced Cloud Module adds streamlined marketing capabilities that incorporate greater degrees of audience segmentation, personalization, message testing, and mobile engagement. The Advanced Cloud Module includes: • Dynamic segmentation around bulletins, engagement, and question (e.g. zip code) • Canned campaigns for re-engagement and new subscriber onboarding • Testing: Simple (A/B, 10/10/80) <i>A subscription for the Advanced Cloud Module is dependent on an active license for the GovDelivery Communications Cloud.</i>
Communications Cloud - Online Training	Provides a balance of Product knowledge and industry best practices to a specific audience. Sessions are delivered by product experts via videoconferencing technology.
Communications Cloud - Setup and Configuration	The Cloud is a Software-as-a-Service (SaaS) solution that enables government organizations to connect with more people. By leveraging the Cloud, the client will be able to utilize a number of different outreach mediums, including email, SMS/text messages, RSS feeds, and social media integration to connect with its target audiences. The Cloud setup and configuration includes: • The implementation consultant will be assigned to Recipient during the setup process for up to 90 days • Unlimited access to Web-based recorded trainings and online help for administrations on the following topics: standard Messaging, the GovDelivery Network, Automation, Mobile and Analytics • Up to 2 Web-hosted training sessions that must be used within 180 days of Kickoff • Up to 5 hours of message template and integration development that must be used within 90 days of Kickoff



Government Experience Cloud (SERVE)	
Solution	Description
Advanced Package - Setup and Configuration	Implementation includes: • Access to an implementation consultant for up to 90 days • Access to online training documentation around advanced account functions and capabilities • Up to 2 Web-hosted training sessions within 180 days of kickoff • Up to 5 hours of message template and integration development within 90 days of kickoff <i>The implementation process takes four to six weeks, on average, depending on the availability of stakeholders and/or current GovDelivery Communications Cloud experience.</i>
Advanced Package - Online Training	Provides a balance of Product knowledge and industry best practices to a specific audience. Sessions are delivered by product experts via videoconferencing technology.
Site Improvement Credit	Site Improvement Credits may only be used towards the cost of govAccess site improvement projects. Site Improvement Credits are non-refundable and may not be redeemed as partial credits. Site Improvement Credits are redeemed as of the date of signature of this document for the products noted only and may not be substituted for other Solution(s). <i>Note: Cancellation of Order does not reactivate Site Improvement Credits redeemed.</i>

GRANICUS ADVANCED NETWORK AND SUBSCRIBER INFORMATION

- **Granicus Communications Suite Subscriber Information.**
 - Data provided by the Client and contact information gathered through the Client's own web properties or activities will remain the property of the Client ('Direct Subscriber'), including any and all personally identifiable information (PII). Granicus will not release the data without the express written permission of the Client, unless required by law.
 - Granicus shall: (i) not disclose the Client's data except to any third parties as necessary to operate the Granicus Products and Services (provided that the Client hereby grants to Granicus a perpetual, non-cancelable, worldwide, non-exclusive license to utilize any data, on an anonymous or aggregate basis only, that arises from the use of the Granicus Products by the Client, whether disclosed on, subsequent to, or prior to the Effective Date, to improve the functionality of the Granicus Products and any other legitimate business purpose, including the right to sublicense such data to third parties, subject to all legal restrictions regarding the use and disclosure of such information).



- **Data obtained through the Granicus Advanced Network.**

- Granicus offers a SaaS product, known as the Communications Cloud, that offers Direct Subscribers recommendations to subscribe to other Granicus Client's digital communication (the 'Advanced Network'). When a Direct Subscriber signs up through one of the recommendations of the Advanced Network, that subscriber is a 'Network Subscriber' to the agency it subscribed to through the Advanced Network.
- Network Subscribers are available for use while the Client is under an active subscription with Granicus. Network Subscribers will not transfer to the Client upon termination of any Granicus Order, SOW, or Exhibit. The Client shall not use or transfer any of the Network Subscribers after termination of its Order, SOW, or Exhibit placed under this agreement. All information related to Network Subscribers must be destroyed by the Client within 15 calendar days of the Order, SOW, or Exhibit placed under this agreement terminating.
- Opt-In. During the last 10 calendar days of the Client's subscription, the Client may send an opt-in email to Network Subscribers that shall include an explanation of the Client's relationship with Granicus terminating and that the Network Subscribers may visit the Client's website to subscribe to further updates from the Client in the future. Any Network Subscriber that does not opt-in will not be transferred with the subscriber list provided to the Client upon termination.

UPDATES TO SHARED SHORT CODES FOR SMS/TEXT MESSAGING (US CLIENTS ONLY):

- Granicus will be migrating all clients with SMS/Text Messaging Solutions using a shared short code option to a unique standard toll-free number within the United States (International numbers not supported). Short Codes are recommended for Text-to-Subscribe functionalities, if enabled where available, for an additional fee.
- Client must have explicit opt-in for all destinations sent to and adhere to all CTIA guidelines for the duration of its use.



Order Form
Kissimmee, FL

TERMS & CONDITIONS

- The terms and Conditions of the Agreement 01-115 effective December 8th 2020 between Granicus and NCPA govern this Quote and are incorporated herein by reference, including the Master Agreement and all exhibits thereto.
- Upon the effective date, this Agreement shall supersede and replace any previous agreement between the parties for the Terminating and/or Existing Subscriptions listed herein. All such prior agreements between the parties are hereby void and of no force and effect.
- This quote is exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is the responsibility of Kissimmee, FL to provide applicable exemption certificate(s).
- Granicus certifies that it will not sell, retain, use, or disclose any personal information provided by Client for any purpose other than the specific purpose of performing the services outlined within this Agreement.
- Any lapse in payment may result in suspension of service and will require the payment of a setup fee to reinstate the subscription.
- Client will be invoiced for use of any product or service measured or capped by volume or amount of usage that exceeds the permitted amount set forth in this Quote at the same cost or rate set forth herein.
- **Updates to Shared Short Codes for SMS/Text Messaging:**
Granicus will be migrating all clients with SMS/Text Messaging Solutions using a shared short code option to a unique standard toll-free number within the United States (International numbers not supported). Short Codes are recommended for Text-to-Subscribe functionalities, if enabled where available, for an additional fee.
Client must have explicit opt-in for all destinations sent to and adhere to all CTIA guidelines for the duration of its use.
- Notwithstanding anything to the contrary, Granicus reserves the right to adjust pricing at any renewal in which the volume has changed from the prior term without regard to the prior term's per-unit pricing.

Order Form
Kissimmee, FL**BILLING INFORMATION**

Billing Contact:		Purchase Order Required?	☐ - No ☐ - Yes
Billing Address:		PO Number: <i>If PO required</i>	
Billing Email:		Billing Phone:	

If submitting a Purchase Order, please include the following language:

The pricing, terms, and conditions of quote Q-180283 dated 06/07/2022 are incorporated into this Purchase Order by reference and shall take precedence over any terms and conditions included in this Purchase Order.

AGREEMENT AND ACCEPTANCE

By signing this document, the undersigned certifies they have authority to enter the agreement. The undersigned also understands the services and terms.

Kissimmee, FL	
Signature:	
Name:	
Title:	
Date:	

ITEM 7.L

Developer's Agreement between the City of Kissimmee, Birdsong Housing Partners, and Park Place Behavioral Health Care for the Dillingham Apartments.

Request

Approval of a Developer's Agreement to deem Dillingham Apartments a Project of Significant Importance to the City and acknowledge the Developer's request for flexibility from the Form-Based Code on specific design considerations for the project located at 511 Dillingham Ave.

Explanation

The property currently provides no permanent housing but provides therapeutic assistance to 16 individuals in a long-term residential program at 511 Dillingham Ave. Birdsong Housing Partners and Park Place Behavioral Health Care are constructing a new building, Dillingham Apartments, that will provide permanent supportive housing to individuals with serious mental illness who are more vulnerable to homelessness than the general population. Dillingham Apartments will provide permanent supportive housing for 38 individuals and will continue to provide therapeutic programming for 16 individuals who desperately need assistance to be able to integrate themselves back into the community and contribute to the future growth and essence of the City.

Based on Section 14-5-14 of the Land Development Code (LDC), a Project of Significance to the City shall be defined as any development or redevelopment project with special site characteristics of such a size, especially very small or very large, determined by the City Manager to be of such economic or social importance to the city that it warrants greater flexibility in the interpretation of this chapter. A Developer's Agreement will outline specific design considerations, and schedule and phasing plans consistent with the overall design intent of the Form-Based Code area. This Developer's Agreement is between the City, DDER Development, LLC (d/b/a Birdsong Housing Partners), and Osceola Mental Health, Inc. (d/b/a Park Place Behavioral Health Care) for the Dillingham Apartments.

Recommendation

REQUESTED CITY COMMISSION ACTION:

Adopt

Department: Development Services

Presenter:

Attachment(s):

1. (S) 10.25.2022 Dillingham Apts Developer's Agreement (FINAL) (002)

**DEVELOPER AGREEMENT BY AND BETWEEN THE CITY OF KISSIMMEE,
DDER DEVELOPMENT, LLC, d/b/a BIRDSONG HOUSING PARTNERS,
OSCEOLA MENTAL HEALTH, INC, d/b/a PARK PLACE BEHAVIORAL
HEALTH CARE and OSCEOLA MENTAL HEALTH, INC, d/b/a PARK
PLACE BEHAVIORAL HEALTH CARE -- THE DILLINGHAM
APARTMENTS**

THIS AGREEMENT is made this 1st day of November 2022, by and between the City of Kissimmee, Florida, a Florida municipal corporation (the "City"), and DDER Development, LLC d/b/a/ Birdsong Housing Partners, a Florida limited liability company and Osceola Mental Health, Inc, d/b/a Park Place Behavioral Health Care, a Florida Non-Profit Corporation, (collectively, the -“Developers”) and Osceola Mental Health, Inc, d/b/a, Park Place Behavioral Health Care. , a Florida Non-Profit Corporation, (the “Owner”).

RECITALS:

WHEREAS, Park Place Behavioral Health Care is the owner of certain real property located in the City of Kissimmee known as Dillingham Apartments (the “Property”) which is more particularly described in Exhibit “A,” attached hereto and incorporated herein.

WHEREAS, Birdsong Housing Partners does not have ownership rights on the Property.

WHEREAS, all duties created by this Agreement are to be faithfully performed by the Developers and maintained by the Owner.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which are mutually acknowledged, the Parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to request authorization from the city to deem Dillingham Apartments a project of Significant Importance to the City and acknowledge the Developer’s request for flexibility from the Form Based Code on specific design considerations for their Project.

2. Intent. The intent of this Project is to provide Permanent Supportive Housing for Persons with Special Needs to help support individuals with a diagnosed Serious Mental Illness (SMI). The existing building to remain on the site is essential to the City’s community and has been providing services in Central Florida for over 25 years. The services rendered are designed to meet the needs of those served at every stage of treatment and recovery. Currently, the property provides no permanent housing, but does provide therapeutic assistance to 16 individuals in a long-term residential program to 16. The intent of the new building is to further assist the community by providing permanent supportive housing to individuals with SMI who are more vulnerable to homelessness than the general population. In total this development will provide permanent supportive housing for 38 individuals within

the new building and will continue to provide therapeutic programming for 16 individuals within the residential level II program in the existing adjacent building who desperately need this help to be able integrate themselves back into the community and contribute to the future growth and essence of the City.

3. Authorization. The following list provides the requested authorization of specific conditions related to the site in accordance with code requirements, compliance, and deviations.

a. **Building Placement (LDC Section 14-5-6):**

- i. Code Requirement: Building shall have 5 ft minimum and 20 ft maximum setback from a Primary Street (MLK)
 - a) The existing building on the property is to remain, the building setback
is an existing, non-conformity. The proposed building would be excluded from this requirement as it would only front June Street and Dillingham Ave.
- ii. Code Requirement: Ground floor ceiling height measured from finished flood to finished ceiling must be a minimum of 9 ft.
 - a) The Developers request authorization to deviate from the minimum height to 8 feet, 10 inches to ensure the tie-beam for ledger connection falls within standard block coursing.

b. **Building Standards (LDC Section 14-5-7):**

- i. *Code Requirement:* Buildings shall be articulated to provide a projection/recess depth of 3 ft minimum every 50 ft.
 - a) Building Façade internal to the site (rear side of building) does not articulate the required 3 ft due to the proximity of the existing structure and fire separation requirements. The Developers request authorization to provide architectural treatment to the rear side of the building with brick material similar to the June Street elevation in lieu of providing the 3 ft articulation
- ii. *Code Requirement:* Building Frontage buildout 60% min primary street (MLK Blvd.) and Building Frontage buildout other streets 30% min
 - a) The proposed building complies with the required 30% min building frontage on W. June St. The developer requests authorization for the existing building frontage on MLK Blvd to be granted as an existing, legal non-conforming building. The existing building provides 11% frontage on MLK Blvd.
- iii. *Code Requirement:* Parcels with more than two frontages shall meet the standards along two streets, giving priority to the primary frontage.
 - a) The property is not in compliance with this requirement as the existing building provides 11% frontage on MLK Blvd and does not meet the minimum 60% frontage. A 2.5 ft masonry retaining wall and 4 ft of landscaping will be provided adjacent to MLK Blvd to buffer the proposed parking area. The Developers request

authorization of the new building to front on June Street which meets the minimum 30% frontage requirement.

- iv. *Code Requirement:* Corner lots shall orient the primary entrance to the primary street or may provide a corner entrance.

- a) The existing building does not comply as the primary entrance faces W. June St. and not the primary street. The Developers request authorization for the new building to provide a primary entrance on June Street without a corner entrance.

c. **Access, Circulation, and Parking (LDC Section 14-5-9):**

- i. *Code Requirement:* Parking shall be located behind the primary building or, if rear parking is not feasible, on the side of the building. Parking lots located on the side shall be masked from the street by a street wall (see Section 14-5-11. F)

- a) The proposed parking lot will be masked from the street by a masonry wall and landscaping as required by code. The street wall specifications will be submitted and reviewed with the construction plans and not required for the preliminary site plan.

- ii. *Code Requirement:* All uses within the downtown CRA shall use decorative pavers and/or stamped/decorative concrete instead of asphalt unless the Project has greater or equal to 15 dwelling units.

- a) The existing non-conforming use and building provides non-permanent housing to 16 individuals. The Developers are proposing to build 30 dwelling units which would provide 38 individuals with permanent housing and retain request authorization to provide an asphalt parking lot with a 5 ft paver strip behind the driveway apron for sidewalk connections/delineation.

d. **Stormwater Management Requirement (LDC Section 14-5-12):**

- i. *Code Requirement:* Retention pond(s) must be placed in the back or side yard, not facing the public right-of-way.

- a) The proposed property has a public right-of-way on all four (4) property lines. After adding the proposed building and required off-street parking, the retention pond will be placed on the side yard of the existing building. The Developers request authorization for the proposed retention location to face the public right-of-way.

4. Summary. The Project is of great significance to City and the community at large. The Developers consider the requested deviation from established standards to be consistent with the overall design intent of the form-based code. The location of the proposed building and design are of great significance to the Project as they are more economically feasible than what is typically considered code compliant. A substantial modification to the site plan would greatly increase the cost of construction and due to material shortages caused by the COVID-19 pandemic, strict compliance with code requirements would threaten the financial viability of this critical Project. All conditions contained herein are in addition to any and all requirements of the City's Code of Ordinances and Form Based Code, and Florida Statutes, and are not intended to supersede any requirements contained therein.

5. Modifications. This Agreement may only be amended in writing by the Parties with approval by the City Commission.

6. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, successors, and assigns, as applicable.

7. Recording of Agreement. This Agreement shall be recorded in the official Records of Osceola County, Florida and shall be construed as a covenant running with the land, and shall serve as notice to prospective purchasers, other interested parties and the public at large on notice as to the terms and provisions hereof.

8. Title and Authority. Owner expressly warrants and represents to the City that it is the record owner of the property constituting the Property and further represents and warrants, together with the undersigned individuals, that the undersigned individuals have full power and authority to enter into this Developer Agreement. The Developers and the undersigned individuals understand that the City is relying on such representations and warranties in entering into this Agreement.

9. Public Records. Developers acknowledge City's obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and that the constitutional and statutory provisions control over the terms of this Agreement. As such, Developers shall keep and maintain public records required by the City to perform the service.

If Developers have questions regarding the application of Chapter 119, Florida Statutes, to Developers' duty to provide public records relating to this Agreement, contact the Custodian of Public Records at 407-518-2308, cityclerkemail@kissimmee.gov and 101 Church Street, Kissimmee, Florida 34741.

- a. If City's Custodian of Records requests records from Developers, Developers shall provide the City's Custodian of Records 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 charged by City, as provided in Chapter 119, Florida Statutes or as otherwise provided by law.
- b. Developers 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 for the duration of the Agreement term and following completion of the agreement if the Developers do not transfer the records to City.
- c. Upon completion of the Agreement, Developers shall transfer, at no cost, to City all public records in possession of Developers or keep and maintain public records required by City to perform the service. If Developers transfer all public records to

City upon completion of the Agreement, Developers shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Developers keep and maintain public records upon completion of the Agreement, Developers shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of City. Unless otherwise directed by City, all records will be transferred at the conclusion of the Agreement.

- d. Upon notice to Developers of a request to inspect or copy public records relating to City's agreement for services, Developers shall provide the records to City or allow the records to be inspected or copied within a reasonable time.
- e. If Developers do not comply with City's request for records, such failure shall constitute a material breach and the Agreement shall terminate upon notice by the City.
- f. If the Developers fail to provide the public records to City within a reasonable time may be subject to penalties under Florida Statutes §119.1.

10. E-Verify. In compliance with Section 448.095, Fla. Stat., Developers and their subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.

- a. Developers shall require each of its subcontractors to provide Developers with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, Developers shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Agreement.
- b. City, Developers, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity.
- c. City, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Developers otherwise complied, shall promptly notify Developers and Developers shall immediately terminate the contract with the subcontractor.
- d. Termination of this Agreement under the provisions of this section is not a breach of contract and may not be considered such. Any Agreement termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Developers acknowledge that upon termination of this Agreement by the City for a violation of this section by Developers, Developers may not be awarded a public contract for at least one (1) year. Developers further acknowledges that Developers is liable for any additional costs incurred by the City as a result of termination of any contract for a violation of this section.

- e. *Subcontracts.* Developers or subcontractors shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Developers shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have executed this Agreement effective **1st** day of **November**, 2022.

**DDER DEVELOPMENT, LLC, d/b/a
BIRDSONG HOUSING PARTNERS**

By: _____

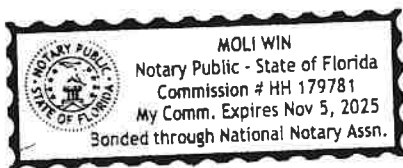
Title: CEO

Date: 10/26/22

STATE OF FLORIDA)
COUNTY OF Orange)

The foregoing instrument was acknowledged before me this 26th day of Oct, 2022, by means of ☒ physical presence or ☐ online notarization, by Steve Ayer, as CEO for **DDER DEVELOPMENT, LLC, d/b/a BIRDSONG HOUSING PARTNERS**, a Florida Limited Liability Corporation, who is personally known to me OR has produced _____ as identification.

Notary Seal:



Notary: Moli Win

Print Name: Moli Win

My Commission Expires: Nov 5, 2025

**OSCEOLA MENTAL HEALTH, INC, d/b/a
PARK PLACE BEHAVIORAL HEALTH CARE**

By: _____

Title: _____

Date: _____

- e. *Subcontracts.* Developers or subcontractors shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Developers shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have executed this Agreement effective **1st** day of **November**, 2022.

**DDER DEVELOPMENT, LLC, d/b/a
BIRDSONG HOUSING PARTNERS**

By: _____

Title: _____

Date: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by means of ☐ physical presence or ☐ online notarization, by _____, as _____ for **DDER DEVELOPMENT, LLC, d/b/a BIRDSONG HOUSING PARTNERS**, a Florida Limited Liability Corporation, who is personally known to me OR has produced _____ as identification.

Notary Seal:

Notary: _____

Print Name: _____

My Commission Expires: _____

**OSCEOLA MENTAL HEALTH, INC. d/b/a
PARK PLACE BEHAVIORAL HEALTH CARE**

By: [Signature]

Title: President / CEO

Date: 10/26/2022

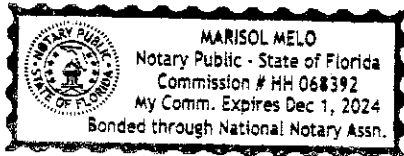
STATE OF FLORIDA)
COUNTY OF Osceola)

The foregoing instrument was acknowledged before me this 26 day of October, 2022, by means of ☒ physical presence or ☐ online notarization, by James A. Shanks, as President/CEO for **OSCEOLA MENTAL HEALTH, INC, d/b/a PARK PLACE BEHAVIORAL HEALTH CARE**, a Florida Not for Profit Corporation, who is personally known to me OR has produced _____ as identification.

Notary Seal:

Notary: Marisol Melo
Print Name: Marisol Melo

My Commission Expires: 12/1/2024



CITY OF KISSIMMEE

By: _____
Mayor - Commissioner

Date: _____

ATTEST:

Linda Hansel, City Clerk
Approved as to form and legal sufficiency:

City Attorney

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Exhibit "A"

Legal Description

Parcel ID: 2125291690000D0010

Area: 1.2 acres

MATHEWS ADDN PBA PG 6 BLK D LESS BEG AT INT OF S R/W RR AND W R/W CLYDE AVE, S 3.61 FT TO NON-TAN CURVE, CONC SWLY, RAD 32.50 FT, (CHN 49 DEG W 3.10 FT), NWLY ALONG CURVE 3.10 FT TO POC, CONC SWLY, RAD 1 FT, (CHN 69 DEG W .62 FT), NWLY ALONG CURVE .63 FT, N 87 DEG W 29.72 FT, E 32.62 FT TO POB

ITEM 7.M

Letter of Support for Project Recommendations for the Office of Criminal Justice Grant Allocation for Osceola County Agencies

Request

Commission approval of the Osceola Substance Abuse and Violent Crime Policy (SAVCP) Advisory Board's project recommendations for the Florida Department of Law Enforcement (FDLE), Office of Criminal Justice Grants (OCJG) in the amount of \$97,884.00.

Explanation

The Florida Department of Law Enforcement (FDLE), Office of Criminal Justice Grants (OCJG) has allocated funding in the amount of \$97,884 to be used to address problems of illegal drug use, violent crimes and improvements to the criminal justice system within Osceola County.

This process requires 51% of the local governments within the County to support the recommendations of projects made by the Substance Abuse and Violent Crime Policy Advisory Board (SAPAB). As such, the City is being asked to provide a letter of support to be included in the application. As a local municipality, the City has a representative from the Kissimmee Police Department on the Board. The recommended projects as decided by the SAPAB Board are as follows:

Sub-Recipient	Title of Project	Award
Osceola County BOCC/ Osceola County Corrections	Generated Low Output Voltage Emitter	\$9,426.00
Osceola County BOCC/ Osceola County Sheriff's Office	Crime Prevention and Enforcement Overtime	\$39,738.96
City of St. Cloud/ St. Cloud Police Department	Lightweight Rifle Rated Ballistic Shields	\$22,500.00
City of Kissimmee/ Kissimmee Police Department	Emergency Response Team Bicycle Unit	\$26,219.04
Total Federal Funds		\$97,884.00

Recommendation

Staff recommends approval of project recommendations associated with the funding allocation for the Florida Department of Law Enforcement (FDLE), Office of Criminal Justice Grants (OCJG) in the amount of \$97,884.00 and authorization for the Mayor to sign the letter of support.

REQUESTED CITY COMMISSION ACTION:

Approve

City of Kissimmee

Department: City Manager

Presenter:

Attachment(s):

1. (S) Support letter FY 21 COK



OFFICE OF THE CITY COMMISSION

101 CHURCH STREET, SUITE 500 - KISSIMMEE, FLORIDA 34741 - 407.518.1234

October 25, 2022

Cody Menacof, Bureau Chief
Florida Department of Law Enforcement
Office of Criminal Justice Grants
2331 Phillips Road
Tallahassee, FL 32308

Re: Support Letter for FY 21 Application

Dear Mr. Menacof,

In compliance with State of Florida *Rule 11D-9*, F.A.C., The City of Kissimmee approves the distribution of **\$97,884.00** of Federal Fiscal Year 2021 Edward Byrne Memorial Justice Assistance Grant Countywide (JAGC) funds for the following projects within Osceola County:

<u>Sub-Recipient</u>	<u>Title of Project</u>	<u>Award</u>
Osceola County BOCC/ Osceola County Corrections	Generated Low Output Voltage Emitter	\$9,426.00
Osceola County BOCC/ Osceola County Sheriff's Office	Crime Prevention and Enforcement Overtime	\$39,738.96
City of St. Cloud/ St. Cloud Police Department	Lightweight Rifle Rated Ballistic Shields	\$22,500.00
City of Kissimmee/ Kissimmee Police Department	Emergency Response Team Bicycle Unit	\$26,219.04
Total Federal Funds		\$97,884.00

Sincerely,

Cc: City of St. Cloud
Osceola Board of County Commissioners
Osceola County Corrections

